SD

ALPHA DEVELOPER 07

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By Rajendra Patel

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Respondent

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SD

Thursday , 03 Oct 2024

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194 s that correct? So we can see that -- A. Yes. Q. Above an below the line ^^, so we can see that there are even on COLI 1999, there are three years out of eight where it understates inflation? A. Yeah, in fact, actually, I can -- you see, what happens here is that in 2007, it's the base year for essentially

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193 ch more than in another, what you are assuming is that actually, people are not substituting them, which is, you know, a bit of a stretch anyway, it's not compatible with economic theory and the way consumers behave. Q. It's a matter for the individual NSO, i

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195 mentary aggregate level ^^; is that correct? A. Yes, I would think so. But, you know, as I said, I user would look another ^^ what is going -- the values, will say what is going on and call a statistician, hopefully. PRESIDENT: Can I just ask a quick question. Ath met I can and geometric averages, the

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196 be sum over the -- Q. Then divided by eight? A. I think it's seven or eight? Yeah, it's eight, because there is a blue line there, yes.

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194 those years, right? What they have to do in 2007, they change the weights, but -- sorry, they didn't change the weight

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195 culation on my part. In those two years, it was lower, 1999. Only a statistician or economist would be in a position to understand

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194 er years. But then they also back casted it, but they back casted it on the basis of the weights of 2007 and the reason why they were d

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193 elevision licence, there are countries where you have a competitive power supply, for example, and people can switch from one to another, the lucky ones who can do that. Q. Is it correct also that eve

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195 COLI 1999 is above 0, then netting off the three years where it's below 0 t

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192 e of the arithmetic, there are two of them. ^doc name)s. Q. So it says this gentlemen convenience ^^ in general although there may be cases in which little or no substitution takes place within the elementary aggregate and the car live might b

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192 e? A. That's why they slowly changed ^^. Q. Then we get to D9 -- could we go to D9-25, please. Then we can see look at paragraph 9.37. You have seen this as being part of the approach to aggregating for elementary aggregat

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KRR 5a65ff

192 There's a paragraph which begins the paragraph in the middle there beginning the IWGPS ^doc). A. Where is it? Q. The paragraph that begins it's in the middle of the page on the screen, the IWGPS? A. Yes. Q. Can you see? Yes? You can see that it says as you go down, you say, because of

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192 practical resource constraints is that right? A. Yes, it is. Q. And peer live may not be immediately obtain ^reading...) NSOs and they should therefore serve as guidelines or targets for agencies." ^doc. Do you see that? A. Yes, I do. Q. Again, this is very much guidance to be followed in accordance with the individual state's resources and constraints? A. Yes, but if you commit yourself to it, I mean, they

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191 paragraph 9.37. You can see that it says as you go down, you say, because of practical resource constraints, some of the current representations may not be immediately obtain ^reading...) NS had six stage, how many stages were there in the letter that Page No. 192 □2 □2 □ g...) NS

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191 his is one of your exhibits, I think. ^ itch -- (overspeaking) -- ^^? A. No, I'm say that is GaStat say that they -- Q. I'm going to move on to D100, please, at page 13. There's a paragraph wh

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190 u of labour studies, services -- The labour bureau statistics, LBS, yeah, it's also the ILO strongly enough, which is unfortunately labour organisation ^. Q. Can I just check that you confirm that you accept that the CPI manual

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189 t happens is that the weights that were -- the goods that were in that basket corresponded to elementary items in

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195 MR ROBB: It would be arithmetic. PRESIDENT: Arithmetic, yeah. A. It's the average dif

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188 So here what you're doing is you're making an evaluation of accuracy in relative term, aren't you? A. No, because in the CPI manual, actually advises that it doesn't matter what you use in the second stage. They

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I a3ff95

187 would like? A. Yes. Q. It's your first report,? A. Is it 6.6? Q. 6.6. A. Yeah, okay. I'm there. Q. Here you deal with this, this is about COLI 1999 being an inaccurate measure

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FOR EXTRA 9cff8c

196 h longer. MR ROBB: No, it's not another 10 minutes so it will be more than 10 minutes so definitely coming back tomorrow. PRESIDENT: All right. In which case we will finish for this evening. Thank you very much, Dr Meschi. As before, please

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193 what people normally buy, there is a lot of substitutions and what substitution means is that when the price of something, let me tell you ^^ ^ let's ^ or even rice, right, and th

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FOR EXTRA 9cff8c

193 pay for electricity. This kind of things. But for what people normally buy, there is a lot of substitutions and what substitution means is

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194 rage. These are all average concepts. So on average, you will. But it can be lower in a year also in ^^ but in average you will overstate it, yes. Q. Then we can look at your s

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PPL 8b64ff

196 NESS: Can I have dinner with them if I don't talk about? I think it's safer not to. WITNESS: Okay, okay. PRESIDENT: Thank you. Then we'll see you back here, if you could be back here abo

FOR EXTRA 9cff8c
KRR 5a65ff
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FOR EXTRA 9cff8c

195 B: It's adding up the blue for 1999 it's taking the extent to which for each ye

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190 the GaStat, to this manual. Then in 2024, in the metadata, it's one of the exhibit Ms Harfouche's report, her second re

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PPL 8b64ff

190 ublish for foo the consumer price index, they actually stated that they follow the CPI manual. Q. In 2024? A. Yeah, but they told me in 2020 and they have done this throughout. The thing is that you have to be compliant otherwise as I said,

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PPL 8b64ff

189 ^ into a classification that is not the same as the original one. I don't have the basic weights of the two, but judging from what is happening to that line, the combination of these we

FOR EXTRA 9cff8c

189 ra ^reading...) slat via to review the index number formula according to the CPI manual." ^doc. Q. Thank you. Can we move to paragraph 5.20, by is at D1-71. You have that. You give some reasons as to why you think that its ou

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with the way that they back casted based on the 2007

Unassigned
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and geometric averages, the average that you've got on
your chart here is that an arithmetic or a geometric?
A. Just an average. Sorry, a arithmetic.

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lower, 1999.
Only a statistician or economist would be in a position

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Q. I would like to move now to your second reason, which is
the suggestion that call # is an inaccurate measure of
inflation. So I think we can agree that all indices are -- no indices truly measure true inflation?

Unassigned
e9e90e

1	09:13:01	Test test.
2	09:15:18	Good morning everyone. This is the day 2 of the
3	09:15:21	hearing.
4	09:15:22	Testing mic number 1, testing mic number 2, testing
5	09:15:29	meek number 3, testing mic number 4, testing mic number
6	09:15:45	5, testing mic number 6, testing mic number 7, testing
7	09:15:58	mic number 8
8	09:16:01	
9	09:16:01	
10	09:16:01	
11	09:16:02	
12	09:16:02	
13	09:16:03	
14	09:16:03	
15	09:16:04	
16	09:16:07	
17	09:28:07	
18	09:28:07	
19	09:28:08	
20	09:28:08	
21	09:28:11	
22	09:28:13	(10.01 am)
23	10:01:18	PRESIDENT: Good morning, everyone. This is day 2 of the
24	10:01:21	hearing in case number PCA 2023-45.
25	10:01:26	Mr Hanke, is everyone who needs to be here from your

1	10:01:29	side here.
2	10:01:31	MR HANKE: Yes.
3	10:01:31	MR ROBB: Yes, also.
4	10:01:32	PRESIDENT: Excellent, thank you.
5	10:01:34	So do we have any housekeeping matters to deal with.
6	10:01:38	MR HANKE: Not in the claimant's side.
7	10:01:39	MR ROBB: Only to say that the termlation of the variation
8	10:01:45	which you had asked for in writing is with my
9	10:01:48	solicitors. If you're content and SWPC is content, it
10	10:01:53	will be emailed during the course of the morning.
11	10:01:55	PRESIDENT: Is that okay for you.
12	10:01:57	MR HANKE: As soon as we can have it, yes.
13	10:01:58	PRESIDENT: Perfect, that would be very helpful.
14	10:02:01	I think, then, our first witness will be.
15	10:02:07	MR HANKE: Dr Meschi.
16	10:02:07	PRESIDENT: Is she here?
17	10:02:11	MR HANKE: Yes.
18	10:02:18	PRESIDENT: Will Dr Meschi affirming or taking an oath.
19	10:02:23	MR HANKE: Oath.
20	10:02:24	PRESIDENT: Do we have the right book available?
21	10:02:40	MR HANKE: I think there might have been a mild oversight on
22	10:02:43	having the right book.
23	10:02:45	WITNESS: It doesn't matter.
24	10:02:46	PRESIDENT: If you wouldn't mind affirming as
25	10:02:48	a practicality. Heading ^.

1	10:02:52	If you can first sit down and you should have clean
2	10:02:55	copies of the expert report and that will be it.
3	10:03:05	In which case, when you're ready, do you have enough
4	10:03:08	space.
5	10:03:09	WITNESS: Can I actually put this on the floor.
6	10:03:11	PRESIDENT: Would it be helpful if you had a chair next to
7	10:03:14	you to put them on a chair.
8	10:03:16	WITNESS: Yeah, maybe I'll try this. It's better.
9	10:03:33	PRESIDENT: I think you were here yesterday, so you know how
10	10:03:36	it works.
11	10:03:37	WITNESS: Yes.
12	10:03:37	PRESIDENT: Just remembering to keep your voice up and speak
13	10:03:39	slowly, so we can get the transcript.
14	10:03:43	If you could first repeat after me.
15	10:03:52	I Dr Melra methy witness I Dr Mel chesschy.
16	10:04:00	PRESIDENT: Solemnly and sincerely declare and affirm.
17	10:04:04	That the evidence shai give.
18	10:04:06	WITNESS: That the evidence I shall give.
19	10:04:08	PRESIDENT: Shall be the truth witness shall be the truth.
20	10:04:11	PRESIDENT: The whole truth.
21	10:04:13	WITNESS: The whole truth.
22	10:04:14	PRESIDENT: And nothing but the truth.
23	10:04:16	WITNESS: I affirm that I have followed I affirm that I have
24	10:04:18	followed and will follow and will follow the tribunal's
25	10:04:22	procedures.

1	10:04:23	WITNESS: The tribunal's prior dures.
2	10:04:25	PRESIDENT: Regarding the accuracy.
3	10:04:26	WITNESS: Regarding the accuracy.
4	10:04:28	PRESIDENT: Truthfulness.
5	10:04:30	WITNESS: Truthfulness.
6	10:04:31	PRESIDENT: And fairness.
7	10:04:32	WITNESS: And fairness.
8	10:04:33	PRESIDENT: Of my evidence.
9	10:04:34	WITNESS: Of my evidence.
10	10:04:35	PRESIDENT: To the best of my ability.
11	10:04:36	WITNESS: To the best of my ability.
12	10:04:39	PRESIDENT: Thank you.
13	10:04:39	Mr When.
14	10:04:41	
15	10:04:41	Examination-in-chief by Mr Hanke
16	10:04:43	MR HANKE: Dr Meschi, I might ^^ I'm not quite sure, but
17	10:04:45	within them you should find your first report, if
18	10:04:49	I could ask you to turn to page 96 of that.
19	10:05:03	A. Yes.
20	10:05:04	□20240924□0004Q. If you turn to the last page of the report, please. It
21	10:05:08	should be 96.
22	10:05:14	A. Okay.
23	10:05:15	Q. Is that your signature?
24	10:05:16	A. Yes.
25	10:05:17	Q. Does the contents of that report remain your true

1	10:05:21	professional opinion?
2	10:05:21	A. Yes.
3	10:05:22	Q. If you could take your second report, please, which I'm
4	10:05:26	assuming is in the second bundle. We can have it up on
5	10:05:36	screen, D112, page 39 -- sorry, D103 ^, and then to page 54. Is that your signature?
6	10:06:05	A. It is.
7	10:06:05	Q. Does the contents of that report remain your true,
8	10:06:08	professional opinion?
9	10:06:10	A. Yes.
10	10:06:11	Q. Thank you. I believe you have a presentation that you
11	10:06:13	wish to make.
12	10:06:15	A. Yes.
13	10:06:15	MR ROBB: Sorry, is it worth also could affirming the
14	10:06:18	content of the joint table.
15	10:06:21	MR HANKE: Yes.
16	10:06:29	MR ROBB: D130.
17	10:06:31	MR HANKE: D130, please, then the final page on that which
18	10:06:36	is 29.
19	10:06:38	MR ROBB: The signatures are on page 2.
20	10:06:43	MR HANKE: Sorry, thank you. D130, page 2, that's your
21	10:06:48	signature there?
22	10:06:49	A. It is.
23	10:06:50	Q. The contents of the relevant column of this remain your
24	10:06:53	true professional opinion?
25	10:06:55	A. They do, yes.

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1	10:06:57	MR HANKE: Thank you.
2	10:07:01	
3	10:07:01	Presentation by Dr Meschi
4	10:07:05	PRESIDENT: Mr Hanke, would you be able to call up -- give
5	10:07:08	instructions for her presentation, call it up as well
6	10:07:17	^^.
7	10:07:19	MR HANKE: I don't have a reference for that.
8	10:07:24	MR KIRYUSHIN: I haven't seen those slides in the hearing
9	10:07:25	bundle, so I'm not sure in they were inserted after
10	10:07:29	Friday or not.
11	10:07:36	MR HANKE: Lloyd Michaux have them, but I don't think
12	10:07:37	they're in the bundle as such.
13	10:07:39	PRESIDENT: Okay, if they can get put into the bubble, but
14	10:07:43	we're on the screen, so we can work with that.
15	10:07:45	MR HANKE: Yes.
16	10:07:49	PRESIDENT: Dr Meschi, if you would like to give your
17	10:07:50	presentation.
18	10:07:51	
19	10:07:51	Presentation by Dr Meschi
20	10:08:31	WITNESS: Good morning. My name is Melra Meschi and I am an
21	10:08:38	economist and ^^ with over 25 years of experience,
22	10:08:44	academic and professional, an economic metrics is the
23	10:08:50	application ^^ of statistics to economics and that's my
24	10:08:55	area of expertise.
25	10:08:57	This morning, what I plan to do is go through the

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1	10:09:01	following five things. First, I will give you some are
2	10:09:07	you of my instructions and then discuss the fundamental
3	10:09:10	economic and statistical concepts that are relevant to
4	10:09:13	minutes and the inflation indices in this dispute,
5	10:09:19	followed by the index cation approaches that have been
6	10:09:22	taken by the experts and finally, just a few seconds,
7	10:09:27	the loss assessments of the figures.
8	10:09:32	My instructions are here. In summary, this is the
9	10:09:37	summary of my instructions. I am instructed to provide
10	10:09:42	my opinion from an economic and statistical perspective
11	10:09:46	on the appropriate indexation approach from
12	10:09:50	transitioning between successive COLI indices. Second,
13	10:09:55	to review and comment on Ms What are's reports and her
14	10:10:01	preferredding if forward approach.
15	10:10:03	To assume that the parties' rationale in including
16	10:10:06	the indexation clause was to adjust payments for true
17	10:10:10	inflation.
18	10:10:11	And finally, to assume that this tribunal has
19	10:10:15	discretion to consider any relevant factors when
20	10:10:20	determining the current dispute, including the accuracy
21	10:10:23	and bias of COLI 1999.
22	10:10:29	First of all, the theory and practice of statistics,
23	10:10:35	of measuring inflation, is a specialist topic and there
24	10:10:39	are some fundamental concepts that in my opinion, are
25	10:10:43	quite intuitive and are very important to this dispute.

1	10:10:47	Section 3 of my first report aims to provide an
2	10:10:50	overview of those concepts. I will remind you of the
3	10:10:57	most important ones in the next few slides.
4	10:11:01	It is very important that I make myself clear, so if
5	10:11:06	I don't, please ask me questions.
6	10:11:18	First of all, what is inflation? So inflation is
7	10:11:21	the rate of change of prices over time. It is
8	10:11:27	impractical and outrageious I will expensive to measure
9	10:11:30	the price of every single good and service in the
10	10:11:35	economy and inflation is therefore unknown and must be
11	10:11:39	estimated using priced indices.
12	10:11:43	From an economic perspective, it is obvious that one
13	10:11:47	wants to measure true inflation and accuracy and bias
14	10:11:51	are actually related to this. They are statistical
15	10:11:55	properties of price indices.
16	10:11:59	In general, statistical properties all ^^ have
17	10:12:06	particular meaning in statistics. They refer to how
18	10:12:10	close an estimate is on average to the true value being
19	10:12:13	measured and an estimate is inaccurate or biased in its
20	10:12:19	systematically deviates from the true value that one
21	10:12:22	seeks to measure ^^.
22	10:12:24	An estimate can be known to be inaccurate or biased
23	10:12:28	based on fundamental statistical and economic
24	10:12:33	considerations without having to quantify that bias. If
25	10:12:36	we want to, we can quantify it by comparing the known

1	10:12:42	bias estimate to the true value or if that is unknown,
2	10:12:46	to an estimate that is known to be unbiased.
3	10:12:49	To give you an example, if I want to measure the
4	10:12:53	average height of people in a city, I can use a sample
5	10:12:57	of men to do this. But then measure will be pie yased
6	10:13:02	in absolute terms, which means fundamentally inaccurate.
7	10:13:06	I can take a sample of men and women and I can
8	10:13:11	compare the average height of a sample of men and women
9	10:13:15	to the original estimate that I obtained with the sample
10	10:13:19	of men, but regardless of the size of the bias, the
11	10:13:29	estimate which has been taken from the men shall never
12	10:13:32	be used because it's fundamentally inaccurate.
13	10:13:36	So that's the difference between measuring something
14	10:13:39	and having something that's fundamentally inaccurate.
15	10:13:42	So what is the best thing to do when it comes to
16	10:13:45	inflation indices? How do we go about this in practice?
17	10:13:50	There are national statistical offices that are
18	10:13:52	responsible for designing and maintaining accurate
19	10:13:55	measures of inflation and therefore accurate inflation
20	10:13:59	indices.
21	10:14:00	This requires good methodologies based on sound
22	10:14:05	economic and statistical theory that are jointly
23	10:14:08	provided in the CPI manual, CPI consumer price index,
24	10:14:14	manual, by international organisation.
25	10:14:16	So the working group of the ILO of the UN, the IMF,

1	10:14:21	the World Bank, OECD and your statistic ^, they are the
2	10:14:26	ones who jointly publish these CPI manuals.
3	10:14:30	(euro stat ^.
4	10:14:33	^name).
5	10:14:35	We can think of CPIs as tools to track the cost of
6	10:14:40	a large shopping basket that represents what the typical
7	10:14:44	household buys. For example, rice and bread are items
8	10:14:49	in this basket. Statistical agency, how could they go
9	10:14:53	about this? First of all, they use what I call the
10	10:14:57	expenditure surveys that are carried out at regular
11	10:15:00	intervals, the best practice is at least every five
12	10:15:04	years, to determine what has to go into that basket. So
13	10:15:08	the items in the basket.
14	10:15:10	Each item in this basket has a weight and the weight
15	10:15:14	is based on its importance in the expenditure of the
16	10:15:19	typical household. For example, rice may have a weight
17	10:15:24	of 1 per cent in the basket and the whole set of weights
18	10:15:28	has to sum to 100 per cent, which is the total
19	10:15:31	expenditure.
20	10:15:32	Once the weights are set, they remain fixed until
21	10:15:36	the next survey is carried out. Then the CPIs are
22	10:15:41	calculated in two stages. So we can think of this as
23	10:15:46	going from the bottom to the top of a pyramid.
24	10:15:50	In the first stage, which is the bottom of the
25	10:15:52	pyramid, price indices for each item, which are called

1	10:15:57	also arithmetic aggregates are calculated in the
2	10:16:01	following way (elementary ^ for each item, for example
3	10:16:05	rice, the prices of many brands, many varieties of rice
4	10:16:08	are collected from a large sample of Venn DrS. These
5	10:16:12	prices are then averaged into an index for rice using
6	10:16:20	a math that the call formula without using any weights,
7	10:16:23	because the weights are not available at that level.
8	10:16:26	In the second stage, going towards the top, these
9	10:16:30	are averaged to obtain a high-level indices. For
10	10:16:34	example, food and non-alcoholic beverages is one such
11	10:16:40	groupings. Then, ultimately, the CPI, which is the top
12	10:16:43	of the pyramid. All these in the second stage, all
13	10:16:50	these indices are based on the basket weights for the
14	10:16:54	items.
15	10:16:56	So CPIs that use arithmetic rather than geometric
16	10:17:02	averaging in the first stage are known to be biased.
17	10:17:06	Their use is strongly discouraged. So what is the
18	10:17:08	difference between these two statistics? The arithmetic
19	10:17:14	average of your height, I just get it by summing your
20	10:17:18	heights and dividessing by three.
21	10:17:21	The gee met I can average I just multiply your
22	10:17:25	heights and I raise it to the power of one-third.
23	10:17:29	That's the difference.
24	10:17:34	This is how indices are constructed when the weights
25	10:17:37	are fixed.

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1	10:17:38	But as time passes, consumption patterns change and
2	10:17:42	the index need updating. When a new survey is carried
3	10:17:46	out, the composition of the basket and the weights
4	10:17:50	change.
5	10:17:51	The new updated CPI is more accurate by default than
6	10:17:55	the old one, because its weights are updated. This
7	10:17:59	updating process is called re basing. Because the new
8	10:18:03	index is not completely comparable with the old one,
9	10:18:07	statistical agencies link them and linking two indices
10	10:18:12	is an arts met I can operation that can either bring the
11	10:18:15	old index to the level of the new one or vice versa.
12	10:18:20	When the old index is brought to the level of the new
13	10:18:24	one, it's called backwards linking. The other way
14	10:18:27	around is forward linking.
15	10:18:29	PRESIDENT: Sorry, Dr Meschi, can I just ask a question.
16	10:18:33	You said that the new updated CPI is more accurate by
17	10:18:38	default. Is it only more accurate in relation to the
18	10:18:43	contemporaneous expenditure while because it's
19	10:18:47	reflecting the changing spending patterns, but it
20	10:18:52	wouldn't necessarily be more accurate if you would
21	10:18:54	looked, say, five years previously?
22	10:19:01	WITNESS: Yes.
23	10:19:01	PRESIDENT: Thank you.
24	10:19:02	WITNESS: Yes, because they are what is called last pair
25	10:19:07	indices ^ so the base of the index is the base period.

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1	10:19:11	So it's five years -- of the weight is five years prior.
2	10:19:15	They all are -- the whole ^^ is characteristic the price
3	10:19:19	indices.
4	10:19:21	PRESIDENT: Thank you.
5	10:19:21	WITNESS: Sorry, the CPIs.
6	10:19:28	So what are the inflation indices in this dispute?
7	10:19:33	Before I apply this concept in general, before
8	10:19:39	I speak about the indices in this dispute, I wanted to
9	10:19:45	ask you if you had any other questions?
10	10:19:55	So what are the indices in this dispute? There are
11	10:20:02	several issues of COLI indices in this dispute.
12	10:20:09	COLI 1999, 2007, 2013 and 2018.
13	10:20:14	COLI 1999 is inaccurate due to fundamental
14	10:20:18	statistical and economic considerations and let me show
15	10:20:23	you these in relation to this table.
16	10:20:26	The first column is COLI 1999 and in the first
17	10:20:34	instance, it uses arts met I can averaging formula for
18	10:20:39	elementary aggregates ^^. As I said before, these are
19	10:20:41	known to produce bias.
20	10:20:45	Second, it uses a classification framework or goods
21	10:20:49	and services which is not in line with international
22	10:20:52	standards, because the way all these goods are
23	10:20:55	classified is as changed over time and the international
24	10:21:01	classifications that used now is called copy pop ^name),
25	10:21:08	which is a classification which was first published in

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1	10:21:10	the first instance in 1999 but it was not used by
2	10:21:15	COLI 1999. It was used by all subsequent indices.
3	10:21:22	In the third instance, these end cease never used by
4	10:21:27	GaStat, is never linked to any other index.
5	10:21:31	The other indices do not have these shortfalls. So
6	10:21:38	that these defects are only unique to COLI 1999.
7	10:21:48	Also, I point to this line here. The weight
8	10:21:52	reference for COLI 1999 is 1999, but the GaStat changed
9	10:21:59	the weights in 2007. The weights were obtained with the
10	10:22:04	survey that was base on a different classification. But
11	10:22:08	the weights were changed in 1997, because in 1997 -- in
12	10:22:13	2007, sorry, they changed and adopted these copy cop
13	10:22:19	classification in the survey ^ and they recalculated the
14	10:22:23	weights for COLI 1999 based on that survey.
15	10:22:32	So what is the effect of all this? COLI 1999
16	10:22:37	materially diverges from its successor indices between
17	10:22:42	2007 and 2013. Here there are two charts that show
18	10:22:48	this. The chart on the left shows the indices as they
19	10:22:52	were published and it is from this chart is very hard to
20	10:22:57	say much about them, because they all have different
21	10:23:02	base years and the only thing we can see by looking at
22	10:23:07	this chart is that these three indices are all paralegal
23	10:23:12	and the fact that they are paralegal means that they are
24	10:23:15	linked, so that the statistical agency actually linked
25	10:23:19	them.

1	10:23:28	The chart on the right, I have brought them back to
2	10:23:31	the same because year of 2005. The reason I have done
3	10:23:33	that is simply because that is the year of reference in
4	10:23:35	the WPA and it is immediately obvious by looking at this
5	10:23:43	line, that the blue line, which is COLI 1999 takes off
6	10:23:48	starting in essentially 2007 and departs from all the
7	10:23:53	other lines.
8	10:23:57	Ms Harfouche has a different take on this chart.
9	10:24:01	I disagree with the premise of that analysis. I can
10	10:24:04	explain this later in the proceedings.
11	10:24:07	What I notice from this line is that -- from this
12	10:24:11	chart is that the blue line shoots off and goes in
13	10:24:15	a different direction altogether.
14	10:24:18	PRESIDENT: Sorry, if we can just go back to that slide,
15	10:24:21	please.
16	10:24:24	WITNESS: Yes, I can't do that with the mouse.
17	10:24:30	PRESIDENT: Thank you. What I notice in figure 4-3 is that
18	10:24:36	in the first sort of 25, 26, 27, that COLI 1999 and COLI
19	10:24:45	2013 appear to be broadly the same and then suddenly
20	10:24:49	there's a deviation.
21	10:24:51	Yes.
22	10:24:52	PRESIDENT: What changed or can you explain why they were
23	10:24:54	the same and then there was a deviation.
24	10:24:58	WITNESS: They look the same in this line, they are
25	10:25:01	different. You can see in the next slide. What changed

1	10:25:06	is that all those indices are backtracked, they are
2	10:25:10	backtracked with weight from 2007 and in 2007, COLI 1999
3	10:25:18	also had a change in weights, but based on a different
4	10:25:21	classification. So the original weights, the original
5	10:25:25	basket, to which the weights had to be applied, was
6	10:25:30	a basket that was created with a different
7	10:25:32	classification. So the weights that were applied came
8	10:25:36	from a survey back that was based on a different
9	10:25:39	classification.
10	10:25:40	Just to give you an idea, I mean, going back to the
11	10:25:43	rice, 1999 had two types of rice, par boiled and brown
12	10:25:49	I think it was?
13	10:25:50	A. But 2007 had different types of rice. So the weights ^
14	10:25:55	for rice that were calculated from the 2007 expenditure
15	10:26:00	survey must have been different from the ones that were
16	10:26:05	calculated originally.
17	10:26:07	The combination, in might be, of this with the
18	10:26:13	formula effect is what caused that line to shoot off.
19	10:26:21	PRESIDENT: Sorry, can I just check. You said then that the
20	10:26:24	weights must have been different. Have you checked? Do
21	10:26:28	you know they were different?
22	10:26:32	WITNESS: The weights from 1999 to 2007?
23	10:26:35	PRESIDENT: Yes, because you said 2007 had different types
24	10:26:39	of rice, so the weights for rice that were calculated
25	10:26:42	for the for # expenditure survey must have been

1	10:26:45	different from the ones calculated previously. I just
2	10:26:48	wanted to check whether when you say must have been",
3	10:26:52	that was your conclusion or when whether you checked and
4	10:26:56	the weights were different.
5	10:26:58	WITNESS: No, because the weights at the level of the
6	10:27:01	elementary ago bats were not -- are never provided. The
7	10:27:05	weights above are provided. So the only thing that we
8	10:27:09	can see is that the weight for the aggregates are
9	10:27:14	different, not for the elementary ones. And we could
10	10:27:19	never reconcile them. What I was told by ga stated is
11	10:27:23	that they changed the weights in the 1999 formula based
12	10:27:30	on 2007 survey.
13	10:27:33	PRESIDENT: Thank you.
14	10:27:34	WITNESS: Then they applied the 1999 formulae to these
15	10:27:37	changed weights.
16	10:27:40	PRESIDENT: Thank you.
17	10:27:51	WITNESS: I have now explained what is the difference
18	10:27:53	between the COLI indices and this is we turn to the
19	10:27:59	indexation approaches.
20	10:28:01	So in this slide, there's what these two charts show
21	10:28:08	is GaStat view of the most accurate measure of
22	10:28:13	inflation, which is the green line, and COLI 1999, which
23	10:28:17	is the blue line.
24	10:28:20	Let's start with the chart on the left and what does
25	10:28:23	this chart tell us. This chart simply shows the price

1	10:28:33	path, right? It shows the price of rice, the price of
2	10:28:40	a kilo of rice.
3	10:28:43	Another way that we can show the same information is
4	10:28:49	on the chart of the right. So think about one kilo of
5	10:28:55	rice. The green line on the left here is the price of
6	10:29:00	one kilo of rice over this period of time. The green
7	10:29:05	line on the right simply shows how many kilos of rice
8	10:29:11	you can buy on each -- at each price. So because this
9	10:29:17	is the most accurate estimate of inflation, according to
10	10:29:21	GaStat, at each price on this green line, you can buy
11	10:29:26	one kilo of rice.
12	10:29:29	For the blue line is COLI 1999 and so it shows that
13	10:29:34	by the time the index was retired, whoever was buying
14	10:29:43	rice, according to that index, was able to buy more than
15	10:29:49	one kilo of rice and the area, the grey area here,
16	10:29:54	simply shows how many more kilos of rice, if you want,
17	10:30:02	the party being paid with this blue line was able to
18	10:30:09	afford.
19	10:30:11	Now, COLI 1999 was -- this continued
20	10:30:19	after January 2013 and the parties now need an index to
21	10:30:22	use from 2014 onwards. The question is how to precede
22	10:30:28	given that COLI 1999 was discontinued in 2014 and there
23	10:30:34	are two ways of doing this.
24	10:30:37	So the first way is the approach that has been taken
25	10:30:41	by Ms Harfouche, which is simply to carry on from the

1	10:30:48	blue line onwards.
2	10:30:52	So the consequence of this is that essentially bakes
3	10:30:56	in the inflation, the cumulative inflation under
4	10:31:02	COLI 1999 and progress gates it forward all the way to
5	10:31:05	the end. When you look at the right, you can see that
6	10:31:11	the red line is nowhere close to the green line and that
7	10:31:16	there are increasing -- there is increasingly more rice
8	10:31:22	with respect to what the most accurate measure of
9	10:31:25	inflation is than can be afforded under this approach.
10	10:31:29	So what I have done is what I propose to do is to
11	10:31:52	link COLI 1999 to COLI 2007 in 2007 which is the base
12	10:31:59	year for COLI 2007, the year in which the weights were
13	10:32:02	changed and simply move on from there.
14	10:32:08	What this does is if you want in a way is split the
15	10:32:17	overpayment, moving forward, in the sense that with
16	10:32:21	respect to the green line, there is more, still more
17	10:32:26	rice to be afforded, but what it does, it just corrects
18	10:32:31	and takes away the overpayment, the grey area and brings
19	10:32:37	it back to the level of the most accurate measure of
20	10:32:43	inflation.
21	10:32:45	It is absolutely true that there is a correction
22	10:32:50	here, but what I have attempted to do is I have
23	10:32:55	attempted to essentially guarantee margins and over the
24	10:33:02	year, in the lifetime of the project, because -- the
25	10:33:11	project is not over yet, there are five more years.

1	10:33:17	Do you have any questions?
2	10:33:21	PRESIDENT: I have a question, actually, for counsel,
3	10:33:23	because we're now over 20 minutes even with my
4	10:33:28	questions.
5	10:33:28	Is what do you want to do about that?
6	10:33:32	MR ROBB: My view is any time that's being used by Dr Meschi
7	10:33:36	now comes off SWPC's time. As long as we're going to
8	10:33:42	wrap up in the next five minutes or so, I'm not going to
9	10:33:48	rain on her parade, as it were, but we hear what you
10	10:33:54	say.
11	10:33:54	MR HANKE: I agree that the consequence must be that it
12	10:33:56	comes from my client's time. I think we're quite close
13	10:34:00	to that time now stopping anyway. But I agree with what
14	10:34:05	Mr Robb says.
15	10:34:08	PRESIDENT: We're happy for you to carry on, then. Thank
16	10:34:10	you.
17	10:34:11	WITNESS: Okay. How do we link future indices in there are
18	10:34:15	two possible situations for new index publication. So
19	10:34:19	the first one is back-to-back, so one index terminates
20	10:34:25	and the next index starts and starts, let's say -- call
21	10:34:33	2007 terminates in 2012 December and COLI 2013 starts in January 2013, published with a few months of
22	10:34:44	backwards estimate, and you link them back-to-back at
23	10:34:50	the last time in which the old index was available and
24	10:34:55	then move forward.
25	10:34:57	There is a possibility of a periods a overlap, which

1	10:35:01	I had not considered, because the last two indices were
2	10:35:04	never published with the overlap, but if that happens,
3	10:35:08	my proposal is to link them at the first possible time.
4	10:35:16	So to link the new index more accurate index to the
5	10:35:18	old index ^ as soon as the new index is published, if
6	10:35:25	there is overlap.
7	10:35:27	Then apply the new charge rate at the first possible
8	10:35:33	opportunity afforded by the WPA, which is generally the
9	10:35:36	year after.
10	10:35:38	I would say that this is, for me, consistent with my
11	10:35:52	instructions. Aindividuals prolonged use of a less
12	10:35:56	accurate index and so this is my approach.
13	10:36:02	I don't think I need to show the damages
14	10:36:05	calculations, because they are agreed among the experts,
15	10:36:09	so I could stop here.
16	10:36:13	MR GHAFFARI: One question. Where there's a period of
17	10:36:15	overlap, do you essentially disregard the last part of
18	10:36:21	the previous index?
19	10:36:27	WITNESS: When there is an overlap in the approach, yes, but
20	10:36:33	as I said, I have not considered that before, because
21	10:36:36	I didn't think that this would happen, but, yes.
22	10:36:41	MR GHAFFARI: Thank you.
23	10:36:54	PRESIDENT: I had one question for you, Dr Meschi, because
24	10:36:57	you say in your reports and you've mentioned today that
25	10:36:59	you had the instructions to assume that the parties

1	10:37:05	rationale was to adjust to reflect true inflation.
2	10:37:10	Is there anything about your analysis and what
3	10:37:13	you've done that would be different if you hadn't had
4	10:37:16	that instruction?
5	10:37:21	WITNESS: No. The reason why is because as an economist, to
6	10:37:30	me, you know, two parties wouldn't enter in a contract
7	10:37:37	if they wanted to reflect something that's not true.
8	10:37:48	PRESIDENT: But --
9	10:37:51	WITNESS: Inflation, true inflation are the same thing ^^.
10	10:37:53	PRESIDENT: But it could simply have been a commercial deal
11	10:37:55	which reflects all sorts of inputs into the deal, but is
12	10:38:02	that something that you're only looking at the inflation
13	10:38:05	aspects?
14	10:38:07	WITNESS: I only look at the inflation aspects, so I've been
15	10:38:12	asked -- yeah, I'm sorry. What other inputs into the
16	10:38:18	deal?
17	10:38:19	PRESIDENT: For example, it would be possible -- sort of
18	10:38:25	talking in the hypothetical here, that the parties might
19	10:38:29	have agreed a tariff rate that was lower and then agreed
20	10:38:35	an index which they knew was what you would say was
21	10:38:38	overly generous, because those two would off set each
22	10:38:41	other. That there's a lot of parameters when you're
23	10:38:44	entering into a commercial deal, not just inflation.
24	10:38:48	WITNESS: But I think in order to do that, they would have
25	10:38:51	had to know that that index was overestimating

1	10:38:56	inflation. I don't think they could possibly know it at
2	10:39:00	that time when they entered the contract. It was not
3	10:39:05	known that COLI -- when the contract was signed, it was
4	10:39:10	not publicly known that that index had these problems
5	10:39:17	and it was fund mentally flawed.
6	10:39:20	PRESIDENT: For example, was it known that it used the ath
7	10:39:23	met I can method rather than geometric method.
8	10:39:27	WITNESS: I don't think it was known publicly, no, no.
9	10:39:31	PRESIDENT: Okay.
10	10:39:32	WITNESS: Because the first time that this appeared publicly
11	10:39:37	was after COLI 2007 was published. So what actually
12	10:39:43	happened was that SAMA, in 2012, in the unwas report ^^
13	10:39:55	was still showing inflation according to COLI 1999 and
14	10:40:04	they always go three, four years back. In 2013, the
15	10:40:08	next iteration of their annual report, which if I'm
16	10:40:11	wrong is the 49th, they showed inflation according to
17	10:40:16	COLI 2007. When a few years back ^.
18	10:40:20	If one compares those two inflation, that's where
19	10:40:22	you see there is a problem. That's the first time that
20	10:40:26	you can see that there is actually a problem, that the
21	10:40:30	measure is different, and quite a bit so.
22	10:40:35	PRESIDENT: Thank you. No further questions from me at this
23	10:40:37	point.
24	10:40:40	MR KIRYUSHIN: Just to follow up on something that you said
25	10:40:43	in response to the chair's question.

