

## THE DESTRUCTION OF SCIENTIFIC DOCUMENTS BY IMPERIAL TOBACCO CANADA:

Documents produced during the trial of the *Blais/CQCT* and *Letourneau* class actions in Montreal, 2012.

The implementation by British American Tobacco of a “document retention” policy to require the destruction of scientific documents in its affiliated companies has already been explored during trials in Australia and the United States. While it affected all BAT companies, the “document retention” policy was first motivated by events in Canada, beginning in 1989. It was during the Tobacco Products Control Act trial of that year that BAT lawyers in the United Kingdom became concerned about BAT documents in subsidiaries and affiliate companies in other countries. In 1989, they began a struggle to suppress scientific information in Canada, It would take them four years to succeed.

Information on the Canadian chapter of that story was provided during the opening months of the *Blais/CQCT* and *Létourneau* class action trial in Montreal. The industry documents which were produced as exhibits and the testimony provided by witnesses details how:

- The industry’s decision launch a court challenge to the federal law on advertising lead to a situation where the industry became aware in October 1989 that compromising scientific documents might be made public.
- In order to protect its documents from court exposure, BAT decided to renegotiate its research agreements with Imperial Tobacco (as well as its other affiliated companies which had research activities) in order to require that scientific papers not be held outside of the U.K.
- Imperial Tobacco’s Scientific Vice-President (Patrick Dunn) objected vigorously to this proposal, but neither his objections nor attempts by Imperial Tobacco’s management to negotiate other arrangements prevented the destruction of Imperial Tobacco’s library of tobacco science and the removal of BAT’s tobacco science history from Canada.
- Imperial Tobacco backed down under pressure from BAT, successively re-writing its document retention policies and research agreements with BAT to align them with the views of BAT headquarters.
- The selection and removal/destruction of documents was done under the supervision of Imperial Tobacco’s lawyers (both staff lawyers and outside counsel).

Ironically, the documents that the industry feared would result in court actions were eventually made public as a result of U.S. court actions.

## Other descriptions of BAT document destruction

### Australia :

- The Age. "The Tobacco Conspiracy"  
<http://www.theage.com.au/news/opinion/the-tobacco-conspiracy/2006/08/19/1155408067963.html>
- Document destruction in Victoria: The Correctness of Eames J's Decision in McCabe  
[http://www.businessandconomics.mq.edu.au/our\\_departments/accounting\\_and\\_corporate\\_governance/docs/publications/past\\_editions/volume\\_6/03\\_Lee.pdf](http://www.businessandconomics.mq.edu.au/our_departments/accounting_and_corporate_governance/docs/publications/past_editions/volume_6/03_Lee.pdf)

### United States

- US DOJ case  
<http://www.justice.gov/civil/cases/tobacco2/index.htm>
- Gladys Kessler Final ruling.  
Document destruction policies at BAT discussed from page 1432 to 1463  
(<http://www.justice.gov/civil/cases/tobacco2/amended%20opinion.pdf>)
- 2010. Up in Smoke. Article in Maisonneuve by Bruce Livesey  
<http://maisonneuve.org/article/2010/04/19/smoke/>

## Timeline of Trial Exhibits (and additional materials) related to document destruction

Date	Exhibit #	Notes	Other
1980-12-23	<a href="#">72 A</a>	<p><b>Research agreement with BAT and ITL</b></p> <p>In this agreement, Imasco agrees to pay a share of group research expenses proportional to its revenues.</p> <p>The agreement specifies that Imasco "shall receive from BAT all information resulting from such research" and will have royalty-free use in Canada of all results.</p>	
1982-02-26	<a href="#">73</a>	<p><b>Imperial Tobacco Records retention policy effective February 26 1982</b></p> <p>The policy covers all areas of operation (financial, marketing, operations, research, etc).</p> <p>The recommended retention period for all Research and development material is "permanent". (pdf p. 10)</p>	
1985-01-17	<a href="#">1467.1</a>	<p><b>Memo from JK Wells to file re Document retention</b></p> <p><b>B&amp;W counsel identifies problems with scientific documents. .</b></p> <p><i>I gave Earl copies of papers which contained, variously ,document numbers and titles, and document numbers and abstracts . I explained I had marked certain of the document references with an X . The X designated documents which I suggested were deadwood in the behavioral and biological studies area . I said that the "B" series are "Janus" series studies and should also be considered as deadwood .</i></p> <p><i>I said in the course of my review of scientific documents stored by R?D a great deal of deadwood had appeared, such as studies of the chemical composition of Canadian tobacco leaf in 1966.</i></p>	
1989-01-03		<p><b>Roger Ackman returns to Imperial Tobacco to do tobacco full time.</b></p> <p>Press announcement: <a href="http://legacy.library.ucsf.edu/tid/juq26a99">http://legacy.library.ucsf.edu/tid/juq26a99</a>  letter to BAT: <a href="http://legacy.library.ucsf.edu/tid/luq26a99">http://legacy.library.ucsf.edu/tid/luq26a99</a></p>	
1989-06-01		<p><b>Chalfen asks for ruling by Quebec Justice J-J Chabot re production</b></p> <p><a href="http://legacy.library.ucsf.edu/tid/auq26a99">http://legacy.library.ucsf.edu/tid/auq26a99</a></p>	
1989-09-25		<p><b>TPCA trial opens</b></p> <p><a href="http://legacy.library.ucsf.edu/tid/rvk70g00">http://legacy.library.ucsf.edu/tid/rvk70g00</a></p>	
1989-09-28	<a href="#">262</a> <a href="#">262 A</a> <a href="#">262 E</a>	<p><b>Draft Meeting, "Research Policy Group Meeting 18-22 September 1989" ALAN L. HEARD, BRITISH AMERICAN TOBACCO CO., September 28, 1989</b></p> <p>Preliminary Minutes of September 1989 Research Policy Group Meeting (in Vancouver) annotated by Pritchard</p>	

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1989-10-04	<a href="#">68</a>	<p><b>Ackman's report (No. 6) on TPCA trial</b></p> <p>Roger Ackman provided daily reports to a distribution list that included BAT lawyers on the trial of the constitutional challenge to the federal Tobacco Products Control Act.</p> <p>On October 4, 1989, he reported that during the trial Imperial Tobacco's lawyer (at that time Simon Potter):</p> <p><i>"raised the question of studies by or for BAT in ITL's possession. He argued that the documents emanated from a third party and could not properly be produced by TTL.</i></p> <p><i>The Court accepted this objection over the protests of Mr. Baker. In fact, unless something convinces the Court to alter its ruling, this is a Major victory."</i></p> <p>(The court extract is included in exhibit 70)</p>	
1989-10-13	<a href="#">69</a>	<p><b>Ackman's Daily Report (No. 10) on TPCA trial</b></p> <p>On Thursday, October 12th, Justice Chabot signalled that he would hear arguments on evidentiary issues (on science documents) the next day (Friday October 13). Roger Ackman writes that discussions are being held in preparation with BAT lawyer, Nick Cannar and Brown and Williamson lawyer, Bob Sachs.</p>	
1989-10-16	<a href="#">70</a>	<p><b>Letter from Ackman to Chalfen regarding decision by Justice Chabot and production of documents.</b></p> <p>Ackman provides Stuart Chalfen with copies of Chabot rulings, including his decision to not allow BAT science documents to become evidence in the trial. This is the judgement that was called "a major victory" in Exhibit 68</p>	
1989-10-31	<a href="#">71</a>	<p><b>Letter from Chalfen regarding "discovery matters that were causing us concern"</b></p> <p>Chalfen asks for a daily oral update on the trial</p> <p>(Roger Ackman replies that the trial has resumed, and promises to call.  <a href="http://legacy.library.ucsf.edu/tid/dfr06a99">http://legacy.library.ucsf.edu/tid/dfr06a99</a>)</p>	
1989-11-08	Legacy	<p><b>Ackman shares letter with Chalfen. Crawford and Mercier to discuss document issue at BAT headquarters.</b></p> <p><i>Please find attached a letter addressed to me concerning Imperial documents . This letter was prepared by Simon. Potter in conjunction with Lyndon Barnes and Chuck Wall.</i></p> <p><i>Copies have been given to Mr . Mercier and Mr. Crawford in anticipation of their visit tomorrow.</i></p> <p><i>if you have any questions concerning the saw, please don't hesitate to give we a call.</i></p> <p><i>A copy of the attached has also been sent to Nick Canner</i></p> <p>Record of Mercier and Crawford's presence in UK can be found at TSRT minutes for November 10, 1989. <a href="http://legacy.library.ucsf.edu/tid/ogs00a99">http://legacy.library.ucsf.edu/tid/ogs00a99</a></p> <p>The Ogilvy Renault paper (privileged and unavailable) referenced at:  <a href="http://legacy.library.ucsf.edu/tid/piq12b00">http://legacy.library.ucsf.edu/tid/piq12b00</a></p>	
1989-11-17	<a href="#">1467.2</a>	<p><b>U.S Exhibit 54,116, Memo, "Arguments About Documents" JOHN KENDRICK</b></p>	

