

UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:) Investigation No.: 701-TA-530
SUPERCALENDERED PAPER FROM CANADA) (FINAL)

REVISED AND CORRECTED

Pages: 1 - 293
Place: Washington, D.C.
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THE UNITED STATES
INTERNATIONAL TRADE COMMISSION

IN THE MATTER OF:) Investigation No.:
SUPERCALENDERED PAPER) 701-TA-530
FROM CANADA) (FINAL)

Main Hearing Room (Room 101)
U.S. International Trade
Commission
500 E Street, SW
Washington, DC
Thursday, October 22, 2015

The meeting commenced pursuant to notice at 9:30
a.m., before the Commissioners of the United States
International Trade Commission, the Honorable Meredith M.
Broadbent, Chairman, presiding.

1 APPEARANCES:

2 On behalf of the International Trade Commission:

3 Commissioners:

4 Chairman Meredith M. Broadbent (presiding)

5 Vice Chairman Dean A. Pinkert

6 Commissioner Irving A. Williamson

7 Commissioner David S. Johanson

8 Commissioner Rhonda K. Schmidtlein

9

10

11 Staff:

12 Bill Bishop, Supervisory Hearings and Information

13 Officer

14 Sharon Bellamy, Program Support Specialist

15 Sonia Parveen, Intern

16

17 Chris Cassise, Investigator

18 Vincent Honnold, International Trade Analyst

19 Craig Thomsen, Economist

20 David Boyland, Accountant/Auditor

21 David Fishberg, Attorney

22 James McClure, Supervisory Investigator

23

24

25

1 APPEARANCES:

2 Congressional Appearances:

3 The Honorable Susan Collins, United States Senator,
4 Maine

5 The Honorable Sherrod Brown, United States Senator,
6 Ohio

7 The Honorable Amy Klobuchar, United States Senator,
8 Minnesota

9 The Honorable Al Franken, United States Senator,
10 Minnesota

11 The Honorable Angus S. King, Jr., United States
12 Senator, Maine

13 The Honorable Richard M. Nolan, U.S. Representative,
14 8th District, Minnesota

15 The Honorable Bruce Poliquin, U.S. Representative, 2nd
16 District, Maine

17

18 Opening Remarks:

19 Petitioners (Gilbert B. Kaplan, King & Spalding LLP)

20 Respondents (Thomas J. Trendl, Steptoe & Johnson LLP)

21

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1 In Support of the Imposition of Antidumping and
2 Countervailing Duty Orders:

3 King & Spalding LLP, Washington, DC on behalf of:
4 Coalition for Fair Paper Imports

5 E. Russell Drechsel, President and Chief Executive
6 Officer, Madison Paper Industries

7 David J. Paterson, President and Chief Executive
8 Officer, Verso Corporation

9 Michael P. Johnston, Vice President Distribution Sales,
10 UPM-Kymmene, Inc.

11 Michael A. Weinhold, Senior Vice President of Sales,
12 Marketing and Product Development, Verso Corporation

13 Paul W. Clancy, Vice President of Marketing and
14 Business Development, Verso Corporation

15 Holly R. Hart, Legislative Director and Assistant to
16 the International President, United Steel, Paper and
17 Forestry, Rubber, Manufacturing, Energy, Allied Industrial
18 and Service Workers International Union, AFL-CIO, CLC

19 Michael L. Croteau, President, United Steelworkers
20 Local 36

21 Bonnie B. Byers, Consultant, King & Spalding, LLP

22 Dr. Seth Kaplan, Senior Economic Advisor, Capital Trade
23 Inc.

24 Gilbert B. Kaplan and Brian E. McGill - Of Counsel

25

1 In Opposition to the Imposition of Antidumping and
2 Countervailing Duty Orders:

3 Steptoe & Johnson LLP, Washington, DC on behalf of
4 and

5 Law Offices of Gary N. Horlick, Washington, DC on behalf of
6 and

7 Law Offices of Peggy A. Clark, Washington, DC on behalf of:
8 Port Hawkesbury Paper LP ("PHP")

9 Neil de Gelder, President, Port Hawkesbury Investments
10 Ltd.

11 Shawn Lewis, Vice President, General Counsel and
12 Secretary, Port Hawkesbury Investments Ltd.

13 Michael Ostrowski, Vice President Supercalendered
14 Sales, West Linn Paper Company

15 Bob Kralik, President, Publishing & Catalog, Gould
16 North America

17 Jerry Johnson, Vice President Operations, Publishers
18 Press

19 Bruce Malashevich, President, Economic Consulting
20 Services LLC

21 Steven Byers, Ph.D., Director of Financial Analysis
22 Services, Economic Consulting Services LLC

23

24

25

1 In Opposition to the Imposition of Antidumping and
2 Countervailing Duty Orders:

3 Cara Groden, Economist, Economic Consulting Services LLC

4 Thomas J. Trendl, Nathan W. Cunningham, Gary N. Horlick
5 and Peggy A. Clarke - Of Counsel

6

7 Baker & Hostetler LLP, Washington, DC on behalf of:

8 Resolute Forest Products Inc.

9 Matthew J. Clark, Counsel, Government of Quebec

10 Elliot J. Feldman and Michael Snarr - Of Counsel

11

12 Rebuttal/Closing Remarks:

13 Petitioners (Bonnie B. Byers, King & Spalding LLP)

14 Respondents (Thomas J. Trendl, Steptoe & Johnson LLP)

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1 P R O C E E D I N G S

2 9:22 a.m

3 MR. BISHOP: Will the room please come to order?

4 CHAIRMAN BROADBENT: Good morning. On behalf of
5 the U.S. International Trade Commission I welcome you to
6 this hearing on investigation No. 701-530 involving
7 supercalendered paper from Canada. The purpose of this
8 investigation is to determine whether an industry in the
9 United States is materially injured or threatened with
10 material injury by reason of subsidized imports from Canada
11 of supercalendered paper. Documents concerning this hearing
12 are available at the public distribution table.

13 Please give all prepared testimony to the
14 secretary. Do not place it on the public distribution
15 table. All witnesses must be sworn in by the secretary
16 before presenting testimony. I understand that parties are
17 aware of the time allocations but if you have any questions
18 about time please ask the secretary. speakers are reminded
19 not to refer to business proprietary information in their
20 remarks or in answers to questions. If you will be
21 submitting documents that contain information you wish to
22 classify as business confidential, your request should
23 comply with Commission Rule 201.6.

24 Finally, I would like to request that all
25 witnesses and counsel state your name for the record before

1 delivering testimony and responding to Commission questions.
2 This helps the court reporter know who is speaking. Mr.
3 Secretary, are there any preliminary matters?

4 MR. BISHOP: Madam Chairman, there are no
5 preliminary matters.

6 CHAIRMAN BROADBENT: Very well. Will you please
7 announce our congressional witnesses?

8 MR. BISHOP: The Honorable Al Franken United
9 States Senator, Minnesota.

10 CHAIRMAN BROADBENT: Welcome, Senator Franken.

11 STATEMENT OF THE HONORABLE AL FRANKEN, UNITED STATES
12 SENATOR, MINNESOTA

13 SENATOR FRANKEN: Well, thank you. It's good to
14 be back. Madam Chair Broadbent and Members of the
15 Commission, thank you for the opportunity to offer testimony
16 in support of Verso Corporation and Madison Paper Industries
17 and their petition for the imposition of countervailing
18 duties on imports of subsidized supercalendered paper from
19 Canada.

20 As you know, Verso produces supercalendered in
21 its mill in Duluth, Minnesota and Madison produces this
22 material Madison Main, it has a sister company that produces
23 coated paper in Blandon Minnesota. Versa's operations are
24 important to the economy of Minnesota. The mill employs two
25 hundred and sixty-five people whose average wages are over

1 thirty dollars an hour. There are good paying jobs with
2 good benefits. The mill also provides hundreds of other
3 jobs in transportation and logging, contractors and vendors
4 that contribute significantly to the tax base of Duluth,
5 helping to support fire departments, schools as well as
6 other community services.

7 I think you can see why this is an important
8 issue to me and my state. The fact of the matter is that
9 our Producers are being injured by imports of subsidized
10 paper from Canada as the Commerce Department announced last
11 week, subsidies to Canadian Producers range from eighteen to
12 twenty percent. Supercalendered paper is a commodity that
13 is very price sensitive and these Canadian subsidies are
14 subjecting our industries to great risk.

15 When the Port Hawkesbury Mill came online in 2012
16 with the help of massive subsidies from the government of
17 Nova Scotia, four hundred thousand tons of annual supply was
18 dumped onto the market. Prices plummeted as a huge amount
19 of excess supply was forced into the U.S. Market and I think
20 we owe it to our U.S. manufacturers who are playing by the
21 rules to even the playing field. That way they are not
22 forced to be with illegally subsidized imports.

23 Again, I ask that you give strong consideration
24 to the petitions that are before you today. Thank you very
25 much for allowing me to testify. Thank you.

1 CHAIRMAN BROADBENT: Thank you. Are there any
2 questions for the Senator? I see none, thank you very much.

3 SENATOR FRANKEN: Thank you.

4 MR. BISHOP: Madam Chairman, our next
5 congressional witness is the Honorable Susan Collins, United
6 States Senator, Maine.

7 CHAIRMAN BROADBENT: Welcome Senator Collins.

8 STATEMENT OF SUSAN COLLINS, UNITED STATES SENATOR, MAINE

9 SENATOR COLLINS: Thank you very much and good
10 morning. Thank you very much Chairman Broadbent and Members
11 of the Commission for the opportunity to testify before you
12 today on how unfair subsidies are harming American workers
13 in the U.S. Paper Industry. I ask consent that my longer
14 written statement be included in your official record.

15 CHAIRMAN BROADBENT: Yes, without objection.

16 SENATOR COLLINS: Maine communities long
17 dependant on paper mills are in real trouble. They need
18 immediate relief from the unfair advantages afforded by
19 illegal subsidies specifically those provided to Port
20 Hawksebury Paper in Nova Scotia, Canada. Permit me to
21 provide a little background. In 2011, the Port Hawkesbury
22 Mill filed for bankruptcy, halted operations and laid off
23 its employees. After millions of dollars were spent by the
24 Provincial Government to keep the mill functioning in an
25 idle state and to maintain its supply chain, the mill was

1 sold in 2012 for just thirty-three million Canadian dollars.

2 Then, a package of extensive subsidies from Nova
3 Scotia worth approximately 124.5 million Canadian dollars
4 was announced, which included numerous loans, grants, tax
5 breaks and reduced energy costs. This assistance served to
6 tilt the market dramatically in order to allow the once
7 closed plant to reopen. That would have been virtually
8 impossible absent these enormous subsidies. I first raised
9 concerns over these subsidies in a 2012 letter to the U.S.
10 Trade Representative, which was cosigned by nine of my
11 colleagues.

12 I also raise this issue with Commerce Secretary
13 Pritzker and with Canadian officials directly.
14 Unfortunately the concerns we have raised back in 2012 have
15 proven to be warranted. U.S. Producers of supercalendered
16 paper, including Madison Paper Industries in Maine have been
17 put at a significant competitive disadvantage since Port
18 Hawkesbury reopened. Imports of supercalendered paper from
19 Canada have sky-rocketed.

20 In July of 2014 the U.S. was importing nearly
21 twenty-four thousand tons and just one year later that
22 amount rose to more than ninety thousand tons causing prices
23 and sales revenue for U.S. Manufacturers to plummet. In the
24 last two years, the average price fell by nearly thirteen
25 percent from eight hundred thirty dollars per ton to seven

1 hundred sixty-five dollars per ton. In USTRs recent
2 National Trade Estimates, the assistance provided by Nova
3 Scotia has been cited as a concern in our trade relationship
4 with Canada.

5 Madison paper has been forced to curtail
6 production and lay off workers three times in the first half
7 of this year. The company's president has stated that a
8 primary reason for these layoffs is the unfair Canadian
9 subsidies. The outcome of this investigation may also
10 affect the Maine workers at Verso Paper Corporation's Mill
11 in Jay, Maine. Verso is the second Petitioner in this case
12 as you are well aware.

13 I strongly support relief for these hard-working
14 American men and women and for the companies that they work
15 for that are being injured as a result of the illegal
16 government assistance from the province of Nova Scotia. I
17 do also want you to know that it is my belief that the
18 Department of Commerce should have reviewed all four
19 Canadian producers of supercalendered paper to ensure if
20 they're in accurate process. Reviewing all four producers
21 as the main delegation has urged would ensure that the
22 relief provided through tariffs on the imports reflects the
23 actual subsidies if any received by each Canadian company.

24 The Department of Commerce should do all that it
25 can to rectify this very unfortunate situation which will

1 affect other Maine workers through an expedited review
2 process. Chairman Broadbent and members of the Commission,
3 thank you again for the opportunity to testify before you
4 this morning. The case that you're considering really
5 matters to the workers of the State of Maine and I very much
6 appreciate your kind attention. Thank you. CHAIRMAN
7 BROADBENT: Thank you, Senator Collins. Are there any
8 questions for the Senator? No. Thank you very much. We
9 appreciate your testimony.

10 MR. BISHOP: Our next congressional witness is
11 the Honorable Amy Klobuchar, United States Senator,
12 Minnesota.

13 STATEMENT OF THE HONORABLE AMY KLOBUCHAR, UNITED STATES
14 SENATOR, MINNESOTA

15 SENATOR KLOBUCHAR: Chairman Broadbent and Vice
16 Chairman Pinkert and Distinguished Commissioners, it is so
17 good to see all of you again. Thank you. I am grateful for
18 the opportunity to appear before you and to talk about the
19 important issue of the economic impact that subsidized
20 imports of supercalendered paper from Canada are having on
21 my state, our workers, our businesses. And if it's
22 supercalendered paper, they are having a super impact, which
23 is not a positive in terms of what is happening in our
24 State. Minnesota has a proud history of leadership in
25 the American Paper Industry, the abundant wood and water

1 supplies in my state have fed the paper industry for more
2 than a hundred years. Minneapolis made its name as a mill
3 town in the late 1800s when it became a thriving hub for
4 paper mills and saw mills. We even had baseball teams
5 called the Minneapolis Millers, just so you know how
6 important it is. I don't know if they have that in Maine
7 but we had that.

8 As far back as, or even in Ohio, I don't think
9 that they had baseball teams named after paper mills but we
10 did. My own family is part of the tradition. My
11 grandfather worked as a logger in Northern Minnesota. He
12 and other loggers in the state helped supply the necessary
13 timber and fiber for building homes and manufacturing many
14 of the products that we use on a daily basis. Minnesota's
15 paper industry and related sectors have grown to support
16 more than forty thousand jobs in our state and directly
17 contributes 9.7 billion in economic output.

18 The Verso Corporation's Pulp and Paper Mill in
19 Duluth has been a significant presence in the region since
20 1987. The mill is based right on the banks of the St. Louis
21 River and employs two hundred and eighty-five workers while
22 producing an annual capacity of two hundred seventy thousand
23 tons of supercalendered paper that is used for advertizing
24 inserts, magazines and catalogs. The facility also includes
25 a recycled pulp mill that recycles nearly a million pounds

1 of recovered paper every single day.

2 Unfortunately, our industry has been harmed by
3 the unfair trade practices of paper producers across the
4 border in Canada. As we like to say, we can see Canada from
5 our porch. They are our friends, they are our neighbors but
6 in this case, this is unfair. The operations at the mill
7 are suffering as a result of unfair subsidization of the
8 imports from Canada. In 2012 I heard Senator Collins
9 talking about this. I also expressed concern about the Port
10 Hawkesbury Mill in Nova Scotia receiving a hundred
11 twenty-four million dollar financial assistant package from
12 the provincial government.

13 I wrote to the USTR to support the review to
14 determine whether that financial support was consistent with
15 the WTO or the NAFTA commitments. The Department of
16 Commerce's investigation has now confirmed that Port
17 Hawkesbury Paper did receive unfair subsidies at a rate of
18 20.33 percent. This unfair subsidization of an otherwise
19 bankrupt paper mill resulted in a glut of supercalendered
20 paper that has already saturated the U.S. market.

21 From 2012 through 2014, the Census Bureau
22 estimated that over 4 million metric tons of supercalendered
23 paper were imported from Canada. These imports are causing
24 our domestic paper industry to lose sales and market share.
25 Through the generations, our loggers in Northern Minnesota

1 and workers across the paper industry have earned a
2 reputation for a strong work ethic. They have proven that
3 they can compete with anybody in the world on a level
4 playing field. Unfortunately that fairness is being
5 compromised by subsidized imports that are putting these
6 jobs in jeopardy.

7 I know how important this is. It's not just a
8 matter of historical importance that my Grandpa when the
9 mines closed down, worked in the logging industry. It's
10 something that is happening right now. There are families
11 that depend on these jobs and they are ready to work. They
12 are working hard and they deserve an even playing field.
13 Now that the Commerce Department's investigation is
14 complete, it's time to impose duties to offset the
15 significant amount of subsidies that benefited Port
16 Hawkesbury to the detriment of U.S. Companies and workers.

17 It's critical that our trade laws are adequately
18 enforced on behalf of American Companies and American
19 Workers. For that reason, I strongly urge you to make an
20 affirmative determination in this case and support the
21 Commerce Department's final determination. Thank you for
22 the opportunity to testify today.

23 CHAIRMAN BROADBENT: Thank you Senator Klobuchar.
24 Are there any questions for the Senator? Seeing none, thank
25 you very much.

1 MR. BISHOP: Our next Congressional witness is
2 the Honorable Sherrod Brown, United States Senator, Ohio.

3 CHAIRMAN BROADBENT: Welcome, Senator Brown.
4 Good to see you today.

5 STATEMENT OF THE HONORABLE SHERROD BROWN, UNITED STATES
6 SENATOR, OHIO

7 SENATOR BROWN: Good to be back. Thank you.
8 Good to see all of you again. Madam Chair Broadbent,
9 Members of the Commission thanks for the opportunity to
10 testify today. Never missing a chance to talk baseball
11 since Senator Klobuchar mentioned the Minneapolis Millers I
12 would add that's where Willie Mays played and hit over four
13 hundred before he came up to the New York Giants so I
14 thought that might bring a little levity if you like
15 baseball. If you don't, if you want to ask questions and
16 you can make them about baseball.

17 VICE CHAIRMAN PINKERT: It's a tough morning for
18 Cubs fans. I'm just saying.

19 SENATOR BROWN: Oh well. Okay, since you are
20 wanting to engage on this, if the cubs would actually win a
21 World Series, which is improbable as, I was going to say as
22 Donald Trump being elected President but way more probable
23 than that, but if the Cubs win the World Series then
24 Cleveland would be the team that has gone the longest
25 without winning the World Series 1948. Anyway, let me get

1 to more important things.

2 I've been here many times as you all know and I
3 appreciate always the attention and the way that you listen
4 and examine and I believe come to the right conclusion but
5 always come to the conclusions that you think best for our
6 country. Our supercalendered producers are facing enormous
7 challenges as you've heard from Senators Collins and
8 Klobuchar and Franken because Canadian competitors are
9 receiving illegal subsidies. Commerce's final
10 determination included margins for the two mandatory
11 respondents of 17.87 percent and 20.18 percent, these
12 subsidies have a big impact on domestic market. They're
13 threatening the future of our supercalendered producers and
14 the workers whom they employ. I know your job is to
15 evaluate whether the injuries being either materially
16 injured or threatened injury.

17 So today I appear to argue that Canadian Imports
18 have met the statutory definition of injury because they
19 have caused harm which is not inconsequential immaterial or
20 unimportant. I think the facts in this case show the
21 material injury in the U.S. Industry is real. The facts
22 show that our domestic producers badly need the relief that
23 this trade case should and could afford them.

24 Supercalendered imports from Canada have
25 significantly depressed prices for Domestic Producers. U.S.

1 based companies have had to lower prices to maintain sales
2 and production volume of their mills in the face of the
3 competition but these price reductions are unsustainable and
4 the surge of Canadian Imports has not, in fact stopped. As
5 a result of the imports and their impact on the market there
6 have been layoffs at the U.S. supercalendered facilities in
7 Maine. Companies have also been prevented from making the
8 necessary capital investments in this very capital intense
9 industry as a result.

10 In addition, as the Commission found during its
11 preliminary investigation, the market share of imports
12 increased significantly over the Period of Investigation and
13 is now the largest source of supercalendered paid-for
14 products in the U.S. Overall demand for all paper products
15 including supercalendered paper is decreasing as a result of
16 email and other technological advances and we know that.
17 That's true around the world. It's also true that it's
18 expensive to make paper and even more expensive to restart a
19 paper mill that's been idled.

20 So you can understand why Domestic Producers were
21 surprised to learn of plans to restart an abandoned
22 supercalendered paper mill in Port Hawkesbury Nova Scotia.
23 This is a mill that New Page Corporation, now part of Verso
24 which has business headquarters in my state, deemed
25 financially unsustainable to operate. This mill is operable

1 only because it receives subsidies from the Provincial and
2 Federal Canadian Government and once it came online it added
3 four hundred thousand tons of additional supercalendered
4 paper products to a shrinking U.S. Market.

5 Illegal subsidies of Canadian supercalendered
6 production are materially injuring our manufacturers,
7 they're threatening the future of U.S. supercalendered
8 production. The viability of Domestic Producers in
9 Minnesota and Maine and Ohio is threatened by the flood of
10 imports, even if prices stay at their current low levels.
11 The longer the subsidized imports come into the U.S. Market
12 the lower the prices will slide and the harder it will be
13 for U.S. Companies to stay afloat.

14 We know what happens since unfairly traded
15 imports have taken their toll. We've seen it in the steel
16 industry, we've seen it in the tire industry, we've seen it
17 in the paper industry too and I've been in front of you to
18 discuss each of those industries a number of times. Since
19 the layoffs are temporary, paper machines are idled, then
20 the announced period of idling gets extended a few times and
21 more workers are laid off.

22 Finally, the mill closes and when the mill closes
23 supply chains shrink. Jobs connected to the mills are lost
24 too. The community is devastated. The U.S. irrevocably
25 loses another part of our manufacturing sector. The script

1 has been written over and over. That's what trade laws are
2 here to prevent. When our foreign competitors use these
3 kinds of unfair trade practices to get ahead and put our
4 companies out of business, our trade laws are supposed to
5 provide the relief necessary to level the playing field.

6 I know communities in Maine and Minnesota have
7 already suffered the consequences of these subsidized
8 Canadian imports but the supercalendered paper workers who
9 are still employed in these states and the three hundred
10 Verso employees in Miamisburg, Ohio; they're still waiting
11 for relief, their jobs dependent on the Commission's
12 decision. In your preliminary determination you found
13 Canadian Imports cause material injury to all U.S.
14 Manufacturers. I encourage the Commission to come to the
15 same conclusion in your final determination. Unquestionably
16 I believe the facts support that decision and American
17 workers' livelihoods depend on it. I thank you so much.

18 CHAIRMAN BROADBENT: Thank you, Senator Brown.
19 Are there any questions for the Senator? Thank you very
20 much.

21 MR. BISHOP: Our next congressional witness is
22 the Honorable Angus S. King, Jr., United States Senator,
23 Maine.

24 CHAIRMAN BROADBENT: Welcome, Senator King.

25 STATEMENT OF THE HONORABLE ANGUS S. KING, JR., UNITED STATES

1 SENATOR, MAINE

2 SENATOR KING: Good morning. Madam Chair and
3 members of the Commission, I'm Angus King representing the
4 great state of Maine. I'm delighted to be with you this
5 morning. I appreciate the opportunity to address you on
6 this supercalendar paper issue as part of this ongoing
7 investigation about supercalendar paper being subsidized in
8 Canada.

9 I'd like to take a moment to explain the
10 industry's importance to a key company and community in
11 Maine, both of which I believe have suffered direct economic
12 injury as a result of the government of Canada and the
13 provincial subsidy that has been provided to Port
14 Hawkesbury. I consider this proceeding, this proceeding
15 extremely important. Not only to the workers of Madison
16 Paper, and the paper workers across the country upon which
17 you've heard testimony, but because there is considerable
18 doubt in America today about the whole idea of free trade,
19 and about trade agreements. And part of that doubt rests
20 upon the question of enforcement. When a trade agreement is
21 negotiated that has provisions about countervailing duties
22 and fair adjustments if the trade agreement is violated, it
23 rings hollow unless it's enforced.

24 And that's why I think what you're doing is so
25 important because the message that you can send is that

1 these agreements mean something that the reciprocal
2 responsibilities mean something and that if our trading
3 partners violate the terms of the agreement there will be
4 consequences.

5 The outcome of this case is very important, as I
6 mentioned, to Madison Paper Industries in the little town of
7 Madison, Maine. Madison Paper Industries to Madison is as
8 General Motors is to Detroit. It has 220 workers, but in
9 this small rural area of Maine, it is the major employer.

10 It is the employer that supports the sandwich
11 shops and the plumbing shops, and the heating shops and the
12 tax base of the community. It is incredibly important.
13 It's been operating in this little town since 1978.

14 I was at the mill less than a month ago. I had
15 the opportunity to learn more about its operations, to tour
16 the mill and to talk with many of the 220 workers who are
17 there. They depend on this mill as their primary employer
18 just as the community depends upon the mill as the primary
19 economic driver of the region. These paper workers in
20 Madison, Maine are talented. They're dedicated, they're
21 open to challenges, they are innovative. In short, they're
22 part of a proud papermaking community and tradition in the
23 state of Maine. And the paper industry in Maine is our
24 state's largest employer employing over 17,000 individuals
25 in direct and indirect professions contributes more than

1 \$113 million just to the tax base.

2 The workforce in Madison is frustrated with the
3 conditions which they effectively have been asked to compete
4 for business. When the government of Nova Scotia rescued
5 Port Hawkesbury from closure in 2012, it bought a large,
6 previously unprofitable supercalendar paper mill back into
7 the market that would otherwise not be there except for the
8 government's substantial support.

9 The Department of Commerce found in its final
10 subsidy determination that nine programs administered by the
11 government of Nova Scotia confer countervailable subsidies
12 on the Port Hawkesbury mill. That's been established.

13 Your preliminary report notes that prices for
14 supercalendared paper declined from 2012 through 2014. The
15 Office 2012 reopening of Port Hawkesbury, which was only
16 made possible by illegal and unfair subsidies provided by
17 the government of Nova Scotia to the mills' new owners
18 appears to be directly linked to the downward price
19 pressures on supercalendared paper.

20 Even in a rapidly changing market environment,
21 Madison's workers and any of Maine paper workers, in fact,
22 can compete and win. But they require a level playing
23 field. They can't compete and win when their competitors
24 have an unfair advantage.

25 Strong enforcement, as I mentioned, of the trade

1 laws are crucially, essentially important. On that note, I
2 believe that strong enforcement of the trade practice also
3 means assuring that the antidumping and countervailing
4 investigations are conducted in a thorough, fair, and
5 fact-based manner. I was disappointed as Senator Collins
6 mentioned, that the Department of Commerce chose as part of
7 the investigation of this investigation to investigate only
8 two of the four Canadian supercalendared paper producers, a
9 decision which will likely and unfairly impact two other
10 important businesses with significant operations in Maine.

11 Nonetheless, your Commission's hard work and
12 final decision which would confirm industry by reason of
13 imports will be an important step, crucial step forward,
14 providing the relief that Madison Paper and other domestic
15 supercalendared paper producers deserve.

16 On behalf of all of Maine's paper workers, on
17 behalf of Madison Paper, on behalf of Verso, on behalf of
18 the workers of the United States, I appreciate your
19 attention, your seriousness, and the work that you are doing
20 here today on behalf of this country.

21 Thank you very much.

22 CHAIRMAN BROADBENT: Thank you, Senator King.

23 Any questions for Senator King?

24 (No response.)

25 CHAIRMAN BROADBENT: Thank you very much. We

1 appreciate your testimony.

2 SENATOR KING: Thank you.

3 MR. BISHOP: Our next congressional witness is
4 the Honorable Richard. M. Noland, United States
5 Representative, Eighth District, Minnesota.

6 CHAIRMAN BROADBENT: Welcome, Mr. Noland.

7 STATEMENT OF THE HONORABLE RICHARD M. NOLAND, UNITED STATES
8 REPRESENTATIVE, EIGHTH DISTRICT, MINNESOTA

9 REPRESENTATIVE NOLAND: It's always nice to see
10 old friends. It's nice to see you. And I'd like to begin
11 by thanking the Chairwoman and members of the Commission for
12 the careful attention you've paid to all the details and all
13 the consequences of the important trade relationships that
14 are so important to our economy and the world economy.

15 I'm Rick Noland. I'm honored to represent the
16 people of Minnesota's Eighth Congressional District. That's
17 Northern Minnesota. It's forests, it's the land of 10,000
18 lakes, including the world's largest fresh water lake, Lake
19 Superior. And while I'm here I'd like to invite you all to
20 come up and vacation and go fishing and we do have a saw
21 mill and pellet factory business if you want to cut down
22 some trees and saw some logs, why we can invite you to do
23 that as well. But today in particular I am here on behalf
24 of the 265 people employed at the Duluth Paper Mill which is
25 owned by Verso Corporation.

1 Their annual wages and benefits of approximately
2 \$28.5 million contribute greatly to the economy of our
3 region. And in that regard, I'd also like to point out that
4 the timber industry, and the paper industry are partners
5 throughout the Eighth Congress District and I could go into
6 great how important each one is to the other. But suffice
7 to say today they are directly and indirectly responsible
8 for trading thousands of good paying jobs and billions of
9 dollars of business in commerce across Northern Minnesota
10 and across the country. And the fact is that many of those
11 \$30 an hour jobs in the Duluth Paper Mill and Madison and
12 other paper mills that remain in the country are at risk due
13 to some unfair competition that is taking place here.
14 Competition in the form of enormous amounts of government
15 subsidized supercalendared paper flooding the marketplace
16 and depressing prices here in America. I know you've heard
17 from the others and a lot of the statistics, but I hadn't
18 heard this one yet and I'd like to share it with you.

19 Since the year 2000, 126 paper mills in the
20 United States have ceased operations. And 223,000
21 well-paid, good jobs for Americans have been lost including
22 nearly 4,000 jobs in the state of Minnesota alone. There
23 are only eight mills left in North America that are
24 producing glossy, supercalendared paper. And as you know,
25 Port Hawkesbury in Nova Scotia is the largest producer in

1 North America and reopened in year 2012 with a \$125 million
2 subsidy from Nova Scotia and the federal government of
3 Canada. And, you know, the simple fact is that this clearly
4 represents unfair competition. So I'm here today to urge
5 you to make a final affirmative injury finding so duties can
6 go into place and offset the huge subsidies that benefit the
7 Port Hawkesbury Paper plant in Nova Scotia. Those
8 substitutes, those subsidies clearly constitute unfair trade
9 and if the situation is not corrected, terrible economic
10 damage will be done to Verso and other important paper
11 companies here in the United States to the employees. To
12 the employees at the Duluth paper mill in particular, to
13 their families, the businesses that they patronize and to
14 the entire Duluth community.

15 Madam Chairwoman, I would be remiss in not
16 pointing out that American workers produce the best products
17 in the world. And that when given a level playing field,
18 they can win every time. But they can't be expected to
19 compete with one hand tied behind their backs because of
20 unfair subsidies. So, again, we're all here today simply
21 asking the Commission to level the playing field. To give
22 these hardworking Americans and these great companies that
23 they work for a fair chance to compete and to win.

24 Thank you, Madam Chair and thank you members of
25 the Commission.

1 CHAIRMAN BROADBENT: Thank you. Are there any
2 questions for the Congressman?

3 COMMISSIONER WILLIAMSON: Madam Chair, I just
4 want to welcome Representative Noland. Many, many years ago
5 he was an active member of the World Trade Center
6 Association Trade Policy Committee and I was the executive
7 secretary. So I can testify to his long-term work in
8 facilitating international trade. And so I just want to
9 welcome you again.

10 REPRESENTATIVE NOLAND: Well, thank you.

11 Actually, I chaired that committee and I say to
12 the Commission, I spent some 30 years in export trading.
13 And when people ask me what I sold, I like to point out, I
14 sold everything except for guns and drugs which is where all
15 the real money was.

16 (Laughter.)

17 REPRESENTATIVE NOLAND: But we made a good living
18 and learned a lot about how trade works. So I hope my
19 testimony is helpful. Thank you.

20 COMMISSIONER WILLIAMSON: Thank you.

21 CHAIRMAN BROADBENT: Thank you very much.

22 MR. BISHOP: Our final Congressional witness is
23 the Honorable Bruce Poliquin, United States Representative,
24 2nd District, Maine.

25 CHAIRMAN BROADBENT: Welcome, Mr. Poliquin, we're

1 happy to have you here today. Thank you.

2 STATEMENT OF THE HONORABLE BRUCE POLIQUIN, UNITED STATES

3 REPRESENTATIVE, 2ND DISTRICT, MAINE

4 REPRESENTATIVE POLIQUIN: Thank you very much. I
5 appreciate it.

6 And Chair Broadbent and Vice Chair Pinkert, and
7 all the members of the Committee, I want to -- Commission,
8 rather -- formally thank you for this opportunity for me to
9 stand up frankly, for the most skilled paper makers in the
10 world. I represent Maine's 2nd Congressional District which
11 has some of the most hardworking and honest workers you can
12 find everywhere -- anywhere in this world.

13 Our second district is quite sprawling and very
14 rural. It's actually the largest geographic district east
15 of the Mississippi River. It spans from Western Maine to
16 Central Maine, to Northern Maine and far down east.

17 Now, we have two urban centers in our district.
18 We have Bangor with 35,000 people and we have Lewiston Arb
19 we call LA with 35,000 people. And then we have 400 small
20 towns. It is highly rural. And right smack in the middle
21 of our second district, is the small town of Madison, Maine.
22 And Madison is the home of Madison Paper that employs 220 of
23 the most deserving, honest, paper makers in the world. And
24 Madison Paper, as you know is one of the two petitioning
25 companies before your distinguished Commission today.

1 When I was a kid growing up in Central Maine,
2 just down river from Madison in the towns of Waterville and
3 Oakland, Central Maine was dotted with dozens of thriving
4 paper mills, textile mills, shoes, and leather factories.
5 It seems like everybody's mom or dad or aunt and uncle
6 worked at the mills.

7 My grandmother, who is no longer with us, made
8 some of the best shirts in the world at Hathaway Shirt
9 Company. And that paycheck put money on the table, food on
10 the table for my dad and my aunt when my grandfather passed
11 away. When my dad was a young parent right out of college,
12 he worked at the same mill my grandmother did. And that
13 paycheck put warm boots on my feet and my brother's, who is
14 no longer with us. And when I was a kid in college, I
15 worked at a spinning mill in Central Maine that helped put
16 me through college. So these mill jobs were really good
17 jobs. They were good paying, they had benefits. And our
18 families, during this time, were independent. And our
19 schools and our neighborhoods were filled with kids. These
20 factories were the stable hubs of each of these small
21 communities that span across our district.

22 Now, today these mills are mostly gone as has
23 been testified by the folks here today.

24 And the loss of these good-paying jobs has been
25 devastating to our families and to our communities. Many of

1 our neighbors and family members have packed up and left
2 Maine. And some have been forced on public assistance. The
3 schools today, the high schools in particular, are half the
4 size they used to be. And when you go to church, you see
5 those collection baskets which were a lot thinner than they
6 were back in the 1960s and '70s.

7 Now, our communities start to unravel when we
8 lose a mill. I bet a lot of you folks have gone up to Maine
9 to vacation. When I say I'm from Maine everybody smiles.
10 It is the greatest state in the world. The greatest place
11 on earth. And our second district is the finest of the
12 finest.

13 Now, when you're traveling our second district,
14 you see this stunning natural beauty. If you've been there,
15 you've probably also been stunned and saddened by all the
16 boarded up mills. And they line the Penobscot, the
17 Interscoggin and the Kennebec Rivers that flow through our
18 second district. That's why your work here is so important
19 to us. And I salute you for doing it.

20 Last year alone there were three paper mills in
21 our district that shut down. In Bucksport, Old Town and
22 Millinocket, 1,000 jobs lost.

23 This summer a tissue mill in Lincoln filed for
24 bankruptcy. Another 200 jobs. A pulp mill in Old Town
25 closed with another 195 jobs. And another mill in Jay in

1 western Maine in our district, laid off 300 workers. So
2 during the past 30 years it's been tough. And our district
3 has been changing. And although we are right smack in the
4 middle of the wood basket in our world, in our country, we
5 only have about a half a dozen mills left. And those mills
6 make a product that we all use, that you are using today.
7 That I'm using today. This is an incredibly important
8 industry in Maine, in our second district and throughout the
9 country. And I'll tell you, we are fighting for every job
10 up in Maine, every single job. And you folks have a huge
11 impact on helping us.

12 I would greatly appreciate it if you would do so.

13 Now, Madison Paper is one of our survivors. This
14 past August I went and I toured the mill and I met Russ
15 Drechsel, who is our general manager there. Mike Croteau
16 who runs our union up in Maine. They're both going to
17 testify today. And I met a number of folks on the floor.
18 And just like all these other small towns, mill towns across
19 the country, these folks told me, Bruce, these are more than
20 a paycheck. This is feeding my kids. This is paying a
21 mortgage. This is putting a warm coat on my son or
22 daughter. This is serious stuff.

23 And I'll tell you, we can compete with anybody.
24 Anybody. In Maine and across this country, we just need a
25 break. We need a level playing field.

1 We're not asking for anything but fairness.

2 Now we all over the years up in Maine that high
3 taxes, high regulations and high electricity costs have
4 driven a lot of our mills out of state or shut some down.
5 But I'll tell you, I've also been increasingly alarmed by
6 another issue that we're here today to talk about, which is
7 this unfair and unlawful trade practices. Because they
8 pushed our mills to close and killed some of our jobs and
9 they're still doing it.

10 Now, our constitution makes it really clear that
11 all of us in the federal government, that's you and me, we
12 have a responsibility in the authority to protect our
13 workers against unfair trade. We deserve it, our 220
14 workers in Madison deserve it, and all they ask is a
15 government that works for them and doesn't sit idly by. And
16 I know you'd do that.

17 Now, for years in violation of established
18 international trade law countries like China and Indonesia
19 have pumped tremendous amounts of money into their domestic
20 companies to increase their operations and flood the U.S.
21 market with cheap paper.

22 In 2011, as has been stated here earlier, the
23 supercalendared paper mill in Port Hawkesbury, Nova Scotia
24 shut down because it couldn't make buck. A year later it
25 opened after the provincial government infused tens of

1 millions of dollars into this mill to buy new equipment,
2 lower their energy costs and also provide them with other
3 assets. Now, when this happened, a year after they closed,
4 when this happened, tens of -- excuse me, hundreds of
5 thousands of tons of supercalendared paper flooded the
6 domestic market. Flooded the international market, to the
7 extent that 25 percent of the North American demand was met
8 by this flooding of the market from Port Hawkesbury.

9 Now, these actions are illegal. They stand in
10 violation of our trade laws. And as a result of these
11 actions by Port Hawkesbury, it threatens the survival of
12 Madison Paper and the 200 workers there, 220 workers there
13 and these other mills across the country who produce the
14 same product.

15 Now, Madison Paper plays by the international
16 rules. But this year, they were forced to shut down three
17 times, temporarily because the flooding of this paper
18 illegally causing the price to plummet, they've had to
19 furlough many of these deserving workers. Now, this isn't
20 right, and it's not fair, and everybody in this room knows
21 it.

22 And on behalf of our honest workers and our
23 hard-working workers in Maine, throughout our second
24 district and the 220 workers over at Madison Paper, I
25 greatly appreciate the attention and the time you're

1 spending on this issue.

2 We all have a responsibility to protect our
3 workers to make sure they compete on a level playing field.
4 Now, I know that you're scrutinizing the data that's come
5 over from the ITC, and I think you're going to find what
6 everybody else has found, is that there has been an injury
7 to Madison Paper and to other folks.

8 Now, I also want to mention that Assistant
9 Secretary Picado and his staff at the ITC have done one heck
10 of a job in investigating this case, which is very complex,
11 and they deserve our thanks, and I know the people of Maine
12 want to thank Mr. Picado and his staff. And within this
13 context, I would also ask you, please to consider the
14 support for the ITA to move quickly for an expedited review
15 of tariffs imposed on other entities that have paper assets
16 in our state. But I'm here to thank you very much for the
17 hard work you're doing. I appreciate this opportunity and I
18 can tell you, the people up in Madison, Maine appreciate it
19 greatly and I ask you to do the right thing and I know you
20 will.

21 Thank you very much.

22 CHAIRMAN BROADBENT: Thank you. Are there any
23 questions for Mr. Poliquin?

24 (No response.)

25 CHAIRMAN BROADBENT: Seeing none, thank you very

1 much. We appreciate your testimony.

2 MR. BISHOP: Madam Chairman, that concludes our
3 Congressional appearances.

4 CHAIRMAN BROADBENT: Okay. Let's now proceed with
5 opening remarks.

6 MR. BISHOP: Opening remarks on behalf of
7 Petitioner will be given by Gilbert G. Kaplan, King &
8 Spalding.

9 CHAIRMAN BROADBENT: Welcome, Mr. Kaplan.

10 OPENING REMARKS OF GILBERT B. KAPLAN

11 MR. KAPLAN: Thank you, Madam Chairman. Thank
12 you, Members of the Commission.

13 This case is about unfairly subsidized imports of
14 supercalendered paper, so-called "SC Paper" from Canada.
15 The large and increasing volume of subsidized imports from
16 Canada have undercut the domestic industry's prices and
17 adversely affected the operational and financial performance
18 of the U.S. producers.