1	10:40:45	You said the inflation that it wouldn't matter to
2	10:40:49	you -- I'm just reading from the transcript. That it
3	10:40:52	wouldn't matter -- your analysis wouldn't differ in your
4	10:40:55	instructions on the true inflation were not there. But
5	10:41:00	I had understood even on your slides, you mentioned that
6	10:41:04	bias and accuracy are basically properties of the
7	10:41:06	indices, so you either have accuracy in terms of
8	10:41:10	reflection of what we're calling true inflation as
9	10:41:14	opposed to certainty of the index that you have. Is my
10	10:41:19	understanding correct?
11	10:41:23	WITNESS: Accuracy in -- so you either have accuracy in the
12	10:41:33	sense of the -- but the certainty regarding the index is
13	10:41:41	the certainty regarding the use of the index you mean?
14	10:41:46	Which index you're using or?
15	10:41:49	MR KIRYUSHIN: The reference point, so the index is my
16	10:41:52	reference point.
17	10:41:54	WITNESS: Your reference point is the chart rate established
18	10:41:57	in 2005 and then you escalate it according to an index
19	10:42:02	that you agree to use.
20	10:42:04	KIRYUSHIN: Correct.
21	10:42:05	WITNESS: Now, if you are asking me if the agreement was to
22	10:42:13	actually use that index until the index was no longer
23	10:42:18	available, that is the close of the WPA, so you use that
24	10:42:22	index until it's no longer available, or the parties
25	10:42:27	agree otherwise, or I think it says that there is an

1	10:42:31	independent expert who needs to determine on a different
2	10:42:37	index or a different methodology.
3	10:42:40	I am not a lawyer, so I can't really interpret this
4	10:42:46	clause in legal terms, but from an economist
5	10:42:52	perspective, when you use an inflation index, you are
6	10:42:55	trying to -- and you apply it to a charge rate, you're
7	10:43:01	doing this to protect your margins over a certain period
8	10:43:04	of time. One of the reasons why this is a popular way
9	10:43:09	of doing it is because it actually prevents perverse
10	10:43:18	incentives that could arise from other types of
11	10:43:23	contracts. This is, for example, the reason why, if you
12	10:43:27	think about the regulatory regimes in the UK, they are
13	10:43:31	all based on this type of formula. There's a ratchet
14	10:43:35	formula that ^^ a charge rate is agreed at the beginning
15	10:43:39	between the regular interest and the regulated company
16	10:43:41	and then every year, it is increased by a price index
17	10:43:48	minus a factor that represents efficiency and that is in
18	10:43:52	order to have the system as transparent as possible and
19	10:43:58	avoid continuously having to go back and review this
20	10:44:02	charge rate that is very final consuming, expensive and
21	10:44:07	^^.
22	10:44:09	MR KIRYUSHIN: But again, just to perhaps I'm missing it
23	10:44:13	here, but you're saying it wouldn't matter whether or
24	10:44:17	not I was asked you as an expert were asked ^ whether to
25	10:44:20	reflect true inflation or whether I was asked not to

1	10:44:23	reflect true inflation. It wouldn't change the outcomes
2	10:44:26	of your report.
3	10:44:31	WITNESS: It wouldn't, because from an economic perspective,
4	10:44:36	inflation -- you're not trying to measure something that
5	10:44:39	is false and in contract, if you agree to measure
6	10:44:44	inflation, it must be through inflation ^^ the index, it
7	10:44:52	must be that you are trying to reflect that. What else
8	10:44:58	would you reflect? I don't think any party will agree
9	10:45:01	not to reflect true inflation. If an index doesn't
10	10:45:06	reflect true inflation, there are perverse incentives,
11	10:45:09	it becomes arbitrary and if that is the case, there is
12	10:45:13	always one party that wins and one party that loses.
13	10:45:18	MR KIRYUSHIN: Thank you. That's much clearer.
14	10:45:24	PRESIDENT: No further questions from the tribunal at this
15	10:45:26	stage.
16	10:45:28	Mr Hang, anything further from you.
17	10:45:30	MR HANKE: Nothing further from me.
18	10:45:32	
19	10:45:32	Cross-examination by Mr Robb
20	10:45:34	MR ROBB: Thank you very much.
21	10:45:38	Dr Meschi, is that the correct pronunciation of your
22	10:45:40	name? I just want to make sure, Dr Meschi?
23	10:45:42	A. Yeah, I think for people who speak English, to pronounce
24	10:45:47	my surname mess can I is too difficult, so I always say
25	10:45:50	me she ^. I myself say ^^ Italians.

1	10:45:54	Q. Okay, I will go with Meschi, then?
2	10:45:57	A. Yeah, I think it's easier.
3	10:45:59	Q. If that's okay.
4	10:46:01	So as a preliminary point, obviously you know I'm
5	10:46:03	here to ask you some questions. My aim is asking the
6	10:46:08	questions is to test your evidence, but the key part of
7	10:46:11	that is that you understand the questions, so that when
8	10:46:14	you give an answer, you know who you're answering.
9	10:46:17	I will endeavour to make my questions clear. Obviously
10	10:46:22	if there comes a time, I'm sure there will do, when my
11	10:46:25	question is not sufficiently clear, please ensure that
12	10:46:27	you say I don't understand" and I will attempt to
13	10:46:30	rephrase it to make it clear here, because I don't want
14	10:46:33	to try and trick you, I just want to make sure that I'm
15	10:46:35	getting your clear answers.
16	10:46:40	So moving on now, can I just ask you, please, when
17	10:46:43	were you first retained in relation to this dispute?
18	10:46:47	A. When I was first retained?
19	10:46:49	Q. By SWPC in relation to this dispute?
20	10:46:54	A. It was -- the exact date I do not remember, but it was
21	10:46:58	about -- it was during the pandemic, it must have been
22	10:47:02	about June 2020. I can't remember the exact date. But
23	10:47:07	I think it must have been that date.
24	10:47:12	Q. Have you been retained by SWPC in relation to other
25	10:47:15	disputes?

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1	10:47:17	A. No. In the past? No. I am retained in relation to
2	10:47:23	other disputes, the SWEC.
3	10:47:26	Q. In relation related dispute, how many other disputes are
4	10:47:29	you retained in by SWPC for ^^?
5	10:47:33	A. Three.
6	10:47:34	Q. Including this one?
7	10:47:35	A. Yes.
8	10:47:43	Q. I just want to pick up now by looking at your
9	10:47:46	instructions and the meaning of true inflation. Can we
10	10:47:51	start, please, by having paragraph 1.30 of your first
11	10:47:56	report, which is D114.
12	10:48:31	Sorry, it's D1, page 14, paragraph 1.30 at the
13	10:48:40	bottom.
14	10:48:42	PRESIDENT: Dr Meschi, it will come up on the screens either
15	10:48:44	side of yous well.
16	10:48:46	A. Right.
17	10:48:46	MR ROBB: Do you have that there?
18	10:48:47	A. So my first report, this is which -- this is not the
19	10:48:53	first report in this arbitration.
20	10:48:55	Q. Yes. It is? Okay.
21	10:49:09	This is the second part. Okay. Okay.
22	10:49:19	Q. So here you say in preparing my report I'm instructed to
23	10:49:22	assume that the parties action article in including
24	10:49:25	^reading...) was to adjustment payments for true
25	10:49:27	inflation." ^doc.

1	10:49:27	Do you see that?
2	10:49:29	A. Yeah.
3	10:49:34	Q. Then perhaps we could go through to page D1-23, which is
4	10:49:41	within the same report, paragraph 2.15(3). Do you have
5	10:49:56	that?
6	10:49:58	Then you can see there what you've headed this
7	10:50:02	subparagraph Ms Harfouche's approach to indexation is
8	10:50:04	not consistent with the parties action article for the
9	10:50:06	inclusion of the indexation clause in the WPA." ^doc.
10	10:50:16	Do you see that?
11	10:50:18	A. So this is which report?
12	10:50:20	Q. This is your first report, we're in the same document.
13	10:50:22	A. Okay.
14	10:50:24	Q. You can see there you have said one of the reasons --
15	10:50:27	this is one of your reasons for disagreeing with
16	10:50:28	Ms Harfouche's approach, is that it's not consistent
17	10:50:31	with what you're instructed is the parties rationale for
18	10:50:35	inclusion of the indexation clause in the WPA. Do you
19	10:50:38	see that?
20	10:50:39	Yes.
21	10:50:46	Q. So you don't say in your reports what is meant by or
22	10:50:50	what you understand by true inflation, but you do say
23	10:50:53	that in the joint statement at item 4, we can have that
24	10:50:58	up. It's D130, page 4.
25	10:51:15	Do you have that?

1	10:51:17	A. Do you want me to read the first paragraph?
2	10:51:19	Q. No, I just want to make sure we're got the right ^^ you
3	10:51:24	can see there.
4	10:51:25	Here you say -- and this is something you said
5	10:51:27	earlier in your presentation -- that it would be
6	10:51:29	probabliatively expensive and impractical to calculate
7	10:51:33	true inflation; is that correct?
8	10:51:36	A. Where is it? Is it on the --
9	10:51:41	Q. Yes, sorry, if you go down, if you scroll down a bit
10	10:51:43	further, it's the value of -- paragraph begins the value
11	10:51:48	of true inflation ^doc)?
12	10:51:50	A. The value of true inflation is not known with certainty.
13	10:51:54	This is because it would be impractical and
14	10:51:56	prohibittatively expensive to track the price of every
15	10:51:59	good and service ..." ^doc.
16	10:52:01	Q. Yes. So effectively what you're saying here is in the
17	10:52:06	real world, nobody knows what true inflation is?
18	10:52:16	A. Essentially, you cannot measure it.
19	10:52:20	Q. Yes.
20	10:52:21	A. You cannot measure it. Your best measure is the price
21	10:52:26	index. I mean, essentially, there are everything that
22	10:52:29	has to do with the population is not known in the real
23	10:52:36	world. If it was known statistics wouldn't exist.
24	10:52:40	Q. Okay, but I'm just trying to clarify with you that you
25	10:52:43	accept that in the real world, no one can know what true

1	10:52:47	inflation is at any point in time?
2	10:52:49	A. No one can know, they can only measure it in an n
3	10:52:54	biassed way or in a biased way.
4	10:52:58	Q. If you've been instructed to assume that the parties
5	10:53:00	rationale was to track true inflation, do you accept
6	10:53:04	that that means on that instruction, that the parties
7	10:53:08	intended to do something which was simply not possible?
8	10:53:14	A. No, because I consider true inflation as inflation.
9	10:53:18	When I say inflation, to me it means something very
10	10:53:25	specific, actually. Because as a statistician, as
11	10:53:31	average economist, right, I know that you can't have
12	10:53:34	a measure of every price. So what you are trying to
13	10:53:37	measure, you are trying to get as close as possible to
14	10:53:40	that measure and that what statistics does. What you
15	10:53:45	are trying to do to use the closest possible measure to
16	10:53:49	that and not to choose a measure that you know it's
17	10:53:54	biased. Why would you want to do that?
18	10:53:58	Q. But your instruction was to assume the parties intended
19	10:54:01	to track true inflation; is that correct?
20	10:54:04	Yes.
21	10:54:04	Q. Right. And you accept that it's not possible to track
22	10:54:07	true inflation; is that correct?
23	10:54:09	A. No, I don't accept that. You can estimate true
24	10:54:15	inflation. I mean, that's what a statistician does.
25	10:54:19	Q. You say that you track true inflation you equate true

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1	10:54:27	inflation in your reports with the next accurate
2	10:54:37	indecision; is that correct?
3	10:54:40	A. What you cannot ^ measure is every single price that
4	10:54:45	exists. What you can do is you can track true inflation
5	10:54:52	via an appropriate estimator. The same way as we track
6	10:54:59	just about everything else. You can't also measure
7	10:55:03	Guangdong P, right, by tracking every single things that
8	10:55:09	produced, but you can estimate Guangdong P and produce
9	10:55:14	an estimate and that was what statistical offices do.
10	10:55:19	They produce estimates of underlying population
11	10:55:26	quantities that are the true quantities.
12	10:55:33	Q. Is it your true that you don't need a true value, you
13	10:55:35	just need a more accurate estimator; is that correct?
14	10:55:37	A. You need a best estimate, yes.
15	10:55:39	Q. I see. So you have reininterpretted the instructions as
16	10:55:44	meaning that the parties intended to use the next best
17	10:55:50	estimator; is that correct?
18	10:55:52	A. The best measure that there was of the underlying
19	10:55:55	inflation, which for all intends and purposes is true
20	10:55:59	inflation, because it's the best measure that there is.
21	10:56:04	Q. I think you said that during the period when COLI 1999
22	10:56:07	was being used, there was no basis for saying that it
23	10:56:11	was inaccurate; is that correct?
24	10:56:13	A. Yes, yes.
25	10:56:15	Q. I think you refer to the fact that when SAMA started

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1	10:56:21	publishing reporting in 2013, ^ it was possible to see
2	10:56:25	that there was a divergence between COLI 1999 and
3	10:56:31	COLI 2007; is that correct?
4	10:56:32	A. Mm-hmm.
5	10:56:33	Q. But that didn't tell you that it just told you that
6	10:56:35	there was a difference in estimate, it didn't tell you
7	10:56:38	why that there was a difference in estimate, did it?
8	10:56:41	A. Me? I wasn't there in 2013. But anybody who would have
9	10:56:48	looked at those -- let's say that I'm somebody who has
10	10:56:54	to pay and this paying according to a certain formula,
11	10:56:59	right? And all of a sudden, I realise, okay, in the
12	10:57:02	last two years, I've paid this much, this proportion.
13	10:57:06	This year, I'm noticing that it was actually quite
14	10:57:11	different. What is going on here? Let's try to see if
15	10:57:14	we can recollect few this situation.
16	10:57:18	Q. What I'm trying to say is that you could have seen there
17	10:57:20	was a difference in the numbers being produced by the
18	10:57:23	two indices, but they didn't tell you the reason for the
19	10:57:26	difference, did it ^^?
20	10:57:27	□20240924□0033A. No, I would have asked the statistical office. If I had
21	10:57:31	been asked at that time what is going on, give us your
22	10:57:34	opinion, the first thing I would have done is what I did
23	10:57:37	in 2020, try to set up a meeting with GaStat, at that
24	10:57:41	time wasn't GaStat, was CDSI, I think ^.
25	10:57:45	Q. If we go back to paragraph 1.30 of your report, your

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1	10:57:48	first report, D1, page 14.
2	10:57:54	A. This is my first report?
3	10:57:55	Q. Yes. We can see that as part of -- the reason why you
4	10:58:19	were instructed about the parties' raise article was
5	10:58:22	something that SEPCO had said in its prove arbitration."
6	10:58:24	^doc.
7	10:58:25	Do you see that? Then you footnote 43 and 44 on
8	10:58:29	page 15, if we just scroll down so we can make sure we
9	10:58:32	get it. We see the references are to the SOC in the
10	10:58:39	previous arbitration at paragraph 3.6 and paragraph 3.2.
11	10:58:42	Do you see that?
12	10:58:43	A. Yes.
13	10:58:43	Q. If we could bring up paragraph 3.2, which is at B90,
14	10:58:50	page 12, please.
15	10:59:06	So we can see 3.2:
16	10:59:08	"It was never the intention of the parties that the
17	10:59:10	local portions of the charge rates, which rely on
18	10:59:13	indeckisation would be ^reading...) real movements in
19	10:59:15	prices ie inflation in the KSA." ^doc.
20	10:59:18	Do you see that?
21	10:59:18	A. Mm-hmm.
22	10:59:19	Q. Then 3.6, I just want to focus on the last pat of that
23	10:59:25	paragraph:
24	10:59:25	"The parties put this rationale into effect in the
25	10:59:27	agreement through periodic adjustments to the charge

1	10:59:29	rates for inflation as measured by movements in agreed
2	10:59:33	USA and KSA price indices." ^doc.
3	10:59:35	Do you see that?
4	10:59:36	A. Yes.
5	10:59:37	Q. So if we go back to your paragraph 1.30,?
6	10:59:43	A. Sorry, can I read that again?
7	10:59:47	Q. Yes.
8	10:59:51	A. Is it in ... (Pause).
9	11:00:03	Okay.
10	11:00:04	Q. Going back to -- if we go back to your report, paragraph 1.30, where you quote from those paragraphs.
11	11:00:10	Do you see, if we can just scroll down a bit is we can
12	11:00:13	get the second part of paragraph 1.30. You see that.
13	11:00:20	But you didn't quote, you didn't refer in paragraph 1.30
14	11:00:23	to the sentence which said in the statement of claim the
15	11:00:25	parties put this rationale into effect in the agreement
16	11:00:28	through periodic adjustments to the charge rates for
17	11:00:30	inflation as measured by movements in agreed USA and KSA
18	11:00:34	price indices." ^doc.
19	11:00:35	Did you?
20	11:00:38	A. This is my instruction.
21	11:00:40	Q. I see. So you didn't go and read this yourself?
22	11:00:45	A. Sorry?
23	11:00:46	Q. You didn't go and read the statement of claim yourself,
24	11:00:48	did you? Did you --
25	11:00:50	A. I read the statement of claim, but, I mean, a long time

1	11:00:54	ago, but this is what my instruction says. Didn't they
2	11:01:02	track inflation following the inflation indices in the
3	11:01:07	KSA? It was ^^ that was COLI 1999 when they agreed to
4	11:01:14	use it.
5	11:01:15	Q. Yes. You're saying you just copied and pasted the
6	11:01:20	instruction given to you by SWPC into your report?
7	11:01:23	A. It was given to me by dla, not SWPC.
8	11:01:28	Q. When I say ^^ I mean dla, so you just copied and pasted
9	11:01:32	the bit from dla's instruction into your report, did
10	11:01:35	you?
11	11:01:35	A. That's my instruction, yes.
12	11:01:50	Q. If we just look now at paragraph 5.24 of your first
13	11:01:55	report, D1-73.
14	11:02:25	Look towards the end of that. You say at the end,
15	11:02:31	very final sentence:
16	11:02:32	"Put simply, SWPC overpaid SEPCO for many years."
17	11:02:38	^doc.
18	11:02:38	Do you see that? And in fact, you're making that
19	11:02:46	statement because of what came out from
20	11:02:51	GaStat's November 2020 view; is that correct?
21	11:02:59	A. The GaStat 2020 view provided me with an index of what
22	11:03:13	they considered to be the most accurate measure of
23	11:03:18	inflation and they provided it to me in 2020, because
24	11:03:22	that is when I asked. But already, had I asked them in
25	11:03:34	2014, I would have probably received the same answer,

1	11:03:41	because they didn't link to indices, so they would have
2	11:03:44	given me COLI 2007.
3	11:03:47	Q. But whether it happened in 2014 or 2020, when you're
4	11:03:52	saying SWPC overpaid SEPCO for many years ^doc)?
5	11:03:56	A. Yes.
6	11:03:57	Q. That's on the basis of applying a non-contractual index;
7	11:04:00	is that correct?
8	11:04:04	A. No, it is a windfall essentially. I didn't say that
9	11:04:11	they shouldn't have or -- that's just an estimate of
10	11:04:14	a windfall that was caused by the application of an
11	11:04:19	index that overstated inflation.
12	11:04:24	Q. But to say that someone overpaid means, suggests that
13	11:04:29	they should have been paying a lesser amount; do you
14	11:04:33	agree?
15	11:04:34	A. They should have -- if they had used the most accurate
16	11:04:38	measure of inflation, which was not available at that
17	11:04:41	time, therefore they couldn't have used it, they would
18	11:04:46	have paid less. So it's an unintended windfall.
19	11:04:54	Yes, it's an unintended windfall. It's an
20	11:05:00	overpayment -- (overspeaking) -- ^^.
21	11:05:00	Q. It depends what you mean by intended. Do you agree that
22	11:05:03	COLI 1999 was in fact specified in the contract?
23	11:05:06	A. Of course it was specified. It was the only index
24	11:05:09	available. They couldn't have done anything else.
25	11:05:12	Q. So your statement that there has been overpayment for

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1	11:05:17	many years depends on applying an index that wasn't
2	11:05:21	available at the time; is that correct?
3	11:05:26	A. Yes, yes, it's an estimate.
4	11:05:28	Q. And an index that wasn't included in the contract?
5	11:05:31	A. Yes, in fact, nobody is asking anybody for any money
6	11:05:37	back. That's just to give an idea of what the windfall
7	11:05:46	was from using that index.
8	11:05:50	Q. I'm very happy for you to keep on using words like
9	11:05:53	windfall, because it explains your attitude, so your
10	11:05:57	attitude is that and your understanding of the process
11	11:06:00	is that SEPCO has received some kind of undeserved
12	11:06:09	benefit and your job is to try and put that right; is
13	11:06:11	that correct?
14	11:06:12	A. No, not at all. I have been asked for my opinion from
15	11:06:16	an economical statistical perspective of what is --
16	11:06:22	would be the appropriate way of linking these indices.
17	11:06:28	So I have gone and spoken to the statistical agency and
18	11:06:32	I made up my mind as to what this implies. From that
19	11:06:38	perspective, this is what is implies. So --
20	11:06:44	Q. Okay, but you've said, you've used words like
21	11:06:48	overpayment, you've used words like windfall?
22	11:06:50	A. Yes.
23	11:06:51	Q. And your view, I think, is that SEPCO obtained a benefit
24	11:06:57	under the contract which it really shotn't have had and
25	11:07:02	therefore, when you're assessing the appropriate way of

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1	11:07:05	linking one factor to take into account is how to undo
2	11:07:09	that benefit; is that correct?
3	11:07:11	A. No, they did not enjoy a benefit that they shouldn't
4	11:07:16	have had. Right? That was a windfall and it was
5	11:07:20	unintended and that is what it was, but then moving
6	11:07:25	forward, the question is, does it have to propagate
7	11:07:29	forever or not? My opinion is that because it is based
8	11:07:34	on an index that is fundamentally flawed, it should not.
9	11:07:42	But then, you know, this is my opinion of an economist.
10	11:07:44	I'm not a lawyer. From the point of view of an
11	11:07:49	economist, that's the way it is.
12	11:07:52	Q. Weight investigate the way in which you approach it in
13	11:07:54	due course.
14	11:07:55	I just want to touch one more point on the idea of
15	11:08:00	true inflation, because I think it's very important that
16	11:08:04	we distinguish true inflation from the idea of the
17	11:08:09	actual inflation experienced by any particular
18	11:08:12	individual. Do you agree those are two very different
19	11:08:16	concepts?
20	11:08:17	A. Yes.
21	11:08:20	Q. Measuring true inflation is not the same as trying to
22	11:08:24	measure the actual inflation experience by any
23	11:08:28	individual?
24	11:08:31	A. It's not the same thing and it's not what -- the parties
25	11:08:35	agreed to measure to escalate the charge rate, according

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1	11:08:42	to the measure of general price inflation in Saudi
2	11:08:48	Arabia, not to measure according to what any other
3	11:08:54	measure or their individual experience of inflation.
4	11:09:00	The inflation that is experienced by a single
5	11:09:06	individual, a single individual, cannot be estimated.
6	11:09:08	That's why they estimated the inflation -- the inflation
7	11:09:14	experienced by the typical household, because this is
8	11:09:18	all done on average and also bias is an average concept.
9	11:09:38	Q. I'm going to suggest to you that SWPC's instruction to
10	11:09:41	you about the parties' intentions in regard to true
11	11:09:47	inflation is a fundamental part of your opinion, isn't
12	11:09:51	it?
13	11:09:52	A. Can you repeat the question, please?
14	11:09:54	Q. SWPC's instruction to you about the parties' intentions
15	11:09:58	with respect to true inflation is a fundamental part of
16	11:10:01	your opinion, isn't it?
17	11:10:06	A. I took into account that instruction in forming my
18	11:10:11	opinion, but it is not a fundamental part of it.
19	11:10:17	□20240924□0040 I think it's a fundamental part of it from what concerns
20	11:10:19	the law, but for what concerns the economics, and the
21	11:10:24	statistics, it is not.
22	11:10:29	Q. I see. So if we could perhaps pick up -- throughout
23	11:10:33	your certainly your first report, paragraph 5.22, D1,
24	11:10:41	page 72. Do you have that?
25	11:10:54	A. 5.22?

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1	11:10:55	Q. 5.22, so again you're referring to the parties'
2	11:10:58	rationale?
3	11:11:08	A. This is what Ms Harfouche says.
4	11:11:12	Q. No, you are saying:
5	11:11:13	"I am instructed to assume that the parties'
6	11:11:15	rationale for including the indexation clause in the
7	11:11:17	within amount was to adjust the payments for true
8	11:11:19	inflation." ^doc.
9	11:11:20	Yes?
10	11:11:20	A. Mm-hmm.
11	11:11:21	Q. Then you use that to explain something that Ms Harfouche
12	11:11:26	has said. If we goo to paragraph 6.3 in the same
13	11:11:39	report, which is page D1-79, 6.3(1), you again refer to
14	11:11:52	parties'
15	11:11:52	rationale as instructed to you by ...?
16	11:12:04	A. Yes.
17	11:12:05	Q. We can even go back to paragraph 5.30, which is at D1-74
18	11:12:13	to 75. Again, if we scroll down to the second half of
19	11:12:26	the paragraph:
20	11:12:27	"In my opinion, this is clearly consist if the wert
21	11:12:31	parties rationale as stated by." ^doc.
22	11:12:34	I think that should be -- I think that's supposed to
23	11:12:37	be by SWPC. Is that a typographical error?
24	11:12:45	A. SEPCO, it's not SWPC.
25	11:12:48	Q. Sorry?

1	11:12:53	PRESIDENT: You were very quiet, then, Dr Meg. I didn't
2	11:12:56	hear.
3	11:12:58	MR ROBB: Sorry, it should be the first ...?
4	11:13:02	A. I don't understand the question.
5	11:13:04	PRESIDENT: No, I was just asking you to speak up?
6	11:13:06	A. Sorry.
7	11:13:07	PRESIDENT: Could you also --
8	11:13:08	A. Maybe I should drink.
9	11:13:09	PRESIDENT: Can you also make sure that you say "yes" or
10	11:13:11	"no", because a couple of times you said mm-hmm, by
11	11:13:15	comes out on the transcript and it's not sure whether
12	11:13:17	you were agreeing or not?
13	11:13:19	A. Sorry.
14	11:13:20	PRESIDENT: That's quite all right.
15	11:13:31	MR ROBB: So here you've referred to the parties' rationale
16	11:13:34	and you said as stated by SEPCO." ^doc?
17	11:13:37	A. Can I actually read the whole thing, because I don't --
18	11:13:40	Q. Of course. I don't know who this refers to. Maybe
19	11:13:46	I should -- is this my first report?
20	11:13:50	Q. Yes. You can see the date on the top right hand corner
21	11:13:53	of 4 July?
22	11:13:54	A. Okay. So 5.306789 let me just go there and read it on
23	11:14:05	this. (Pause).
24	11:15:17	Yes, okay. I finally understand. Is maintaining
25	11:15:23	the margins. This is what it is referring to.

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1	11:15:30	Q. So is the reference to SEPCO a typographical error and
2	11:15:34	should that be SWPC or do you mean to refer to SEPCO?
3	11:15:40	A. I think it's what was written in the statement of claim.
4	11:15:45	Q. I see, so this is your own assessment of what SEPCO is?
5	11:15:49	MR ROBB: Saying in the statement of claim?
6	11:15:52	A. There was one sentence ^ in the statement of claim.
7	11:15:55	I mean, I think it's going the take too long for me to
8	11:15:59	go and read everything back. I have to figure out where
9	11:16:04	this is coming from.
10	11:16:06	Q. Sorry, when I asked you earlier on about your
11	11:16:11	instruction at paragraph 1.30 and the references to the
12	11:16:15	SEPCO statement of claim, you told me that you just
13	11:16:18	effectively copied and pasted whatever DLA had told you
14	11:16:21	to put into your instructions; is that correct?
15	11:16:29	A. This was my instruction, I didn't copy and paste. It
16	11:16:31	was the instruction.
17	11:16:33	Q. Yes, sorry. I'm trying to copy and pasting is not --
18	11:16:37	I'm not trying to criticise you, because that's what an
19	11:16:39	expert would do. If an expert is given an instruction,
20	11:16:43	you take that, could by and paste means you copy it out
21	11:16:45	of the document that that send you and put it into your
22	11:16:48	report in a completely unaltered fashion; is that
23	11:16:51	correct?
24	11:16:51	A. In a completely?
25	11:16:52	Q. Unaltered fashion?

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1	11:16:54	A. Yes.
2	11:16:54	Q. Yes, exactly. So when I asked you earlier on about this
3	11:17:00	instruction, my understanding of your answer was that
4	11:17:03	you hadn't gone back to raid the statement of claim
5	11:17:08	yourself?
6	11:17:11	A. I did read the statement of claim, but I raid it a long
7	11:17:14	time ago. It was the statement of claim in the first
8	11:17:22	arbitration and my instruction stayed the same for four
9	11:17:27	years. I can't remember everything from four years ago.
10	11:17:59	Q. If we could go to paragraph 5.35, which is at D1-76. Do
11	11:18:19	you have that?
12	11:18:21	A. Mm-hmm.
13	11:18:26	Q. This is again part of your explanation about why your
14	11:18:31	approach is to be preferred to that of SEPCO; is that
15	11:18:34	correct?
16	11:18:36	A. Yes.
17	11:18:38	Q. The first point is that you say that your position is
18	11:18:45	more balanced because SWPC is not seeking a true up for
19	11:18:51	historic overpayments. Can I understand what you mean
20	11:18:54	by that, which is that SWPC is not seeking to recover
21	11:18:59	payments it made between 2009 and 2013, when COLI 1999
22	11:19:08	was the index being used?
23	11:19:12	A. It's more balance for simple reason. The payment made
24	11:19:15	up to 2013, as far as I'm concerned, are the sunk cost,
25	11:19:19	right? So it's something that happened conditioned

1	11:19:22	cannot be modified in anyway, shape or form because
2	11:19:25	there were contractually agreed. Is more balanced
3	11:19:31	because these payments that were made were linked to an
4	11:19:38	index that was wrong and if you actually continue the
5	11:19:44	linking and continue along that inflation path, you
6	11:19:48	carry on making these -- you bake those payments into
7	11:19:55	the future and it is when you are looking at the future
8	11:20:00	that you can modify the situation.
9	11:20:03	The position is more balanced, because essentially
10	11:20:06	you are rectifying something that had gone wrong.
11	11:20:11	Q. Sorry. That's not actually what you're saying here.
12	11:20:14	You're referring -- I just want to check what you mean
13	11:20:16	by seeking a true up for historic overpayments ^doc).
14	11:20:21	I had understood that what you're saying there is
15	11:20:27	that you think the position is more balanced because
16	11:20:31	SWPC is not seeking to recover so-called overpayments
17	11:20:35	between 2009 and 2013; is that correct?
18	11:20:42	A. It provides ^^ through the application of what -- of the
19	11:20:48	contract as it was up to the end of that index when the
20	11:20:53	COLI 1999 stopped being produced, so they are --
21	11:21:00	Q. I'm not actually getting an answer to the question,
22	11:21:02	I don't think. Just focusing on the words used historic
23	11:21:07	overpayments, yes?
24	11:21:09	A. Yes.
25	11:21:09	Q. Can I just check that what you mean there is payments

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1	11:21:17	made by SWPC between 2009 and 2013 and the overpayment
2	11:21:25	bit is the difference between what they actually paid
3	11:21:27	and what they would have paid in GaStat's November 2020
4	11:21:34	view had been in the contract?
5	11:21:39	A. Yes, yes, yes. Is what you said we're going to call it
6	11:21:43	windfall.
7	11:21:46	Q. No, I know you call it a windfall.
8	11:21:52	A. Yes, of course.
9	11:21:53	Q. I know you're not a lawyer, but you do understand, don't
10	11:21:55	you, that there have been no bases at all for SWPC to
11	11:21:58	try and --
12	11:21:59	A. Of course.
13	11:22:00	Q. -- recover those payments?
14	11:22:02	A. It's a sunk cost, it's a sunk cost to the unlucky party.
15	11:22:06	I mean, it could have been the other way around.
16	11:22:10	Q. So what you're trying to do here with your approach is
17	11:22:17	to effectively recompense SWPC for those what you call
18	11:22:24	overpayments by reducing their payments in the future?
19	11:22:27	No. Let's restart the clock and apply what I know is an
20	11:22:37	index that is not fundamentally inaccurate and biased
21	11:22:46	and that is not -- has never been linked or used by
22	11:22:51	GaStat ever since.
23	11:22:56	Q. Your argument about or SWPC's instruction to you about
24	11:23:00	the parties alleged intentions, that's the basis on
25	11:23:07	which you consider it appropriate to make a statistical

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1	11:23:11	and economic analysis of the indices; is that correct?
2	11:23:18	A. The statistical and economic analysis of the indices
3	11:23:24	I made them according to another instruction. I have to
4	11:23:29	go back to my instructions now.
5	11:23:33	Q. I think it might be paragraph 1.18?
6	11:23:38	A. 1.30?
7	11:23:39	Q. No, that's only part of --
8	11:23:40	A. No, it's paragraph 1.29 in the same report.
9	11:23:45	Q. Yes. Okay --
10	11:23:51	A. Here it is. (5):
11	11:23:54	"Provide my opinion from an economic and statistical
12	11:23:57	perspective on the appropriate approach for adjusting
13	11:24:00	the local portion of the charge rates to account for the
14	11:24:04	successsive discontinuation and replacement of
15	11:24:08	COLI 1999, COLI 2007, call if and COLI 2018 in KSA."
16	11:24:17	^doc.
17	11:24:17	This is what I was instructed to do.
18	11:24:21	Q. I see. Then in terms of your analysis of accuracy, do
19	11:24:28	you accept that that is not going to be relevant to the
20	11:24:33	consideration of how to link COLI 1999 and COLI 2007 if
21	11:24:40	the tribunal does not accept SWPC's case as to the
22	11:24:44	parties' intentions?
23	11:24:50	A. That is a legal question. In terms of my analysis,
24	11:24:57	right, from an economic point of view, that is my
25	11:25:05	opinion, right? That those indices, that's how those

1	11:25:10	indices should be linked, because of the way that there
2	11:25:14	is a fundamental flaw in COLI 1999.
3	11:25:23	Q. Is your answer that even if you hadn't been given an
4	11:25:26	instruction as too the parties' intentions from SWPC,
5	11:25:30	your analysis -- you would still consider that your
6	11:25:33	analysis of accuracy and the merits of the various
7	11:25:36	indices would still be relevant to the linking between
8	11:25:38	COLI 1999 and COLI 2007?
9	11:25:40	A. From my perspective, from my expertise, yes. There are
10	11:25:50	two issues here. One is contractual and one is
11	11:25:55	statistical. So from a statistical point of view, I am
12	11:26:00	confronted with an index that has never been used, has
13	11:26:07	never been linked in any published material or in any
14	11:26:12	document that I have been given by GaStat, since it was
15	11:26:17	discontinued.
16	11:26:17	So from a statistical perspective, that index should
17	11:26:21	be discarded, and it's not because I say it is because
18	11:26:25	that's what GaStat has done.
19	11:26:27	I say it because it's fundamentally biased.
20	11:26:32	Then you go -- and that's what GaStat has done, they
21	11:26:36	went to pains to back cast COLI 2007 all the way to
22	11:26:46	ideal 0, so that they didn't have to link it (1980 ^ to
23	11:26:50	COLI 1999. Then there is the contract actual issue,
24	11:26:54	right, which is a different issue, which you can't just
25	11:26:58	jump from one to another. You have to link them at some

1	11:27:02	point because you have to continue this.
2	11:27:03	So the question is how do you do it? Do you
3	11:27:07	continue it by forecasting into the future and
4	11:27:12	projecting into the future what was the difference
5	11:27:17	between the two, or do you try and rectify the
6	11:27:22	situation?
7	11:27:22	To me, from a statistical perspective, there is no
8	11:27:26	doubt about what you need to do, but I am not the one
9	11:27:31	who's making this decision and I'm not a lawyer.
10	11:27:34	Q. Can we just test what you said against what you say at
11	11:27:36	item 20 of the joint statement, which is at D130,
12	11:27:45	page 11.
13	11:27:50	A. This is the joint statement?
14	11:27:51	Q. Yes, does she have a hard copy of the joint statement?
15	11:27:54	I wonder whether that might be easier.
16	11:27:57	MR HANKE: We'll turn it up for her.
17	11:27:59	MR ROBB: It might just be easier, because it's moving
18	11:28:02	things around and it runs over the page as well.
19	11:28:34	You have been given it in A4, so I hope your eye
20	11:28:36	sight is better than mine?
21	11:28:38	A. Okay.
22	11:28:38	Q. Bottom right-hand corner, I'm hoping you've got the
23	11:28:41	bundle version, so it should have page numbers and
24	11:28:43	your --
25	11:28:43	A. Page 11, yeah, it's here.

