

Commission d'enquête relative aux
mesures d'investigation prises à la
suite de l'attentat à la bombe
commis contre le vol 182 d'Air India



Commission of Inquiry into the
investigation of the Bombing of
Air India Flight 182

Public hearing

Audience publique

Commissioner

The Honourable Justice /
L'honorable juge
John C. Major

Commissaire

VOLUME 15

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Victoria Hall
111 Sussex Drive
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K1N 1J1

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Ancien hôtel de ville
Salle Victoria
111, promenade Sussex
Ottawa, Ontario
K1N 1J1

Lundi, le 19 février 2007

Appearances/Comparutions

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Mr. Anil Kapoor Mr. Roger Bilodeau	Senior Commission Counsel
Mr. Gilles Brisson	Registrar
Mr. Barney Brucker Mr. Matthew Sullivan Ms. Fiona McFarlane Ms. Loretta Colton Ms. Kiran Bhinder Ms. Laura Pitcairn Mr. André Séguin	Attorney General of Canada
Mr. Maurice Archdeacon	Senior Advisor to the Commission
Ms. Soma Ray-Ellis	Air India
Mr. Norman D. Boxall Mr. Jacques J. M. Shore Mr. Chris Schafer	Air India Victims Families Association
Mr. Richard Quance	Family Members of Crew Member Victims
Mr. Hari Viswanathan	Victims' Families Group
Mr. Alexander X. S. Sabharwal	World Sikh Organization of Canada

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1 --- Upon commencing at 9:35 a.m./

2 L'audience débute à 9h35

3 **THE COMMISSIONER:** Please be seated. I should like to
4 begin this session with some remarks that I had hoped would not be necessary when we
5 adjourned last fall.

6 When the Commission adjourned in the fall, you will all remember
7 that it was premised on the basis that by this date we could call evidence and proceed
8 with the Public Hearings in accordance with the Terms of Reference. In the interim, a
9 great deal of work has been performed as evidenced by the volumes of material that you
10 see behind me. But a serious problem has arisen.

11 The nature of this Public Hearing is just that, hearings in public
12 supported by witnesses and documents. We are in possession of the documents and
13 know who the witnesses are. However, the question of national security has been raised
14 by government agencies, CSIS, the RCMP, Foreign Affairs and others, that the public
15 interest would be jeopardized in this era of violent worldwide terrorism if many of these
16 documents were made public.

17 On the other hand, by the Terms of Reference, members of the
18 families were in effect promised a public hearing which by definition means just that. If
19 the proceedings started today under the current circumstances, the redaction of the
20 documents; that's the censoring or black lining of the documents make them meaningless
21 as they would remain unseen. There is provision for the authorities to request an in
22 camera hearing to determine access of the redacted information. The families are
23 excluded from such hearings as are their counsel. No one other than those specifically
24 authorized can appear. As well, even those authorized cannot reveal anything that
25 occurred at the in camera hearing. Should a ruling favourable to disclosure be made, the

1 authorities have the right to appeal to the Federal Court and presumably to the Federal
2 Court of Appeal and beyond.

3 It requires a little imagination to envisage the hopelessness of a
4 satisfactory hearing considering that the documents you see number in the thousands and
5 court proceedings could extend for years with little result. If we proceeded on that track,
6 it's my belief that this hearing would simply disappear into the quicksand of bureaucracy.

7 All parties recognize and see the problems that I have outlined.
8 Commission counsel and counsel for the Government are prepared to reassess the
9 Government's production and redaction to determine if sufficient un-redacted
10 documentation can be agreed upon to meet the standards of a public hearing.

11 I understand all parties agree that under the present circumstances
12 it would be futile to attempt to commence with the evidence we have today as it would
13 lead nowhere. Efficiency can be gained by devoting more time in an attempt to proceed
14 meaningfully. Under the circumstances I'm prepared to postpone the commencement of
15 evidence for nine hearing days; that is, until March the 9th.

16 The Terms of Reference by Order in Council have ordered that this
17 hearing be public. I have reached the conclusion that if the documents remain in a
18 manner of speaking "blacked-out", there is no way I can carry out my mandate and if this
19 remains, I will communicate my view to the Prime Minister after assessing the state of
20 affairs on March the 5th. No more explanation is needed than to ask how a public hearing
21 can be conducted in the absence of existing documents that are needed but currently
22 denied.

23 That concludes my opening remarks and I believe Mr. Freiman has
24 an opening that he wishes to make.

25 --- **OPENING REMARKS BY / REMARQUES PRÉLIMINAIRE PAR MR. MARK**

1 **FREIMAN:**

2 **MR. FREIMAN:** Thank you, Mr. Commissioner.