Date	Exhibit #	Notes	Other
		<p><b>WELLS, III, BROWN &amp; WILLIAMSON TOBACCO CORP., November 17, 1989</b></p> <p>Brown and Williamson’s counsel writes a worried memo to his president about the possibility of scientific documents from Canada entering into US litigation.</p> <p><i>Pursuant to our conversation, this memorandum presents a synopsis of arguments that it is crucial to avoid the production of scientific witnesses and documents at this time even if production were to occur in the indefinite future.</i></p> <p><i>1. The documents will be difficult for the witness to explain. Plaintiffs can argue certain statements in the documents demonstrate the scientists of the company accepted causation and addiction.</i></p> <p><i>In addition, large numbers of documents with difficult statements can wear away the credibility of the witness’ explanation.</i></p> <p><i>2. The witness probably will be unprepared to explain the documents adequately to preserve credibility for the management’s statements on smoking and health.</i></p> <p><i>The witness perhaps could be prepared to survive superficial questioning on the documents produced now. However, he is likely to be confronted with additional waves of documents. He also would be unprepared to deal with a sharp cross-examination on the smoking and health questions certain to be suggested by government witnesses.</i></p> <p><i>3. In part the witness’ inadequacy is due to the laweyrs’ unpreparedness to deal with questions involving the science or the language of the documents. The Canadian lawyers have not studied individual documents and have not organized them in a form useful for preparing or defending a witness or cross-examining government experts.</i></p> <p><i>4. It is important to avoid production of the documents as long as possible. ...</i></p> <p>...</p> <p><i>The Canadian case is in an especially disadvantageous posture for document production. The government is likely to go to directly to the heart of the Canadian and BATCo research documents most difficult to explain.</i></p> <p><i>Because of new developments in the Canadian case, the research would be tied directly to a plan to market documents said to be “safer”. The court required a former Imperial marketing executive (in the trial as a consultant) to produce marketing documents showing consumer research and advertising concepts for such products with conspicuous reference to R and D work on products to match.</i></p>	
1989-12-08	<a href="#">72</a>	<p><b>C-51. Latest version of research agreement (see 72A, dated 1980)</b></p> <p>Roger Ackman sends Nick Cannar the “latest version” of the research agreement between the companies.” The subject of the note, however, is the C-51 trial. (It is found at exhibit 72A).</p>	
1989-12-12	<a href="#">262B</a>	<p><b>Final version of minutes of September 1989 meeting of the Research Policy Group Meeting in Vancouver. Reduced from 13 pages to 3</b></p> <p><b>(cover memo to Imperial Tobacco at <a href="#">262 D</a>)</b></p>	

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1989-12-15	<a href="#">509</a>	<p><b>Letter from Andrew Foyle (BAT) to Lyndon Barnes (solicitor to Imperial Tobacco)</b></p> <p>Discussion on the mechanics of returning scientific documents in Imperial Tobacco's possession back to BAT.</p>	
1989-12-14	<a href="#">108</a>	<p><b>Letter from Cannar to Ackman regarding documents</b></p> <p>Nick Cannar formally asks Roger Ackman for Imperial to return documents to BAT so that their “confidential or proprietary” status can be determined.</p> <p><i>Any documents which axe determined not to contain confidential information will of course be returned to Imperial.</i></p> <p>No mention of litigation is made in the letter, even though it is clearly in a chain of correspondence related to protecting documents from discovery.</p> <p>Any documents which axe determined not to contain confidential information will of course be returned to Imperial.</p> <p>See also Exhibit 509 which discusses the preparation of this letter.</p>	
1989-12-18	<a href="#">109</a>	<p><b>Ackman memo to Massey regarding documents</b></p> <p>Roger Ackman repeats the request he received from Nick Cannar to Stewart Massey, second in command of ITL research. He asks Massey to pull the documents together as soon as possible. Even though the request is still focused around “confidential and proprietary” information, the subject of the memo (C-51) gives the link to litigation concerns.</p>	
1990-01-03	<a href="#">81</a>	<p><b>Letter from Ackman to Cannar</b></p> <p>Freshly back in the office after Christmas Holidays, Roger Ackman writes Nick Cannar to report that he has asked Stewart Massey to pull the documents together and that he expects “that these documents can be returned to you during the coming week.”</p>	
1990-01-04	<a href="#">1467.3</a>	<p><b>Note for SP Chalfen from Nick Cannar</b></p> <p>Recommends coordinated action by lawyers in each company to control document flow.</p> <p><i>I would now propose that we should take the following additional action in relation to the transmission of research documentation within the tobacco operating group. The four main produereers of research documents and the companies which are most likely to be affected by the contents of those documents are BATCo, BAT Cigaretten-Fabriken, Brown &amp; Williamson and Imperial Tobacco. I would therefore suggests that together with you, the four in-house lawyers from these companies and the heads of Research should get together in the first or second week of February (A. heard has travel commitment sin January to discuss the following items.</i></p>	
1990-01-04	<a href="#">74</a>	<p><b>Letter from Ackman to Cannar</b></p> <p>In his second letter of so many days to Nick Cannar, Roger Ackman reports that a meeting will be held on January 8<sup>th</sup> with BAT solicitor John Meltzer and ITL’s solicitor Lyndon Barnes.</p>	