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1	11:28:46	Q. Can I just check before asking you to look at it that
2	11:28:49	actually this is legible for you. Yes?
3	11:28:52	A. Yeah, because I got an eye operation and I can finally
4	11:28:56	read and see now.
5	11:29:00	Q. Item 20, the question that was being put or the issue
6	11:29:02	that was being put to the two experts was if the
7	11:29:05	tribunal does not accept the instruction to Dr Meschi
8	11:29:08	that the parties' rationale and including the indexation
9	11:29:11	clause was to adjust payments for true inflation, then
10	11:29:14	the going forward approach applies to the transition
11	11:29:16	from COLI 1999 to COLI 2007." ^doc.
12	11:29:21	Do you see that?
13	11:29:23	A. Yeah.
14	11:29:25	Q. You say that the wording of this issue is not factually
15	11:29:30	correct, but then you go on to say whilst the parties
16	11:29:33	intentions is one of SWPC's arguments, ^doc) you then
17	11:29:38	recite a number of SWPC's legal arguments and we can see
18	11:29:43	that from the first sentence of the second paragraph.
19	11:29:47	Where you say:
20	11:29:48	"This is merely a restatement of SWPC's legal
21	11:29:50	position." ^doc?
22	11:29:53	A. Yes.
23	11:29:54	Q. You're just reciting there what you understand to be
24	11:29:56	SWPC's legal position; is that correct?
25	11:30:06	A. This is my -- I received an instruction as to that,

1	11:30:11	right, as to the fact that the tribunal has -- what is
2	11:30:19	the word?
3	11:30:19	Q. Is granted a wide discretion?
4	11:30:21	A. Yes, yes, has discretion to decide that, yeah, that was
5	11:30:27	an instruction. The arguments in the first paragraph
6	11:30:33	are my opinion as to why COLI 1999 is..
7	11:30:43	Q. Let's just read what you said. We know that you got
8	11:30:46	a new instruction in your second report about the wide
9	11:30:49	discretion and that instruction wasn't in your first
10	11:30:50	report?
11	11:30:51	A. No, no, it was not.
12	11:30:58	Q. My reading of this, what you said here, especially where
13	11:31:03	it says this is merely a restatement of SWPC's legal
14	11:31:06	position, is what you've set out above ^doc) is simply
15	11:31:09	what you've been told by SWPC; is that correct?
16	11:31:16	A. Yeah, that is essentially a new instruction that
17	11:31:21	I received in my -- when I wrote my second report. But
18	11:31:25	I didn't change my opinion at all, because I provided my
19	11:31:30	opinion on the basis of my expertise, not on the basis
20	11:31:33	of this is things. It's not changed throughout any
21	11:31:38	reports that I write ^^ four reports.
22	11:31:42	Q. It's relevant here, isn't it, because here in
23	11:31:44	paragraph 20 you're being asked to present your opinion
24	11:31:46	on the assumption that the tribunal does not accept
25	11:31:51	SWPC's case as to the parties rational, aren't you ^?

1	11:31:58	A. Yes, yes, but the issue is this, you know. Even without
2	11:32:04	that rationale ^dict), the tribunal could still decide
3	11:32:08	that because the index is fundamentally wrong, and is
4	11:32:13	fundamentally inaccurate, ^ and because it overstates --
5	11:32:20	it's an overstated measure of inflation, that could be
6	11:32:24	a different approach to follow.
7	11:32:26	Q. Okay, but --
8	11:32:27	A. Which is not my decision to make, but if they have the
9	11:32:31	discretion to do so, they could do so.
10	11:32:39	Q. The first point is that in your first report, you didn't
11	11:32:47	have this discussion, this instruction about the
12	11:32:49	tribunal's discretion?
13	11:32:52	A. No.
14	11:32:55	Q. So this second instruction comes in on the basis that
15	11:32:59	what happens if the tribunal does not accept SWPC's case
16	11:33:04	as to the rationale; is that right?
17	11:33:09	A. This is an item on the joint statement. If they don't
18	11:33:15	accept that, they can still consider the fact that that
19	11:33:21	index was biased, was a biased measure of inflation and
20	11:33:27	therefore, there is there can be an alternative way of
21	11:33:34	linking the two indices. The end cease are lib asked,
22	11:33:37	the issue is when do you link them ^.
23	11:33:43	Q. Yes, but what I'm trying to get at is that the matters
24	11:33:47	which are set out in the first paragraph beginning
25	11:33:52	"whilst the parties' intentions", that was another

1	11:33:55	instruction to you from SWPC, was it?
2	11:33:59	A. Yes, the instruction about the parties' intention has
3	11:34:05	been the same throughout all four report, yes.
4	11:34:08	Q. Sorry. In this paragraph, there's not only a reference
5	11:34:12	to the parties' intentions, but there's also then if you
6	11:34:16	read on, it says:
7	11:34:17	"Whilst the parties' intentions is one of SWPC's
8	11:34:20	arguments, SWPC's case is also that the independent
9	11:34:25	expert, as well as the tribunal, were I can'ted a wide
10	11:34:29	discretion." ^doc.
11	11:34:30	Then you say:
12	11:34:31	"Those facts SWPC says, include." ^doc.
13	11:34:36	Then you list out some facts, yes?
14	11:34:38	A. Mm-hmm.
15	11:34:38	Q. I just want to be clear -- I don't think it's going to
16	11:34:42	be controversial -- that everything in this paragraph
17	11:34:44	has been presented to you by SWPC; is that correct?
18	11:34:47	A. Everything in the first paragraph?
19	11:34:53	Q. Yes.
20	11:35:01	A. Well, COLI 1999 was a fundamental inaccurate measure of
21	11:35:08	inaccurate index is my opinion and ^doc) it has -- what
22	11:35:14	does RDC mean?
23	11:35:15	Q. Reply and defence to counterclaim.
24	11:35:17	A. Okay. It is my opinion and it has been -- and it is
25	11:35:23	SWPC opinion, but this is my opinion.

1	11:35:30	Q. I'm focusing on the words SWPC says", which led me to
2	11:35:36	conclude that you were simply recording something that
3	11:35:39	you had been instructed by SWPC. I'm not asking at the
4	11:35:44	moment whether you agree or disagree with it. I'm just
5	11:35:46	saying --
6	11:35:47	A. Yes, I was instructed by -- I said it in the
7	11:35:52	presentation. I was instructed to assume about the
8	11:35:55	rational of the parties ^ and I was instructed that the
9	11:36:01	tribunal has this discretion, I don't remember the exact
10	11:36:04	wording.
11	11:36:07	Q. Are you agreeing that everything in this first paragraph
12	11:36:11	is just something that you were instructed by SWPC?
13	11:36:26	A. The first paragraph is the wording of this issue is not
14	11:36:30	factually correct." ^doc.
15	11:36:32	Q. Sorry, I'll rephrase. Can we agree that everything in
16	11:36:34	the paragraph beginning whilst the parties' intentions
17	11:36:38	^doc)?
18	11:36:38	□20240924□0054A. Is one of the ^^ arguments ^^ SWPC case is than also
19	11:36:43	that (witness reads to herself) ^. Yes.
20	11:36:50	Q. This was just -- everything in this paragraph was an
21	11:36:53	instruction to you from SWPC?
22	11:36:54	A. Yes, yes.
23	11:36:55	PRESIDENT: Sorry, Dr Meschi, can I just understand, that
24	11:36:58	paragraph starting "whilst the parties intentions ^doc)
25	11:37:01	were you given those words and instructed to put them in

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1	11:37:05	the joint table or is this you paraphrasing --
2	11:37:09	A. No, no, no.
3	11:37:10	PRESIDENT: -- what you've been told previously?
4	11:37:15	A. This is not -- no, I wasn't instructed to put those
5	11:37:22	words in the table.
6	11:37:26	PRESIDENT: I just wanted to understand what you meant when
7	11:37:28	you said these were your instructions. So these are
8	11:37:31	your instructions you've received previously which
9	11:37:34	you're paraphrasing?
10	11:37:36	A. Yes, my instructions that I received are that the ones
11	11:37:42	that I read to you before. I actually have the
12	11:37:47	presentation. I can read them to you again.
13	11:37:49	PRESIDENT: No, you don't need to. I just wanted to
14	11:37:51	understand when you were saying in relation to --
15	11:37:53	A. Yeah, I wasn't told by anybody what I had to put in this
16	11:37:55	paragraph. No, no.
17	11:37:59	PRESIDENT: Thank you.
18	11:38:01	MR ROBB: Dr Meschi, just to be clear, if you are making it
19	11:38:05	clear that something is what you're been told or what
20	11:38:08	one party thinks, then obviously you can take that from
21	11:38:13	that party and that's not a problem as long as it's
22	11:38:16	clear that that's what the party are saying, not what
23	11:38:20	you're saying?
24	11:38:21	A. Yes, as I said, what I'm saying is about COLI was
25	11:38:26	fundamentally inaccurate index and I actually do believe

1	11:38:35	that there is no other -- although the parties'
2	11:38:39	intention in agreeing an indexation clause was to track
3	11:38:44	real inflation and this is ^doc) the statement by SWPC
4	11:38:50	and it's also my instruction, I actually, from
5	11:38:56	a professional point of view, I cannot believe that they
6	11:39:00	may have intended to do anything else. Why would you
7	11:39:03	index something to -- why would you actually create an
8	11:39:07	indexation in order to follow a ^^ measure of inflation?
9	11:39:14	To me it makes no sense. (witness reads to hrs).
10	11:39:23	And if this is -- if this is established SWPC
11	11:39:29	position, it is a position that I actually agree with.
12	11:39:35	Q. Looking at the time --
13	11:39:36	A. And that's the third -- that's the (c), I do you agree
14	11:39:40	with that. Because from an economic point of view, that
15	11:39:44	is the result of all this, yeah.
16	11:39:49	MR ROBB: I think we started at 10 o'clock, we're finishing
17	11:39:52	at 1, so we're about I think we've halfway through. Is
18	11:39:56	now a sensible time to take a break?
19	11:39:58	PRESIDENT: Yes, the transcriber is nodding, so yes, that's
20	11:40:03	a good time to have a break.
21	11:40:05	Dr Meschi, we will have a 20-minute break now.
22	11:40:08	During the break, please do not speak to anyone
23	11:40:10	including your sis tantsds, but you can obviously speak
24	11:40:15	for cups of tea and coffee and the like, but don't
25	11:40:18	discuss your evidences with anyone else.

1	11:40:20	WITNESS: Of course.
2	11:40:21	PRESIDENT: Thank you.
3	11:40:23	(11.40 am)
4	11:40:24	(A short break)
5	11:40:26	(12-point
6	12:00:18	(12.00 pm)
7	12:00:37	PRESIDENT: Dr Meschi, just to are behind you that yourself
8	12:00:40	still under the affirmation you gave previously.
9	12:00:43	Mr Robb.
10	12:00:44	MR ROBB: Thank you. Dr Meschi, can we turn up joint
11	12:00:51	statement item 20, so that was D130, page 11. It was
12	12:00:58	the bit we were looking at just before the break?
13	12:01:01	A. Yes, yes, yes.
14	12:01:03	Q. In the first bit Ijy want to check that I understood
15	12:01:07	your evidence correctly, which is that you had drafted
16	12:01:09	the paragraph that begins:
17	12:01:11	"Whilst the parties' intentions is one of SWPC's
18	12:01:15	arguments." ^doc?
19	12:01:20	A. Yes.
20	12:01:20	Q. You drafted that. But I think you also said in the
21	12:01:24	course of your evidence that you didn't know who RDC
22	12:01:27	meant; is that correct?
23	12:01:28	A. I do not?
24	12:01:28	Q. You did not know who RDC meant?
25	12:01:32	A. Yes, I'm sorry, I just forgot.

1	12:01:35	So you forgot?
2	12:01:38	A. Yeah, I didn't think quickly enough, I guess. I don't
3	12:01:44	know, it didn't occur to me what it meant.
4	12:01:47	Q. And you're sure this wasn't drafted to you by DLA?
5	12:01:52	A. No, no, no.
6	12:01:59	Q. So you had gone through the pleadings, had you, to
7	12:02:03	identify these parts of SWPC's case, had you?
8	12:02:10	A. Yes.
9	12:02:11	Q. I see. You use the word "could" in the second
10	12:02:24	paragraph. You say:
11	12:02:24	"The tribunal could decline to apply the going
12	12:02:28	forward approach." ^doc.
13	12:02:29	Do you see that?
14	12:02:31	A. Is it the second?
15	12:02:32	Q. It's the second large paragraph --
16	12:02:35	A. The one after the --
17	12:02:37	Q. It says:
18	12:02:37	"I consider that if the tribunal accepts that it has
19	12:02:40	this wide discretion and takes into account any of the
20	12:02:43	above considerations, it could decline to apply
21	12:02:46	Ms Harfouche's going forward approach ..." ^doc.
22	12:02:48	Do you see that?
23	12:02:57	A. Okay, at the end of the page, yes.
24	12:02:59	Q. At the bottom of the page?
25	12:03:00	A. Yes, yes.

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1	12:03:07	Now, I'm going to suggest to you that the reason why you
2	12:03:10	use the word "could" is because, in your view, in fact,
3	12:03:15	the proper way to go forward, if the tribunal does not
4	12:03:21	accept SWPC's case as to the parties' intentions, is
5	12:03:24	that the going forward approach should apply, isn't it?
6	12:03:38	A. It means that it could do that or it could do something
7	12:03:41	else.
8	12:03:43	Q. I'm asking you that if you had the discretion and you
9	12:03:48	weren't allowed to take account of SWPC's case as to the
10	12:03:52	parties' intention, then your view would be that the
11	12:03:55	going forward approach should apply, wouldn't it?
12	12:04:01	A. What this sentence means (Pause).
13	12:04:16	So it's in two parts, right? If the tribunal
14	12:04:21	accepts that it has this wide discretion, which is the
15	12:04:27	instruction and it takes into account any of the above
16	12:04:31	considerations, which is ^doc) the situation with
17	12:04:35	COLI 1999 and the resulting unfairness blah, blah, blah,
18	12:04:38	then it could decline to apply that approach and use
19	12:04:43	another one.
20	12:04:44	Q. I see that and I'm asking a slightly different question.
21	12:04:48	I'm asking you if you assume that SWPC's case as to the
22	12:04:55	parties' intentions is wrong, yes, and if you had the
23	12:05:01	discretion that --
24	12:05:02	A. If I had the discretion?
25	12:05:03	Q. If you had the discretion you refer to, you would

1	12:05:05	consider that the only sensible approach would be to
2	12:05:08	adopt the going forward approach, wouldn't you?
3	12:05:11	A. If the tribunal is wrong and the parties didn't have the
4	12:05:17	intention of tracking true inflation, how could I not?
5	12:05:26	^^ I mean, this is very hypothetical. I mean, for me,
6	12:05:31	it's not possible that somebody wants to track something
7	12:05:37	else. So even if they wanted -- didn't want to track
8	12:05:43	true inflation, that's what you're asking me, right?
9	12:05:47	Even if they didn't want to track true inflation, what
10	12:05:50	should they do? And my decision would be if you wanted
11	12:05:55	to track -- even if you didn't want to track true
12	12:06:00	inflation, you should be doing what is right, because if
13	12:06:05	that is not what you do, you're going to create winners
14	12:06:10	and losers and in one case, in this particular case that
15	12:06:13	before here, there is one winner and one loser, it could
16	12:06:17	be switched around if the situation was the of sit with
17	12:06:20	the index.
18	12:06:22	And you don't really want to -- I wouldn't want to
19	12:06:24	find myself in that situation, but that's me.
20	12:06:27	Q. When you say could, the tribunal can decline to apply
21	12:06:31	the going forward approach ^doc), that means presumably
22	12:06:34	that the tribunal could also properly apply the going
23	12:06:37	forward approach, couldn't it. It's their decision, not
24	12:06:43	mine.
25	12:06:43	Q. I just want to deal with some of the facts or some of

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1	12:06:48	the issues raised by SWPC in this part of the -- in JS20
2	12:06:55	that you've referred to. So you have three items that
3	12:07:01	are said to be relevant. Do you see that? (a), (b),
4	12:07:04	(c)?
5	12:07:05	A. Yes.
6	12:07:06	Q. We know that we are dealing -- this is on the hypothesis
7	12:07:09	that the tribunal does not agree with SWPC's case as to
8	12:07:12	the parties' intentions?
9	12:07:14	A. Okay.
10	12:07:17	Q. Do you agree?
11	12:07:17	A. So we are discussing a hypothetical situation in which
12	12:07:24	(b) doesn't apply. Is that what you're asking?
13	12:07:27	Q. The first point is that (b) clearly doesn't apply, does
14	12:07:30	it?
15	12:07:30	A. In what case?
16	12:07:31	Q. If the tribunal does not accept SWPC's case as the
17	12:07:36	parties' rationale, then plainly the factor referred to
18	12:07:40	at subparagraph (b) can't apply?
19	12:07:43	A. The factor -- yes, of course -- well, yes.
20	12:07:50	Q. And if (b) falls away, then item (a) also falls away,
21	12:07:58	doesn't it?
22	12:07:59	A. No, it's still fundamental inaccurate index and the
23	12:08:03	result is still up fair. (a) doesn't follow from (b).
24	12:08:09	(a) is -- well, as far as I'm concerned is a fact. Of
25	12:08:16	course it's my opinion, but it's -- yeah, it's still

1	12:08:21	a fundamentally inaccurate index. It doesn't depend on
2	12:08:25	what the parties thought and the same with (c). It
3	12:08:29	doesn't depends on the intentions of the parties. COLI
4	12:08:33	is a fundamentally inaccurate index, as far as I'm
5	12:08:37	concerned, and the results would be unfair, because it
6	12:08:42	would be projecting that inflation forever more, until
7	12:08:47	2029.
8	12:08:48	Q. So your approach on here is what you consider to be
9	12:08:52	a matter of fairness, is it?
10	12:08:55	A. From an economic point of view, yes. Is not --
11	12:09:04	I appreciate it is not legal, but from an economic point
12	12:09:06	of view, yeah.
13	12:09:11	Q. When you talk about non-existent inflation, what you're
14	12:09:16	really talking about is the fact that the call #
15	12:09:18	estimate of inflation turn out to be lower than that of
16	12:09:21	COLI 1999?
17	12:09:23	A. It could have turned out to be higher. COLI 1999 would
18	12:09:27	still be wrong. But fit was higher, it would be -- the
19	12:09:32	situation would have been reversed.
20	12:09:44	Q. The point here is that when you talk about non-existent
21	12:09:47	inflation, you're simply talking about the fact that the
22	12:09:49	two indices have different estimates of inflation over
23	12:09:52	the same time period; is that correct?
24	12:09:57	A. There are two indices. One of which is fundamentally
25	12:10:02	flawed and overestimates inflation systematically due to

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1	12:10:11	its mathematical -- to the flaws that I have described
2	12:10:14	in my presentation this morning. The other index does
3	12:10:18	not have those characteristics, so that other index is
4	12:10:27	not flawed, right?
5	12:10:30	So the flawed index is measuring to an extent,
6	12:10:37	inflation that is not there, that does not exist, just
7	12:10:43	to give you an example of what I'm trying to say. When
8	12:10:48	in 2003, Gordon brown changed the Bank of England
9	12:10:57	inflation target, because the CPI had been introduced
10	12:11:02	a few years earlier, the inflation target was the RPI.
11	12:11:06	The RPI is like COLI 1999, in terms of formulae, so in
12	12:11:12	terms of bias.
13	12:11:13	The CPI is not. What did gore bon brown do? He
14	12:11:18	changed from RPI minus 2.5 to CPI minus 2. That's what
15	12:11:24	Gordon brown did, because there was a difference between
16	12:11:27	these two indices, the RPI was flawed and therefore, you
17	12:11:32	couldn't force the economy to follow a target that was
18	12:11:40	obviously based on a component of inflation that was
19	12:11:45	non-existent ^^ because it was Ms Measured. That is
20	12:11:49	what I meant.
21	12:11:52	Q. If you ever have two indices which measure inflation of
22	12:11:55	the same period, and you have different results,
23	12:12:00	different estimates, that can happen, yes?
24	12:12:03	A. Yes.
25	12:12:04	Q. So on your analysis here, it wouldn't matter why the two

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1	12:12:09	indices had different measures of inflation. Your
2	12:12:12	argument at (c) would simply would be the same, wouldn't
3	12:12:16	it?
4	12:12:17	A. My argument about?
5	12:12:18	Q. At item (c) would be the same?
6	12:12:21	A. No, because if two indices have different measures of
7	12:12:27	inflation and one is biassed in a fundamental way and
8	12:12:36	one it is not then it is unfair ^^.
9	12:12:39	Q. If we assume the later index is more accurate than the
10	12:12:42	later indecision, that's a fair assumption, isn't it?
11	12:12:45	A. Well, okay, successive indices are always more accurate
12	12:12:54	than the indices before. The reason why they're
13	12:12:57	accurate is because of the question that the precedent
14	12:12:59	asked me this morning, right, is because of the way
15	12:13:03	(president ^ they with weighted and the fact that the
16	12:13:06	weighs ^^ five years long in the case of COLI 2007, 10
17	12:13:11	years old. That is an inaccuracy that is known and is
18	12:13:20	part of all the indices. The fact that you are basing
19	12:13:26	an index on a formula that is known to be fundamentally
20	12:13:31	biased and it should not be used, right, is what makes
21	12:13:36	a difference between those two indices.
22	12:13:41	Q. If two successcy indices -- for example, COLI 2007 and
23	12:13:47	COLI 2013 -- they diverge, don't they?
24	12:13:50	A. They don't?
25	12:13:51	Q. They diverge, don't they?

1	12:13:52	All the indices diverge to a certain extent.
2	12:13:55	Q. Exactly. So what I'm suggesting here is it doesn't
3	12:14:01	matter why the indices diverge. You're going to have
4	12:14:05	the same unfairness that you talk about whenever the
5	12:14:08	indices diverge, aren't you?
6	12:14:11	A. No, no, because one is biased in a fundamental way and
7	12:14:16	another one is not biased in a fundamental way. In
8	12:14:20	statistics, what you're trying to do, right, you're
9	12:14:23	trying to measure the underlying parameter of
10	12:14:26	a population. In this case, ^^ that's all we're trying
11	12:14:30	to do, but it's a complex measurement, because it's not
12	12:14:33	just taking the average of five items.
13	12:14:38	What happens is that because you are measuring the
14	12:14:42	average, you are having a measure which has a margin of
15	12:14:46	error around it and because of that, every measure has
16	12:14:52	a certain degree of accuracy or inaccuracy. But when
17	12:14:57	a measure is fundamentally biased, it doesn't matter
18	12:15:02	what size the measure is. It should never be used.
19	12:15:05	It's like saying the example that I gave before, you're
20	12:15:08	trying to measure the height of people living in Dubai
21	12:15:11	and only take a sample of, you know, young men. That's
22	12:15:17	going to be biased, regardless, and you shouldn't do
23	12:15:21	that, because it's wrong.
24	12:15:24	Q. Can I just understand this. Your evidence is that it
25	12:15:27	doesn't matter why -- it doesn't matter why there's

1	12:15:32	a difference between two indices and it doesn't matter
2	12:15:35	what the extent of that difference is in numerical
3	12:15:39	terms?
4	12:15:39	A. It matters why there is a difference, because the
5	12:15:42	difference could be due to the uncertainty around the
6	12:15:50	confidence interval of that measure, it could be due to
7	12:15:53	a fundamental error in the way that the index is
8	12:15:58	constructed, like with everything else.
9	12:16:04	Q. Just to take some very crude examples, these are
10	12:16:08	entirely made up numbers, just to illustrate the point.
11	12:16:11	So don't --
12	12:16:13	A. Okay, okay.
13	12:16:13	Q. I'm not trying to tie them to any particular set of
14	12:16:16	indices.
15	12:16:17	If you have two indices and one of them is, as you
16	12:16:23	say, biased for a fundamental reason and the next index
17	12:16:26	isn't, and the two indices when diverged by 10 per cent
18	12:16:31	^, and then let's take another two indices, where the
19	12:16:38	first index doesn't have what you call a fundamental
20	12:16:44	inaccuracy, but still measures different inflation from
21	12:16:47	its successor index and that difference is 20 per cent,
22	12:16:54	right?
23	12:16:56	So you're say that is there would be no unfairness
24	12:17:01	under your item (c) with respect to that second example,
25	12:17:04	but there would be with the first example?

1	12:17:12	So if the index is biased and it measures a difference
2	12:17:19	as 10 per cent and the other two indices are not biased,
3	12:17:24	right, they cannot have a difference of 20 per cent.
4	12:17:33	It's not possible.
5	12:17:35	Q. Okay, let's say that in the two examples, both sets of
6	12:17:39	indices are diverged by 10 per cent, so they both
7	12:17:45	diverge by 10 per cent by the same actual amount. Is
8	12:17:48	your evidence that your treatment of these two sets of
9	12:17:51	indices would differ because of the reason of the
10	12:17:55	divergence on the first set?
11	12:17:56	A. Can you please qualify what the divergence of
12	12:18:00	10 per cent mean? How is it measured?
13	12:18:03	Q. When you take a starting point and then you get to an
14	12:18:07	end point, the same number of years later --
15	12:18:11	A. The same?
16	12:18:12	Q. Number of years later, so you're measuring -- like with
17	12:18:14	like?
18	12:18:15	A. Okay, okay, I get you. So if you're measuring like for
19	12:18:18	like and we are going more into the practicality of what
20	12:18:24	is being discussed here, if you measure like for like,
21	12:18:31	the two indices in this dispute, which are COLI 1999 --
22	12:18:35	Q. Sorry, I'm not asking you about the indices in dispute,
23	12:18:37	I'm just asking you -- that's why I was trying to put
24	12:18:40	I side all the ^^?
25	12:18:41	A. Yes, but that's not going to happen.

1	12:18:43	Q. So your evidence then is that if you couldn't have two
2	12:18:48	sets of indices diverging by the same amount, say
3	12:18:52	10 per cent, over the same number of years, if one of
4	12:18:55	them -- if only one of those indices was funds mentally
5	12:18:58	biased?
6	12:19:00	A. I don't think it can happen, because you see both
7	12:19:05	indices have the same underlying problem, right, that
8	12:19:09	you have a margin of error, that you have a confidence
9	12:19:11	interval, blah, blah, blah, that is every index has.
10	12:19:15	But one has another problem, which is on top, and
11	12:19:19	that problem, which is on top, is the fact that it is
12	12:19:24	known to be biased upwards, ie to systematically
13	12:19:30	overestimate inflation and so if I'm really do measure
14	12:19:34	them like for like, that's not going to happen.
15	12:19:37	Q. I see, so you're saying that your (c) could never happen
16	12:19:40	in the case of where there's no fundamental inaccuracies
17	12:19:45	as you describe it?
18	12:19:46	A. My (c) -- hold on.
19	12:19:50	Q. Do you have it?
20	12:19:50	A. Yeah, yeah, I do have it. Yes, because if it an index
21	12:20:00	was not biased, right, it would be an average -- so
22	12:20:07	essentially, let's go back one seconds and define bias,
23	12:20:11	right? Bias is the systemic tendency of an estimator,
24	12:20:16	any estimator, to systematically deviate from the true
25	12:20:23	value on average. So if it is known to be

1	12:20:27	systematically upward biased, it means that every single -- on average, that index will overestimate the
2	12:20:37	true value more than an index that is known not to be
3	12:20:43	biased. That is the dif in addition.
4	12:20:46	So how can it happen that you have an index that is
5	12:20:51	known to be upward biased, that returns the same gap as
6	12:21:00	an index that is known not to be?
7	12:21:03	Q. You accept, don't you, that if you have a later index
8	12:21:07	which measures lower inflation over the same period as
9	12:21:09	an earlier index, but no fundamental inaccuracies as far
10	12:21:15	as you're concerned, that still would mean you're
11	12:21:19	embedding some non-existent inflation?
12	12:21:23	A. If I have an index ^^ inflation because what you're
13	12:21:27	saying is that because it is still an estimate -- yes,
14	12:21:31	I mean, you can see it. Actually, you can see that. We
15	12:21:34	can see that in my presentation. It's on -- I can show
16	12:21:39	you. It's on slide -- where is it? It's slide 13 --
17	12:21:53	14. Could you please pull that up.
18	12:22:04	14, the next one. So you see, when you're linking
19	12:22:09	the indices, the way I have linked the blue line, right,
20	12:22:17	there is still a difference between ^^ the way they have
21	12:22:29	been linked by GaStat, so in the base year, and the way
22	12:22:37	that we need to link them because of the commercial
23	12:22:43	nature of this transaction, because you can't carry on
24	12:22:46	going back, carry on going back.
25	12:22:47	So what is happening here is that you link them, but

1	12:22:52	each successive index is more accurate than the other.
2	12:22:56	It is unbiased and there is still the light pink colour
3	12:23:04	that shows an overestimate over what the statistical
4	12:23:11	agency of Saudi Arabia considers to be the most accurate
5	12:23:15	measure of inflation. So that happens every time. But
6	12:23:20	those indices are not biased, fundamentally, but the
7	12:23:26	index before that is.
8	12:23:28	Q. If we could go to slide 10 within this. We're looking
9	12:23:38	at figure 4-3 on the right-hand side.
10	12:23:41	A. Yes.
11	12:23:43	Q. We can see there, can't we, that the green line is 2007
12	12:23:47	and then the red line or orange --
13	12:23:51	A. Is 13, the red line. Actually, the red line is two #,
14	12:23:57	2013, and ^^ they're all linked.
15	12:23:59	Q. Exactly, but we can see that the green line
16	12:24:02	overestimates inflation compared to 2013 and 2018?
17	12:24:07	A. Yes, it does. I mean, the thing with the green line is
18	12:24:15	that by the time you get to 2017, right, the weights in
19	12:24:21	that line -- I mean, in that index are 10 years old.
20	12:24:26	So, yeah.
21	12:24:29	Q. And so on your analysis, that is non-existent inflation,
22	12:24:34	isn't it?
23	12:24:37	A. Yes, yes, it is, it is. But it's not fundamentally
24	12:24:40	biased, the index, it's just old, it's just that it was
25	12:24:44	published with much delay.