3 Just two bits of housekeeping first and we will have some opening
4 statements as well.

5 On the housekeeping, I think there may be some confusion about
6 the return date after nine days. I believe the date is March 5th that you had communicated
7 we would be coming back. That's two weeks from today, nine hearing days. There may
8 have been some confusion in the opening. Secondly ---

9 **THE COMMISSIONER:** Why don't you straighten the
10 confusion?

11 **MR. FREIMAN:** Oh, yes.

12 **THE COMMISSIONER:** When are we coming back?

13 **MR. FREIMAN:** We're coming back March 5.

14 **THE COMMISSIONER:** Is that not what I said? I want to take
15 a vote on that.

16 **(LAUGHTER/RIRES)**

17 **THE COMMISSIONER:** All right. We're agreed. It's March 5.

18 **MR. FREIMAN:** March 5.

19 Secondly, I understand that counsel for two of the family groups,
20 as well as counsel for the Government of Canada, wish to address you briefly on the
21 subject of the redactions. I'd ask, therefore, counsel for the AIVFA group to come up
22 first.

23 **THE COMMISSIONER:** I don't want to make too much of a
24 point of this but reading my notes so that the Court Reporter is clear, I say "under the
25 circumstances I'm prepared to postpone the commencement of evidence for nine hearing

1 days; that is, to March 5th. Is that correct?

2 --- **OPENING REMARKS BY / REMARQUES D'OUVERTURE PAR MR.**

3 **NORMAN BOXALL:**

4 **MR. BOXALL:** Mr. Commissioner, I appreciate your forceful
5 remarks this morning and Mr. Shore and I would both like to speak to you. This would
6 not be our normal practice but this is a matter we feel is of utmost importance. As you've
7 already indicated, it goes to the very existence and integrity of this Inquiry.

8 We've been advised on the eve of the resumption of this Inquiry
9 that the Commission is having redaction issues with the Government of Canada.

10 On behalf of all the families of AIVFA and all the families in this
11 Inquiry, I cannot begin to express how disappointed and disillusioned they are once again
12 in their government having failed to protect them. Having failed to appropriately respond
13 to their tragedy, having failed to successfully investigate and bring to justice the
14 perpetrators of this horrendous crime, having made excuses for 20 years on why an
15 inquiry could be held, the Government has now refused to make available to the families
16 and the public the information required to allow for a meaningful public inquiry.

17 Redaction is a bureaucratic word for secrecy, censorship and
18 withholding information for the public. In announcing this Inquiry, the Prime Minister
19 stated:

20 "The families of the victims continue to demand answers
21 that only a full public inquiry can provide into the senseless
22 slaughter of the victims of Air India Flight 182. As a
23 nation we have a responsibility to ensure that we have
24 learned from our past mistakes and that we are equipped
25 today to identify and deal with terrorist threats before more

1 Government of Canada that it intends to meet its responsibilities and obligations to allow
2 for a full public inquiry.

3 For over 20 years the Government has shamefully failed these
4 families who have conducted themselves with grace and dignity. They worked tirelessly
5 to obtain this Inquiry and they are committed to working with you and your counsel to
6 ensure its success.

7 Thus, we understand the necessity of this delay to allow the
8 Government to be given one last chance to meet its moral and legal obligation to make
9 available to you all the material you require to fulfill your mandate, Mr. Commissioner.

10 We continue to have the confidence in your commitment to meet
11 your goals consistent with the principles you identified, and we do stand behind you at
12 this time.

13 Failure of the Government to fulfill its obligations would
14 necessitate nothing less than you being required to shut this Commission down. To do
15 otherwise would be to deny the families, all families, all Canadians and the international
16 community what is required to close this tragic chapter of Canada's worst act of
17 terrorism.

18 Failure of the Government of Canada to fulfill its promise, through
19 this Inquiry, would be the final insult to these families and all who seek the truth.

20 Thank you.

21 **MR. FREIMAN:** I believe Mr. Quance has a few remarks as
22 well.

23 --- **OPENING REMARKS BY / REMARQUES D'OUVERTURE PAR MR.**
24 **RICHARD QUANCE :**

25 **MR. QUANCE:** Mr. Commissioner, I won't repeat what my

1 friends have said. I think most of us share that view.

2 I do want you to know that over the past few days, I've received a
3 steady streams of emails from India, from Dubai, from around the world, from families
4 that came here and spoke in September and they want me to express to you their extreme
5 shock and disappointment that this is where we're at.

6 I hope that the Government working with the Commission counsel
7 can resolve this problem and we can move forward in two weeks, or I have the same fear
8 that this is a Commission that it will go nowhere.

9 I thank you for your patience and your time. I wish you luck in
10 bringing these parties together.

11 Thank you.

12 **MR. FREIMAN:** I believe Mr. Brucker, on behalf of the
13 Government of Canada, has some remarks as well.