19 Applying the statutory criteria, it is clear that
20 the domestic industry is materially injured by reason of the
21 subject imports. Respondents are not raising any Like
22 Product issues, and the Domestic Like Product should be
23 defined as coextensive with the scope of investigation.

24 The record continues to support the Commission's
25 preliminary decision not to subdivide or expand the Domestic

1 Like Product.

2 The key characteristic of competition in this
3 industry is that Canadian and U.S. producers must all
4 operate continuously at capacity utilization rates, and must
5 fill the mill with sales made to the U.S. market.

6 Indeed, the Canadian producers are dependent on
7 the U.S. market for their existence. Moreover, subject
8 imports and U.S. producers SC paper are highly
9 interchangeable. Most purchasers rated the Domestic
10 Industry and Subject Imports as comparable with respect to
11 all 21 purchasing criteria queried by the Commission.

12 Moreover, 5 of 6 importers and 20 of 21
13 purchasers reported that Subject Imports and Domestic Like
14 Product are always or frequently interchangeable.

15 For these reasons, as multiple companies
16 negotiate for the same sales opportunities, price is a very
17 important factor in purchase decisions.

18 Another important condition of competition during
19 the period of investigation was the opening of a huge mill
20 in Port Hawkesbury, Nova Scotia. The PHP Mill injected
21 400,000 tons of capacity into the North American market.
22 This mill only exists due to massive illegal subsidies. The
23 PHP entry frustrated efforts to raise prices and contributed
24 to declining prices in the U.S. market caused by competition
25 with Subject Imports.

1 The record respecting the statutory criteria
2 strongly indicates material injury by reason of Subject
3 Imports. Both the volume and the increase in volume of
4 subject imports are significant.

5 The Subject Imports caused negative price
6 effects. The domestic industry is not insulated from
7 competition with Subject Imports in any market segment. The
8 pricing product comparisons demonstrate pervasive
9 underselling.

10 Moreover, the extensive sales negotiation
11 information provided in our brief further established that
12 purchasers have routinely demanded that U.S. producers
13 reduce their prices to meet the prices of Subject Imports.

14 Notably, 22 of 23 responding purchasers bought
15 from both Canadian and U.S. producers. Subject Imports have
16 significantly depressed prices for the Domestic Like Product
17 as U.S. producers reduced pricing during the POI to maintain
18 sales and production volumes of their mills.

19 Subject Imports have also suppressed prices for
20 the Domestic Like Product. From 2012 to 2014 the ratio of
21 cost of goods sold to sales revenue for the U.S. producers
22 increased.

23 The Subject Imports have had a negative impact on
24 the domestic industry. Although most of the domestic
25 industry is confidential, it is clear that the industry is

1 experiencing poor operating and financial performance.

2 Currently, the domestic industry is at break-even
3 at the gross profit level. One mill has had to take very
4 significant amounts of down time despite the high cost of
5 doing this.

6 The impact of Subject Imports will only continue
7 to grow as the Canadian producers attempt to maintain their
8 continuous 24/7 operations even as U.S. market demand
9 continues to decline. Even if prices fall no further, the
10 viability of domestic SC paper production is threatened by
11 the Subject Imports.

12 As mills compete to serve the U.S. market, the
13 domestic industry deserves a level playing field. That's
14 what we're asking for.

15 The Commission should reach an affirmative
16 determination in this investigation.

17 Thank you.

18 MR. BISHOP: Opening remarks on behalf of
19 Respondents will be given by Thomas J. Trendl, Steptoe &
20 Johnson.

21 CHAIRMAN BROADBENT: Welcome, Mr. Trendl.

22 OPENING REMARKS OF THOMAS J. TRENDL

23 MR. TRENDL: Thank you, very much. And
24 condolences, Mr. Pinkert, Commissioner Pinkert.

25 Good morning, Madam Chairman--

1 CHAIRMAN BROADBENT: Excuse me?

2 (Laughter.)

3 COMMISSIONER PINKERT: I don't think that was a
4 personal condolence.

5 (Laughter.)

6 MR. PINKERT: No, it wasn't. It was due to the
7 Chicago Cubs.

8 CHAIRMAN BROADBENT: Oh, another sports analogy.

9 (Laughter.)

10 MR. TRENDL: Yeah. I'll begin now.

11 Good morning, Madam Chairman, Commissioners, and
12 staff. My name is Tom Trendl and I'm a partner with
13 Steptoe.

14 I appreciate the opportunity to appear before you
15 today on behalf of Port Hawkesbury Paper, a Respondent
16 opposed to the Petition in this investigation.

17 And as Mr. Kaplan said, there are four points I
18 believe on which Petitioners and PHP would agree. There is
19 no dumping at issue. This is a CVD case only. We do not
20 contest the Like Product definition.

21 We both agree that Resolute should continue to be
22 excluded from the domestic industry, just as the Commission
23 has done in the prelim.

24 PHP resumed operations in Q4 2012 after buying a
25 plant out of bankruptcy, which was formerly owned by

1 Petitioner Verso/New Page. Beyond these four points, not
2 surprisingly, Petitioners and PHP see this Petition, this
3 investigation and the analysis of the data collected very
4 differently.

5 Petitioners' arguments are contrary to the facts,
6 ignore market realities, and fundamentally seem to rely on
7 PHP's mere existence as the basis for their material injury
8 case. PHP submits that its existence cannot be equated with
9 causing material injury, and the facts collected through the
10 hard work of the staff in the final phase of this
11 investigation support but one conclusion: No present or
12 threatened material injury.

13 To support their material injury claims,
14 Petitioners intentionally, or perhaps unintentionally, rely
15 on a number of inherently and fundamentally flawed,
16 distorted or just plain wrong data. And here are just a few
17 examples.

18 First, when setting forth the base reference
19 point for U.S. production, capacity, utilization, employment
20 and other trends, Petitioners include data for a mill,
21 Verso's Sartell Mill, which was closed due to a fire in
22 2012. Including the Sartell data for 2012 completely
23 distorts all trend analysis. Similarly, when PHP did not
24 even resume operations until Q4 2012, it was not until 2013
25 that representative full-year data are available.

1 Petitioners' use of full-year 2012 data as the
2 base year for purposes of Canadian import trends, et cetera,
3 is consequently useless.

4 On the subject of PHP's resumption of operations,
5 as we heard from some of the Congressional witnesses,
6 Petitioners call PHP a "new supplier" and "adding additional
7 supply," and then rely on this heavily in claiming material
8 injury. But let's be clear.

9 This plant began operations in 1998, was
10 previously owned by Stora and then New Page, now a
11 Petitioner, and operated for 13 years until it was hot-idled
12 for less than a year. In the year that it fully operated,
13 it was at about--this is public--91 percent utilization and
14 produced a fair bit more paper than PHP has produced since
15 it resumed operations.

16 As such, PHP should not be considered a new
17 supplier by any stretch. It's one of Petitioner's former
18 mills that resumed operation under PHP's ownership.

19 Finally, I'll mention a few highly pertinent
20 facts found by the staff and revealed by the analysis of the
21 data we'll discuss later today.

22 First, there were no confirmed lost sales or lost
23 revenue. None. Petitioners alleged 22 lost sales and 245
24 instances of lost revenue. None. As the prehearing brief
25 succinctly and unambiguously states, no responding purchaser

1 confirmed a lost sale or lost revenue allegation.

2 This investigation is at least as much, and
3 likely more, about Petitioners protecting the coated
4 groundwood production, their coated groundwood production,
5 than it is about SC imports from Canada.

6 As we explain in detail in our brief, and Dr.
7 Byers will discuss later today, prices for coated groundwood
8 are at the heart of this investigation as they determine the
9 price for SC paper. Coated groundwood, not Subject Imports,
10 is the causal nexus impacting SC paper prices.

11 Petitioners, quite arguably, have more mistaken
12 how coated groundwood has impacted SC paper than
13 illuminating attenuated competition between Canadian and
14 U.S. paper grades.

15 Our resumption of operations and the volume it
16 sold into the United States did not displace production of
17 Petitioners. As Mr. Ostrowski and Mr. Malashevich will
18 explain in detail, our entry had no measurable effect on
19 volume impact on the U.S. SC market. As Ms. Groden will
20 explain, the data collected by the Commission demonstrate
21 the lack of material price suppression, price depression,
22 and underselling.

23 PHP submits that an analysis of grade specific
24 AUVs and underselling with respect to PHP alone is highly
25 instructive. When the data are viewed properly, it is clear

1 that imports of Canadian SC paper have not and could not
2 have caused material injury to Petitioners' SC paper
3 operations, its sales, or its financials.

4 Thank you very much. I see my time is over.

5 MR. BISHOP: Would the panel in support of the
6 imposition of the Countervailing Duty Order please come
7 forward and be seated?

8 Madam Chairman, all witnesses on this panel have
9 been sworn in.

10 (Pause while panel is seated.)

11 CHAIRMAN BROADBENT: I want to welcome the panel
12 to the ITC. You may begin when you're ready.

13 MR. KAPLAN: Thank you. It's a little bit of a
14 logistical feat, but I think we've accomplished it.

15 Our first witness is Russ Drechsel, CEO of
16 Madison Paper.

17 STATEMENT OF E. RUSSELL DRECHSEL

18 MR. DRECHSEL: Good morning. My name is Russ
19 Drechsel. Since January 1, 2002, I have been the Chief
20 Executive Officer and President of Madison Paper Industries.
21 I have held numerous operating and engineering positions at
22 the Madison Mill for 34 years. I am a University of Maine
23 Paper School graduate, and I have 39 years' experience in
24 the paper industry.

25 Madison Paper has been producing supercalendered

1 paper at the mill in Madison, Maine, since 1978. In 1981, a
2 new SC paper machine was installed in Madison, after which
3 the mill began to produce a high-quality supercalendered
4 paper product, the first of its kind to be produced in North
5 America.

6 In 2001, Madison invested \$50 million in
7 modernizing the 1981 machine. Today, the only product we
8 produce in our mill in Madison is supercalendered paper, and
9 that is the only product the mill is designed to produce.

10 We also produce pressurized groundwood pulp at
11 Madison, which we consume internally to produce the
12 supercalendered paper. Madison has experienced significant
13 negative effects as a result of competition from subsidized
14 SC imports from Canada.

15 Canadian SC paper has undersold our SC paper in
16 the U.S., causing prices to fall significantly over the
17 Period of Investigation and eroding our profitability.
18 Paper production is a highly capital-intensive industry.
19 Today, a green fill paper facility would cost approximately
20 \$500- to \$700 million.

21 These mills are designed to run 24/7, and
22 profitability is dependent upon maintaining high capacity
23 utilization rates. When we run at lower operating rates,
24 our operating efficiency is significantly reduced and our
25 costs are significantly increased.

1 When we can no longer sell our supercalendered
2 paper profitably, we are forced to take extended down time
3 on our paper machine. If we are unable to sell profitably
4 over an extended period of time, we would be forced to shut
5 the mill permanently.

6 That would put over 200 employees out of work.
7 We have been suffering significant material injury as a
8 result of subsidized imports of SC paper coming from Canada.

9 During the first half of 2015, we were forced to
10 close the mill and lay off our employees at our
11 supercalendered paper mill in Madison, Maine, three times.
12 From January 4th to February 10th, from April 17th to the
13 28th, and from May 21st to June 2nd, totaling 40 days of
14 down time.

15 Most of Madison's non-salaried employees were
16 laid off during these curtailment periods, which translates
17 into no paychecks for our workers. I regretted very much
18 having to take these shutdowns, but we had no choice.

19 Due to the high volume of low-priced imports from
20 Canada, our margins have been compressed to the point that
21 we cannot profitably run our operation 24/7/365. This
22 action was unprecedented.

23 There are significant costs and risks associated
24 with turning the machine off and then on again. But with
25 paper prices at the lowest levels ever and our lack of

1 orders, we simply have to curtail production. Such
2 shutdowns are costly and cannot be sustained indefinitely.

3 Madison's business has struggled, particularly
4 since the Nova Scotia government provided subsidies in
5 excess of \$125 million to restart the supercalender paper
6 mill at Port Hawkesbury, Nova Scotia.

7 The Port Hawkesbury Paper Mill is huge with a
8 capacity of 400,000 tons, equal to about 25 percent of SC
9 paper demand in the U.S. When the mill opened in 2012, it
10 wrecked havoc in a market that was already weakened by
11 underselling by other Canadian producers, and by declining
12 demand.

13 Demand is declining for SC paper, and for all
14 printing and writing papers. This has forced the U.S.
15 industry to become as lean and as efficient as possible.
16 Madison Paper has done everything in its power to trim its
17 costs.

18 In 2013, for example, we converted the fuel
19 source to fire our boilers from oil to natural gas. We also
20 invested in new pulp grinding technology. Our pressurized
21 groundwood mill is one of a kind. We employ diamond
22 grinding surfaces to manufacture the groundwood pulp. The
23 diamond surfaces have significantly reduced the amount of
24 electricity required to produce the quality of pulp needed
25 for SC paper manufacturing.

1 We have also made other investments to improve
2 the quality of our product offered such as defect sensors
3 and to further reduce the power required to manufacture
4 paper such as high efficiency motors and agitators.

5 However, despite all our efforts to reduce costs,
6 and despite the closure of several mills in the U.S. and
7 Canada, falling prices over the past three years have
8 resulted in a deteriorating profitability and cash flow for
9 our company.

10 We have also had to put facility upgrades on
11 hold, given the current pricing environment. These
12 difficulties are described in greater detail in our
13 questionnaire response.

14 The reasons that prices in the United States have
15 remained so depressed over the Period of the Investigation
16 was a large increase in Canadian supply and the pervasive
17 underselling by the Canadian producers.

18 In short, we have been materially injured by the
19 subsidized imports from Canada. Moreover, the future of the
20 U.S. industry producing supercalendered paper is bleak
21 unless duties are imposed to offset the subsidized imports
22 from Canada.

23 If we are not able to level the playing field in
24 the United States, the future of our mill is in jeopardy.
25 On behalf of Madison Paper and our 215 employees, we ask the

1 Commission to reach an affirmative determination.

2 Thank you.

3 MR. KAPLAN: Mr. Paterson?

4 STATEMENT OF DAVID J. PATERSON

5 MR. PATERSON: Good morning. My name is Dave
6 Paterson. I am the President and CEO and Director of Verso
7 Corporation, positions which I've held since 2012.

8 From 2007 to 2011, I was the President and CEO of
9 Pulp and Paper Producer Abatibibowater, which is now known
10 as Resolute Forest Products. Prior to that, I worked in a
11 variety of executive, sales, and marketing positions for
12 Georgia Pacific, another producer of paper, packaging, and
13 building products. I have worked in the paper industry for
14 over 37 years.

15 Verso operates eight mills located in Kentucky,
16 Maine, Maryland, Michigan, Minnesota, and Wisconsin. Verso
17 produces supercalender paper at its mill in Duluth,
18 Minnesota, which began operations in 1987.

19 In Duluth, we operate one paper machine, three
20 supercalenders, and two winders. We also make pressurized
21 groundwood pulp and recycled pulp in Duluth which we use to
22 produce SC paper.

23 The paper machine at the Duluth Mill produces
24 only one product, SC paper. The mill has the capacity to
25 produce 270,000 short tons of SC paper per year, and employs

1 approximately 265 people. The Duluth Mill is widely
2 considered to be very cost-efficient, and we have a
3 first-class workforce.

4 There are several characteristics about the pulp
5 and paper industry that I want to lay out for you because I
6 believe they are critical to gaining a comprehensive
7 understanding of the nature of competition in this industry
8 and why we are being injured by Canadian imports.

9 First, if you have ever seen a paper machine you
10 know these are football-field sized pieces of equipment with
11 pulp and water going in one end, and paper coming out the
12 other. Paper machines run continuously day and night.

13 A web of paper which starts out as 99 percent
14 water travels through the paper forming and finishing
15 sections at approximately 50 miles per hour. You can't slow
16 these machines down or the paper will not form correctly.

17 You also can't reduce the number of shifts in
18 response to poor market conditions, as you can in other
19 industries, because the machines can't simply be turned on
20 and off without a huge cost and some risk to the equipment.

21 Besides the equipment design, another reason we
22 have to operate 24/7 is because our paper production is
23 highly capital intensive. If we were to run at lower
24 operating rates by turning off our machines, our operating
25 efficiencies would plummet and our costs would increase

1 significantly.

2 Thus, because the manufacturing equipment is
3 designed to run continuously, and because we have to fill
4 the mill with orders in order to cover our capital costs, we
5 operate all the time.

6 Second, the Canadian producers are highly
7 dependent on the United States' market. The U.S. market is
8 large, and the Canadian market is inconsequential. And we
9 know from industry reports that the Canadians do not have
10 any meaningful alternative export markets other than the
11 U.S.

12 Thus, it has always been the case that Canadian
13 producers export all their SC paper to the United States.
14 Canadian producers also supply a significant majority of
15 U.S. consumption, which means the increase in supply and
16 underselling by Canadian producers has a major impact on the
17 price in the U.S.

18 Because the Canadians have such a dominant
19 position in our market, by contrast Verso sells little if
20 any SC paper in Canada. The dependence of the Canadian
21 producers on the U.S. market and the imperative to run their
22 equipment flat out resulted in aggressive pricing
23 competition from subsidized Subject Imports and negatively
24 affected prices in the U.S., and had a harmful impact on our
25 financial performance.

1 Verso has experienced negative effects as a
2 result of the competition from subsidized SC paper imports
3 from Canada. The Commerce Department investigation has
4 confirmed that Canadian producers benefitted from government
5 subsidies. These subsidies give Canadian producers an
6 unfair advantage in the U.S. market.

7 As Paul Clancy and Mike Weinhold will describe in
8 greater detail, we have been forced to reduce our sales
9 price as a result of subsidized competition from Canada.
10 This in turn resulted in a decrease in our profitability and
11 cash flow, as well as other indica of injury, as you can see
12 in our questionnaire response.

13 Things have only gotten worse in 2015. It is
14 critical for the success of our SC paper business that we
15 are able to sell in our home market free from the impact of
16 subsidized imports from Canada.

17 I also want to address what PHP describes in its
18 brief as an admission from Verso that SC prices do not
19 relate to raw material costs. We believe we should be able
20 to cover the costs of goods sold and earn a reasonable
21 profit. However, SC prices do not follow costs of good sold
22 because of the aggressive price competition from Canadian
23 producers.

24 An affirmative injury determination is warranted
25 in this case. On behalf of Verso and all of its employees,

1 I ask that you make an affirmative injury finding in the
2 investigation so that the domestic industry can get relief
3 from the unfairly traded imports and protect jobs in
4 Minnesota.

5 Thank you, very much.

6 STATEMENT OF MICHAEL A. WEINHOLD

7 MR. WEINHOLD: Good morning. My name is Mike
8 Weinhold. I am the Senior Vice President for Sales,
9 Marketing and Product Development for Verso Corporation. I
10 am responsible for Verso's sales, marketing, supply chain,
11 customer technical service, e-commerce, product development
12 and product management.

13 I have been at Verso since 2006. Prior to that
14 I worked at International Paper, where I held various sales,
15 marketing and management positions. I have twenty-nine
16 years of experience in the paper industry.

17 There are four Canadian producers of super
18 calendar paper. J.D. Irving Paper in New Brunswick,
19 Catalyst Paper in British Columbia, Resolute Paper in
20 Quebec, and Port Hawkesbury Paper in Nova Scotia.

21 Canadian producers are heavily dependent on the
22 U.S. market. Canadian producers primarily export SC paper
23 to the United States and the home market other markets only
24 account for a small share of sales. The extreme export
25 orientation of the Canadian industry on the U.S. market has

1 significant implications for domestic producers.

2 Canadian paper producers have long benefited
3 from subsidies from the Canadian National and Provincial
4 governments but 2012, subsidies to one company in
5 particular, Port Hawkesbury Paper, created a major market
6 impact and compounded the negative price effects of imports
7 from Canada.

8 The mill at Port Hawkesbury was previously owned
9 by NewPage Corporation. NewPage closed that mill in
10 September 2011 and the mill filed for bankruptcy. The
11 reason cited for the mills unprofitability were that it
12 faced high energy and high wood costs. Moreover, the mill
13 is located on an island off the coast of Nova Scotia, a very
14 long distance from most customers in the U.S. and Canada,
15 putting the mill at a tremendous disadvantage in terms of
16 logistics and transportation costs.

17 After the mill stopped operating, prices for SC
18 paper in the United States began to recover, but this
19 reprieve was short-lived. In September 2012, the mill was
20 sold to a purchaser in British Columbia who agreed to
21 restart the mill. The purchase and restart of the mill was
22 only made possible by the massive subsidies provided to the
23 new owner by the provincial government of Nova Scotia.

24 Among other subsidies, the new purchaser,
25 Pacific West Commercial Corporation, received a \$125 million

1 lifeline from the government of Nova Scotia to restart the
2 mill. The company also received a rate reduction from the
3 Provincial Electric Company, and a reduction in the price it
4 paid for timber from Provincial Crown Lands, all in the name
5 of making the mill more competitive.

6 All of these types of assistance were found by
7 the commerce department to have provided countervailable
8 subsidies. Through these subsidies, the government of Nova
9 Scotia enabled the sale and ensured the re-opening and
10 sustainable operation of the Port Hawkesbury mill.

11 Without the subsidies, the otherwise
12 unprofitable mill would have ceased to exist. After the
13 Port Hawkesbury mill restarted in October 2012, Canadian
14 imports shot up. Between 2012 and 2014, imports from Canada
15 increased significantly, and our market share declined.
16 Prices immediately began to erode, and so did our
17 profitability.

18 Underselling by all Canadian producers has long
19 been a problem because all Canadian producers receive
20 subsidies as found by the Department of Commerce. But when
21 Port Hawkesbury resumed production in sales and added
22 another 400,000 tons back into a declining market, prices
23 took a nosedive.

24 In order to push such large quantities of SC
25 paper in the U.S. market, Canadian producers offered

1 fire-sale prices. It then became a race to the bottom, as
2 all producers anxious to keep their mills full, reduced
3 prices to keep business. The report put together by the
4 staff shows huge levels of underselling, affecting 2.3
5 million tons with underselling levels as high as 16.2%. The
6 extensive lost revenue information we provided also
7 demonstrates how we have consistently had to lower our
8 prices to meet competition from Canadian producers. In sum,
9 Verso has been injured by subsidized Canadian imports and I
10 urge you to take steps to address this. Thank you.

11 MR. JOHNSTON: Good morning. Madame Chair and
12 members of the Commission, thank you for your time today.
13 My name is Mike Johnston. I'm the Vice President of
14 Distribution Sales for UPM-Kymmene, Inc., which handles
15 sales of super calendared paper produced by Madison Paper
16 Industries. I'm also from Chicago, so I have no interest in
17 talking about baseball today.

18 I started my employment with UPM-Kymmene in
19 August of 2006. During my twenty years in the super
20 calendar paper industry, I also worked as vice-president and
21 general manager for St. Mary's Paper, a former Canadian
22 producer of super calendared paper, which closed in 2011.

23 My job experience has thus given me a good
24 perspective on the super calendared paper industry, from
25 both sides of the border. All super calendared papers share

1 the same physical characteristics and uses, and are sold to
2 the same types of end users. SC paper differs from other
3 paper, such as coated groundwood paper, high-bright paper or
4 newsprint.

5 Based on the information developed in the staff
6 report, and based on your prior decisions, we believe you
7 should continue to find that the like product is all SC
8 paper and you should not subdivide SC paper into separate
9 like products, or include other types of paper in the like
10 product.

11 Coated groundwood paper and SC paper are
12 distinct products with differences on both the supply and
13 demand side. First, coated papers are more costly to
14 produce than SC paper, as they require an additional
15 processing step, in which the papers are coated on one or
16 both sides. The equipment to coat the paper costs in the
17 tens of millions of dollars.

18 Second, the coating adds distinct physical
19 characteristics that differ from SC paper. The coating has
20 properties that enhance the print quality, ink holdout and
21 longevity of the paper. Thus, SC paper is better suited for
22 use in Sunday supplements, catalogues, coupons, magazines
23 and certain direct mail materials where weight and mailing
24 costs are a consideration.

25 There are also distinctions in terms of physical

1 characteristics and end uses between SC paper and newsprint
2 or high bright paper. The surface voracity of the newsprint
3 and uncoated papers make them largely unsuitable for
4 printing graphic material, particularly in higher
5 resolutions and in color, as compared to SC paper.

6 SC paper comes in a continuum of grades that
7 equate to the brightness and smoothness levels of the paper.
8 With SCA+ being the brightest and smoothest and SNC being
9 the least bright and smooth. 100% of the SC paper we
10 produce is made to order. SC paper is sold to end users,
11 which can be retailers, cataloguers, publishers or printers
12 and through brokers.

13 Regardless of the purchaser, however, SC paper
14 is shipped directly to the printer. This is true for both
15 U.S. produced SC paper and for SC paper imported from
16 Canada. All SC paper is sold in the form of rolls.
17 Subsidized imports from Canada have caused significant
18 negative effects on our operations.

19 We compete head-to-head with subject SC paper in
20 all of the SC paper grades produced at Madison. We also
21 compete with subject paper in all geographic markets in the
22 United States. Based on our experience in the market, U.S.
23 and Canadian producers compete for business at all our major
24 accounts.

25 As has been noted, the Canadian producers of SC

1 paper have always been intensely focused on the sizeable
2 U.S. market. And nearly all their production is sold in the
3 United States. Price is always the key factor in the buying
4 decisions of our customers.

5 Because SC paper is a standardized product, it
6 is both fungible and highly price sensitive. We have had to
7 lower our prices to meet competition from subsidized
8 Canadian producers, which significantly reduced our revenue
9 over the period of investigation. Our average unit sales
10 fell significantly from 2012 to 2014, and continue to move
11 lower in the first half of 2015.

12 Although Madison Paper has made significant
13 efforts to reduce costs over the period of investigation,
14 low market prices have eroded our profitability to an
15 unsustainable level. As Russ noted, price erosion has been
16 particularly pronounced since the Port Hawkesbury mill
17 restarted production in October 2012.

18 Pricing has dropped to a level that forced
19 Madison to shut down for forty days in the first half of
20 this year, an untenable position in an industry where
21 producers must operate 24/7 to be successful.

22 I want to say a word about PHP's contention that
23 coated groundwood prices drove the price for SCA and SCA+
24 paper. As a threshold matter, Canadian SC supply increased
25 during the POI. When supply increases, prices fall and

1 consumption rises. That is exactly what happened.

2 Second, the price of all SC papers fell during
3 the POI. While there has been an historical relationship
4 between these prices, with LWC prices being higher than SC
5 prices due to manufacturing costs, it is incorrect to say
6 that SC prices are determined by the price of LWC paper.

7 The prices that we agree to with our customers
8 are based on extensive negotiation, influenced significantly
9 by the offers from our Canadian competitors and the volume
10 of supply in the market, and are not automatically tied to
11 the price of any other paper.

12 Moreover, contrary to PHP's contention that LWC
13 prices influence SC prices, the converse was perceived to be
14 the case during the POI. As noted by RISI Paper Trader in
15 February 2013, the pricing side of the coated mechanical
16 market has already started to move down in response to weak
17 demand and lower prices for competitive SC grades of paper.

18 Thus, at least RISI observed that the downward
19 SC price movement preceded that for the competing coated
20 product. Thank you.

21 MR. KAPLAN: Thank you. Mr. Clancy.

22 STATEMENT OF PAUL W. CLANCY

23 MR. CLANCY: Good morning. My name is Paul
24 Clancy. I am Vice President of Marketing and Business
25 Development at Verso Corporation. I've worked for Verso and

1 its predecessor companies for twenty-eight years, including
2 starting with the Duluth mill when it was a stand-alone
3 company. I was the first salesperson hired eighteen months
4 before the mill started up, and five years later, I became
5 the Vice President of Marketing and Sales.

6 My previous world before the Verso acquisition
7 was Vice President of Publishing Sales. Prior to the
8 closure of the Port Hawkesbury mill in 2011, I managed sales
9 organizations in both NewPage and Stora Enso, selling a
10 significant portion of the Port Hawkesbury production for
11 eight years. I have thirty-five years of experience in the
12 U.S. paper industry.

13 The imports from Canada serve the entire range
14 of end uses in the U.S. market and we compete against these
15 imports in every product category, and at every one of our
16 major accounts.

17 We are under constant pressure from our
18 customers to lower prices. SC paper, although it is made to
19 order, is a highly standardized product. For this reason,
20 SC is both fungible and highly price sensitive.

21 The imports from Canada are completely
22 substitutable with our SC paper. It may be that the
23 Canadian producers, who will testify this afternoon, will
24 seek to differentiate their products from ours. But our
25 experience has been that there is no significant end use

1 application for which we do not compete.

2 Imports from Canada also serve the entire
3 geographic U.S. market, and we compete with those imports
4 throughout the United States and at all our customers. PHP
5 contends that the domestic industry has very little
6 capability to produce SCA+ grade.

7 In fact, we produce and sell mostly SCA+ and we
8 have the capability of producing 100% SCA+. Thus, PHP's
9 claim is simply false. As others have noted, demand for SC
10 paper is in a secular decline as a result, primarily, of the
11 replacement of paper with online purchasing and
12 advertising, as well as the rise in popularity of digital
13 media.

14 In our sales negotiations with SC purchasers, we
15 attempt to emphasize our product quality, reliability and
16 close proximity to many important printers that utilize SC
17 paper. Unfortunately, SC purchasers are under intense
18 pressure to reduce costs and want us to lower prices.

19 All our major customers also have imports from
20 Canada as a supply option. The U.S. market is essential to
21 each of the Canadian producers and they must sell most of
22 their volume in the United States. To make sales, the
23 imports from Canada routinely undersell us. Thus, we have
24 had to reduce prices to maintain sales volumes.

25 As has been noted, production of SC paper is

1 highly capital intensive and paper machines are not designed
2 to be turned on and off. Every producers wants to run 24/7
3 and this fact has undeniable implications for competition
4 for sales among SC producers. In short, producers are loath
5 to lose volume, and will sacrifice profit margins to keep
6 the machines running.

7 As shown in our questionnaire response, we have
8 done that. The current market conditions, which were
9 created by imports from Canada, preclude reasonable
10 profitability. I'd like to address PHP's argument that the
11 price for light-weight coated paper drives the price for SC
12 paper.

13 Historically, there has always been a price
14 difference between light-weight coated and SC. And that
15 difference varies widely over time. Verso made both
16 products until 2015, and we attempted to maintain price
17 differentiation. With respect to competition for SC sales,
18 the price for SC is based on the dynamics of each particular
19 negotiation. There are always multiple supplier sources for
20 any particular sales opportunity, and it is this sales
21 competition that drives the price for a transaction.

22 As previously mentioned, one key factor is how
23 desperate a mill needs to fill production time. To prepare
24 for this hearing, I reviewed Verso's light-weight coated and
25 SC prices over the period of investigation. Those data show

1 that SC prices fell almost 50% more than light-weight coated
2 prices over the POI.

3 Lastly, to the extent that PHP is relying on
4 RISI price data, its statistical conclusions are highly
5 suspect given the unreliable nature of the RISI price data.
6 Whatever you hear from PHP today, no one can ever convince
7 me that PHP does not use low prices to gain sales.
8 Absolutely no one can dispute that PHP used low prices to
9 gain market entry.

10 Moreover, I can attest, based on my own
11 encounters, that even after PHP was firmly in the U.S.
12 market again, they continued underselling, particularly with
13 Verso's existing customers. In multiple supplier
14 situations, PHP, like all the other Canadian producers, will
15 use price to attract more volume. I cannot talk publicly
16 about our specific performance results, but it is well-known
17 that current U.S. market prices are not producing adequate
18 operating returns.

19 Relief from the unfair imports from Canada is
20 essential to returning reasonable pricing to the U.S.
21 market. Absence such relief, underselling by subject
22 imports will continue and U.S. market prices will continue
23 to be depressed to injurious levels. Thank you.

24 MR. KAPLAN: Thank you. Mr. Croteau.

25 STATEMENT OF MICHAEL L. CROTEAU

1 MR. CROTEAU: Good morning. My name is Mike
2 Croteau. I am the President of United Steelworkers Local
3 36, representing 140 U.S.W. members at the Madison mill.

4 I am a trained master mechanic, and now work as
5 winda crewman at the paper mill. I am also the safety
6 advocate for our workers. I worked for Madison Paper
7 Industries for thirteen years. The Madison mill also
8 employs forty-two members of the International Association
9 of Machinists Union Local 559.

10 The 182 union members are highly skilled,
11 experienced, and are responsible for running and maintaining
12 hundreds of millions of dollars of equipment that is
13 designed to operate twenty four hours a day, seven days a
14 week, producing high quality SC paper.

15 I have come to Washington today to ask the
16 Commission to make an affirmative determination that the
17 industry producing super calendared paper in the U.S. is
18 injured as a result of unfairly subsidized imports from
19 Canada.

20 I sincerely believe that our jobs in Madison
21 depend on it. Our region has a long history of
22 paper-making. Many people working today at the Madison mill
23 are third generation papermakers. Both my father-in-law and
24 brother-in-law worked at the mill. And I have several
25 nephews that also work there.

1 The mill is the heart of our community and it is
2 the largest employer in our area. The mill has long
3 provided stable, good paying jobs with benefits to our
4 citizens. And we work hard to make the mill as efficient
5 and cost-effective as possible.

6 We recently renewed a cost-neutral contract with
7 the mill in 2015. Any increase in pay or benefits
8 negotiated was offset by other changes in the contract that
9 would cover the increases. We understand that, in today's
10 competitive environment, there are shared sacrifices that
11 have to be in order to preserve our jobs.

12 The mill also supports many other jobs in the
13 community. From the loggers and truckers that supply fiber
14 to the mill. To the police force and the fire department.
15 To our schools and to our restaurants and retailers. The
16 state of Maine has estimated that every job at the mill
17 supports four or five additional jobs in the Madison area.

18 In the first half of this year, the Madison mill
19 has taken forty days of unprecedented downtime. Management
20 explained to us that this was a result of the terrible
21 market conditions caused by unfairly traded imports from
22 Canada.

23 We've experienced one or two temporary shutdowns
24 in the past, for capital expansion projects, but this year's
25 closures were different. During past curtailments, our

1 workers continued to be paid, but this time we were told
2 that we would be temporarily laid off without pay during
3 this period. It was a tremendous hardship on the employees
4 to lose forty days of pay over the course of six months.

5 But what was worse was the panic that the
6 shutdowns caused among the workers and in the community,
7 more generally. Some of the mill workers have come up to me
8 to ask if they should start drafting their resumes. It is
9 really nerve-wracking for everyone.

10 Maine has had mill closures in the past and
11 everyone in Madison knows what those closures have done to
12 those communities, and they are simply scared to death that
13 it could happen to them.

14 There is only one paper machine at Madison. If
15 that paper machine shuts down permanently, the mill closes.
16 Period. And there are no other comparable good-paying jobs
17 available in our rural community.

18 I would put our millworkers up against anyone in
19 the industry. They are hard-working, well-trained and very
20 seasoned. Like all Mainers, we are willing to quietly and
21 efficiently put our shoulders to the task. But we cannot
22 compete against subsidized imports from Canada.

23 Canada consumes very little super calendared
24 paper and almost all the paper produced up there is sold
25 into our market. When mills stay open and running because

1 of government bailouts, they export unemployment to our
2 mills. I ask you not to let that happen by making an
3 affirmative determination in this case and support
4 hard-working Maine families. Thank you.

5 MR. KAPLAN: Ms. Hart.

6 STATEMENT OF HOLLY R. HART

7 MS. HART: Good morning. Madam Chairman, members
8 of the Commission, my name is Holly Hart. I am the
9 Legislative Director and Assistant to the President of the
10 United Steel, Paper and Forestry, Rubber Manufacturing,
11 energy, Allied, industrial and Service Workers International
12 Union, otherwise known as the Steelworkers or USW. The USW
13 is the single largest industrial union in the United States
14 and we are the dominant union representing approximately two
15 hundred and seventy-five thousand workers in the Paper and
16 Forestry Industries.

17 The USW represents workers at the Madison Paper
18 Industries mill in Madison, Maine and supports the
19 imposition of duties on the subsidized Canadian Producers of
20 supercalendered paper. USSC paper mills have suffered
21 material injury as a result of illegal government subsidies.
22 As Mike Croteau has told you, the paper machine at Madison
23 was shut down for forty days in the first half of this year.
24 This is a first for this mill, which was actually the first
25 mill in North America to produce SC paper. Now, that mill

1 is at risk because of these subsidized Canadian Imports.

2 Paper Machines as you've heard, are specifically
3 designed to run all the time and paper mills thus employ
4 their work force twenty-four hours a day and because
5 machines are designed to run all the time, management cannot
6 just drop a shift the way you can in other industries. The
7 mill either runs continuously or it will eventually close.
8 The poor profitability of USSC paper producers has meant
9 that SC paper workers' wages and benefits have been unable
10 to keep up with the escalation in the cost of living.

11 The decline in jobs and benefits for SC paper
12 workers in the US also hurts our members and their families
13 and is directly tied to the declining profitability of the
14 companies for which they work. On behalf of the
15 Steelworkers International Union and all its workers, I
16 would urge you to reach an affirmative final determination
17 in this investigation. Thank you very much.

18 MR. KAPLAN: Thank you. That concludes our --
19 (someone interrupts).

20 SPEAKER: Gil, we've got two more.

21 MR. KAPLAN: I'm sorry. You're right.

22 STATEMENT OF BRIAN E. MCGILL

23 MR. MCGILL: Brian McGill for King and Spalding.

24 SPEAKER: He must be getting hungry.

25 MR. KAPLAN: Sorry.

1 MR. MCGILL: In this investigation there could be
2 no dispute that there is an imperative for the Canadian
3 Producers to operate their paper machines 24/7 and that the
4 vast majority of the Canadian production must be sold in the
5 U.S. Market. Likewise, there can be little doubt that the
6 Domestic Industry is currently in an injured state. Thus,
7 the central issue here is whether the Subject Imports can
8 compete with the Domestic Producers for sales and whether
9 price is an important factor in the sales competition.

10 The answer to both questions is yes. The record
11 overwhelmingly indicates direct competition between the
12 Canadian and U.S. Producers for sales. Of the twenty-three
13 purchasers filing responses, all but one purchased from both
14 Canadian and U.S. Producers and it is fair to say that they
15 are purchasing from both countries for the same uses. The
16 imports from Canada supply all grades of SC paper and there
17 is no part of the market in which U.S. Producers do not face
18 imports from Canada.

19 As Mr. Clancy stated, although SC paper is made
20 to order it is a highly standardized product and this high
21 degree of standardization makes SC paper a fungible
22 price-sensitive product regardless of source. Most
23 purchasers reported that neither the U.S. nor Canada were
24 unable or unwilling to supply any grade. Moreover five of
25 six responding importers and twenty of twenty-one responding

1 purchasers stated that imports from Canada are frequently
2 interchangeable with the domestic like product.

3 Purchasers were asked questions respecting
4 twenty-one purchasing factors and most purchasers reported
5 that U.S. and Canadian SC paper were comparable on all
6 twenty-one factors. The record here simply does not support
7 claims of attenuated competition. To the contrary, the
8 record establishes virtually complete competitive overlap.
9 The record also overwhelmingly indicates that price is an
10 important factor in this sales competition.

11 Price was identified as a very important factor
12 in purchase decisions by twenty-two of twenty-three
13 resigning purchasers. Prices were reported as one of the
14 top three purchase criteria by twenty of twenty-three
15 purchasers and was the most frequently ranked factor.
16 Purchasers can obtain lower prices from U.S. Producers
17 because all the major purchasers have imports from Canada as
18 a supply option.

19 Indeed, purchasers reported contacting an average
20 of 2-5 suppliers in order to procure SC paper. Likewise,
21 the purchasers know that the U.S. Market is essential to the
22 Canadian Producers and that these producers must sell most
23 of their volume in the United States. Moreover, at the
24 staff conference, the Canadian Producers unabashedly
25 admitted price competition for sales and noted that such was

1 simply the nature of the USSC Market.

2 Thus, in the competition for sales of a highly
3 interchangeable product, the record strongly confirms that
4 price is a key for purchase consideration as buyers will now
5 explain why pervasive underselling has led the Domestic
6 Industry to a state of break-even at the gross profit level.

7 STATEMENT OF BONNIE B. BYERS

8 MS. BYERS: My name is Bonnie Byers and I'm here
9 and behalf of the Petitioner. The Domestic Industry
10 producing SC paper is materially injured by reason of
11 Subject Imports. The volume of Subject Imports is
12 significant, both in absolute terms and in terms of Subject
13 Imports' share of U.S. consumption and U.S. production.
14 Moreover, the increase in the volume of Subject Imports is
15 significant both on an absolute basis and is a share of U.S.
16 consumption and U.S. production. The Domestic Industry lost
17 market share over the POI.

18 Subject Imports also caused significant negative
19 price defects, including price depression and it caused
20 price squeeze. The record on this investigation indicates
21 that there was pervasive underselling by Subject Imports
22 that negatively affected U.S. Market prices. In particular,
23 the pricing data demonstrates that the prices for SC Paper
24 decreased during 2012 to June 2015. Prices of domestically
25 produced SC paper declined in fifty-two of ninety-one orders

1 while prices of SC paper from Canada declined in fifty-one
2 of ninety-two quarters.