1	12:24:49	Q. But it still creates -- why doesn't that create the
2	12:24:52	unfairness that you talk about in your item (c)?
3	12:24:55	A. It doesn't create the unfairness because it is often
4	12:24:59	index that is not biased in a fundamental way. It does
5	12:25:03	not systematically overestimate inflation and that is
6	12:25:08	why it's been linked by the agency in previous periods,
7	12:25:18	to all the other indices. So they thought there was
8	12:25:21	something really seriously wrong with that index,
9	12:25:23	I would have done exactly the same as they did with
10	12:25:26	COLI 19999, they wouldn't have linked it ^^, which is
11	12:25:31	something that they actually did. So the reason why we
12	12:25:35	are having this issue is because we are actually linking
13	12:25:44	in 2013 and not because the fact of the fact that the
14	12:25:51	index has ^ a real -- it's fundamentally flawed, yes.
15	12:26:04	Q. Sorry, I didn't really follow that last -- the reason
16	12:26:10	why we are ^reading...) linking in 20 if and not because
17	12:26:13	of the fact that the index has a real fundamentally
18	12:26:16	flawed ^doc) which linking are you talking about?
19	12:26:19	A. So essentially, what I am trying to say here, is that
20	12:26:25	the statistical agency published COLI 2013 -- COLI 2007
21	12:26:33	until 2017.
22	12:26:36	Q. Yes.
23	12:26:37	A. Right? And I made a mistake. In 2013, when the new
24	12:26:46	index was pub libbed, okay -- no, I didn't make
25	12:26:49	a mistake, actually. In 2013, when the new index was

1	12:26:53	published, the statistical agency linked those two
2	12:26:57	indices, right, and that is why there is the dot in
3	12:27:05	2013. But they didn't publish 2013 until January 2018.
4	12:27:14	So they published it five years after they had done the
5	12:27:18	survey. By the time they published that index and
6	12:27:23	therefore it was available for linking forward for the
7	12:27:28	purpose of this contract, COLI 2007 had essentially
8	12:27:35	continued and was still existing and was overmeasuring
9	12:27:39	inflation by virtue of having weights that were very,
10	12:27:43	very old.
11	12:27:44	But not by virtue of the fact that it was fund
12	12:27:47	mentally flawed ^. So the amount of -- if you want, the
13	12:27:55	amount -- not the amount, but the inaccuracy of each
14	12:27:58	successive index changes on the basis of how old the
15	12:28:04	weighting that index are. So you can see that also the
16	12:28:09	red and the grey line, right, have -- there is a slight
17	12:28:19	difference between the two and the reason why is -- and
18	12:28:23	it's much less than with the green line, because if you
19	12:28:27	think about it, COLI 2013 is based on weights from 2013.
20	12:28:34	It was published at the end of -- what was it? When was
21	12:28:43	it published? Tend of 2019, right, in January 2020. So
22	12:28:49	it was six years old, seven years old. The other one
23	12:28:55	was olds ever.
24	12:28:59	So as GaStat becomes more, you know, goes forward in
25	12:29:05	their programme of pub libbing these indices, according

1	12:29:13	to international standards, they are getting closer and
2	12:29:16	closer to carrying out the surveys every five years and
3	12:29:22	to publish the results as soon as they possibly can,
4	12:29:26	because the majority of statistical offices do the
5	12:29:31	survey, link the index and move n in a periods of
6	12:29:35	months. While it took much longer to these agency to do
7	12:29:39	these things ^.
8	12:29:45	Q. Going back to where we were. Your evidence then that it
9	12:29:52	doesn't matter why -- it does matter why the indexes
10	12:29:57	diverge and it doesn't matter by how much they diverge;
11	12:30:00	is that right?
12	12:30:01	A. It matters why they diverge, yes, it matters why they
13	12:30:06	diverge. And it matters what the statistical agency
14	12:30:10	considers them to be.
15	12:30:12	Q. But then the second part of that is your evidence is and
16	12:30:15	it doesn't matter by how much the two indices diverge?
17	12:30:20	A. Not in terms of assessing the fundamental bias, no. You
18	12:30:24	can measure the bias, but you know from the premises
19	12:30:32	of -- you know, from your fundamental knowledge of
20	12:30:37	statistics that one is biassed and the other one is not.
21	12:30:41	Because you know, just to go back to that example that
22	12:30:45	I had about, you know, measuring the height of people in
23	12:30:47	a city, right? Okay. So you can say, okay, let's
24	12:30:51	measure the height of people in a city. Let's take
25	12:30:54	a sample of men and do that. And then you get, oh, the

1	12:30:59	average height of men in the city is 1 metre 75. So the
2	12:31:06	average of people in the city is 1.75.
3	12:31:09	And then you take -- then somebody tells you, no,
4	12:31:13	this is wrong, it's biased. You should do something
5	12:31:15	else, you should take men and women. And then you take
6	12:31:19	men and women and you say, oh, the average of men and
7	12:31:23	women in is 1.73, so it's not a big deal. I can use it.
8	12:31:29	This is good. Why not? Then you go in another city and
9	12:31:33	you take men and you finds that the average height of
10	12:31:36	men in that city is 187. Are you doing the right thing?
11	12:31:42	What happens if you take the measure of women and they
12	12:31:45	all look like me, then the average height of people in
13	12:31:48	that city, for sure, is not you know, 2 centimetres less
14	12:31:57	than the one of men. So the fact that you're using the
15	12:31:59	bias estimator, because that's its called it's an
16	12:32:03	estimator statistic, is wrong on principle because if
17	12:32:08	you do it again and again and again, and this is the
18	12:32:14	statistics for you, you get the results that are wrong
19	12:32:18	and eventually, you get to a result that is so wrong
20	12:32:22	that you have COLI 1999.
21	12:32:26	MR GHAFFARI: May I ask a question.
22	12:32:29	MR ROBB: Please, of course.
23	12:32:29	MR GHAFFARI: When you look at figure 4.3 and you look at
24	12:32:35	COLI 2007, that green section that shoots up, the gap
25	12:32:39	between 2007 and the black line underneath it, that

1	12:32:44	delta, that white space in between, would you describe
2	12:32:47	that as an inaccuracy?
3	12:32:51	A. The gap between?
4	12:32:53	MR GHAFFARI: The green line shown and the plaque line
5	12:32:57	underneath it. Is that an inaccuracy, a difference,
6	12:33:01	that divergence?
7	12:33:03	A. It is an inaccuracy that is caused by the fact that the
8	12:33:08	index is old and the weights are higher, but is not
9	12:33:11	a fundamental inaccuracy caused by the use of
10	12:33:20	a measurement that is biased. It's something that you
11	12:33:23	can't avoid, if you want, unless you publish it on time,
12	12:33:26	you can't avoid that. But if you use a fundamental are
13	12:33:32	you biased measure, you will re Peats and repeat and
14	12:33:35	repeat and repeat the error. That's why they changed
15	12:33:39	the methodology.
16	12:33:40	MR GHAFFARI: I understand that. Follow-up question. Can
17	12:33:43	that divergence, let's call it inaccuracy, ever get to
18	12:33:47	the magnitude that is equivalent to the magnitude that
19	12:33:51	you would get if you have a biased index, for difference
20	12:33:59	reasons --
21	12:34:00	A. For practical reason, no, because they will never wait
22	12:34:05	as long as they waited in the other -- how long will
23	12:34:09	they have to wait in order for the weight to have that
24	12:34:12	effect? Because if you look --
25	12:34:16	MR GHAFFARI: Don't extend the five-year period of weight.

1	12:34:18	Assume that period of wait ^ stays the same, but can
2	12:34:21	there be other factors that cause the same divergence?
3	12:34:26	What I'm going back to is the initial question that
4	12:34:29	Mr Robb asked, can you ever get the 10 per cent as
5	12:34:32	against the 10 per cent, whereas this 10 per cent is
6	12:34:36	caused by fundamental bias and this 10 per cent is
7	12:34:40	caused by other reasons
8	12:34:50	A. What other reason can there be? I mean.
9	12:34:52	MR GHAFFARI: Other than weight, just weight.
10	12:34:56	PRESIDENT: For example, if there was a significant change
11	12:34:58	in what is in the basket or the weight that's applied to
12	12:35:02	what is in the basket.
13	12:35:05	A. The thing is that the way that -- so you mean
14	12:35:10	consumption ^^ of people, that is why that you do it
15	12:35:14	every five years, because (habits ^ or less, because
16	12:35:19	that is not a long enough period for habits to change
17	12:35:22	consistently. There could be a situation where you have
18	12:35:27	very rapid technological change and therefore, the items
19	12:35:31	in the basket change in quality and they change in price
20	12:35:36	and the reason -- think about, for example, you
21	12:35:40	introduce smartphone, right, and smartphones at every
22	12:35:43	year, they become more and more powerful, and so their
23	12:35:47	prices change, right? So what statistical agencies do
24	12:35:51	in that respect is they adjustment for the differences
25	12:35:56	in quality by using different methodology, one is called

1	12:36:00	iDon I can price analysis, there are those
2	12:36:04	methodologies.
3	12:36:04	That way they obtain a comparable prices and use
4	12:36:14	those comparable prices in calculating the index. So
5	12:36:17	that they make sure that they are comparing
6	12:36:22	like-for-like. It's very -- yeah. You can make
7	12:36:27	adjustments and they do make adjustments and that's
8	12:36:32	a very -- yeah, it's a very good question, actually,
9	12:36:35	because it will happen unless you make an adjustment,
10	12:36:38	which is what is done. It will happen, yes.
11	12:36:48	MR GHAFFARI: Thank you.
12	12:36:50	MR ROBB: The first point I wanted to get to, which I don't
13	12:36:55	think I've had a complete answer to, is that in your
14	12:37:03	mind, if there is a fundamental inaccuracy in one of the
15	12:37:07	indices, it doesn't matter how big the gap is with what
16	12:37:11	you would call the more accurate index; is that right?
17	12:37:16	A. Yes, you shouldn't use it.
18	12:37:18	Q. No, if your mind, if there is a fundamental inaccuracy,
19	12:37:22	it doesn't matter what the effect of that fundamental
20	12:37:26	inaccuracy is, in numerical terms, is that your
21	12:37:32	evidence?
22	12:37:32	A. Yes, yes.
23	12:37:51	You can actually see it from here, because you see,
24	12:37:54	if you actually bring them both to the comparable, you
25	12:37:58	shouldn't bring them both back. So 1999, you compare

1	12:38:04	the blue and the red line and then you compare the green
2	12:38:08	and the black, right? So one way of doing it is you can
3	12:38:13	say, okay, you know, I compare them over a period of
4	12:38:16	time that is consistent. So the period of timing which
5	12:38:21	those two indices, the green and the black line,
6	12:38:30	actually different, it's four years, right? But the
7	12:38:33	blue line and the reds line have been published together
8	12:38:38	since 1980, even though the blue line is no longer
9	12:38:42	anywhere to be seen on the website of fa statistic. So
10	12:38:47	those two lines go back a very long way together.
11	12:38:51	The reason why here they start in 2005 is because
12	12:38:57	I link them, not because they are linked at that time.
13	12:39:00	They are never linked. They were never linked by
14	12:39:04	GaStat.
15	12:39:04	Now, if you really want to link them, and measure
16	12:39:08	the distance between them, you have to start in 2007.
17	12:39:13	2007 is the year in which the green line starts, exactly
18	12:39:17	the same way as 2013 is the year in which the grey line
19	12:39:24	start. In 2007 is also the year in which the weights of
20	12:39:28	the blue line were changed. So if you had to do
21	12:39:31	a comparison between in the distance between those two
22	12:39:35	lines, you can't start in 2005, because that's a very
23	12:39:39	arbitrary point. You start in 2007 and you go four
24	12:39:42	years to 2011 and that is the correct -- and then you
25	12:39:46	measure the area underneath and see if they are the

1	12:39:49	same. That's how you do it.
2	12:39:55	Q. Ask we move on now, please, to another topic. Can we go
3	12:39:57	to paragraphs 5.4 to a .6 of your first report. That's
4	12:40:02	D1, page 66?
5	12:40:21	A. Is 5.4 of my first report. (Pause). Okay, yes.
6	12:40:37	Q. So here you're considering the going forward approach;
7	12:40:40	is that correct?
8	12:40:41	A. Yes.
9	12:40:45	Q. You illustrate this, which shows that the in your graph
10	12:40:49	at figure 5-1, where you show that what the going
11	12:40:54	forward approach means is to how you link COLI 1999 to
12	12:41:00	COLI 2007?
13	12:41:00	A. Yes.
14	12:41:01	Q. What you're showing is that COLI 2007 should be lifted,
15	12:41:05	raised so at the beginning of 2007 matches the end of
16	12:41:09	COLI 1999?
17	12:41:10	A. Mm-hmm.
18	12:41:12	Q. For the moment, should we just assume that under the
19	12:41:14	agreement, the parties agree to use COLI 1999 for as
20	12:41:17	long as it was available?
21	12:41:20	A. Yes.
22	12:41:22	Q. Then you say at 5.5 on the same page:
23	12:41:28	"Under this approach, the adjusted charge rates will
24	12:41:31	reflect cumulative inflation under each index for as
25	12:41:33	long as that index is available." ^doc.

1	12:41:36	Do you see that?
2	12:41:43	A. Yes.
3	12:41:43	Q. That's right, because this treatment I think we can
4	12:41:47	agree uses cumulative inflation, not year on year as the
5	12:41:50	method of adjustment; is that correct?
6	12:41:56	A. But also the two methods are equivalent, right? So they
7	12:42:03	always reflect cumulative inflation, also the year on
8	12:42:08	year, that reflects cumulative inflation. It's the
9	12:42:13	same. They are the same.
10	12:42:15	Q. I understand that math matically, they were produce the
11	12:42:20	same result?
12	12:42:20	A. Yes.
13	12:42:21	Q. What I'm saying is you agree ^^ controversial?
14	12:42:24	A. No, no.
15	12:42:24	Q. That the agreement ^^ for the pay sits of adjustment?
16	12:42:27	A. Yes, yes, it doesn't use year n year, yes, its goes back
17	12:42:32	to 2005.
18	12:42:35	Q. So what you're saying here is that the going forward as
19	12:42:38	approach is used as the COLI 1999 cumulative inflation
20	12:42:41	for as long as COLI 1999 is available; is that correct?
21	12:42:46	A. COLI 1999 cumulative inflation and then it accumulated
22	12:42:52	the 2007 to to COLI 1999, yes. But COLI 1999 is no
23	12:42:56	longer available. COLI 1999 is available until 2014 and
24	12:43:04	then the linking approach accumulates it forever,
25	12:43:09	I mean, until the end of the contract, not forever.

1	12:43:12	Q. Can I ask you to go to paragraph 6.6, which is D1-80.
2	12:43:42	Here you're describing your approach?
3	12:43:46	A. Yes.
4	12:43:47	Q. We can see at 6.5, you refer to the expression
5	12:43:52	reasonable receipt active correction"?
6	12:44:06	A. 6.5. Yes,.
7	12:44:11	Q. That's your approach, isn't it? You're carrying out
8	12:44:14	what you consider to be a reasonable retroactive
9	12:44:17	correction?
10	12:44:18	A. Yes.
11	12:44:18	Q. We can see that illustrated graphically at your figure
12	12:44:22	6.1, which is at D1-83. (6-1.
13	12:44:34	A. Yes.
14	12:44:39	Q. At paragraph 6.6(2), you explain, D1-81, you say that
15	12:44:59	the -- you explain your approach and you say prior
16	12:45:03	to January 2014, COLI 1999 is used as per the WPA so
17	12:45:07	this express term of the WPA is not disregarded.
18	12:45:10	However from January 2014 onwards the rate of inflation
19	12:45:13	implied by call # instead of the relatively inaccurate
20	12:45:17	rate of inflation implied by COLI 1999 is used." ^doc?
21	12:45:22	A. Yes.
22	12:45:23	Q. So the first point is here you're judging COLI 1999 and
23	12:45:28	call 2007 in relative accuracy terms?
24	12:45:32	A. Yes.
25	12:45:33	So that's part of your analysis, isn't it, about the

1	12:45:35	relative inaccuracy, not just fundamental inaccuracy?
2	12:45:38	A. Yes, that is a misspoken. I apologise. Yes. It is
3	12:45:46	absolutely misspoken there. You're right.
4	12:45:50	Q. I'm not suggesting you've mistaken at all. Are you
5	12:45:52	saying you want to correct your report?
6	12:45:55	A. Well, this this case, it is -- yeah, it is inaccurate
7	12:45:59	and is also relatively inaccurate, but it is
8	12:46:02	fundamentally inaccurate. If we want to go there, the
9	12:46:06	term relatively" should be deleted.
10	12:46:13	Q. Then perhaps we could go down, just whilst we're here,
11	12:46:16	just to confirm anything else you want to change about
12	12:46:18	your report at this stage, into subparagraph (3), where
13	12:46:24	you're dealing with COLI 2007 to COLI 2013, where you do
14	12:46:31	use what you call the going forward approach; is that
15	12:46:33	correct?
16	12:46:34	A. Yes.
17	12:46:35	Q. You say while I consider that COLI 2013 is more accurate
18	12:46:44	than COLI 2007 for the reasons set out in section 3 and
19	12:46:47	section 4 I consider that COLI 2007 is not as inaccurate
20	12:46:50	as COLI 1999." ^doc.
21	12:46:52	Do you see that?
22	12:46:53	A. Yes.
23	12:46:53	Q. Again, that's a relative inaccuracy concern, isn't it?
24	12:46:58	A. Yes, as I explained before, COLI 1999 is inaccurate in
25	12:47:04	a fundamental way. COLI 2007 has this issue with the

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1	12:47:09	weights, because it's older by 2017, yes.
2	12:47:17	Q. But the only fair reading of this bit of the report is
3	12:47:21	that you are comparing how close to presumably you're
4	12:47:25	comparing how close to what you consider to be true
5	12:47:27	inflation COLI 1999 is and call 2007 is, that's what
6	12:47:32	you're doing, isn't it?
7	12:47:33	A. No, no, it's not what I'm doing. What I'm doing is
8	12:47:36	saying one index is funds meant I will inaccurate, the
9	12:47:39	other one is inaccurate by way of construction, because
10	12:47:44	it's an old index, right, and therefore, first of all --
11	12:47:51	okay. Let's actually look at the two aspects of the
12	12:47:56	let's look at the stay test call aspect and let's then
13	12:47:59	look at the contractual aspect.
14	12:48:02	So from a statistical point of view, one is
15	12:48:05	fundamentally inaccurate and the other one is not. So
16	12:48:09	from a statistical point of view, what the agency did is
17	12:48:17	one was never linked and the other one was linked on the
18	12:48:22	base here, at the base year ^. But the base year, 2007,
19	12:48:28	by 2017, was 10 years old. So when the new index comes
20	12:48:35	in, which is 2013, what are you going to do? The
21	12:48:41	statistician links it in 2013 and discard the green spin
22	12:48:48	off, overshoot. But here we are talking about two
23	12:48:52	parties in a contract. So what do you do? You say,
24	12:48:55	okay, I have to strike a balance here. I can't
25	12:49:00	constantly go back. I go back once because there is

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1	12:49:06	a real problem.
2	12:49:07	But when I move forward, I don't do that. Because
3	12:49:10	otherwise it becomes every time you have to go back. So
4	12:49:14	you strike a balance and you say I link them in 2013 --
5	12:49:21	sorry, in December 2017 and then you wait for the next
6	12:49:27	index to come. So it's two different things. One is
7	12:49:32	the statistical as spectsdz of it and the other one is
8	12:49:35	what should be done for this contract.
9	12:49:40	I have some guiding principles among which there is
10	12:49:46	what I call the tradeoff between certainty and crass,
11	12:49:50	which are important in this respect. They are not
12	12:49:54	important to a statistician, but they are important in
13	12:49:58	this respect. So that is why I do that.
14	12:50:02	Q. In this bet you're not using your sort of I con what
15	12:50:06	tryings statistician expertise; is that correct?
16	12:50:10	A. Fortunately I also have another PhD, I have a PhD in
17	12:50:14	economics and economic policy, so that's also part of my
18	12:50:17	expertise.
19	12:50:18	Q. But in this subparagraph 3 that we've just been looking
20	12:50:22	at, you are using the language of relative accuracy and
21	12:50:27	inaccuracy, aren't you?
22	12:50:28	A. Yes, as I explained to you, what that means.
23	12:50:32	Q. No, but when you said is not as inaccurate as COLI 1999,
24	12:50:36	that can only be a statement about --
25	12:50:38	A. It's not --

1	12:50:39	Q. -- the amount ofder ^^ because one is fundamentally
2	12:50:43	inaccurate and the other one is not. It's not just --
3	12:50:47	it's not a mer of size. It's not a matter of size.
4	12:50:52	Q. Okay. For the present purposes, you just like the
5	12:50:55	tribunal to delete through the word relatively in your
6	12:51:01	supplement 2 ^?
7	12:51:06	A. Yes.
8	12:51:10	Q. Just going back to subparagraph (2), made a bit of
9	12:51:13	divergence because I was trying to understand where your
10	12:51:15	evidence currently was. I'm going to suggest to you
11	12:51:20	that you said and we looked at this when you were
12	12:51:22	looking at the going forward approach that the going
13	12:51:24	forward approach retains the cumulative inflation under
14	12:51:27	COLI 1999; is that correct?
15	12:51:30	A. Yes.
16	12:51:31	Q. And that was a consequence of using COLI 1999 for as
17	12:51:34	long as it was available?
18	12:51:38	A. Yes.
19	12:51:39	Q. But when you're engaged in your retd active correction,
20	12:51:43	you are disregarding that express term about using
21	12:51:47	COLI 1999 for as long as possible, aren't you, because
22	12:51:51	you're replacing that cumulative inflation with the
23	12:51:53	cumulative inflation implied by COLI 2007?
24	12:52:00	A. But COLI 1999 didn't exist anymore.
25	12:52:03	No, but the cumulative inflation which was implied up to

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1	12:52:09	2013 that has to be retained in you're going to use
2	12:52:11	COLI 1999 for as long as possible?
3	12:52:16	A. No. I mean, I can use COLI 1999 for as long as possible
4	12:52:21	until 2014 and then from then on, where it's no longer
5	12:52:29	possible to use it, I can make a correction.
6	12:52:31	Q. I see. So when we go --
7	12:52:34	A. I don't know -- this is a legal point, actually, because
8	12:52:41	I don't -- what is it that this was --
9	12:52:44	Q. Can I take you now to paragraph 5.31 at D1-75. Do you
10	12:53:01	have that?
11	12:53:02	A. Yes, yes.
12	12:53:03	Q. You say:
13	12:53:03	"I explain at paragraph 5.24 above that SWPC
14	12:53:07	overpaid SEPCO for many years due to COLI 1999
15	12:53:10	overstating the true rate of even nation relative to
16	12:53:13	more accurate indices." ^doc?
17	12:53:15	A. Yes.
18	12:53:16	Q. I just pause there. Again, what you're talking about is
19	12:53:20	a relative accuracy and the divergence between COLI 1999
20	12:53:27	and later indices?
21	12:53:28	A. No, no, no. What I mean here is that if you compare it
22	12:53:33	to more accurate indices, COLI 1999 was overstating,
23	12:53:40	overestimating the rate of up nation. That's what
24	12:53:47	I mean.
25	12:53:52	Q. In this paragraph, what you're saying is that the

1	12:54:02	because of your concerns about call the, you have to
2	12:54:04	lower the starting point for COLI 2007 by removing the
3	12:54:07	cumulative inflation implied by COLI 1999 between 2007
4	12:54:12	and 2013 and replacing it with the inflation implied
5	12:54:16	under COLI 2007; is that correct?
6	12:54:20	A. I am not removing the cumulative inflation, because if
7	12:54:23	I had removed the cumulative inflation, then there would
8	12:54:29	be no overpayment. I just making a correction.
9	12:54:37	Avoiding that cumulative inflation to be projected
10	12:54:44	forward for the whole life of the contract.
11	12:54:48	Q. In fact, what you're --
12	12:54:50	A. So, yes.
13	12:54:51	Q. What you've correcting is the use of COLI 1999 up to
14	12:54:55	2014 by replacing it with COLI 2007, that's what you're
15	12:54:59	doing, isn't it?
16	12:55:03	A. No, I'm not removing the use of COLI 1999 up to 2014
17	12:55:08	because if I had done that, then I would have said what
18	12:55:17	the windfall, the overpayment, whatever we want to call
19	12:55:21	it, should be given back. So, you know, yes. So I'm
20	12:55:29	not removing it, no. I'm just making a correction.
21	12:55:35	What was, as I said before, it is whatever overpayment,
22	12:55:42	whatever cumulative inflation that was not supposed to
23	12:55:48	be there, is like a sunk cost. Until then, we take it
24	12:55:53	as it is and from 2014 onwards, we try to rectify the
25	12:56:02	situation.

1	12:56:06	Q. I'll just start by touching on the new instructions you
2	12:56:09	received in your second report. There were two new
3	12:56:14	instructions in your second report, witness there? The
4	12:56:17	first is at paragraph 1.5 of your second report at D103,
5	12:56:23	page 5.
6	12:56:38	You have to read paragraph 1.5 and 1.5.
7	12:56:44	Paragraph 1.4 starts am crave over to D103-5.
8	12:56:52	Do you see that?
9	12:56:53	A. Yes, yes.
10	12:56:54	Q. This is the instruction as to the discretion or the
11	12:56:59	approach of the independent expert as set out in the
12	12:57:02	contract; is that right?
13	12:57:04	A. So this one is independent expert and the second one is
14	12:57:09	the tribunal has similar discretion.
15	12:57:12	Q. That was the point we looked at in relation to item 20
16	12:57:15	of the joint statement, is it?
17	12:57:19	A. About the instruction of the tribunal, yes.
18	12:57:21	Q. Yes. Sorry. I think you're nodding your head and
19	12:57:25	I think ^^ if you could just I ^^?
20	12:57:28	A. Yes, I did say, three times.
21	12:57:31	Q. The second of these new instructions is at
22	12:57:35	paragraphs 3.15 and 3.16, which is D103, page 18.
23	12:57:59	Here you're dealing really you can start at 3.14,
24	12:58:03	because that's where you're dealing with it. You say
25	12:58:07	that Ms Harfouche repeats the wording from appendix 13

1	12:58:11	of the agreement and emphasises the words if the index
2	12:58:13	is not available and as I that she understands that the
3	12:58:17	parties have agreed that COLI 1999 should be used as
4	12:58:20	long as it is available and opines that this suggests to
5	12:58:23	me that the parties have agreed to continue following
6	12:58:25	this approach to the subsequent end seed." ^doc.
7	12:58:28	Then 3.15 you say it is not for you to opine on what
8	12:58:32	the parties have and in fact have or not have agreed
9	12:58:36	to." ^doc.
10	12:58:38	Then you refer -- you take that the relevant part of
11	12:58:42	appendix 13 and you cite it there. Then your new
12	12:58:45	instruction is question I am instructed to assume that
13	12:58:48	the correct interpretation of this clause is that a new
14	12:58:51	index could be adopted by a mutual agreement or an
15	12:58:55	independent expert decision or an arbitral tribunal even
16	12:58:58	if the old index is still available." ^doc.
17	12:59:03	Because you've emphasised the words or if the
18	12:59:05	parties agree otherwise, do you see that?
19	12:59:10	A. Yes.
20	12:59:12	Q. So just to understand how you've approached this
21	12:59:15	question, is your understanding of your instruction that
22	12:59:22	an independent expert or tribunal could replace an
23	12:59:26	existing index when it was available without the
24	12:59:30	agreement of the parties?
25	12:59:55	What I understand from this is that this instruction

1	13:00:07	means that the tribunal has the same discretion as the
2	13:00:11	independent expert. That's how I understand it. In
3	13:00:18	3.15, so the -- yes, that's how I understood it.
4	13:00:23	Q. No, no. The instruction that about the tribunal's
5	13:00:27	discretion, that was the instruction we looked at first
6	13:00:30	of all and it's the one that's referred to in joint
7	13:00:32	statement 20. This is a different instruction you're
8	13:00:35	being given here, isn't it, 3.16?
9	13:00:37	A. How is it different? In terms of even if the old index
10	13:00:41	is still available?
11	13:00:42	Q. Yes, that's a new instruction, isn't it?
12	13:00:45	A. No, because it's written here, right? It says ^^ or in
13	13:00:51	the index is not available or if the parties agree
14	13:00:54	otherwise." ^doc.
15	13:00:56	So there are two ^^ it could be that the index is
16	13:01:00	not available or it could be that the parties agree
17	13:01:02	otherwise.
18	13:01:04	Q. Yes, I understand that, I'm trying to understand what
19	13:01:06	you understood here and how that might have impacted
20	13:01:10	your opinions. So --
21	13:01:12	A. No, my opinion was not impacted by any of this. You
22	13:01:17	know, my opinion is not a legal opinion. My opinion is
23	13:01:22	what I think as -- in my area of expertise, what I think
24	13:01:29	is the right thing to do.
25	13:01:31	Q. But hold on. This is an instruction?

1	13:01:34	A. Yes.
2	13:01:34	Q. And so presumably, this instruction has become relevant
3	13:01:38	to the way you express your opinion in your report,
4	13:01:40	hasn't it?
5	13:01:45	A. But if it was relevant to the opinion in my report, the
6	13:01:50	instruction at 3.16, you mean?
7	13:01:52	Q. The instruction which you have to read paragraph 3.15
8	13:01:56	and 3.16 to understand the instruction?
9	13:01:59	A. Okay, right.
10	13:02:00	Q. I'm asking you, is that instruction relevant to your
11	13:02:04	report?
12	13:02:08	A. It's not relevant to the conclusions. I mean, it's
13	13:02:11	always been -- I have always had the same opinion. The
14	13:02:16	issues or if the parties agreed otherwise, means that
15	13:02:20	^doc) it could very well be that you can use a different
16	13:02:27	mutually agreed index, but this is not what happened
17	13:02:32	here. So there was no index available when COLI 1999
18	13:02:41	was being produced. There was nothing else. There was
19	13:02:44	just COLI 1999. It's the same for the following
20	13:02:57	indices. And, yeah.
21	13:03:04	Q. I'm just looking at the time. I think maybe --
22	13:03:06	A. And the mutually -- maybe I can finish the answering
23	13:03:12	this question.
24	13:03:13	The way I interpret this is that there is this
25	13:03:16	clause gives the possibility of actually even if when

1   13:03:25   COLI 1999 is no longer available, right, gives you the

2   13:03:31   possibility of linking COLI 2007 to COLI 1999 at a prior

3   13:03:39   date than at the end of COLI 1999. So that linking in

4   13:03:49   2007.

5   13:03:49   Q. Sorry, which bit do you say gives you the possibility of

6   13:03:55   linking at an earlier date?

7   13:04:01   A. So in 2013, right, when the index -- when COLI 1999

8   13:04:09   became no longer available, there are two ways of doing

9   13:04:12   this, right? One way is to say, okay, we move forward

10   13:04:16   from this point. Another way is to say, okay, we

11   13:04:21   actually link them in 2007. So we link them at the

12   13:04:27   moment where COLI 2007 is no longer available, but it is

13   13:04:33   COLI 2007 is not COLI 1999, so.

14   13:04:39   Q. But that's not what you're saying at paragraph 3.16.

15   13:04:43   You're saying I am instructed to assume that the correct

16   13:04:45   interpretation of this clause is that a new index could

17   13:04:48   be adopted by mutual agreement or an independent expert

18   13:04:51   decision, or an arbitral tribunal even if the old index

19   13:04:54   is still available." ^doc?

20   13:04:55   A. Yes, this refers to the overlap. This refers to the

21   13:05:04   overlap. So if two indices are available at the same

22   13:05:07   time, where do you link them? So for -- if we exclude

23   13:05:15   the 2007 issue, it's for a possible future index that is

24   13:05:22   going to be published probably next year, I would guess,

25   13:05:28   and the last index in this contract.

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1	13:05:30	Q. Okay, so --
2	13:05:31	A. If it was -- sorry, it was published corn currently,
3	13:05:35	which is something that I have not --
4	13:05:42	Q. What I'm interested in is where you say obviously if the
5	13:05:47	parties agree something, they can agree anything they
6	13:05:49	like. But let's leave that aside. Are you saying that
7	13:05:53	even if there's no agreement between the parties, your
8	13:05:57	understanding is that an independent expert or an
9	13:05:59	arbitral tribunal can adopt a new index even if the old
10	13:06:07	index is still available?
11	13:06:10	A. Yes, they could just say, oh, look, there is an index --
12	13:06:17	you know, there is a ^^ why don't we use the PPI. If
13	13:06:20	they agree, why not? But I don't know. I'm --
14	13:06:26	Q. Well, sorry, the question was on the basis there wasn't
15	13:06:29	any relevant agreement between the parties. Answering
16	13:06:32	by reference to an agreement is not going to help. So
17	13:06:36	I'm asking again --
18	13:06:37	A. The question is asked, you know, what could be done if
19	13:06:41	the index is not available? The parties could have
20	13:06:43	agreed, right? The answer is -- the question was asked
21	13:06:49	in hypotheticals. I mean, you're asking me to interpret
22	13:06:54	a legal provision, you know. This is not for me to do.
23	13:07:01	Q. No, I'm asking you to explain your understanding of your
24	13:07:04	instruction, but I think we'll have to return to that
25	13:07:06	after lunch.

1	13:07:10	PRESIDENT: Thank you, Mr Robb. We'll now break for an
2	13:07:13	hour. So we're back at 5 past 2.
3	13:07:19	(1.07 pm)
4	13:07:22	(The luncheon adjournment)
5	13:07:30	(2.0
6	13:53:51	Testing the realtime. The time is 1.54 pm test test
7	13:53:56	test
8	13:53:59	(2.03 pm)
9	14:03:19	PRESIDENT: We'll get started again. Dr Meschi, I remind
10	14:03:22	you you're still under your affirmation and Mr Robb, if
11	14:03:25	you would like to continue.
12	14:03:26	MR ROBB: Thank you.
13	14:03:27	Dr Meschi, before we continue with the line of
14	14:03:32	questioning before lunch, I would just like to give you
15	14:03:34	a chance to consider whether the answers you gave
16	14:03:38	earlier on about the differences between COLI 2007 and
17	14:03:44	COLI 2013 and I think then you were saying that the only
18	14:03:48	reason for the difference was the outdated basket being
19	14:03:52	used for COLI 2007; is that correct?
20	14:03:55	A. Yes, there is another reason, but that's not what has
21	14:04:01	caused that kind of problem.
22	14:04:03	Q. Perhaps we could just look at -- I think just so
23	14:04:07	everyone understands what you're talking about, go to
24	14:04:10	table 4-1 of your first report, page D1-52?
25	14:04:15	Yes.