14 --- **OPENING REMARKS BY / REMARQUES D'OUVERTURE PAR MR.**

15 **BARNEY BRUCKER:**

16 **MR. BRUCKER:** Thank you, Commissioner.

17 Just to respond for a moment to the comments made by Messrs.
18 Boxall and Shore. We have been -- the Government of Canada has been providing to the
19 Commission, and my understanding is the Commission has been providing to the families
20 counsel, on an ongoing basis, many of the documents -- or the public documents, all of
21 the volumes we see behind you. This issue of redaction is nothing new and I'm surprised
22 it wasn't raised somewhat earlier by the families.

23 I believe we should leave the conclusions as to failure and
24 everything else until we're finished with the Inquiry and you can make your findings. I
25 think it's a little premature to do that.

1 Now, counsel for AIVFA, as you know, made an application back
2 in November for access to un-redacted documents and -- or un-redacted versions of the
3 documents, and to in camera sessions. It is no secret, and the terms of reference address
4 this, that there will in all likelihood have to be some in camera proceedings in this case
5 because of the issues involved. I don't think anyone disputes that, let alone counsel for
6 AIVFA.

7 Their proposal, as you may recall, was that they, counsel, be
8 allowed to see these documents. That they, counsel, be allowed to participate in in
9 camera sessions on an undertaking not to disclose anything they heard to their clients.

10 So I'm not sure how that fits in with the remarks that we've just
11 heard. The counsel in this case, for the Commission, represents the public interest. You
12 said in your reasons released in January that they would vigorously represent that interest
13 and so we will be serving that interest.

14 Now, sir, the Government of Canada is committed to working
15 closely with you and your counsel to ensure that the Commission meets its mandate by
16 examining as much relevant information as possible in the presence of the public.

17 Now, this is no small task. You and your counsel team are being
18 asked to examine the largest investigation in Canadian history. There is a massive
19 amount of documents involving the Air India Disaster. Hundreds of thousands, perhaps
20 millions of pages. The Government team has been working closely with your counsel for
21 months to identify those relevant documents and to provide them to your counsel, and we
22 see some evidence of that behind you.

23 On the other hand, much of the information is so sensitive
24 that disclosing it will jeopardize ongoing Air India investigations. The safety of
25 confidential informants or sources provide a roadmap for terrorists or criminals to bypass

1 transport security measures for instance, or undermine the relationship between Canada
2 and the foreign governments that supply vital intelligence to us.

3 In other words, releasing this information recklessly will
4 compromise the very institutions that your Commission is trying to strengthen. The
5 Government takes its obligation in this regard extremely seriously and in that regard has
6 in good faith redacted documents or portions of documents. In January, you ruled that
7 counsel for the families will not have access to redacted documents or portions of this
8 Inquiry that must be held in camera due to presentation of evidence that may be injurious
9 to international relations, national defence or national security. I've spoken a moment
10 ago about the Terms of Reference that address these concerns.

11 We agree that it is important that as much as possible of
12 this Inquiry be presented in public and, in that regard, the Government counsel team is
13 prepared to work with your counsel to attempt to do justice to what may seem at times to
14 be competing interests. It's a delicate balance between the need for transparency in this
15 proceeding and the protection of national security.

16 We will work hard with your counsel to maximize disclosure but
17 minimize that risk. Where that process has already begun it's going to start again afresh
18 today. We will do what we can. We understand your intention and we hope to be able to
19 live up to it.

20 Thank you.

21 **MR. FREIMAN:** Mr. Commissioner, I hadn't intended to address
22 this issue and sometimes it's better to say less than to say more. I just feel myself
23 compelled to address one line in Mr. Brucker's presentation and I'm sure this wasn't his
24 intention.

25 When he spoke of the danger of releasing recklessly certain

1 information, I hope it is not his intention to imply that Commission counsel has ever
2 asked for reckless release of information. We are very sensitive to the need to safeguard
3 the important matters dealt with in the *Canada Evidence Act*, s. 38 ---

4 **CHAIRMAN:** --- to himself.

5 **MR. FREIMAN:** With that understanding, I'm content then to
6 proceed with some important matters.

7 Mr. Commissioner, you mentioned the volumes behind you. They
8 represent thousands of documents that have been analyzed, discussed and await our
9 return to be introduced into evidence.

10 There are still a number of documents that the Government of
11 Canada has not completed in terms of reviewing for redaction purposes, and so what I
12 intend to do with these documents is to reserve an exhibit number. That exhibit number
13 will apply to all the documents on our return so that witnesses can refer to tab numbers in
14 the documents rather than our having to enter hundreds, maybe thousands of separate
15 exhibits.

16 I would just ask the Registrar to kindly reserve the next
17 exhibit number.

18 **THE REGISTRAR:** Which will be P-101.