Date	Exhibit #	Notes	Other
		(was this meeting held? Did it transform into meeting in New York on 18 <sup>th</sup> ?)	
1990-01-15	<a href="#">82</a>	<p><b>BAT faxes regarding meeting in New York.</b></p> <p>Nick Cannar informs legal counsel and scientific directors at Brown and Williamson, BAT CF (Germany) and ITL of details of a meeting to be held in New York on January 18<sup>th</sup> to discuss document retention issues.</p>	
1990-01-17	<a href="#">82A</a>	<p><b>Location of meeting among lawyers and scientists to discuss document retention.</b></p> <p>The meeting among lawyers and scientists for BAT's 3 external research branches is set to take place at the offices of B&amp;W outside counsel office, Paul, Weiss, Rifkind, Wharton &amp; Garrison LLP</p>	
1990-01-17	<a href="#">82 B</a>	<p><b>Agenda outlining concerns about document's being discovered.</b></p> <p>This looks like a memo drafted by Nick Cannar preparatory for the meeting on the same day (exhibit 82A)</p> <p><i>Introduction</i>  <i>Concern about volume of research documentation spread around the Group .</i></p> <p><i>Discovery</i>  <i>Difficulties faced by author company in explaining documents in a foreign court particularly if it is not even a party to the proceedings in which those documents are to be produced</i></p> <p>Also available at : <a href="http://legacy.library.ucsf.edu/tid/ipu34a99">http://legacy.library.ucsf.edu/tid/ipu34a99</a></p> <p>Most documents which surround this meeting on the Legacy site are solicitor client privileged.</p>	
1990-02-01	83R	<p><b>Letter from letter from S.P. Chalfen to P. Crawford, re: C-51 Litigation</b></p> <p>(on reserve – available at <a href="http://legacy.library.ucsf.edu/tid/vkz97h99">http://legacy.library.ucsf.edu/tid/vkz97h99</a>).</p> <p>Chalfen takes his concerns about lack of progress in identifying BAT documents up a management level, writing IMASCO chief Purdy Crawford to say that Lyndon Barnes agrees that John Meltzer should be on site to review documents. He notes that ITL scientists Drs. Dunn and Bilimoria are scheduled to testify.</p> <p><i>"I cannot believe that it is wise to allow any further time to pass before the files of these two key individuals and indeed other scientists are reviewed. We had planned in November to complete the review by now. It is, I am informed, less than half completed."</i></p> <p><i>"I know the document 'issue is to be reviewed with yourself and Mr. Sheehy at the end of next week: If Imperial's document" review is 'substantially completed by then, it will facilitate the discussion and any resultant management decision."</i></p>	
1990-02-09	<a href="#">84</a>	<p><b>Outside workers at ITL</b></p> <p>Roger Ackman informs that BAT solicitor John Meltzer will be on-site on Saturday, February 10<sup>th</sup>.</p>	

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1990-02-20	<a href="#">85</a>	<p><b>Letter from Chalfen re meeting</b></p> <p>Arrangements are made for a Thursday (Feb 22?) meeting with Nick Cannar and S.P. Chalfen with Roger Ackman, Roy Schwartz (Imasco lawyer) and Lyndon Barnes.</p> <p>See also Chalfen letter to Sheehy regarding purpose of meeting (Canada Bill C .51 . and the documentary consequences) <a href="http://legacy.library.ucsf.edu/tid/uvr54a99">http://legacy.library.ucsf.edu/tid/uvr54a99</a></p>	
1990-03-05	<a href="#">1243</a>	<p><b>Alan Heard informs ITL that from now on “fundamental research” will be done only in England, and that the scope of BAT’s research initiatives has narrowed.</b></p>	
1990-03-07	Legacy	<p><b>Alan Heard prepares a draft document retention policy</b></p> <p><a href="http://legacy.library.ucsf.edu/tid/zgs71a99">http://legacy.library.ucsf.edu/tid/zgs71a99</a></p>	
1990-03-16	<a href="#">110</a>	<p><b>Research funding agreement</b></p> <p>NickCannar circulates a new funding agreement proposal to B&amp;W, ITL and BATCF.</p> <p>See also: Ackman’s acknowledgement (and need to consult with local counsels) at <a href="http://legacy.library.ucsf.edu/tid/zte11a99">http://legacy.library.ucsf.edu/tid/zte11a99</a></p>	
1990-03-17	<a href="#">104</a> and <a href="#">104A</a>	<p><b>Letter from Cannar re document retention</b></p> <p>Nick Cannar circulates a draft document retention policy to ITL, B&amp;W and BATCF.</p>	
1990-03-30	<a href="#">1244</a>	<p><b>BAT shares details on restructuring of R&amp;D with its B&amp;W Science Head, Jeffrey Wigand.</b></p>	
1990-05-25	LEGACY	<p><b>Cannar notes status of document implementation policy in various regions:</b></p> <p><i>Canada. Roger Ackman has advised me that the Canadians propose to implement the policy after the conclusion of the evidence in the C .51 case in June.</i></p> <p><a href="http://legacy.library.ucsf.edu/tid/oml11a99">http://legacy.library.ucsf.edu/tid/oml11a99</a></p>	
1990-06-26	<a href="#">87</a>	<p><b>Letter from Cannar to Ackman</b></p> <p>Nick Cannar notes that the documentation period for the C-51 trial has ended, and asks whether the plan is to destroy to the documents or to parcel them up and ship them to the UK “in accordance with the plan that was originally formulated and then shelves.”</p>	
1990-08-02	Legacy	<p><b>Nick Cannar’s description of Canadian situation.</b></p> <p><i>I had a long discussion with Roger Ackman on the subject of the document retention policy at the end of which he agreed as follows : -</i></p> <ol style="list-style-type: none"> <li><i>1. He supports the document policy as it stands including the time limits in it.</i></li> <li><i>2. He will strongly resist efforts by his own Head of Research, pat Dunn, to extend the time limits and increase the number of documents retained. This seems to be the source of difficulty. A meeting is to take place with jean-Louis Mercier and Pat Dunn on Monday concerning the implementation of the document retention policy and Roger will report</i></li> </ol>	



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		<p><i>back to me on Tuesday to advise whether he has been successful in prevailing upon Jean-Louis Mercier and Pat Dunn to implement the policy as it stands.</i></p> <p>3. <i>The documents will be destroyed in Canada, including the BATCo documents. He has agreed that Lovells should be involved in that process and accets that no BATCo documents should be retained except where there is a clearly identified current work need, the research report concerned is of a technical nature and retention has been specifically agreed with myself and Lovells.</i></p> <p>4. <i>Destruction is planned to take place in September.</i></p> <p><i>The problem is largely Pat Dunn and Roger Ackman's inability to control him. Pat Dunn clearly has his own ideas about document retention and took the step of contacting Alan heard and Mary Thornton stating that he was unwilling to destroy documents and would like guidance from them on the documents they regard as sensitive. I have told our People that they should not get involved .I believe that if any pressure needs to be exerted than it should take the form of urging Jean-Luis Mercier to adopt the same document retention policy as the rest of the group and to support the advice of his own lawyer who has a better appreciation of the legal problems than his Head of Research.</i></p> <p><a href="http://legacy.library.ucsf.edu/tid/nml11a99">http://legacy.library.ucsf.edu/tid/nml11a99</a></p>	
1990-08-09	Legacy	<p><b>Alan heard addresses Pat Dunn's concerns about cost-sharing.</b></p> <p>His explanatory letter reveals that ITL pays about 19% of the shared research funds, and that their assessment for 1990 was GBP 751,000</p> <p><a href="http://legacy.library.ucsf.edu/tid/elv33a99">http://legacy.library.ucsf.edu/tid/elv33a99</a></p>	
1990-08-22	<a href="#">88</a>	<p><b>Note re retention policy</b></p> <p>Roger Ackman sends Stuart Chalfen a copy of the document retention policy that will go before management committee ("next Thursday"). Same as Exhibit 336 (approved on August 30<sup>th</sup>)</p>	
1990-08-22	<a href="#">89</a>	<p><b>Memorandum to management committee</b></p> <p>A covering memo from Patrick Dunn and Roger Ackman to management committee recommends adopting a new retention policy.</p>	
1990-08-23	<a href="#">90</a>	<p><b>Letter from Chalfen to Mercier</b></p> <p>Stuart Chalfen alerts ITL head, JL Mercier to differences between the retention policy proposed by ITL and that proposed by BAT with respect to the treatment of BAT research. He objects to the treatment of BAT Research Reports and requests that the one in Alan Heard's proposal (draft of March 7, 1990) be used instead.</p>	
1990-08-30	<a href="#">339</a>	<p><b>Document retention policy</b></p> <p>A background document and draft policy is prepared by Imperial Tobacco and approved by the management Committee on 30 August 1990. (Minute # 24). This policy allows for permanent holding of BAT reports.</p> <p><i>Permanent Records</i></p>	