1	14:04:16	Q. Here what you've tonne is you've compared various
2	14:04:19	aspects of the ^^ indices and explained how things have
3	14:04:25	changed. One of the things that we can see that's
4	14:04:29	changed between COLI 2007 and COLI 2013 is the final
5	14:04:33	line, which is where the method of aggregating items for
6	14:04:39	the general index has changed from ath met I can in
7	14:04:43	COLI 2007 to geometric in COLI 2013?
8	14:04:48	A. Yes.
9	14:04:48	Q. So that's another difference that would have had an
10	14:04:51	impact on the inflation estimated by the two indices?
11	14:04:58	A. Yes, it does. It's just not a fundamental issue,
12	14:05:03	because the geometric means there are used on the higher
13	14:05:09	level indices, which have weight, so they do not have
14	14:05:16	the same affect on the index as the use of the
15	14:05:22	arithmetic means on the elementary aggregates.
16	14:05:28	So there is a quote in my report. I think it's in
17	14:05:34	the first one. Is it possible to look for a word?
18	14:05:47	TECHNICIAN: Yes, ma'am?
19	14:05:48	A. Can you check for for, TOR, can you find anything?
20	14:05:57	There is a quote from the CPI manual, fisher.
21	14:06:13	I'm so sorry.
22	14:06:15	MR ROBB: We might come to this later, but let me put it in
23	14:06:20	this way. The question is that or the position then is
24	14:06:26	that in addition to the issue about the basket, there
25	14:06:30	was a method logical change between COLI 2007 and

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1	14:06:36	COLI 2013?
2	14:06:37	A. Yeah.
3	14:06:38	Q. But your view is that that difference is not as
4	14:06:42	significant as the change between arithmetic and
5	14:06:45	geometric ^^ between COLI 1999 and COLI 2007 in respect
6	14:06:50	of the elementary aggregates?
7	14:06:51	A. Yes, it doesn't impart bias from the mental bias to the
8	14:06:55	indices ^^. It is because of different way that the
9	14:07:02	indices are treated. So the higher aggregate are all
10	14:07:09	weighted, right? So they use the basket of weight and
11	14:07:14	so the distortions that happen in the lower level,
12	14:07:18	because of the absence of weights, are not -- they do
13	14:07:25	not happen in the higher level weight, is because when
14	14:07:30	you don't put a weight, what you're doing essentially
15	14:07:35	there are implicit weight in those indices that create
16	14:07:39	a distortions. Then depending on what type of
17	14:07:43	arithmetic index you use, there is a different type of
18	14:07:47	distortion. But they are quite serious and they are --
19	14:07:56	those indices are strongly discouraged by --
20	14:08:00	Q. We'll be coming back to that, but I just wanted to
21	14:08:03	clarify there was another difference between the two
22	14:08:05	indices?
23	14:08:05	A. Yes, but it's not substantive in any way.
24	14:08:10	Q. Returning to where we were before the lunch break, where
25	14:08:16	we were dealing with your understanding of the

1	14:08:26	instruction that had been given to you at
2	14:08:30	paragraphs 3.15 and 3.16 of your second report, which
3	14:08:36	was just so we get it back, it's D103, page 18.
4	14:08:55	Just want to make sure you have that.
5	14:09:17	.
6	14:09:31	Do you have it?
7	14:09:33	A. Yes, I have it.
8	14:09:36	Q. Just say yes so we can be clear that you have it ^^.
9	14:09:38	This was the instruction given to you. It wasn't in
10	14:09:41	your first relationship but you refer to it in your
11	14:09:43	second report.
12	14:09:44	I just want to understand how you have understood
13	14:09:47	this question. Okay? And how you have understood this
14	14:09:51	instruction.
15	14:09:54	A. This is my first report, 3.15.
16	14:09:57	Q. No, your second report, which is why I want to check you
17	14:10:02	have the document, it's the one that's on the screen?
18	14:10:05	A. Yes, yes. Okay. Yes, right.
19	14:10:11	Q. Right. What I want to understand, this is the
20	14:10:13	instruction that was given to you for your second
21	null	
22	14:10:17	A. Yes.
23	14:10:17	Q. I want to understand how you have understood that
24	14:10:22	instruction. As I read paragraph 3.16 -- you tell me
25	14:10:30	whether this is how you understood it -- that you were

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1	14:10:32	being instructed that an independent expert or tribunal
2	14:10:36	could have replaced COLI 1999 with COLI 2007 when
3	14:10:42	COLI 1999 was available even if the parties had not
4	14:10:45	agreed to do so?
5	14:10:50	A. Even if the -- when COLI 1999 was available?
6	14:10:58	Q. Assume there's no relevant agreement by the parties
7	14:11:01	about replacing an index?
8	14:11:02	A. Right.
9	14:11:03	Q. There's no treatment about from the parties?
10	14:11:05	A. Okay.
11	14:11:06	Q. Is your understanding of this instruction that an
12	14:11:10	independent expert or tribunal could have replaced
13	14:11:14	COLI 1999 with COLI 2007 even when COLI 1999 was
14	14:11:21	available?
15	14:11:23	A. So in that one-year in which they were --
16	14:11:27	Q. As an example.
17	14:11:29	A. Whether there was is the only time -- (overspeaking) --
18	14:11:32	^^.
19	14:11:32	Q. Let's take that as the point.
20	14:11:34	A. Not if anybody asked them. So it would have been
21	14:11:41	necessary that -- and that's my understanding. So the
22	14:11:47	parties did not agree on substituting an index and then
23	14:11:51	somebody comes from outside and substitutes it?
24	14:11:56	Q. I'm just trying to understand what you understood about
25	14:11:59	this and what the significance of the words were or if

1	14:12:03	the parties agree otherwise" which you're underlined in
2	14:12:06	your paragraph 3.15?
3	14:12:10	A. It could have been that, for example -- I don't know.
4	14:12:26	You're asking me to interpret a legal clause --
5	14:12:31	Q. That's the point. I'm really not asking you to do some
6	14:12:33	legal interpretation. You've been given an instruction
7	14:12:36	as an expert by your client and it is important to
8	14:12:40	understand if you understood that instruction and how
9	14:12:42	you understood that instruction?
10	14:12:44	A. So I understand this instruction in a very simple way,
11	14:12:47	is that if there is a dispute about this index, an
12	14:12:58	expert can determine what to do with it and it could be
13	14:13:01	either about the index any time because it looks like --
14	14:13:11	if the parties agree otherwise ^doc) ^^ so it could be
15	14:13:16	yeah.
16	14:13:16	Q. To avoid intending the clause and focus on your
17	14:13:18	instruction, which is really what you ought to be
18	14:13:20	concerned with. Why do you focus on paragraph 3.16?
19	14:13:25	What I'm trying to ^^ understand is here you appear to
20	14:13:28	be saying -- you appear to be being told that an
21	14:13:33	independent expert or arbitral tribunal could adopt
22	14:13:40	a new index even if the old index is still available.
23	14:13:44	Do you see that?
24	14:13:48	A. Yes, because it's says or if the index is not available
25	14:13:52	or if the parties agree otherwise ^doc) so the parties

1	14:13:55	may agree that the index is there, but is not really
2	14:14:01	appropriate, right? And then they can say, okay, this
3	14:14:05	index is not working for us. Then let's change it.
4	14:14:12	I want to change it this way. No, I want to change it
5	14:14:15	the other way. We don't agree. Let's go to an
6	14:14:20	independent expert. That's how I interpret it.
7	14:14:25	Q. I see. We'll follow this through --
8	14:14:28	A. I'm just trying to figure out what this meaning and
9	14:14:31	those I interpret it.
10	14:14:32	Q. That's how you interpret it when you were preparing your
11	14:14:34	report ^^?
12	14:14:36	A. This instruction really didn't make much sense -- now it
13	14:14:40	doesn't make much sense -- didn't change my opinion when
14	14:14:43	I ^^ wrote my report. Because what really mattered to
15	14:14:49	me is how do you do the transition? Because I'm
16	14:14:54	asked -- the instruction that made -- that mattered most
17	14:14:57	to me was the one I read to you before about how do you
18	14:15:00	do the transition? What the the appropriate approach to
19	14:15:06	do this transition? That was actually the question that
20	14:15:13	was substantive to me.
21	14:15:23	In order for that instruction not to be moot, there
22	14:15:30	had to be some kind of dispute about it and this is the
23	14:15:39	clause, I think, which is disputed. Because otherwise
24	14:15:43	why would they ask me? ^^.
25	14:15:46	Q. Well, we move on to paragraph 3.17 if you scroll further

1   null

2   null

3   null

4   null

5   null

6   null

7   null

8   null

9   null

10   null

11   null

12   null

13   null

14   null

15   null

16   null

17   null

18   null

19   null

20   null

21   null

22   null

23   null

24   14:17:45   available?

25   14:17:51   A. Or if the parties agree otherwise ^doc). I mean, they

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1	14:17:57	clause is here ^^.
2	14:18:00	Q. Yes, I know, but I'm trying to understand how you've
3	14:18:02	proceeded in your second report?
4	14:18:04	A. So --
5	14:18:05	Q. Do you proceed in your second report on the basis that
6	14:18:09	the parties had agreed in the WPA to use COLI 1999 for
7	14:18:13	as long as it was available?
8	14:18:14	A. But it doesn't matter to me. They used it until 2013
9	14:18:23	and they had to change it in 2014. So the question is
10	14:18:28	what do you do from 2014 onwards? You have to use
11	14:18:35	another index because the first index is no longer
12	14:18:38	available. What do you do? Do you go and use 2007 from
13	14:18:43	a different starting point or do you use 2007 starting
14	14:18:52	from the last date at which was available?
15	14:18:57	Q. Right, so --
16	14:18:58	A. Is there any overriding reasons why you should depart
17	14:19:05	from using the approach that was proposed by
18	14:19:11	Ms Harfouche. In my opinion, there is.
19	14:19:13	Q. So the -- am I right in thinking, then, that your
20	14:19:16	evidence now is that the instruction that we were
21	14:19:19	looking at at paragraphs 3.15 to 3.16, was irrelevant to
22	14:19:25	your report?
23	14:19:39	A. I mean, the parties didn't agree, right? It's not up to
24	14:19:55	me to decide what the parties have or have not done.
25	14:20:00	This is what I'm saying here. So the clause says if the

1	14:20:07	index is not available or if the parties agree
2	14:20:10	otherwise, what I am doing in 3.15 is responding to
3	14:20:14	Ms Harfouche, who's saying if the index is not
4	14:20:18	available. Actually, there is another part of that
5	14:20:25	clause, which is or if the parties agree otherwise ^doc)
6	14:20:30	blah, blah, blah blah, blah, this is what I'm saying
7	14:20:32	here.
8	14:20:34	Q. I want to be clear here. You previously were
9	14:20:38	approaching this paragraph-paragraph basis of what you
10	14:20:40	were instructed -- these were part of your instructions;
11	14:20:45	is that right?
12	14:20:46	A. Well, the crux of the matter is not what is written
13	14:20:52	here, is what I'm responding to, and what I'm responding
14	14:20:55	to is actually in paragraph 3.14, right? What I am
15	14:21:02	responding to is Ms Harfouche repeats wording from
16	14:21:09	appendix 13 of the agreement and emphasises the words if
17	14:21:13	the desk is not available states that she understands
18	14:21:15	that the parties have agreed that COLI 1999 should be
19	14:21:18	used as long as it is available and opines that this
20	14:21:22	suggests to me that the parties have agreed to continue
21	14:21:26	following this approach for the subsequent indices."
22	14:21:31	^doc.
23	14:21:33	I consider that this is not for Ms Harfouche or
24	14:21:36	indeed me to opine on what the parties in fact have or
25	14:21:39	have not agreed. I understand that SWPC has not agreed

1	14:21:45	to this, and that there is in fact a legal dispute about
2	14:21:49	how to interpret the terms of the WPA in respect of the
3	14:21:53	future indexation changes. Ms Harfouche neglects to
4	14:21:58	emphasise the six words that follow if the intention is
5	14:22:03	not available or if the parties agree otherwise." ^doc.
6	14:22:09	Q. You're reading out bits of your report?
7	14:22:11	A. Yes.
8	14:22:11	Q. But can I -- what I was trying to understand was whether
9	14:22:15	the instruction that's in paragraph 3.16 is of any
10	14:22:19	relevance to your -- the conclusions in your second
11	14:22:25	report.
12	14:22:31	A. It is a legal issue to decide whether you have to --
13	14:22:36	whether there is something in this agreement, right,
14	14:22:39	that says that you have to use the cumulative inflation
15	14:22:44	that happened and put it forward forever.
16	14:22:53	What this is, what my position is, is this
17	14:22:58	instruction says that doesn't have to be like that. So
18	14:23:03	if it doesn't have to be like that, what is the way
19	14:23:07	around to doing this? So in that respect, --
20	14:23:14	Q. The instruction you were given in 3.16 was to assume
21	14:23:17	that the correct interpretation for this clause is that
22	14:23:20	a new index could be adopted by mutual agreement or an
23	14:23:24	independent expert decision or an arbitral tribunal even
24	14:23:26	if the old index is still available." ^doc.
25	14:23:29	Yes? That's what you --

1	14:23:31	A. Agreed a new methodology, yes, a different methodology
2	14:23:34	^^, yes.
3	14:23:36	Q. Well, you don't mention that there. It's a very simple
4	14:23:39	question. Did this instruction have any influence on
5	14:23:43	your second report?
6	14:23:53	A. I don't -- I mean, I haven't changed my -- in my second
7	14:24:02	report, I haven't changed him at all from what I was
8	14:24:04	saying before, so how could this instruction have had an
9	14:24:10	influence on my second report?
10	14:24:13	Q. Well --
11	14:24:14	A. Which was the fifth one I wrote.
12	14:24:16	Q. All I'm doing is ask you a question about whether you
13	14:24:20	consider that this was relevant to any issue in your
14	14:24:22	report? If your answer is no, then that's fine.
15	14:24:24	A. Yeah, I don't think so. I mean, given I haven't changed
16	14:24:30	my opinion tab I don't mean to jump in, but is the
17	14:24:34	answer not in 3.17 (Mr Gaff ^ are you not saying there
18	14:24:42	that the issue is moot?
19	14:24:44	A. Well, that's what I said before.
20	14:24:49	MR GHAFFARI: Is your answer that the instruction at 3.16
21	14:24:56	was relevant to your report ^^ or not relevant to your
22	14:25:02	report, not relevant because it's academic or moot?
23	14:25:05	I think that's what we're trying to get at,
24	14:25:08	^^ -- (overspeaking) -- ^^?
25	14:25:08	A. Yes, because essentially the issue here is the way -- at

1	14:25:20	the point that we have to make a decision, COLI 1999 had
2	14:25:25	already been used, it has been used for as long as it
3	14:25:27	was available and then it was dismissed and it was not
4	14:25:36	published again.
5	14:25:42	The subsequent indices were not published
6	14:25:49	concurrently. So this is all in the past. What is
7	14:25:56	important is what happens in the future. And what
8	14:25:58	happens in the future is going to happen when the next
9	14:26:03	index is coming. So what do you do with that next
10	14:26:08	index? And what do you do with the next index depends
11	14:26:13	on how the index is published. So when I wrote my first
12	14:26:19	report, I didn't consider that it was -- that the next
13	14:26:26	index would be published in any way but back-to-back.
14	14:26:30	The same way the other indices have been published. So
15	14:26:33	there is only one point in time in which you can
16	14:26:35	actually physically link these indices. You have no
17	14:26:38	choice. ^^.
18	14:26:39	But in case the next index would be -- would
19	14:26:47	actually be published in a concurrent way for longer
20	14:26:49	than 12 months, then that instruction in 3.15 can become -- becomes applicable, because if you want to
21	14:27:06	reflect to inflation and use the most accurate index,
22	14:27:09	then, in my opinion, you have to link the indices as
23	14:27:12	soon as the new better one comes. This doesn't imply
24	14:27:20	any correction, is just linked as soon as the new index
25	14:27:23	comes.

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1	14:27:24	So that is the disagreement, because in my opinion,
2	14:27:28	that's when it should be done and in Ms Harfouche's
3	14:27:33	opinion, it should be done following -- at the very last
4	14:27:40	moment when the old index is published and that is where
5	14:27:46	my instruction matters.
6	14:27:51	MR ROBB: So your evidence is that this instruction has
7	14:27:53	nothing to do with your opinion on COLI 1999, COLI 2007?
8	14:27:58	A. COLI 1999 and COLI 2007 I have expressed my opinion
9	14:28:02	regardless.
10	14:28:08	Q. So --
11	14:28:09	A. As I said, call --
12	14:28:10	Q. Did you agree with my question, that your evidence is
13	14:28:13	that this instruction has nothing to do with your
14	14:28:16	opinion on COLI 1999 to COLI 2007?
15	14:28:20	A. The one in 3.15?
16	14:28:22	Q. Yes.
17	14:28:23	A. Yes, I did say before --
18	14:28:26	Q. I just want to be absolutely clear about your evidence
19	14:28:27	and you're agreeing with me, I'm very happy to move on?
20	14:28:30	A. Yes.
21	14:28:30	Q. Thank you. Could we please go to the joint statement,
22	14:28:34	which is D130, page 23. Do you have that? This is item
23	14:29:01	33 of the joint statement. Looking the your column
24	14:29:05	here, it starts off you say Ms Harfouche considers that
25	14:29:08	my preferred approach does not come pie WPA because its

1	14:29:11	starting point this 2014 and thus all invoices
2	14:29:13	thereafter do not use COLI 1999 for as long as it was
3	14:29:16	available, but rather use COLI 1999 from 2005 to 2007
4	14:29:21	and COLI 2007 from 2007 to 2013." ^doc.
5	14:29:27	Do you see that?
6	14:29:28	A. Yes.
7	14:29:29	Q. Then you say:
8	14:29:30	"I disagree. The WPA does not state that COLI 1999
9	14:29:34	should be used for as long as it was available. Rather,
10	14:29:37	it states that COLI 1999 should be used or, if the index
11	14:29:42	is not available or if the parties agree otherwise, then
12	14:29:44	another mutually agreed index, or in the event of
13	14:29:47	a failure to agree then such index or method of
14	14:29:49	calculation as shall be determined by the independent
15	14:29:53	expert. The use of COLI 1999 prior to January 2014 is
16	14:29:56	therefore consistent with WPA." ^doc.
17	14:30:01	Then you say:
18	14:30:02	"The six words emphasised above, mean that the
19	14:30:05	parties can agree, or the independent expert and I am
20	14:30:07	instructed this tribunal, can determine a different
21	14:30:10	approach." ^doc.
22	14:30:14	So I take it from here that here you are saying that
23	14:30:18	the instruction that you were given at paragraph 3.15
24	14:30:21	and 3.16 of your second report, is relevant to your
25	14:30:24	assessment of how to transition from COLI 1999 to

1	14:30:32	COLI 2007?
2	14:30:32	A. This is an answer to another question, though. The
3	14:30:35	question is whether my approach complies with the WPA,
4	14:30:42	not whether the WPA determines my approach.
5	14:30:56	Q. Sorry. But you're saying here, you've justifying your
6	14:31:03	approach by reference to the WPA by reference to the
7	14:31:07	clause that we were just discussing in the context of
8	14:31:09	the instruction at paragraph 3.15 and 3.16 of your
9	14:31:12	second report?
10	14:31:12	A. Yes, yes. Yes, but the issue here is the of sit of what
11	14:31:17	you presented to me before. What you asked me before
12	14:31:22	was does this instruction matter for what you decided to
13	14:31:27	do about len king COLI 1999 and COLI 2007 and that is,
14	14:31:34	no, that instruction doesn't affect my opinion how to
15	14:31:38	link those indices. But here the question is: does my
16	14:31:44	opinion in my approach comply with the WPA or not? And
17	14:31:50	I say, well, yes, it does, for these reasons, because
18	14:31:53	this is what that says.
19	14:31:55	I'm not saying that I have decided this in order to
20	14:31:59	comply with the WPA. I'm just saying that my approach
21	14:32:03	does comply with the WPA, because this is what the
22	14:32:07	WPA -- this is how I read the WPA, is the other way
23	14:32:10	around.
24	14:32:11	Q. I see. So is your evidence, then, that if the words or
25	14:32:14	if the parties agree otherwise" didn't exist, then you

1	14:32:18	would accept that your approach does not comply with the
2	14:32:20	WPA?
3	14:32:29	A. No, because -- no. Because there could still be
4	14:32:40	recourse to -- if the index is not available, then
5	14:32:46	another mutually agreed index may not have been agreed
6	14:32:50	by the parties, but can still be decided by an expert or
7	14:32:57	by a tribunal.
8	14:33:00	Q. Hold on. So you start this by saying that the WPA does
9	14:33:07	not state that COLI 1999 should be used for as long as
10	14:33:09	it was available. Do you see that ^doc)?
11	14:33:11	A. Yes.
12	14:33:12	Q. Then you emphasise in the clause the words or if the
13	14:33:15	parties agree otherwise ^doc) do you see that?
14	14:33:19	A. Yes.
15	14:33:21	Q. And then you say in the next paragraph down:
16	14:33:24	"The six words emphasised above just to be clear the
17	14:33:28	words are or if the parties agree otherwise ^doc)
18	14:33:31	meaning that the parties can agree or the independent
19	14:33:33	expert and I am instructed this tribunal can determine
20	14:33:35	a different approach." ^doc.
21	14:33:37	Do you see that?
22	14:33:38	A. Yes.
23	14:33:40	What you're saying here is that the reason that your
24	14:33:45	approach complies with the WPA is because of the
25	14:33:47	presence of the words "or if the parties otherwise

1	14:33:51	agree"?
2	14:33:52	A. Yes.
3	14:33:52	Q. Right.
4	14:33:53	A. Among other things. Or if the parties agree otherwise,
5	14:33:58	this is a whole clause, yes.
6	14:34:00	Q. Yes, so if those words were not in that clause, so
7	14:34:05	imagine they were struck through, they just never
8	14:34:07	existed, that you're agreeing, aren't you, that --
9	14:34:09	A. Why should I argue that? The words are in that clause.
10	14:34:12	PRESIDENT: Sorry, Dr Meschi, can you wait until the
11	14:34:14	question has been finished otherwise the transcript
12	14:34:16	doesn't pick up?
13	14:34:17	A. Sorry, sorry.
14	14:34:19	MR ROBB: I'm just asking you to consider the position that
15	14:34:22	would exist or if the parties agree otherwise", if those
16	14:34:29	words were not in that clause. Okay?
17	14:34:31	A. Yes.
18	14:34:32	Q. So if those words were not this that clause, then your
19	14:34:35	position would be, as I understand it, that your
20	14:34:39	approach does not kilometre ply with the WPA?
21	14:34:43	A. It does, because there is another "or" there. It says
22	14:34:47	"or if the index is not available or if the parties
23	14:34:51	agree otherwise or in the event of a failure to agree
24	14:34:54	such index or method of calculation as shall be
25	14:34:57	determined by the independent expert." ^doc.

1	14:35:00	So if the parties agree otherwise were in there, you
2	14:35:09	should change or in the event of a failure to agree ^^,
3	14:35:12	right? So you can't just take out these six words.
4	14:35:17	They are part, an integral part of this clause or at
5	14:35:20	least it seems to me. As I said, I am not a lawyer, but
6	14:35:25	to me when there is one or, two or and then three or,
7	14:35:30	they have to be read in sequence. ^.
8	14:35:34	Q. I'll debate contractual interpretation I'm sure at
9	14:35:37	a later stage. But I want to go back to the point that
10	14:35:42	you have emphasised in the following paragraph these
11	14:35:46	sick words. You've emphasised them in the text or if
12	14:35:49	the parties agree otherwise", just as you had done in
13	14:35:52	your second report, and you follow up on that emphasis
14	14:35:57	in the next paragraph by saying that you understand
15	14:35:59	those words to mean, in effect, that your approach
16	14:36:05	complies with the WPA; is that right?
17	14:36:10	A. Yes.
18	14:36:10	Q. So the logical consequence of that is if those words did
19	14:36:14	not exist, your approach would not comply with the WPA,
20	14:36:18	would it?
21	14:36:20	A. Those six words have to be read with everything that
22	14:36:23	comes afterwards.
23	14:36:27	Q. But I'm asking you to imagine the situation where those
24	14:36:30	words are struck through, don't exist.
25	14:36:33	A. Sorry, but if you struck through these words, you have

1	14:36:36	to add something to the next part of this sentence.
2	14:36:46	Q. No, Dr Meschi. I don't want to get involved in
3	14:36:49	contractual interpretation. I'm just trying to
4	14:36:51	understand what your approach is. Take it from me that
5	14:36:54	if you strike through those six words, the clause still
6	14:36:57	makes sense.
7	14:36:59	A. It doesn't make sense to me.
8	14:37:02	Q. You emphasise those six words as giving the basis upon
9	14:37:06	which your approach to linking complied with the WPA,
10	14:37:11	didn't you?
11	14:37:15	A. The six words are the words that have been ignored
12	14:37:22	before. That's why I emphasise the six words. The
13	14:37:27	parties can agree otherwise or if they cannot agree, or
14	14:37:32	if they cannot agree, then ask an independent expert,
15	14:37:41	and then I have an instruction, this tribunal can still
16	14:37:47	decide ston a different approach.
17	14:37:54	Q. But --
18	14:37:55	A. There is nothing in the WPA that says, as far as I can
19	14:38:00	tell, how do you link the indices.
20	14:38:06	Q. No, but you start this paragraph I disagree"?
21	14:38:11	A. Yes.
22	14:38:12	Q. Right? What you're disagreeing with is that COLI 1999
23	14:38:18	was to be used for as long as it was available; yes?
24	14:38:21	A. Yes.
25	14:38:22	Q. So your process upon which the understanding of the WPA

1	14:38:27	on which you have proceeded is that it does not require
2	14:38:31	COLI 1999 to be used for as long as it is available; is
3	14:38:38	that correct?
4	14:38:41	A. It can be used if it is not available or if the party
5	14:38:46	agree otherwise or if they can't agree, an independent
6	14:38:55	expert.
7	14:38:56	Q. Well, you say the WPA does not state that COLI 1999
8	14:39:02	should be used for as long as it was available." ^doc.
9	14:39:05	Then you emphasise or if the parties agree
10	14:39:07	otherwise." ^doc.
11	14:39:07	Now, are you aware, has anyone ever suggested to you
12	14:39:13	that there is any agreement between the parties that
13	14:39:18	would satisfy the words "or if the parties agree
14	14:39:21	otherwise"?
15	14:39:22	A. I don't know. I don't know. I guess if they have an
16	14:39:26	agreement, we wouldn't be here.
17	14:39:28	Q. Let's assume that there is no basis upon which anyone
18	14:39:33	could suggest that the parties have agreed otherwise.
19	14:39:36	A. Yes.
20	14:39:37	Q. So then we're just left with or if the index is not
21	14:39:41	available", yes?
22	14:39:43	A. Yes.
23	14:39:44	Q. And your up approach, as we can see from the third
24	14:39:48	paragraph there, beginning the six words, means that if
25	14:39:52	the only bit that this tribunal can be concerned with is

1	14:39:55	for slns it was available", then your approach is not
2	14:39:58	consistent with the WPA, is it?
3	14:40:01	A. No, I don't agree with you. Because what I understand
4	14:40:05	from this, I am emphasising those six words as pop esed
5	14:40:11	to the fact that they were ignored, the index is not
6	14:40:17	available. There are two ways in which when you have an
7	14:40:25	index that is still available, you can move forward.
8	14:40:33	The party -- one of the parties could say this index is
9	14:40:39	doing something wrong, right? And the other party may
10	14:40:43	say yes, and so they agreement or if they don't agree,
11	14:40:49	they can go into a different kind of process.
12	14:40:52	But my whole approach doesn't mention the six words,
13	14:40:56	no.
14	14:40:59	Q. We take it from me there is no -- in COLI 1999 to
15	14:41:04	COLI 2007, there's no question of the parties having
16	14:41:07	ever agreed at any stage that they needed to have a new
17	14:41:12	up desk, is there?
18	14:41:13	A. No, but they obviously disagreed on how to move forward
19	14:41:17	once that index was, I don't know when, when was it, in
20	14:41:24	2014, they disagreed on how to move forward.
21	14:41:28	Q. This whole debate that you're explaining this this item
22	14:41:31	33 arises because you're concerned that Ms Harfouche has
23	14:41:35	said that your approach does not comply with the WPA,
24	14:41:41	yes? That's what this issue 33, if we can see that from
25	14:41:46	the first paragraph of your column for item 33?

1	14:41:52	A. Yes.
2	14:41:53	Q. So what you're trying to explain is why your approach
3	14:41:55	does comply with the WPA?
4	14:41:57	A. Yes.
5	14:41:58	Q. Is that correct?
6	14:41:58	A. Yes.
7	14:42:00	Q. And when you are trying to explain why your approach
8	14:42:04	complies with the WPA, the words that you alight are ^^
9	14:42:10	otherwise; is that right?
10	14:42:11	A. Well, I think this is -- the way I understand it is
11	14:42:15	explained in the paragraph below, right? The six words
12	14:42:19	emphasised above mean that the parties can agree, or the
13	14:42:24	independent expert if the parties don't agree the
14	14:42:26	independent expert, because it's if they agree otherwise
15	14:42:29	or they don't ^doc) somebody else can. That is why
16	14:42:36	those six words are important. They are important
17	14:42:41	because they can either agree or not agree. But there
18	14:42:47	has to be the start of a discussion in order to agree or
19	14:42:50	not agree. Is that is why.
20	14:42:57	Q. I'm going to put it to you again that the basis upon
21	14:42:59	which you consider that your approach complies with the
22	14:43:02	WPA is the presence of the words "or if the parties
23	14:43:06	otherwise agree"?
24	14:43:07	A. No, is or as the parties otherwise agree or in the event
25	14:43:12	of a failure to agree" it's both ^doc).

1	14:43:20	Q. Well, you haven't referred to the latter words, have
2	14:43:25	you? You've focused very much on or if the parties
3	14:43:28	agree otherwise", haven't you?
4	14:43:30	A. Yes, I am emphasising this, because it was not
5	14:43:34	emphasised before. It's just by contrast.
6	14:43:37	Q. No, because then you would have also emphasise the words
7	14:43:41	you have just mentioned for is very ^^ or or ^^ you
8	14:43:45	don't agree those, do you?
9	14:43:46	A. Six words emphasised above mean that the parties can
10	14:43:49	agree or independent expert can determine a different
11	14:43:53	approach." ^doc.
12	14:43:55	Q. And the different approach is not to use COLI 1999 for
13	14:43:59	as long as it is available, isn't it?
14	14:44:03	A. It could be let's forget about COLI 1999 and let's go to
15	14:44:06	the PPI if there is a PPI. It could be let's use the
16	14:44:11	same PPI that is used for the foreign portions. It
17	14:44:15	could be a lot of things. I don't know what it could
18	14:44:20	be.
19	14:44:20	Q. This is a debate about whether COLI 1999 has to be used
20	14:44:23	for as long as it's available and you're saying no, you
21	14:44:26	don't have to use COLI 1999 for as long as it's
22	14:44:29	available, aren't you?
23	14:44:37	A. According to what is written here, as I said, this is
24	14:44:41	a moot point, but according to what is written here, you
25	14:44:44	have two possibilities. You can use it until it's

1	14:44:48	available or if it is not available, or the parties
2	14:44:54	agree otherwise, you can use something else. Or if you
3	14:45:01	don't agree, then you have to put it to an authority to
4	14:45:12	decide or somebody with authority to decide.
5	14:45:16	Q. But reading this together, when you refer to a different
6	14:45:19	approach in that third paragraph, you are talking about
7	14:45:26	an approach which is different from the going forward
8	14:45:29	approach; is that right?
9	14:45:33	A. My approach?
10	14:45:35	Q. When you refer to -- you say a different approach, yes?
11	14:45:39	A. Yes.
12	14:45:40	Q. Right. By a different approach you mean an approach
13	14:45:44	which is different from the going forward approach?
14	14:45:47	A. Yes, it could be any other approach.
15	14:45:52	Q. So the only basis on which you can do something other
16	14:45:55	than the going forward approach is the presence of these
17	14:45:58	six words.
18	14:46:04	A. No. Why?
19	14:46:06	Q. I'm just reading your words, Dr Meschi. What you have
20	14:46:10	said, and we can rephrase this now you have explained
21	14:46:14	what a different approach means. The six words
22	14:46:16	emphasised above mean that the parties can agree, or the
23	14:46:21	independent expert and I am instructed this tribunal)
24	14:46:24	can determine an approach that is different from the
25	14:46:27	going forward approach ^doc) would that be a fair

1	14:46:30	summary of what you're trying to say?
2	14:46:40	A. The question is does this approach comply with the WPA
3	14:46:45	or not? So this is the question. Right? Does my
4	14:46:49	approach comply with the WPA or not? It complies with
5	14:46:52	the WPA because this is what the WPA says.
6	14:46:58	Q. Sorry, that --
7	14:47:00	A. So you're saying that if the WPA didn't say that, would
8	14:47:05	your approach comply with the within amount?
9	14:47:07	Q. No, that isn't even close to an answer to my question.
10	14:47:12	I'm going to look at the words that you use in item 33
11	14:47:15	in that paragraph that begins "the six words". Okay?
12	14:47:19	Right.
13	14:47:19	We had a debate a few moments ago about what you
14	14:47:22	meant by determine a different approach and you agreed
15	14:47:26	that what you meant there was that it can determine an
16	14:47:31	approach that is different from the going forward
17	14:47:32	approach proposed by Ms Harfouche?
18	14:47:35	A. By Ms Harfouche, not by the WPA. The WPA doesn't say
19	14:47:39	that that is the approach you have to use.
20	14:47:42	Q. No, can we just focus on what the questions are. So
21	14:47:48	I asked you a question to find out exactly what you
22	14:47:51	meant by a different approach in that paragraph. Yes?
23	14:47:55	I asked you a question before to work out what you meant
24	14:47:58	by a different approach" in that paragraph. Do you
25	14:48:01	remember that I asked you those questions? You have to

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1	14:48:08	say "yes" or "no"?
2	14:48:09	A. Can you read it to me? I mean.
3	14:48:13	Q. I asked you a question before?
4	14:48:15	A. Yes.
5	14:48:15	Q. -- about what you meant by a different approach in that
6	14:48:18	paragraph. Do you remember that question?
7	14:48:21	A. No.
8	14:48:22	Q. Okay. Let's try again.
9	14:48:26	I'm going to suggest to you again that where you
10	14:48:28	refer to "a different approach" in that paragraph, what
11	14:48:32	you --
12	14:48:32	A. In this one?
13	14:48:35	Q. The paragraph that begins "the six words"?
14	14:48:38	A. Yes.
15	14:48:38	Q. At the end of that you refer to a different approach".
16	14:48:50	Do you see that?
17	14:48:50	A. Yes.
18	14:48:51	Q. Right. What I want to do is confirm what your view is
19	14:48:55	about what you intended to mean by the words a different
20	14:49:00	approach". I'm suggesting to you that what you meant
21	14:49:06	was can determine an approach that is different from the
22	14:49:09	going forward approach proposed by Ms Harfouche.
23	14:49:17	Yes.
24	14:49:18	Q. Yes?
25	14:49:19	A. To be clear, Ms Harfouche considers that my approach is

1	14:49:23	not compliant, okay, and with the WPA. Because in her
2	14:49:30	opinion, in her opinion, not to the letter of the WPA,
3	14:49:34	her approach is the only one that complies. Whether
4	14:49:38	I agree or not with that and I don't, then the next
5	14:49:43	question is does my approach comply with it? There are
6	14:49:55	several and we are -- yes, there are several
7	14:49:58	possibilities in which a compliant approach can be
8	14:50:03	produced.
9	14:50:07	Q. Can I just confirm that -- you agree that what you meant
10	14:50:10	by a different approach was an approach that is
11	14:50:12	different from that proposed by Ms Harfouche as the
12	14:50:15	going forward approach. You've agreed with that. Say
13	14:50:19	"yes" or "no"?
14	14:50:20	A. Yes.
15	14:50:22	Q. ^^ so the only basis that you put forward for saying
16	14:50:29	that the tribunal can determine a different approach is
17	14:50:34	the words "or if the parties agree otherwise"?
18	14:50:38	A. Or "parties agree otherwise or in the failure in the
19	14:50:42	event of a failure to agree then such index or method of
20	14:50:47	calculation shall be determined by independent expert."
21	14:50:50	^doc.
22	14:50:50	So the whole sentence after the or if the index is
23	14:50:54	not available. It's not just those six words, no.
24	14:50:58	Q. Can I just check that those are the only six words that
25	14:51:01	you've emphasised ^^?

