

Public Version
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Before the Additional Facility of the
**INTERNATIONAL CENTRE FOR SETTLEMENT OF
INVESTMENT DISPUTES (ICSID)**

MERCER INTERNATIONAL INC.,
Claimant,

v.

GOVERNMENT OF CANADA,
Respondent.

ICSID CASE NO. ARB(AF)/12/3

CLAIMANT'S MEMORIAL

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31 March 2014

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BARRISTERS & SOLICITORS

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1-Mar-2006	Certificate of Merger of Mercer Delaware Inc. with and into Mercer International Regco, Inc.	C-199

<u>Date</u>	<u>Title</u>	<u>No.</u>
28-Sep-1971	Secretary of State of the State of Washington, Amended Declaration of Trust of The Pacific West Fund Changing name to Pacific West Realty Trust	C-200
23-Dec-1985	Secretary of State of the State of Washington, Amended Declaration of Trust of The Pacific West Realty Trust Changing name to Asiamerica Equities Ltd.	C-201
12-Dec-1991	Secretary of State of the State of Washington, Amended Declaration of Trust of Asiamerica Equities Ltd. Changing name to Mercer International Inc.	C-202
6-Jan-2013	Northwest Electric Market: Annual Bilateral Prices, FERC.GOV (6 January 2013), <i>available at</i> https://www.ferc.gov/market-oversight/mkt-electric/northwest.asp	C-203
2003	BC Hydro Public Power Legacy and Heritage Contract Act of 2003 {SBC 2003}, c.86	C-204
27-Aug-1996	Report of the Independent Power Producers Review Panel	C-205
3-Jun-2011	Tolko Industries Ltd (Tolko) Responses to BCUC Information Request No. 1	C-206
22-Aug-2001	Agreement Between Riverside Forest Products Limited and City of Kelowna	C-207
22-Aug-2001	Information Response of Riverside Forest Products Limited to BCUC Staff Information Request No. 2	C-208
4-Nov-2008	Electricity Purchase Agreement between BC Hydro and Celgar (Draft)	C-209

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21-Aug-2008	Power Supply Agreement between Celgar and FortisBC Inc.	C-220
27-Jan-2009	Electricity Purchase Agreement between BC Hydro and Celgar (27 January 2009)	C-221
Sept-16-2008	Letter from Joanna Sofield, Chief Regulatory Officer, BC Hydro, to Erica M. Hamilton, Commission Secretary, BCUC	C-222
14-Jan-2005	Consent to Assignment regarding General Service Power Contract No. 275331	C-223
8-Jun-2006	Memorandum from Brian Merwin to [REDACTED] and [REDACTED] re Electricity Sales/Power Marketing Decision	C-224
27-Jan-2009	Letter Agreement between BC Hydro and Celgar	C-225
31-Jul-2009	BCUC, Order Number E-08-09	C-226
27-Dec-2012	BCUC, Order Number G-202-12 and Accompanying Decision	C-227
6-Jan-2010	MEM and Ministry of Environment, Briefing Note for Decision, Mercer International Group's request to establish a new, low generation baseline and increase electricity sales	C-228
13-Dec-2013	Letter from Erica Hamilton, Commission Secretary, BCUC, to Janet Fraser, Chief Regulatory Officer, BC Hydro	C-229
1-Sep-2009	Mercer, Briefing Note, Celgar Existing Generation	C-230
26-Oct-2009	Mercer, Briefing Note, Leveling the Playing Field - Briefing Note	C-231

<u>Date</u>	<u>Title</u>	<u>No.</u>
23-Nov-2009	MEM and Ministry of Environment, Briefing Note for Information, 10:15 am November 24 Meeting with Honourable Pat Bell, Minister of Forests and Range, and Representatives of Mercer International Group Regarding Mercer's Self Generation at its Celgar Pulp and Paper Mill	C-232
11-Jan-2010	MEM, Briefing Note for Decision, Mercer International Group's request to establish a new, low generation baseline and increase electricity sales	C-233
22-Feb-2010	Letter from Blair Lekstrom, Minister, MEM, to David Gandossi, Executive Vice President, Chief Financial Officer and Secretary, Mercer International, and Brian Merwin, Vice President, Strategic Initiatives, Mercer International	C-234
20-May-1996	WTO Appellate Body Report, <i>United States – Standards for Reformulated and Conventional Gasoline</i> , WT/DS2/AB/R, adopted 20 May 1996, DSR 1996:I, 3 (Exhibit R-187)	C-235
Undated	Howe Sound Generation - External (Restricted Access)	C-236
2010	Clean Energy Act {SBC 2010}, c. 22	C-237
4-Feb-2009	Power Smart Incentive Program Amending Agreement No. 2 between BC Hydro and Canfor Pulp Limited Partnership	C-238
4-Feb-2009	Electricity Purchase Agreement between BC Hydro and Canfor Pulp Limited Partnership	C-239
1996	Tax and Consumer Rate Freeze Act, RSBC 1996, c. 447	C-240
10-Apr-1989	Internal BC Hydro email from Nick VanderKwaak to Harvey Abell	C-241