Date	Exhibit #	Notes	Other
		<p><i>The following documents should be retained on a permanent basis:</i></p> <p><i>a) Researchers' individual laboratory note books and diaries. Such documents should be maintained in their original form.</i></p> <p><i>b) B. A. T. Reports received by the Company. Such documents should be maintained in their original form. Access to such documents shall be made available to employees within the Department, on a "as needed" basis. No unauthorized copies of these reports should be made without, the prior approval of the Vice President of the Department. All other copies of such Reports should be destroyed in keeping with this Policy.</i></p> <p><i>c) Correspondence with the Department, of Health and Welfare.</i></p>	
1990-08-30	<a href="#">340</a>	<p><b>Minutes - Management Committee</b></p> <p>The committee adopts the proposal drafted by and presented by Patrick Dunn. (This is the one about which Chalfen wrote of concerns to Mercier). Present at the meeting were Mercier, Tennyson, Ackman, Courtney, Dagneau, Dunn, Laporte and Lee.</p>	
1990-08-31	legacy	<p><b>Schwartz acknowledges letter from Chalfen, pending discussion with Mercier and Ackman.</b></p> <p><i>I spoke with Jean-Louis concerning the subject of your letter to him dated August 23, 1990 . He will be reviewing the matter with Roger Ackman when Roger returns from holidays next week . It the matter is not settled next week, please let me know.</i></p> <p><a href="http://legacy.library.ucsf.edu/tid/fml11a99">http://legacy.library.ucsf.edu/tid/fml11a99</a></p>	
1990-09-05	<a href="#">91</a>	<p><b>Reply to Chalfen</b></p> <p>Ackman replies to Chalfen's letter to Mercier (exhibit 90), and proposes alternative language in line with BAT's proposal.</p> <p><i>Mr. Mercier has asked me to reconsider the policy so as to incorporate your thoughts and include the BAT documents in the general five-year retention category.</i></p>	
1990-09-05	<a href="#">92</a>	<p><b>Draft document retention policy</b></p> <p>A revised draft of the document retention policy. Permanent records will no longer include BAT research papers</p> <p><i>Record Retention</i></p> <p><i>1. Permanent Records</i></p> <p><i>The following documents should be retained on a permanent, basis:</i></p> <p><i>a) Researchers' individual laboratory note books and diaries. Such documents should be maintained in their original form.</i></p> <p><i>b) Correspondence with the Department of Health and Welfare.</i></p>	
1990-09-17	<a href="#">93</a>	<p><b>Reply from Cannar to revised policy</b></p> <p>Not quite satisfied, Nick Cannar wants clarification and assurance that BAT documents will</p>	

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		<p>be destroyed or returned.</p> <p><i>We are obviously very pleased that Imperial is now establishing a 5 year retention period for the BAT reports. This will bring your policy closer to the policy which is generally operating in the Group ...</i></p> <p><i>However, having said that I note that in your definition you refer to "documents received from others" ... I assume that they will be subject to no more than a 5 year<sup>4</sup> retention period and in many cases to a 2 year retention period. I would be grateful for your confirmation on this point. ...</i></p> <p><i>Perhaps if you could clarify these other issues for me and if it is intended to keep any Bat documents which are more than 5 years old I would be grateful if you could send me a list of them ...</i></p>	
1990-09-20	<a href="#">94</a>	<b>Letter from Ackman re lawyers' approval of minutes</b>	Related Side issue
1990-10-15	<a href="#">95</a>	<p><b>Memo to management committee</b></p> <p>The Imperial Tobacco document retention policy adopted on August 30 is revised to change the treatment of BAT documents, but is still presented as giving the VP authority to hold some documents for more than 5 years.</p> <p><i>"the impact of this change now gives to the Vice-President— Research &amp; Development — or his designee the right to determine which documents (BAT) are to be retained "for periods longer than prescribed by this policy, i. e. 5 years".</i></p>	
1990-10-15	<a href="#">341</a>	<p><b>Revised Document retention policy</b></p> <p>As approved at October 15 Management Committee - Minuted #8</p>	
1990-11-27	<a href="#">319</a>	<p><b>Memo to management committee</b></p> <p>By implication, the work on culling the library of old documents has begun.</p> <p><i>In order to complete the Research Library Review Project by March 1991 six temporary library clerks are needed.</i></p>	
1991-04-04	<a href="#">319</a>	<p><b>Letter from Carol Bizarro to Patrick Dunn</b></p> <p>Carol Bizarro provides status report on document policy implementation in the library.</p> <p><i>All BAT reports received by the company have been reviewed. One clean copy has been kept and all extra copies destroyed.</i></p> <p><i>Project Specific Documentation. All documents dated before 1986 were destroyed with the exception of those relating to projects that appear to be on-going. ... (approx 73 on-going files).</i></p>	
1991-07-23	Legacy	<p><b>Letter from Broughton to Mercier re cost sharing.</b></p> <p>As referred to in Exhibit 106. Broughton has "reconsidered" how the assessment is established and now proposes that the Canadian contribution be £470,00 this letter is referred to in Exhibit 106</p>	Related Side issue

Date	Exhibit #	Notes	Other
		<a href="http://legacy.library.ucsf.edu/tid/dlv33a99">http://legacy.library.ucsf.edu/tid/dlv33a99</a>	
1991-08-12	<a href="#">319I</a>	<p><b>Letter from Alan Heard to Stewart Massey</b></p> <p>BAT science head, Alan Heard presses for details on exactly which documents are in the ITL library / vault, and provides a list of 45 categories of documents.</p> <p>He wants this information for a “September meeting with lawyers” (The memo shows a fax date of September 4, 1991)</p>	
1991-08-30	<a href="#">Legacy</a>	<p><b>Nick Cannar asks Ackman about outstanding issues on cost sharing agreement.</b></p> <p><a href="http://legacy.library.ucsf.edu/action/document/page?tid=elc10a99">http://legacy.library.ucsf.edu/action/document/page?tid=elc10a99</a> (only page by page view gives the right document)</p>	Related Side issue
1991-09-02	<a href="#">Legacy</a>	<p><b>Chalfen asks Brown and Williamson to help resolve issues with ITL over cost sharing.</b></p> <p><i>When you visit Imperial Tobacco with Alan Heard I would like you also to try and resolve with them any outstanding points on the research cost sharing agreement .</i></p> <p><i>I think you are very familiar with the background to this but I would appreciate you giving me (or Nick Cannar) a call soon after your return from vacation .</i></p> <p><a href="http://legacy.library.ucsf.edu/tid/tot54a99">http://legacy.library.ucsf.edu/tid/tot54a99</a></p>	Related Side issue
1991-09-03	<a href="#">106</a>	<p><b>Letter from Ackman to Cannar re cost sharing agreement</b></p> <p>Roger Ackman replies to Cannar’s <a href="#">August 30 letter</a>, and expresses concerns with proposed cost-sharing agreement, citing concerns about eligibility of expenses for income tax purposes if the documents could not be retained.</p>	Related Side issue
1991-09-09	<a href="#">319 H</a>	<p><b>Letter from Massey to Heard regarding list of 45 document categories.</b></p> <p>Stewart Massey responds to Alan Heard’s letter (Exhibit 319 I) and affirms that the documents “conform with the ITL Document retention Policy i.e. numbered reports – retained indefinitely, visit reports, etc – 2 years, all other documents - 5 years.</p>	
1991-09-09	<a href="#">298 D</a>	<p><b>Category of deleted groups</b></p> <p>Alan Heard’s list (Exhibit 319 I) is annotated into four categories:</p> <p>“destroyed all” “Kept all or as instructed” “5 years retention” “2 years retention</p> <p>(Date in document catalogue may not be the date on which the annotations were made. The fax date comes from the document 319I).</p>	
1991-09-11	<a href="#">Legacy</a>	<p><b>Funding formula explained</b></p> <p>Note from Bilton to Chalfen.</p> <p><a href="http://legacy.library.ucsf.edu/tid/qpp54a99">http://legacy.library.ucsf.edu/tid/qpp54a99</a></p>	Related Side issue
1991-09-13	<a href="#">Legacy</a>	<p><b>Further explanation of funding formula</b></p>	Related Side issue