1	14:51:03	A. Yes why those ^^ aren't they?
2	14:51:08	A. Mean that the parties can agree or the independent
3	14:51:12	expert, that's what I have written in that paragraph.
4	14:51:15	Q. Yes, but the words that you are referring to in that
5	14:51:19	paragraph are the words or if the parties agree
6	14:51:20	otherwise?
7	14:51:23	A. Yes, because if the parties do not agree, they call an
8	14:51:28	independent expert. If the parties agree, there is no
9	14:51:31	need. So that is the premise or if the parties agree
10	14:51:35	otherwise is the premise for what comes afterwards.
11	14:51:39	That's why they are so important.
12	14:51:43	Q. But why are the words if the eater ^^ important?
13	14:51:46	A. Because if they don't, if they agree, you don't have the
14	14:51:50	needs to call an independent expert and if they don't,
15	14:51:53	you call an independent expert or an arbitration
16	14:51:56	tribunal. That's how I read it. That's my
17	14:51:58	interpretation of this.
18	14:52:01	Q. The interpretation you gave and the explanation you gave
19	14:52:03	for your approach in the third paragraph only focused on
20	14:52:09	the six words or if the parties agree otherwise, do you
21	14:52:12	agree?
22	14:52:12	A. Yes.
23	14:52:13	And that's what you say means that your approach is
24	14:52:17	consistent with the WPA?
25	14:52:21	A. The words emphasise above mean that the parties can

1	14:52:26	agree, or the independent expert." ^doc.
2	14:52:31	So what this means again, I shall say this again, is
3	14:52:36	that the parties can agree, so let's say that the index
4	14:52:40	is not available or that the index is available and the
5	14:52:44	parties agree otherwise or if they don't, they can go to
6	14:52:48	an independent expert.
7	14:52:56	Q. I'm probably going to have to --
8	14:52:58	A. Because -- yes, this is my way of reading this. I mean,
9	14:53:02	it's not the legal way. I don't know. But this is the
10	14:53:04	way I read it is if the parties agree otherwise or if
11	14:53:08	they can't agree, they can go to an independent expert.
12	14:53:12	But they first have to try to agree before they cannot
13	14:53:14	agree. That's the way I interpret it.
14	14:53:17	Q. Can I just ask you about the words at the end of the
15	14:53:22	second paragraph, the words that aren't italicised:
16	14:53:25	"The use of COLI 1999 prior to January 2014 is
17	14:53:29	therefore consistent with the WPA." ^doc.
18	14:53:34	am I right in thinking there's a typo and that
19	14:53:37	should be COLI 2007?
20	14:53:49	A. But COLI 2007 was not used prior to January 2014.
21	14:53:54	Q. I'm just trying to understand why you say the use of
22	14:54:00	having been through the words we've been through on
23	14:54:02	a number of occasions from the agreement, you then say:
24	14:54:06	"The use of call KWR-9 prior to January 2014 is
25	14:54:10	therefore consistent with the WPA." ^doc.

1	14:54:14	Why have the words, why in your opinion have the
2	14:54:17	words you've set out got anything to adopt ^ accurately
3	14:54:20	why the 9 prior to January 2014 is consistent with the
4	14:54:25	WPA?
5	14:54:28	A. It's because of what is written (Pause).
6	14:54:58	I think it's COLI 1999. It's consistent with the
7	14:55:02	WPA.
8	14:55:04	Q. Well, I mean, put it this way. COLI 1999 is actually
9	14:55:07	specified in the supplemental agreement, so I don't
10	14:55:10	think anyone has ever, so far there hasn't been an issue
11	14:55:13	about whether COLI 1999 could be used prior
12	14:55:18	to January 2014. So I just don't understand why you
13	14:55:21	considered that the use of COLI 1999 prior
14	14:55:27	to January 2014 being consistent with the WPA, had
15	14:55:28	anything to do with the words you've just quoted?
16	14:55:33	A. Let me just -- give me a second. I want to read this
17	14:55:38	whole thing. (Pause).
18	14:56:06	Because this is an answer to what is written in the
19	14:56:09	first paragraph to the right, that refers to another
20	14:56:18	issue.
21	14:56:29	Q. Sorry, Ms Harfouche's first paragraph?
22	14:56:32	A. Yes, because I'm responding to that in this.
23	14:56:40	Q. Sorry. As I read it, your second paragraph, which
24	14:56:45	begins I disagree was a response to the point that
25	14:56:48	Ms Harfouche had made and you had set out in your first

1	14:56:51	paragraph; is that correct?
2	14:56:54	A. I think so, yes.
3	14:56:57	Q. Yes, okay. Tell me which bit of Ms Harfouche's column
4	14:57:02	you say you're responding to with the words:
5	14:57:04	"The use of COLI 1999 prior to January 2014 is
6	14:57:07	therefore consistent with the WPA." ^doc?
7	14:57:10	A. Yes, COLI 1999 prior to January 2014 is therefore
8	14:57:15	consistent with the WPA." ^doc.
9	14:57:19	I have not used COLI 2007 prior to January 2014.
10	14:57:25	I have linked COLI 2007 to COLI 2013 prior to 2014, but
11	14:57:33	I've not used it, it's used from 2014 onwards.
12	14:57:39	Q. Sorry, none of this is an explanation of what you meant
13	14:57:44	and what you were trying to say with the words the use
14	14:57:46	of COLI 1999 prior to January 2014 is therefore
15	14:57:49	consistent with the WPA." ^doc.
16	14:57:53	I'm just trying to understand why you thought the
17	14:57:56	words you dealt with previously about or if the parties
18	14:58:00	agree otherwise have got anything to do with the use of
19	14:58:03	COLI 1999 prior to January 2014 is consistent with the
20	14:58:06	WPA." ^doc?
21	14:58:26	A. Because what it says before is that I've been using
22	14:58:31	COLI 1999 from 2005 to 2007 and COLI 2007 from 2007 to
23	14:58:38	2014. I've used COLI 1999 and that use is consistent
24	14:58:42	with the WPA. If you want to use COLI 1999, yes.
25	14:58:53	Q. Are you now saying that we should just ignore the word

1	14:58:57	"therefore"?
2	14:58:59	A. What is therefore?
3	14:59:00	Q. It is in the final sentence of your second paragraph.
4	14:59:03	The use of call why the priority January 2014 is
5	14:59:06	therefore dc?
6	14:59:07	A. Is therefore consistent. ^doc) yes.
7	14:59:10	Q. Would you like us to read it as if the word "therefore"
8	14:59:14	has been deleted?
9	14:59:17	A. No.
10	14:59:22	Q. So what is the relationship between the clause you've
11	14:59:24	just cited and your conclusion that use of COLI 1999
12	14:59:29	prior to January 2014 is therefore consistent with the
13	14:59:30	WPA." ^doc?
14	14:59:33	A. My use of COLI 1999 prior to January 2014, the way
15	14:59:38	I have used it, is therefore consistent with the WPA.
16	14:59:42	Because I have used COLI 1999 prior to January 2014 and
17	14:59:47	I have run asked it to COLI 2007 prior to January 2014
18	14:59:54	and that use that I have made of COLI 1999 is consistent
19	14:59:59	with the WPA. Because it was used until the very last
20	15:00:04	moment that it was available and from there on, it was
21	15:00:11	used as it was linked to COLI 2007. That is the use of
22	15:00:19	COLI 1999 prior to 2014. It was used in two ways. It
23	15:00:24	was used in the invoices because that was the index it
24	15:00:29	was agreed upon, and then it was used to do the linking
25	15:00:35	in 2007 in a way that I consider to be consistent to the

1	15:00:40	WPA and Ms Harfouche does not. That is how -- this is
2	15:00:45	what this sentence means, the last one.
3	15:00:48	Q. I'm afraid I'm going to have to move on.
4	15:00:51	Now do you recall that we were discussing the same
5	15:00:54	instruction about or if the parties agree otherwise" in
6	15:00:58	your second report, you said that in fact, it was
7	15:01:03	irrelevant to your opinion?
8	15:01:07	A. Yes.
9	15:01:09	Q. But clearly, here, you are suggesting that those words
10	15:01:14	are very relevant to your opinion, aren't you?
11	15:01:18	A. No. As I said before, what this is is an answer whether
12	15:01:23	my approach complies with the WPA, not whether the WPA
13	15:01:27	complies with my approach. My approach is end per
14	15:01:32	innocent. I have been asked what would you do if you
15	15:01:35	were in 2014 and you were put the question how do you
16	15:01:43	link -- what do you do? This is what have simply said
17	15:01:47	in my reports what I would have done and consistently
18	15:01:52	from the first report, where there was no issue of COLI
19	15:01:59	2018 all the way to my last, I've never changed my
20	15:02:01	opinion.
21	15:02:01	Q. Do I take it from your answer then that when you've
22	15:02:04	approach it you've basically ignored the terms of the
23	15:02:06	WPA?
24	15:02:08	A. When I approached it I approached it to ask the question
25	15:02:12	is there something wrong with this index? If there is

1	15:02:15	something wrong, "yes" or "no". If there is something
2	15:02:20	wrong, how would you do -- if there was nothing wrong,
3	15:02:24	how would you approach the transition? If there was
4	15:02:27	something wrong, how would you approach the transition?
5	15:02:31	For my opinion, if there is something wrong, I will try
6	15:02:33	to rectify what is wrong and that is what my approach
7	15:02:42	has tried to do.
8	15:02:43	Q. Again, sorry, that isn't an answer to the question. My
9	15:02:46	question is when you've embarked on your approach, have
10	15:02:50	you put to one side and ignored the terms of the WPA?
11	15:02:59	A. I mean, if the WPA said you have to use the going
12	15:03:03	forward approach come rain or high water, of course
13	15:03:09	I would have, I couldn't have done anything, right? But
14	15:03:12	because it gives leverage to do something else, I have
15	15:03:17	actually tried to do it. So the way I see this is like
16	15:03:23	there is a possibility of choosing an approach. What
17	15:03:26	should this approach be? But the fact that there is
18	15:03:34	a possibility does not have any impact on my approach.
19	15:03:39	Q. Sorry, that's not -- again, not an answer to the
20	15:03:42	question. My question is when you've set out writing
21	15:03:45	your opinion which now covers four report, I think, have
22	15:03:49	you put to one side and ignored the terms of the WPA?
23	15:03:53	I didn't even consider them, because I think if I am
24	15:03:57	instructed, right, there must be a reason why I am
25	15:04:03	instructed. Pause there is room for expressing an

1	15:04:11	opinion on these matters, otherwise why would I -- you
2	15:04:18	know -- I wouldn't have been instructed otherwise.
3	15:04:27	Q. Do you agree let say this tribunal finds that the words
4	15:04:29	or if the parties agree otherwise are simply not
5	15:04:32	relevant to this dispute?
6	15:04:33	A. That what is not relevant?
7	15:04:35	Q. About that the words or if the parties agree otherwise",
8	15:04:38	yes, you emphasise words, if the tribunal finds that
9	15:04:42	those words are simply not relevant to this dispute?
10	15:04:47	A. They're not relevant to my approach. I don't know if
11	15:04:50	they're relevant to the dispute or not. I am not
12	15:04:53	qualified to give you that answer.
13	15:04:58	Q. Sorry --
14	15:05:00	A. ^^.
15	15:05:01	PRESIDENT: You need to wait until Mr Robb has finished
16	15:05:03	putting his question before you answer. ^^.
17	15:05:06	MR ROBB: Thank you.
18	15:05:07	So if the tribunal finds that the words or if the
19	15:05:11	parties agree otherwise" are not relevant to this
20	15:05:14	dispute, do you agree that your approach is not
21	15:05:19	consistent with the WPA?
22	15:05:22	A. No.
23	15:05:28	Could you just explain why you consider it still to be
24	15:05:30	relevant to the dispute? Why your approach would be
25	15:05:37	compliant with the WPA?

1	15:05:39	A. Sorry, can you say this again?
2	15:05:41	Q. Can you explain on that basis why you say your approach
3	15:05:45	would be compliant with the WPA?
4	15:05:50	A. My approach complies with the WPA because there is
5	15:05:58	a possibility of having an expert or a tribunal to
6	15:06:03	decide an approach.
7	15:06:07	Q. But if the tribunal finds that the clause requires that
8	15:06:13	the parties use COLI 1999 for as long as it's available,
9	15:06:20	and the words or if the parties agree otherwise aren't
10	15:06:23	relevant, then do you agree that your approach is not
11	15:06:26	consistent with the WPA?
12	15:06:28	A. For as long as they are?
13	15:06:31	Q. For as long as COLI 1999 was available -- I'll start
14	15:06:35	again, because I can see you're getting a bit lost.
15	15:06:38	Also assume the tribunal finds two things. One, the
16	15:06:41	parties agreed that COLI 1999 would be used for as long
17	15:06:43	as it was available. Two, the words or if the parties
18	15:06:47	agree otherwise are not relevant. Yes?
19	15:06:51	In that situation, do you agree that your approach
20	15:06:57	is not consistent with the WPA?
21	15:07:02	A. What about -- no, because if the index is not available,
22	15:07:18	so the tribunal has to find that, there is only one
23	15:07:26	approach and that is the going forward approach. If the
24	15:07:32	tribunal finds that there is only one approach, that is
25	15:07:37	the going forward approach.

1	15:07:44	Q. Right, that's again not an answer to the question.
2	15:07:46	A. What was the question? I am a bit confused.
3	15:08:02	Q. Assume the tribunal finds two things. First, the
4	15:08:07	parties agreed that COLI 1999 would be used for as long
5	15:08:10	as it was available.
6	15:08:12	A. Okay.
7	15:08:13	Q. Second, the words or if the parties agree otherwise" are
8	15:08:16	not relevant.
9	15:08:19	A. Okay.
10	15:08:19	Q. In that situation, do you agree that your approach is
11	15:08:22	not consistent with the WPA?
12	15:08:27	A. No. And the reason why I don't agree with that is
13	15:08:33	because COLI 1999 was used until it was available. It
14	15:08:44	was. It came out of a publication at the end of 2013
15	15:08:52	and until then, it was used to issue invoices. It was
16	15:08:58	used until it was available.
17	15:09:02	Q. So I come back to the question. What an earth are the
18	15:09:05	words or if the parties agree otherwise got to do with
19	15:09:10	your am -- the tribunal being able to determine
20	15:09:13	a different approach?
21	15:09:24	A. Because if the parties agree otherwise, if they don't,
22	15:09:28	they have to go to the tribunal.
23	15:09:36	I'm going to move on. I may have to come back to this.
24	15:09:40	I want to look at what you call your guiding
25	15:09:43	principles which are in your first report at

1	15:09:47	paragraph 6.3, which is D179.
2	15:09:53	A. The second or the first.
3	15:09:54	Q. Your first report. D1-79 ^.
4	15:10:19	A. Okay.
5	15:10:19	Q. These are your principles, do you recognise these?
6	15:10:23	A. Yes, yes, yes, yes.
7	15:10:24	Q. Paragraph 6.3. Then just to be clear, you've got
8	15:10:28	footnote 200 towards the bottom of the page:
9	15:10:33	"I do not express any opinion on whether these
10	15:10:36	principles are consistent with the relevant legal
11	15:10:38	framework." ^doc.
12	15:10:39	Do I understand when you say relevant legal
13	15:10:41	framework, you mean the WPA?
14	15:10:46	A. Yes.
15	15:10:51	Q. So the first -- your first approximately, if we look at
16	15:10:55	this ^, the indexation approach to add ^reading...)
17	15:10:59	charge rates in line with ^reading...) true rate of
18	15:11:03	inflation." ^doc.
19	15:11:04	So we can accept, I think you'll accept that true
20	15:11:07	inflation is never actually measured; is that right?
21	15:11:12	A. True inflation is never known. It's estimated, yes.
22	15:11:23	Q. And you say that the estimate is by I think you said
23	15:11:31	this before --
24	15:11:32	A. Indices.
25	15:11:32	Q. Yes, -- (overspeaking) -- ^^?

1	15:11:34	A. It's the next best estimate which is the next estimate;
2	15:11:37	is that correct yes. Yes.
3	15:11:40	Q. So you never know it's only when the next index comes
4	15:11:44	out you understand what the best measure of inflation
5	15:11:46	was at any in any period?
6	15:11:49	A. Either that or if you know the formulas, but in this
7	15:11:52	case, the formulas were not known.
8	15:11:55	Q. I see, the formulas weren't known, so you would never
9	15:11:58	know whether 2013 -- COLI 2007 was an accurate estimate
10	15:12:04	of true inflation until you got COLI 2013 and you would
11	15:12:08	never know about COLI 2013 until you got to COLI 2018;
12	15:12:11	is that right?
13	15:12:12	A. No, you know about COLI 2007 because the formulas were
14	15:12:15	published, so it was known. They were published in
15	15:12:22	I think 2016 by GaStat. They were published. Let me
16	15:12:33	tell you where it is. It's the GaStat annual in 2017.
17	15:12:46	They do publish -- I need to go to the extracts.
18	15:12:57	Q. While you're doing that, can I just check, you're saying
19	15:13:00	the COLI 2007 formulas were known in about 2016?
20	15:13:07	A. Yes. Just one second. I have to find them.
21	15:13:19	So I think it is D14-1-7.
22	15:13:39	Yeah, this is the one.
23	15:13:40	I see, so this is the methodology and I think I saw from
24	15:13:43	the index page that it was published in 2017?
25	15:13:46	A. Yes.

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1	15:13:47	Q. So you wouldn't know whether you could accept --
2	15:13:52	COLI 2007 which was published in January 2013?
3	15:13:55	A. Yes.
4	15:13:56	Q. And you wouldn't know about whether that was, in your
5	15:14:00	mind, sufficiently accurate estimate of inflation until
6	15:14:04	2017?
7	15:14:04	A. Well, you would know that it would be -- you asked me
8	15:14:12	vis-`-vis 2013. 2013 have not been published when this
9	15:14:18	was published. 2013 was published a year later ^dict).
10	15:14:21	Q. Okay, but just then rephrasing the question, given your
11	15:14:25	answer. Subcontractor that you wouldn't know about the
12	15:14:28	accuracy or otherwise of COLI 2007 until 2017?
13	15:14:38	A. You would know that there was a problem between the two
14	15:14:42	indices because there was quite a difference in the
15	15:14:45	estimated inflation and I guess that is why in 2014,
16	15:14:53	there was no agreement as to how to move forward --
17	15:15:00	Q. That is absolutely not even close to being an answer to
18	15:15:01	the question.
19	15:15:02	A. Okay.
20	15:15:03	Q. We're asking about COLI 2007. You said that you
21	15:15:09	wouldn't know about whether an index was accurate or
22	15:15:12	otherwise until you have seen the formulae, yes?
23	15:15:17	Yes.
24	15:15:18	Q. And then you decided to go to this document which is
25	15:15:22	dated 2017, yes?

1	15:15:25	A. Yes.
2	15:15:25	Q. Which has the formulae for, you say, COLI 2007?
3	15:15:29	A. Yes.
4	15:15:30	Q. So as I understand your evidence, you would not --
5	15:15:33	nobody could know whether COLI 2007 was an accurate
6	15:15:37	index until 2017?
7	15:15:46	A. From the mentally biased, yes ^^.
8	15:15:49	Q. Yes, okay. So until 2017, you couldn't know whether
9	15:15:54	COLI 2007 was, in your words, a fundamentally biased
10	15:15:58	index or not?
11	15:15:59	A. Yes, you could only know that it had a completely
12	15:16:04	different measure of inflation from COLI 1999 and you
13	15:16:09	could know that COLI 1999 and COLI 2007 had not been
14	15:16:15	linked by the statistical agency, which should have
15	15:16:21	given quite a red flag.
16	15:16:24	Q. Sorry, again, you're answering -- trying to answer
17	15:16:26	different question. I understand that your huge theme
18	15:16:30	you want to push at every ^^ you don't like COLI 1999.
19	15:16:34	We all understand ^^?
20	15:16:35	A. No, that's not it.
21	15:16:36	Q. Please let me finish. What I'm asking you now is about
22	15:16:39	COLI 2007, so going back to COLI 1999 is not an answer
23	15:16:42	to my questions. So what I'm trying to say is that you
24	15:16:46	get COLI 2007 in January 2013, yes?
25	15:16:50	A. Yes.

1	15:16:51	Q. And your evidences is you don't know whether this is
2	15:16:54	a funds meant I will inaccurate index until 2017; is
3	15:17:01	that correct?
4	15:17:02	A. You don't know if this is a fundamentally inaccurate
5	15:17:06	index until you see the formula.
6	15:17:11	Q. Is that correct?
7	15:17:11	A. Yes.
8	15:17:12	Q. And that's 2017 on your evidence?
9	15:17:15	A. That is 2017, you only -- as I said, you only know that
10	15:17:19	that index is not linked with the index before and you
11	15:17:26	know that this index is very different in terms of the
12	15:17:29	inflation that it represents. So in my view, if you
13	15:17:39	think that there is a problem, you ask the statistical
14	15:17:45	agency.
15	15:17:45	Q. But in --
16	15:17:47	A. Because the statistical agency will know.
17	15:17:50	Q. But just taking COLI 2007, you're not going to know
18	15:17:53	whether it's good, bad or otherwise until 2017; is that
19	15:17:58	correct?
20	15:18:01	A. You know that it's better than 1999, you don't know what
21	15:18:04	it is vis-`-vis the next one.
22	15:18:08	Q. Exactly. So you would have four years of COLI 2013
23	15:18:14	before you got to know whether, in your view, it had
24	15:18:18	a fundamental statistical bias?
25	15:18:22	A. COLI 2007?

1 15:18:23   Q. No, 2007.

2 15:18:25   A. Sorry, 2007. I personally would think, personally, from

3 15:18:37   an expert point of view, if I see that a statistical

4 15:18:41   agency is not linking to indice, I know that one of the

5 15:18:44   two is wrong, right? So the one that is wrong has to be

6 15:18:48   the old one, because otherwise they wouldn't have

7 15:18:51   published a new one. That's how I would see it. If

8 15:18:57   I was somebody who's using these indices, I will say,

9 15:18:59   okay, let me pause for a second, let me look at what's

10 15:19:03   going on herement let me ask GaStat why is it that this

11 15:19:08   indices are so different? And then they will tell you.

12 15:19:12   Q. But GaStat doesn't say anything about COLI 2007 apart

13 15:19:16   there publishing it until 2017; is that correct?

14 15:19:21   A. In the public, no, but if you ask them privately.

15 15:19:33   Q. In terms of your first principle, to know whether you

16 15:19:36   got an accurate estimate of true rate of inflation,

17 15:19:39   you're going to need the formulae; is that correct?

18 15:19:47   A. So my first principle.

19 15:19:51   Q. The first principle is that you should adjustment the ^^

20 15:19:54   charge rates in line with an accurate estimate of the

21 15:19:57   true rate of inflation; yes?

22 15:19:59   A. Yes.

23 15:19:59   Right. So just taking COLI 2007, you wouldn't know

24 15:20:03   whether you had an accurate estimate of the true rate of

25 15:20:06   inflation for about four years; is that correct?

1	15:20:14	A. Until about four years later?
2	15:20:16	Q. Yes.
3	15:20:17	A. Officially, you wouldn't know, but you could know it
4	15:20:20	unofficially by simply asking the statistical agency.
5	15:20:25	Q. I see. The other point about your first principle is
6	15:20:32	that we know what you think about COLI 1999, but you
7	15:20:36	would agree, wouldn't you, that as the parties
8	15:20:38	specified, COLI 1999 in the supplemental agreement, your
9	15:20:44	first principle is not compatible with the WPA, is it?
10	15:20:57	A. But when they were actually using COLI 1999, nobody knew
11	15:21:05	that there was any problem with that index, nobody. And
12	15:21:13	they didn't have anything to compare it to, to say, hold
13	15:21:16	on a second, what's going on here? So, yes, it was
14	15:21:21	compatible -- compliant. It was the only index that was
15	15:21:26	available. They couldn't have done anything else.
16	15:21:31	Q. I agree they couldn't have done anything else, but your
17	15:21:33	first principle just isn't consistent with the WPA, is
18	15:21:38	it?
19	15:21:38	A. Why not? Because the parties agreed to adjust the local
20	15:21:43	portion profit charge rate in accordance with n estimate
21	15:21:46	of inflation which you consider is not an accurate
22	15:21:49	estimate?
23	15:21:51	A. But I department know ^^.
24	15:21:53	Q. Let's move on to the second principle. No up decision
25	15:22:00	tells you what true inflation is; is that correct?

1	15:22:03	A. What true inflation -- the population inflation, no.
2	15:22:07	It's an estimate, an index.
3	15:22:11	Q. And each index is just an estimate of true inflation; is
4	15:22:15	that correct?
5	15:22:15	A. Each index, yes.
6	15:22:18	Q. Generally, indices become more accurate over time; is
7	15:22:22	that correct?
8	15:22:27	A. Successive you mean or individually.
9	15:22:28	Q. Yes, discusscy indices will become more accurate over
10	15:22:31	time. They will become more accurate because of the
11	15:22:34	weights, because of the weights, because as time passes,
12	15:22:38	the weights become old. So that is by default.
13	15:22:45	Q. But also we know that NSAs often make methodological
14	15:22:50	changes to indices as they move forward in time; is that
15	15:22:56	correct. There are methodological changes which are --
16	15:23:03	which can correct for fundamental inaccuracies like the
17	15:23:08	methodological change that happened between COLI 1999
18	15:23:13	and COLI 2007 and there was the fundamental inaccuracy
19	15:23:19	that came from the formula for the elementary aggregates
20	15:23:24	and then there was another inaccuracy that came from the
21	15:23:30	use of a very outdated classification methodology,
22	15:23:37	because prior to COICOP, which was issued in 1999, the
23	15:23:43	classifications followed what was called S and A ^ which
24	15:23:48	is a system and national accounts and the last S and A
25	15:23:53	published I believe was in 1968. So this was the two

1	15:23:58	reasons why that index was fundamentally inaccurate and
2	15:24:03	the following ones were not.
3	15:24:09	Q. In your first report, you said that the going forward
4	15:24:12	approach was only valid with the only change between
5	15:24:15	indices was re basing and there were no methodological
6	15:24:19	changes?
7	15:24:20	A. Fund meant call methodological changes.
8	15:24:27	Q. Look at paragraph 2.14 of your first report, D1-22.
9	15:24:46	A. Yes.
10	15:24:51	Q. You say that you refer to the going forward approach and
11	15:24:54	you say that's only to be used where the new index has
12	15:24:58	been re based and we know from your definition of re
13	15:25:01	based that it doesn't include any methodological
14	15:25:04	changes, does it?
15	15:25:06	A. Any fundamental method logical changes, I mean, it has
16	15:25:11	to be a substantive methodological change in order for
17	15:25:16	something, for an agency not to link to indices. It has
18	15:25:25	to be fundamental. So every five years.
19	15:25:37	Q. Re basing, you've defined re basing as simply being only
20	15:25:40	a change to the baskets of goods and services. Is that
21	15:25:46	agreed?
22	15:25:46	A. Yes, yes, of course.
23	15:25:48	So you accept that COLI 2007 to COLI 2013 went beyond re
24	15:25:53	basing, didn't it?
25	15:25:55	A. Well beyond the change of weight, yes. It involved also

1	15:26:00	a change in the calculation methodology of the higher
2	15:26:09	aggregates.
3	15:26:12	Q. So it went beyond a re basing as you're defined it?
4	15:26:15	A. Yes, it was also had a method lodge dal change, yes, but
5	15:26:19	that methodological change, as I said, was not
6	15:26:22	substantive, it was compliant with international
7	15:26:27	guidelines standards, which GaStat is committed to.
8	15:26:37	That's why they linked it. They themselves linked it.
9	15:26:43	Q. I want to move on to your third principle.
10	15:26:48	A. Yes.
11	15:26:49	Q. Let's go back to your second principle.
12	15:27:00	I would suggest to you that if you were going to
13	15:27:01	apply your second principle properly, you would have
14	15:27:05	also said that the going forward approach shouldn't
15	15:27:08	apply between COLI 2007 and COLI 2013?
16	15:27:11	A. My second approach.
17	15:27:12	Q. Second principle, paragraph --
18	15:27:13	A. Sorry, my second principle.
19	15:27:15	Q. D1-79.
20	15:27:17	A. No, because it didn't have -- COLI 2007 did not -- the
21	15:27:26	methodological changes did not justify any need for
22	15:27:36	applying anything but --
23	15:27:40	Q. So your evidence is that in looking at how you do these
24	15:27:43	transitions, you've got to get into the formulae, yes?
25	15:27:47	A. I have to get into the formulae.

1	15:27:48	Q. Somebody is going to have to get into the formulae to
2	15:27:51	understand what's been going on; is that right?
3	15:27:54	A. Somebody has to know what changes have been made and one
4	15:27:58	good way of knowing what changes have been made, if
5	15:28:02	these changes are consistent, is by looking at what the
6	15:28:09	agency actually does, in a way it's like the proof of
7	15:28:13	the pudding is in the eating. If the agency links the
8	15:28:17	indices without any problems, it means that the indices
9	15:28:20	can be linked.
10	15:28:22	So every time that they published a next index, they
11	15:28:26	published it also back wards and when you look at how
12	15:28:33	it's published backwards, you can see that its nothing
13	15:28:36	but the old index re based. So you know that they are
14	15:28:40	linking them. So you know that there is no problem,
15	15:28:43	that the indices are all linked.
16	15:28:45	Q. So that ^^ you're talking here about the
17	15:28:49	GaStat November 2020 approach; is that right?
18	15:28:50	A. No, no, no. I am looking about GaStat in every time
19	15:28:56	that they -- every time they publish a new index, so for
20	15:28:59	example, when they published COLI 2007 in 2013, they
21	15:29:07	also published it looking back. So they publish it
22	15:29:13	for -- it's in SAMA 49, they publish for 2013, 12, 11.
23	15:29:22	They always do that and so from that, you can see
24	15:29:25	whether it's been linked or not. So they do this for
25	15:29:29	2013, they do this with 2007, they do with this 2018.

1	15:29:34	And --
2	15:29:35	Q. Sorry, the point was if you're going to understand why
3	15:29:38	the indexes are different, as I understand it you are
4	15:29:42	going to have to look at the formulae which are
5	15:29:45	published for each index eventually; is that correct?
6	15:29:48	A. No, you first look at whether the indices are linked or
7	15:29:51	not. If the -- if the indices are linked, then they are
8	15:29:57	compatible, right, because the agency has linked them.
9	15:30:00	If the indices are not linked, then you ask the agency
10	15:30:05	why haven't you linked them? Can yougy me an
11	15:30:12	explanation why these indices are not linked F they
12	15:30:15	don't want to give you an explanation, you can ask them,
13	15:30:18	okay, why don't you give me your best -- your view of
14	15:30:23	the most accurate measure of inflation? So if they give
15	15:30:29	you the index that's linked, then you realise, okay,
16	15:30:33	they have linked it. But if they don't, as they didn't,
17	15:30:39	they didn't give me a measure where there was a linking
18	15:30:42	between certain indices, then you know that there is
19	15:30:45	a fundamental problem, because there are cases in which
20	15:30:50	the agency may not want to state that there is something
21	15:30:57	wrong with an index.
22	15:31:00	Q. We'll come to GaStat's 2020 view in due course.
23	15:31:05	A. That's not in 2020. You can ask them any time. I asked
24	15:31:08	them in 2020 because that is when I was instructed.
25	15:31:14	Q. I think that's an appropriate time. It's 3.30. Unless

1	15:31:18	the tribunal thinks we ought to press on. I understand
2	15:31:20	we're finishing at 5.30, so if we can a 20-minute break
3	15:31:23	now.
4	15:31:25	PRESIDENT: That's quite all right, yes.
5	15:31:27	We'll break for 20 minutes and as before, if you
6	15:31:29	could not talk to anyone about your evidence. Thank
7	15:31:32	you.
8	15:31:34	(3.31 pm)
9	15:31:37	(A short break)
10	15:31:38	(3.57 pm)
11	15:57:48	PRESIDENT: We'll restart, then. Interest mess, as before,
12	15:57:51	you're still under your affirmation. Thank you.
13	15:57:54	MR ROBB: Can we pick up where we left off in terms of
14	15:57:57	looking at your principles and we've been through the
15	15:58:02	first two principles, now looking at the third
16	15:58:07	principle?
17	15:58:07	A. Yes.
18	15:58:10	Q. So just want to clarify obviously that if -- I think you
19	15:58:19	say here that this doesn't make any sense, does it,
20	15:58:22	because you've not -- if there's an overlap between the
21	15:58:25	two indices, if you look at your first principle, the
22	15:58:28	indexation approach should always use the most accurate
23	15:58:31	^reading...) as soon as it is made available. That
24	15:58:33	index should be linked to the previous index in the last
25	15:58:36	month for which that previous index was available."

1	15:58:38	^doc.
2	15:58:38	Is if there's an overlap between the publication of
3	15:58:41	the two indices, then that approach won't work, because
4	15:58:44	you've got a make a choice between the last point in
5	15:58:48	time at which the old index is available or the first
6	15:58:51	point in time at which the new index available?
7	15:58:53	A. Yes, actually, can I explain? The second part of this
8	15:58:59	point (3), that index should be linked, it's new in this
9	15:59:03	report, it was not in my 2022 report and in my 2020.
10	15:59:13	Is it possible to pull up my 2022 report? Because
11	15:59:19	I appreciate what you are asking --
12	15:59:23	Q. As I understand it, you've clarified it later, by saying
13	15:59:26	at he stage, you didn't think there would ever be an
14	15:59:29	overlap?
15	15:59:30	A. Yes, yes.
16	15:59:32	Q. But if there is an overlap, that approach obviously
17	15:59:35	can't work. You have to make a choice --
18	15:59:37	A. Yes, yes, because I assumed, so maybe there is no need.
19	15:59:41	I assume that the next index that's going to come out is
20	15:59:47	going to come out in the same way as 2013 and 2018 have
21	15:59:52	come out. So there is going to be -- when the new index
22	15:59:59	comes out, the other one immediately stops. Sorry,
23	16:00:09	Ms Harfouche actually pointed out to me, but what
24	16:00:14	happens if they come out concurrently? And that is what
25	16:00:19	I clarified in the second report.

1	16:00:23	Q. Thank you. Then I just want to look at your decision to
2	16:00:30	link COLI 2007 and COLI 1999 in 2007 and not in any
3	16:00:35	other year. Do you accept that choosing to link those
4	16:00:41	two indices in 2007 provides the best financial outcome
5	16:00:45	for SWPC?
6	16:00:49	A. The best in what sense?
7	16:00:52	Q. The lowest amount they will end -- they would have to
8	16:00:55	pay SEPCO. Do you agree that linking in 2007 provides
9	16:00:58	the best outcome for SWPC?
10	16:01:02	A. The fairest. As far as I'm concerned, yeah, it's the
11	16:01:08	fairest.
12	16:01:08	No, I --
13	16:01:09	A. You can link them in 2005.
14	16:01:11	Q. Yes, and if you link them in 2005, then SEPCO's losses
15	16:01:16	would be greater than linking in 2007, wouldn't they?
16	16:01:25	A. If I link them in 2005 SEPCO's losses would be greater?
17	16:01:28	Q. Yes?
18	16:01:30	A. I don't knowing because I've not done the calculation.
19	16:01:33	I've linked them in 2007 for a number of reasons.
20	16:01:37	Q. Yes, but for example, if we look at your figure 4-4 at
21	16:01:46	D1, page 58. We can see that in 2007, COLI 1999 gives
22	16:02:07	you a lower estimate than COLI 2007 and in 2006, they're
23	16:02:15	about the same. Do you see?
24	16:02:21	A. Yes. But --
25	16:02:22	Q. Do you agree that if you linked them in 2005, then you

1	16:02:25	would have ended up with a greater loss for SEPCO than
2	16:02:28	by linking in 2007?
3	16:02:31	A. If you link them in 2005, you do the same -- that is not
4	16:02:38	possible, because actually, if you link them in 2005, it
5	16:02:42	is the same approach as it's used in the invoices. It's
6	16:02:47	mathematically equivalent.
7	16:02:52	Essentially, what it does -- yes, it's the identical
8	16:02:56	approach as in the invoices, identical. And then if
9	16:03:02	that is the case, there would be -- there wouldn't be
10	16:03:10	any losses in my calculation while there is ^^. The
11	16:03:16	reason why I think it can be seen from -- there is
12	16:03:25	a photograph that explains it quite easily ^ which is in
13	16:03:30	my presentation, it's slide 14. So if you link them in
14	16:03:47	2007 -- 2005, you adjustment on the green line.
15	16:03:56	Q. Yes. What we see from there is that COLI 1999 is lower
16	16:04:03	than COLI 2007?
17	16:04:07	A. You have --
18	16:04:07	Q. The blue line is lower than the green line for a period
19	16:04:12	prior to 2007, isn't it?
20	16:04:13	A. Yes, but then the green line is the line that is going
21	16:04:18	to be forever. So what that means is the light pink
22	16:04:26	area, that's wiped at completely.
23	16:04:28	Q. No, if you had linked them in 2005, you would not have
24	16:04:32	wiped out all the losses, you would have increased
25	16:04:38	SEPCO's losses, wouldn't you? (Pause).