3 Moreover, prices for SC paper imported from
4 Canada were below those for domestically produced product in
5 81 of 98 instances totaling 2.3 million tons over the course
6 of the POI. The margins of underselling were also large,
7 ranging from a 0.5 percent to as much as 16.2 percent. This
8 analysis is definitive. Contrary to PHP's claim that the
9 pricing products only captured a fraction of the SC paper
10 products actually sold, the pricing product data that was
11 collected provides very good coverage of both U.S. Producer
12 and Subject Imports shipments.

13 Pricing data accounted for fifty-seven percent of
14 U.S. Producer shipments and sixty-five percent of shipments
15 of subject merchandise. The best that PHP can say about the
16 pervasive underselling by Subject Imports is that the
17 margins of underselling were purportedly lower near the end
18 of the POI. To the extent this is true, it merely indicates
19 that the price depression increased throughout the POI and
20 that the Domestic Industry was reducing prices in more
21 instances to meet the lower prices of Subject Imports.

22 PHP also does an underselling analysis using only
23 its own data. The exact results are confidential but
24 suffice to say the data presented by PHP indicated
25 underselling. Finally, the illustrative account information

1 provided in Petitioner's prehearing brief and its exhibits
2 point to routine underselling by all Canadian Producers.
3 PHP admits that its U.S. Market price declined over the POI.
4 PHP's points on price suppression and the relationship
5 between prices and cogs frankly mystifies me.

6 The Commission has historically recognized that a
7 cost/price squeeze is evidence of a negative price effect
8 and injury by reason of subject imports. Actual sales
9 prices are determined in competitive sales negotiations. I
10 think it's fair to say that versus observation that prices
11 in the SC paper industry are not tied to cogs, merely
12 highlights the negative price effects caused by the Subject
13 Imports. Thus, the record also establishes that U.S.
14 Producer prices were depressed and suppressed during the POI
15 by reason of Subject Imports. Specific data
16 related to the impact of Subject Imports on the Domestic
17 Industry is almost all confidential. Broadly, the record
18 does reflect that the Subject Imports adversely affected
19 U.S. Producers' capacity, production and employment.
20 Subject Imports also had a negative impact on the financial
21 performance of the Domestic Industry. As the prehearing
22 report indicates, the gross profits of the Domestic Industry
23 declined to essentially a break even gross profit level in
24 interim 2015 with obvious negative implications for both
25 operating profits and operating margins. Such a situation

1 is not sustainable.

2 Finally, Subject Imports also had a negative
3 impact on the Domestic Industry capital investment. That
4 concludes our direct presentation and we're happy to take
5 questions.

6 CHAIRMAN BROADBENT: Thank you. We'll begin our
7 questioning with Commissioner Schmidtlein.

8 COMMISSIONER SCHMIDTLEIN: Thank you, Chairman
9 Broadbent. I'd like to thank all the witnesses and their
10 counsel for being here today. I'm going to start with some
11 questions about demand. It seems that both sides agree that
12 this industry is in what you call a secular demand or
13 secular decline in demand or a structural decline in demand
14 and so given that, I have two questions. The first one is,
15 can you tell me in your view what accounts for the increase
16 in apparent consumption over the POI? I don't know who
17 would like to take that question. Mr. Kaplan, way in the
18 back.

19 DR. KAPLAN: Yes. It's plainly the reopening of
20 the Port Hawkesbury Mill and their exports into the United
21 States. While we're having a secular decline in demand,
22 what Port Hawkesbury did is increased supply and bringing
23 you back to the painful second week of introductory
24 economics, what an increase in supply does is decrease price
25 and increase quantity and that's exactly what you've seen

1 over the period of investigation and that's exactly what you
2 concluded in the preliminary determination, the third
3 paragraph from the bottom.

4 So the increase in supply --

5 COMMISSIONER SCHMIDTLEIN: Increased demand.

6 DR. KAPLAN: Consequent to the reopening
7 completely explains both the increase in consumption and the
8 decline in prices. The additional secular decline in demand
9 makes the U.S. Industry vulnerable and also puts pressure on
10 prices as well but we know the supply effect was bigger
11 because consumption increased.

12 COMMISSIONER SCHMIDTLEIN: So, but would you go
13 so far as to say that then this increase in supply is
14 increasing demand. I confess I looked at the elasticity
15 stuff a little bit but you're saying this is, what would
16 that be in economic terms? This is price, I know your
17 position is this is price sensitive but it's the elasticity
18 is such that when that supply came on the market, the prices
19 went down and that?

20 DR. KAPLAN: The prices went down and the
21 quantity went up. In essence, you could think you moved
22 down along the demand curve.

23 COMMISSIONER SCHMIDTLEIN: I'm trying to get a
24 sense though, so people who would otherwise not put inserts
25 into magazines of newspapers or whatever use they were going

1 to put this paper to decided to do so because the priced
2 dropped. That's your position, during that period?

3 DR. KAPLAN: If details of this, but in essence,
4 yes. In every case as you move down the demand curve
5 quantity increases as prices fall and people substitute
6 toward that product because of the lower price.

7 MR. CLANCY: So, this is Paul Clancy from Verso
8 Paper. The startup of the Port Hawkesbury Mill at that time
9 was the equivalent of twenty-five percent of the existing
10 apparent demand to what Mr. Kaplan said, you had a massive
11 increase in supply against a declining demand of SC paper, a
12 secular decline in demand and it forced prices down and it
13 may have attracted uses of other grades of paper to use
14 product from Port Hawkesbury.

15 COMMISSIONER SCHMIDTLEIN: So I take it from that
16 that you don't subscribe to the view that the Respondents
17 have that it was the switch from lightweight coated paper to
18 I guess SCA++ that was accounting for this increase? That
19 it was really across all grades? Would you like to address
20 that?

21 MR. WEINHOLD: Yes. It's Mike Weinhold, I will.
22 They're certainly at the margin, some grade substitution.
23 It happens all the time for various reasons. You'll
24 substitute product for optical characteristics. You may
25 upgrade, you may downgrade. Price is certainly a component

1 of that, basis weight comes into play but the fact of the
2 matter is, four hundred thousand tons came on into the
3 market, boosted demand for supercalendered paper products
4 because of low prices so you would have had some
5 substitution down from lightweight coated just as much
6 substitution coming up from other grades, newsprint, soft
7 knit, so at the polish point and others; the price and a
8 depressed price can certainly attract increased demand for
9 supercalendered paper.

10 I don't think you can put it on any one area
11 where it came from plus there was certainly some increase
12 more than likely circulation events, et cetera, for normal
13 users of supercalendered paper to take an opportunity of
14 some of the depressed prices.

15 COMMISSIONER SCHMIDTLEIN: And did you all say
16 that in your negotiations for sales that there were
17 purchasers out there who were looking for additional SC
18 calendered or supercalendered paper because the prices were
19 low and so they were wanting to do more than what they had
20 planned to do. Did you have personal experience with that?

21 MR. WEINHOLD: We didn't see much of that. We
22 saw more of substitution coming up and just overall demand
23 increase because of the low prices in the imports and a
24 little bit of substitution down from lightweight coated.

25 COMMISSIONER SCHMIDTLEIN: And you said you saw

1 more substitution coming up?

2 MR. WEINHOLD: You would have people generally
3 using newsprint or softknit products, soft knit news would
4 also take advantage of supercalendered B, supercalendered A
5 product and availability.

6 COMMISSIONER SCHMIDTLEIN: Because the price was
7 lower?

8 MR. WEINHOLD: Yes.

9 COMMISSIONER SCHMIDTLEIN: So that leads to
10 another question I had which was how do the prices of the
11 various grades of paper effect each other? Since the price
12 was dropping of I guess SCA paper, SCA+ paper, was that
13 affecting the price of the lower grade paper? I understand
14 they were switching out of it to take advantage of it
15 because of the higher grade now at a lower price, right?
16 But does that have an effect on the prices of those papers?
17 You would think it would but I don't know.

18 MR. CLANCY: What I can comment on is the startup
19 of the Fort Hawkesbury Mill depressed all grades of SC
20 paper, all the categories. I can't speak for lower grades
21 of paper that might have the effect of what happened to
22 those prices outside of the scope of the investigation.

23 COMMISSIONER SCHMIDTLEIN: What about the grades
24 within the scope?

25 MR. CLANCY: All the grades of SC paper that we

1 made were under pressure and prices fell during that period.

2

3 COMMISSIONER SCHMIDTLEIN: But I mean, your
4 position is though that's because of the head-on-head
5 competition in that grade from Canada. My question is -- is
6 it your all's position that these various grades, the price
7 of the various grades do not have any cross effect on each
8 other? Do you understand my question? Mr. Kaplan?

9 DR. KAPLAN: Go ahead.

10 MR. PATERSON: This is Dave Paterson with Verso.
11 I think the question is a very pertinent question. I think
12 the evidence shows that all prices of printing and writing
13 grades particularly across the spectrum put underpricing
14 pressure. Demand is structurally declining across all
15 grades of printing and writing paper so any capacity
16 addition in any part of that spectrum has a negative impact
17 on pricing. I think the evidence also shows as was stated
18 in the testimony that the prices of SC paper grade fell
19 substantially more than coated mechanical grades.

20 They separated themselves and the price variation
21 historically has ranged greatly depending on market
22 conditions. So I think the buyers of these products use
23 price to determine what grade they are going to buy for what
24 product they're going to print and when you see price
25 separation like we experienced in the SC grades, the buyers

1 can get more bang for their buck by switching into SC and
2 getting more impressions and more dollar value in that grade
3 then they could get in other grades so I think that's going
4 on on a routine basis in all market conditions.

5 What's unique here is there is no component of
6 the printing and writing sector that we participate in that
7 isn't declining. So any capacity addition in any part of
8 that spectrum is going to affect price.

9 COMMISSIONER SCHMIDTLEIN: Mr. Kaplan.

10 DR. KAPLAN: The direct effects are generally
11 going to be significantly larger than the indirect effect.
12 I think it's just a general economic matter. It's
13 consistent with the testimony that the prices of SC paper
14 over the POI fell significantly more than non SC paper
15 types. As to your question about the substitution with or
16 claim of A++, I would refer you to page IV-VII table 4-3 of
17 the prehearing staff report and I would ask you to look at
18 the volumes of SCA++ relative to the volumes of imports and
19 the increase in imports and that should answer your question
20 about whether that replaced, or that accounted for the
21 increase in imports and whether that product was at all
22 special which the panel would be happy to discuss.

23 COMMISSIONER SCHMIDTLEIN: Okay, thank you. My
24 time is up.

25 CHAIRMAN BROADBENT: Okay, kind of continuing

1 along the same line of questioning. I mean I think the
2 respondents are arguing that PHPs SCA++ paper has been able
3 to get more firms to switch to buying SC paper instead of
4 the coated groundwood paper. How much growth do you see in
5 the SC paper market and why do you disagree it wasn't due to
6 that cause?

7 MR. PATERSON: This is Dave Paterson again from
8 Verso. Others certainly can jump in. I think again, I
9 would state that printing and writing is an aggregate of
10 grades is in structural decline. Statistically all grades
11 are declined. So any growth in any particular grade is
12 going to be from stealing share from some other grade and
13 that's just the math of it. but the overall sector of
14 printing and writing is in multi-year structural decline
15 ranging from five to ten percent demand destruction
16 annually.

17 CHAIRMAN BROADBENT: What's your estimations and
18 how long the demand declined and how deep it will be? I
19 mean, do you see it stabilizing anytime in the future?

20 MR. PATERSON: That's a question we're all trying
21 to figure out. I think, you know, it's a long cycle. It's
22 been going on, I think, for over ten years. It has not
23 abated, demand destruction and putting it does not abate it.
24 In fact, this year is a very tough year, 2015 year over year
25 across the spectrum of grades. I think we're all searching

1 for the answer to that question.

2 MR. JOHNSTON: Mike Johnston with UPM. To answer
3 that question in a little bit more detail. Since 2007,
4 which was the peak of the SE demand market, and by the end
5 of this year, based on estimates and already shipped paper,
6 the market will have dropped by almost a million tons,
7 somewhere around that level. So as much as during the POI,
8 there was a small bump, shortly after Port Hawkesbury
9 started up. That was certainly, as Seth indicated, heavily
10 influenced by the fact that they could offer pricing at such
11 aggressive levels that would allow people to make decisions
12 to upgrade or switch paper.

13 Since that time, however, the market has been
14 dropping once again. So we're back to that 3 to 5 percent
15 range, it's always a range. We don't know exactly what's
16 going to happen. And that pattern looks to be continuing.

17 CHAIR BROADBENT: Okay. Can someone tell me the
18 difference between the consumption of lightweight coated
19 groundwood paper in the United States as compared to the
20 consumption of supercalendared paper in the United States?

21 MR. WEINHOLD: Are you specifically looking for
22 the percentage drop over a period of time, or --

23 CHAIR BROADBENT: No, just the volume. I mean,
24 the level of consumption. How do you compare how much
25 consumption is there of each type?

1 MS. BYERS: This is Bonnie Byers, we can
2 certainly submit those figures. We have them, demand
3 figures for the U.S. market from AFNPA. What I can tell you
4 is that lightweight coated demand and usually that is
5 defined as grade five, coated groundwood paper. And not
6 even all basis weights of that paper, but the lighter basis
7 weights usually 35 pound, 40 pound, used to be larger than
8 the demand for supercalendared paper. That's no longer the
9 case. It's supercalendared paper demand is actually larger
10 now, slightly larger than the demand for light weight coated
11 paper. But I have those statistics going back for ten years
12 and I can put those on the record for you.

13 CHAIR BROADBENT: Okay. So it's roughly half and
14 half?

15 MS. BYERS: It's roughly half and half with
16 supercalendared slightly larger now. That wasn't always the
17 case, but that is now.

18 CHAIR BROADBENT: Okay. All right. For both
19 Madison and Verso, are you able to produce supercalendared
20 -- a supercalendared paper product that meets the SCA++
21 specifications?

22 MR. DRECHSEL: At the Madison mill, on the letter
23 basis weights, we make an SCA+ type product.

24 CHAIR BROADBENT: Plus, plus?

25 MR. DRECHSEL: Not a -- the plus, plus and the

1 plus, it's how the marketing people determine it. There's
2 no specific --

3 CHAIR BROADBENT: There's no different
4 definition?

5 MR. DRECHSEL: There's no different standards or
6 definitions. So if a mill wants to call it a plus, plus,
7 they can call it a plus, plus. That's what the customer
8 believes he's buying.

9 Generally there's a brightness increase on that.
10 Okay. On the lighter basis weights we can make a what would
11 generically be called a brighter product than we can on the
12 heavier basis weights. So we do not compete on a SCA+ or a
13 plus, plus on the higher basis weights. On the lighter
14 basis weights, we're capable.

15 CHAIR BROADBENT: Okay. So what -- yes, I --

16 MR. CLANCY: Excuse me?

17 CHAIR BROADBENT: Yes, go ahead.

18 MR. CLANCY: This is Paul Clancy from Verso
19 Corporation. We market and produce an SCA+ grade and that
20 product competes with SCA+ in all customer situations.
21 There is nothing special about an SCA++ grade.

22 CHAIR BROADBENT: So you're selling the same
23 product as PHP?

24 MR. CLANCY: We make it. I can't speak for PHP,
25 but we make SCB, SCA, and SCA+ grades. And a significant

1 portion of our production and sales is in SCA+ grade. And
2 we compete with SCA+ and SCA++ products in different selling
3 situations.

4 CHAIR BROADBENT: Okay. All right. Back to the
5 Madison plant. So you don't -- you only produce SCA++ in
6 the lightweight grade, but not the heavyweight grade?

7 MR. CLANCY: We do not call it a plus, plus.

8 CHAIR BROADBENT: I know, sorry.

9 MR. DRECHSEL: Excuse me, this is Russ Derchsel.

10 CHAIR BROADBENT: Yes.

11 MR. DRECHSEL: We do not call it a plus, plus
12 grade.

13 CHAIR BROADBENT: Okay.

14 MR. DRECHSEL: We do call it an SCA lightweight
15 high-brightness type product.

16 CHAIR BROADBENT: Okay.

17 MR. DRECHSEL: Now, you can look at the product
18 and you can balance out what characteristics the printer
19 would desire in that product whether it would be a
20 brightness or whether it would be capacity or whether it be
21 smoothness.

22 CHAIR BROADBENT: Okay. But do you have
23 production limitations on producing something that's more
24 like the plus, plus that PHP --

25 MR. DRECHSEL: We have production limitations on

1 improving the brightness on the lighter -- on the heavier
2 basis weights products. So we do not make what would be
3 termed a generically and SCA+ or a plus, plus in the
4 heavier basis weights.

5 CHAIR BROADBENT: Okay. And what would it take
6 to modify your plant to be capable of that?

7 MR. DRECHSEL: To modify our plant nitrogen oxide
8 be capable of bleaching the pressurized groundwood pulp
9 would be an additional step of brightness unit operation.
10 It would also then mean an expansion of the wastewater
11 treatment plant because we'd have more effluent to be
12 treated.

13 CHAIR BROADBENT: So it's more -- it's an
14 environmental --

15 MR. DRECHSEL: It can be an environmental -- it
16 would require an environmental investment and a process
17 investment and then an operating cost for the chemicals.

18 CHAIR BROADBENT: Okay.

19 MR. JOHNSTON: Mike Johnston with UPM.

20 CHAIR BROADBENT: Uh-huh.

21 MR. JOHNSTON: I just wanted to add to those
22 comments. I mean, since the restart of Port Hawkesbury
23 Paper, the amount of investment that we've been able to
24 afford to invest back into the Madison mill has been
25 extremely limited. And we can produce anything, any type of

1 SC paper at any brightness, any quality, any print method
2 that could be out there. But the management of our company
3 is not willing to invest, at this point, in the current
4 conditions.

5 MR. CLANCY: Madam Chair, this is Paul Clancy
6 from Verso Corporation. I had mentioned I work for NewPage
7 Corporation in 2010 and 2011. Our company studied the
8 development of an SCA++ grade for both the Port Hawkesbury
9 mill and the Duluth mill. We did extensive trials. We had
10 extensive discussions with customers and it was concluded
11 that the product was just not viable based on customers'
12 interests and that our SCA+ grade as it was produced at
13 both mills at that point was sufficiently adequate for
14 light-weight coated customers to consider moving to SC
15 paper.

16 CHAIR BROADBENT: Did you all bring any examples
17 of what this paper looks like, the different grades?

18 MR. KAPLAN: No, we haven't, Madam Chairman.

19 CHAIR BROADBENT: Okay. Let's see, maybe someone
20 could walk me through what happened with NewPage? As I
21 understand it, Verso bought the Duluth facility and PHP
22 bought the Port Hockersbee, Canada mill. What was going on
23 there and why did they decide to dissolve?

24 MR. PATERSON: This is Dave Paterson with Verso
25 and I'll take a crack at it. NewPage, as a corporation,

1 went through a Chapter 11 restructuring. And as part of
2 that Chapter 11 restructuring the asset in Canada was sold
3 off through the Canadian process which is slightly different
4 than the U.S. process in terms of restructuring. And so
5 during the corporate restructuring of NewPage, the Canadian
6 asset was sold under the Canadian bankruptcy laws. So it
7 was sold as part of that restructuring process. Verso
8 acquired the remaining assets of NewPage after they had
9 merged from restructuring in January of this year in a
10 transaction. So since January of this year, we have owned
11 NewPage, but the Port Hawkesbury mill was long gone by that
12 time.

13 CHAIR BROADBENT: Okay.

14 MR. CLANCY: This is Paul Clancy of Verso
15 Corporation. At the time that Dave mentioned that NewPage
16 went through bankruptcy the Port -- we closed the Port
17 Hawkesbury mill. At that point in time due to high
18 electricity costs, high wood costs, and high transportation
19 costs, the company was losing millions of dollars every
20 month based on the higher selling prices at that point in
21 time. It was no longer a sustainable and viable facility to
22 continue operating.

23 CHAIR BROADBENT: Okay. So you owned the Port
24 Hawkesbury plant for a while? How long?

25 MR. CLANCY: NewPage Corporation acquired

1 Storanso and some tin mills back in December of 2007.

2 CHAIR BROADBENT: Yeah.

3 MR. CLANCY: And operated those mills, including
4 the Duluth and Port Hawkesbury mills. In 2011 NewPage filed
5 reorganization in both Canada and the United States and at
6 that point in time NewPage closed the Port Hawkesbury mill
7 and went through those bank -- Canadian bankruptcy
8 proceedings that they referenced.

9 CHAIR BROADBENT: Okay. All right. Got it.
10 Thank you very much. Sorry.

11 Vice Chairman Pinkert.

12 VICE CHAIRMAN PINKERT: Thank you, Madam
13 Chairman. And I thank all of you for being here today.
14 Staying with that line of questioning, back when NewPage
15 owned the PHP plant, and when PHP was participating in the
16 U.S. market, was the strategy different back in those days
17 than the strategy that you've discussed today regarding
18 PHP's current participation in the U.S. market?

19 MR. CLANCY: The only comment I can say is the
20 market was considerably larger. If you think about the
21 statistic that Mike Johnston referenced, the market was
22 almost a million tons larger and still it was extremely
23 difficult given how large the Port Hawkesbury facility was
24 to effectively sell the paper into the United States market
25 at prices that would cover its high operating costs. Again,

1 high wood, high electricity and high transportation costs.

2 MR. KAPLAN: If I could add, I think the
3 difference or one difference is, NewPage was not getting the
4 subsidies that Port Hawkesbury is getting. If you look at
5 the Commerce Final, Port Hawkesbury has very larger
6 electricity subsidies, stumpage subsidies, and other
7 subsidies, and that's the difference. NewPage saw, you
8 know, history in a way, but NewPage was not able to keep
9 that plant open because it didn't have those subsidies.

10 And then Port Hawkesbury, for whatever reason,
11 now is able to get those subsidies and that's the reason
12 that they can operate a plant somewhat successfully, I
13 guess, and put into the market those 400,000 tons.

14 MS. BYERS: This is Bonnie Byers. It's a matter
15 of public record that that mill had been losing about \$40
16 million a year over the period of time that NewPage owned it
17 after it acquired it from Storenzo. It was never a
18 profitable mill and it was only, as Gil said, by virtue of
19 the subsidies which really lowered their costs that they
20 were even able to come back into the market and compete as
21 they do.

22 Mr. MCGILL: Brian McGill, King and Spalding. In
23 fact, the purchaser demanded the electricity subsidy as an
24 essential part of the purchase because they knew they just
25 could not operate the mill at all without the extensive

1 subsidies, the electricity being the most important,
2 accounting for 14 percent -- 15 percentage points of the 20
3 percentage point margin.

4 VICE CHAIRMAN PINKERT: Thank you. Did anybody
5 else on the panel want to comment on that issue?

6 MR. PATERSON: This is Dave Paterson from Verso.
7 Quickly I think the fundamental question was more, did they
8 change their strategy. I think their strategy was before
9 and continues to be to sell in the U.S. market. Because
10 that is the market that consumes SC papers. So they came
11 back into the market.

12 VICE CHAIRMAN PINKERT: Thank you. Now, Dr.
13 Kaplan, if you could look at Figure II-3, historical U.S.
14 prices for various products including SC paper. It's on
15 page XX of the staff report. It's 2-20, it's Figure II-3.

16 DR. KAPLAN: (Off microphone.) Oh, hi. Yes. I
17 have -- I have it in front of me.

18 VICE CHAIRMAN PINKERT: Okay. Thank you. Now, I
19 don't want to get into anything that might be proprietary,
20 but let's just say that that figure ends in 2013. And for
21 those various products, the patterns of pricing look fairly
22 similar. If we extended that figure out into 2015, would we
23 see that same similarity or would there be a divergence in
24 trends?

25 DR. KAPLAN: We'll supply confidential

1 information from U.S. suppliers regarding that. You would
2 expect trends for prices that have similar inputs and some
3 similarities in the manufacturing process because of supply
4 site factors. So for example, in your steel cases that we
5 both participate in many, the trends for a lot of steel
6 products move because they use iron ore and coking coal or
7 scrap as an input. So similarly in the paper industry, you
8 will see some supply side factors causing trends to move in
9 similar directions. But what you did see over the POI as
10 was testified to was a much larger decline in SC paper than
11 in lightweight paper.

12 I also want to say, as an aside, I grew up in
13 Chicago on the north side. Went to Chicago public schools,
14 took the train home and looked at the top of the scoreboard
15 to see if it was a W or a L flag as I drove by. And I am
16 very sad as well.

17 VICE CHAIRMAN PINKERT: I think the less said on
18 that subject the better.

19 (Laughter.)

20 MR. MCGILL: Brian McGill with King and Spalding.
21 Just a quick comment on that graph. The only -- as you
22 point out, the only part of that graph that's in the POI is
23 the very end of the graph, 12-13. And I can't see the data,
24 I can look at the lines. I took my contacts out to put my
25 eyes on that graph to see if I could see which way the lines

1 were moving. But to my myopic vision, it looks to me from
2 12 to 13 the prices are not -- are diverging they're not
3 moving in the same direction.

4 VICE CHAIRMAN PINKERT: Thank you. We'll take a
5 look at that in the post hearing, right, Dr. Kaplan?

6 DR. KAPLAN: Absolutely. I think the graph
7 that's there that Brian pointed out and the data that was
8 pointed out by Mr. Clancy and my statement are all
9 consistent that the SCA price fell to a greater degree than
10 others which is consistent with the direct competition and
11 the secondary substitution effect to other products.

12 VICE CHAIRMAN PINKERT: Thank you very much.

13 Now, regarding the price suppression argument
14 that you made, Mr. Kaplan, not Dr. Kaplan, if you look at
15 the data that we have on unit costs of goods sold, is your
16 price suppression argument limited to 2015?

17 MR. KAPLAN: I'm not sure I can discuss that
18 publicly. But we'll certainly be happy to handle that in
19 post-conference brief.

20 MR. MCGILL: Brian McGill, King and Spalding. I
21 can comment on that. No, it's not limited to the interim
22 period. In fact, if you look at the trends for the two
23 products, you'll see that the staff report publicly says
24 that there's price suppression, you'll see that the prices
25 fell much more than the cost of goods sold though from 12 to

1 14.

2 And so the ratio increased over that period.

3 VICE CHAIRMAN PINKERT: Dr. Kaplan?

4 DR. KAPLAN: Yes, there was a consistent cost
5 price squeeze throughout the period of investigation.
6 Ending is what the staff report called zero gross profits as
7 cogs and I can't go into any more details, but zero gross
8 profits with its implications for operating income and
9 operating profits and net profits plain. So the cost price
10 squeeze was consistent throughout the POI shrinking gross
11 profits to zero.

12 VICE CHAIRMAN PINKERT: Again, I don't want to
13 characterize the data, but if you could also comment on
14 whether an increase in unit cogs is one element required for
15 finding of price suppression. I'd appreciate that.

16 Okay. Then as regards operating margins, there's
17 a significant change in operating margin in 2015. Was that
18 a delayed reaction to the restarting of the Port Hawkesbury
19 plant?

20 MS. BYERS: I think the effects of the reopening
21 of the Port Hawkesbury plant are visible throughout the POI
22 starting in -- even in the third, fourth quarter of 2012
23 when they reopened. I think there are other factors that
24 explain that particular movement including just the
25 increased price competition between U.S. producers and

1 Canadian producers in a declining market. You know, you
2 can't have 400,000 tons of capacity come in the market in
3 which demand is declining without having a continued
4 deteriorating effect.

5 VICE CHAIRMAN PINKERT: Thank you. And I would
6 add another question for post-hearing because these
7 questions do get into some proprietary information. From
8 2012 -- from 2012 to 2014, the trend in net income looks
9 different from the trend in operating income. If you can
10 try to help me to understand why that's the case, I think
11 that would be helpful.

12 MS. BYERS: Yes, most certainly, we will do that
13 for you.

14 VICE CHAIRMAN PINKERT: Thank you.

15 Thank you, Madam Chairman.

16 CHAIR BROADBENT: Commission Williamson.

17 COMMISSIONER WILLIAMSON: Thank you, Madam
18 Chairman. And I want to thank all the witnesses for coming
19 today. I want to ask big-picture question about -- that
20 gets to the difference in the grades. Who makes the
21 decision as to what -- you know, what grade of paper is used
22 in these inserts? I mean, is it Madison Avenue or is the
23 printer who is given a specific budget and has the
24 flexibility? How does this happen? And I'm sort of asking
25 it in the sense of thinking about how the economy is doing.

1 The only good benefit of the 2009 recession is the number of
2 credit card things I got in the mail went down rapidly. And
3 -- well, not for paper producers, but for me. But I can
4 see, you know, how the economy is doing might affect how
5 people advertise. So I'm just trying to get a better handle
6 on this.

7 Because, if it's a color insert, that's all I
8 care about. I don't think how smooth it is, or --

9 MR. WEINHOLD: It's Mike Weinhold from Verso.
10 You hit on some of the -- actually some of the
11 decisionmakers. It could very well be advertising driven or
12 advertise agency driven. More than likely with a lot of the
13 inserts, if you take a Costco, for example, they will have
14 in-house marketing programs. They'll determine the brand
15 they're trying to present, the image they're trying to
16 present and determine a corresponding grade that will
17 present that. So it's really a marketing driven aspect
18 coupled with obviously marketing dollars and budgets. And
19 so they'll take a look at the costs involved in certain
20 paper grades and make a decision.

21 Generally it's around image, brand, and cost.
22 And it can be made at the -- the printer level can also make
23 these decisions as well for smaller inserts that might not
24 be a national program where they're told we need to put out
25 X units and here's the budget.

1 COMMISSIONER WILLIAMSON: And I think a lot of
2 the sales are on what, like medium-term or short-term
3 contracts. So I assume is that all part -- somebody is
4 going to do an advertising campaign, they're months ahead.
5 Is that when the paper gets ordered and stuff like that?

6 MR. WEINHOLD: Yeah, absolutely. Absolutely.

7 So there's a significant lead time between paper
8 production, printing and then ultimately ending up in your
9 mailbox, as an example.

10 Contracts can be short-term contracts, it can be
11 a year in length, as well, which would generally cover, you
12 know, multi-national large campaigns.

13 COMMISSIONER WILLIAMSON: So when all that Port
14 Hawkesbury Paper came on line somehow or another all these
15 folks say hey, let's do this. I was trying to figure how
16 this worked.

17 MR. PATERSON: This is Dave Paterson with Verso.
18 I think it goes back to advertising budgets.

19 COMMISSIONER WILLIAMSON: Uh-huh.

20 MR. PATERSON: You know, that's really -- so
21 they're talking about advertising spent and how many dollars
22 they want per impression. And impression could be print
23 impression, it could be an Internet impression. And so our
24 challenge is to keep as many advertising dollars in print as
25 we can in conjunction with our customers. And that's a

1 constant battle. So I think as a new entry comes in with a
2 lower-priced product, their advertising spin per print
3 expands and they get more units; right?

4 COMMISSIONER WILLIAMSON: Okay.

5 MR. PATERSON: So I think that influence -- that
6 could always influence decisions of where they spend their
7 advertising budget. And the other thing I would say is not
8 surprisingly to the panel, you know, it is really driven by
9 events, particularly events in the second half of the year
10 related to the holiday season and holiday promotions. So
11 you see a big pickup, I think, was talked about in one of
12 the presentations, and the second half of the year driven by
13 the holiday spend. So those decisions are typically going
14 to be made in the first half of the year gearing up for the
15 second half of the year.

16 MR. PATERSON: It comes down to our industry's
17 share of the media spend versus e-commerce, and if they can
18 expand that with a lower priced product they may choose to
19 expand it, the number of print jobs they do.

20 MR. KAPLAN: One thing I'd like to mention, you
21 talked about the grades. I'll turn it over to these guys,
22 but there's no official grades for SC paper. It's not like
23 there's some industry standard. These are, as Mr. Drechsel
24 said, sort of made up by the customers and marketing people,
25 and there's certainly competition across the various grades

1 of SC paper.

2 COMMISSIONER WILLIAMSON: Okay, and so the
3 industry's marketing people are talking both to the
4 printers, I guess, and sometimes to the advertisers--the
5 advertising agencies. Okay. Thank you. I just wanted to
6 get the big picture in there, sort of in more detail.

7 Why do you think apparent consumption fell
8 between the interim periods? You know, we already talked
9 about the increase from 2012 to 2014 in consumption, but
10 what about in the interim period, between '14 and '15?

11 MR. CLANCY: Could you repeat the question,
12 please?

13 COMMISSIONER WILLIAMSON: Why do you--we talked
14 about the increase in apparent consumption between 2012 and
15 2014. I was just wondering why do you think apparent
16 consumption fell between the first half of 2014 and the
17 first half of 2015?

18 MR. CLANCY: It's back to the secular decline.
19 But, Dave?

20 MR. PATERSON: This is Dave Paterson again. I
21 think Paul's point is the correct point. There is an
22 underlying demand destruction going on across the whole
23 spectrum of printing and writing grades for the issues we
24 were just touching on a second ago. And so after the Port
25 Hawkesbury facility had reentered the market and positioned

1 their product, then those, I'll call them, longer term
2 trends kicked back in, which is we've been on an extended
3 period and we believe we will continue to be on an extended
4 period of long-period demand destruction in printing and
5 writing grades. So that's what you're seeing, in my
6 opinion.

7 COMMISSIONER WILLIAMSON: Okay. Thank you.

8 We already talked about the SCA++, and I was
9 wondering, why do domestic producers have the ability to
10 make the SNC grade? And if not, why not?

11 MR. DRECHSEL: This is Russ Drechsel from Madison
12 Paper. We do not have the ability to make the SNC grade,
13 but our lower grade of the SC B does compete within that
14 continuum with the SNC grade. And as the prices on the
15 entire continuum change, then our SC B grade would be
16 consumed by an SNC user.

17 COMMISSIONER WILLIAMSON: The last part, again?

18 MR. DRECHSEL: As prices across the entire
19 continuum of SC grades are decreased, then the potential for
20 an SNC user to purchase the SC B increases.

21 COMMISSIONER WILLIAMSON: Okay. And is there a
22 difference, practically, in the two grades in terms of what
23 the users want?

24 MR. DRECHSEL: It's a continuum on the grades. So
25 there is a difference. My eye can see the difference. I'm

1 not sure if your eye would see the difference, but there is
2 a difference between the grades. It's not--again, there's
3 no industry standard saying that this one is going to be XYZ
4 and this one would be ABC. That would be up to the buyer,
5 again.

6 COMMISSIONER WILLIAMSON: Okay. Thank you.

7 MR. JOHNSTON: Mike Johnston with OPM. I just
8 wanted to add to the discussion around producing SC B at the
9 Madison Mill. Madison was really designed to produce higher
10 brightness, higher margin products. And prior to the POI
11 and prior to the restart of Port Hawkesbury Paper and its
12 flooding into this market, it rarely made an SC B product.

13 It would do it for various market conditions, or
14 production limitations at a given time, but in general that
15 wasn't part of the strategy to produce that product.

16 Since that time, we have had a minimum of--I
17 shouldn't share the information here, but we'll share it
18 with you afterwards, the percentage of which we are now
19 producing on a regular basis, which is not a level that we
20 want to be at.

21 COMMISSIONER WILLIAMSON: I understand. Okay.
22 Thank you. Anything further?

23 Okay, to what extent is there a substitution
24 between lower ends of the SC paper and non-SC paper such as
25 newsprint? And are cost pressures resulting in such

1 substitution?

2 MR. WEINHOLD: And we spent a lot of time, and I
3 can understand why, talking about--Mike Weinhold with Verso--
4 -talking about substitution. And we talk in terms of a
5 continuum, which is absolutely true, that there is a paper
6 grade spectrum, if you want to put newsprint at one end, and
7 you could put high-value coated three sheet at the other,
8 which we won't get into that today.

9 COMMISSIONER WILLIAMSON: We've been there before.

10 (Laughter.)

11 MR. WEINHOLD: And, you know, there's different
12 characteristics through that whole continuum. Brightness is
13 one that is somewhat of a constant. But there's other, you
14 know, additives, properties, coating or not coated,
15 internal, external, that give you different attributes.

16 And so when you get into the supercalendered
17 area, and I know we've talked about SCA++ all the way down
18 to soft nip, you know, there isn't really, for lack of a
19 better word, a governing body. We talk about number 5s and
20 number 4s, those are AFPA, which is our industry's
21 statistic, or properties for measuring brightness.

22 So there's a classification and a grade
23 classification that we all report into. Supercalendered
24 paper, I don't want to say it's the Wild West, but there's
25 not a real classification. Brightness generally does go

1 between these grades when you talk about an SCA+ to an SCA
2 to an SC B for soft nip, brightness of the product and how
3 you perceive the brightness when you're looking at it does
4 vary.

5 But they are very interchangeable, you know,
6 depending on what the customer is trying to achieve. And
7 you could even say there's substitution down. It's almost a
8 natural, and a lot of the substitution is driven by
9 ultimately savings, saving money to be able to produce your
10 product.

11 So that there is a sacrifice in quality as you
12 move down the continuum, but there's a savings in how much
13 it costs you to produce. So we will see people starting
14 light weight coated, and at the margin some will drop into
15 supercalendered paper. Eventually you may see them drop
16 into SNC or newsprint. You also can see them come back the
17 other way, again depending on cost and price and what
18 they're trying to achieve.

19 So this substitution has gone on, and continues
20 to go on all of the time, but there are core markets for all
21 of these products. There is core demand for the coated
22 three-sheet. There is core demand for the lightweight
23 coated and the No.5s. There is core demand for
24 supercalendered paper. And when you introduce huge volume
25 into the core demand, it has a very significant impact.

1 And so I think we're getting a little carried
2 away with the substitution. And I know that's been
3 presented, but again these are core markets and I think
4 you're asking very good questions in trying to understand
5 this. And it's probably getting a little bit confusing as
6 we start throwing technical terms around.

7 COMMISSIONER WILLIAMSON: Okay. Thank you for
8 those answers.

9 CHAIRMAN BROADBENT: Commissioner Schmidtlein--oh,
10 Commissioner Johanson, excuse me.

11 COMMISSIONER JOHANSON: Thank you, Chairman
12 Broadbent. I would like to thank all the witnesses and
13 their counsel for appearing here today.

14 And just on the baseball front, I feel sorry for
15 Commissioner Pinkert and Dr. Kaplan and others. I watched
16 the game last night, and the other ones, as well. I was
17 going to add, though, that as of about a week ago there were
18 two Texas teams in the playoffs, and they're both
19 eliminated. So I understand what ya'll are going through.

20 Secondly, I was a little surprised--this is
21 another complete aside--that this is not calendered paper.
22 So I was a little confused when I first started reviewing
23 the materials that this stuff's in the calendar on my wall,
24 but, anyway.

25 I'd like to begin by asking you all about what

1 happened to the Port Hawkesbury Mill. At page 2 of your
2 prehearing brief, Petitioners state that the opening of the
3 Port Hawkesbury Mill in Nova Scotia injected 400,000 tons of
4 capacity into the North American market.

5 Is it relevant in this context that the Nova
6 Scotia mill had been operating in recent years, previously
7 under the ownership of a member of the domestic industry?

8 MR. KAPLAN: Let me just say one thing about that.
9 The mill was closed because it was very unprofitable and
10 very unsuccessful. And it was not able to be successful
11 because of its location on an island, you know, off the
12 coast of Canada. It's very high electricity costs, and very
13 high timber costs. So it was essentially a closed entity.

14 It was reopened as a result of the subsidies. So
15 in that sense I think it's a new source of a very large
16 amount of product that is in existence because of this
17 bailout or subsidization, essentially.

18 COMMISSIONER JOHANSON: Could you say then that
19 there was a resumption of harm to the industry?

20 MR. KAPLAN: I think there was a great deal of
21 harm caused over the POI as a result of this enormous amount
22 of supply that came into the market, that was essentially
23 out of the market because it was not sustainable without the
24 subsidization.

25 So it's essentially a new mill. It was going to

1 be closed without the subsidies.

2 COMMISSIONER WILLIAMSON: Alright, yes, Mr.
3 Paterson?

4 MR. PATERSON: This is Dave Paterson with Verso
5 again. I guess I would answer the question this way, is
6 that--and we were not involved. We were not involved. We
7 did not ever have any involvement directly with that mill.

8 It was a high-cost producer in a declining
9 environment. Economics were not sustainable, and the mill
10 was closed, which is a common pattern, unfortunately, we've
11 seen across our industry in many cases, and continues today.

12 I believe that the industry continued to supply
13 customer needs from the remaining capacity, that it was more
14 economical and could be sustained at those price levels. So
15 the market was served by the remaining producers for that
16 period of time the mill was idle. And a restart with a new
17 cost structure, subsidized by the Canadian Government, moved
18 the pricing point in the marketplace. Because you now had a
19 high-cost producer who was no longer a high-cost producer
20 due to subsidies, and it put tremendous pressure on a market
21 that was not being underserved while that mill was idle.
22 That's my belief.

23 COMMISSIONER JOHANSON: During the time that the
24 mill was idled, was there a change in the market? When you
25 had this production taken out of the market?

1 MR. PATERSON: Could you repeat the question?

2 COMMISSIONER JOHANSON: During the time that the
3 Nova Scotia mill was idled, was there an impact in the
4 market by it being no longer in production?