Date	Exhibit #	Notes	Other
1991-12-19	Legacy	<p>Note from Bilton to Chalfen.  <a href="http://legacy.library.ucsf.edu/tid/ppp54a99">http://legacy.library.ucsf.edu/tid/ppp54a99</a></p> <p><b>Note on Imasco having “no sustainable objection” to research cost sharing.</b></p> <p>Chalfen to Clarke  <a href="http://legacy.library.ucsf.edu/tid/ztc58a99">http://legacy.library.ucsf.edu/tid/ztc58a99</a></p>	Related Side issue
1992-01-29	<a href="#">111</a>	<p><b>Letter from Ackman to Dunn</b></p> <p>Ackman writes Dunn and provides a “list of documents which we would like to review with you on the morning of February 18<sup>th</sup>.” Asks him to pull the documents in question, but to keep the list confidential.</p>	
1992-02-18		Does a meeting take place with Ackman and Dunn (as per exhibit 111)?	
1992-06-05	<a href="#">58</a>	<p><b>Fax from Potter re documents destroyed</b></p> <p>Simon Potter writes Chalfen and John Meltzer in the UK as well as David Schechter, with a list of documents destroyed.</p> <p>(The documents are found in Exhibits 58-1 To 58-60)</p>	
1992-06-23	<a href="#">Legacy</a>	<p><b>BAT scientist Graham Read provides B. Bramley with background on ITL’s resistance to signing cost sharing agreement.</b></p> <p>Canada provided about 12% of funding to BAT central research</p> <p><i>There appeared to be two problems, the first relates specifically to Dr Pat Dunn, who seems to have resented the fact that as an associated company they were being dictated to as regards document retention policy . The second more serious point relates to item 4 of the attached document that in essence instructs Canada to destroy all Southampton R&amp;D documents and related information after 5 years .</i></p> <p><i>This position was partially resolved by Southampton recommending that it held archival records of all R&amp;D reports which could be provided to Canada if needed after the 5 year period . This partly resolved the position, although concerns were expressed by Canada that this was in effect an unwritten agreement that relied on Southampton as the instigator of the report and any future Head of Research, arbitrarily deciding to keep records of reports as specified in item 5 of the attached note</i></p> <p><i>It is apparent that this became a long running bone of contention between Canada and A L Heard which was never fully resolved and appears to have been resurrected by the recent despatch of the latest Cost Sharing Agreement by Industries ..</i></p> <p><a href="http://legacy.library.ucsf.edu/tid/vsq52b00">http://legacy.library.ucsf.edu/tid/vsq52b00</a></p>	Related Side issue
1992-07-22	Legacy	<p><b>CPC meeting – Canada to no longer participate in group R&amp;D</b></p> <p><a href="http://legacy.library.ucsf.edu/tid/vme10a99">http://legacy.library.ucsf.edu/tid/vme10a99</a></p>	Related Side issue
1992-07-28	<a href="#">76</a>	<p><b>Status update on record retention</b></p> <p>Roger Ackman writes a memo to file on the status of 3 lists. Pat Dunn has already</p>	

Date	Exhibit #	Notes	Other
		<p>determined documents for destruction on the first 2 lists, and will do the third “upon his return from vacation.”The first list has already been reported on by Simon Potter.</p> <p>Reference is made to some documents NOT being destroyed that were expected to be.</p> <p><i>“Pat Dunn has retained documents which otherwise would be destroyed based on his evaluation of their ongoing use to our company.”</i></p> <p>In testimony on April 2, 2012, Ackman was asked to confirm whether</p> <p><i>list 1 recorded documents making sensitive statements or containing sensitive research results?</i></p> <p><i>list 2 recorded documents which, on a chain of inquiry, might lead to other documents making sensitive statements or containing sensitive research?</i></p>	
1992-07-30	<a href="#">59</a>	<p><b>Letter from Simon Potter</b></p> <p>Simon Potter writes to the recipients of his June 5 letter (Exhibit 58) with another list of documents that are intended to be destroyed.</p>	
1992-08-07	<a href="#">59A</a>	<p><b>Letter from Simon Potter</b></p> <p>Simon Potter writes again to the recipients of his July 30 letter (Exhibit 59) “that the documents mentioned in my letter of July 30 have indeed been destroyed.”</p>	
1992-08-13	Legacy	<p><b>BAT pushes for resolution to cost sharing agreement</b></p> <p>Solicitor Chalfen writes Ackman:</p> <p><i>Can we please have a short conference call between yourself, Simon Potter and me this afternoon to discuss the advice which Simon has given you concerning the R&amp;D Cost Sharing Agreement.</i></p> <p><i>It will be very difficult for me to have such a call tomorrow afternoon, but I will do so if it is absolutely necessary - in order to have this call</i></p> <p><a href="http://legacy.library.ucsf.edu/tid/iot54a99">http://legacy.library.ucsf.edu/tid/iot54a99</a></p>	Related Side issue
1992-08-20	Legacy	<p><b>BAT pushes for resolution to cost sharing agreement.</b></p> <p>Roger Ackman writes Stuart Chalfen following a phone discussion:</p> <p><i>RE: R &amp; D COST SHARING AGREEMENT</i></p> <p><i>Further to our telephone conversation of yesterday's date, I have a meeting with Messrs . Mercier . Brown and Dunn scheduled for Friday, August 21 . I hope to have some direction in this regard following that meeting .</i></p> <p><a href="http://legacy.library.ucsf.edu/tid/xtq52b00">http://legacy.library.ucsf.edu/tid/xtq52b00</a></p>	Related Side issue
1992-08-27	Legacy	<p><b>Re visit to Canada and cost sharing</b></p> <p><i>Mr Herter, Mr Bramlev and Mr Chalfen are working on a proposal from Imasco that they should be able to request and pay for R&amp;D . However, they will be obliged to return all R&amp;D reports thus acquired immediately on request from B .A.T Industries .</i></p> <p><a href="http://legacy.library.ucsf.edu/tid/hpo02a99">http://legacy.library.ucsf.edu/tid/hpo02a99</a></p>	Related Side issue