<u>Date</u>	<u>Title</u>	<u>No.</u>
6-Feb-2008	BC Hydro Bioenergy Call for Power -- Phase 1 Request for Proposals	C-242
20-Feb-2008	BC Hydro and BC Transmission Corp. Bioenergy Information Meeting Materials, including BC's Bioenergy Strategy: Growing BC's Natural Energy Advantage by Janice Larson of BC Ministry of Energy, Mines and Petroleum Resources	C-243
7-Feb-2008	Email from Marc Beauchemin of BC Hydro to Brian Merwin of Mercer International	C-244
7-Feb-2008	Letter from Jim Scouras of BC Hydro to Brian Merwin of Mercer International	C-245
2-May-2008	Letter from BC Hydro RFP Administrator to Brian Merwin	C-246
7-May-2008	Letter from Brian Merwin to BC Hydro RFP Administrator	C-247
30-May-2008	Letter from BC Hydro RFP Administrator to Brian Merwin	C-248
3-Dec-2010	Celgar Application for Reconsideration of BCUC Decision and Order G-156-10	C-249
28-Oct-2009	HSPP Generation Baseline Calculations	C-250
27-Mar-2006	Memorandum from Brian Merwin to [REDACTED] and [REDACTED] [REDACTED] re Electricity Procurement & Energy Opportunities	C-251
20-Jan-2014	Brian McClay & Associates Inc., Top 15 Global NBSK Market Pulp Producers, www.pulpmarket.ca	C-252

<u>Date</u>	<u>Title</u>	<u>No.</u>
3-Oct-1988	HSPP Letter to BC Hydro re: proposal for an agreement between BC Hydro and HSPP (3 October 1988)	C-253
16-Feb-2010	Briefing Note on HSPP Generation Agreement Termination (Draft)	C-254
12-Jul-1988	Memo from J.P. Sheehan to H. Abell, F.J. Klassen, and K. Miyazaki, attaching draft letter re: proposed cogeneration facility for HSPP	C-255
10-Nov-1989	Interoffice Memo from H. Abell to D. Barnett, K. Peterson, and W. Morgan re: HSPP Generation Agreement	C-256
21-Jun-2006	Letter from Pierre Lamarche to Lester Dyck re: Surplus Electricity Volume - Impact on Future CBL	C-257
10-Mar-2011	Email from Ryan Prontack to Leon Cender	C-258
Undated	Celgar's GBL Determination	C-259
Nov-2013	Pulp and Paper Products Council, Supply and Demand Chemical Market Pulp	C-260
Dec-2013	Hakwins Wright, <i>Outlook for Market Pulp</i>	C-261
Undated	Celgar Mill History Timeline	C-262
Undated	Robert W. Sexty, <i>Canadian Cellulose Company</i> , IPAC Case Study Program, INSTITUTE OF PUBLIC ADMINISTRATION OF CANADA	C-263
20-Apr-2008	Memorandum from Brian Merwin, to the Mercer Board of Directors, re: Celgar Energy Project	C-264

<u>Date</u>	<u>Title</u>	<u>No.</u>
17-Apr-2009	Bob Ivry and Christopher Donville, <i>Black Liquor Tax Boondoggle May Net Billions for Papermakers</i> , Bloomberg (17 April 2009) available at http://www.bloomberg.com/apps/news?pid=newsarchive&sid=abDjfgGgdumh4	C-265
7-Jul-2006	Letter from [REDACTED] Zellstoff Celgar, to [REDACTED] FortisBC Inc.	C-266
9-Aug-2005	British Columbia Registrar of Companies, Certificate of Incorporation for Zellstoff Celgar Holdings, Ltd., No. BC0732008	C-267
4-Apr-2006	Unitholders Register for Zellstoff Celgar Limited Partnership	C-268
1-Oct-2006	General Service Power Contract and Brokerage Agreement Between Zellstoff Celgar Limited Partnership and FortisBC Inc.	C-269
1-Mar-2006	Declaration of Trust (Lands) for Zellstoff Celgar Limited and Zellstoff Celgar Holdings Ltd.	C-270
1-Mar-2006	Letter from Registrar of Companies to Cheryl Cruickshank re the continuation of Zellstoff Celgar Holdings Ltd. to the jurisdiction of Delaware	C-271
1-Dec-2000	Curtailment Agreement between West Kootenay Power and KPMG	C-272
23-Jan-2009	Final Submission of FortisBC, <i>In the Matter of British Columbia Hydro and Power Authority and Power Authority and Application to Amend Section 2.1 of Rate Schedule 3808 Power Purchase Agreement</i>	C-273

<u>Date</u>	<u>Title</u>	<u>No.</u>
1-Mar-2006	Certification by Harriet Smith Windsor that the Certificate of Incorporation of Zellstoff Celgar Holdings Ltd. is true and correct	C-274
1-Mar-2006	Asset Transfer Agreement between Zellstoff Celgar Limited and Zellstoff Celgar Holdings Ltd.	C-275
1-Mar-2006	Asset Transfer Agreement between Zellstoff Celgar Holdings Ltd. and Zellstoff Celgar Limited Partnership	C-276