5 MR. PATERSON: Mike, one of the sales executives,
6 could you--

7 MR. WEINHOLD: Yeah, and there was a brief period
8 of time where we did see prices start to appreciate slightly
9 as it went out, but that was again very short-lived. As it
10 came back on line, the capacity, 400,000 tons came into the
11 market with subsidized low prices, so any of that price
12 appreciation quickly turned to price depreciation and it
13 accelerated.

14 COMMISSIONER JOHANSON: Okay. And, Mr. Weinhold,
15 I'm going to continue with you, please, because you were
16 speaking a moment ago on the grades in the market. I know
17 that's a very big issue in this investigation. The
18 Respondents have pointed to the difference in grades partly
19 explain what's happened in the market.

20 Port Hawkesbury makes the assertion in its
21 prehearing brief at page 27 that Madison and Verso are
22 unable to adapt to changing consumer tastes by their
23 inability to meet the market demand for higher grade SC
24 paper.

25 Have you all lost any sales or customers due to

1 your inability to provide a customer with a required or
2 requested higher grade of SC paper?

3 MR. WEINHOLD: No. I mean that seems like a very
4 short, flip answer, but we compete and feel that we can
5 compete across all the product spectrum of supercalendered
6 grades that are purchased.

7 We certainly have lost business, but I would say
8 we have not lost business because we lack the quality of
9 product in supercalendered paper that customers are looking
10 for.

11 COMMISSIONER JOHANSON: And sticking with the
12 whole issue of quality, or different grades, rather, Port
13 Hawkesbury asserts that during the Period of Investigation
14 only SCA grade SC paper did not experience an increase in
15 demand.

16 First, do you agree with that assertion?

17 And second, if so, what are the factors about SCA
18 grade SC paper that makes this so?

19 MR. WEINHOLD: I'm sorry, could you repeat that
20 one more time?

21 COMMISSIONER JOHANSON: Okay, there are a lot of
22 acronyms in here.

23 MR. MCGILL: Could I just clarify for a moment?

24 COMMISSIONER JOHANSON: Yes.

25 MR. MCGILL: We did not--in our view, all the

1 grade information in the staff report was confidential, and
2 so we have not shared many of the specifics broken down by
3 grade with them. Port Hawkesbury took a different tack on
4 that. And so you may sense a little bit of ignorance on the
5 grade issue from the staff report, because we simply have
6 not gone over that with them because we viewed it as
7 confidential.

8 MR. WEINHOLD: Based on that, it may be better to
9 respond in writing.

10 COMMISSIONER JOHANSON: That sounds fine. But as
11 you can tell, I think by my questions and also of other
12 Commissioners, the whole grading issue is a significant--is
13 a potentially significant one,

14 Yes, Dr. Kaplan.

15 MR. KAPLAN: The grades are laid out in two tables
16 in Chapters 3 and 4. Once again, I can refer you to page
17 IV-7 and IV-8 for the imports. And I would particularly in
18 IV-7 I would call your attention to the A++ volumes.

19 And then you could look at the same table in a--
20 for the domestic producers and their discussion of
21 competition at the margins of these grades. And I think you
22 could see that the domestic industry serves the market well
23 with the grades it produces.

24 I can't say anything else. But the tables I
25 think speak for themselves.

1 COMMISSIONER JOHANSON: Right. I understand.

2 Okay.

3 MR. JOHNSTON: Pardon me. Mike Johnston with OPM,
4 if I could add to that?

5 COMMISSIONER JOHANSON: Yes.

6 MR. JOHNSTON: What I would like to say about the
7 grade thing is, this isn't like Tesla. It's not the
8 creation of a new product that hasn't been there before, or
9 a new technology used to make it.

10 The machine that Port Hawkesbury recently started
11 is 1997-1998 vintage. We have had a rebuild at the Madison
12 Mill in 2001. Even another Canadian producer introduced a
13 new paper machine since that time. They're all very much
14 the same production technology. So they haven't created a
15 new grade, or a new market demand with their product, unlike
16 as I think they have claimed.

17 The other thing is, too, that if you look at PPC
18 and how they break out growth in the SC markets, they don't
19 delineate SCA++, SCA. They basically have higher quality
20 SCA and SCA++ listed together. They also list SC B and SMC
21 together. So again there's not such a new product that's
22 created this whole new demand, and it's not something that
23 other producers can't also produce.

24 COMMISSIONER JOHANSON: Yes?

25 MR. CLANCY: This is Paul Clancy of Verso

1 Corporation. As I mentioned in my testimony, we have
2 increased the amount of SCA+ materially during the period
3 of investigation. SCA+ grade. That grade competes
4 head-to-head with Port Hawkesbury and other Canadian
5 producers that manufacture SCA+ and SCA++. We have the
6 capability at our mill in Duluth to make 100 percent of the
7 SCA+ grade.

8 And again, I would only say that the massive
9 startup of this heavily subsidized paper machine in Canada
10 brought a flood of the SCA, SCA++, SCA+ grades to the
11 market, and with low prices, and we've had to respond with
12 selling our SCA+ grade to keep our paper machine full.

13 MS. BYERS: Can I add one point about the SCA++?
14 This is Bonnie Byers. You know, again, they did not invent
15 this product. In fact, Irving, if you look at its website,
16 has produced an SCA++ product for some time. So this isn't
17 anything new.

18 And again, I think we need to keep in mind that
19 this is a continuum of products, and that they all compete
20 with each other.

21 COMMISSIONER JOHANSON: Alright, my time has
22 expired but Commissioner Schmidlein has graciously allowed
23 me to ask one more question. And I think it's going to be a
24 short answer because it might be proprietary.

25 But sticking with the issue of grades, are any of

1 your contracts for SCA or A+ or A++ or any of these other
2 categories which either exist or don't exist, tie to CGW
3 prices?

4 MR. WEINHOLD: Yeah, we're probably going to
5 have to respond to that in writing.

6 COMMISSIONER JOHANSON: I assumed that was the
7 case. Okay, thank you. Thank you for your explanations.

8 CHAIRMAN BROADBENT: Commissioner Schmidtlein.

9 COMMISSIONER SCHMIDTLEIN: Thank you. I feel
10 compelled to say something about the baseball thing, since--

11

12 (Laughter.)

13 COMMISSIONER SCHMIDTLEIN: I grew up outside of
14 Kansas City, Missouri, so, you know, we're two games away.

15 (Laughter.)

16 COMMISSIONER SCHMIDTLEIN: So I don't feel sorry
17 for anybody--maybe a little bit St. Louis because I would
18 have liked, you know, another I-70 series. But I know that
19 no one else outside of Missouri cares about that. But
20 certainly not the Cubs.

21 (Laughter.)

22 COMMISSIONER SCHMIDTLEIN: Anyway, so let me
23 follow up on a few loose ends, maybe.

24 One question I had in listening to this
25 discussion about demand, the structural decline in demand,

1 the surge and the prices dropping which created more in
2 apparent consumption. This is really a question for Mr.
3 Weinhold, Mr. Johnston, or Mr. Clancy.

4 Absent the Port Hawkesbury plant reopening, given
5 the structural decline, would you expect to see prices
6 declining in this industry, given the intense competition
7 and reduction in circulation of newspapers and magazines and
8 that kind of thing?

9 MR. WEINHOLD: Yes, I think what we would expect
10 to see, and we did as I mentioned when the Mill was shut
11 down, Port Hawkesbury was shut down because of its inability
12 to be financially viable prior to the subsidies, we did see
13 a little bit of appreciation happening in supercalender
14 grades.

15 There's no question that as demand declines you
16 end up with an overcapacity situation. And when you have
17 overcapacity situations there is pressure on price. So we
18 certainly wouldn't expect to have significant price
19 appreciation with a structural or a secular decline that
20 we're seeing. But the reverse is that we wouldn't expect to
21 see prices necessarily decline as rapidly as they did when
22 the subject matter mill started back up and brought in all
23 of that capacity.

24 MR. KAPLAN: And the Commission--

25 COMMISSIONER SCHMIDTLEIN: I'm sorry? Who is

1 that?

2 MR. SETH KAPLAN: Seth Kaplan. The Commission has
3 dealt with a series of industries that are facing secular
4 decline. And they've found that that makes the industry
5 vulnerable, particularly to dump in subsidized imports. But
6 in this case, especially to the reopening of the facility
7 that's going to increase the volume of dumped and subsidized
8 imports. So the vulnerability displayed by the secular
9 decline is dramatically exacerbated by the reopening of what
10 is really basically a jobs program. I would take a look
11 at that mill on a map. It's on an island, off a bridge, off
12 the edge of the Continent. And it really is. I mean, it's
13 not a joke. That's where it's located.

14 COMMISSIONER SCHMIDTLEIN: That sounds sort of
15 lovely, but, yeah.

16 (Laughter.)

17 MR. SETH KAPLAN: It is, you know, but it's
18 created these really high cost pressures. And so as the
19 secular decline occurred, it was unfortunately the mill that
20 closed because of its location, because of its high costs,
21 and it was also an area of economic distress in Canada.

22 And so, you know, what you saw is the government
23 reaction in Canada to reopen a failed mill in an area of
24 declining demand on the edge of the Continent where they
25 needed some jobs. And I guess the common sense explanation,

1 you get a big increase in supply, price goes down, quantity
2 goes up, it's not very complicated. This one's not very
3 complicated.

4 COMMISSIONER SCHMIDTLEIN: Yeah, except for--and
5 I'm not saying it's complicated, but just to play the
6 devil's advocate a little bit, in that your--it's an
7 industry in decline, right? An industry that can't supply
8 the entire market. And so how should we separate this? Or
9 do we need to, right? Or how do you--not that we need to
10 draw a line, but when you're looking at, as you said, I
11 wouldn't expect prices to appreciate in an industry that's
12 in a structural decline, but maybe you would expect them to
13 go down. We don't expect digital media to go away.

14 Mr. Paterson, would you like to address that?

15 MR. PATERSON: This is Dave Paterson again, with
16 Verso. I'd like to make a comment in, yes, your question is
17 the right question. We're in a structurally declining
18 business. So what's gonna happen? You're gonna have price
19 declines. Forget the subject matter mill. You're gonna
20 have price declines because supply and demand are out of
21 balance. There's too much supply and not enough demand.

22 And over time, this pattern's repeated itself
23 many times in our industry and I'm sure other industries.
24 The high cost producers will ultimately shut down, because
25 they can no longer compete. Because prices are below their

1 ability to operate.

2 What, in fact, and that's been happening
3 repeatedly across the spectrum. So, by -- and this is my
4 opinion -- by the subsidized mill re-entering the market,
5 they've now made, they've changed the cost curve through
6 subsidy, and they've now put the onus on someone else having
7 to go down in the marketplace because there's not enough
8 demand to run all the machines. So therefore, the high cost
9 producer will go out.

10 The fear, I think, that you heard from the
11 Congressional representatives, in our case, is they've made
12 us the high cost producers, not through any competition, but
13 through subsidization. And the market's gonna need a mill
14 to go out, because there's not enough demand to run all the
15 mill. That's gonna happen. Who is it gonna be? The U.S.
16 mill or is it gonna be a subsidized mill?

17 COMMISSIONER SCHMIDTLEIN: I mean that sounds a
18 little bit like you're saying, by definition, subsidy causes
19 harm to the competitors of that company.

20 MR. PATERSON: Can I continue, please?

21 COMMISSIONER SCHMIDTLEIN: Yeah.

22 MR. PATERSON: My point is they've changed the
23 cost-curve of the industry and in a declining environment,
24 ultimately capacity will be withdrawn because it's not
25 sustainable. We can debate that if you want, but that's, in

1 fact, what happens. I've, you know, I've had to shut many
2 mills down in my career because they're not sustainable
3 economically.

4 But as long as I'm competing and my employees
5 are competing and they've done everything they can and
6 they're competing on a level field, that's okay. That's
7 business. That's economics. I think the roles have been
8 changed by the actions of Canada and that is not a level
9 playing field. And so, I will predict that someone will
10 close in the next couple of years, given the demand trends
11 in supercalendar paper.

12 COMMISSIONER SCHMIDTLEIN: Mr. Kaplan.

13 MR. KAPLAN: I would just add that -- Gil Kaplan
14 -- that Port Hawkesbury mill was a high-cost producer, given
15 its location and given the electricity costs, given the
16 stumpage cost.

17 If somebody should go out of the market, it
18 should have been them. But instead of that happening, they
19 got enormous subsidy -- they did go out of the market, which
20 was the right thing to do economically. Then, but instead
21 of that remaining that way, they got enormous subsidies from
22 the Canadian government, Nova Scotia government, and that
23 put them right back into the market when they shouldn't have
24 been there.

25 And look at the underselling data, which is

1 public, across the entire Canadian industry, and all the
2 Canadian producers are subsidized. That's what Commerce
3 found at a really high level for a Canadian case. This is a
4 very highly subsidized industry, which is keeping Canadian
5 production in the market as a result of these subsidies.
6 And these guys are facing that situation, and you're seeing
7 increased imports, you're seeing underselling as a result of
8 these subsidy practices.

9 COMMISSIONER SCHMIDTLEIN: What should we make
10 of the fact that none of the lost sales, lost revenue
11 allegations were confirmed? Especially given the number of
12 lost revenue allegations.

13 MR. MCGILL: Brian McGill for King & Spalding.
14 First thing, and again, the results of the underselling
15 analysis are confidential, and the statement from the staff
16 report is correctly reported, but I will refer you to what
17 we pointed out at our brief with respect to the number of
18 responses or the responses that you received for those
19 allegations. And we can go over that, because it is
20 confidential, in the post hearing brief again.

21 But I would also say that, and they can speak to
22 greater detail about this, we've given you a lot of
23 illustrative accounts of this direct competition, and
24 instances that we've documented, or these companies that
25 have documented, showing the reduced prices to maintain

1 volume, or try to retain any volume with some of these major
2 accounts.

3 MS. BYERS: I would also just ask you to look at
4 that section discussing the lost sales, lost revenue, and
5 we've come to confirm those. And how that nonconfirmation
6 took place. I mean I want to be very careful here, but
7 there's not confirming and then there's not confirming, and
8 I think it's important to look at that closely.

9 COMMISSIONER SCHMIDTLEIN: Dr. Kaplan.

10 DR. KAPLAN: Commissioner, in following up, if
11 you have the confidential staff report in front of you, I
12 would refer you, for example, to Page 5-39 and 5-40 for an
13 example of the issue that Bonnie was talking about.
14 Nonconfirmation can mean several different things. And I
15 think that's what she was referring to.

16 With respect to what Brian said, if you look at
17 the volume changes and the underselling reported, there
18 clearly were lost revenues. Products were offered at lower
19 prices that won sales. So, you know, when you call someone
20 up and ask about it, and try to, you know, collect anecdotal
21 information, sometimes you're not successful at it for a
22 variety of reasons as you can see in those tables.

23 But the aggregate tables of all pricing products
24 are definitive on this point. And I think the sales folks
25 in the industry witnesses, well now, should talk about their

1 price setting and competition behavior and whether they've
2 personally seen themselves undercut.

3 MR. CLANCY: I provided in my affidavit several
4 examples, but this finding that was shared today is
5 incredible to me. Our company in Duluth has an exceptional
6 reputation for -- Dave referenced our workforce -- but that
7 workforce delivers a topnotch quality for all printing
8 processes, incredible service and has close proximity to the
9 major printing plants of SC paper and that aside, our
10 customers regularly bring us situations that we are forced
11 to lower prices to compete with Port Hawkesbury, in
12 particular, but all Canadian producers, or we lose the
13 volume.

14 And so if we don't drop the prices, we can't
15 afford to put our mill down and not run 24/7 as we have
16 testified. It's incredible to me that was the situation.
17 Because, as Brian alluded, we have specific examples where
18 the customer is either explained it in great detail as to
19 the situation we were facing. I'm sorry, this was Paul
20 Clancy of Verso.

21 COMMISSIONER SCHMIDTLEIN: All right. Very
22 quickly.

23 MR. KAPLAN: Very quick. Gil Kaplan. You know,
24 there are an awful lot of cases where a lot of the lost
25 sales and lost revenue allegations are not confirmed. I

1 don't know if the process doesn't work now as customers
2 become more sophisticated about how they should answer in a
3 way not to have supply cut off or higher prices. I don't
4 know.

5 But it seems to me that a lot of customers, if
6 they understand what's going on, would not want to confirm a
7 lost sale or lost revenue because of the implications it has
8 for their own business.

9 COMMISSIONER SCHMIDTLEIN: All right. Thank
10 you. Mr. Kaplan, there is, and I'm not sure if this is
11 business confidential or not, on 2-19 of the staff report.
12 There was a major purchaser shifted away from coated
13 groundwood paper towards the supercalendar paper. Are we
14 able to talk about who that is? I think it's in brackets,
15 but --

16 MR. KAPLAN: I think that major purchaser is in
17 brackets, unfortunately.

18 COMMISSIONER SCHMIDTLEIN: Yeah, got it. What
19 do you think, given that we're both talking about the same
20 purchase, what extent was the increase in apparent U.S.
21 consumption in 2013 linked with this decision of this one
22 major purchaser to shift from groundwood paper towards
23 supercalendar paper?

24 MR. KAPLAN: I think that change is also a
25 bracketed number, so I would answer that --

1 MS. BYER: Yeah, we can definitely provide a
2 discussion of that in our post hearing, because it's all
3 gonna be confidential.

4 COMMISSIONER SCHMIDTLEIN: Got it. And then,
5 can you just tell me whether you think that if we looked up
6 the product, the paper quality of this product, that we
7 would notice a difference? It would have a different look
8 to it?

9 MR. CLANCY: Most definitely. In fact, not sure
10 which customer we're referring to, but there have been
11 several customers that moved to supercalendared paper, even
12 the higher grades of supercalendared paper, including the
13 paper we manufacture in Duluth and their marketing and sales
14 and advertising folks were not comfortable with the
15 difference in the product and they went back to coated
16 paper.

17 COMMISSIONER SCHMIDTLEIN: They weren't
18 comfortable? Wait, why? Can you say that?

19 MR. CLANCY: Just generally. They were not
20 comfortable with potential loss of revenue or sales, which
21 had much greater impact to their bottom line than a
22 reduction in the cost of the paper. And they didn't switch
23 entirely back, but customers are doing this all the time.
24 Mike referenced it, too. There may be only certain
25 campaigns that move back and forth between coated paper or

1 SC paper, so --

2 CHAIRMAN BROADBENT: But this one customer
3 probably wouldn't move back, I think, because they're
4 looking for some consistency, I mean they wouldn't --

5 MR. PATERSON: This is Dave Paterson. I think
6 there's a quality difference on the print and there's
7 sometimes when you move down out of lightly coated into the
8 SC grades, they're not happy with the print and they can
9 switch back. And there is a difference in the grades.

10 CHAIRMAN BROADBENT: Okay. All right. And this
11 is a question on volume. Given that U.S. producers run
12 their machines at very high rates of capacity utilization
13 during the POI, and that U.S. producers cannot supply the
14 entire U.S. market for supercalendar paper, how can the
15 presence of imports from Canada be a cause of material
16 injury?

17 MR. KAPLAN: Well, I think -- I'll turn it over
18 to Mr. Paterson. I think he has something to say. But I'll
19 just say that, if you look at the pricing information and
20 the very large increase in volume as a result of Port
21 Hawkesbury, that's a real cause of injury, both price across
22 all the Canadian producers, and volume changes across all
23 Canadian producers. That's a very clear price and volume
24 effect related to material injury.

25 MR. PATERSON: This is Dave Paterson. I was

1 gonna add that the Canadian suppliers have historically been
2 a large part and leading part of supply in these grades. So
3 it's really, again, it's the re-entry of subsidized capacity
4 in a market that really doesn't need the volume. That
5 depressed prices and takes all prices down across the board
6 in all the grades of SC paper, so that's the harm.

7 I would point back again to, this is a business
8 that is in decline. It's in structural decline, it's a
9 long-term structural decline. And, you know, the price of
10 the product changed because of this action of a producer in
11 Canada with the support of Canadian government and Canadian
12 government support in any other producers there, they have
13 the ability to sell at lower prices because they're
14 subsidized.

15 CHAIRMAN BROADBENT: Okay. Mr. Kaplan, I'll
16 recognize you in just a second, but -- I mean it seems to me
17 there is a real shortage in the U.S. market of what the
18 market was demanding at that point in time for whatever
19 reason.

20 MR. PATERSON: I don't agree that there was a
21 shortage in the sense that I don't think any customer order
22 went unfilled, and we didn't see a spike in price or
23 allocation of production or refusal to deal in any way. I
24 mean the market was functioning. The market was functioning
25 on a normal basis.

1 CHAIRMAN BROADBENT: Mr. Kaplan.

2 MR. KAPLAN: Three points related to your
3 previous question. First, the Commission regularly faces
4 industries that, where the U.S. industry can't supply the
5 total market. So that's just a regular instance before the
6 ITC and that doesn't mean that domestic industry can't get
7 relief.

8 The second point you mentioned is that these
9 factories do have to operate 24/7. And when they do, what
10 you'd expect to see is small quantity effects and large
11 price effects and large profit effects. And that's exactly
12 what you saw here, and that's exactly where a lot of the
13 injury is.

14 But, in 2015, we've also had quantity effects.
15 It has been testified to today, where in a plant that needs
16 to operate 24/7, they nonetheless had to take some time off.
17 And you did see a quantity effect. You saw effects on labor
18 from that, and that is something that these firms are very
19 concerned about, although most of the effects will be
20 through prices and then profits, until, you know, it's the
21 joke of -- it's not quantity until it is.

22 That's the way this industry works. You operate
23 24/7 and then you shut the whole mill down. And that's what
24 happened in Port Hawkesbury. And when they opened it up
25 again, you know, the same thing is you get this big

1 increase. There was no shortage.

2 Prices at that level were supplying all the
3 customers and no one reported delays in shipments. No one
4 reported unavailability. It is no surprise that if you
5 lower the price a lot, that the quantity demands will
6 increase.

7 That doesn't mean that there was a shortage of
8 demand at the higher price. That just means if you have a
9 fire sale, people will come in and buy. And that's what
10 happened, and the financial results are reflected in the
11 staff report, and the quantity results are being shown in
12 2015, as was testified to.

13 MR. KAPLAN: This is Gil Kaplan, if I could just
14 add, you know, we recognize the Canadians are in this
15 market. That's obviously the case, and we're not protesting
16 them, we're obviously protesting the subsidization, which is
17 so heavy in this industry, and if you look, the underselling
18 -- you look at the shutdowns of the Madison mill -- I can't
19 talk about profit levels, but if you look at operating
20 profits over the course of the period of investigation
21 related to imports over the period of investigation, I think
22 that would be important.

23 And finally I would direct you to the page that
24 Dr. Kaplan keeps talking about in terms of SCA+ plus, you
25 know, the Port Hawkesbury has talked about how that's so

1 important, but I would direct you to those confidential
2 pages of the staff report, to look at the issue we have
3 regarding SCA+ plus.

4 CHAIRMAN BROADBENT: Okay.

5 MR. MCGILL: Brian McGill, King & Spalding.
6 Real quickly, I just want to be clear that the domestic
7 industry can satisfy purchasers that want to shift from
8 coated to SC paper, and in fact, did satisfy those customers
9 with their SCA+ and SCA grade products.

10 And this shift from lightweight coated is not
11 restricted to SCA+, but also involves the other grades and
12 we don't have the exact numbers, but certainly for both
13 U.S. mills and at least two of the Canadian mills were
14 participants in supplying purchasers that shifted.

15 CHAIRMAN BROADBENT: Okay. Ms. Byers, how would
16 you respond to Table 2-4, which shows that U.S. purchasers
17 rated long-term demand declines competition from substitute
18 products in competition among U.S. producers, as having
19 stronger effects on U.S. prices in competition from subject
20 imports?

21 MS. BYERS: Table 2-4?

22 CHAIRMAN BROADBENT: 2-4.

23 MS. BYERS: You're on Page 214? 215, right?

24 CHAIRMAN BROADBENT: I don't know. I wrote it.
25 215, it looks like, yeah.

1 MS. BYERS: Can you -- I was busy looking for
2 the page. Can you just repeat what you were asking?

3 CHAIRMAN BROADBENT: Sure. How do you respond
4 to Table 2-4, which shows that U.S. purchasers rated
5 long-term demand declines competition from substitute
6 products in competition among U.S. producers as having
7 stronger effects on U.S. prices in competition from subject
8 imports?

9 MR. BYERS: Well, to me, the most important
10 thing in this table is the fact that competition from
11 subject imports was listed by four importers, one purchaser
12 and three U.S. producers as a very substantial effect. I
13 mean I think that's the thing that stands out to me as being
14 critical there.

15 Nobody's denying the fact that the decline, the
16 secular decline of demand in this industry is a factor. I
17 mean it's ever-present. It's like continental drift. So, I
18 don't, it's not surprising to me that that would be listed
19 as something that would be important. I think we've had
20 quite a long, extensive conversation today about substitute
21 products.

22 I think the key points that you need to realize
23 on that is that the substitution, to the extent that there
24 is one, happens on the fringes at the very high end of the
25 grade scale, and at the very low end of the grade scale, it

1 doesn't affect the vast majority of what's sold in the
2 middle.

3 That people who decide to buy supercalendared
4 paper can also decide to shift back. I mean if the relative
5 prices of the lightweight coated paper are such that they
6 can get a better quality paper for substantially the same
7 money, they'll switch back. And we have plenty of examples
8 of that.

9 So I, you know, these are all factors, you know,
10 how important they are is something that, you know, I think
11 there's disagreement on, so --

12 CHAIRMAN BROADBENT: Okay. Thank you very much.
13 Vice-Chairman Pinkert.

14 VICE-CHAIRMAN PINKERT: Thank you, Madame
15 Chairman. I just have a couple of follow-up questions.
16 First of all, and this is probably for the post hearing, can
17 you look at Product 2 in the pricing comparisons and explain
18 whether that is an outlier in terms of overselling and
19 underselling.

20 MR. BYERS: I think that's one we've got it down
21 on post hearing. I don't think there's one thing we can say
22 about that here.

23 VICE-CHAIRMAN PINKERT: Thank you. And then,
24 secondly, is this a case which calls for a decision on our
25 part on cumulation of countries within the meaning of the

1 statute? And if not, why not?

2 MR. KAPLAN: Well, which countries are we
3 talking about exactly? The country of Nova Scotia and the
4 country of Quebec. And the country of New Brunswick. I
5 mean I think that's what you're aiming at, and I do not --
6 there is not other countries covered -- I think the argument
7 made by Resolute -- I don't know how to put it, but I went
8 to say it just doesn't make a lot of sense in terms of the
9 statute.

10 The statute does talk about subdivisions of
11 countries. That doesn't mean the subdivisions of the
12 countries are themselves a country under the WTO. There's
13 so much in that Resolute brief that is fun to read, but it
14 just simply does not correlate with the way these cases have
15 been done for years with the WTO, with the definition of
16 subsidies.

17 They're talking about indirect subsidies being
18 different from direct subsidies, that's not a factor in the
19 way threat of injury is looked at, whether they're export
20 subsidies or non-export subsidies or import substitution
21 subsidies, not direct and indirect.

22 But just on the question of country, I don't
23 know what other countries you could cumulate with, maybe try
24 to bring in China or something, but, there's not more than
25 one country in this case.

1 VICE-CHAIRMAN PINKERT: Well, as I understand
2 the argument made by Resolute, it is that a countervailing
3 duty investigation could be brought against a political
4 subdivision and, therefore, we should treat the political
5 subdivisions at issue in this case as countries subject to a
6 cumulation determination on our part, at least for purposes
7 of threat, according to their brief.

8 So, I'm trying to understand what's wrong with
9 that argument in your view. Are you saying that you
10 couldn't bring a countervailing duty investigation against a
11 political subdivision of Canada?

12 MR. KAPLAN: I don't think you could. I don't
13 think it's ever been done. I don't think you could bring a
14 -- this is Gil Kaplan -- I don't think you could bring a
15 case against a particular subdivision. I don't think it's
16 ever been done, and I mean no one's ever brought a case
17 against Illinois or Idaho or West Virginia, and I just don't
18 think that is the way the WTO is written or the WTO has
19 handled these things.

20 These individual subdivisions are not under the
21 WTO. I mean, they're not members individually of the WTO
22 and it just makes no sense to try to treat these political
23 subdivisions as countries for purposes of these cases.

24 MR. MCGILL: Brian McGill. Maybe you could do
25 that, but that's not what we did. We brought a case against

1 imports from Canada in this case? Oh, and by the way, if we
2 did apply the cumulation criteria, there's obviously a
3 reason we'll overlap in competition in the market of the
4 products. Even if you'd consider each company as their
5 separate country.

6 VICE-CHAIRMAN PINKERT: Thank you. If you want
7 to elaborate on that last point, Mr. McGill, in the post
8 hearing, I think that would be helpful, and with that, I
9 have no further questions for the panel. Thank you very
10 much.

11 COMMISSIONER WILLIAMSON: Thank you.
12 Mr. Croteau, so people have mentioned that the plants are
13 actually -- the equipment in them are relatively new, so
14 that, you know, we're not talking about outdated equipment.
15 I was just wondering, what's been invested in the workers,
16 the training, how are we competing with Canadian workers,
17 your counterparts in Canada?

18 I think Mr. Clancy talked about they are very
19 confident that they do -- of the quality of their product
20 and the quality of their workers, so, I just wanted to get a
21 little bit of detail. I thought you would have first-hand
22 knowledge of that.

23 MR. CROTEAU: Mike Croteau from Madison, I'll do
24 the best I can to answer that. We are right up there. We
25 do have current machinery in our facility. I think you

1 asked about training --

2 COMMISSIONER WILLIAMSON: One thing about, you
3 know, you got the workers to operate it, yeah --

4 MR. CROTEAU: Yes, we're constantly hiring --
5 this year we've hired eight new people into our facility, in
6 my local, the production local. We do have training
7 programs -- we're working with the company this year to
8 incorporate a training coordinator to continually train,
9 because I don't know if everybody understands the way we
10 hire people at the bottom levels in our production, and then
11 it's a line of progression.

12 This is basically how the company in the union
13 has established how you get promoted. SO you have to start
14 in the bottom. You have to start these entry-level
15 positions, and they're very skilled positions. I mean you
16 have to learn how to basically take care of everything and,
17 as you move up the line of progression, you learn the more
18 technical and the more complicated jobs, whether it's
19 running a winder or running a supercalendar or running two
20 supercalendars. You work up to be a backtender, a machine
21 tender, I'm not sure if I'm answering your question --

22 COMMISSIONER WILLIAMSON: No, you are --

23 MR. CROTEAU: -- and so that's how we start. We
24 start at the bottom and you have to learn these jobs and
25 Madison Paper, like, Russ had spoke earlier, we put in a new

1 flaw detector system. We're trying to make it as modern as
2 we possibly can with the funds the company allows us to do
3 that with. So, and with that comes continuous training on
4 how to operate this equipment.

5 MR. DRECHSEL: Russ Drechsel also from Madison.
6 There's a lot of on-the-job training going on and it's in a
7 structured format because as Mike's also the safety
8 advocate, he knows that when we put somebody into a new
9 position in a new job, safety is the biggest concern with
10 them so we want to make sure the person knows all the risks
11 of being around that piece of equipment and how that piece
12 of equipment is supposed to operate. But beyond just the
13 job training we also require that some of our newer
14 employees attend classes at Kennebec Valley Community
15 College and take a basic papermaking class, some basic
16 chemistry classes too because that's so critical to the
17 future.

18 I would say the individuals that we're bringing
19 in today are significantly higher educated than what they
20 were twenty-five years ago. That's because of the demands
21 of the job are now all computer driven, being able to
22 interface with the computers so a lot different job skills
23 are required today than what there were many years ago.
24 Thank you.

25 COMMISSIONER WILLIAMSON: Thank you. Anyone else

1 want to add to that? Okay, thank you for those answers. Is
2 there any evidence on the record or anything you can supply
3 that the decision to keep the Sartell Mill closed was due in
4 part to subject imports? And it can be done post-hearing.

5 MR. PATERSON: This is Dave Paterson from Verso.
6 The Sartell incident was a tragedy for the company. There
7 was an employee killed in a fire. The cost of reopening the
8 mill was excessive relative to the insurance recovery and we
9 looked at the future prospects of that mill in terms of
10 serving the marketplace and we decided not to start it. So
11 it was in the context of this structural decline in paper
12 consumption that was the primary factor there and Sartell
13 did make some SC grades but it was the overall economics of
14 that facility in light of what we felt would be continuing
15 demand destruction across all the printing and writing
16 grades produced by the Sartell Mill.

17 COMMISSIONER WILLIAMSON: Thank you. This could
18 also be addressed post-hearing as to whether or not Verso
19 was producing SC paper on SC paper machines at the Sartell
20 Mill or was it being produced on coated paper mills? I
21 don't know if you want to address that now or post-hearing.

22 MR. WEINHOLD: Yes, we'll answer that in writing.
23 Thanks.

24 COMMISSIONER WILLIAMSON: Okay. Thank you. PHP
25 argues that in interim 2015, the U.S. Industry was impacted

1 by the restructuring costs and operational difficulties with
2 the Verso and New Page Merger and tool production outages
3 caused by severe winter weather. Can you respond to these
4 arguments?

5 MR. PATERSON: Can you repeat the question,
6 please?

7 COMMISSIONER WILLIAMSON: PHP argues that in
8 interim 2015 the U.S. Industry was impacted by the
9 restructuring costs and operational difficulties of the
10 Verso/New Page Merger and production outages caused by the
11 severe winter weather.

12 MR. PATERSON: I guess I would answer that
13 question by yes, we were in starting phases. We acquired
14 New Page on January 7th of this year and we began the
15 integration process which is always a complicated process.
16 In our public statements related to Ernie's release we
17 talked about weather conditions, but those related to our
18 operations in the state of Maine, not to our SC paper mill
19 in Duluth, Minnesota.

20 COMMISSIONER WILLIAMSON: Okay. And I guess, you
21 want to say anything about the relative significance of
22 those versus other factors? Ms. Byers? Yes.

23 MS. BYERS: Yes, this is Bonnie Byers. There
24 wasn't really any impact of the merger on the cost of goods
25 sold the years that you have for the first half of 2015.

1 COMMISSIONER WILLIAMSON: Okay, thanks. I think
2 that's -- oh, what affect does the appreciation of the U.S.
3 dollar versus Canadian dollar have on prices on the market.

4 MR. PATERSON: Dave Paterson again. I will give
5 it a shot. I think certainly the relationship with currency
6 is not just with Canada, with other competing countries is
7 significant. I think in the period of investigation we had
8 not seen the major portion of the decline in the value of
9 the Canadian dollar which has been toward the end of the
10 period of investigation into this year, so we saw the price
11 erosion throughout the period of investigation even when the
12 Canadian dollar was at much higher values than it is today.

13 So it's always an issue but I think from the
14 period of twelve through midyear of fourteen, I'm trying to
15 remember when the C dollar really started to decline. We
16 saw prices declining even with the stronger Canadian
17 currency.

18 COMMISSIONER WILLIAMSON: Thank you. Mr. Kaplan?

19 DR. KAPLAN: Yes, given that the change was
20 recent, it increases the vulnerability of the Domestic
21 Industry to subsidized imports from Canada.

22 COMMISSIONER WILLIAMSON: Okay, good. Thank you
23 and with that I have no further questions and I want to
24 thank this panel.

25 VICE CHAIRMAN PINKERT: Before we move onto

1 Commissioner Johanson, I just want to say that the Chairman
2 that was called away on a family matter, she will be
3 reviewing the transcript of the entire hearing afterwards
4 and with that Commissioner Johanson.

5 COMMISSIONER JOHANSON: Thank you Vice Chairman
6 Pinkert. I concluded a few minutes ago by talking about the
7 idling of the Nova Scotia Plant. I want to bring up
8 something similar involving the Sartell Plant. How did the
9 closure of Verso's Sartell Minnesota paper mill affect the
10 supply at SC paper in the United States?

11 MR. WEINHOLD: Yes, we can give specifics
12 certainly in writing but it was minor. There was a small
13 amount of supercalendered paper made on paper machine no. 3
14 sold in the supercalendered market. It was minor relative
15 to the total production of that machine.

16 COMMISSIONER JOHANSON: Okay and one reason I'm
17 asking this is because Respondents state that after the 2012
18 fire at the plant there was perception of supply tightness
19 in the US Market. During the preliminary conference
20 Respondents spoke of a supply hole and an unanticipated
21 shock to the supply stream. That's at page 112 of the
22 transcript of the preliminary staff conference. If there
23 was indeed a supply shock, did it result in changes in
24 prices in the U.S. Market?

25 MR. WEINHOLD: We can certainly answer relative

1 to the price changes in post-brief but I do not believe
2 there was a shock as far as supply into the supercalendered
3 market because of the unfortunate incident at Sartell.

4 COMMISSIONER JOHANSON: Okay. Thank you. And
5 this is something that I came across in the record that
6 surprised me. Respondents cited a direct quote from a
7 relevant Verso SEC filing. This is exhibit L of the
8 Respondent's prehearing brief, asserting that market prices
9 for paper products typically are not directly affected by
10 raw material costs or other costs of sales.

11 This would appear to be quite different from many
12 of our other investigations for example involving steel
13 products, where purchasers keep a close eye on raw material
14 prices and are frequently asking for concessions when raw
15 material prices decline. Why is this market different?

16 MR. PATERSON: I think I'm the executive they
17 refer to and I commented that on my statement. It's been my
18 experience in this industry that pricing is determined by
19 competitive actions between suppliers and customers. It is
20 not common for people to price off of cost. They price off
21 the supply and demand ratios and the needs of their mill and
22 there are plenty of examples where products are sold at
23 below full cost and that gets back to one of the core
24 challenges of our industry, which is the capital intensive
25 24/7 industry. They are rationales for taking orders

1 unrelated to cost to keep the operation going. That
2 has been our history and probably one of our biggest
3 challenges is the ability to price our product on the cost
4 of production would be normal perhaps in other industries
5 but our industry we don't have a great track record of that.

6 COMMISSIONER JOHANSON: And once again, that's
7 because you have to keep the operation moving.

8 MR. PATERSON: The cost of not having the order
9 and shutting the machine down far outweighs the loss you
10 have on that individual order.

11 COMMISSIONER JOHANSON: Okay. That explains why
12 that is indeed a factor. The articles that were provided by
13 the petitioners as exhibits were quite informative. I
14 appreciated them and also the ones provided by the
15 respondents I might add. Given that one of those quoted in
16 one of these articles as being critical of the package, the
17 subsidies package, is now the Premier of Nova Scotia and
18 that is Mr. McNeil. Have the incentives been altered in any
19 significant way? There's been a political shift in Nova
20 Scotia apparently.

21 MR. KAPLAN: Right, there was. I have not seen
22 in our review at Commerce or elsewhere any significant
23 changes in the subsidy patterns in Nova Scotia and I don't
24 foresee that there will be. I think those subsidies will
25 continue absent some very dramatic change in how they want

1 to take care of the Port Hawkesbury Mill.

2 COMMISSIONER JOHANSON: Okay. Thanks. Mr.
3 Kaplan, you might be able to answer this. Don't feel
4 pressure to answer it but I'm just kind of curious, why did
5 you all not look into bringing an antidumping in the case as
6 well?

7 MR. KAPLAN: Well, I think that when you look at
8 these levels of subsidies this is a case about subsidization
9 and there has been a history of cases that were brought on
10 subsidies before the department of commerce and the
11 International Trade Commission over time, two big ones were
12 the original lumbar cases were always subsidy cases and this
13 is similar to those cases though the margins are much higher
14 here and the cases on the bailout of Pinex in the d-rim
15 semiconductor industry, that was a subsidy case. I think
16 that subsidies are the issue here and we wanted to highlight
17 that both with the department of commerce and with the
18 commission.

19 COMMISSIONER JOHANSON: Alright. Thank you for
20 your response. You know, just when I started looking at the
21 record here it dawned on me, this isn't an AD case because
22 usually that's what we have or frequently what we have.
23 This is the first or the second investigation since I've
24 been here, which is purely CVD and the first investigation
25 we had was there was already an AD order in place so this

1 was kind of fun for me in a way. Well, in a different type
2 of way for me just as a plain CBD investigation.

3 MR. KAPLAN: It was fun for me too.

4 (Laughter)

5 COMMISSIONER JOHANSON: You may have to excuse
6 where it's going with this because for some people I know it
7 wasn't fun. But it's just very different for us looking at
8 the record. That concludes my questions. I'm at the very
9 end of the line as far as the question list goes. I think
10 my questions have been answered but thank you all for
11 appearing here today. I appreciate it.

12 MR. KAPLAN: Thank you. Commissioner
13 Schmidtlein.

14 COMMISSIONER SCHMIDTLEIN: Okay. I just had a
15 couple more. Although one comment I wanted to make. I feel
16 like there was a little bit confusion around the last
17 question I had about lost sales and lost revenue and that
18 whether or not the number of confirmations is public
19 information. That is public information, just so you're not
20 confused. It is in page 29, Roman Numeral 529 of the public
21 report so.

22 MR. MCGILL: Yes Commissioner. It's public. The
23 number of don't know/didn't respond/don't have the records
24 that is confidential.

25 COMMISSIONER SCHMIDTLEIN: Okay, but the fact

1 that there were no confirmations is public --

2 MR. MCGILL: Yes. I was just pointing you to the
3 confidential number.

4 COMMISSIONER SCHMIDTLEIN: Okay, okay. I just
5 wanted to make sure. I checked just so I didn't reveal
6 something confidential and it wasn't. Okay, so just a
7 couple questions. One is I think the respondents argue that
8 the Sartell Mill, the fact that it closed due to the fire
9 means that it would be appropriate to exclude their results
10 from the results of the Domestic Industry as an aggregate
11 and I was wondering if you would like to respond to that?