1	16:04:59	Can I move on? I'll come back to that.
2	16:05:01	Can I move on to your fourth principle, which is
3	16:05:03	over the page at D1-80.
4	16:05:09	A. Okay.
5	16:05:13	Q. It's your fourth principle ^^ which just happens to be
6	16:05:16	over the page. Here you're talking about a tradeoff
7	16:05:20	between certainty and accuracy. Do you agree?
8	16:05:28	A. Is D?
9	16:05:29	Q. D1-80, subparagraph (4) at the very top of the page.
10	16:05:34	A. Yes.
11	16:05:34	This is your fourth principle?
12	16:05:36	A. Yes.
13	16:05:38	Q. Presumably by accuracy you mean how close you are to --
14	16:05:45	how close an index is to estimating true inflation?
15	16:05:49	A. Yes, is the accuracy of the index, yes, yes.
16	16:05:55	Q. You can only quantity few the accuracy of the index by
17	16:05:58	reference to the next index; is that right?
18	16:06:04	A. Yes.
19	16:06:05	Q. So when you're talking about a trade off between
20	16:06:08	accuracy and certainty, that means you're talking about
21	16:06:10	accuracy in a relative sense, not an absolute sense,
22	16:06:14	aren't you?
23	16:06:15	A. Yes, because as I said, apart from the fundamentally
24	16:06:19	wrong issue, successive indices are always more accurate
25	16:06:26	by default. So essentially the question that then you

1	16:06:29	have is that given that these indices are being
2	16:06:34	published with a few years delay, what do you do? Do
3	16:06:37	you go back every time and then you are in a situation
4	16:06:42	where you are always on the green line, as it were, so
5	16:06:46	you get the most accurate estimate or do you actually
6	16:06:53	give also weight to certainty? Unless there is a reason
7	16:07:00	to believe that there is a fund meant bias and therefore
8	16:07:11	there is a fundamental reason to rectify the situation,
9	16:07:18	you make a judgment call as what is the best thing to do
10	16:07:25	in that respect. So that is what I meant. That's why
11	16:07:28	to me that principle is important.
12	16:07:31	Q. Thank you. Can I just now move on to -- step back
13	16:07:35	a bit, looking at the two ways in which contracts can
14	16:07:38	deal with inflation in a long-term project.
15	16:07:41	A. Okay.
16	16:07:42	Q. There are two basically ways that you can deal with it.
17	16:07:45	First, you can use published inflation indices; is that
18	16:07:48	correct?
19	16:07:50	A. Yes.
20	16:07:52	Q. Here even takes the risk that the actual inflation
21	16:07:55	experienced by the contracting party will be greater or
22	16:07:58	less than the inflation estimated in the published
23	16:08:02	index?
24	16:08:02	A. Can you point me to where this is written?
25	16:08:04	Q. No, it's not in in your report. I'm asking you some

1	16:08:07	questions. I'm asking you some questions about your
2	16:08:09	experience about how you can use --
3	16:08:11	A. Okay, okay, yes.
4	16:08:14	Q. First of all, the first opportunity published inflation
5	16:08:17	indices ^^?
6	16:08:18	A. Yes.
7	16:08:19	Q. There even takes the risk that the actual inflation ^^
8	16:08:23	contractual party will be greater or less than the
9	16:08:25	inflation estimated in the published index; is that
10	16:08:28	right?
11	16:08:31	Everybody?
12	16:08:32	Q. People take the risk, contracting parties take the risk
13	16:08:34	that the actual inflation experienced by the contracting
14	16:08:38	party will be greater or less than the inflation
15	16:08:41	estimated in the published index?
16	16:08:43	A. Yes.
17	16:08:45	Q. This approach of using published inflation indices
18	16:08:48	favours certainty simplicity and clarity?
19	16:08:52	A. Okay.
20	16:08:55	Q. Do you agree?
21	16:08:55	A. With respect to what?
22	16:08:58	Q. Do you agree that using published inflation indices
23	16:09:01	favours certainty, simplicity and clarity?
24	16:09:06	A. Yes, but with respect to what?
25	16:09:10	Q. Well -- I mean, you say that there are two approaches,

1	16:09:12	right?
2	16:09:12	Q. We'll move on to the second approach. Second approach
3	16:09:15	is you can look at the actual costs to the parties that
4	16:09:19	being compensated and how those costs change over time
5	16:09:22	due to inflation. Some sort of cost-plus mechanism?
6	16:09:26	A. Okay.
7	16:09:26	Q. About yes? That's another type of method dealing with
8	16:09:29	inflation?
9	16:09:30	A. Yes, yes.
10	16:09:31	Q. You agree that that is a complicated time consuming and
11	16:09:33	expensive process?
12	16:09:36	A. Well, I guess that it's prone to a lot of quarrels. So
13	16:09:43	there will be spend receive. Because it requires a lot
14	16:09:47	of scrutiny, right? (expensive ^.
15	16:10:03	Q. A lot of quarrels sorry. Pause I couldn't see my
16	16:10:07	transcript. I couldn't check ^^?
17	16:10:10	A. It's my accent.
18	16:10:10	Q. No, no, a lot of disputes?
19	16:10:13	A. Yes.
20	16:10:15	Q. By we know that some contracts do adopt this method of
21	16:10:18	the sort of cost plus method, presumably because the
22	16:10:21	parties value perceived precision over certainty, is
23	16:10:28	that fair enough?
24	16:10:30	A. I think if they wanted real certificate, because there
25	16:10:36	is uncertainty when it comes to inflation, if they

1	16:10:38	wanted complete ^ certainty, they would say, okay, let's
2	16:10:45	have -- let's calculate a charge which is an underlying
3	16:10:51	cost plus a margin, at times zero and then just add
4	16:10:55	X per cent every year ^^. And that would be the
5	16:10:59	certificate, 100 per cent certificate, right? And then
6	16:11:02	there would be on the other side, you would say, okay,
7	16:11:05	let's not to that. Let's check the cost every single
8	16:11:08	year or whatever interval you have to do, and then add
9	16:11:13	a margin on top and that will be the complete accuracy
10	16:11:17	provided that they can agree that that is -- right?
11	16:11:23	Then there would be something in the middle, which
12	16:11:27	balances the two, which would be let's index to the
13	16:11:33	inflation. Yes, yes, yes.
14	16:11:37	Q. I suggest to you the parties here have chosen a process
15	16:11:41	that favours certificate, simplicity and clarity; is
16	16:11:43	that right?
17	16:11:46	A. ^?
18	16:11:47	A. Certainty, simplicity and clarity over the one that is
19	16:11:51	100 per cent accuracy you mean?
20	16:11:54	Q. You agreed with me before that using publish inflation
21	16:11:57	indices favours certainty, simplicity and clarity, do
22	16:12:00	you agree?
23	16:12:00	A. Yes, I do, I do agree.
24	16:12:02	Q. That's what the parties have chosen -- and that's what
25	16:12:05	the parties have chosen here ^^?

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1	16:12:08	A. In this particular dispute?
2	16:12:09	Q. Yes.
3	16:12:10	A. That's what the parties have chosen.
4	16:12:11	Q. Yes. And your approach requires a case by case analysis
5	16:12:16	of each index, doesn't it?
6	16:12:22	A. No.
7	16:12:23	Q. You have to look at why each index has been brought in,
8	16:12:28	it's methodologies, you've got to make an assessment of
9	16:12:31	whether there's any fundamental flaws in your view
10	16:12:33	before you can decide the correct way to link these
11	16:12:37	indices; is that right?
12	16:12:37	A. No, you just look at whether the index has been linked
13	16:12:40	or not. Thattives you the answer. Then you use it and
14	16:12:47	move forward.
15	16:12:50	Q. Before you were saying you would needs to look at things
16	16:12:52	like the formulae, et cetera?
17	16:12:55	A. Yeah, in order to assess the type of bias that there is.
18	16:12:58	Q. Yes.
19	16:12:58	A. You know, if I want to assess the type of bias that
20	16:13:00	there is, I need to know how the intention has been
21	16:13:03	calculated, but the very fact that the index is linked
22	16:13:07	means that the index here is acceptable.
23	16:13:10	Q. But the fact that you've said that things like
24	16:13:14	fundamental bias, et cetera, are relevant
25	16:13:19	considerations, means that your view is that you have

1	16:13:21	got to examine such things from a statistical
2	16:13:25	perspective before you can make a decision about an
3	16:13:28	index; is that right?
4	16:13:29	A. But that is done by the statistical agency, right?
5	16:13:33	I mean, that's what they die. They publish the indices,
6	16:13:38	every time they publish one index or at least GaStat,
7	16:13:41	every time it publishes the new index, it links or it
8	16:13:45	doesn't link it to the previous one and the only time
9	16:13:50	where they haven't tunnel that is in ^ 2012, 13.
10	16:13:58	Q. Can I ask you to look at item 15 of the joint statement,
11	16:14:03	which is D130, page 9.
12	16:14:27	A. You said item 15.
13	16:14:29	Q. Item 15, D150, page 9.
14	16:14:34	A. Okay, right. (D130 ^.
15	16:14:46	Q. So you say in situations where the new indecision has
16	16:14:48	changed in a way this wonder yowed a simple rebasing you
17	16:14:51	appropriate linking method must be evaluated on
18	16:14:53	a case-by-case basis." ^doc.
19	16:14:55	Do you see that towards the bottom of your first
20	16:15:00	paragraph?
21	16:15:04	A. Yes.
22	16:15:09	Q. So unless you're going to change your evidence, as
23	16:15:11	I understand it, your view is that you've got to
24	16:15:14	consider whether each index goes beyond a simple
25	16:15:17	rebasing and then where it does go beyond a simple

1	16:15:20	rebasing, you have got to evaluate on a case-by-case
2	16:15:23	basis?
3	16:15:24	A. Yes, that's correct, that's correct.
4	16:15:26	Q. Your evaluation on a case-by-case basis means you've got
5	16:15:30	to have a statistical even put to examine the formulae,
6	16:15:34	whether there's any statistical bias or flaws all that
7	16:15:37	kind of thing before you can approach your case-by-case
8	16:15:40	basis?
9	16:15:43	A. No. I mean, if the statistical agency goes and links
10	16:15:49	the index, it means that the index is Lynncable and it
11	16:15:53	has been linked. It's only if he doesn't link it, then
12	16:15:58	you open the proverbialial can of worms and you have to
13	16:16:02	go and yourself check why there is -- whether there is
14	16:16:06	something fundamentally wrong. But if they link them,
15	16:16:11	it is on a case-by-case basis. You just look at whether
16	16:16:14	they're linked or not. If they're linked, it means that
17	16:16:19	the statistical agencies considered them Lynncable and
18	16:16:26	therefore, that they there are no problems with them, in
19	16:16:29	terms of bias.
20	16:16:32	Q. But then this is the explanation you have just given is
21	16:16:37	not the same explanation you gave at item 15, is it?
22	16:16:42	Tap than of the joint statement ^^?
23	16:16:46	A. Why?
24	16:16:49	Q. Because once it goes beyond a simple rebasing here, you
25	16:16:53	say you've got to evaluate on a case-by-case basis, you

1	16:16:55	don't refer anything to what the national statistics
2	16:16:59	office does.
3	16:17:06	A. Is I mean, you assume that they are correct, if they are
4	16:17:09	linked, no?
5	16:17:13	Q. I'm going to move on.
6	16:17:15	Can we please now go to page D1-6806 your first
7	16:17:21	report, paragraph 5.11.
8	16:17:51	Do you have it there?
9	16:17:52	A. Yes, I do.
10	16:17:53	Q. Here you give your six reasons for your view about where
11	16:17:58	the going forward approach is not appropriate for
12	16:18:01	COLI 1999 to COLI 2007; is that right?
13	16:18:04	A. Yes.
14	16:18:06	Q. Is it correct that all these reasons only apply if the
15	16:18:12	tribunal accepts SWPC's case about the parties'
16	16:18:17	rationale? Do you agree that?
17	16:18:21	A. The tribunal can accept or not whether this approach is
18	16:18:29	correct or not. But as far as I am concerned, the going
19	16:18:34	forward approach regardless of the rationale, is
20	16:18:40	incorrect, for all these reasons.
21	16:18:42	Q. If we just pause there. If we look at item (3), one of
22	16:18:50	the reasons you've given is because it's not -- you say
23	16:18:55	the going forward approach isn't consistent with the
24	16:18:58	parties' rationale?
25	16:19:00	A. Yes, yes.

1	16:19:01	Q. If the tribunal doesn't accept SWPC's rationale, that
2	16:19:04	reason must fall away?
3	16:19:07	A. ^ck num) (3), yes, of course, of course.
4	16:19:17	Q. Moving on to the various reasons, so reason 2, you've
5	16:19:22	got two parts to reason 2, first it's an an accurate
6	16:19:26	measure of inflation and secondly it's been effectively
7	16:19:30	disregarded by SAMA and GaStat?
8	16:19:33	A. Yes.
9	16:19:33	Q. Can we look at the argument that's it's been effectively
10	16:19:37	disregarded by SAMA and GaStat.
11	16:19:42	□20240924□0160A. Yes.
12	16:19:43	Q. We can pick that up in your first report at D1-58,
13	16:19:58	paragraph 4.12. It's on the screen for you?
14	16:20:25	A. Yes, I'm there.
15	16:20:39	Q. The reasons you give on 4.12 through to 4.25, I think
16	16:20:51	are as follows. GaStat has removed some data pertaining
17	16:20:55	to COLI 1999 from its website, that's the first one.
18	16:20:59	Then you say GaStat provided you with its November 20 to
19	16:21:02	view of the most accurate estimate of inflation this
20	16:21:04	does not include any data from COLI 1999 and then once
21	16:21:09	COLI 2007 was available, SAMA no longer referred to
22	16:21:13	COLI 1999 inflation or the linked the indices." ^doc.
23	16:21:17	Those are the reasons you give in your report; is
24	16:21:19	that right?
25	16:21:21	A. Yes.

1	16:21:22	Q. The first point I want to see if we can agree is that at
2	16:21:29	no time either publicly or privately, has either GaStat
3	16:21:32	or SAMA said that they have decided to disregard
4	16:21:39	COLI 1999?
5	16:21:39	A. Are you asking me?
6	16:21:40	Q. Yes.
7	16:21:42	A. They have told me when we had a meeting, they said that
8	16:21:49	the indices could not be linked and that they gave me
9	16:21:55	their measure of their view of the most accurate
10	16:22:05	inflation index that did not contain COLI 1999 and they
11	16:22:14	have actually taken out COLI 1999 from the website for
12	16:22:21	all the values prior to January 2001 and
13	16:22:28	subsequent December 2011. That is in figure 4-5.
14	16:22:32	Q. Yes, sorry, I'm trying to distinguish between inferences
15	16:22:35	that you've made from things that GaStat has done and
16	16:22:38	whether GaStat has ever actually said to you, yes, we
17	16:22:41	have decided to disregard cooling 9. I'm going to put
18	16:22:44	it to you that at no time has GaStat said to you better
19	16:22:47	disregarding COLI 1999?
20	16:22:49	A. I didn't ask them that question. I asked them in they
21	16:22:53	had linked it or not and they said that they couldn't be
22	16:22:58	linked publicly they have never made that statement ^,
23	16:23:00	but I would not -- I would never expect them to do so.
24	16:23:05	Q. You didn't ask them the question and they've never -- so
25	16:23:09	you're right, you're agreeing with me that they're never

1	16:23:11	said we disregard COLI 1999?
2	16:23:13	A. Not in public, never, no.
3	16:23:15	Q. Not only in public, but not in private either, have
4	16:23:18	they?
5	16:23:18	A. No, I haven't asked them, I asked them in they linked
6	16:23:21	them, which is to me the same.
7	16:23:26	Q. It's true, isn't it, that at the meeting to discuss
8	16:23:29	its November 2020 view, GaStat expressly said that they
9	16:23:32	had linked COLI 1999 and COLI 2007?
10	16:23:38	A. That is in the minutes, but I have not found it
11	16:23:42	anywhere. It's nowhere to be seen.
12	16:23:44	Q. So you agree that why don't we just bring it up, it's
13	16:23:49	D11, page 4.
14	16:23:55	A. D?
15	16:23:56	Q. It will have to be on the screen.
16	16:23:57	A. Sorry.
17	16:24:04	Q. If you scroll down. It should be 3. As for the data
18	16:24:11	linking between KWR-9D the CPI and 2007 CPI the linking
19	16:24:15	occurred at the general price index only due requested
20	16:24:19	then there's an explanation?
21	16:24:20	A. Yes.
22	16:24:21	Q. So the point is that ^doc) insofar as GaStat has said
23	16:24:25	anything expressly about whether they've linked
24	16:24:27	COLI 1999 and COLI 2007, they have said that they have
25	16:24:30	linked it, haven't they?

1	16:24:34	A. These are from the minutes of the meeting, right? When
2	16:24:36	I received these minutes, I prepared list of questions
3	16:24:43	in which I asked the follow-up question. But the
4	16:24:50	meetings were not forwarded to GaStat, so GaStat were
5	16:24:55	never asked that follow-up question. So what I have is
6	16:24:59	the fact that they have not -- they have never provided
7	16:25:08	publicly or privately, any evidence. That is for me,
8	16:25:14	any evidence that this index had ever been linked and
9	16:25:18	that is for me enough. Yes, it is enough. They may
10	16:25:24	have their own -- the very good reasons for not wanting
11	16:25:28	to say, to make certain statements, because they may
12	16:25:34	have an impact on --
13	16:25:40	Q. Pausing there, so unless you're going to say that in
14	16:25:43	this minute, GaStat has either mistaken or not telling
15	16:25:47	the truth, then it is clear that GaStat did not
16	16:25:50	effectively disregard 1999, isn't it?
17	16:25:54	A. Well, they did, because effectively they did disregard
18	16:25:58	it, actually, because they never hin asked it anywhere,
19	16:26:00	anywhere.
20	16:26:01	Q. In this minute, GaStat say they have done the linking,
21	16:26:04	don't they?
22	16:26:05	A. They may have done the linking and realise that it was
23	16:26:07	wrong and therefore put it aside and never published it.
24	16:26:10	Was nerve publish n ^^ not given to me ithere.
25	16:26:14	Q. Basically, you're picking and choosing between various

1	16:26:17	things that GaStat has done and GaStat has said. GaStat
2	16:26:21	is saying here --
3	16:26:22	-- (overspeaking) -- ^^
4	16:26:23	A. No --
5	16:26:24	Q. ^^ I'm not picking and chootding. I am, from the
6	16:26:28	evidence that's before my eyes, and from the fact that
7	16:26:32	there obviously is a problem with the index, it is
8	16:26:37	obvious, obvious to me, that that index was never linked
9	16:26:42	and that there were some very, very important reasons
10	16:26:46	why that index was not linked.
11	16:26:51	When you say that GaStat effectively disregarded
12	16:26:54	COLI 1999, when are you saying this happened?
13	16:26:56	A. Sorry if.
14	16:26:57	Q. When do you say that GaStat effectively disregarded
15	16:27:00	COLI 1999?
16	16:27:02	A. When they publish COLI 2007 without linking it to the
17	16:27:07	prior index. It's already, that is already a sign that
18	16:27:13	the index was not longer in use. While for all
19	16:27:19	successive indices when they published them, they had
20	16:27:22	linked them to a number of years prior.
21	16:27:25	Q. But you wouldn't know about what GaStat was going to do
22	16:27:29	with later indices until those later indices were
23	16:27:32	published. You would ^^ COLI 2007 and COLI 2013 until
24	16:27:38	2018, would you?
25	16:27:40	A. I wouldn't, no. I was doing this in 2020 and 2022 and

1	16:27:48	2024. In 20 if, you mean that they had ^ not linked and
2	16:28:00	if you use these indices, like, for example, you're
3	16:28:04	linking the preponderance I, you are American the PPI
4	16:28:07	for the other, for the foreign portion of these charge,
5	16:28:12	right? And you will have seen that the American PPI are
6	16:28:17	all linked to each other without any problems.
7	16:28:29	Q. Can we look at the list of questions that SWPC provided
8	16:28:36	to GaStat and we can pick that up at D101-3.
9	16:28:53	Then if you scroll down to 6. It says this was
10	16:28:57	a question that you prepared, was it ^?
11	16:29:02	Yes.
12	16:29:03	Q. Please could you provide documents describing the
13	16:29:05	specific reasons why the relevant stay sties call agency
14	16:29:08	decided to retire COLI 1999 and replace it with
15	16:29:12	COLI 2007?"
16	16:29:12	^doc) then we can see you asked whether any
17	16:29:16	particular deficiencies, whether any particular
18	16:29:18	guidelines, if we scroll down, please. Was the
19	16:29:25	calculation of COLI 1999 guidelines and if so how ^^
20	16:29:30	^doc) then we get the answer from GaStat in the letter
21	16:29:33	of 5 November 2020, which is at I think it is D92. No.
22	16:29:46	It might be B92.
23	16:30:00	If we go down to page 5. Yes, these are the answers
24	16:30:07	that you got back from GaStat; is that right?
25	16:30:11	A. Yes, yes.

1	16:30:13	Q. We can see at item 3 they explain the changes to the
2	16:30:19	phases of the CPI?
3	16:30:21	A. Yes.
4	16:30:23	Q. If we go through, they start very early in the process.
5	16:30:27	We can see in 1980. If we can go through to page 6,
6	16:30:30	please. In fact, sorry, if you could go back up to
7	16:30:37	where we were, just explain, pick out a part that
8	16:30:40	they -- bit further up.
9	16:30:44	So they say there constantly updating all as experts
10	16:30:52	of the CPI programme in order to improve and develop the
11	16:30:54	CPI programme and chai the highest (^ck reading...)
12	16:30:57	comprehensiveness in relation to the CPI programme data.
13	16:31:00	The important factor for change is to reflect the
14	16:31:03	changes in household consumption patterns in the KSA
15	16:31:11	GaStat formally central ^reading...) information is
16	16:31:13	committed to introduce updates to CPI in accordance with
17	16:31:16	the latest international recommendations requested
18	16:31:19	that's the general approach they have ^doc) if you go
19	16:31:22	through to page 6. If we can scroll down so we can see
20	16:31:31	the reference to phase four. This is COLI 1999, isn't
21	16:31:38	it, in phase four, if you just keep scrolling down,
22	16:31:41	we'll get phase four towards the following page, no, the
23	16:31:45	other way, so phase four at the top. That's it.
24	16:31:54	Do you recognise this, you must remember this,
25	16:31:58	presumably? Do you remember this?

1   16:32:01   A. Yes.

2   16:32:02   Q. So then this phase four is COLI 1999, isn't it? If we

3   16:32:08   scroll a bit further down, there we go, the reference to

4   16:32:17   1999. Then if we go to phase five, that's then

5   16:32:23   describing the COLI 2007. If we just pause there. Is

6   16:32:27   that correct?

7   16:32:28   A. Yes, it is.

8   16:32:30   Q. So there's nothing there saying that in respect of

9   16:32:34   COLI 2007, no statement there that COLI 1999 should be

10 16:32:37   disregarded, is there?

11 16:32:39   No, not at all.

12 16:32:45   Q. When you met privately with GaStat, they didn't say that

13 16:32:49   COLI 1999 should be treated differently from other

14 16:32:51   indices, did it?

15 16:32:54   A. They did say to me that it couldn't be -- they did say

16 16:32:59   it in the meeting that the index couldn't be linked and

17 16:33:02   that's why I asked the follow-up question.

18 16:33:08   Q. We looked at the meeting minutes before and they said

19 16:33:10   that the index could be linked?

20 16:33:13   A. Yes, I know. They say that they had linked the

21 16:33:16   intention in the minutes, but when we were in the

22 16:33:18   meeting, they said that the indices couldn't be linked

23 16:33:24   and that's why I asked a series of follow-up questions,

24 16:33:30   because they discussed the linking of the meetings, the

25 16:33:34   formulae. I --

1	16:33:37	Q. So you --
2	16:33:38	A. I prepared a series of questions to be asked. They're
3	16:33:44	not --
4	16:33:44	Q. You're saying the minutes are inaccurate, are you?
5	16:33:46	A. Sorry.
6	16:33:46	Q. Are you saying that the minutes are inaccurate?
7	16:33:48	A. Yes, absolutely. They weren't inaccurate. They didn't
8	16:33:52	cover everything that was discussed and therefore, we
9	16:33:55	asked follow-up questions, but the follow-up questions
10	16:33:59	were not delivered to GaStat. Because we were very,
11	16:34:05	very close, because essentially what happened was that
12	16:34:09	I was appointed in June, in July we asked for an
13	16:34:15	appointment to discuss these indices with GaStat. We
14	16:34:19	finally managed to get this appointment for November,
15	16:34:23	but by 17 December, the relationship was due ^ and
16	16:34:29	therefore, there wasn't anymore time. But I did prepare
17	16:34:33	a lest of questions for them about the things that were
18	16:34:40	not in the minutes, but have been discussed in the
19	16:34:42	meeting.
20	16:34:44	Q. So your evidence is that in that meeting, you were
21	16:34:47	told --
22	16:34:47	A. Yes.
23	16:34:48	Q. -- that GaStat what? Can you remember the precise
24	16:34:52	words? I think it's really important that you give us
25	16:34:53	the precise words.

1	16:34:57	A. Sorry?
2	16:34:57	Q. What were the precise words that GaStat used?
3	16:35:02	A. They said that indices could not be linked. It's in the -- I think the precise words are in those minutes.
4	16:35:09	I can't remember them.
5	16:35:13	Q. We just looked at the minutes?
6	16:35:14	A. Sorry, are in the follow-up questions that I prepared,
7	16:35:18	but this was four years ago. So the precise words
8	16:35:21	I cannot remember. But I do remember very distinctly.
9	16:35:25	Because otherwise, quite apart from the fact that they
10	16:35:29	actually hadn't linked the indices, so I have no reason
11	16:35:32	not to believe them.
12	16:35:35	Q. You didn't say anywhere in your reports that the minutes
13	16:35:39	weren't accurate, does you?
14	16:35:40	A. Oh, no, no, I wouldn't.
15	16:35:43	Q. In the reports that you've served for this arbitration,
16	16:35:46	you haven't said that the minutes of those meetings were
17	16:35:49	inaccurate, have you?
18	16:35:52	A. No. I didn't base my opinion on just on these meetings,
19	16:35:59	but I also on what I heard and what I saw.
20	16:36:02	Q. But hold on. If you know when you're putting your
21	16:36:05	reports you're supposed to put in everything that's
22	16:36:07	relevant, yes?
23	16:36:09	A. Of course, yes.
24	16:36:11	Q. And you don't think that mentioning that you were told
25	16:36:14	something different in a meeting than what's in the

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1	16:36:16	minutes that you rely on is spg that's worst mentioning
2	16:36:19	in your report?
3	16:36:21	A. It is in those questions, in those follow-up questions.
4	16:36:26	If you want, we can --
5	16:36:30	Q. As far as I know, we don't have those follow-up
6	16:36:32	questions. I think we'll have to move on, but it's not
7	16:36:37	in your report, is it?
8	16:36:38	A. No, it's not in my report.
9	16:36:42	Q. We'll come back to that?
10	16:36:43	Because essentially, what happened was that they
11	16:36:45	provided me with the I decision and so from that index,
12	16:36:53	it was very obvious to me that they had not linked KWR-9
13	16:37:03	to anything they linked all the other indices and I had
14	16:37:06	all the information that I needed to have.
15	16:37:08	Q. In the meeting --
16	16:37:10	A. Without --
17	16:37:10	Q. But in the meeting they actually said they had linked
18	16:37:13	COLI 1999 to COLI 2007, department they?
19	16:37:17	A. They said what you read.
20	16:37:19	Q. Yes.
21	16:37:19	A. Yes, but they didn't do it.
22	16:37:21	Q. You don't know who they've done, do you?
23	16:37:23	A. Well, they may have done it or tried to do it, but they
24	16:37:26	never published it. It's not in the public domain
25	16:37:31	anywhere.

1	16:37:32	Q. Can we just move on now to your reasoning based on SAMA.
2	16:37:37	I think in the joint statement at item 28, which is
3	16:37:41	D130, page 18. At the bottom of page 18, do you have
4	16:38:00	that? You say:
5	16:38:01	"Regarding SAMA I agree with Ms Harfouche's point
6	16:38:04	that SAMA appears to treat the switch to COLI 2007 in
7	16:38:08	a similar manner ^^ 2013 in COLI 2018." ^doc.
8	16:38:17	So you're agreeing with Ms Harfouche that SAMA
9	16:38:21	treats COLI 1999 in the same way as the later indices,
10	16:38:27	do you agree?
11	16:38:28	A. Yes, they don't prepare the indices, they just publish
12	16:38:32	them and I agree with Ms Harfouche, yes.
13	16:38:34	Q. That was just based on a straightforward examination of
14	16:38:37	the SAMA reports, wasn't it?
15	16:38:39	A. Yes, yes.
16	16:38:41	Q. Ms Harfouche referred to SAMA's 54th annual report as
17	16:38:45	show that is in 2018, SAMA referred only to control 13
18	16:38:49	and not COLI 2007. Do you agree with that?
19	16:38:54	A. Yes, yes, I agree with that.
20	16:38:56	Q. And you had the 54th annual report from SAMA as your
21	16:39:01	exhibit mm19, which is at D23. Then we go to page 9 and
22	16:39:19	page 10. Scroll down a bit, I think. There we can see
23	16:39:32	the reference to in table 7.1, we see the reference to
24	16:39:40	general consumer price index for all cities 2013 equals
25	16:39:44	is hundred. That's COLI 2013, isn't it?

1	16:39:50	A. Yes.
2	16:39:51	Q. You had all the information to hand, but you still
3	16:39:54	concluded that SAMA's treatment of COLI 1999 was
4	16:39:57	materially different from it treatment of later indices?
5	16:40:02	A. Yes, I made a mistake. There is actually a document
6	16:40:07	that is the minutes of a meeting in 2015 with a meeting
7	16:40:13	that SAMA had with WEC and other companies where the
8	16:40:17	representative for SAMA said that COLI 1999 had been --
9	16:40:28	I don't remember the exact words, but essentially had
10	16:40:33	been dismissed and should not be considered. But my
11	16:40:39	understanding is that the minutes of these minutes are
12	16:40:43	not in evidence.
13	16:40:44	Q. Yes, exactly. Slightly surprised that Dr Meschi felt it
14	16:40:48	appropriate to refer to a document that she clearly
15	16:40:50	knows isn't in evidence and presumably shes no that we
16	16:40:53	don't accept the provenance or authenticity of that
17	16:40:56	document. So that's the brief document which SWPC
18	16:40:59	declined to apply to have put in. So I would say I was
19	16:41:04	surprised by Dr Meschi' ^ck) I'm not actually, but it's
20	16:41:07	not appropriate for her to be making reference to
21	16:41:08	documents that she knows aren't in the bundle.
22	16:41:13	I request the tribunal ignore that statement.
23	16:41:22	So you accepted in the joint statement that
24	16:41:26	Ms Harfouche was right and I'm going to put it to you
25	16:41:28	that any reasonable, can of those SAMA reports which you

1	16:41:34	had would have revealed that Ms Harfouche was correct,
2	16:41:37	wouldn't it?
3	16:41:38	A. Yes, I agree with her. She she's right.
4	16:41:41	Q. One could suggest to you what's ^^ preconceived idea
5	16:41:45	about COLI 1999 and you simply try to find evidence to
6	16:41:48	support your ideas about COLI 1999 and you've just gone
7	16:41:51	on and ignored any evidence that's inconsistent with
8	16:41:54	that idea; is that correct?
9	16:41:58	A. No. I accepted that this is wrong, that I was wrong
10	16:42:02	with this, but to me, the fact that -- again, the fact
11	16:42:11	that the statistical agency did not ever link an index
12	16:42:22	to another is proof that that statistical agency does
13	16:42:29	not consider that index linkable. They have never
14	16:42:33	linked it, never.
15	16:42:35	Q. Can I move on, please, to your arguments around the
16	16:42:39	removal of data relating to COLI 1999. This is at page
17	16:42:43	D1-59 of your first report, which is at paragraphs 4.14
18	16:42:51	to 4.15. Then we'll deal with the other parts of your
19	16:43:00	report, but you accept, don't you, that COLI 1999 data
20	16:43:03	is available for 2001 to 2010 on the GaStat website?
21	16:43:07	A. It is, yes, it is. 2 December 2011, not 2010.
22	16:43:17	Q. If you look on the GaStat website for those years,
23	16:43:20	you're only going to get cot 9 data, aren't you?
24	16:43:23	A. For what? For those dates?
25	16:43:25	Q. For those years?

1	16:43:26	A. No, you don't, because there is historical series that
2	16:43:32	goes in 2014, that goes back for many years and then
3	16:43:37	there is the metadata which is accessible and it goes
4	16:43:45	back to 2015 for the public use and it has a link for
5	16:43:55	people who have -- how do you call it -- the password
6	16:44:00	for historical data and it has an email address that
7	16:44:03	people can write to if they want the see are you that is
8	16:44:08	goes back.
9	16:44:10	Q. Can we please take up Ms Harfouche's second report,
10	16:44:16	D112, page 16.
11	16:44:34	I'm sure you've considered this, haven't you?
12	16:44:38	A. Yes, that's 2014 and that's the series that -- that's
13	16:44:44	the link to where the longer series is, in Excel.
14	16:44:50	Q. Yes, so if you go into the 2014 year, then you can find
15	16:44:55	historical data; is that right?
16	16:44:56	A. Yes, because these are the releases, right.
17	16:44:59	Q. Sorry, if we go to D112, page 14, this shows you what
18	16:45:10	happens if you go into particular years for 2002 to
19	16:45:19	2010. You only get COLI 1999 data, don't you?
20	16:45:23	A. This is 2024.
21	16:45:25	Q. But do you agree that if you go on to the GaStat website
22	16:45:28	and click on their years for 2002 to 2010, you only get
23	16:45:35	COLI 1999 data?
24	16:45:36	A. Yes, you get the PDF, there are no Excel feels, because
25	16:45:40	those are the releases, those are the releases. In 2002

1	16:45:46	to 2010, what they released was COLI 1999, but funnily
2	16:45:54	enough, for those years you don't have the Excel file,
3	16:45:59	you only have the PDF. I don't know if -- I think there
4	16:46:05	must be a picture in Ms Harfouche's report of those
5	16:46:08	years.
6	16:46:09	Q. The point is if people want to find out what inflation
7	16:46:11	was for those years today, what they will will finding
8	16:46:14	is COLI 1999 data, isn't that correct?
9	16:46:18	A. No, they will go to the -- they should go to the met
10	16:46:21	data, because nobody will want to find the data into
11	16:46:25	a PDF file or into the metadata, that is the API and
12	16:46:29	they can get the whole series.
13	16:46:32	Q. The only way you can find COLI 2007 data for those years
14	16:46:36	if you go into the 2014-file; is that correct?
15	16:46:41	A. On the releases, yes, because that's when it was
16	16:46:45	released.
17	16:46:48	Q. What we can see is that GaStat is still publishing
18	16:46:51	COLI 1999 data, isn't it?
19	16:46:53	A. When?
20	16:46:54	Q. Well, this is as far as we know, this is the --
21	16:46:57	A. Yes, these are the releases, these are the official
22	16:46:59	releases of the data.
23	16:47:01	Q. There's nothing on the GaStat website to say that this
24	16:47:07	data shouldn't be used, is there?
25	16:47:11	A. No.