Date	Exhibit #	Notes	Other
1992-09-01	Legacy	<p><b>Chalfen presses Ackman for answer</b></p> <p><i>I had been expecting, following our conversations the week before last ; to receive last week some draft suggestions outlining Imperial's proposal for taking forward the question of the terms of participation for the future by Imperial in the R&amp;D arrangements.</i></p> <p><a href="http://legacy.library.ucsf.edu/tid/got54a99">http://legacy.library.ucsf.edu/tid/got54a99</a></p>	
1992-09-8	Legacy	<p><b>Pat Dunn and SR Massey visit BAT Southampton R&amp;D</b></p> <p><a href="http://legacy.library.ucsf.edu/tid/bsq52b00">http://legacy.library.ucsf.edu/tid/bsq52b00</a></p>	
1992-09-10		<p><b>Memo on discussion between chairmen of Imasco and BAT, and BAT's hard line</b></p> <p><i>The Chairman has spoken to Mr Crawford on Imasco's participation in the Group's R&amp;D. The Chairman advised Mr Crawford that BAT does not mind one way or the other whether Imasco is in Group R&amp;D or not, but emphasised that, if Imasco is in, then it must be on BATs terms . If the terms are not acceptable to Imasco, then they are not to participate .</i></p> <p><i>Mr Crawford is considering the position</i></p> <p><a href="http://legacy.library.ucsf.edu/tid/fot54a99">http://legacy.library.ucsf.edu/tid/fot54a99</a></p>	
1992-10-23	Legacy	<p><b>Chalfen writes Ackman re R&amp;D arrangements.</b></p> <p><i>We are due to meet on November 5 to discuss the R&amp;D arrangements. When we spoke about this in September, you were anticipating sending in advance a proposal which, as you said, you hope would "bridge the gap" .</i></p> <p><i>I do hope this will be available in good time for that meeting.</i></p> <p><a href="http://legacy.library.ucsf.edu/tid/orq52b00">http://legacy.library.ucsf.edu/tid/orq52b00</a></p>	Related Side issue
1992-10-26	59B-R	<p><b>Letter from Simon Potter to Stuart Chalfen</b></p> <p>According to testimony on April 2, 2012, "all of the 25 documents referred to in Mr. Potter's previous letters have now been destroyed by October of nineteen ninety-two"</p>	
1992-11-02	Legacy	<p><b>Review of counter-proposed agreement</b></p> <p><a href="http://legacy.library.ucsf.edu/tid/pkc10a99">http://legacy.library.ucsf.edu/tid/pkc10a99</a></p>	Related Side issue
1992-11-05	Legacy	<p><b>Chalfen reports on meeting with "colleagues from Imperial Tobacco"</b></p> <p><i>I believe that there is a likelihood that we will be able to resolve the issue .</i></p> <p><a href="http://legacy.library.ucsf.edu/tid/ntq52b00">http://legacy.library.ucsf.edu/tid/ntq52b00</a></p>	
1992-12-11	Legacy	<p><b>Wharton replies to Ackman's (unknown fax) of Letter re agreements.</b></p> <p><a href="http://legacy.library.ucsf.edu/tid/zwq52b00">http://legacy.library.ucsf.edu/tid/zwq52b00</a></p>	Related Side issue
1992-11-19	Legacy	<p><b>Letter from Wharton to Ackman referencing meeting with Chalfen on 5 Nov 92.</b></p> <p><a href="http://legacy.library.ucsf.edu/tid/tvq52b00">http://legacy.library.ucsf.edu/tid/tvq52b00</a></p>	

Date	Exhibit #	Notes	Other
Various	Legacy	<p><b>Negotiations on cost sharing and access to documents.</b></p> <p><a href="http://legacy.library.ucsf.edu/tid/kkc10a99">http://legacy.library.ucsf.edu/tid/kkc10a99</a>  <a href="http://legacy.library.ucsf.edu/tid/byk33a99">http://legacy.library.ucsf.edu/tid/byk33a99</a>  <a href="http://legacy.library.ucsf.edu/tid/zmd73a99">http://legacy.library.ucsf.edu/tid/zmd73a99</a> (november)  <a href="http://legacy.library.ucsf.edu/tid/yxk33a99">http://legacy.library.ucsf.edu/tid/yxk33a99</a> (October)  <a href="http://legacy.library.ucsf.edu/tid/jwq52b00">http://legacy.library.ucsf.edu/tid/jwq52b00</a>  12 jan 1993: <a href="http://legacy.library.ucsf.edu/tid/bar01a99">http://legacy.library.ucsf.edu/tid/bar01a99</a>  <a href="http://legacy.library.ucsf.edu/tid/jkc10a99">http://legacy.library.ucsf.edu/tid/jkc10a99</a>  <b>tax concerns at:</b> <a href="http://legacy.library.ucsf.edu/tid/klc10a99">http://legacy.library.ucsf.edu/tid/klc10a99</a>  <b>costing issues p:</b> <a href="http://legacy.library.ucsf.edu/tid/pom20a99">http://legacy.library.ucsf.edu/tid/pom20a99</a></p>	Related Side issue
1992-12-17	Legacy	<p><b>Roger Ackman tells Chalfen he has agreements to propose to Management Committee</b></p>	
1993-01-18	Legacy	<p><b>Comment on document access in Canada on letter which is missing first page</b></p> <p><i>Should they seek access to any hard copy of a report held by Southampton R &amp; D, they have agreed that this should be on the basis of commercial need and authorisation would be required from both G . A. Read and P. Clarke of BATCo . Any report provided on this basis would again be subject to ITL internal control and in any event not held beyond 3 days.</i></p> <p><i>Whilst I am not qualified to judge the full legal merits of this arrangement, it would satisfy all the scientific and practical arguments raised by the Canadians and I will await your advice as to its acceptability</i></p> <p>Fax cover <a href="http://legacy.library.ucsf.edu/tid/nrq52b00">http://legacy.library.ucsf.edu/tid/nrq52b00</a>  Extract of memo: <a href="http://legacy.library.ucsf.edu/tid/swq52b00">http://legacy.library.ucsf.edu/tid/swq52b00</a></p>	
1993-01-21	<a href="#">97</a>	<p><b>A new cost-sharing agreement is reached between ITL and BAT</b></p> <p>A new cost sharing agreement is signed – back dated to January 1, 1991. It includes commitments to destroy records on termination of the agreement.</p>	
1993-01-21	<a href="#">96A</a>	<p><b>A new agreement on access to documents is reached between ITL and BAT</b></p> <p><i>F. The parties also wish to formalise. their understanding as to the parties' access to the Results and Imperial Research, and to the terms on which such access may be withdrawn, and to ensure that this Agreement also governs all such access given prior to the date hereof.</i></p> <p><i>5. BATCo shall have the right at any time to insist on their immediate return to BATCo by Imperial of all or any documents or records resulting from any Central Research conducted to date (hereafter "pre-Agreement documents"), with the latter retaining no copies of any such records or documents, whether in written or electronic form.</i></p> <p><i>6. Subject to clause 5, with effect from the date of this Agreement, all documents or records data and information reflecting final results of Results will be sent by BATCo to Imperial, which may retain them for up to three calendar months before returning them to BATCo without retaining any copies; this obligation of return will not apply to any documents, records data or information which BATCo indicates at the time of sending may be retained by Imperial for a longer period but even these must be returned to BATCo, with no copies being retained, immediately upon BATCo's request. after that period of</i></p>	