12 MR. KAPLAN: I think it would be inappropriate to
13 do that and I think that one of the factors that was sited
14 at the time of the Sartell Mill close, I don't have the
15 exact quote in front of me but the condition of the market
16 and it was known at that time what was going on in Canada
17 and what was going on with Port Hawkesbury so I don't think
18 it would be appropriate to remove that from the statistical
19 analysis.

20 COMMISSIONER SCHMIDTLEIN: Anybody else? Okay.
21 And then the last question I had has to do with the argument
22 with regard to the AVs and I would invite you to do this in
23 the post-hearing if you want but responding to the argument
24 that we should look at the AUV value of the commercial
25 shipments and compare those I believe is one of the

1 Respondents arguments. Unless you'd like to respond right
2 now.

3 MS. BYERS: This is Bonnie. I think we have to
4 be very careful about talking about the AVs because none of
5 that is public but I think one of the reasons that Port
6 Hawkesbury sited for why you should look at AUVs versus
7 looking at the underselling data was because in their view
8 there wasn't very good coverage. I would disagree. I think
9 you got excellent coverage in this case, better than in a
10 lot of the cases I've worked on, well over fifty percent in
11 terms of both the U.S. Industry and the Canadian Imports.
12 So I think that you know, it's appropriate for you to place
13 your reliance on the underselling data. That's going to
14 give you a much better view given the product mix than the
15 AUV data.

16 COMMISSIONER SCHMIDTLEIN: Okay, and with that I
17 don't have any further questions. Thank you all again for
18 appearing here.

19 VICE CHAIRMAN PINKERT: I take it the
20 Commissioners don't have any additional questions?
21 Commissioner Johanson.

22 COMMISSIONER JOHANSON: Actually, I do have one
23 more question. I thought I was done but I wasn't quite.
24 Respondents state that not a single Petitioner reported that
25 PHP was a downward price leader. How much relevance should

1 this play into our consideration in this investigation?

2 Yes, Dr. Kaplan.?

3 DR. KAPLAN: I think very little and this case is
4 about whether subject imports from Canada, all the producers
5 caused injury and the record shows that there is an enormous
6 amount of competition among the Canadian Producers and U.S.
7 Producers at each of the customers. I think the testimony
8 given by Mr. McGill detailed all the overlap of competition
9 in each of the customers. And without going into details
10 about who was reported, I'm not sure, I have it in front of
11 me, if that's confidential. I would say that Canadian mills
12 were cited in that answer and this case is about Canadian
13 Imports.

14 I think the, as we've discussed, is a matter of
15 economics as the commission found, this highly
16 interchangeable, highly substitutable price-sensitive
17 industry that'd be volumes from Port Hawkesbury did have,
18 and all of Canada, did have a price depressing effect and
19 the Commission found that even when there was overselling so
20 now with definitive underselling and the head-to-head
21 competition from the purchasing questionnaires that that's
22 just one item of many and I don't think it should carry much
23 weight.

24 MS. BYERS: Can I just add one thing to that?
25 Bonnie Byers. I think you should also look in our brief.

1 We've provided affidavits from Mr. Clancy and Mr. Johnston
2 with supporting backup, you know, source documentation to
3 show that in fact there was very significant competition
4 between the Domestic Producers and not only Port Hawkesbury
5 but others as well and we provide specific examples there.

6 I'd just like to point out too, it's not in the
7 interest of purchasers to start pointing fingers at the
8 company that you know brought four hundred thousand tons of
9 product back in the market and caused a very favorable price
10 situation for those purchasers. So I'm not exactly
11 surprised that they weren't doing a lot of finger pointing
12 at Port Hawkesbury.

13 MR. MCGILL: Brian McGill, King and Spaulding. I
14 would also point you to the statements of the other Canadian
15 Producers about DHP, which are confidential but we will
16 reiterate those in our post-hearing brief.

17 VICE CHAIRMAN PINKERT: Alright, thank you for
18 your responses. Commissioner Schmidtlein.

19 COMMISSIONER SCHMIDTLEIN: I just had one
20 additional question and again, you can do this in the
21 post-hearing. Can you talk about how you negotiate, who you
22 negotiate with when you are making your sales. So curious.
23 Is it the printers since the paper is delivered to the
24 printer directly or are you negotiating with the retailers
25 who are going to be using that paper for whatever.

1 MR. WEINHOLDT: Sure. It's Mike Weinholdt and in
2 our nomenclature we call it selling channels. So we bring
3 our product to market and I'm going to try not to confuse
4 you even more. We bring our product to market in a variety
5 of different channels. We will sell directly to printers.

6 COMMISSIONER SCHMIDTLEIN: Right.

7 MR. WEINHOLDT: So in that case we will be
8 negotiating with the printer. And this is irregardless of
9 the products we are talking about. It's not, what I'm
10 telling you isn't exclusive to supercalendered paper. We
11 will sell to brokers which are middlemen and we will sell to
12 merchants, which are also middlemen and we will sell
13 directly to end users. As you can imagine Time as an
14 example, buys their own product, big user of paper. Hearst
15 is another one. So we'll sell directly to end users and in
16 each case we're negotiating usually with a purchasing agent
17 or production group within all of those different channels,
18 so a purchasing person.

19 COMMISSIONER SCHMIDTLEIN: So whoever you're
20 actually selling to at that point.

21 MR. WEINHOLD: Yes.

22 COMMISSIONER SCHMIDTLEIN: If it's the broker,
23 that's who you're doing the negotiating with.

24 MR. WEINHOLD: That's who we're doing the
25 negotiation with. That's correct and in some cases that

1 would include the end user in part of that negotiation. The
2 ultimate end user.

3 COMMISSIONER SCHMIDTLEIN: In some cases.

4 MR. WEINHOLD: In some cases.

5 COMMISSIONER SCHMIDTLEIN: Okay. Thank you very
6 much.

7 VICE CHAIRMAN PINKERT: If Commissioners have no
8 further questions. Does Staff have any questions for this
9 panel?

10 MR. MCCLURE: Thank you Mr. Vice Chairman, Jim
11 McClure Office of Investigations. Staff has no questions
12 but I personally would like to fully endorse Commissioner
13 Schmidtlein's baseball remarks, particularly as it relates
14 to the Royals.

15 VICE CHAIRMAN PINKERT: I just became a Mets fan.
16 Thank you. Now do respondents have any questions for this
17 panel? I see waving in the back.

18 MR. TRENDL: Respondents have no questions for
19 the panel.

20 VICE CHAIRMAN PINKERT: Thank you. In that case,
21 I think it's time for a lunch break. We will resume at
22 2:10. Just a reminder, the hearing room is not secure so
23 please do not leave confidential business information out
24 and I want to thank all of the witnesses for coming today.

25 MR. BISHOP: Will the room please come to order?

1 VICE CHAIRMAN PINKERT: Mr. Secretary, are there
2 any preliminary matters for the afternoon session?

3 MR. BISHOP: Mr. Chairman, I would note that the
4 panel in opposition to the imposition of the countervailing
5 duty order have been seated. All witnesses have been sworn.

6 VICE CHAIRMAN PINKERT: Thank you, Mr. Secretary.

7 I want to welcome the afternoon panel to the ITC.
8 I would like to again remind all witnesses to speak clearly
9 into the microphones and state your name for the record for
10 the benefit of the court reporter.

11 You may begin when you're ready.

12 STATEMENT OF THOMAS J. TRENDL, STEPTOE & JOHNSON LLP

13 MR. TRENDL: Good afternoon, Commissioners.
14 Again, this is Tom Trendl. It's been an interesting morning
15 and we hope to correct some facts for you.

16 With that, I know that the last person you want
17 to hear from is the lawyers, so I'm going to promptly
18 introduce who is going to be speaking with you today. To my
19 right and speaking first will be Mr. Mike Ostrowski. He's
20 Vice President of sales for supercalendared and he also
21 participated in the preliminary determination phase.

22 To my left are Bob Kralik and Jerry Johnson.
23 They are purchasers of this product and I think will provide
24 information useful to you and not yet heard before this
25 Commission.

1 Behind me are three folks from ECS, Bruce
2 Malashevich who will deal with volume and financial issues,
3 Cara Groden, who will deal with pricing issues and Dr.
4 Steven Byers who will deal with his statistical analysis,
5 his Granger analysis.

6 Others will be available to answer questions as
7 needed including Nate Cunningham from my office, Gary
8 Horlick, and Peggy Clarke.

9 With that I will let it go. Mr. Ostrowski?

10 OPENING COMMENTS BY MICHAEL OSTROWSKI, WEST LINN PAPER
11 COMPANY

12 MR. OSTROWSKI: Good afternoon. My name is Mike
13 Ostrowski, Vice President of Supercalendared Sales for West
14 Linn Paper Company.

15 West Linn provides sales and marketing services
16 for Port Hawkesbury and is based in Oregon. I thank you for
17 the opportunity to discuss with you the operations of my
18 company, the SC trade and market dynamics. I will be happy
19 to respond to any questions you might have.

20 I have been with Port Hawkesbury Paper for three
21 and a half years. Prior to that I was Vice President of
22 sales for 19 years at Madison Paper, one of the two
23 petitioning companies in this investigation. I believe this
24 background provides me a unique and solid foundation to
25 address many of the issues at the core of this

1 investigation.

2 As Vice President of sales for Port Hawkesbury
3 Paper, I oversee the Port Hawkesbury order book and manage
4 price decisions for the bulk of our business. I have
5 front-line contact with all of Port Hawkesbury's customers.
6 With 22 years' experience, I have broad market knowledge of
7 our competitors and our customer base. I am very familiar
8 with the papermaking process and how certain inputs affect
9 the performance of the paper on different types of printing
10 presses.

11 Some quick background on Port Hawkesbury Paper
12 under our current ownership. The plant began operations
13 originally in 1998 and was previously owned and operated by
14 Stora and then by NewPage which was later bought by Verso,
15 the other petitioning company. It operated for 13 years
16 before it was hot idled and had some of the newest equipment
17 in the industry.

18 In 2010, interesting to note, the last year it
19 fully operated, the SC industry ran at a 91 percent
20 utilization rate according to the Pulp and Paper Products
21 Council.

22 In September 2011, NewPage filed for creditor
23 protection at which point they ceased paper production.
24 Port Hawkesbury Paper purchased the plant from NewPage
25 through the court approved insolvency process and resumed

1 paper production in early October 2012.

2 It is interesting to note that the SC industry
3 also operated at this 91 percent operating rate for our
4 first two years of full operation, 2013-2014.

5 Unlike NewPage which which did not want to push
6 SCA+ so as to not cannibalize their own coated groundwood
7 production, Port Hawkesbury Paper's focused, after the
8 bankruptcy process, was the high grades of SC paper, SCA+,
9 and SCA++.

10 These 91 percent operating rates bear this out
11 proving that we were successful in taking business from
12 coated groundwood mills. If the domestic industry operated
13 at or near this rate throughout the POI, I submit that it's
14 impossible for Port Hawkesbury Paper to have taken any
15 volume from them.

16 Currently our SC paper production at the mill is
17 lower than what -- than before we acquired it and lower than
18 the petitioners say it is primarily because we produce a
19 wider range of grades and basis weights.

20 We cannot increase capacity at will as the
21 petitioner said, and we have no plans to expand capacity in
22 the future.

23 I think it's relevant to recognize that while
24 paper machines are designed to operate 24/7, 365, that
25 simply isn't the reality and if it ever happens, it is

1 extremely rare.

2 Our plant has to shut down when electricity gets
3 too expensive for scheduled and unscheduled maintenance and
4 I know other manufacturing paper plants have to do the same.
5 Running at 100 percent is not realistic and should not be
6 considered a baseline from which to measure anything.

7 So this requires all mills, us included, to learn
8 how to stop and start their machines and still be efficient.
9 Port Hawkesbury produces all grades of supercalendared paper
10 which include SCB, SCA, SCA+, and SCA++. Our plus, plus
11 grade which has the trade name Artisan is a superior grade
12 of paper unique to Port Hawkesbury and competes directly
13 with coated groundwood.

14 I'd like to spend a minute describing the
15 different grades of SC paper, their uses and typical
16 customers. The differentiating elements are brightness,
17 gloss, smoothness, and opacity. I'm also going to address
18 other products in the market against which SC paper
19 competes.

20 Coated groundwood, there is no question we
21 compete with coated groundwood. Upon coming out of the
22 bankruptcy process, we focused our production of SCA+ and
23 SCA++ to compete directly with coated groundwood which is
24 non-subject merchandise.

25 Dr. Byers will explain this later with his

1 statistical analysis.

2 Artisan used primarily for magazines, catalogs,
3 and commercial printers, this is a 76 brightness sheet. And
4 it is not manufactured by either petitioner.

5 It is a growing part of our business and it has
6 created demand directly by taking it from coated groundwood.

7 To my knowledge Madison does not make any SCA+ at
8 least at a 70 brightness or better. Verso does make some.
9 That said, please realize that if Port Hawkesbury ceases
10 production or if Irving's SCA+ machine ceases production,
11 then the U.S. manufacturers cannot fully replace this
12 supply. This would exponentially harm all of the print
13 media, printers, paper merchants and brokers, ink
14 manufacturers, our post office, and many, many more.

15 Regarding SCA, Madison's mainstay is regular SCA
16 and that's where -- and that's where we really compete with
17 them. And our footprint in that market segment is quite
18 small as a percentage of our sales. I think it is important
19 to recognize that the customer base for traditional SCA is
20 not expanding. Therefore we haven't focused on this
21 product. We all know who the SCA customers are and there
22 are no sacred accounts.

23 So we focus on the plus grades since new
24 customers are coming from the coated arena.

25 On SCB, basically only comes from Canada,

1 Catalyst, Resolute, Irving, and Port Hawkesbury. The
2 petitioners do not, per se, make SCB. They may make some at
3 times to fill an order book and keep a machine running, but
4 do not actively sell and market SCB. The Duluth mill does
5 not even offer it on their product list.

6 UPM Madison does list their SCB grade, but it is
7 for rotogravure printing in North America.

8 Now, I will take a couple of minutes to describe
9 the sales process. A vast percentage of our sales are made
10 under short-term contracts which are six to 12 months. So I
11 will concentrate on that process here. We do make some spot
12 sales, but it's a much smaller percentage and it's made to
13 order which I can discuss if you like.

14 In the typical sales process, we call on
15 customers, we introduce our company and grades available.
16 We describe the technical specs of our sheet. We show
17 samples. Hopefully supply a trial roll and then get a
18 request for pricing based on some tonnage level. There are
19 two bases for determining a price to offer. First we
20 calculate the differential based on coated groundwood
21 prices and rely on market knowledge to determine whether or
22 not this price is reasonable.

23 Second, the customer informs us whether another
24 producer has offered a better price. I agree with the
25 petitioners that the price is negotiated in each situation,

1 but all criteria including the savings versus coated come
2 into play. We have all heard in this industry from
3 customers, heck, I can buy coated groundwood at that price,
4 why would I switch off of it. We have to create a
5 differential.

6 If customers could buy coated at SC prices, they
7 would buy coated.

8 There are times when we lose sales because a
9 customer requests a price lower than what we are prepared to
10 sell at. I saw in the staff report that none of the
11 petitioners' 22 claims of lost sales and 245 lost revenues
12 were found to be accurate or substantiated. And this is
13 probably the most unbiased statement possible on this point.

14 I should mention that I have reduced prices and
15 still lost sales to a competitor including the petitioners
16 and European suppliers. It's the reality of the business,
17 no one gets everything.

18 As an example, a major U.S. retailer where we
19 were the incumbent supplier told us that despite our most
20 competitive offer, which I did revise at one point,
21 downward, our price was the second highest out of seven
22 offers. It happens to us all the time. And it continues to
23 happen today.

24 Now, I will talk about some market dynamics.
25 Exchange rates. You will hear from Mr. Malashevich about

1 how exchange rates have affected the overall market for
2 graphic and printing papers. I want you to understand that
3 Port Hawkesbury Paper did not reduce its prices in response
4 to a weaker dollar. We could have, but we didn't.

5 My job is to increase revenues for our company
6 and I take that responsibility very seriously.
7 Additionally, the employees at the mill earn variable pay
8 based on profitability. I owe it to them to maximize return
9 on our sales.

10 Two, European imports. Imports from Europe,
11 specifically imports from UPM, the parent company of
12 Madison, our petitioner, have had an effect on the U.S.
13 market. This was particularly relevant when Port Hawkesbury
14 Paper entered the market in October 2012 as we competed
15 directly with UPM and likely took some business at the
16 expense of European imports. Our impression is that U.S.
17 imports from Europe declined as a result of our reentry into
18 the U.S. market.

19 Three, interruptions in production. Port
20 Hawkesbury Paper gets its electricity rate from the
21 privately-held company Nova Scotia Power Incorporated.
22 Under our contract we are the last customer served.
23 Meaning, we get the most expensive power available, but have
24 the option not to use it. As a result, from the time Port
25 Hawkesbury resumed operations in October 2012 until July

1 2015, Port Hawkesbury took 40 days of lost production
2 because the electricity was uneconomical or unavailable.

3 So, again, we do not run flat out as what was
4 said earlier. And by the way, 400,000 tons, that's our
5 stated capacity. You can look at the briefs and look at the
6 production for the last two years, it's a far cry from
7 400,000 tons.

8 You know, and the other point I wanted to make is
9 that the petitioners mentioned a secular decline so how can
10 machines run 24/7, 365. If demand is coming down and you
11 have supply that once run at 24/7, we all can't run at 24/7.

12 Taking down time is a common strategy to manage
13 costs in the supercalendared paper industry and therefore
14 cannot be viewed as an indicator of injury on the part of
15 the domestic industry.

16 Periodic outages among U.S. and Canadian
17 producers are not at all unusual both for reasons of planned
18 maintenance and of -- and as a consequence of unanticipated
19 events.

20 On Memorial Day 2012 during the POI, one such
21 unanticipated and very unfortunate event was the fire that
22 completely destroyed the operations of Sartell. Sartell was
23 a major producer of coated groundwoods and also made some
24 SCA+ on that machine. This event literally, overnight
25 created a large gap in the supply of coated groundwood and

1 SC papers to U.S. customers. Our resumption of production
2 helped fill that gap without displacing U.S. production.

3 We can go over the timing if you like, but there
4 can absolutely be no connection with the decision to keep
5 Sartell closed and Port Hawkesbury's resumption of
6 operations.

7 Again, Port Hawkesbury Paper was able to supply
8 SCA+ grades to replace coated groundwood production and
9 thereby expanded total U.S. demand for SC paper without
10 displacing U.S. production of mainstream products.

11 I've tried to cover a lot in a short period of
12 time this afternoon and probably went too quickly over some
13 topics. But I'm very willing to expand on anything or
14 answer any questions you have. Thank you for your time.

15 STATEMENT OF BOB KRALIK

16 MR. KRALIK: Hello. My name is Bob Kralik. I am
17 President of the Publishing and Catalog Division of Gould
18 Paper Corporation. Gould Paper is one of the largest paper
19 distributors in North America.

20 I have been part of the paper industry for almost
21 40 years and have held management positions on both the mill
22 side and the distribution side of our industry. On the
23 distribution side, to be successful, you need to have good
24 strong relationships with both customers and users and
25 manufacturers. It is our job in distribution to determine

1 and to marry the best sources for the needs of our
2 customers.

3 I would define best sources as companies that
4 manufacture high quality products, price them competitively
5 with the market. These sources also need to be consistent,
6 end-user focused, and long-term oriented.

7 Port Hawkesbury, Irving, Resolute, and Catalyst
8 are companies who meet these criteria to varying degrees.

9 Appearing here today puts me in somewhat of an
10 awkward situation as Gould Paper also purchases significant
11 volume from both Verso and UPM. I also want to make it very
12 clear that both of these companies also meet my -- our
13 company's criteria as best sources to varying degrees.

14 I'd like to make a couple of points. U.S.
15 sources of SCA products alone cannot cover North American
16 demand. In our opinion it's not even close.

17 Two is the marketplace in general and details of
18 each particular deal, i.e., volume, quantity, printer
19 location, duration of contract specifically determine the
20 price. In my view all best sources, best source mills both
21 domestically and in Canada are priced similarly.

22 Also, the -- this has come up, I heard a couple
23 of times today, the mills' cost of raw materials does not
24 factor into our negotiation as far as price. Price is
25 dictated by supply and demand.

1 Having said that, the price is the price. Other
2 factors become very important deciding what mill to buy
3 from.

4 Product quality, and consistency along with ease
5 of doing business is the most important factor. As a
6 general statement SC prices, in my opinion, have
7 historically been linked to and priced below coated number
8 five on a percentage basis.

9 Coated number five pricing has been declining for
10 years and as such SC products have done the same. From the
11 viewpoint of end users, and other -- end users, supply
12 competition is essential and critical for the continued
13 viability of their businesses.

14 Probably the main reason I agreed to come here
15 today is that many of my customers are very concerned that
16 these CVDs will cause one or more of the Canadian mills to
17 either shut down or stop shipping to the U.S. greatly
18 reducing competition. Thank you.

19 STATEMENT OF JERRY JOHNSON

20 MR. JOHNSON: My name is Jerry Johnson. I've
21 been involved in the paper industry for 43 years as both a
22 printer and a paper buyer. While I'm the Vice President of
23 Operations at Publishers Press, I appear here today solely
24 in my own personal capacity and not on behalf of my company
25 or clients.

1 I, like Bob, find it difficult to speak here
2 today before the Commission. However, here I am and I'm
3 happy to explain how this business works.

4 I'm not sure exactly what the Commission wants to
5 know, but I'll address several important issues initially
6 and try to answer any follow-up questions you might have.

7 A key issue for me when deciding who to purchase
8 paper from is the brightness and runability of the product
9 that supplier offers. In general, Canadian producers are
10 able to supply a higher brightness grade than U.S.
11 producers. This factor is of most importance to me in my
12 purchasing decisions because it's very common for the
13 clients to require a high bright SC as a substitute for a
14 number five, 72 bright, coated groundwood. Some people
15 might not have that concern, but the end users that I do
16 business with do have that concern.

17 Also, for those who need multiple grades for
18 print jobs that are closely scheduled together, the grade
19 variety is very important. In this case the Canadian
20 offering is superior on both an SCA+ and an SCA++ when you
21 can combine shipments in the boxcars, you can satisfy the
22 needs of multiple clients through the same transportation
23 mode. Also relevant here are those plus and plus, plus
24 papers are frequently substitutable for coated groundwood
25 products and several of our customers have made the switch.

1 To date, almost 50 titles a month are currently on SC plus
2 or plus, plus versus coated groundwood.

3 I'd like to take a minute and talk about the Port
4 Hawkesbury mill. Back in the '90s in their second attempt
5 to produce SCA+ paper, Stora engineered Stora Enso over
6 engineered the calendar stack. In fact, the mill had to
7 produce an SCB because the calendar stack wasn't properly
8 functioning. This move in that over-engineering provided
9 the basis for today's high bright offerings. Also the
10 market never considered Port Hawkesbury to be permanently
11 down as it was in the hot idle state between the NewPage and
12 Port Hawkesbury sale.

13 When the restart came, we trusted that the new
14 management would provide the high quality of paper they had
15 available and we felt like the reputation is credible since
16 restarting that mill. With the consistent high quality
17 product, a wider base range, higher brightness, and the West
18 Linn reputation, Port Hawkesbury offset quality is excellent
19 and is the preferred substrate to run on press.

20 I appreciate your time today and will answer any
21 questions as best I can. Thank you.

22 MR. TRENDL: This is Tom Trendl again. As
23 mentioned to the Secretary's office, unfortunately one of
24 our witnesses had a medical emergency and had to leave us
25 yesterday evening. And asked that I, with the Commission's

1 indulgence read his statement into the -- into the record.
2 And if there's something he needs to cover in a post-hearing
3 brief he'll do it. Is that all right?

4 VICE CHAIRMAN PINKERT: You may proceed.

5 MR. TRENDL: Thank you, Commissioners.

6 STATEMENT OF JOHN COCHE (As Read by Thomas Trendl)

7 MR. TRENDL: This is the testimony of John Coche
8 who is an independent consulting specialist. He's been in
9 the paper business for 45 years. His major clients include
10 purchasers of SC paper such as Parade Magazine. And these
11 are his words.

12 As you have heard from many others today, it is
13 widespread and common occurrence for coated groundwood
14 customers to switch to SC paper for many end uses. SCA++
15 which is only made by PHP, and SCA+ are the most readily
16 substitutable with coated groundwood. However, high SCA is
17 often a substitute as well. High quality is. I think it's
18 fair to say that most customers do not consider SCB to be a
19 substitute for coated groundwood. This shift from coated
20 SC paper is driven by cost calculations, cost
21 considerations. The portion of the advertising budgets
22 devoted to paper media is declining so customers are looking
23 to get the most bang for their buck.

24 The second thing I want to address is the impact
25 of PHP. You heard from Jerry that the market never

1 considered PH Mill to be permanently gone from the market.
2 This is important because PHP restart put supply back on the
3 market that had been absent for about a year. However,
4 there was not a sustained drop in price that resulted from
5 the Port Hawkesbury resumption.

6 It is true initially there was a small impact,
7 but that was mainly speculative because people remembered
8 what the product mix of NewPage owned PH mill was. However,
9 after it became apparent that the new PH was servicing
10 customers that had been absent from the SC paper market
11 prices came back up. Very shortly after Port Hawkesbury
12 restarted it became clear PHP was not chasing volume through
13 predatory pricing. Most SC prices went up at the end of
14 2013 which coincides with Port Hawkesbury's full-year
15 restart. So not only did PHP not tank the market, PH
16 restart proves that its additional supply did not drive down
17 prices. If it did, you would see a huge drop in prices at
18 the end of 2013. You did not see that drop because of the
19 fluid nature of SC paper demand driven in large part by
20 ready substitution of coated groundwood at the high end and
21 high bright and newsprint at the low end.

22 Lastly, he would have touched on what market
23 considerations considered to be true imports. The North
24 America paper industry is very integrated in many industry
25 publications. Imports refers to SC paper produced in

1 Europe, not produced in Canada. Favorable exchange rates
2 and severe overcapacity on the part of European producers
3 are increasing their incentive to chase volume in the U.S.
4 This has not been a big deal historically. The customers
5 are increasingly threatening to import SC paper from Europe
6 and this threatens to drive down prices further.

7 Thank you. And with this I'll turn it over to
8 Bruce Malashevich.

9 STATEMENT OF BRUCE MALASHEVICH

10 MR. MALASHEVICH: Good afternoon, Mr. Chairman,
11 members of the Commission and staff. I'm Bruce Malashevich,
12 President of Economic Consulting Services, LLC. I've
13 testified before this Commission on many occasions over --
14 it's hard to believe -- almost 40 years in my professional
15 life.

16 The Commission always gets younger when I come
17 here.

18 My affirmative testimony today will be mercifully
19 brief touching on certain of the most salient points in
20 PHP's prehearing brief. And some of the data are APO, I've
21 given the secretary copies of just certain sections of our
22 brief as originally filed on the due date of October 15 to
23 the Commission and my opposing counsel simply as a courtesy
24 in aid in following my testimony. There is no new
25 information.

1 In my opinion there are many affirmative
2 arguments presented in PHP's brief, but just three warrant
3 special emphasis in this hearing.

4 The first concern volume effects and is
5 summarized in what we have labeled "the road map to a
6 negative." I urge you to have a look at it. It looks like
7 this. And it's on both sides of one piece of paper. Both
8 sides are important.

9 I can't believe petitioners stick to this number
10 of 400,000 tons and pretend that the world remained
11 unchanged but for the resumption of production at PHP. It
12 makes no sense at all.

13 There are all kinds of other things that were
14 going on contemporaneous with PHP's restart that made the
15 net addition to supply statistically no different from zero.

16 First of all, let's start for the true number of
17 what production entered the supply chain. I put down 2010
18 because that was production in the last year of NewPage's
19 ownership. And 2014 is the most recent full year of actual
20 production by PHP. Note that both are very different from
21 400,000 tons and indeed the 2014 number is lower than the
22 last year of production under NewPage's ownership. So we're
23 starting from a --then fictionalized. There was a net
24 reduction in non-subject import relatively small number, but
25 for reasons stated in our brief, that was part of the

1 consequence of PHP's reentry. They backed out non-subject
2 imports that had been more present in the market.

3 Next there is supply shock from the Sartell Mill
4 closure. I'd say the source of that number detailed on the
5 other side of the sheet is rather authoritative and I would
6 not call the number small.

7 MR. MALASHEVICH: The mill tragedy occurred
8 unexpectedly, and that value of tons disappeared from the
9 market and had to be replaced by somebody.

10 Then PHP does not only supply SC paper to the
11 United States. It has exports to the rest of the world. It
12 has a home market. And these numbers are significant in the
13 greater scheme of things.

14 Then we have a major what I call "demand shock"
15 when some major players unexpectedly made a switch out of
16 coated groundwood into SC paper. And that number is a
17 readily calculable number from purchasers' questionnaires.
18 The sources of all these numbers are rather meticulously
19 detailed on the other side of this page.

20 And then, independent of that, there was an
21 additional shift in general from coated groundwood to SC
22 paper by other purchasers in the marketplace. And those are
23 detailed on the reverse side of this paper.

24 So moving to the reverse side of the paper, we
25 get the demand that was created by PHP's innovation of

1 SCA++. That was among the factors expanding demand for SC
2 paper generally during the period of investigation.

3 And while it was often said this morning that the
4 number is small in relation to the total market, in terms of
5 the supply/demand balance what matters is how much--how
6 important it was to PHP, not--so the denominator, they got
7 wrong. It's a significant number in relation to PHP's total
8 production.

9 So if you add all that up and the net change in
10 supply, as reflected in supply/demand balance, it was not
11 statistically different from zero. Hence, you have the
12 domestic industry continuing to operate at a very high rate
13 according to the prehearing report, and also you had a
14 reduction in Nonsubject Imports. You had an increase in
15 consumption. And if any pain was felt, it was by suppliers
16 of coated groundwood and that is detailed in the prehearing
17 brief.

18 Moving right along, my second point concerns
19 price effects. The brief addresses this topic through many
20 avenues, but for today I've just selected Exhibit 1 of our
21 brief for emphasis which is also in front of you.

22 Although otherwise designed in the traditional
23 format of the Commission's price comparisons, what appears
24 as the import price reach of seven products surveyed is
25 based on reported import prices only from PHP, thus

1 excluding all other importers from Canada.

2 The summary of instances of underselling and
3 overselling on the first page is quite compelling. You
4 heard early this morning that PHP engaged in rampant
5 underselling as part of its strategy to increase its supply
6 in the United States. So have a look at that exhibit and I
7 challenge you to conclude that that constitutes "rampant
8 underselling."

9 Moving right along, my third topic addresses the
10 effects on the domestic industry's overall operation and
11 draws upon Exhibits R and E in our brief, also before you.

12 The latter document analyzes certain details and
13 consequences of Verso's acquisition of the much larger
14 NewPage. The former summarizes how those consequences
15 affected certain data reported by the domestic industry to
16 the Commission. I urge you to look at the bottom third of
17 that page of the average unit costs reported, and tie that
18 to the analysis of the acquisition and you will see the
19 impact that had on the numbers reported to the Commission.

20 Indeed, the circumstances of this acquisition and
21 its consequences suggest that the objective of the case at
22 issue here is not to rescue SC operations, but to prop up
23 coated groundwood prices on which the success for the
24 acquisition depends according to their SEC filings from
25 2015.

1 The balance of my testimony will consist of
2 rebuttal points, which traditionally are to be addressed in
3 the hearing in any case. And to some extent, earlier
4 testimony here today.

5 On page 4 of their brief, Petitioners make the
6 claim that, quote, "The primary impact of Subject Imports
7 has been on U.S. producer prices and the domestic industry's
8 financial performance."

9 But the case is nullified by the behavior of
10 Subject Imports and domestic shipments between the interim
11 periods. Both fell by similar percentages, and subject
12 imports fell faster. Now look at the industry's reported
13 financial performance between those periods and draw the
14 obvious conclusion that Subject Imports played no role.

15 We heard testimony today that one evidence of
16 PHP's impact in the market is to--that the rate of decline
17 accelerated in the second half of the POI. Arguably, it
18 did, but the reasons are: pressure from coated groundwood
19 prices, as we'll detail, and also they talked about--they
20 kind of skirted the issue of the change in exchange rates,
21 which also occurred in the second half of the year and was
22 not short.

23 The change occurred over a period longer than the
24 PHP facility was on hot idle. So there's a lot more I could
25 say, but I must turn now to Ms. Groden in the interests of

1 time.

2 STATEMENT OF CARA GRODEN

3 MS. GRODEN: Good afternoon. My name is Cara
4 Groden and I am an economist with ECS. In my testimony
5 today I will address why petitioners did not experience any
6 adverse price effects due to Subject Imports in this case.

7 Specifically, I will discuss why Petitioners'
8 claims of price depression, price suppression, and
9 underselling are faulty and are not relevant to the
10 Commission's analysis in this investigation.

11 With respect to the general decline in U.S.
12 producers' prices, Petitioners' allegations of price
13 depression due to Subject Imports are unfounded. I would
14 like to bring to the Commission's attention the large number
15 of exogenous and nonprice factors at play in this industry.
16 This includes four factors:

17 First is the universally acknowledged secular
18 decline in the market for printing papers and products,
19 including SC paper's close substitute coated groundwood,
20 which Dr. Byers will address shortly.

21 Two was the recent strengthening of the U.S.
22 Dollar.

23 Three, the limited ability of U.S. producers to
24 provide particular grades of SC paper such as SCA++.

25 And four, the important differences in product

1 quality and availability between U.S. and Canadian SC paper
2 producers as discussed in PHP's prehearing brief, and as
3 reported in questionnaires submitted to the Commission.

4 It also bears repeating that, despite the
5 unverified anecdotal information provided by Petitioners,
6 staff's careful review yielded no confirmed instances of
7 lost sales or revenue. These facts indicate a distinct
8 absence of negative price effects in the marketplace.

9 It was touched on several times this morning, but
10 I would just like to reiterate that the Commission's
11 traditional analysis of price suppression and the method
12 Petitioners rely upon in their brief is not relevant in this
13 case by Petitioners' own admission, and is corroborated in
14 the trade publication, "The Reel Time Report: attached as
15 Exhibit K to PHP's prehearing brief.

16 Petitioners contentions that prices in this
17 industry are suppressed are therefore not supported.

18 Following Petitioners theory of this case, SC
19 paper, a so-called commodity product, with sales made on the
20 basis of price. Under this theory, one would expect that
21 the supplier experiencing the largest increase in market
22 share--in this case that would be PHP--would be the lowest
23 priced. But PHP obviously was not the lowest priced
24 supplier during the POI.

25 As our brief points out at pages 34 to 36, those

1 suppliers that were in fact the lowest priced were those who
2 lost significant market share. Comparing Exhibit I to PHP's
3 prehearing brief which Mr. Malashevich discussed earlier, to
4 staff's underselling analysis in the prehearing report,
5 shows that for the products accounting for the large
6 majority of U.S. producers' sales of the pricing products,
7 margins of underselling were narrowing even as low-priced
8 producers lost market share.

9 Petitioners' theory in this regard is directly
10 subverted by the evidence. Also with regard to
11 underselling, per the staff report the pricing products
12 selected by Petitioners account for just over half of the
13 U.S. industry's commercial shipments. This is, however, a
14 period average and does not account for the fact that, as
15 PHP's calculations show, this coverage has been shrinking
16 over the POI, likely owing to the closure of the Sartell
17 Mill and a market shift into lower basis weights.

18 The Commission, therefore, should also consider
19 the average unit values of commercial shipments by grade
20 which staff collected in this case. These AUVs consider the
21 full range of products offered in each grade category.

22 While the data are confidential, you will see
23 that they show a stark and informative contrast to the
24 traditional underselling analysis and support the conclusion
25 that Petitioners' allegations of adverse price effects in

1 this case are simply unfounded.

2 Thank you.

3 STATEMENT OF STEVEN BYERS

4 MR. STEVEN BYERS: Good afternoon, Vice Chairman,
5 and Members of the Commission. I am Dr. Steven Byers,
6 Director of Financial Analysis at Economic Consulting
7 Services, LLC.

8 In response to Petitioners' testimony regarding
9 our source of paper-priced data, we used prices provided by
10 The Reel Time Report and industry publication. Reel Time
11 prices are considered by industry professionals to be more
12 accurate than prices published by RISE.

13 I have prepared a statistical analysis to
14 specifically test whether changes in the price of coated
15 groundwood paper cause or drive changes in the price of
16 supercalender paper. The result leads me to conclude that,
17 yes, changes in the price of coated groundwood paper do
18 causally drive changes in the price of supercalendered
19 paper.

20 The report containing my full analysis is
21 attached to PHP's prehearing brief.

22 To the extent I have time, I would like to walk
23 you through this analysis today. I will be happy to expand
24 on any point you wish. There are two factors that lead us
25 to test as to whether a causal link exists between the price

1 of similarly weighted supercalendered paper and coated
2 groundwood paper: substitutability and anecdotal evidence of
3 a structural pricing relationship between coated groundwood
4 and supercalendered paper.

5 We focused our analysis on supercalendered paper
6 Grade A where domestic production and sales are most highly
7 concentrated, and coated groundwood paper for which the
8 higher grades of supercalendered paper are widely considered
9 to be substitutable.

10 The Reel Time Report, an industry publication,
11 observes that supercalendered price agreements are
12 determined specifically by the price of coated groundwood.
13 The supercalendered price is often calculated by taking the
14 coated groundwood price and reducing it by some agreed-upon
15 margin. Reel Time further reveals that while the price of
16 supercalender is not tied directly to coated groundwood by
17 formula, the price relationship between the two grades
18 exists informally as negotiations take place quarter to
19 quarter.

20 I am skipping ahead in the interest of time. We
21 conducted statistical tests to determine if the prices of
22 coated groundwood paper caused the prices of supercalendered
23 paper to change, and vice versa.

24 We employed the statistical method advised by
25 Toda and Yamamoto, which is a Granger causality test, and

1 the results show that we have statistically significant
2 evidence that the price of coated groundwood Granger causes,
3 or drives the price of supercalendered, and that the price
4 of supercalendered does not Granger cause or drive the price
5 as quoted.

6 Thank you.

7 MR. TRENDL: As you might have understood there,
8 that was an abbreviated version of Dr. Byers' statistical
9 analysis, which I can tell you he could go on for a very
10 long time, and I encourage, in fact beg you, to ask him
11 questions about that. But in the interests of time, and the
12 agreement we made with counsel for Resolute, we are going to
13 pass it over to Mr. Feldman.

14 STATEMENT OF ELLIOT J. FELDMAN

15 MR. FELDMAN: Okay. Mr. Vice Chairman,
16 Commissioners, thank you for this opportunity to address you
17 today. My partner, Mike Snarr is here, and we have a
18 special witness that we'll come to in a moment, as well.

19 You have a chart here that you can refer to at
20 any time, and I think you have copies as well.

21 This case obviously is not about Resolute Forest
22 Products. Even a passing glance at the number of pages
23 devoted to Resolute compared to Port Hawkesbury in the
24 Commission's prehearing report, or in the testimonies you've
25 been hearing today, we've no doubt that the resurrection in

1 Nova Scotia of the Port Hawkesbury Mill is what has impacted
2 the market for supercalendered paper, and what this is
3 really all about.

4 Resolute is a victim in this case many times
5 over-most recently in the results of the Department of
6 Commerce. If one stopped after looking at the margins, it
7 would seem Resolute would have little to say about its
8 situation. But these numbers are unlike perhaps any the
9 Commission may have seen before.

10 They are phantoms with little connection to the
11 case. The Commerce Department didn't find Resolute's
12 production or export of Subject Merchandise to be
13 subsidized. Instead, it assigned Resolute a punitive duty
14 rate to make some kind of obscure point about a new statute.

15 In threat determinations, the Commission is
16 required by statute to consider the nature of the subsidies.
17 On the one hand, the Commission always has held, rightly,
18 that it cannot look behind the Commerce Department's
19 determinations.

20 On the other hand, the Commission must examine
21 the subsidies themselves in determining whether an industry
22 in the United States is threatened with material injury,
23 according to 19 USC 167(7)(b)(f)(i), the Commission shall
24 consider the nature of the subsidy.

25 I am going to comment only briefly on the nature

1 of the subsidy supposedly conferred on Resolute. There was
2 none found. And I would be happy to answer questions about
3 that. Instead, after explaining briefly what supposedly was
4 found, I'm going to focus on the consequences and
5 implications of the Commission's duty to examine the nature
6 of the subsidy.

7 As I just said, the Department of Commerce found
8 no export subsidies at Resolute, no direct subsidies, none,
9 for supercalendered paper. In fact, Commerce didn't find
10 any subsidies that had anything to do with the subject
11 merchandise. And even as it invented reasons to countervail
12 every program alleged by the Petitioner, or at least to
13 consider every one countervailable, the margin based on all
14 allegations and all thoroughly investigated programs, which
15 was more than those alleged, was well below one percent.

16 Even those alleged subsidies should not have been
17 countervailed at all, and by their nature could not threaten
18 any harm to the U.S. industry.