1	16:47:12	Q. GaStat's actions show that they continue to publish and
2	16:47:15	make available to the public COLI 1999 data for the
3	16:47:19	years 2002 to 2010?
4	16:47:22	A. They don't publish it. The document that is on the
5	16:47:25	website was published in 2002. Now it starts from 2002.
6	16:47:32	Every year they take a year out. So those are the
7	16:47:35	releases. Those are the official publications. In
8	16:47:38	those years, those were the publications.
9	16:47:44	Q. In addition, you can still get the COLI 1999 data for
10	16:47:47	years prior to 2001 on the SAMA website in its 48th nual
11	16:47:52	report, can't you?
12	16:47:53	A. SAMA doesn't -- yeah, but those are -- that is the ^^
13	16:47:58	annual report, what are they going to do? Take the
14	16:48:00	annual reports out of the website?
15	16:48:03	Q. If we can go to paragraphs -- 3.24 and 3.25 of D112,
16	16:48:12	page 15. I'm sure you considered these. This is where
17	16:48:20	Ms Harfouche has explained by reference to the metadata
18	16:48:24	as to how we got to the current position in terms of the
19	16:48:29	publication of the continued publication of the
20	16:48:33	COLI 1999 data ^. Do you see that?
21	16:48:40	Do you agree that the met data shows that in
22	16:48:43	COLI 1999 was deleted in its entirety from the C ^^
23	16:48:47	website between system time between 10 October 20 ^^
24	16:48:51	10 February 2014. Do you agree with that?
25	16:48:53	A. Where do you read it? Sorry, which paragraph is it?

1	16:48:58	Q. Look at 3.24 and 3.25?
2	16:49:00	A. Okay, let me read it.
3	16:49:01	Q. I'm sure you must have read this before. (Pause).
4	16:49:33	A. Yes, on 10 February 2014, CDSI -- the page had been
5	16:49:46	taken off their site. That's what is written here.
6	16:49:51	Well, actually, no, between 10 October 2013 to
7	16:49:59	10 February 2014, the whole historical series of
8	16:50:04	COLI 1999 was taken off that website, because it's no
9	16:50:06	longer in the web archives.
10	16:50:10	Q. And then at some time afterwards, COLI 1999 data for
11	16:50:14	2001 to 2011 was restored on GaStat's website; is that
12	16:50:17	correct?
13	16:50:19	A. The release was -- yeah, the bulletin are there, the
14	16:50:25	bulletins, yes. Those are official publications.
15	16:50:30	Q. Then I'm going to suggest to you that the decision by
16	16:50:33	GaStat to restore 11 years of COLI 1999 data and show it
17	16:50:38	as inflation for these years on its current website is
18	16:50:40	not consistent with it having effectively disregarded
19	16:50:44	COLI 1999 do you agree?
20	16:50:48	A. No, I don't agree. Because they have disregarded it
21	16:50:51	because they haven't linked it. So the inflations that
22	16:50:54	measured in Saudi Arabia, if you want a historical
23	16:51:01	series of inflation in Saudi Arabia, you're not going to
24	16:51:07	get into that historical series any data point that
25	16:51:14	belongs to COLI 1999.

1	16:51:17	Q. I understand your point about what they've published in
2	16:51:20	terms of linking, but you had chosen in your report to
3	16:51:22	make one of the reasons that you said that GaStat had
4	16:51:25	effectively disregarded was about what data was
5	16:51:28	available on the website. Do you agree?
6	16:51:33	A. They have taken out data and also they have not linked
7	16:51:37	in the up desk, it's both. It's not just one thing.
8	16:51:40	Q. I agree, but in relation -- just looking at the data, in
9	16:51:42	relation to what in fact happened about the data in
10	16:51:46	relation to COLI 1999 on the GaStat website, that is not
11	16:51:54	consistent, is it, with GaStat having effectively
12	16:51:56	disregarded COLI 1999?
13	16:52:02	A. Okay, let's put it like this. You are a statistical
14	16:52:06	agency, you have an obligation to publish every month
15	16:52:09	a bulletin. That bulletin is published if PDF. You put
16	16:52:14	that bulletin up on your website. You are changing the
17	16:52:21	index. You do a switch from an index 1999, because
18	16:52:27	that's tin desk, to 2007. What happens in the normal
19	16:52:33	circumstances is that you do 2007, you link it to tin
20	16:52:38	desk before, right, and you move on. This is what
21	16:52:41	they're done for 2013, this is what they've done for
22	16:52:45	2018. In 2007, they went and re back cast, COLI 2007
23	16:52:53	all the way to 1980 and put that on the website instead
24	16:53:00	of COLI 1999. To me, that tells me that I have
25	16:53:07	disregarded KWR-9, because otherwise they would have

1	16:53:10	linked them and moved on. That is my opinion. It's
2	16:53:18	enough. Essentially proof as far as I'm concerned ^^.
3	16:53:23	Q. Can we move now to GaStat's November 2020 view. This
4	16:53:28	was provided to you on a retrospective basis in 2020?
5	16:53:32	A. In 2020, yes.
6	16:53:35	Q. That wasn't available to the parties in 2014, was it?
7	16:53:38	A. No, what was available to the periods in ^ 2014 were the
8	16:53:44	two reports by SAMA, the annual reports, the 2012 that
9	16:53:51	had COLI 1999 and the 2013 which is 49 that had
10	16:54:01	COLI 2007. And they had a few years overlap from which
11	16:54:07	the inflation rates could be inferred. That is what was
12	16:54:13	available to the parties at that date.
13	16:54:18	Q. But we've agreed, haven't we, that there's nothing in
14	16:54:20	the SAMA reports that tells you that you should be
15	16:54:24	treating COLI 1999 differently from any other later
16	16:54:28	index, haven't we?
17	16:54:30	A. I do agree, yes, I do agree. Ms Harfouche is absolutely
18	16:54:35	correct with that.
19	16:54:37	Q. I'm not sure why you're referring to SAMA reports
20	16:54:39	because near ^^ about COLI 1999, are they?
21	16:54:43	A. I am referring to them for a different reason, actually.
22	16:54:46	I am referring to them because that is how the parties
23	16:54:53	could have or could have seen or maybe they did see,
24	16:54:57	I don't know, that there was a big difference between
25	16:55:01	these two indices.

1	16:55:04	Q. But at that stage, they wouldn't have known whether that
2	16:55:07	difference between those two indices was significant,
3	16:55:09	because you would have to see in order to understand
4	16:55:11	that, you would have to know what the difference between
5	16:55:15	COLI 2007 and COLI 2013 was and even what the difference
6	16:55:18	between COLI 2013 and COLI 2018 was to know whether it
7	16:55:22	was a significant difference?
8	16:55:25	A. They could have seen whether it was difference to them
9	16:55:27	and they could have said taken pause an try to figure
10	16:55:31	out what to do about it.
11	16:55:38	Q. Accepting that they could see in 201-4245 there was
12	16:55:42	a difference between COLI 1999 and COLI 2007, and that's
13	16:55:52	how you rely on the -- that's why you rely on the SAMA
14	16:55:59	reports. As I say, whether that difference was
15	16:56:05	a significant one wouldn't be known because you didn't
16	16:56:07	have anything to compare it to, because you can't
17	16:56:09	compare it to call # to COLI 2013 or COLI 2013 to COLI
18	16:56:15	2018?
19	16:56:15	A. No, but what you could have done and can I have table
20	16:56:23	4-2 of D1-64?
21	16:56:30	These are the inflation rates in the two SAMA annual
22	16:56:35	reports. This is the 48 which was published in 2012 and
23	16:56:41	this is 49, which was published in 2013.
24	16:56:46	So in 2012, and the next two columns are COLI 1999
25	16:56:58	and COLI 2007 and so from this, you can see that the 48

1	16:57:03	report has a COLI 1999 and the 49 has COLI 2007 and as
2	16:57:10	Ms What are rightly says, this is the way they treat the
3	16:57:12	indices always.
4	16:57:14	Now, somebody could have said, okay, hold on
5	16:57:17	a second here. So in 2011, inflation was 50 per cent
6	16:57:24	that we put into this contract, but actually now they
7	16:57:27	are saying that it's 3.7. In 2010, it was 5.3 and now
8	16:57:33	they are saying it's 3-pointle. In 2009 it was 5-point
9	16:57:37	# and now they're saying that 4.1. What is going on?
10	16:57:42	They could have done that.
11	16:57:44	And then they knew that in 2008 it was 9.9 and they
12	16:57:51	could have thought what is happening here? ^^ that is
13	16:57:55	what I would have done for sure if I had -- can you
14	16:57:59	imagine if these are rates on your mortgage?
15	16:58:04	Q. But we know, don't we, that whenever a new index is
16	16:58:07	published, it's likely to be more accurate than the
17	16:58:11	previous index; is that correct?
18	16:58:13	A. It's going to be more accurate, but for sure when you
19	16:58:15	see these, you are starting asking questions. Maybe
20	16:58:20	they did ask questions. And that is why we are here.
21	16:58:24	I don't know. For sure, I personally would question it.
22	16:58:37	Q. Nothing that GaStat didn't say when it published
23	16:58:41	COLI 2007 that COLI 1999 was inaccurate, did it?
24	16:58:50	A. Statistical agency has a responsibility to make sure
25	16:58:56	that they're not going to wreck the economy. So what

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1	16:58:59	I'm trying to say is that on the basis of this inflation
2	16:59:03	rates, interest rates are set, exchange rates then are
3	16:59:08	determined. To just say, oh, sorry, you know, we made
4	16:59:14	a mistake for 10 years and we've publishing something
5	16:59:17	that is wrong, would have been catastrophic. I mean,
6	16:59:23	there was an article yesterday, yesterday, on the
7	16:59:28	Financial Times, which is about Germany of all
8	16:59:32	countries, my husband's country, and Germany, the
9	16:59:35	statistical office of Germany, for the first time, has
10	16:59:39	failed to publish on time some data on the revenues of
11	16:59:46	companies and attributing this to an I. The glitch and
12	16:59:52	whole hell broke loose because, you know, people don't
13	16:59:56	know whether to believe it or not. So of course it is
14	17:00:01	a serious thing and inflation is fundamental to the
15	17:00:06	point where if you are a statistical agency and you are
16	17:00:16	excused of having been either tampered or having been
17	17:00:21	cavalier with the publication of inflation figures, your
18	17:00:25	country can be censored ^ by the IMF. This happened for June 2013 ^^.
19	17:00:37	So a statistical agency, in my opinion, will be
20	17:00:40	very, very careful before saying, you know what, we
21	17:00:43	publish something that was completely wrong. In fact,
22	17:00:46	when you think about what happened in the UK, for
23	17:00:50	example, they published the CPI in the 1990s, the
24	17:00:57	consumer price index, and it was substituted, as I said,
25	17:01:05	for the RPI and the inflation target in 2003, and it

1	17:01:10	took until 2013 and the whole series of studies and
2	17:01:21	consultations for that RPI to be removed from being
3	17:01:26	a national stay test ticks, after it had already lost
4	17:01:32	its job to set the inflation and therefore, as a target
5	17:01:37	for interest rates and everything else, for what was
6	17:01:40	going on in the economy. It took decades in the UK.
7	17:01:45	Q. We know that from the experience in the UK, this it's
8	17:01:48	perfectly possible for a national statistics
9	17:01:52	organisation to say that the previous index people have
10	17:01:58	been using which in that case is RPI, is an inaccurate
11	17:02:01	measure and should be replaced by CPI and that was all
12	17:02:04	very open and the transition was made as you say. So
13	17:02:09	actually there's no -- there's good evidences from the
14	17:02:11	UK that it's perfectly possible to move in a considered
15	17:02:15	way from one index to another index and there is no
16	17:02:23	reason why that couldn't have been done in the KSA, but
17	17:02:29	in fact the KSA never did that, did it?
18	17:02:32	A. The UK published -- if I'm not wrong, the CPI was
19	17:02:37	published from the first time in 1996. Okay? In 2013,
20	17:02:45	which is 17 years later, the UK said this index is not
21	17:02:54	good enough, after 17 years of using the CPI, the reason
22	17:02:58	I is not good enough, so it's no longer a national
23	17:03:02	statistic.
24	17:03:02	We will continue to publish it because there are
25	17:03:06	guilds that spire in 2030, but this index cannot be used

1	17:03:11	for policy purposes and it has not been used for policy
2	17:03:15	purposes since 1996. So it took them 17 years before
3	17:03:20	they actually came out and said this index is not
4	17:03:23	a national statistic.
5	17:03:25	Q. What I want to move now to is as I said, GaStat was
6	17:03:29	providing its view in November 2020 as the most accurate
7	17:03:32	estimate of inflation on a retrospective basis; is that
8	17:03:35	correct?
9	17:03:36	Yes.
10	17:03:37	Q. Just in the way they did it, given they're working
11	17:03:40	retrospectively, it made sense, because they were
12	17:03:42	provided ^^ their most accurate view, is that they would
13	17:03:48	use COLI 2018 for as long as they could; is that
14	17:03:52	correct? Going backwards?
15	17:03:53	A. No, they didn't use COLI 2018, they used 2018 as the
16	17:04:00	equal to 100, so it was rebased, but 2018 was 2018 from
17	17:04:07	2018 to 2020, before that was 2013. You can see it from -- it's slide 10, for example. My slide 10. You
18	17:04:23	can see very clearly there, actually. You can see it.
19	17:04:31	They are all linked. You can see it actually between
20	17:04:37	both, in both the figures, because in the left, you can
21	17:04:43	see they are all parallel. The dotted line are all
22	17:04:47	parallel to each other, which means that they are
23	17:04:50	essentially estimated the same relative inflation, they
24	17:04:52	are all the same index. So COLI 2007, then in 2013,
25	17:05:00	COLI 2013, then in 2018 COLI 2018. They are all linked.

1	17:05:07	Q. Yes, but it's correct, isn't it, that in the
2	17:05:09	retrospective view, it used COLI 2018 as far back as it
3	17:05:14	could; is that right?
4	17:05:15	A. It's not COLI 2018, it's the base year of COLI 2018.
5	17:05:19	COLI 2018 is the combination of three indices. It's
6	17:05:24	COLI 2007 from 1980, all the way to 2007. Then it is
7	17:05:34	call -- sorry, all the way to 2013. So from 1980 till
8	17:05:46	2013 it's COLI 2007. From 2013 to 2018 it's COLI 2013.
9	17:05:53	Then it's COLI 2018. They didn't estimate COLI 2018
10	17:05:59	going back.
11	17:06:00	Q. No, no. I think you're actually agreeing with me. That
12	17:06:03	the way they've done it they've linked in the index year
13	17:06:06	for each different COLI, is that right?
14	17:06:10	A. In the base year.
15	17:06:11	Q. Sorry?
16	17:06:12	A. In the base year, yes. In the base year. That's what
17	17:06:15	statistical agency they all do that.
18	17:06:17	Q. But the point is they were doing it let spickatively,
19	17:06:20	weren't they?
20	17:06:22	A. No, they weren't. They did it as they published the
21	17:06:24	indices.
22	17:06:25	Q. No, but the one you were given in November 2020, because
23	17:06:30	at that point, in November 2020, GaStat had all the
24	17:06:35	information available to it, didn't it, about COLI 2007,
25	17:06:39	COLI 1999, COLI 2013 and COLI 2018, didn't it?

1	17:06:45	A. When they published -- when they published COLI 2013,
2	17:06:53	which unfortunately it was published a few years after
3	17:06:58	2013, so it was published with a delay. They actually
4	17:07:02	estimated starting for a few years before and the four
5	17:07:06	years before was COLI 2007. That's why I'm saying that
6	17:07:10	they have linked them. They link them all. They are
7	17:07:13	all linked.
8	17:07:14	Yes, and they --
9	17:07:15	A. And they link them contemporaneously as they were pub
10	17:07:19	rushing them but they published them with delay.
11	17:07:23	Q. But in 2020, GaStat was able to take a retrospective
12	17:07:27	view, wasn't it, looking back?
13	17:07:30	A. I asked for a historical series.
14	17:07:32	Q. Yes?
15	17:07:32	A. Yes, yes.
16	17:07:33	Q. Okay. Basically, what they've done is they've taken
17	17:07:44	COLI 2018 until there's no English going backwards until
18	17:07:48	there's no COLI 2018 data and then they link to
19	17:07:54	COLI 2013; is that correct?
20	17:08:00	A. They have taken 2007 and linked it to 2013 and 2013 and
21	17:08:05	linked it to 2018, because you link on the bay year and
22	17:08:09	the reason why they do that is because that is the year
23	17:08:13	of the expenditure survey on which each successive
24	17:08:19	subsequent index weights are based. So that is how they
25	17:08:24	link. It's not GaStat is every statistical agency does

1	17:08:28	that. Each and even of them.
2	17:08:31	Q. But the res specifictive view is using at each stage,
3	17:08:35	the most -- what it regards as the most accurate index
4	17:08:39	as far back as it can; is that correct?
5	17:08:41	A. Yes, but the most accurate index is from 2018 onwards,
6	17:08:49	is COLI 2018. From 2018 to 2013 it's COLI 2013, because
7	17:08:59	from 2013 to 2018, COLI 2018 is not COLI 2018, it's
8	17:09:08	COLI 2013 linked to -- that's why they are parallel.
9	17:09:12	They are parallel. They just shift them downwards.
10	17:09:16	They do statistical agencies tends to do backward
11	17:09:20	linking, not forward linking, because they link all the
12	17:09:25	index to the new one which is more accurate. That's why
13	17:09:27	you see them going down.
14	17:09:29	Q. Yes, absolutely. I actually adopt think we disagreeing.
15	17:09:34	The point is that they take advantage of the fact
16	17:09:36	that they are doing this on a retrospective basis, don't
17	17:09:42	they, they have to, because this is an historical series
18	17:09:44	and when they have published them, they already -- they
19	17:09:47	publish them when they publish COLI 2007, they didn't
20	17:09:52	link it to anything. So the year before 2007 where
21	17:09:57	a different index from 1999. When they publish
22	17:10:04	COLI 2013 when they published it, right, 2013 was 2013
23	17:10:12	only from 2013 onwards, before that was linked to 2007.
24	17:10:18	And the same for 2018 and I would guess the next one
25	17:10:21	will be the same.

1	17:10:24	Q. am I right in thinking that you use the fact that GaStat
2	17:10:26	has linked COLI 2007, COLI 2013 and COLI 2013 and COLI
3	17:10:33	2018 in the index reference years to the later indices
4	17:10:36	as a support for your approach to COLI 1999 to
5	17:10:41	COLI 2007?
6	17:10:41	A. As part of it, as part of it, yes, yes.
7	17:10:47	Q. But GaStat's actions don't justify your approach, do
8	17:10:51	they? Because the fact that GaStat can do it on
9	17:10:59	a historical basis doesn't provide adjudication for
10	17:11:03	users acting in the same way because we know that the
11	17:11:06	reference year will be several years prior to
12	17:11:08	publication of the later index; is that right?
13	17:11:14	A. Are you saying in general or in this particular case.
14	17:11:17	Q. In this case. Negligence this particular case. In 2007
15	17:11:24	also the weights -- 2007 is the year in which COLI 1999
16	17:11:30	goes kind of berserk and it's also the year in which its
17	17:11:36	weights were changed and so that is why -- that's
18	17:11:41	another reason why I link them in 2007.
19	17:11:46	Q. That's not --
20	17:11:49	A. I think I have written it --
21	17:11:52	Q. I'll try the question again. So historically, looking
22	17:11:57	back historically, GaStat linked, for example, COLI 2013
23	17:12:07	with COLI 2007 in 2013; is that right?
24	17:12:16	A. Yes, yes. But also contemporaneously. That's when they
25	17:12:20	linked them.

1	17:12:22	Q. But a user in 2013 couldn't possibly have done that,
2	17:12:26	could they? Because they didn't have the COLI 2013 data
3	17:12:29	until 2018?
4	17:12:30	A. Yes, correct.
5	17:12:32	Q. It wouldn't make any sense at all, with it, for a person
6	17:12:37	in user 2018 to say I have now got the COLI 2013 data,
7	17:12:42	so I'm going to link it all the way back to COLI 2007 in
8	17:12:47	COLI 2013. Nobody would do that, would they?
9	17:12:52	A. I mean, why should they do that? COLI 2018 was already
10	17:12:59	linked back. You mean for the purpose of contracts or
11	17:13:06	for --
12	17:13:07	Q. For example?
13	17:13:07	A. For the purpose of contracts. So as I explained, for
14	17:13:11	the purpose of a contract, in this particular -- in this
15	17:13:17	case, because there was no reason -- because the agency
16	17:13:25	had linked the indices and there was no reason to
17	17:13:28	believe that this index had any problems, that's what
18	17:13:33	I propose to do. I don't propose to go back every time.
19	17:13:37	I propose to use the going forward approach. It's the
20	17:13:41	only exception is that blue line ^.
21	17:13:47	Q. For the links between COLI 2007 and 2013 and 2013 and
22	17:13:54	2018, you only consider what was available at the time,
23	17:13:58	the information that was available at the time, ie so
24	17:14:01	you only do it at the end when the new index is
25	17:14:05	published, and so the exception for that is COLI 1999 to

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1	17:14:10	2007, where you give yourself the benefit of hindsight;
2	17:14:13	is that right?
3	17:14:15	A. Yes.
4	17:14:18	Q. I would like to move now to your second reason, which is
5	17:14:21	the suggestion that call # is an inaccurate measure of
6	17:14:26	inflation. So I think we can agree that all indices are -- no indices truly measure true inflation?
7	17:14:39	Where are we?
8	17:14:39	Q. I'm just moving on to your reason 2. We can go back to
9	17:14:43	it if you would like?
10	17:14:44	A. Yes.
11	17:14:45	Q. It's your first report,?
12	17:14:51	A. Is it 6.6?
13	17:14:52	Q. 6.6.
14	17:14:53	A. Yeah, okay. I'm there.
15	17:15:10	Q. Here you deal with this, this is about COLI 1999 being
16	17:15:16	an inaccurate measure of inflation. You rely on the
17	17:15:22	fact that there is a statistical inaccuracy in
18	17:15:27	COLI 1999; is that correct?
19	17:15:30	A. Fundamental, yeah.
20	17:15:35	Q. Can we go to paragraphs 3.41 and 3.42 of your first
21	17:15:40	report at D1-41.
22	17:16:00	Then we can turn over to D1-42 where you deal with
23	17:16:07	the inaccuracy in COLI 2007, where you say the
24	17:16:18	arithmetic average also resulted in overstating
25	17:16:20	inflation at this stage." ^doc.

1	17:16:21	So this is at the high level, yes?
2	17:16:24	A. Yes.
3	17:16:24	Q. 3.42:
4	17:16:26	"Albeit this overstatement is generally small than
5	17:16:28	at the first stage." ^doc.
6	17:16:30	Do you see that?
7	17:16:35	Yes.
8	17:16:36	Q. So here what you're doing is you're making an evaluation
9	17:16:39	of accuracy in relative term, aren't you?
10	17:16:42	A. No, because in the CPI manual, actually advises that it
11	17:16:53	doesn't matter what you use in the second stage. They
12	17:16:56	are all unbiased. What matters is what you use in the
13	17:16:59	first stage and in the first stage, you should never use
14	17:17:04	arithmetic averages and so the quote that I have in the
15	17:17:08	next paragraph is for an inspection that the OECD did,
16	17:17:14	an assessment of the lat via statistical -- how do you
17	17:17:23	skal it, the statistical system in case statistics of
18	17:17:29	lat via and what the OECD actually said at the ^^ as
19	17:17:35	a conclusion of that assessment.
20	17:17:37	So it says lat via index ^^ elementstry level are
21	17:17:41	not based on a ^^ geometric averages index formula price
22	17:17:47	indices ^^ lower aggregation levels are cats collated
23	17:17:50	ratios ^^ mean prices in the reference and base fields
24	17:17:55	these reads read which does not enable capturing the
25	17:17:59	replacement de effect within the elementary aggregate

1	17:18:01	the EOCD secretariat strongly encourages the CSB, the
2	17:18:07	central extra ^reading...) slat via to review the index
3	17:18:10	number formula according to the CPI manual." ^doc.
4	17:18:14	Q. Thank you. Can we move to paragraph 5.20, by is at
5	17:18:21	D1-71.
6	17:18:42	You have that. You give some reasons as to why you
7	17:18:46	think that its out of date -- you think it's inaccurate
8	17:18:49	and 5.21 you refer to the out of date basket. Do you
9	17:18:56	see that?
10	17:18:57	A. Yes.
11	17:18:57	Q. The basket, I think you said the basket was updated in
12	17:19:02	2007; is that correct?
13	17:19:04	A. Yes, but you see the thing is that the basket for
14	17:19:13	COLI 1999 was selected from system of national accounts
15	17:19:20	that was not compatible with the survey that was done in
16	17:19:24	2007, because that survey was done based according to
17	17:19:30	the ^^ which is the international standard.
18	17:19:34	So what happens is that the weights that were -- the
19	17:19:39	goods that were in that basket corresponded to
20	17:19:45	elementary items in the COICOP that were not completely
21	17:19:50	comparable. So the weights were, if you want, shown in
22	17:19:58	do you say ^ into a classification that is not the same
23	17:20:06	as the original one. I don't have the basic weights of
24	17:20:16	the two, but judging from what is happening to that
25	17:20:20	line, the combination of these weights with the formulae

1	17:20:27	for these elementary aggregates is what created then --
2	17:20:32	not created, it was exacerbated the issue.
3	17:20:37	Q. I see. Can we move now to the next point, which is in
4	17:20:40	relation to what you call the out of date approach to
5	17:20:43	averaging. You say that both the CPI manual and the US
6	17:20:48	bureau of labour studies, services --
7	17:20:52	The labour bureau statistics, LBS, yeah, it's also the
8	17:20:57	ILO strongly enough, which is unfortunately labour
9	17:21:00	organisation ^.
10	17:21:01	Q. Can I just check that you confirm that you accept that
11	17:21:03	the CPI manual is only advisory, it's not prescriptive?
12	17:21:08	Do you agree with that?
13	17:21:09	A. Is yes, but I also have to say that what GaStat have
14	17:21:13	said to me any think in the letter that I wrote, is that
15	17:21:19	they are committed to it. So they committed themselves
16	17:21:23	to the GaStat, to this manual. Then in 2024, in the
17	17:21:29	metadata, it's one of the exhibits if Ms Harfouche's
18	17:21:41	report, her second report I think, in the metadata that
19	17:21:46	they publish for foo the consumer price index, they
20	17:21:52	actually stated that they follow the CPI manual.
21	17:21:57	Q. In 2024?
22	17:21:59	A. Yeah, but they told me in 2020 and they have done this
23	17:22:04	throughout. The thing is that you have to be compliant
24	17:22:06	otherwise as I said, there are consequences.
25	17:22:10	Q. Can we look at the preface to the CPI pannual 2020,

1	17:22:14	which is at D100?
2	17:22:15	A. They follow the 200 he ^ ^.
3	17:22:21	Q. We'll go to this is one of your exhibits, I think. ^
4	17:22:26	itch -- (overspeaking) -- ^^?
5	17:22:26	A. No, I'm say that is GaStat say that they --
6	17:22:30	Q. I'm going to move on to D100, please, at page 13.
7	17:22:43	There's a paragraph which begins the paragraph in
8	17:22:47	the middle there beginning the IWGPS ^doc).
9	17:22:52	A. Where is it?
10	17:22:52	Q. The paragraph that begins it's in the middle of the page
11	17:22:55	on the screen, the IWGPS?
12	17:22:58	A. Yes.
13	17:22:58	Q. Can you see? Yes?
14	17:23:02	You can see that it says as you go down, you say,
15	17:23:05	because of practical resource constraints some of the
16	17:23:08	current representations may not be immediately obtain
17	17:23:11	^reading...) NSOs and they should therefore serve as
18	17:23:14	guidelines or targets for agencies." ^doc.
19	17:23:15	Do you see that?
20	17:23:16	A. Yes, I do.
21	17:23:20	Q. Again, this is very much guidance to be followed in
22	17:23:23	accordance with the individual state's resources and
23	17:23:27	constraints?
24	17:23:32	A. Yes, but if you commit yourself to it, I mean, they had
25	17:23:41	six stage, how many stages were there in the letter that

1	17:23:46	GaStat wrote to me? And the reason why they did that
2	17:23:49	was to comply to this.
3	17:23:52	Q. Over time?
4	17:23:57	A. That's why they slowly changed ^^.
5	17:24:01	Q. Then we get to D9 -- could we go to D9-25, please. Then
6	17:24:20	we can see look at paragraph 9.37. You have seen this
7	17:24:31	as being part of the approach to aggregating for
8	17:24:37	elementary aggregates?
9	17:24:39	A. Yes.
10	17:24:39	Q. If we see at 9.37, ^^ is geometric; is that right?
11	17:24:47	A. Yes, it is.
12	17:24:48	Q. And car live is arithmetic?
13	17:24:50	A. Is one of the arithmetic, there are two of them. ^doc
14	17:24:53	name)s.
15	17:24:54	Q. So it says this gentlemen convenience ^^ in general
16	17:24:58	although there may be cases in which little or no
17	17:25:00	substitution takes place within the elementary aggregate
18	17:25:02	and the car live might be preferred. The index compiler
19	17:25:06	must make a judgment on the basis of the nature of the
20	17:25:08	products actually inincluded in the elementtry
21	17:25:11	aggregate." ^doc?
22	17:25:11	A. Yes.
23	17:25:12	Q. Is that correct?
24	17:25:12	A. Yes, I mean, think about it. For example, examples of
25	17:25:16	these are things like the television licence, in

1	17:25:22	countries where there is a single supplier, the power
2	17:25:25	rates, what people pay for electricity. This kind of
3	17:25:29	things. But for what people normally buy, there is
4	17:25:35	a lot of substitutions and what substitution means is
5	17:25:39	that when the price of something, let me tell you ^^ ^
6	17:25:44	let's ^ or even rice, right, and there is one brand of
7	17:25:51	rice that all of a sudden costs more, only one
8	17:25:54	supermarket costs much more than in another, what you
9	17:25:57	are assuming is that actually, people are not
10	17:26:01	substituting them, which is, you know, a bit of
11	17:26:03	a stretch anyway, it's not compatible with economic
12	17:26:07	theory and the way consumers behave.
13	17:26:10	Q. It's a matter for the individual NSO, isn't it, to
14	17:26:13	deciden't basis of local circumstances how it's going to
15	17:26:16	approach these matters?
16	17:26:17	A. Of course, because, you know, there are countries where
17	17:26:19	they don't have a television licence, there are
18	17:26:21	countries where you have a competitive power supply, for
19	17:26:26	example, and people can switch from one to another, the
20	17:26:29	lucky ones who can do that.
21	17:26:31	Q. Is it correct also that even if arithmetic averaging as
22	17:26:36	level tends to overstate inflation, that does not mean
23	17:26:38	that an index will in fact overstate inflation in any
24	17:26:42	particular year because it's only one factor of many
25	17:26:45	that will determine whether inflation is overstated or

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1	17:26:48	understated?
2	17:26:49	A. The bias is an average. These are all average concepts.
3	17:26:52	So on average, you will. But it can be lower in a year
4	17:26:57	also in ^^ but in average you will overstate it, yes.
5	17:27:01	Q. Then we can look at your second report at D103, page 31.
6	17:27:28	Do we see that? What you've presented here is
7	17:27:31	a diagram to show whether there's an overstatement. So
8	17:27:38	the zero line is accurate in accordance with GaStat's
9	17:27:44	2020 view; is that correct? So we can see that --
10	17:27:51	A. Yes.
11	17:27:51	Q. Above an below the line ^^, so we can see that there are
12	17:27:57	even on COLI 1999, there are three years out of eight
13	17:28:01	where it understates inflation?
14	17:28:04	A. Yeah, in fact, actually, I can -- you see, what happens
15	17:28:10	here is that in 2007, it's the base year for essentially
16	17:28:19	what happened in 2007, they changed the weights and the
17	17:28:26	two years before, because the GaStat view, right, is
18	17:28:32	COLI 2007 in those years, right? What they have to do
19	17:28:38	in 2007, they change the weights, but -- sorry, they
20	17:28:42	didn't change the weights, they published 2007
21	17:28:45	expenditure survey, that was the base year for COLI 2007
22	17:28:50	and they publish that index going forward all the way to
23	17:28:55	whatever years. But then they also back casted it, but
24	17:29:02	they back casted it on the basis of the weights of 2007
25	17:29:06	and the reason why they were doing that is because they

1	17:29:10	substitutessed 2007 with 1999 without linking and so
2	17:29:15	there was a bit of -- there was some issue, I think,
3	17:29:26	with the way that they back casted based on the 2007
4	17:29:32	weights, that may have created a problem, but this is
5	17:29:35	speculation on my part. In those two years, it was
6	17:29:41	lower, 1999.
7	17:29:43	Only a statistician or economist would be in a position
8	17:29:45	to understand the effect of using ath met I can
9	17:29:47	averaging and not geometric averaging and get the
10	17:29:50	elementary aggregate level ^^; is that correct?
11	17:29:53	A. Yes, I would think so. But, you know, as I said, I user
12	17:29:59	would look another ^^ what is going -- the values, will
13	17:30:02	say what is going on and call a statistician, hopefully.
14	17:30:06	PRESIDENT: Can I just ask a quick question. Ath met I can
15	17:30:10	and geometric averages, the average that you've got on
16	17:30:14	your chart here is that an arithmetic or a geometric?
17	17:30:18	A. Just an average. Sorry, a arithmetic.
18	17:30:22	MR ROBB: It would be arithmetic.
19	17:30:24	PRESIDENT: Arithmetic, yeah.
20	17:30:28	A. It's the average difference.
21	17:30:31	PRESIDENT: On.
22	17:30:32	MR ROBB: It's adding up the blue for 1999 it's taking the
23	17:30:36	extent to which for each year adding up for each year
24	17:30:40	the COLI 1999 is above 0, then netting off the three
25	17:30:44	years where it's below 0 to get a net number and then

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1	17:30:47	quiting by eight, presumably ^?
2	17:30:51	A. It's the sum over the --
3	17:30:54	Q. Then divided by eight?
4	17:31:00	A. I think it's seven or eight? Yeah, it's eight, because
5	17:31:05	there is a blue line there, yes.
6	17:31:07	Q. Yes. We're at 5.30. Which I think is our scheduled?
7	17:31:15	Yes, how much longer will you be if it wasn't
8	17:31:19	much longer.
9	17:31:20	MR ROBB: No, it's not another 10 minutes so it will be more
10	17:31:25	than 10 minutes so definitely coming back tomorrow.
11	17:31:28	PRESIDENT: All right. In which case we will finish for
12	17:31:31	this evening. Thank you very much, Dr Meschi. As
13	17:31:33	before, please don't talk to your assistants or any
14	17:31:36	members of the legal team about your evidence overnight.
15	17:31:40	WITNESS: Can I have dinner with them if I don't talk about?
16	17:31:46	I think it's safer not to.
17	17:31:47	WITNESS: Okay, okay.
18	17:31:49	PRESIDENT: Thank you. Then we'll see you back here, if you
19	17:31:51	could be back here about 9.30 ready to start at 9.30.
20	17:31:56	^.
21	17:31:57	WITNESS: Okay.
22	17:31:59	(5.32 pm)
23	17:32:04	(The hearing adjourned until 9.30 am on the following day)
24	17:32:04	I N D E X