Date	Exhibit #	Notes	Other
		<p><i>three months and in any event no later than five years after the date on which they were sent to Imperial.</i></p>	
1993-01-26	Legacy	<p><b>Ackman provides Chalfen with Access to Documents Agreement and Cost sharing agreements</b></p> <p><i>On behalf of Imperial Tobacco I am pleased that this matter is now finalized .</i></p> <p><a href="http://legacy.library.ucsf.edu/tid/wrq52b00">http://legacy.library.ucsf.edu/tid/wrq52b00</a>  <a href="http://legacy.library.ucsf.edu/tid/dwq52b00">http://legacy.library.ucsf.edu/tid/dwq52b00</a></p>	
1993-03-01	<a href="#">Legacy</a>	<p><b>KC Wharton (BAT) returns their signed copy of the cost sharing agreement.</b></p>	
1993-06-02	98R	<p><b>Letter from Stewart Massey to Simon Potter re Documents</b></p>	
1993-06-07	<a href="#">99</a>	<p><b>Simon Potter writes John Meltzer to provide update on document retention.</b></p> <p>He reports that a number of documents have not been destroyed.</p> <p><i>In general, file documents older than five years have been destroyed but there are some exceptions to this rule, too, in relation to documents which have some clear on-going utility. These relate to, among other things, product development projects, product specifications and correspondence with Canada's Department of Health and Welfare. All documents older than five years which have been retained have been the object of a deliberate decision to retain them.</i></p> <p><i>None of these documents, with the exceptions mentioned below, are of BAT origin.</i></p> <p><i>Imperial Tobacco Limited has, as an exception to both the rules mentioned above, retained one dean copy of all Imperial research and development reports.</i></p> <p><i>Imperial has also retained one clean copy of every BAT report ever received save for those mentioned to you in previous correspondence from me, documents destroyed in a program of greater compliance with Imperial's document retention policy.</i></p>	
1993-09-10	<a href="#">100</a>	<p><b>BAT's legal department writes to demand that all documents be returned.</b></p> <p>Peter Clarke sends to Roger Ackman a draft letter he proposes to send in the next few days. "I hope that perhaps we will be able to reach some agreement under which the documents in question are destroyed rather than having to arrange for them to be physically returned." The letter follows a face to face discussion.</p>	
1993-09-10	<a href="#">100A</a>	<p><b>Draft letter proposing that BAT exercise its rights to insist on all BAT research reports to be returned.</b></p>	

Date	Exhibit #	Notes	Other
		<p>It has the wrong address for Imperial Tobacco – citing Imperial Tobacco UK!</p> <p>The letter was originally drafted by Andrew Foyle, according to Legacy <a href="http://legacy.library.ucsf.edu/tid/vzq01a99">http://legacy.library.ucsf.edu/tid/vzq01a99</a></p>	
1994-01-06	<a href="#">102 B</a>	<p><b>Ackman version of events</b></p> <p>ITL counsel Ackman reviews the “heated” discussion that had previously taken place.</p> <p><i>“I was tired of trying to persuade him of the ‘necessity’ of cleaning-up old files, while recognizing that it was his exclusive discretionary authority to deal with the documents under the policy.” ...</i></p> <p><i>“The president will have to decide”</i></p>	
1994-01-19	<a href="#">102</a> or <a href="#">102A</a>	<p><b>Dunn provides intermediary with his account</b></p> <p>ITL scientist, Patrick Dunn, writes his thoughts on the problems of returning documents to BAT. His concerns are operational and ethical:</p> <p><i>Although there have been a number of changes from the original understanding (i. e. long debates, understandings and exchange of contracts) was proposing to Roger a solution which would satisfy both sides. i. e. Ogilvy Renault would have control over the documents, BAT would have returned to them the documents they wanted and R&amp;D would have rapid access to most (95T) of the documents they required.</i></p> <p><i>The lawyers want this job done their way but will not take responsibility for it. They want to make me responsible but will not let me take my own decision....</i></p> <p><i>As I had predicted, within one week of implementing the change (documents destroyed) BAT find faxing copies too tedious and time consuming and they are sending their extra copies of research reports by courier. It not BAT's nor the lawyers' problem that my people have to wait for 7 days to receive the information they require. How would lawyers work under these same constraints?..</i></p> <p><i>He thinks that lawyers have a monopoly on professional standards CP and they are the law itself. The punch line to all this bullshit is that I am the one on the stand in court, not the lawyers.</i></p>	
1994-01-13	<a href="#">Legacy</a>	<p><b>Graham Read provides BAT legal counsel Peter Clarke with info on ITL’s use of documents.</b></p> <p>Some frustration is expressed with the volume of documents requested by ITL. Read notes that “So far we have not been advised of the fact that any report copies have been destroyed.” .</p> <p><i>I have some concerns as to why they require copies of our biological reports and I cannot believe that they serve any current scientific purpose . It may be that Pat Dunn is just testing the system with respect to access to all historic reports .</i></p> <p><i>It is my hope that common sense will eventually prevail with Imperial and that any further requests by us do not precipitate unnecessary responses . For example, if I prompt Pat Dunn to confirm destruction of copies of reports he will not immediately request further copies !</i></p>	

Date	Exhibit #	Notes	Other
		<a href="http://legacy.library.ucsf.edu/tid/plk44a99">http://legacy.library.ucsf.edu/tid/plk44a99</a>	
1994-05		Merrill Williams, a paralegal working for solicitors for Brown & Williams Tobacco company leaks 4,000 pages of BAT documents to government lawyers and to a university professor	
1994-05-16	<a href="#">78</a>	<p><b>Operating Committee Meeting .</b></p> <p>The recent release of industry documents (to US government lawyers) deepens concerns about documents still in the possession of ITL.</p> <p><i>Minute:</i>  <i>R Ackman referred to the current concerns as a results of the public disclosure of B&amp;W documents. A discussion followed. The review of our documents will continue.</i></p> <p><i>Action: R. Ackman to speak to Pat Dunn"</i></p>	
1994-06-13	<a href="#">77</a>	<p><b>Operating committee meeting</b></p> <p>Pat Dunn is not present for this meeting. Roger Ackman reports that former head of ITL Research (Leo Laporte's) documents were being reviewed and that he would "recommend destruction through R&amp;D.</p>	
1994-05	Other	Mississippi becomes the first state to sue the tobacco industry to recover Medicaid costs to tobacco-related illnesses. Three other states (Florida, Mississippi, Texas and Minnesota) file suit the same year	
1995-08-30	<a href="#">1336</a>	<p>ITL's Corporate Mission –</p> <p>5 page document listing</p> <p>1. Strategies to. protect the company's assets (tangible and intangible)</p> <ul style="list-style-type: none"> <li>* Establish and manage a legislative compliance framework.</li> <li>* Establish and manage a litigation capability to ensure a strong defense of claims against the company (product liability)</li> <li>* Establish and manage a document retention/destruction/disclosure program. Specific attention to be paid to the status of ongoing litigation</li> </ul>	
1997-07-2	Other	An out of court settlement reached between States of Mississippi and tobacco companies.	
1998-05-08	<a href="#">Other</a>	<p>An out of court settlement is reached between Minnesota and tobacco companies, including BAT. As part of the settlement, the BAT depository of documents stored in Guildford, England, is made public.</p> <p><a href="http://publichealthlawcenter.org/sites/default/files/resources/mn-settlement-agreement.pdf">http://publichealthlawcenter.org/sites/default/files/resources/mn-settlement-agreement.pdf</a></p>	
1999-2000	<a href="#">Other</a>	An agreement is reached for BAT to take full ownership of Imperial Tobacco. The first announced offer was for \$6.8 billion for the 58% of IMASCO's shares not held by BAT. The acquisition was completed in February 2000.	
2002-03-22	<a href="#">Other</a>	Justice Eames of the Supreme Court of Victoria (at Melbourne, Australia) rules that BAT's destruction of documents subverted the process of discovery, and strikes down the tobacco company's defence	
2002-12-06	Other	Victorian Court of Appeal allows BAT's appeal of the Eames case.	
2005	<a href="#">1418</a>	Excerpt of Written Direct Testimony of David Schechter	