19 For example, it is factually, economically and
20 legally absurd to countervail an electricity credit
21 restricted to Northern Ontario where the Subject Merchandise
22 is not produced, and where no inputs to the Subject
23 Merchandise are produced.

24 The statute requires subsidies to be with respect
25 to the Subject Merchandise. But the Department of Commerce

1 outdid itself in this case, flouted the statute and the
2 obligations the United States accepted as a member of the
3 WTO.

4 The Department is apparently giving a test run to
5 a new theory that anything it might discover during an
6 investigation should have been reported, even if by any
7 reasonable judgment it was not a subsidy or government
8 assistance to the Subject Merchandise.

9 Commerce has written out of its regulations the
10 regulations stipulating what should be done with such
11 discoveries. That's 19 CFR 351.311. Never mentioned in the
12 issues and decision memorandum of the Department: that they
13 must be fully investigated or bound over to an
14 administrative review for full investigation.

15 Instead, Commerce refused to investigate them.
16 But instead of binding them over, applied adverse facts
17 available. The Commission needs to be aware that imports of
18 supercalendered paper from Quebec have not been subsidized;
19 but that the Department of Commerce is trying to punish
20 Resolute by assigning it a punitive countervailing duty
21 rate.

22 Resolute received 17 percent worth of punishment
23 for programs never alleged in a subsidiary unrelated to the
24 Subject Merchandise. It must sound unbelievable to anyone
25 involved with international trade, but it's true.

1 Again, the Commission has to know all of that
2 because the Commission has to know the nature of the
3 subsidies. The Commission has to know that the subsidies
4 supposedly supporting the Subject Merchandise from Quebec
5 are not export subsidies, are not direct subsidies, and are
6 not even indirect subsidies. The CVD margin is fictitious
7 based on a 1997 one-time-only administrative review of a CVD
8 order on magnesium, a metal, not even a forestry product.
9 The program countervailed in the magnesium administrative
10 review ceased to exist before the turn of the century.

11 The Commission, when it considers threat, is
12 mandated to consider - "shall consider" - according to the
13 language of the statute, whether the subsidies involved may
14 contribute to an increase in future imports or may impact
15 the price of future imports. That is described more fully
16 in 19 USC 1677(f).

17 The imports from Quebec are not subsidized, and
18 Commerce hasn't reported the contrary to the Commission. No
19 evidence that you've been provided by the administering
20 authority shows you any subsidies to the Subject
21 Merchandise. Therefore, the subsidies to Subject
22 Merchandise from Quebec cannot contribute to a threat in the
23 market.

24 Still, it remains that the law doesn't make any
25 provision for individual companies when they come before the

1 Commission. However, as we alerted the Commission in the
2 preliminary phase, in this case all of Resolute's imports
3 come from Quebec, just as all Port Hawkesbury's imports come
4 from Nova Scotia, all of Irving's imports come from New
5 Brunswick, and all of Catalyst's imports come from British
6 Columbia.

7 Lumped together, they all "come from Canada," but
8 Commerce could not have investigated the alleged subsidies,
9 nor the subsidies that Commerce, not the Petitioner, alleged
10 without recognizing the alleged subsidies, according to
11 statutory definitions, as financial contributions from
12 authorities, where "authorities," according to U.S. statute,
13 are governments of countries. And "countries" are political
14 subdivisions.

15 The language is not "including," the language is
16 that "countries" mean "political subdivisions." The
17 Provinces, according to the statutory definitions, are
18 countries. I realize that the Commission may think it has
19 heard all of this before and has disposed of it before. The
20 Commission's preliminary determination relied on a 1992
21 determination on largely the same questions. Then as now
22 the Commission conflated scope with country.

23 The Commission routinely examines imports from
24 multiple countries, all of which come within the scope of
25 the investigation. The scope defines the merchandise, not

1 the country. The information of record enabling the
2 Commission to investigate the nature of subsidies and the
3 threat of injury caused by them has been gathered through
4 the cooperation of the authorities allegedly providing them.

5 They are the governments of countries.
6 Recognizing those authorities as the governments of
7 countries has no effect whatsoever on the scope of the
8 merchandise. Conflating scope and country simply evades the
9 legal issue.

10 The Commission's determination in 1992 was wrong,
11 as was the binational panel decision that upheld it. Scope
12 is not a reason to ignore the statutory definitions of
13 critical terms.

14 Let's be a little more systematic about the
15 statute. The statute requires you to consider the nature of
16 the subsidies, to determine whether their presence could
17 contribute to a threat of more imports in the market. It
18 should be obvious that electricity credits in Northern
19 Ontario at pulp mills in Northern Ontario that produce
20 neither the Subject Merchandise nor any inputs to the
21 Subject Merchandise cannot threaten to increase imports, or
22 reduce the prices of supercalendered paper produced in
23 Quebec. Nor can phantom programs at a subsidiary about
24 which there is scant record evidence--not because evidence
25 wasn't offered, but because the Department of Commerce

1 preferred punishment to information and analysis.

2 Without Commerce's gratuitous punishment,
3 Resolute wouldn't be here at all. It's margin would be
4 zero. In making a threat of injury determination, which the
5 statute requires the Commission to do, the Commission is
6 bound to consider the nature of the subsidies.

7 The statute defines a subsidy to be a financial
8 contribution made by an authority--and an authority,
9 according to the statute is the government of the country.
10 Hence, the subject of a countervailing duty case is a
11 subsidy, and a subsidy is a financial contribution made by
12 an authority which is the government of a country. Almost
13 all of the alleged subsidies in the investigation of
14 supercalendered paper involve financial contributions made
15 by Provincial governments.

16 I might note that, notwithstanding the discussion
17 this morning, there are no alleged subsidies of the
18 Government of Canada to Port Hawkesbury. All of the alleged
19 subsidies to Port Hawkesbury are from the Government of Nova
20 Scotia, all of them, making the governments of provinces the
21 authorities providing the financial contributions.

22 And those authorities are the governments of
23 countries. The statute then also defines a country to mean
24 a political subdivision of a foreign country. Here the
25 foreign country is Canada, but the provinces, as political

1 subdivisions, are also countries, which is the basis for
2 investigations to be conducted. Without that definition,
3 there would be no authority to investigate any of those
4 allegations.

5 The statute then provides for the Commission to
6 determine material injury, and threat of material injury,
7 for every country.

8 When reaching an affirmative determination on
9 threat, the Commission then has discretion to decumulate, to
10 set aside imports of Subject Merchandise, from countries
11 where the subsidies do not pose a threat because they will
12 not contribute to an increase in imports.

13 The subsidies the Department alleges were
14 provided to Resolute, all indirect, attenuated, unrelated to
15 the Subject Merchandise, could not contribute to a threat of
16 injury.

17 In the Commission's threat determination, the
18 Commission should recognize Quebec as a country defined in
19 the statute whose merchandise shipped to the United States
20 does not threaten injury.

21 Should the Commission find that there is a threat
22 caused by imports from other political subdivisions of
23 Canada, the merchandise from Quebec should be decumulated.

24 We have asked the Quebec Government, the
25 government of the country where all of Resolute's Subject

1 Merchandise is produced, whether it agrees, for purposes of
2 the trade law, that it must be regarded as a country.

3 This issue has always been sensitive in Canada,
4 and in the United States, as you well know. The government
5 in Quebec today is not a separatist government. It is,
6 however, a practical government that understands the trade
7 law. Quebec's International Trade Counsel to the United
8 States, Matthew Clark, with the express authority of the
9 Quebec Government, is going to describe briefly Quebec's
10 practical experience in trade remedy investigations, and the
11 reasons that Quebec must be recognized for purposes of the
12 trade law as a country entitled to its own threat of injury
13 determination.

14 STATEMENT OF MATTHEW J. CLARK

15 MR. CLARK: Good afternoon, Mr. Vice Chairman,
16 Members of the Commission. For the record I am Matt Clark
17 of Arent Fox. I am Trade Counsel to the Government of
18 Quebec.

19 I typically appear before you in the capacity of
20 counsel of record for an interested party, but that is not
21 the role in which I am appearing today.

22 Quebec did not enter an appearance as an
23 interested party in this proceeding, and therefore I am not
24 appearing as counsel of record for an interested party. I
25 have been asked by my client instead to appear in its place,

1 and to speak to you as it would speak. That is, as the
2 Government of Canada's largest province, and as one of the
3 relevant countries whose alleged financial support for the
4 production or export of SC paper is under scrutiny in this
5 investigation.

6 Quebec did not appear in this proceeding, not
7 because it was unwilling or unable. To the contrary, Quebec
8 has appeared before you several times in the past as one of
9 the relevant countries for purposes of the countervailing
10 duty statute.

11 Quebec made a decision not to enter an appearance
12 here because it expected that Resolute Forest Products, the
13 only producer of supercalendered paper in the Province of
14 Quebec, would be found by the Department of Commerce not to
15 have received countervailable benefits.

16 Quebec's expectation in this regard was based on
17 its knowledge that Quebec itself had provided no
18 countervailable benefits. We were pleased that the
19 Department of Commerce's final determination in fact
20 validated that expectation.

21 When you read the final determination, in
22 particular the Issues and Decisions Memo, you will see there
23 that two Quebec programs were examined during the course of
24 the investigation. Both were found not to have conferred a
25 benefit on the production or export of supercalendered

1 paper.

2 Quebec tendered a questionnaire response to the
3 Department of Commerce. That response was verified and
4 found to be complete and accurate. The Department's
5 conclusion is that there were no countervailable benefits
6 conferred by Quebec.

7 The expectation that led Quebec not to enter an
8 appearance here before the Commission, even though under the
9 statute we could and in the past have, led us to conclude
10 that we did not need to appear. Despite the fact that there
11 were no countervailable benefits conferred on Resolute
12 Forest Products, the Department of Commerce nevertheless did
13 return an affirmative determination. Which brings me to the
14 reason for my appearance here today at the behest of the
15 Quebec Government.

16 Quebec agrees with Resolute that when the
17 Commission considers the question of Threat of Material
18 Injury, that you will, as you must, consider the nature of
19 the subsidies at issue as a component of your Threat
20 determination.

21 This requirement is directed in the statute, and
22 we believe that upon appropriate consideration of the nature
23 of the subsidies you will come to the conclusion that it is
24 not appropriate to cumulate imports from Quebec, a relevant
25 country under the statute, with imports from the other

1 countries under the statute.

2 Mr. Feldman reviewed with you the provisions of
3 the statute and the framework. In particular 19 USC Section
4 1677(3)'s definition that "country" means, notice it says
5 "means," not "includes", "country means political
6 subdivision."

7 Under that statutory definition, Provinces such
8 as Quebec are the relevant countries when it is our programs
9 that are under scrutiny. This definition of "country"
10 applies under subtitle (4) of the Act wherever the word is
11 used. It applies equally to the Commission's scrutiny as it
12 does to the Department of Commerce's.

13 I am going to very briefly talk about the role
14 that Quebec played in its capacity as one of the relevant
15 countries under the statute in this proceeding, in
16 particular at the Department of Commerce.

17 Quebec prepared a questionnaire response
18 detailing the nature and operation of our programs. That
19 questionnaire response was certified by Quebec Government
20 officials. The Quebec Government coordinated and hosted a
21 verification team from the Department of Commerce who came
22 to Montreal to examine Quebec's questionnaire response for
23 accuracy and for completeness--accuracy to confirm that the
24 information provided in Quebec's response was correct.
25 "Completeness," a standard verification exercise, to confirm

1 that all relevant information had been provided. That
2 verification concluded that Quebec's response was both
3 accurate and complete.

4 Quebec authored briefs to the Department of
5 Commerce. We entered an appearance at the Department
6 invoking the statutory definition that we were a relevant
7 country under the statute, as did the other Provinces
8 participating in the proceeding.

9 Quebec's request, therefore, to the Commission
10 here is that you recognize Quebec's role, like that of the
11 other Provinces, as a relevant country for purposes of the
12 statute.

13 Resolute has already explained to you--you saw
14 this in their prehearing brief--that upon careful
15 consideration of the nature of the subsidies, which we
16 believe includes the provenance or origin of those
17 subsidies, you will come to the conclusion that the nature
18 of the subsidies here supports the decumulation of the
19 imports that came to the United States from Quebec.

20 Mr. Vice Chairman, Members of the Commission, on
21 behalf of the Government of Quebec, I appreciate the
22 opportunity to appear before you today. I thank you for
23 your kind attention to these remarks, and I will do my best
24 to answer any questions you may have. Thank you.

25 MR. FELDMAN: Thank you, Mr. Clark. Once the

1 Commission acknowledges that the Government of Quebec is the
2 government of the country that supposedly subsidized
3 Resolute's production of supercalendered paper, and
4 examines the nature of those subsidies defined in the record
5 provided by the Department of Commerce in its final
6 determination in its Issues and Decision Memorandum, that
7 there is no record of more than de minimis subsidies, the
8 Commission should find that imports from Quebec don't
9 threaten injury to a domestic industry, that those imports
10 should be decumulated from other imports in this
11 investigation.

12 If I have any time remaining, I would like to add
13 it to the close. Otherwise, we would be very pleased for
14 the opportunity to answer any questions you may have.

15 VICE CHAIR PINKERT: Thank you.

16 Mr. Secretary, I understand that there is one
17 preliminary matter?

18 MR. BISHOP: Yes, Mr. Chairman. With your
19 permission, we will add Michael Snarr, counsel with Baker &
20 Hostetler, on behalf of Resolute Forest Products, Inc., to
21 page 4 of the witness list.

22 VICE CHAIR PINKERT: Hearing no objection, please
23 proceed with that addition.

24 Now this afternoon I will begin the questioning.
25 And as I said before, I thank all of you for being here

1 today to help us understand these issues.

2 I know that you heard the earlier panel, and you
3 heard the earlier panel talk about whether PHP was
4 profitable before it was acquired by Pacific West. And I
5 wonder if anybody on this panel takes issue with what they
6 heard?

7 MR. LEWIS: Sean Lewis, with Port Hawksbury Paper.
8 I'll address that question.

9 We certainly do have issue with that, and my
10 colleague, Mr. de Gelder, might want to chime in as well.
11 The mill as operated by NewPage prior to its hot idle, may
12 have been unprofitable. The profile of the mill going
13 forward was very different, and the people at NewPage are
14 aware of that.

15 They made the decision to voluntarily place the
16 mill into CCAA, which is the Canadian equivalent of Chapter
17 11, have it restructured and resold as a going concern, not
18 scrapped and liquidated.

19 The expectation was that it would be restructured
20 and reopened. The marketing materials we received--and we
21 were reached out to by one of NewPage's intermediaries--
22 included a whole bunch of cost-cutting initiatives to make
23 the mill profitable.

24 We were given a roadmap to profitability which
25 did not include anything that would be viewed as a subsidy.

1 Some very obvious things that we implemented, such as
2 shutting down the newsprint machine, which was the most
3 unprofitable component of the prior NewPage operation, and
4 that allowed us to reduce the overhead, the workforce
5 considerably. It allowed us to buy less fiber, buy fiber
6 closer to the mill.

7 So we were given as part of the marketing
8 materials to have the mill restructured and reopen as a
9 going concern, a bunch of suggestions for how to go about
10 doing that.

11 VICE CHAIR PINKERT: Thank you. Is there another
12 commenter on that question?

13 MR. DeGELDER: Neil DeGelder, Port Hawkesbury
14 Paper. What I would add is, when NewPage, the Petitioner,
15 put Port Hawkesbury into bankruptcy, into CCAA proceedings,
16 not only did they hire people to come and find us and pitch
17 us to buy it with this roadmap for profitability, much of
18 which we implemented and more, they funded the operation in
19 order to maintain it in hot idle while we did that.

20 As it happens, it took us longer than everybody
21 expected to reach deals with our unions, negotiate power
22 agreements with the private sector power supplier, do all
23 the things that we needed to do to completely restructure
24 our operations to make it profitable.

25 But the roadmap was there. Our expectation when

1 we went into it was probably like theirs when they funded
2 that hot idle, that we would be back in the marketplace in
3 six months. It took us almost 12. But there was, in my
4 view, no doubt going in that this mill was not--was going to
5 stay in the market.

6 I have been to mills. I have seen mills where
7 the owners don't want the production from that mill to come
8 back into their marketplace, and they look very different.
9 Not only are they not in hot idle, they have holes drilled
10 through all the equipment so it will never come back into
11 the marketplace.

12 We had the owners, the sellers' support to
13 restructure this mill to profitability, which is exactly
14 what we did.

15 VICE CHAIR PINKERT: Do you have any comment on
16 that?

17 MR. TRENDL: We have no further comment. I hope
18 that answers your question.

19 VICE CHAIR PINKERT: Thank you. Now you also
20 heard in that testimony an illusion to a condition that Pac
21 West may have imposed on a Canadian Governmental entity as a
22 condition for reopening the mill.

23 Is that accurate?

24 MR. LEWIS: Shawn Lewis with Port Hawksbury Paper.
25 Could you clarify the question? I'm not sure exactly what

1 it is that you're referring to.

2 VICE CHAIR PINKERT: Well there was a reference to
3 subsidies, but I'm trying not to use the word "subsidies" in
4 this question, and simply say was there a negotiation with
5 any Canadian Governmental entity in which Pac West imposed
6 or indicated that there were conditions that were required
7 to be met by a Canadian Governmental entity in order for the
8 mill to be reopened?

9 MR. DeGELDER: I can answer that question. I
10 understand what you're asking. It's Neil DeGelder, Port
11 Hawksbury Paper.

12 There were--this was a complex reorganization.
13 There were a number of conditions, including, as I
14 mentioned, reaching a deal with the private sector power
15 company in the Province to renegotiate--to reach a
16 negotiated rate.

17 There were conditions with our unions. There
18 were conditions with some of our suppliers. There were also
19 conditions relating to several loan facilities that the
20 Province had made available, which were conditions like any
21 other.

22 There were--we have never said or maintained that
23 we didn't have discussions with government with respect to
24 certain very limited aspects of the restart. But I
25 emphasize that what drew us to this opportunity were two

1 things:

2 Firstly, this was the premium supercalendered
3 facility in North America--still is. It is the gold
4 standard of these machines. And it was a rare opportunity
5 to perhaps own it.

6 Secondly, it was the seller's view of the
7 operation and how it could be made profitable that made us
8 think this can be done. We can shut the machine down. We
9 can reduce the head count. We can restructure a whole bunch
10 of aspects of this operation. We run very differently than
11 Verso ran it.

12 We run our Canadian--our U.S. paper mill very
13 differently than Verso runs theirs. And we concluded that
14 we could make a go of it. The discussions with the
15 government, they came along subsequently but it--there--
16 there have been, I won't put too fine a point on it, but we
17 were three-quarters of the subsidy that's been levied
18 against us relates to power. And we were astonished to
19 discover that a rate that we negotiated with a
20 private-sector entity was a subsidy. That's a matter for
21 another forum and another day, but certainly there were--
22 there were some aspects of the agreements that we had with
23 government, whether they were relating to purchasing
24 properties, or whatever, excess properties, that were
25 conditions to the closing of our transaction.

1 VICE CHAIR PINKERT: Thank you. Mr. Horlick?

2 MR. HORLICK: I'm counsel to Port Hawkesbury at
3 the Commerce Department proceedings, so I'm allowed to use
4 the word subsidy, Mr. Chairman.

5 There's some confusion here. The Department in
6 its preliminary determination said that PHP negotiated with
7 the public utility commission. That was inaccurate, and the
8 Commerce Department withdrew that by implication in its
9 final determination.

10 Instead, what the Department found to be a
11 subsidy, and as Neil pointed out the vast majority of the
12 alleged subsidy was an electricity contract negotiated with
13 a private power company in Nova Scotia. The Department
14 redefined that to say that the private power company was the
15 government because it has a service obligation, which will
16 surprise the fine people at Edison Electric Institute when
17 they find out that every private power company in America is
18 a subsidy.

19 I would note that both the Petitioners have
20 similar electric contracts with their private power
21 companies. So there's no unlevel playing field here. But
22 there was no negotiation of electricity with the government,
23 and that's been documented at the Commerce Department. And
24 Commerce did not say we negotiated it with the government;
25 they said we negotiated it with the private electric

1 company, which was the government.

2 VICE CHAIR PINKERT: Thank you.

3 Any other comments on that issue?

4 MR. TRENDL: I don't think so, unless you have
5 additional follow-up questions, Commissioner.

6 VICE CHAIR PINKERT: I will have questions the
7 next round, but in this round I think that I have to bring
8 it to a close. So the next Commissioner is Commissioner
9 Williamson.

10 COMMISSIONER WILLIAMSON: Thank you, Mr. Vice
11 Chairman. I would express my appreciation to the witnesses
12 for coming today.

13 The first question is, are all of PHP's sales of
14 SCA++ paper made to form a coated underwood paper buyers,
15 or did some SCA and SCA+ buyers switch to SCA++?

16 MR. TRENDL: Mr. Ostrowski?

17 MR. OSTROWSKI: To my knowledge, all of the SCA++
18 sales came from customers who were previously using coated
19 paper, coated groundwood paper.

20 COMMISSIONER WILLIAMSON: Okay. On page 24 of
21 your brief you provide a list of companies that you state
22 would not have bought SC paper if it were not for PHP.
23 Could you provide documentation to back up these assertions
24 and a quantification of their demand? And this can be done
25 post-hearing.

1 MR. OSTROWSKI: Sure. I didn't catch the page
2 number.

3 COMMISSIONER WILLIAMSON: On page 24.

4 MS. OSTROWSKI: Page 24. So you want backup for
5 that. Okay.

6 COMMISSIONER WILLIAMSON: Right. And I guess I
7 would also go to the previous question, too, within the
8 realm of reason.

9 MR. TRENDL: Understood. Certainly. You'd like
10 support for the customers who bought double--

11 COMMISSIONER WILLIAMSON: Right, where they all
12 came from.

13 MR. TRENDL: This is Tom Trendl. Yes, we'll do
14 that.

15 COMMISSIONER WILLIAMSON: In your post-hearing
16 brief, can you explain the relative prices for PHP's SCA+
17 and SCA++ product over the POI?

18 MR. TRENDL: Yes, we can do that. Mike, is there
19 something you can say in a public forum about the relative
20 prices of the various grades? In a public forum.

21 MR. OSTROWSKI: Michael Ostrowski. In general,
22 depending on the brightness level, the grade, there is a--we
23 calculate a differential, a percent differential in
24 transaction prices compared to coated paper.

25 For regular SCA, it's to my knowledge

1 historically been in the 15 to 20 percent range. As you go
2 up in brightness, you compress that a little bit.

3 COMMISSIONER WILLIAMSON: What's been in the 15-20
4 percent range?

5 MR. OSTROWSKI: The regular SCA as compared to
6 coated paper.

7 COMMISSIONER WILLIAMSON: Okay.

8 MR. OSTROWSKI: And then the SCA+ in my
9 estimation in general there's about a 10 percent
10 differential in price between that and coated paper, coated
11 No. 5 groundwood. And then when you get up to Artisan, it's
12 normally somewhere around 5 to 7 percent in general,
13 difference in transaction prices like basis weights between
14 coated and SCA++.

15 COMMISSIONER WILLIAMSON: So that's the price
16 premium?

17 MR. OSTROWSKI: Yes, over regular SCA, yes.

18 COMMISSIONER WILLIAMSON: Okay, okay. What does
19 it take to make paper brighter? And how difficult is it to
20 do that?

21 MR. OSTROWSKI: Well it's done normal--well I'm
22 not a paper manufacturer, but to my knowledge it can be done
23 in a couple of ways. One through the groundwood pulp that
24 you make, which is the majority of the sheet that's created
25 in supercalender process that you can certainly bleach the

1 wood that you create, the pulp that you create to get the
2 higher brightness.

3 I suppose that if in this process you also
4 normally add in a different kind of pulp, which is called
5 kraft pulp, which is a chemical pulp, which is normally
6 brighter, and you can I guess technically--I may be
7 corrected--but you can raise the brightness probably by
8 putting a little higher percentage of kraft sheet in the
9 pulp, but that's--those are the two ways that I'm aware of
10 in order to increase brightness.

11 COMMISSIONER WILLIAMSON: And what other
12 producers in the world can produce the SCA++ paper?

13 MR. OSTROWSKI: Irving has offered SCA++. I
14 think their grade name was Opulence. I'm not sure if it's
15 actively marketed anymore. And it was very limited in basis
16 weights. I believe UPM makes a grade in Finland that also
17 is somewhere between a 76 and an 80 brightness sheet. And I
18 don't recall the name of the grade.

19 COMMISSIONER WILLIAMSON: Okay. Are there
20 significant impediments to offering this? And if so, why
21 aren't there more people doing it?

22 MR. OSTROWSKI: There--sometimes customers might
23 cite that if they don't have a good second supply as backup,
24 in case something would happen with our machine, that there
25 are some customers who are reluctant to single-source on one

1 sheet of paper. That's about the only resistance that I can
2 think of.

3 COMMISSIONER WILLIAMSON: Okay, good.

4 You argue that the competition between Subject
5 Imports and Domestic Product is significantly attenuated
6 with respect to the different product types. Yet if you
7 look at Table 4 on pages 4-9, it doesn't seem to support
8 that. And can you explain how I can read that table to
9 support your argument?

10 MR. TRENDL: Sorry. I'm going to look for Table
11 4-9. Do you happen to have the page?

12 COMMISSIONER WILLIAMSON: Yes, it's on page 4--
13 it's table 4-4 on page 4-9.

14 MR. TRENDL: Okay. I think we're going to have to
15 answer that in the post-hearing, because what's here is all
16 confidential.

17 COMMISSIONER WILLIAMSON: Oh, am I reading it
18 right? Hold on just a second. I've got to find it, too.
19 Okay, if you can take a look at it and address that question
20 that I'm asking you.

21 MR. TRENDL: I'm sorry, Commissioner, could you
22 restate the question, then?

23 COMMISSIONER WILLIAMSON: Take a look at--I'm
24 sorry, you argue that the competition between Subject
25 Imports and Domestic Product is significantly attenuated--

1 MR. TRENDL: Correct.

2 COMMISSIONER WILLIAMSON: --with respect to the
3 different product types. And I'm saying, if you take a look
4 at that table, can you explain how I can read it to support
5 the statement you made?

6 MR. TRENDL: Sure, and I'm going to direct this
7 to Bruce Malashevich, as well as Mike Ostrowski. I'll
8 explain in general what's on this table without telling you
9 anything. I've seen that table. What it contains is the
10 various grades SCA+ Plus, SCA+, SCA, SCB, SNC, and it
11 contains shipment data for both U.S. producers to Canada
12 and in the home market. All the data are confidential, but
13 basically when we say we're in attenuated competition, it's
14 because all producers are not present in all of the
15 different grades. And I think that's about all I can say
16 publicly about that table. Bruce, do you want to address
17 that?

18 MR. MALASHEVICH: Yes, within the limits of the
19 public forum, I can address that in part. There is a
20 particular exhibit in PHP's prehearing brief, excuse me,
21 I'll get the exhibit number for you. We call it the
22 pyramid chart. It's sort of a horizontal bar chart that
23 shows the difference in product mix within each category,
24 between the nonsubject imports, the subject imports, the
25 various players in the domestic market, and you'll see that

1 there are very considerable differences in the share
2 occupied by the domestic industry versus subject imports.
3 As you go up the bars on that exhibit -- it is Exhibit --

4 COMMISSIONER WILLIAMSON: Okay, I tell you, no.
5 That's not helping me much. Maybe you just better do it in
6 post hearing so I can look at the charts and the numbers.

7 MR. MALASHEVICH: Okay, I will do that.

8 COMMISSIONER WILLIAMSON: Okay. Thank you.
9 I'll stop there and perhaps have further questions later.
10 Thank you.

11 MR. TRENDL: Although, Commissioner Williamson,
12 I'm not sure if he got the reference out. I think what we'd
13 like you -- we'll answer it in the post hearing where it's
14 easier to deal with the confidential data -- but if you'll
15 look at Exhibit C to our brief, that's the chart that
16 Mr. Malashevich was discussing, and in there it shows who
17 makes what grade, U.S., PHP, other Canadian and nonsubject,
18 quantity and short time. So I think that will be
19 instructive to the answer that we will give you with data in
20 the post hearing brief.

21 COMMISSIONER WILLIAMSON: Okay. I'm not sure I
22 see how that's different, but I'll take a look at that.
23 Thank you.

24 VICE-CHAIRMAN PINKERT: Commissioner Johansen.

25 COMMISSIONER JOHANSEN: Thank you, Vice-Chairman

1 Pinkert and I would like to thank all the witnesses for
2 being here today and their counsel as well and their
3 economists.

4 In a market that is not growing, how is it
5 possible that the introduction or re-introduction of SC
6 paper supply from Port Hawkesbury would not have a negative
7 impact on the U.S. producers' financial results?

8 MR. MALASHEVICH: In several ways, some of those
9 I was not able to get to during my direct testimony, but the
10 reality is that I believe the supply and demand balance,
11 that I described in testimony and is further discussed in
12 the brief, shows a zero net increase in supply by PHP and
13 during the POI, owing to offsetting factors that were going
14 on in the marketplace, not considered in petitioners'
15 arguments. So that basically deals with an absence of
16 volume effects.

17 And testimony this morning, I can't remember
18 exactly by whom, said words to that effect, that this is the
19 kind of case where the effects are felt more acutely on the
20 price side than on the volume side. And in terms of price
21 effects, I believe Dr. Byers analysis, as well as an
22 abundance of information in purchasers' questionnaires,
23 point to the fact that coated groundwood plus the
24 depreciation of the U.S. dollar, accounted for practically
25 all of the downward trend in prices or SC paper during the

1 POI.

2 So there's nothing much left taking effect the
3 financial condition of the industry, which is why developed
4 the analysis of the Verso acquisition based almost
5 exclusively on public data and SEC statements and it's clear
6 that the industry is driven by the activity in the coated
7 groundwood market and that can't be attributed to subject
8 imports because subject imports include no coated
9 groundwood.

10 So it's a cause of any price suppression or
11 price depression that might be in evidence that cannot be
12 causally linked to the pricing of subject imports. And I
13 submit that's why the staff couldn't confirm a single
14 allegation of lost sales or lost revenue.

15 The analysis we did of underselling with PHP
16 only in the import column provides further support for that
17 conclusion, so whatever injury might be found to exist in
18 the financial side of this case, is unfortunate but there's
19 no causal link to the pricing of subject imports. That's
20 the basis from my analysis.

21 COMMISSIONER JOHANSEN: Thank you, Dr.
22 Malashevich. The preview report at Page 5-27 states that
23 imports of SC paper from Canada undersold U.S. produced
24 product in 81 out of 98 instances. How could this
25 underselling not have had a material impact on the domestic

1 injury?

2 MR. MALASHEVICH: It is addressed in our brief.
3 I don't think I can address it here, but there is a section
4 of our brief. Ms. Groden, do you think you could find the
5 one we're talking about, changes in market share?

6 MR. TRENDL: And while Ms. Groden looks for her
7 data point there, first I think it's irrelevant starting
8 point to look at the fact that despite 245 alleged instances
9 of lost revenue, which should equate to them having to lose
10 money and keep business, if we did that or the 22 instances
11 of lost sales that none of those were confirmed, that data
12 should be contrasted to that as well, and I think Ms. Groden
13 will explain other ways to look at that data because I would
14 agree. On its face, it's a headscratcher, especially if
15 you're the respondent. But, go ahead, Ms. Groden.

16 MR. MALASHEVICH: Excuse me, Commissioner, I
17 have now identified the relevant pages of the brief, PHP's
18 brief, 34 to 36 contains an elaborate discussion of the
19 underselling results and it's part of what subverts
20 petitioners' theory of the case entirely, because what
21 they're saying basically is, it's a commodity market. Price
22 is everything.

23 The only thing that matters, and you can expect
24 those doing the underselling to have increased their market
25 share during the POI. And what that discussion proves,

1 based on the confidential record of the case, is that those
2 doing mostly overselling increased share, and those doing
3 mostly underselling lost share.

4 It completely contradicts the essence of
5 petitioners' case in its entirety. It doesn't make sense.
6 Or it makes sense in the abstract, but it's not supported by
7 the record in this case.

8 COMMISSIONER JOHANSEN: Thanks. Anything else
9 on that issue?

10 MR. TRENDL: Not at this time in a public
11 setting. Sorry.

12 COMMISSIONER JOHANSEN: All right, I understand.
13 And I'd like to get back to the value of the Canadian dollar
14 versus U.S. dollar. I know that has been -- you all raised
15 that a moment ago. In several places in your prehearing
16 brief and also during your testimony today, you mentioned
17 that these change-rate movements led to Canadian paper
18 becoming more competitive. Aren't most of your sales
19 dominated in U.S. dollars? And are your input costs largely
20 dominated in Canadian or U.S. dollars?

21 MR. MALASHEVICH: I'll take that, Commissioner.
22 It's not our case that it made the Canadian material more
23 competitive. It made the U.S. industry less competitive
24 vis- -vis the entire world.

25 I take the analogy to be crude oil. What the

1 goods are priced in really doesn't matter. What matters is
2 the price of these world-traded items. It moves in dollar
3 terms. Inversely, with the values of the dollar
4 internationally. Just like oil.

5 Oil is priced in dollars, but the price of oil
6 is widely discussed in the literature, is down in part
7 because of the increase in value of the dollar relative to
8 the rest of the world. The same -- we submitted an exhibit
9 from the Economist Magazine looking at various metals and
10 various other industrial items.

11 The same thing happened there. They may be
12 priced in dollars, but the reaction of the U.S. price would
13 vis- -vis the rest of the world. And the rest of the world
14 in this case, basically means Canada and Europe.

15 COMMISSIONER JOHANSON: But going along with
16 that whole issue and I'm not an expert on the way the dollar
17 rises and falls, although I do follow it pretty closely, in
18 the case of oil, that is a dollar product throughout the
19 world. It's traded in dollars. Is that the case of inputs
20 going into paper being produced in Canada?

21 MR. MALASHEVICH: I wouldn't know the answer to
22 that question.

23 COMMISSIONER JOHANSEN: Okay.

24 MR. OSTROWSKI: Michael Ostrowski. We pay for
25 most of our raw materials in Canadian dollars. We pay part

1 of our transportation costs in Canadian dollars, and we bill
2 the majority of our paper in U.S. dollars.

3 COMMISSIONER JOHANSEN: Okay.

4 MR. DE GELDER: It's Neil de Gelder. I also
5 would like to add that we pay all our employees in Canadian
6 dollars.

7 COMMISSIONER JOHANSEN: Okay, I would expect
8 that. But I'll have to -- this is kind of a head scratcher
9 for me in some ways, but I'll be looking forward to
10 receiving this information or more information conceivably
11 in your post hearing brief.

12 On Page 38 of your prehearing brief, you state
13 that the Commission has very rarely reach affirmative
14 determinations where there were no substantiated lost sales
15 or lost revenue allegations. I recognize that it's
16 sometimes hard to prove a negative, but for the post hearing
17 brief, I'd appreciate it if you all could perhaps cite a few
18 cases to support this contention?

19 MR. TRENDL: This is Tom Trendl. We'll happily
20 do so. I can add a little bit more to it right now. I
21 mean, there are some instances, some petitions I should say,
22 where there were no alleged lost sales or lost revenue.

23 I think Wind Towers might have been an example
24 here recently that was like that, because something peculiar
25 about that market that the petitioners said, we just don't

1 know, we don't have any sense of where that data could come
2 from. So they didn't allege anything in the beginning.

3 Those cases and we'll give you a whole list, I
4 think there's, by my count, maybe a half a dozen over the
5 last ten years, so that's how I came up rare. But those
6 cases I would submit are fundamentally different than this
7 one where you've got a huge number of allegations.

8 Other cases have been agricultural products, and
9 agriculture's always been its own strange trade world. But
10 we will address all of that certainly in the post hearing
11 brief, but that's where that came from.

12 COMMISSIONER JOHANSEN: All right, I appreciate
13 your answers. My time is about to expire, so I will pass
14 the questions on. Thank you.

15 VICE-CHAIRMAN PINKERT: Commissioner
16 Schmidtlein.

17 COMMISSIONER SCHMIDTLEIN: Thank you. Good
18 afternoon. So, where to start? Let me, let start with
19 something you say in your brief, Mr. Trendl. I just want to
20 make sure I understand you all's position.

21 On Page 22, you cite to something the petitioner
22 Verso has publicly stated. It says at the bottom of the
23 page, 'As petitioner Verso has publicly stated, the price of
24 SC paper is not determined by changes in cost, but purely
25 through the balance of supply and demand.'

1 And then I know you talk about this Reel Time
2 report, which supports an argument with regard to the
3 relationship between coated groundwood and SC paper.

4 Is it your position -- do you agree with that
5 statement, I guess is my question? At the price, or does
6 your -- do the petitioners agree with this question, that
7 the price is largely determined through the balance of
8 supply and demand?

9 MR. TRENDL: Yes, this is Tom Trendl. Yes,
10 that is our position.

11 COMMISSIONER SCHMIDTLEIN: Okay.

12 MR. TRENDL: The quote I think was straight out
13 of a Verso SEC filing if I'm not incorrect.

14 MR. MALASHEVICH: Excuse me, this is Bruce
15 Malashevich. Also, one of the witnesses -- I'm sorry, I
16 didn't catch who it was this morning -- said that that quote
17 was attributable to, he believed, to him, and he basically
18 supported that analysis.

19 COMMISSIONER SCHMIDTLEIN: Okay. So you all
20 agree that this supply of SC paper has an impact on the
21 price?

22 MR. MALASHEVICH: Changes in the supply and
23 demand --

24 COMMISSIONER SCHMIDTLEIN: Changes in the supply
25 --

1 MR. MALASHEVICH: -- balance and our position
2 is, for reasons I discussed, that there was no net change in
3 the supply-demand balance so changes in the price were
4 dictated by other factors and in our view, and I think we've
5 proven that scientifically, is because declines in the price
6 of coated groundwood and exchange rate pressure.

7 COMMISSIONER SCHMIDTLEIN: Okay. So, I guess,
8 I'm just trying to unpack this, right. So when I look at
9 the data, you know, we see significant increase -- I'll just
10 call it that -- from 2012 to 2013 in imports from Canada.
11 And when you look at your Exhibit J and you look at just
12 PHP's share of that increase, right? It's almost all PHP.
13 So you can't dispute, right, there was an increase in the
14 volume --

15 MR. MALASHEVICH: Oh, sure.

16 COMMISSIONER SCHMIDTLEIN: Right, and there was
17 -- and so, I guess maybe this is more of a legal question?
18 Because this goes to the volume aspect of the analysis,
19 right.

20 MR. MALASHEVICH: Yes.

21 COMMISSIONER SCHMIDTLEIN: So the question
22 about, that we would offset that increase in subject imports
23 by a decrease in domestic production, which you cite from
24 the closure of one of the mills -- what else is on your
25 sheet? There's a number of things here that --

1 MR. MALASHEVICH: Excuse me. I think we can all
2 agree that that closure can't be attributed to subject
3 imports, the Sartell mill.

4 COMMISSIONER SCHMIDTLEIN: But you subtract it -
5 -

6 MR. MALASHEVICH: Yes.

7 COMMISSIONER SCHMIDTLEIN: You subtract it from
8 PHP's numbers --

9 MR. MALASHEVICH: Yes.

10 COMMISSIONER SCHMIDTLEIN: -- to try to argue --
11 right. So this is my question, why would you do that --

12 MR. MALASHEVICH: Right, oh yeah.

13 COMMISSIONER SCHMIDTLEIN: -- legally. Like why
14 would I say, 'Geez, I'm not gonna find volume significant,
15 because I'm gonna subtract a portion of domestic production
16 that's left the market.'

17 MR. MALASHEVICH: I'm not a lawyer, so I won't
18 touch that.

19 COMMISSIONER SCHMIDTLEIN: Mr. Trendl?

20 MR. TRENDL: I think what we're looking -- one,
21 anything that starts out, is there an increase from '12 to
22 '13? Of course, there, you know, that's when PHP resumed
23 operations.

24 So it looks stark if you look at what happened
25 '12 to '13.

1 COMMISSIONER SCHMIDTLEIN: But it's not just
2 that -- it's not just PHP, right? It's the total aggregate
3 increase of Canada.

4 MR. TRENDL: Understood.

5 COMMISSIONER SCHMIDTLEIN: Right.

6 MR. TRENDL: Although, as you said, that's
7 mostly attributed to us, at least the petitioners attribute
8 it to us. But what we're doing in that chart, in fact,
9 called roadmap to negative, we look at what happened. If
10 you have a large supply, the Sartell mill, that leaves the
11 market and we replace that, if you have imports that were
12 coming from Europe which is also on that chart that we
13 displace. If we take sales from coated groundwood, which is
14 also on that chart, what we're doing is demonstrating from a
15 legal point of view -- first a --

16 COMMISSIONER SCHMIDTLEIN: I guess --

17 MR. TRENDL: -- mathematical point of view that
18 our additional supply was filling a supply gap. And then
19 taking from nonsubject European imports, nonsubject coated
20 groundwood. That's what we're saying.

21 COMMISSIONER SCHMIDTLEIN: And so, and go over
22 with me, why is it relevant that you were taking sales that
23 was shifting from coated groundwood? Like why would it be
24 appropriate to deduct that from the amount of imports of --
25 I understand the shift between, because the price dropped

1 and it's a substitute, you know, I know -- I understand
2 that, but in this analysis of volume, why is it --

3 MR. TRENDL: Because what we are suggesting
4 that, when you look at the material injury or lack thereof
5 and the causation of that injury by reason of subject
6 imports, if we are taking sales, if you will, from products
7 that are not subject, you know, the absence of the Sartell
8 product, the European product, coated groundwood which is
9 not subject, we're saying the impact there from a legal
10 point of view cannot be attributed, you know, in a negative
11 way to --

12 COMMISSIONER SCHMIDTLEIN: This is causation
13 really.

14 MR. TRENDL: That aspect of it is causation.

15 COMMISSIONER SCHMIDTLEIN: So for volume, you
16 want us to sort of add PHP with all these other factors to
17 come up with a volume analysis, but when it comes to price
18 effects, you want to disaggregate PHP from the other sellers
19 and just look at that for purposes of the underselling?

20 MR. TRENDL: I would love if you only looked at
21 PHP's underselling analysis and we present that, but I
22 realize that, you know, that's a long shot.

23 COMMISSIONER SCHMIDTLEIN: I was gonna say --
24 have we ever done that before?

25 MR. TRENDL: No, but to be quite frank,

1 Commissioner, what we heard this morning from the
2 Congressional witnesses and from the petitioners is this
3 case is fundamentally about PHP. The other companies are
4 here, too, but what -- we're the bad guy. We existed --
5 they'll say we're a new supplier. We say we're not. They
6 say it's four hundred thousand, their records show, it's
7 much less than that. But we brought in new supply when we
8 resumed operations and the focus of this case is on us.

9 So when we present data, we say fine. You
10 wanna, you know, we're looking at aggregate data in our
11 brief as well. But if you really want to look at us, great.
12 Look at us. Look at our pricing. You know, look at what
13 our volume did. Look at what our products did. Did we take
14 from coated groundwood?

15 You've heard from these gentlemen here. Why
16 they buy from us. We've demonstrated that coated groundwood
17 and our SC products, you know, are very closely tied and, in
18 fact, dictated by coated groundwood. So, that's why we
19 presented that analysis. I'm not arguing, you know, not
20 only a separate country for us, but we're not arguing a
21 separate respondent, but since we are the focus, we thought
22 it would be instructive to present that information.

23 COMMISSIONER SCHMIDTLEIN: I mean, you refer to,
24 in the pricing data that we collected only a fraction of the
25 products that are actually sold? But it says in the staff

1 report that we cover, like, 56% of something of U.S. sales
2 of sixty some- or sixty, I have it here, 64 percent. I
3 mean, would you really refer to that as only a fraction?

4 MR. TRENDL: You're correct. I think we
5 misstated that. We retreat on the word fraction.
6 Everything's a fraction, but, you know, fractions in that
7 context should have been teeny-tiny, and it was -- what I
8 was saying -- I think, I can't remember if it's public or
9 not, but it was not small. I agree with you.

10 COMMISSIONER SCHMIDTLEIN: Yeah. Did you all
11 comment on the pricing products that were requested in the
12 questionnaires?

13 MR. TRENDL: We did not comment on those pricing
14 products.

15 COMMISSIONER SCHMIDTLEIN: But you take issue
16 with them now? That they're not representative? No?

17 MR. TRENDL: I don't take it that they're not
18 representative. What we're saying is, as you saw in Pages
19 34 to 36 of our brief, we, through the confidential data,
20 suggest you look at the data that's in there in a way that
21 we think is more correct, if you will. Because we're not
22 saying that that data is bad. No.

23 COMMISSIONER SCHMIDTLEIN: Okay.

24 MR. TRENDL: We're not. The data are what the
25 data are.

1 COMMISSIONER SCHMIDTLEIN: Okay.

2 MR. TRENDL: And 'fraction' was overstating, I
3 certainly can see that.

4 COMMISSIONER SCHMIDTLEIN: So, with regard, and
5 I assume, you know, I'm running out of time here. But this
6 is probably gonna be an issue with some of the other
7 Commissioners. This question about whether or not the price
8 of coated groundwood determines the price of SC paper. And
9 you cite the Reel Time. There's a Reel Time report. Could
10 you tell me exactly, what is that? What is that Reel Time
11 report?

12 MR. TRENDL: Okay --

13 COMMISSIONER SCHMIDTLEIN: Authored by --

14 MR. TRENDL: Well, I'm gonna let Mr. Ostrowski
15 explain what Reel Time is.

16 COMMISSIONER SCHMIDTLEIN: Okay.

17 MR. TRENDL: And then Mr. Byers, who we had to
18 cut short because of our time agreement, has a great deal
19 more to say on that topic, but first, Mr. Ostrowski, explain
20 what Reel Time is, and how everyone in this room uses it.

21 COMMISSIONER SCHMIDTLEIN: Okay.

22 MR. OSTROWSKI: Michael Ostrowski. Reel Time is
23 an industry newsletter that reports, you know, current
24 events, if you will, happening within the paper industry,
25 and it is only one of two publications that publish pricing

1 data every month. And so the two are both used by various
2 customers and by various suppliers to look at trends in the
3 industry, pricing in the industry and things like that. So
4 it's one of the only two sources that, where you can get
5 pricing data.

6 COMMISSIONER SCHMIDTLEIN: And what's the other
7 source?

8 MR. OSTROWSKI: It's called RISI, R-I-S-I.

9 COMMISSIONER SCHMIDTLEIN: Okay. All right. My
10 time is up, so I'll --

11 MR. TRENDL: Would it be all right for Mr.
12 Granger to address the --

13 COMMISSIONER SCHMIDTLEIN: Mr. Granger?

14 MR. TRENDL: I'm sorry. You know what? He is
15 Mr. Granger.

16 VICE-CHAIRMAN PINKERT: Why don't we go onto the
17 next one. I'll give him the time to answer that question.
18 Okay, I'm gonna recognize Mr. Byers first and then I know
19 that Mr. Malashevich had something to say, so --

20 MR. BYERS: Steven Byers, ECS. First thing I'd
21 like to point out is what something that, in the most recent
22 issue of Reel Time report regarding this pricing
23 relationship, and they state verbatim, 'One more point on
24 pricing. The prices historically graphed here at Reel Time
25 are an estimate of SCA prices. Higher SCA+ prices are not

1 averaged in at all. Since so much SCA capacity has moved to
2 SCA+ at Port Hawkesbury, Irving, and Verso Duluth in recent
3 years, actual all-in SCA prices correlate even more closely
4 with coated groundwood prices and is apparent in the Reel
5 Time SCA pricing graphs.'

6 So what I'm saying is, our results were based
7 off their prices, the estimated prices of SCA paper that we
8 show to be correlated with coated groundwood prices, and
9 that coated groundwood prices Granger caused SCA paper
10 prices, if we were able to actually use SCA+ and SCA+ Plus
11 prices and do that analysis, we would get an even stronger
12 result.

13 MR. MALASHEVICH: And -- Bruce Malashevich --
14 thank you, Mr. Chairman for allowing me to complete a
15 thought concerning Commissioner Schmidtlein's last question
16 on the pricing data. I agree with everything Mr. Trendl
17 said in terms of the data and the abstract -- having
18 significant coverage by the standards of other cases -- but
19 this is a case where, yes, if you simply count instances of
20 underselling, what's in the staff report are correct.

21 However, if you drill down into the other data
22 from underselling, you'll find the margins are very small,
23 both on the overselling side and on the underselling side,
24 and that is particularly true for PHP alone. And it strikes
25 me as a matter of statistical fairness, not because the

1 traditional underselling data are wrong or bad, but when you
2 have margins so small, I think it's reasonable to look at
3 the average unit values by grade as a supplemental piece of
4 information in your analysis of price effects, and that is
5 philosophy we followed in suggesting that it be done, not as
6 a replacement for the traditional format, but as a
7 supplement to it.

8 VICE-CHAIRMAN PINKERT: Thank you. Now, Mr.
9 Malashevich, I'd like to direct your attention to Figure
10 II-3, which is on II-20, and you may recall that I'd asked
11 the earlier panel about that graph. And what I'm interested
12 in, in particular is, whether if we extended that graph out
13 to 2015, whether we would see a divergence of the pricing
14 pattern for SC paper, as opposed to LWC Number 5 and LWC
15 Number 5 40#.

16 MR. MALASHEVICH: Bruce Malashevich. The short
17 answer, Mr. Chairman, is I don't know. I know that this is
18 based on RISI data and the gentleman who testified this
19 morning that our statistical analysis was based on RISI data
20 and the RISI data was viewed as unreliable. I think he was
21 just misinformed.

22 We did not use RISI data in our statistical
23 analysis because our inquiries and our own research produced
24 the consensus that the Reel Time data were more accurate
25 from the point of view of pricing. And that's what we were

1 interested in, so I don't know the answer to the question,
2 but I'm not sure the RISI data would be best in order to do
3 that extension. We'll be happy to look into it if you'd
4 like us to.

5 VICE-CHAIRMAN PINKERT: Please do. Yes, Mr.
6 Byers?

7 MR. BYERS: If you refer to Exhibit A in our
8 brief and particularly Exhibit 4 in our brief, so Exhibit A,
9 Exhibit 4, I have shown the price relationship between
10 coated groundwood and SCA using Reel Time data going from
11 January 2010 to July 2015, the most recent date that we have
12 this data for, and I've also put a linear time trend in
13 there and you'll see that the prices of coated groundwood
14 and SCA are both turning downward and they're trending
15 downward at virtually the same exact rate.

16 Then if you refer to Exhibit 5 in Exhibit A, I
17 have come up with a historical price spread, and this spread
18 means the, take the price of coated groundwood and subtract
19 out the price of SCA, and you will see that, over that same
20 period I just defined, January 2010 to July 2015, the
21 average spread has been 17% difference, so SCA is on
22 average, priced 17% lower than coated groundwood.

23 Now there's some variation around that, but
24 generally it stays within the 15 to 20% range, and that
25 hasn't changed, so these are not converging going forward.

1 MR. MALASHEVICH: Bruce Malashevich again. Just
2 to point out that, you could see ECS responds to requests
3 for information very promptly. I failed to remember that
4 particular chart.

5 VICE-CHAIRMAN PINKERT: Thank you. If you wish
6 to add anything in the post hearing, I think that will be
7 helpful. Now, turning to the broader panel here, is it
8 relevant to our determination in this proceeding the NewPage
9 operated the PHP plant through 2011 according to the
10 testimony earlier today?

11 MR. TRENDL: Neil, is that something you want to
12 answer?

13 MR. DE GELDER: Commissioner, I don't know,
14 whether from a legal perspective or from the perspective of
15 your mandate, if it's relevant or not. It's certainly
16 relevant to us in the sense that we knew that we would be
17 competing against the two mills that we would be competing
18 against.

19 We knew that the mill that was being sold to us
20 had been run on a nonprofitable basis and needed a lot of
21 work to be able to compete with our U.S. and our Canadian
22 competitors. We didn't know that the exchange rate would
23 turn to our favor. We didn't know that there would be a
24 countervailing duty action, but we certainly knew the lay of
25 the land in terms of the marketplace, and we certainly knew

1 and I'll let the gentleman sitting in front of me address
2 this, because I think Jerry Johnson mentioned in his
3 testimony, that the market did not ever really consider us
4 to have gone away.

5 And for us, the pressure to restructure the
6 operations of that mill and get it back online as quickly as
7 possible were intense because former customers were
8 depending on us coming back and people have -- in this room
9 -- were working on orders in the expectation that it would
10 come back and the fact that there was a demand there, was
11 what drove our investment decision. We didn't know Sartell
12 was going to have this tragic accident. Those, you know,
13 those were external factors that yes, affected the
14 marketplace for our products, but there were certainly no --
15 it's certainly relevant to us that the lay of the land and
16 the competitive space would not be changing as a result of
17 our acquisition and restart of the mill.

18 MR. TRENDL: And this is Tom Trendl. It's
19 relevant to PHP. I submit that it should also be relevant
20 to the Commission. This plant keeps being called a "new
21 supplier" and bringing on "additional supply." Well, it was
22 eleven months that it was not supplying.

23 It's not a Greenfield operation, you know, it's
24 not something that grew out of nothing. I mean it was an
25 established plant owned by one of the petitioners. It was

1 in good shape, except, you know, it had two -- what do you
2 call them -- mills -- it had two machines, one of which was
3 exceedingly unprofitable. That was a newsprint machine.
4 The other SC paper machine was decently profitable, and they
5 made improvements and, in fact, as you heard from Mr. Lewis
6 today with suggestions from the seller on how to make that
7 profitable.

8 So by calling it a new supplier and even
9 phrasing it in the terms of additional supply, from your
10 point of view, the fact that that was owned by one of the
11 petitioning companies, I think is highly relevant.

12 MR. LEWIS: I'll just add one thing to that,
13 building on what Neil and Tom already said, and this is
14 Shawn Lewis. I'm not sure exactly what the legal
15 implication of NewPage and now Verso having previously owned
16 it, but there's something that doesn't feel right about any
17 of this.

18 These were the guys who put the mill into CCAA
19 in order to have it restructured, engaged New York
20 investment bankers to contact us, to solicit our interest in
21 the mill. They gave us a road map to profitability. Their
22 board approved the deal, their creditors took the money and
23 approved the deal, and then afterwards they initiated a
24 petition against us. That just doesn't feel right.

25 VICE-CHAIRMAN PINKERT: Thank you. If there are

1 no other comments on that issue on the panel?

2 Thank you. Then, Commissioner Williamson.

3 COMMISSIONER WILLIAMSON: Thank you. You argue
4 on Page 30 of your brief that we should favor AV data over
5 pricing product data because of the existence of different
6 basis weights.

7 Doesn't a range of basis weights make exact
8 product definitions more important and make AV less
9 meaningful for price comparison?

10 MR. TRENDL: I'll ask Ms. Groden to address that
11 question, please.

12 MS. GRODEN: This is Cara Groden of ECS. As we
13 stated earlier, we think that the AUV data should be used as
14 a supplementary analysis on top of the underselling analysis
15 the staff has already done, simply because the AUV data
16 capture a larger swath of the basis weight that isn't
17 captured within the pricing products data.

18 So, a lot of this is confidential, so I don't
19 want to get too specific, but the pricing products data were
20 most representative at the beginning of the POI and are
21 trending towards less representative of the current product
22 mix. And therefore, having the granularity of the grades
23 which is not necessarily something that the Commission has
24 always been able to look at, in the data presented to them -
25 - this is a newer trend and what staff has done a lot of

1 work to collect -- makes the grade comparison useful,
2 especially toward the end of the POI, in a way that the
3 underselling data is less representative of. Does that
4 answer your question?

5 COMMISSIONER WILLIAMSON: I think it does, but
6 as you said, the particularity would be useful to the extent
7 that you haven't already done it, maybe you can show what
8 that AUV data is showing, it's towards the end of the period
9 that the pricing data is not -- but it has to do post
10 hearing, but --

11 MS. GRODEN: Yeah, I'll see what we can do, I
12 don't know how much more granularity we can pull out of it,
13 but we'll definitely --

14 COMMISSIONER WILLIAMSON: At least to illustrate
15 the points you've made.

16 MS. GRODEN: Sure thing.

17 COMMISSIONER WILLIAMSON: Okay. And, you know,
18 what we should -- in other words, what should we make of it?

19 MS. GRODEN: Oh, what should you make of the --

20 COMMISSIONER WILLIAMSON: Given the suspicious,
21 I mean, the problems we use in AUV data, generally in using
22 it.

23 MS. GRODEN: The difference in trends between
24 the product specific underselling data and the larger grade
25 data are, in certain cases, striking, and I think that that

1 difference shows that the pricing product data while not --
2 unrepresentative of the market -- aren't capturing something
3 important.

4 COMMISSIONER WILLIAMSON: Okay. And that's what
5 I want you do, tell me post hearing, what you're capturing.

6 MS. GRODEN: Yes.

7 MR. TRENDL: Be happy to. Thank you.

8 COMMISSIONER WILLIAMSON: Thank you. You argued
9 that underselling wasn't injurious because, for some
10 products, the margin of underselling declined. Couldn't
11 this trend be due to U.S. prices being pulled down by
12 subject imports?

13 MR. MALASHEVICH: Bruce Malashevich, excuse me,
14 Commissioner, I was consulting with my colleagues, I didn't
15 hear your question.

16 COMMISSIONER WILLIAMSON: You argued that
17 underselling wasn't injurious because, for some products,
18 the margin of underselling declined.

19 MR. MALASHEVICH: In part, yes. But also
20 primarily because, shall we say, players who in fact did the
21 underselling, lost market share. So the underselling was
22 not a vehicle for gaining volume really for anybody.

23 COMMISSIONER WILLIAMSON: So you're saying they
24 stopped underselling?

25 MR. MALASHEVICH: No, what I'm saying --

1 COMMISSIONER WILLIAMSON: They reduce the amount
2 of underselling --

3 MR. MALASHEVICH: You can segregate, you can
4 identify -- I want to be very careful -- you can identify
5 those who were underselling more frequently than others,
6 let's say, and as a group, they lost substantial market
7 share, and the --

8 COMMISSIONER WILLIAMSON: But that could be
9 because the U.S. domestics were dropping their prices to
10 meet theirs. And that was the question I'm asking. Does --
11 is that a possible explanation?

12 MR. MALASHEVICH: Well, no, really, because it
13 doesn't fit petitioners' theory. If there --

14 COMMISSIONER WILLIAMSON: Excuse me. What about
15 fitting theories in reality?

16 MR. MALASHEVICH: Really. Because you have a
17 situation where PHP, who you could see by the exhibit I
18 passed out earlier, certainly cannot be viewed as rampantly
19 underselling anybody and they, of course, accounted for, as
20 Commissioner Schmidtlein pointed out earlier, practically
21 all the increase in volume from Canada during the POI, but
22 they were primarily overselling. And others who were
23 behaving differently lost market share, so it doesn't make
24 sense. It doesn't fit petitioners' theory.

25 COMMISSIONER WILLIAMSON: I'm not gonna go

1 further than this, because if you take a look at that table
2 you referred me to earlier, forgot which one, in connection
3 with, when we looked at 2012 through 2014 and I heard
4 mention there a table -4 and you showed me another table.

5 I mean when I look at all those things I still
6 raise the same question. Because PHP is not the only one,
7 but also what PHP is doing -- in other words, your answer is
8 not very convincing to me --

9 MR. MALASHEVICH: Fair enough.

10 COMMISSIONER WILLIAMSON: -- because there other
11 people in the market and also when you look at the data as
12 to what products are being produced by PHP and other
13 Canadian companies and how that change in market share -- or
14 size is changing, I still think it's -- it's a valid
15 question and it's not being answered.

16 MR. MALASHEVICH: I'm not saying it isn't valid,
17 I'm just at a loss to answer fully in a public forum.

18 COMMISSIONER WILLIAMSON: Okay, fine. But take
19 a look at all that data and then rethink, you know --

20 MR. MALASHEVICH: I will, indeed.

21 COMMISSIONER WILLIAMSON: Thank you. The
22 information is -- this is information BPI, but in their
23 brief, petitioners have submitted specific information about
24 price competition at several purchasers. And so post
25 hearing, could you response to their allegations there?

1 MR. TRENDL: We'll be happy to do what we can.
2 Unfortunately I can't share that with my client.

3 COMMISSIONER WILLIAMSON: I understand. Okay.

4 MR. TRENDL: So I guess I'll get creative in how
5 I ask them for that information, but I would, while I'll do
6 the best I can, I'll also redirect that your question also
7 is implicated by the very thorough analysis that your staff
8 did into the lost sales and lost revenue allegations.

9 The attempt to rehabilitate the complete lack of
10 267 lost sales and lost revenue allegations by putting in
11 some claims of this customer or that customer. I would
12 submit, you know, falls fall short. But to the extent I
13 could ask these guys something that would be responsible,
14 I'll certainly try to do that.

15 COMMISSIONER WILLIAMSON: Any additional lights
16 you can shed --

17 MR. TRENDL: Understood, I'll do my best.

18 COMMISSIONER WILLIAMSON: Okay, thank you. I
19 was wondering, how would you -- I'm sorry. I've lost my
20 chart here.

21 Mr. Lender, you had mentioned the --
22 Mr. de Gelder, I'm sorry -- you had talked about how you
23 sort of got back into the market after the resumption of
24 production of the factory there were many people who were
25 still looking for you. And I was wondering to what extent

1 that -- where the distinctions between how you got back with
2 the SCA+ Plus, I don't know how important was that plant
3 before in making SCA+ Plus, and so if compared, getting
4 back, oh that's the first question.

5 How important -- significant was that production
6 relative to the other producers of that category? Is that a
7 category that was relatively new for people?

8 MR. DE GELDER: My colleagues here may be able
9 to describe the market place better. I know that when we
10 had made the decision, when we had seen the plant, seen the
11 people, seen what we thought we could do if we changed the
12 way it was run, we thought we could start producing SCA+
13 Plus to start making inroads into the lightweight coated
14 market. Because we knew the condition and the limitations
15 of a pure SCB or SCA market.

16 COMMISSIONER WILLIAMSON: So are you saying that
17 the customers you got back -- you know, who are out there
18 looking for you to get back in the market -- were not so
19 much looking for the A Plus Plus, as opposed to the other
20 products?

21 MR. DE GELDER: I can --

22 COMMISSIONER WILLIAMSON: 'Cuz you know, you got
23 back in fairly quickly, I mean once you presumed production.

24 MR. DE GELDER: Well, we got in fairly quickly.
25 I'm gonna let Mike Ostrowski and some of our customers

1 answer that question. It wasn't as quick as you might
2 think. I mean we had to go through the whole process of
3 requalifying our paper with major buyers. I mean the first,
4 the first month or two were, you know, dealing with teething
5 problems in the plant, dealing with European supply that had
6 been coming in --

7 COMMISSIONER WILLIAMSON: But you did say that
8 you had a bunch of folks out there who were looking for you
9 to get back in?

10 MR. DE GELDER: Absolutely.

11 COMMISSIONER WILLIAMSON: Yeah. And that's --

12 MR. DE GELDER: We did and some of them are
13 probably at the table in front of me.

14 MR. OSTROWSKI: This is Mike Ostrowski. We had
15 several customers that were willing and able to start
16 business with us shortly after we restarted, once they saw
17 that the quality of the product was good.

18 And in the meantime we shipped to export other
19 than the United States and we shipped some paper within
20 Canada, but the customers that -- there were several
21 customers that primarily were bought through paper brokers
22 and paper merchants that were ready to go back into business
23 with Port Hawkesbury because they love the quality of the
24 sheet and the brightness of the sheet.

25 So in answer to your artisan question, no, that

1 wasn't part of the real startup, that was a marketing
2 decision to try to penetrate the coated market more
3 extensively.

4 COMMISSIONER WILLIAMSON: Okay, thank you for
5 those answers. I'm sorry.

6 MR. JOHNSON: Jerry Johnson. On that same
7 topic, sir, both previous owners Stora Enso and NewPage
8 offered lightweight coated groundwood sheets, which would be
9 in competition with the SCA+ Plus sheet and in certain
10 times, the SCA+ sheet that were developed at Port
11 Hawkesbury.

12 I don't think they really push their sales in
13 that direction because the coated groundwood sheet costs
14 more, increases sales more and with, when West Linn bought
15 the Port Hawkesbury mill, they don't offer coated
16 groundwood, they offer freesheet, so there wasn't a conflict
17 of grades with the West Linn purchase.

18 COMMISSIONER WILLIAMSON: Thank you for those
19 answers.

20 VICE-CHAIRMAN PINKERT: Commissioner Johanson.

21 COMMISSIONER JOHANSON: Thank you, Vice-Chairman
22 Pinkert. Getting back to the whole issue of quality
23 difference in the grades of SC and other papers, I
24 understand your attenuating competition argument to be that
25 the Canadian industry is focused on the higher grades, while

1 the domestic industry is focused on the lower grades.

2 The Court of International Trade has spoken on
3 what can constitute attenuating competition, and I encourage
4 you to look at the history of the diamond sawblades case,
5 which has a recent treatment in this year's Sunset Review
6 for an illustration of how the Commission could address the
7 overlapping share in the middle of these products that does
8 compete.

9 So for the post hearing, I'd appreciate it if
10 you could give us your best argument as to why the Canadian
11 overlap with the domestic industry's middle grade is
12 insignificant.

13 MR. TRENDL: Certainly, Commissioner Johanson,
14 we'll be happy to do that. And we'll note here that it's
15 sort of at the top and the bottom, where there's more of a
16 lack of competition. If I'm correct, Mr. Ostrowski will
17 correct me, but SCB only comes from Canada, SCA+ Plus only
18 comes from Canada, and predominantly SCA+ also comes from
19 Canada. SCA is kind of the meat and potatoes staple of the
20 U.S. industry. Is that correct?

21 MR. OSTROWSKI: That is correct. To my
22 knowledge, Madison does not make an SCA+ grade, although it
23 was noted this morning on the lighter basis weights, but
24 you know, in the way I was raised in this industry, in order
25 to be a plus grade, you have to have a GE brightness of 70

1 or higher, I'm not sure Madison can do that, but maybe they
2 can. So, Irving and Port Hawkesbury Paper make the majority
3 of the plus grades. The Duluth mill does make some plus
4 grades, but we certainly have the most capacity to fulfill
5 the demand for those grades.

6 COMMISSIONER JOHANSON: All right, thank you. I
7 look forward to reading what you all put together. As you
8 can understand, we spent quite a bit of time here at the
9 Commission addressing this issue, or at least a similar
10 issue in the past year or so. So thank you.

11 Given a mature and competitive market for SC
12 paper in the United States during the period of
13 investigation. How was your firm able to so rapidly expand
14 its volume and market share in the United States?

15 MR. OSTROWSKI: Michael Ostrowski. When we first
16 started up, we did several things. We went, looked at
17 people who were using grades just below SC and tried to
18 develop some SCB business with them.

19 And the real answer is that we went very hard
20 after the coated groundwood market. And our timing happened
21 to be very good when several large publishers and several
22 cataloguers, in an effort to reduce their print budget, went
23 to SC grades instead of using coated groundwood. So those
24 were the primary reason on how we were able to sell our
25 paper when the machines started back up.

1 Of course, as I mentioned before, we also
2 exported to Latin America. We even exported some, I
3 believe, to Australia and Japan and then we developed
4 business in the Canadian market also.

5 MR. LEWIS: Shawn Lewis for Port Hawk. Can I
6 just add one thing to that, which is going back to the point
7 that Mr. Johnson said earlier, which I think gets to the
8 heart of part of the investment thesis for Port Hawkesbury,
9 that what we were targeting was that lower end coated
10 groundwood market that, when Port Hawkesbury was within the
11 NewPage organization, they would not have pushed, because it
12 would have cannibalized some of their other business.

13 So what we were focused on was producing a good
14 enough SC paper that we could have those customers that were
15 using coated groundwood migrate down to top quality, better
16 priced, SC paper.

17 COMMISSIONER JOHANSON: Okay, thank you. That
18 helps out. And the witnesses from Port Hawkesbury might be
19 in the best position to answer this question.

20 Does Port Hawkesbury need the Nova Scotia
21 subsidies in order to continue to operate?

22 MR. DE GELDER: We don't consider ourselves
23 getting any substantial subsidies from Nova Scotia.

24 COMMISSIONER JOHANSON: Okay, I understand. I
25 know this is getting into commerce issues, but I'm just

1 kinda curious about that.

2 MR. DE GELDER: I'm not trying to be cute.

3 COMMISSIONER JOHANSON: Oh, I understand. No, I
4 understand what you're saying. This is -- I'm gonna say it
5 one more time -- this is for me -- I guess it's kind of an
6 awkward question, but I've never dealt -- this is only the
7 second time for me to deal with a CVD investigation, so I'm
8 kind of a neophyte to this myself.

9 MR. TRENDL: I'm going to ask Mr. Horlick if he
10 has something to say.

11 COMMISSIONER JOHANSON: Okay, certainly, thank
12 you.

13 MR. HORLICK: Commissioner Johanson, obviously
14 we will be challenging the commerce decision -- the best
15 bulk of the subsidies we don't think are subsidies at all,
16 and it's quite unprecedented what Commerce did. If you're
17 asking if the mill can run without electricity, no it needs
18 electricity. It buys its electricity from a private
19 electric company at arms' length.

20 So many of the other subsidies fall in the same
21 sort of category, so the -- I will agree with my client --
22 no, they don't.

23 COMMISSIONER JOHANSON: All right, thank you.
24 And I know this is not necessarily an issue for the
25 Commission, as you understand, this is just -- most of this

1 is a commerce department issue, but my staff here's been
2 looking up all sorts of subsidy information just 'cuz it's
3 kind of interesting actually. I know you might not consider
4 it subsidies, but this is not a type of thing we
5 traditionally look at, and since we've had Mr. Feldman and
6 Mr. Horlick here, the issue's been discussed, so it's piqued
7 my curiosity somewhat.

8 On Page 6 of your prehearing brief, you state
9 that two mills have closed in Canada. I wanted to make sure
10 which ones those are. I think I know what one of them is
11 and how are the closings of these two mills impacted the
12 U.S. market?

13 MR. TRENDL: The two mills that closed in Canada,
14 I believe, one of them is one of Resolute's mills --

15 COMMISSIONER JOHANSON: That's what I assumed.

16 MR. TRENDL: Yeah, am I correct, Mr. Feldman?

17 MR. FELDMAN: Yes, the mill in Laurentide.

18 MR. TRENDL: The other one, actually I don't know
19 the name off the top of my head. I apologize for that.

20 MR. LEWIS: We can provide that afterwards.

21 COMMISSIONER JOHANSON: Okay.

22 MR. LEWIS: I don't have the information in front
23 of me.

24 COMMISSIONER JOHANSON: Okay, I understand. Yes,
25 Mr. Malashevich?

1 MR. MALASHEVICH. Excuse me, Commissioner. Bruce
2 Malashevich of ECS. The context in which we thought that
3 was relevant was not in terms that have affected the U.S.
4 market, but in terms of petitioners' arguments regarding
5 threatened injury. Not only are the various indicia the
6 Commission normally considers show an absence of threat to
7 the four producers relevant here, but in addition to that,
8 the industry as a whole in Canada has shrunk.

9 So the country-wide, the capacity to produce SC
10 paper has shrunk. And when you add on top of that, the
11 information that the Commission traditionally gathers from
12 foreign producers' questionnaire, their arguments concerning
13 threat really are not, nothing more than a Hail Mary pass.

14 COMMISSIONER JOHANSON: Yes, thank you. And the
15 reason I'm asking about these plants, one of them is -- to
16 get to know the state of the industry better, I mean we can
17 see the plants south of the border, north of the border are
18 shutting down, so -- and I realize we have this secular
19 decline, as it's been called, so I'm just trying to figure
20 out what's going on in the market. I know this is, yes, Mr.
21 Johnson?

22 MR. JOHNSON: If I could, most of the mills that
23 have shut down in recent history have been older machines,
24 narrower, slower, maintenance might have been a little bit
25 shoddy on 'em, the wider, faster, newer machines have not

1 been the ones going down -- they've been the older, somewhat
2 obsolete pieces of equipment.

3 COMMISSIONER JOHANSON: Okay. Thank you. And
4 I'm gonna ask one more question. I have a little bit of
5 time left. This is for Mr. Feldman. On Page 4 of your
6 prehearing brief, you state that Resolute subsidy
7 determination was based on the supply of a thimble-full of
8 inputs. Could you be more specific about the quantity that
9 you're speaking of here? I was a little confused by that.

10 MR. FELDMAN: I can't be precise because it's
11 proprietary.

12 COMMISSIONER JOHANSON: Okay. If you could
13 address that then in the post hearing.

14 MR. FELDMAN: We'd be happy to give you the
15 number in a post hearing brief. It's very small.

16 COMMISSIONER JOHANSON: Okay. And I realize this
17 is a subsidy issue, which is not really what we do here, but
18 it's mentioned in your prehearing briefs, so I --

19 MR. FELDMAN: It is what you do now.

20 COMMISSIONER JOHANSON: Okay. I'm just curious
21 because I read about it and I was curious. All right, thank
22 you. That concludes my time.

23 VICE-CHAIRMAN PINKERT: Commissioner Schmidtlein.

24 COMMISSIONER SCHMIDTLEIN: Thank you. I'm gonna
25 come back to the Reel Time report. Would it be possible for

1 you to submit the entire report from September, October
2 2015? We've got a few pages of that. I guess it's a
3 monthly report?

4 MR. OSTROWSKI: Yes -- Mike Ostrowski -- it is a
5 monthly report. They do skip one or two months during the
6 year, but I can certainly get you the full report from the
7 last issue.

8 COMMISSIONER SCHMIDTLEIN: Okay. And then I
9 would be curious, I don't know if this is possible, given
10 that you said there are two companies that publicize this
11 type of data, the RISI is the other. Would it be possible -
12 - I'd be curious to see what they say in the same timeframe.
13 Is that a monthly report as well?

14 MR. OSTROWSKI: That is a monthly report as well.
15 We can supply both of them.

16 COMMISSIONER SCHMIDTLEIN: For the corresponding,
17 the same timeframe.

18 MR. OSTROWSKI: Yes.

19 COMMISSIONER SCHMIDTLEIN: So one other question
20 I had about this report and what you say in your brief,
21 because I'm going back here to, how exactly is the price of
22 SC paper determined, right. And I thought I understood, at
23 least in the brief, your argument seems to be -- and
24 supported by the Granger analysis -- is that coated
25 groundwood paper prices drive these prices. And you cite

1 this Reel Time report. Right?

2 MR. OSTROWSKI: Yes.

3 COMMISSIONER SCHMIDTLEIN: Okay. So and in the
4 brief you talk about that it's generally prices SCA and SCA+
5 paper off of the price of 34 Number CGW. But when I look at
6 the Reel Time report that you cite, it really only
7 specifically talks about SCA+ paper being set off of that?

8 MR. OSTROWSKI: No, Reel Time, well the paper
9 prices that Reel Time reports, I believe, are only SCA. I
10 think it's a --

11 COMMISSIONER SCHMIDTLEIN: Well, this site that
12 you all -- you quote it in your brief and it's not in
13 brackets in the brief. The pricing relationship between
14 Port Hawkesbury's largest volume grade, SCA+, and coated
15 groundwood is even closer.

16 Many of the SCA+ price agreements are determined
17 specifically by the price of coated groundwood. The SCA+
18 price is often calculated, for example, by taking the coated
19 groundwood price and reducing it by 8, 10, 12% or whatever.
20 Where the SCA+ price is not tied directly by a formula of
21 the pricing relationship between the two grades exist
22 informally as negotiations take place quarter to quarter.

23 So I guess my question is, this is really talking
24 about SCA+, not SCA?

25 MR. OSTROWSKI: You're talking about the Reel

1 Time prices?

2 COMMISSIONER SCHMIDTLEIN: Yeah, the Reel Time
3 report. I'm really talking about the support for the
4 proposition that --

5 MR. OSTROWSKI: Right, so what --

6 COMMISSIONER SCHMIDTLEIN: -- contracts reflect
7 coated groundwood paper prices. Right? That's what I
8 understand, and so in the brief, there's kind of a
9 generalization lumping together SCA and SCA+, but when you
10 look at what supports it, it's only specifically talking
11 about SCA+. And so really my question is, what's the
12 support for the notion that these contracts include -- SCA
13 contracts include or are tied to coated groundwood prices?
14 And I don't know if the two purchaser who are here would
15 like to speak to that, I'd welcome that.

16 MR. KRALIK: If I understand you correctly, this
17 business is, it's very informal. Pricing -- I think it
18 depends on where the end user is -- if he's on coated paper,
19 coated groundwood, and he is -- they just don't make a
20 decision necessarily on price. They do what they call in
21 catalog, A/B Testing, so they all run a trial, they have
22 their coated trial, they do this to zip codes.

23 They'll send it out for testing, and then they'll
24 run a trial on SCA+ or SCA. I'm not sure it makes any
25 difference. Most coated customers that have converted with

1 deals that we make, are on SCA+.

2 I saw very little SCA, mostly all SCA+, so my
3 own growth in that grade, probably mimics the industries as
4 well. So in some deals and not all deals, when the customer
5 sees the value proposition of SCA+ versus coated, he wants
6 to protect himself going forward.

7 So if there is a 15% gap on a particular grade of
8 paper, 17% or 12%, that's where they'll tie it in to coated,
9 so it'll either be in RISI, if they use RISI, or it'll be in
10 Reel Time and if -- they're just trying to get a benchmark.
11 So a lengthy agreement, if it's a multi year deal and
12 they'll base it on the midyear report, it always has to
13 maintain. Prices go up and down, so they always have to
14 maintain a percentage to coated, because that's what they
15 came off of.

16 COMMISSIONER SCHMIDTLEIN: Yeah, that makes
17 sense, and so I guess the question then is, because
18 obviously there are lots of customers in the SCA grade, that
19 aren't coming from coated, right?

20 MR. OSTROWSKI: That's correct.

21 COMMISSIONER SCHMIDTLEIN: So, are they basing
22 their prices off of coated?

23 MR. OSTROWSKI: At least the way -- Mike
24 Ostrowski -- the way I was raised in the industry and I
25 started with Madison quite a while ago, was that when SCA

1 was introduced into this market in decent volumes, most of
2 the buyers, when you talked price, they required that you
3 created somewhere around a 15% to 17% differential in
4 transaction prices between coated and regular SCA, and
5 that's just the way it was.

6 The grade started up that way, and I'm not quite
7 sure who came up with the formula, but it had to do that
8 when printers first started printing SCA, they would
9 upcharge their customers because they would use a little
10 more ink, they would have, you know, maybe not as good
11 runability because the sheet doesn't have latex coating on
12 it.

13 So it just kind of evolved that they said, OK,
14 yeah, I'm thinking about switching off coated, but I need a
15 differential of 'X', in order to make that switch, because I
16 have to pay my printer a little bit more, and yet, if I can
17 still make a decent savings, I'll do it, and through history
18 and through all the pricing information that you can see in
19 Reel Time, that has averaged between regular SCA and coated
20 groundwood, similar basis weights has always averaged
21 somewhere around 17%. Sometimes it gets compressed and it
22 goes down to 10, 12, 11, you know 13%, and sometimes it goes
23 slightly above 20%, so it just depends on the market
24 conditions.

25 COMMISSIONER SCHMIDTLEIN: And so when was SCA

1 developed? How long has it been around?

2 MR. OSTROWSKI: Madison's machine, well they had
3 an old machine that they tried to make SC on, but the intent
4 was to build a new machine, and their machine started in
5 1981. That's kinda the birth of SCA. It was in Europe
6 before that, but it really didn't catch on in the United
7 States, you know, until machines were really built here to
8 make that grade.

9 COMMISSIONER SCHMIDTLEIN: And before that,
10 everyone was using coated?

11 MR. OSTROWSKI: Pretty much.

12 COMMISSIONER SCHMIDTLEIN: But for what they
13 would otherwise now use SC.

14 MR. OSTROWSKI: Pretty much. A lot of the inserts
15 that you would read today from JCPenney, Kohl's, those would
16 have all been on coated paper back in the day.

17 COMMISSIONER SCHMIDTLEIN: Okay.

18 MR. OSTROWSKI: Even the coupons, like the
19 Vlassic's coupons, you know, the clip coupons, those were on
20 coated Number 4 at one time. Went down to 5, went down to
21 SCA+, went to SCA, now they're on SCB.

22 COMMISSIONER SCHMIDTLEIN: Mr. Johnson.

23 MR. JOHNSON: Jerry Johnson, if I might add to
24 that. Many people when quoting printing will ask for quotes
25 on coated, SCA+, as well as SCA. Perhaps going as far as

1 SCB to determine the combined cost of printing and paper as
2 they go ahead and analyze their budgets for how many
3 widgets they're planning to put out. That somewhat makes
4 those spreads solid to them, simply because it's a --
5 they're in a position to be able to shop the various grades
6 against one another.

7 COMMISSIONER SHMIDTLEIN: Okay, thank you.

8 MR. TRENDL: Doctor Byers would like to add
9 something.

10 COMMISSIONER SCHMIDTLEIN: Sure, okay.

11 DR. BYERS: I'd like to just clarify why we use
12 data on SCA paper.

13 COMMISSIONER SCHMIDTLEIN: Okay.

14 DR. BYERS: It's because that is the only data
15 that we have, we were able to get data for our study on 35#
16 SCA and 34# coated groundwood Number 5. There was no data
17 available specific to SCA+ or SCA+ Plus.

18 COMMISSIONER SCHMIDTLEIN: And why is that? Was
19 there not enough of it?

20 DR. BYERS: I don't think -- I do not know.

21 MR. OSTROWSKI: I'm not sure. I think both Reel
22 Time and RISI probably don't have a good enough customer
23 base to call up and ask and get good information because
24 customers are reluctant to give out that kind of
25 information.

1 DR. BYERS: However, we felt comfortable using
2 the SCA to do our study because, as they said in Reel Time,
3 if the pricing of SCA included the prices of SCA+ and SCA+
4 Plus, you would find that the correlation between the two
5 price series is even stronger. And that would result in a
6 stronger result for us using the same methodology.

7 MR. MALASHEVICH: Bruce Malashevich, ECS. Also,
8 in the section of the brief that deals with Dr. Byers'
9 analysis, there is an abundance of evidence in the
10 purchasers' questionnaires, textual evidence, where they
11 answer the various questions on substitution which were very
12 creatively designed by staff for purposes of this
13 investigation aimed at this very issue.