Date	Exhibit #	Notes	Other
		<p><i>It appears, does it not, that Simon Potter and Ogilvy Renault were given a list of documents to go out, locate, find and destroy rather than affirmatively coming forward and saying these are documents we would like to destroy?</i></p> <p><i>That is a possibility.</i></p> <p><i>Did you express any disagreement with Imperial Tobacco's decision to destroy these documents?</i></p> <p><i>No.</i></p> <p><i>To your knowledge, did Mr. Chalfen or Mr. Meltzer or anyone in the BAT Group express any disagreement over Imperial Tobacco's decision to destroy these 60 documents?</i></p> <p><i>No.</i></p> <p><i>I will now show you U.S. Exhibit 20,378 bearing Bates No. 202313429 which is a letter from Simon Potter at Ogilvy Renault in Canada addressed to Mr. Chalfen Mr. Meltzer, and yourself dated August 7, 1992?</i></p> <p><i>I do.</i></p> <p><i>Do you see where the letter states "This is to confirm to you that the documents mentioned in my letter of July 10 have indeed been destroyed."?</i></p> <p><i>Yes.</i></p> <p><i>You understood that while Mr. Potter wrote about a July 10 letter, he was actually referring to the June 5 letter that we just discussed that listed the documents to be destroyed, correct?</i></p> <p><i>Yes. I don't know.</i></p> <p><i>This letter indicates that the 60 documents identified by Imperial Tobacco Limited in the June 5 letter were destroyed, correct?</i></p> <p><i>Yes.</i></p> <p><i>Was one purpose of destroying documents in the hands of the Canadian company be to limit or avoid discovery in smoking and health litigation?</i></p> <p><i>Yes Keeping the documents out of the hands of Canadian litigants is one possibility.</i></p> <p><i>What would be a purpose of destruction of certain documents, such as listed here, other than to avoid or limit discovery in smoking and health litigation?</i></p> <p><i>Well, the other purpose would have been to keep them out of the hands of the Canadian government, which is more likely.</i></p>	
2006-08-17	<a href="#">Other</a>	<p>US Justice Gladys Kessler issues her Final Opinion on the US Department of Justice charge of racketeering.</p> <p>(Her opinion on BAT's document retention policy is at pages 1432-1463.</p>	
2012-03-12	<a href="#">510</a>	<p>John Meltzer's deposition.</p> <p><i>The CAC companies, of which Imperial was one, had accumulated large numbers of research documents, including a number that had emanated from BATCo's Southampton research centre, going back over 40 years, and BAT was concerned about the difficulties that would arise if these documents were to be</i></p>	

Date	Exhibit #	Notes	Other
		<p><i>produced in litigation or in other situations where the authors of the documents weren't present to put the documents into their proper context or explain them.</i></p> <p><i>Again, I can't speak as to what Imperial's objectives were. But, if you're asking about BATCO's objectives, in suggesting that Imperial, and CAC companies adopted the policy, as I've explained, there was a concern about the possibility that B.A.T.'s proprietary research documents might be produced in litigation or in other situations without the possibility on the part of the authors to put them into context. So, yes, insofar as there was an objective behind the request, that would be it.</i></p>	
	510 A	Documents from John Meltzer	
<b>Document lists</b>			
1989	<a href="#">319 f</a>	64 page list of Imperial Tobacco Library Catalogue cards	
1993-06-18	<a href="#">298</a>	12 page list of library catalogue cards "not cleaned"	
Various dates	<a href="#">298 A</a>	11 page list of "Reports Shipped"	
Various dates	<a href="#">298 B</a>	27 page list of destroyed documents	
Various dates	<a href="#">298 C</a>	45 page Inventory of BAT documents, including scientific papers, booklets, reports on science, etc. Annotated	
1991-09-09	<a href="#">298 D</a>	<p>Category of deleted groups</p> <p>Alan Heard's list (Exhibit 319 I) is annotated into four categories:</p> <p>"destroyed all" "Kept all or as instructed" "5 years retention" "2 years retention"</p> <p>(Date in document catalogue may not be the date on which the annotations were made. The fax date comes from the document 319I).</p>	
1991	<a href="#">319 A</a>	2 page list of "Reports Sent BAT (Southampton)"	
1993-12-01	<a href="#">319 B</a>	3 page list of "Reports Sent BAT (Southampton)"	
Various dates	<a href="#">319 C</a>	108 page list of "Reports Shipped"	

Date	Exhibit #	Notes	Other
Various dates	<a href="#">319 D</a>	192 page list of library catalogue cards	
Various dates	<a href="#">319 E</a>	48 page inventory list of reports shipped	
	<a href="#">319 F</a>	64 page list of library catalogue cards	
1992	<a href="#">319 G</a>	18 page hand-written list of documents noted “destroyed”	
1993-12-01	<a href="#">319 J</a>	3 page list “Shipped Dec 93). “Some boxes shipped to “Ogilvy Renault” Some Reports also given to R. Ackman	
1991	<a href="#">319 K</a>	1 page list of Battelle reports (1966-1978) “all destroyed” except for 3 reports missing.	
Various dates 1991-03-20 1995-10-29 2001-10-22	<a href="#">298 C</a>	45 page Inventory of BAT documents, including scientific papers, booklets, reports on science, etc. Annotated	

## Who was involved

### Imperial Tobacco/Imasco:

#### Management:

- Jean-Luis Mercier, President of Imperial Tobacco
- Purdy Crawford, CEO of IMASCO, the holding company of Imperial Tobacco
- Roy Schwartz. Vice president, legal, IMASCO

#### Lawyers

- Roger Ackman. Vice-President and General Counsel to Imperial Tobacco (appointed December 1988, left 1999)
- Lyndon Barnes – Independent Solicitor to Imperial Tobacco (Osler)
- Simon Potter – Independent solicitor to Imperial Tobacco (1980s – 1990s), and Rothmans Benson and Hedges (2000s)

#### Scientists

- Patrick Dunn. The head scientist at Imperial tobacco (VP Research and Development from 1982 2003). (He died of pancreatic cancer in 2007)

- Stewart Massey. Scientist at Imperial Tobacco Canada Ltd. Reported to Dr. Patrick Dunn, VP Research and Development

### BAT Industries/BAT

#### Management

Martin Broughton, Finance Director (1988), Group Chief Executive 91993), Chairman (1998).

TD Bilton, tax department

B Bramley – Director, BATCo

#### Lawyers

Stuart Chalfen. Staff Solicitor, BAT Industries (later British American Tobacco)

Andrew Foyle – Independent Solicitor to BAT (Lovells)

Nick Cannar. Head of BAT's legal department. (Gladys Kessler found him "remarkably evasive and uninformative – "as a witness, Nick Cannar was not credible"

Peter Clarke – Company Secretary and head of legal department

#### Scientists

Alan Heard, Head of Research and Development

Graham Read, Manager Research and Development