14 So, we weren't simply basing the assessment
15 vis- -vis SCA, on the availability of data, but it was
16 supported by what the purchasers themselves reported to the
17 Commission, but you need to, you know, read what they wrote,
18 not just the box they check, in order to get at that.

19 COMMISSIONER SCHMIDTLEIN: Okay. Mr. Johnson,
20 anything else?

21 MR. JOHNSON: Yes, Jerry Johnson. I believe if
22 Mr. Maine of RISI and Mr. Sutton of Reel Time were here, the
23 continuity of the graphs they put together were established
24 on a 35 SC and a 34 coated groundwood. These things go back
25 decades. If you start changing the papers you're putting in

1 there, you're losing the comparable statistics between the
2 grades. It's much like there's not a 40# Number 4 coated
3 listed in RISI or Reel Time. There's a 50# Number 4 coated.
4 And the spreads from that are established off that same
5 number in much the same way and SCA and SCA+ spreads in
6 price are established, with just the blanket 35#.

7 COMMISSIONER SCHMIDTLEIN: Okay. All right. I'm
8 over my time. Thank you.

9 VICE-CHAIRMAN PINKERT: Mr. Feldman and Mr.
10 Clark, I wanted to give you an opportunity to elaborate on
11 some of the arguments that you've made. In particular, I'm
12 curious as to whether it's the position of the commerce
13 department in this proceeding that if any order issues that
14 it would issue province by province basis. In other words,
15 would commerce issue multiple orders if we went affirmative
16 in this proceeding?

17 MR. FELDMAN: The commerce department has found
18 countervailability, so, across Canada, that is it has an
19 'all others' rate for two of the four respondents, and it
20 has assigned Resolute a fictitious 17% and sort of real
21 .77%. So it would have no basis for making any distinction
22 and we wouldn't expect it to issue different orders, but the
23 examination of the nature of the subsidies and the issue of
24 decumulation, both arise exclusively with the Commission and
25 those are conditions under which the Commission can

1 distinguish among the countries.

2 Had the case developed as we thought it would
3 have developed at the commerce department, then your
4 questions might have had more traction, but not with the
5 results that the department delivered.

6 MR. CLARK: And just to augment Mr. Feldman's
7 question a little bit, Mr. Vice-Chairman, to a certain
8 extent that is what will happen because, for instance,
9 unlike, for example, Softwood Lumber, which was mentioned
10 earlier in the case -- that is an aggregate proceeding. So
11 instead of looking at individual companies, that case has
12 always been conducted by an examination at the level of the
13 provinces.

14 Here, a much more traditional countervailing duty
15 proceeding. The department investigated the subsidies
16 alleged to be provided to individual companies, so what you
17 have here, if there is an order, will be margins that happen
18 to be specific to companies and coincidentally to provinces.
19 You heard testimony earlier that in the case of Port
20 Hawkesbury, Resolute, Irving and Catalyst, each produces
21 uniquely and single province. So, albeit not in the name of
22 the provinces, but through the companies, there will
23 effectively be rates that are applied at the provincial
24 level because those companies produce exclusively in their
25 home provinces.

1 MR. CLARK: And that is something that is, in all
2 honesty, relatively unique about this case from other cases
3 you will have looked at.

4 VICE CHAIRMAN PINKERT: Now, correct me if I'm
5 wrong, but wasn't softwood Lumber a case in which many of
6 the subsidies were provided by provinces? And if so, can
7 you explain what the difference is between that and what you
8 see here?

9 MR. FELDMAN: It's a good and complicated
10 question and I will certainly want Mr. Clark to supplement
11 what I'm going to try to suggest to you. In the Canadian
12 Constitution natural resources are the property of the
13 provinces. So all the standing timber belongs to the
14 provinces. There are some small, not insignificant
15 exceptions. For example, about 18 to 20 percent of the
16 harvest in Quebec is on private land. Land that's largely
17 along the banks of the St. Lawrence River and at one time
18 they were often American paper companies that went up and
19 settled there and there was clearing, not unlike what
20 happened in the Homestead Act in the United States. And as
21 what happened with the Homestead Act which gave us a lot of
22 private forests in the United States. We developed private
23 forests along the banks of the St. Lawrence because people
24 went and cleared in the summer and forgot about winter.
25 When they hung out in the winter they often abandoned and

1 then trees grew back, but that was now private land. So
2 there's about 18 to 20 percent private in Quebec. There's
3 about 10 percent in Ontario and nowhere else in the country.
4 Pretty much in Nova Scotia, about half, New Brunswick about
5 40 percent, I think. But when you get onto the prairies in
6 British Columbia, it's almost entirely the property of the
7 provincial governments.

8 The issue in soft wood lumber has been the price
9 that the provincial government set for selling the rights to
10 cut standing timber. And since they own the resource, each
11 one has their own scheme for setting that price.

12 In Quebec today it's based on an auction as it is
13 in British Columbia. In Ontario it's based on residual
14 value and so on. Each province, in its sovereignty as the
15 owner of the resource, according to the constitution of
16 Canada decides how to sell the timber and how to price it.
17 And the complaint has been that the sale of the standing
18 timber, the right to cut it, because it belongs to the
19 provinces, that the sale of the right to cut the standing
20 timber is below a market value. That's the dispute because
21 it's government owned and not privately owned, most of it.

22 So the way that the soft wood lumber was to have
23 been conducted, there have been four so far, with Super Bowl
24 Appalachian, they each have required an analysis province by
25 province of how the standing timber is sold. But the

1 Department of Commerce has elected each time to then apply
2 what it has called a countrywide rate meaning a Canada-wide
3 rate and has done the analysis through an aggregate method
4 whereby it has not examined individual companies. So the
5 analytical methodology adopted by Commerce in those cases is
6 different from this one where it has selected mandatory
7 respondents by company and, as Mr. Clark said, perhaps
8 unique to this case, each of the four companies produces
9 exclusively within one province. And because of that when
10 rates are assigned, for example, the 17 percent currently
11 assigned to Resolute, that is Quebec's rate because there is
12 no one else producing in Quebec. There's no other
13 calculation to be made and the same would be true for Port
14 Hawkesbury and of Irving and Catalyst.

15 VICE CHAIRMAN PINKERT: Just to be clear on your
16 point there, Mr. Feldman, are you saying that the Commerce
17 Department examined all four of those companies
18 individually?

19 MR. FELDMAN: No. I'm saying that one of the --
20 Mr. Vice Chairman, this is the most political case at the
21 Department of Commerce that I've experienced in 28 years.
22 You saw a large number of senators this morning, but many
23 more wrote letters. And the ambassador and members of the
24 Canadian cabinet have all spoken with and contacted the
25 Secretary of Commerce. It's a very highly politicized case.

1 The politics have been about the decision of the Department
2 of Commerce to select two mandatory respondents out of the
3 four. And not to accept, either as voluntary or as
4 mandatory respondents, the other two who then are assigned
5 and all others rate. So the four companies were not all
6 examined, but the rates that are assigned to each one will
7 be unique to each of those provinces because no one else
8 produces supercalendared paper in British Columbia but
9 Catalyst. No one else produces it in New Brunswick except
10 Irving. Catalyst produces it nowhere else. Irving produces
11 it nowhere else. The same is true of Resolute, for Quebec
12 and for Port Hawkesbury in Nova Scotia.

13 VICE CHAIRMAN PINKERT: Mr. Clark?

14 MR. CLARK: I'm not sure what more to add to Mr.
15 Feldman's comments other than when you think about this from
16 an administration standpoint the consequences of the unique
17 relationship between the four producers of supercalendared
18 paper in Canada and their exclusive production in those
19 individual provinces means that there are four distinct
20 trade flows from those provinces housing those mills into
21 the United States. As product comes across the boarder, it
22 is very specifically identified as it comes through customs
23 with the producer and the exporter. And you will recall
24 that under NAFTA rules, you must also identify for
25 statistical purposes the province of origin. Rather

1 uniquely, when you're talking about this case and Canada,
2 you have a very direct identification of production through
3 the respondents, the respondents who are captured by the all
4 other rate, and the two respondents who are individually
5 identified, a perfect correlation to geography. That
6 perfect correlation to geography happens to also fit the
7 nature of how, for the investigated companies for Resolute
8 and for Port Hawkesbury subsidies were analyzed. And the
9 decision that you have in the issues and decisions memo
10 which gives you by province and for those two companies the
11 nature of the subsidy.

12 For purposes of the statute what's up on the
13 board, you have an instruction when you consider threat to
14 consider the nature of those subsidies. Statute says, with
15 particularity, consider whether those subsidies are export
16 subsidies, but it doesn't say only to consider that. It
17 says, in particular. So there are a bundle of other
18 attributes to be considered when you are looking at, as you
19 characterize it, an inherently predictive analysis. The
20 imminence of threat. We consider the nature of the
21 subsidies to include what they are, the extent to which they
22 will incent or not future shipments. And this is reflected
23 province by province, company by company, in the
24 Department's final determination.

25 And this is -- Mr. Vice Chairman, going to your

1 question, the primary distinction here from soft wood lumber
2 where you do have distinctions but they are in the aggregate
3 by province rather than looking at individual companies.

4 VICE CHAIRMAN PINKERT: Thank you very much. Did
5 you wish to add something to that, Mr. Trendl?

6 MR. TRENDL: Definitely not. But my two
7 customers here, they have flights to catch and I apologize
8 for their need to leave. At six o'clock, flights out of
9 National.

10 I'm sure if you have any additional questions for
11 them, we'll take care of those questions, convey them to
12 them and then deal with it in a post-hearing brief with your
13 acceptance.

14 VICE CHAIRMAN PINKERT: Thank you.

15 MR. TRENDL: Okay. Guys, thank you.

16 VICE CHAIRMAN PINKERT: Now, Commissioner
17 Williamson.

18 COMMISSIONER WILLIAMSON: Okay. Just a couple of
19 questions. Let's see, what types of changes need to occur
20 to switch production from SCA to SCB? And can one sell SCA
21 product as SCB product or are there differences beyond price
22 that matter?

23 MR. TRENDL: I apologize along with my customer,
24 I left my witness to order them the Uber. We'll be right
25 back. Sorry.

1 COMMISSIONER WILLIAMSON: Okay. While they're
2 coming back, I can -- actually, I think this is for them
3 too.

4 MR. TRENDL: All right. Mr. Ostrowski will be
5 back in a moment, I apologize.

6 COMMISSIONER WILLIAMSON: Okay.

7 And meanwhile, as to the question I just asked, I
8 would ask the petitioners to also address this too.

9 MR. OSTROWSKI: Would you repeat the question,
10 please?

11 COMMISSIONER WILLIAMSON: Sure. Okay. What
12 types of changes need to occur to switch production from SCA
13 to SCB? And could one sell SCA product as SCB product, or
14 are there differences beyond price that matter to
15 purchasers?

16 MR. OSTROWSKI: There has to -- Mike Ostrowski.
17 There has to be a financial reason to buy B versus A. And
18 the normal difference is somewhere around four points of
19 brightness which the human eye can pick up on. SCB usually
20 has a little less gloss and a little less smoothness. So
21 normally one of the components that goes into making both
22 SCA and SCB is groundwood pulp or some type of pulp, thermo
23 mechanical pulp, and normally you don't refine that pulp as
24 much in order to save some energy costs and that creates --
25 when you do not refine the pulp as much, that creates the

1 rougher surface and less smoothness.

2 COMMISSIONER WILLIAMSON: Okay. So as anyone can
3 do it on the same equipment --

4 MR. OSTROWSKI: Yeah, I would --

5 COMMISSIONER WILLIAMSON: -- it's just the way
6 it's prepared?

7 MR. OSTROWSKI: I would say anyone who can make
8 SCA can also make SCB.

9 COMMISSIONER WILLIAMSON: Okay. Okay. Thank
10 you.

11 MR. OSTROWSKI: Yes, sir.

12 COMMISSIONER WILLIAMSON: And there's was a
13 discussion about contracts tied to SCB paper prices. Do any
14 of your contacts -- contracts tie SCB paper prices to the
15 price for coated groundwood paper? I wasn't sure from Mr.
16 Kralik whether he was talking about -- there's a linkage by
17 informally or actually the formal contracts that do that.

18 MR. OSTROWSKI: Normally -- normally it's formal
19 contracts either -- either written or handshake, I guess,
20 that create the pricing or the percent difference in pricing
21 between -- it's normally SCA and above. For SCB, for us,
22 anyway, it operates as its own animal and basically you're
23 going out looking at market pricing and gather knowledge and
24 price accordingly. But normally I would say for light basis
25 weights, there's normally a \$40 to 60 per short ton

1 difference in price for like basis weights.

2 COMMISSIONER WILLIAMSON: No. As I said, you
3 said they're actually in the contract or there's an
4 understanding? Because I was going to ask for some samples
5 of those contracts if possible.

6 MR. OSTROWSKI: We have -- yeah --

7 [SIMULTANEOUS CONVERSATION]

8 COMMISSIONER WILLIAMSON: This is proprietary --

9 MR. OSTROWSKI: Yeah, well, none of the SCB we
10 sell is in written contract form that I can think of. We do
11 have a couple of accounts in SCA that is in written contract
12 form. So we can certainly supply one of those for you to
13 look at.

14 COMMISSIONER WILLIAMSON: Okay.

15 MR. OSTROWSKI: Okay.

16 COMMISSIONER WILLIAMSON: Okay. Thank you.

17 Okay. That's all the questions I have. So I
18 want to thank the witnesses.

19 VICE CHAIRMAN PINKERT: And next we have
20 Commissioner Johanson.

21 COMMISSIONER JOHANSON: Thank you. And I'd like
22 to talk just briefly about the export orientation of the
23 Canadian industry. And footnote 18 on page 710 of our staff
24 report, it recounts that during the preliminary phase the
25 Canadian industry's high export orientation towards the

1 United States was explained by pointing out that printers
2 that distribute marketing materials printed on SC paper in
3 Canada operate from the United States. To the extent that
4 you can, please describe the extent of this practice and
5 estimate how much of the SC paper imported into the United
6 States is shipped back to Canada in that form of printed
7 material?

8 MR. OSTROWSKI: I do not know the answer to that.
9 So I'll have to address it in the post brief.

10 COMMISSIONER JOHANSON: Okay. That would help
11 out.

12 MR. OSTROWSKI: I don't, you know, in general, I
13 don't think a lot of printed material that is generated in
14 the United States goes back to Canada. I think the vast
15 majority of printed material in Canada, that ends up in
16 Canada is printed in Canada.

17 COMMISSIONER JOHANSON: Okay. I was curious as
18 to the amount of product shipped -- of SC paper shipped to
19 the United States -- I was curious as to how much of that
20 goes back because it is a fairly high number.

21 MR. OSTROWSKI: Mike Ostrowski. I think it's a
22 very small number. I mean, there's probably some printers
23 in the northern borders of the states, you know, like
24 there's one printer, I believe, in upstate New York that
25 competes with Canadian customer -- or Canadian printers for

1 Canadian customers. But I don't think it's -- I don't think
2 it's common.

3 COMMISSIONER JOHANSON: Okay. Would you like to
4 comment on this, Mr. Trendl, or are you --

5 MR. TRENDL: No, I was rereading the footnote
6 because I think it's -- which is public, as I see it here,
7 petitioners and respondents agree that producers of SC paper
8 in Canada have historically been highly export oriented and
9 primarily focused on the U.S. for three reasons, large size
10 of U.S. market for SC paper, lack of viable alternative
11 export markets and the fact that many -- and I think this is
12 what you're getting at -- of the major retailers in Canada
13 and the United States use printers and publishers located in
14 the United States to print their advertising materials. So
15 are you asking about the advertising materials that go back
16 into Canada?

17 COMMISSIONER JOHANSON: Yeah. Yeah. I'm just
18 curious about -- does that make sense to you?

19 MR. TRENDL: That part makes sense. I think what
20 Mr. Ostrowski and I were confused about is that there was a
21 footnote that suggested that paper that was exported from
22 Canada to the United States was then in that paper form
23 re-exported to Canada.

24 COMMISSIONER JOHANSON: Actually, that's what I
25 was -- I think that's what I was curious about.

1 MR. TRENDL: Okay. I'm not sure that that's what
2 that footnote says. But we'll certainly explain.

3 COMMISSIONER JOHANSON: Okay. Sorry if I --

4 [SIMULTANEOUS CONVERSATION]

5 MR. TRENDL: I believe the footnote was saying
6 that it was printed here, the paper was exported from
7 Canada, printed in the United States and whether Target or
8 something is in Canada and those advertisements are then
9 sent up to Canada. I think that's what that was going
10 towards.

11 MR. OSTROWSKI: This is Mike Ostrowski. In
12 particular, I think Sears Canada prints at some printing
13 plants in the United States and then that printed product
14 does go back to Canada. But I'm not -- again -- once again,
15 I don't think it's a very large percentage of business. I
16 think it's in actuality a very small percentage of business
17 that gets printed here --

18 COMMISSIONER JOHANSON: Okay.

19 MR. OSTROWSKI: -- and shipped back in final
20 printed form.

21 COMMISSIONER JOHANSON: And I believe I'm kind of
22 dancing around this issue which I think some of it is
23 proprietary as to how much Canadian product is shipped to
24 the United States. I don't recall, but maybe there's less
25 direct mail in Canada. I don't know.

1 MR. OSTROWSKI: There's certainly less
2 population.

3 COMMISSIONER JOHANSON: Yeah.

4 MR. OSTROWSKI: I think that's about --

5 COMMISSIONER JOHANSON: About 10 percent of the
6 United States, I think. But still it seems like there's
7 quite a bit being shipped to the U.S. from Canada.

8 MR. OSTROWSKI: Final printed material, you mean?

9 COMMISSIONER JOHANSON: Just SC in general.

10 But why don't you all -- does it make sense to
11 you what I'm asking?

12 MR. OSTROWSKI: I'm not sure I'm totally
13 understanding it.

14 COMMISSIONER JOHANSON: Okay.

15 MR. OSTROWSKI: I mean, yeah, I mean, most of --
16 we've established that most Canadian SC paper is exported to
17 the United States --

18 COMMISSIONER JOHANSON: Right.

19 MR. OSTROWSKI: -- because of the market size.

20 COMMISSIONER JOHANSON: Okay. Okay. I think
21 this is kind of getting in the area of some proprietary
22 numbers, so I'll just leave it at that. I don't want to
23 make a mistake there.

24 Okay. Finally, just one more question. And this
25 is just a housekeeping matter. Do you all have an exhibit E

1 which is called "Analysis of Verso Delisting from the New
2 York Stock Exchange"? Could you all list who is the author
3 of that exhibit? You can either tell us now or put it in
4 the post hearing.

5 MR. TRENDL: Flipping to it as quickly as I can,
6 Exhibit E?

7 COMMISSIONER JOHANSON: Right.

8 MR. TRENDL: That exhibit was prepared by counsel
9 for respondents.

10 COMMISSIONER JOHANSON: Okay. Thanks. I didn't
11 see that.

12 MR. TRENDL: That's not an SEC document or
13 something, no.

14 COMMISSIONER JOHANSON: Okay. Thanks a lot.
15 That concludes my questions.

16 MR. TRENDL: Thank you, sir.

17 VICE CHAIRMAN PINKERT: Commissioner Schmidtlein.

18 COMMISSIONER SCHMIDTLEIN: Thank you. I just had
19 one additional question. It goes to the discussion that I
20 had this morning with petitioners on what accounts for the
21 increase in apparent consumption? And I wonder in the
22 post-hearing brief if you could just lay out the numbers? I
23 mean, it looks to me like in your brief on page 75 you talk
24 about the expansion in aggregate U.S. consumption made
25 possible by PHP's successful introduction of the SCA++

1 grade. And so, and, again, I know it's getting late in the
2 day, so you can address this in post hearing, if you want.
3 But, you know, when I look at the numbers of SCA++, and
4 SCA+, the increase doesn't seem to account for the entire
5 increase in apparent consumption. So if you could lay out
6 what you think should be included in that, and whether or
7 not -- and does it account for all of it? And if not, then
8 what does? Because I assume you disagree with the
9 petitioners' view this morning that it the drop in price
10 driving demand.

11 MR. OSTROWSKI: Yes, I do disagree with that, but
12 I will have to address it in post brief and put my thoughts
13 together on that.

14 COMMISSIONER SCHMIDTLEIN: Okay.

15 MR. OSTROWSKI: We did, you know, as we stated ad
16 nauseum, you know, we went after the coated groundwood
17 market to try to sell all the paper out of Port Hawkesbury
18 and right now in general we sell about 65 percent of our
19 production in these plus grades. So we did not --

20 COMMISSIONER SCHMIDTLEIN: Well that's what I
21 wasn't clear whether -- I mean, you know, and you can do
22 this in the post hearing. You could be clear about are you
23 saying it's all three SCA, SCA+, SCA++, is it just the top
24 two? You know, what is it that accounts for the increase in
25 apparent consumption in your view?

1 MR. MALASHEVICH: Excuse me, Commissioner, this
2 is Bruce Malashevich. I think I know what you want. And we
3 can put that together using the APO data.

4 COMMISSIONER SCHMIDTLEIN: Okay. And Mr.
5 Malashevich, just since you piped up there, do you -- I'm
6 curious whether you agree with the elasticity numbers that
7 are included in the staff report?

8 MR. MALASHEVICH: Yes.

9 COMMISSIONER SCHMIDTLEIN: You do?

10 MR. MALASHEVICH: I have no reason to disagree.

11 COMMISSIONER SCHMIDTLEIN: Okay. And so I mean if
12 I--and again, I'm not an economist. I'm not an expert on
13 elasticity. But when you look at the demand elasticity
14 numbers and the range they give, -2 to -4, would seem to
15 suggest that this product, demand for this product is price
16 sensitive.

17 MR. MALASHEVICH: By conventional standards, yes,
18 anything above one--

19 COMMISSIONER SCHMIDTLEIN: Anything above one,
20 right. Okay.

21 I don't have any further questions. I just want
22 to thank the panel for being here. Thank you.

23 VICE CHAIR PINKERT: Do Commissioners have any
24 further questions?

25 (No response.)

1 VICE CHAIR PINKERT: If Commissioners have no
2 further questions, does staff have any questions for this
3 panel?

4 MR. CASSISE: Vice Chairman Pinkert, staff has no
5 questions.

6 VICE CHAIR PINKERT: Thank you. Do Petitioners
7 have any questions for this panel?

8 MR. GILBERT KAPLAN: No, we don't.

9 VICE CHAIR PINKERT: Thank you. In that case, I
10 want to thank this panel for their testimony, and I will
11 dismiss you now.

12 And with that, we will come to closing
13 statements. Those in support of the Petition have 15
14 minutes from direct, and 5 for closing, for a total of 20
15 minutes.

16 Those in opposition have one minute from direct
17 and five for closing for a total of six minutes.

18 As is our custom, we will combine those unless
19 there's any objection and you do not have to take all the
20 time.

21 MR. GILBERT KAPLAN: Mr. Vice Chairman, could we
22 have just a few minutes to organize our notes?

23 VICE CHAIR PINKERT: Yes. Five minutes.

24 MR. GILBERT KAPLAN: Thank you.

25 (Whereupon, a brief recess was taken.)

1 VICE CHAIR PINKERT: Are Petitioners ready?

2 MR. BISHOP: Will the room please come to order.

3 VICE CHAIR PINKERT: We will start with those in
4 support of the Petition. You may begin when ready, which as
5 I understand is now.

6 MS. BONNIE BYERS: Thank you, Mr. Chairman.

7 Mister--Dr. Kaplan is going to give a bit of a
8 rebuttal on a couple of the economic points, and then I will
9 give my rebuttal and closing statement.

10 MR. SETH KAPLAN: So for the edification of the
11 Commission, first what is a Granger causality test? As a
12 threshold matter, it has no relationship to the common
13 meaning of "cause." You should be very aware of that.

14 What it does test for is whether changes in one
15 numerical sequence precedes changes in another numerical
16 sequence as a syntactical test. Let me give you some
17 examples of what a Granger test will show.

18 A Granger test will show that the purchase of
19 umbrellas cause rain. A Granger test will show that the
20 purchase of shovels cause snow. And my favorite, and the
21 classic example in the literature, a Granger test will show
22 that the crowing of roosters cause the sun to rise. You
23 have to be very careful when using these tests.

24 These examples show why economists typically say
25 "Granger cause" rather than "cause" when discussing these

1 tests, and you should be aware.

2 Second, the Granger test is atheoretical and the
3 Respondents provide no model of the market. It does not
4 account, their test, for the obvious causal factor in this
5 investigation, the cause identified by the Commission in its
6 preliminary determination, the increase of subsidized
7 imports from Canada.

8 Introductory economics tells us that an increase
9 in supply causes prices to fall, and consumption to
10 increase, and that's exactly what happened.

11 Finally, for what it's worth, I will show that
12 the Respondent's Granger test actually suffers from some
13 technical flaws and that these errors actually render the
14 results invalid.

15 I do want to comment briefly on the elasticities.
16 Everyone agrees that it is appropriate to operate these
17 facilities 24/7, and I ask that the staff look at the
18 shipment data of the U.S. industry. And we know prices
19 were changing over the period from the public record.

20 I think what the 24/7 and the data will show is
21 that the supply is nearly vertical. It's very inelastic.
22 It's not--changes in supply are not very price sensitive
23 because of the 24/7. And I think that was just an
24 oversight, and I think that upon review of the statements
25 about how the mills operate that the elasticity estimates

1 would change to reflect that.

2 I think further that the demand elasticity
3 estimate is high. It's almost unprecedented at the ITC to
4 see demand elasticities that high. While there is some
5 substitution that was discussed at the margins, the
6 Commission typically looks at the average products compared
7 to average products when discussing what the elasticity
8 would be. And I think in this investigation if you did that
9 you would find that the elasticity numbers for demand would
10 be lower.

11 Thank you.

12 MS. BONNIE BYERS: Thank you, Dr. Kaplan.

13 The record of this investigation demonstrates
14 that subsidized imports of supercalendered paper from Canada
15 have caused material injury to the competing industry in the
16 United States.

17 Just to recap: Over the POI, Subject Imports were
18 significant and increasing. Subject Imports consistently
19 undersold U.S. producers throughout the POI at substantial
20 margins.

21 U.S. producers who must run their mills
22 constantly due to machine design and high capital costs were
23 forced to lower prices in order to maintain sales volume.
24 The prices for Subject Imports depressed U.S. producer
25 prices and prevented U.S. producers from increasing prices

1 in response to increased costs.

2 Underselling by Canadian producers adversely
3 affected both the operational and financial performance of
4 the domestic industry. Madison was forced to shut down its
5 paper machines three times in the first half of this year
6 for a total of 40 days, and I think that's all very
7 conclusive.

8 Now PHP attempts to minimize the significant
9 indicia of injury in this case by raising arguments that
10 have really no basis in the record. PHP would have the
11 Commission believe that their additional supply barely
12 caused a ripple in the SC paper market when it started up in
13 2012.

14 In fact, PHP goes as far as to characterize the
15 entry of PHP supply into the market as, quote, "two ships
16 passing in the night."

17 Certainly U.S. producers would disagree with this
18 characterization. And I think the causation and the impact
19 data on the record in this case will substantiate that.

20 Plus, I think that the other three Canadian
21 producers would vociferously disagree with this assessment,
22 and in fact all three of them have done so publicly.

23 PHP makes two points regarding the impact of its
24 supply in the U.S. market. First, it makes the claim that
25 SCA+ and SCA++ grades actually added demand to the SC paper

1 market, causing an increase in apparent consumption,
2 notwithstanding the secular decline in the demand for paper.
3 It says it was able to create this new demand through PHP's
4 superior product offerings by coaxing users of lightweight
5 coated groundwood paper to switch to the use of SC paper.

6 Second, PHP makes the outrageous claim that U.S.
7 producers missed the boat on this switch because the U.S.
8 industry was overly focused on the SCA grade rather than
9 the SCA+ and the SCA++ grades produced by PHP.

10 Once again, the record says otherwise.

11 First, PHP did not invent this product, and it
12 did not develop any new customers. The U.S. industry that
13 makes SCA+ grade, the U.S. produces SCA+ grade, a lot of
14 it, as do other Canadian producers. Nor is SCA++ a new
15 invention, as we heard even from the Respondents this
16 afternoon. Irving has long produced an SCA++ grade paper.

17 As you have heard today, the types of SC paper
18 produced by PHP compete for exactly the same end uses, and
19 exactly the same customers as SC product made by the
20 domestic industry, and by other Canadian producers.

21 Second, any cross-over from lightweight coated
22 supercalendered paper was occurring well before PHP entered
23 the market. So this wasn't something that PHP invented,
24 either. Plus, it's important to recognize that any shifting
25 that goes on really happens at the fringes. I really think

1 it's important for everybody to understand we shouldn't let
2 the tail wag the dog in this debate.

3 You know, what we are really talking about is a
4 continuum of paper. And the competition on either end
5 doesn't affect the vast majority of the paper sold in the
6 middle of that continuum.

7 Moreover, substitution goes in both directions,
8 often at the same customers, and we will provide substantial
9 information on this back and forth. It's not a one-way
10 street on that.

11 Decisions regarding which paper to buy depend on
12 the relative prices of the two products, lightweight coated,
13 and the various types of SC paper and the design needs and
14 the product quality expectations of the end user.

15 Third, PHP's contention that the domestic
16 industry has very little capability to produce SCA+ is just
17 completely wrong. Seventy-two percent of what Verso
18 produces is SCA+ paper, and it has the capability of
19 producing 100 percent SCA+ paper if it wanted to.

20 Finally, PHP's discussion completely ignores the
21 400,000 ton elephant in the room, which is that the massive
22 increase in subsidized supply caused prices to fall and
23 profits to tank.

24 `PHP also tries to find alternative causes for
25 the decrease in the price for SC paper by suggesting that

1 coated groundwood prices drove the price for SCA and SCA+
2 papers.

3 First, it is undisputed that Canadian SC supply
4 increased during the POI. When supply increases, prices
5 fall and consumption goes up. That is exactly what happened
6 here. Plus, the bump in consumption that occurred in 2013
7 is over, and the pattern of consumption now reflects much
8 more the downward trend that is dictated by the secular
9 decline for this particular product.

10 Second, the price of all grades of SC paper fell
11 during the POI, including SC B, products that Respondents
12 concede do not even compete with lightweight coated
13 groundwood, but do face direct competition from low-priced
14 imports from Canada. This is totally inconsistent with
15 PHP's theory of what drove SC prices.

16 Finally, while there has been an historical
17 relationship between the prices between SC paper and LWC,
18 with LWC prices generally being higher than supercalender
19 prices because of the increased costs, that delta has
20 fluctuated historically, and we will provide information on
21 this for you.

22 So there is not a constant relationship between
23 those two. It is simply incorrect to say that SC prices are
24 determined by the price of lightweight coated. And as
25 you've heard from Dr. Kaplan, the Respondents' Granger

1 analysis is unconvincing.

2 SC prices result from intense, head-to-head
3 negotiations, influenced significantly by the offers from
4 all Canadian competitors and the volume of supply in the
5 market. SC prices are not automatically tied to the price
6 of any other paper.

7 Now Mr. Ostrowski argued this afternoon that
8 stopping and starting a paper machine is somehow the new
9 norm in this industry. This conflicts with the testimony
10 that he gave at the preliminary staff conference where he
11 said these are big capital intensive pieces of equipment, so
12 the idea is to run them as much as you can.

13 It also conflicts with Irving's view of this
14 industry. Irving's representative at the preliminary staff
15 conference said, he testified that all suppliers run to fill
16 their order books and are at 100 percent capacity whenever
17 possible.

18 Another point raised by Respondents this
19 afternoon, PHP says that SCA++ is expanding. I would urge
20 you, Commissioners, to look at Table IV-3, Roman Numeral
21 IV-3, which demonstrates a very different trend than the one
22 they're portraying.

23 I would also encourage you to look at the pricing
24 data for SCA and SCA++ in 2012 and 2013. I think you will
25 see some very interesting conclusions that can be drawn from

1 that data.

2 Now Mr. Kralik from Gould Paper confirmed several
3 key points that were made by Petitioners in the morning
4 session. First, that the SC market has multiple competing
5 suppliers, and second that there is head-to-head competition
6 and that prices are determined basically by supply and
7 demand.

8 He also admits that the reason he is here today
9 is to maintain that price competition. I would also just
10 note that Petitioner has never sought to reduce or hinder
11 supply of SC paper from Canada. Petitioner recognizes the
12 long standing role of Canadian imports in the U.S. market.
13 But we just want that trade to be fair.

14 Mr. Kralik also said that prices are determined
15 through price negotiations. Now this honest admission,
16 obviously, contradicts the argument made by Dr. Byers--no
17 relation, full disclosure here--that the price of SC paper
18 is set by the price of lightweight coated. And I think we
19 have to give that some weight. He's in the business. Dr.
20 Byers I don't think sells any SC paper.

21 I would also like to clarify that the Madison
22 Mill sells and markets SC B for both rotogravure and offset
23 applications. No distinction there. Concentrated statement
24 made by Mr. Ostrowski.

25 The Commission should also note that both RISI

1 and Reel Time prices are estimates of prices, not actual
2 prices. They don't survey companies. They just call around
3 to people and settle on a price, and that's what they
4 publish.

5 I would also note that Verl Sutton, the guy who
6 writes the Reel Time Report, is a paper broker. And he's
7 also done a lot of consulting work for a couple of the
8 Canadian producers, according to his biography.

9 I also just want to say one thing about the lost
10 sales and lost revenue. You have to realize that Madison
11 and Verso are very knowledgeable when they lose a sale, or
12 when they have to lose their price. They are required to
13 keep competitive reports, and when they've had to lower
14 their prices to meet competition they make note of that.
15 They are very aware of that.

16 I think they're probably a lot more aware of it
17 when they lose business than purchasers are when the
18 producers lose business. So I think that's probably another
19 explanation of why, you know, you're asking them to look
20 back, you know, three years ago at a 20,000 ton purchase.
21 They're not going to remember who they gave the business to,
22 or even who was competing. So no big shock there.

23 On the exchange rate issue, I would just note
24 that the extent to which the dollar has appreciated only
25 makes the U.S. industry more vulnerable. And I think that's

1 how it should be viewed, and not as an alternative cause of
2 injury.

3 Regarding the underselling characterization made
4 by Mr. Malashevich, I would say that a very small margin of
5 underselling can make a very big difference in this
6 industry. My producers tell me that \$10 is enough to lose a
7 sale that's only a 1.5 percent margin. So I think, you
8 know, the underselling data has to be viewed in that light.

9 PHP also suggests that all the shift from
10 lightweight coated to SC paper was because of PHP. Again,
11 the record does not support that. That is just not the
12 case. PHP competes across all grades. Much of the volume
13 was actually supplied by other producers, including the two
14 U.S. producers.

15 So if you look at any shift, it was not all
16 accruing to PHP.

17 Finally, I would say that PHP's customer
18 witnesses discount the importance of SCA++. I mean, I
19 really think we need to focus on this. It's their own
20 words. Mr. Johnson said that customers ask for--and I'm
21 quoting here--"SCA+, SCA+, SCA, SC B, and coated groundwood
22 pricing,". He never mentions SCA++.

23 Likewise, Mr. Kralik said that all his customers
24 switched from lightweight coated to SCA+, again no mention
25 of SCA++.

1 So I think that concludes our remarks today. I
2 want to thank you all for your attention. It's been a long
3 and tedious day to a certain extent talking about all these
4 paper grades, but thank you very much.

5 (Pause for changing of presenter.)

6 VICE CHAIR PINKERT: You may begin when ready.

7 MR. TRENDL: Thank you, Commissioners. It has
8 indeed been a long day, and that's something else that Ms.
9 Byers and I can agree on.

10 Thank you for your time today, in fact. In this
11 rebuttal I would like to restate a couple of salient points.
12 It's been a long day, and I would like to refocus a little
13 bit.

14 Despite Petitioners' attempt to get around the
15 idea, there are in fact no lost sales and no lost revenue.
16 Nothing. They may think their records are better than the
17 Commission's. The Commission staff, as it always has, has
18 done a very thorough job. It must have been very tedious,
19 but they did it.

20 Secondly, look at the trend data correctly.
21 Again, it's wholly distortive to include Sartell and the
22 2012 U.S. producer data. It closed in 2012 due to a fire
23 and had nothing to do with imports, and including that data
24 distorts your trend lines.

25 Three, data for Canada cannot begin with a

1 baseline of 2012, given that that's when PHP entered in the
2 market mid-October of that year. PHP's resumption of
3 operations, as Mr. Malashevich demonstrated, did not cause
4 volume or price impact in the U.S. market.

5 And in this market during the POI, increases in
6 supply, I will say, did not cause price decreases because
7 there was an attendant increase in demand. Our resumption
8 of operations was part of that.

9 Much has been made of prices and pricing data in
10 this investigation, despite a complete lack of substantial
11 lost revenue on sales. And I know again that this is not a
12 dumping case. It's novel for me. It's the first one in 24
13 years of doing these cases.

14 You heard today from purchasers that they
15 purchase based on factors other than price. As Mr. Johnson
16 said, brightness is a critical factor for him when he
17 purchases SCA++ product.

18 Table 2-4 of the staff report indicates factors
19 other than price are indeed more important than price.
20 Three, in fact according to the staff report not a single
21 purchaser said PHP was a downward price leader. I think
22 that is relevant given that we are the target of this case.

23 And this indicates in fact, and in perception,
24 that we are not the bad guy that we've been portrayed. And,
25 frankly, the Petitioner is quite clear that PHP, clearly

1 about PHP and its very existence. I encourage you to look
2 at our individual pricing data as presented to you today, if
3 indeed we are the target of this case.

4 Again, they keep stating 400,000 tons is what
5 we've brought in. The number is much different. It's in
6 the record. Maybe they say it because it's the only public
7 number they have, but it's not the number.

8 And again, we talked extensively, when we've
9 resumed operations at a plant that was closed for 11 months
10 that was owned by the Petitioner and we made it more
11 efficient, that is not a source of new supply.

12 You heard from customers today that they never
13 thought it was going away. The plant was left in hot idle.
14 It was expected to come back on. It was sold to PHP with
15 the idea that it was going to come back on with an
16 instruction list of how to do it more profitably.

17 So Petitioners claim today that the mere
18 existence of PHP and DOC's errant in our opinion finding of
19 subsidies equates to material injury is in fact contrary to
20 law and fact.

21 You have before you all the information you need
22 to determine that subject imports did not cause or threaten
23 material injury.

24 I will note one other thing, as long as we got
25 picked on a little bit here. Petitioners at page 19 of

1 their brief cite certain Canadian producers as how they felt
2 about PHP resuming production at NewPage's former mill. The
3 relevant responses, however, are those of purchasers who
4 support the reality that PHP's resumption of operations in
5 the U.S. market has had no significant effect.

6 Incidentally, I would point out that the Canadian
7 responses at issue were submitted when Respondents other
8 than PHP received much lower CVD margins.

9 And lastly, I'm going to conclude early, I'm not
10 sure who on the Petitioners side kept claiming that where
11 PHP's plant is located on some island north of Solbard or
12 south of Bermuda. The reality is, yes, it's an island.
13 It's an island like Long Island. It's on the East Coast.
14 It's just off the East Coast. The bridge that they talk
15 about is the length of this conference room.

16 So I would take the rest of what Petitioners have
17 said with the same grain of salt as they basically put us
18 somewhere out in the Atlantic Ocean.

19 Thank you very much. It's been a pleasure to
20 speak with you today, and I really do appreciate you
21 listening to us and our witnesses today.

22 Thank you.

23 VICE CHAIR PINKERT: Thank you. And again, I
24 express the Commission's appreciation to everyone who has
25 participated in today's hearing. I would also like to

1 express--oh, I'm sorry.

2 Mr. Feldman?

3 MR. FELDMAN; Thank you, Mr. Vice Chairman, and
4 Commissioners. I have been before the Commission once
5 before--I had one minute, right?

6 VICE CHAIR PINKERT: Okay.

7 MR. FELDMAN: I've been here before with one
8 minute, and I'm sorry Mr. McClure, therefore, is not here.
9 According to the law, as we now hope you saw, the Commission
10 must find, that Resolute has been maligned.

11 The Commission should decide that Quebec did not
12 provide any help to Resolute, and the law dictates, in the
13 absolute, that even the supposed aid could not in the least
14 have made, any threat to anyone competing in this product.

15 The law requires the Commission to administer
16 contrition. To find the nature of the subsidy presents no
17 threat from Quebec, and merchandise from Quebec should be
18 accorded more respect, and continue to trade free.

19 Thank you.

20 VICE CHAIR PINKERT: Thank you. And once again I
21 express the Commission's appreciation to everyone who has
22 participated in today's hearing. I would also like to
23 express appreciation to our staff which did a terrific job
24 in this case.

25 Your closing statement, post-hearing briefs,

1 statements responsive to the questions and requests of the
2 Commission, and corrections to the transcript must be filed
3 by October 29th, 2015.

4 Closing of the record and final release of data
5 to the parties will be on November 10th, 2015. Final
6 comments are due on November 13th, 2015.

7 And with that, this hearing is adjourned. Thank
8 you.

9 (Whereupon, at 5:29 p.m., Thursday, October 22,
10 2015, the hearing was adjourned.)

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CERTIFICATE OF REPORTER

TITLE: In The Matter Of: Supercalendered Paper from Canada

INVESTIGATION NO.: 701-TA-530

HEARING DATE: 10-22-2015

LOCATION: Washington, D.C.

NATURE OF HEARING: Final

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