19 --- **EXHIBIT NO./PIÈCE NO. P-101:**

20 Reserved for Binders Identified as CAA/CAB/CAC/CAD/CAE

21 **MR. FREIMAN:** And moving along, then, let me simply inform
22 you of our intention for the rest of this morning. I am about to address the issue of the
23 dossier which I shall in a moment introduce into evidence. After I have done that, it is
24 my understanding that counsel for one of the family interest parties have an opening as to
25 their expectations and their perspective on our mandate when we return.

1 Similarly, I understand the Government of Canada has
2 observations on that point and, finally, counsel for the World Sikh Organization, one of
3 the intervenors, will also want to speak about his organization's perspective on the work
4 we are about to commence.

5 So let me begin with the dossier. I would like to enter into
6 evidence as Exhibit P-101 ---

7 **THE REGISTRAR:** P-102.

8 **MR. FREIMAN:** P-102, I'm sorry -- Dossier No. 2 entitled
9 "Terrorism, Intelligence and Law Enforcement - Canada's Response to Sikh Terrorism".

10 --- **EXHIBIT NO./PIÈCE NO. P-102:**

11 Dossier 2 - Terrorism, Intelligence and Law Enforcement -
12 Canada's Response to Sikh Terrorism

13 **MR. FREIMAN:** Mr. Commissioner, at the commencement of
14 our proceedings I addressed the issue of dossiers as one of the means by which your
15 counsel seeks to gain efficiencies and allow for a focus on what is important and what is
16 crucial for the discharge of our mandate.

17 Dossier No. 2 addresses the backdrop of the issues that we will be
18 addressing in terms of Canada's awareness of Sikh extremism, Canada's response to Sikh
19 extremism, what was known, who knew it, how it was analyzed, to whom it was
20 forwarded and with what result. The purpose of this dossier is to provide us with a
21 factual background taken from publicly available sources regarding this lead-up to and
22 the investigation of the bombing of Air India Flight 182.

23 Le dossier numéro 2 contient un résumé des ouvrages
24 actuellement disponibles au public à propos de l'enquête de l'affaire Air India, vol
25 numéro 182. Il a été rédigé afin de mieux cerner les enjeux en préparation pour les

1 audiences de la Commission où seront examinés tant de faits, dont certains demeurent
2 contestés, que les implications des événements passés pour l'élaboration des principes
3 directeurs et politiques concernant les situations similaires qui peuvent se présenter dans
4 l'avenir.

5 The purpose of the dossier is to lay a foundation of relatively
6 uncontroversial facts and events that will allow us to focus on the matters that are
7 controversial and on the issues that the Terms of Reference direct this Inquiry to address.
8 Reliance on the dossier will allow us to look at individual discrete episodes, will allow us
9 to move backward in time and space and forward in time and space without losing the
10 thread of the narrative or the relevance of the episodes that we will be addressing.

11 The aim of the dossier is to provide this factual backdrop and
12 reference point so that the evidence that will be presented in open hearings can
13 concentrate on what is important and what is crucial.

14 Having said what the dossier is, there are a number of important
15 caveats that I'd like to raise in terms of what the dossier is not. The dossier is being
16 tendered with the intention that the facts it sets out be accepted at face value. However,
17 the following cautions should be observed:

18 First, when we set out a fact we always provide a footnote to
19 indicate its basis or its source. While we always look for the best source for information,
20 sometimes publicly available sources are limited to popular or journalistic materials. The
21 nature of the source must always be taken into account in evaluating the information
22 referred to.

23 Second, it is very important to distinguish between the fact that an
24 individual or an institution offers an interpretation or a conclusion on the one hand and
25 the question of the validity of that interpretation or conclusion. When the dossier sets out

1 in the text, as opposed to in a footnote, that a person or an institution took a certain
2 position, offered a certain interpretation, came to a certain conclusion, the dossier is not
3 necessarily taking a position as to the correctness of that interpretation or conclusion.

4 Third, while as I said the facts and events set out in the dossier are
5 indeed to be taken at face value that does not mean that they are intended to be taken as
6 irrefutable. Parties are free to take issue with any statement in the dossier and/or to
7 propose evidence to the contrary.

8 And finally, as we state in the introduction to the dossier, because
9 the dossier is based on publicly available information and because much of what has been
10 written about the investigation of the bombing of Air India Flight 182 has focused on one
11 institution, namely, CSIS, there will inevitably be a certain disproportion of emphasis in
12 the dossier as well. No special conclusion ought to be drawn at least at first instance on
13 the basis of the space devoted to a particular institution in the dossier in terms of the
14 relative importance of the role of that institution in the issues set out in the Terms of
15 Reference.

16 With that brief introduction, I'd like to ask counsel for the
17 Government of Canada, Mr. Brucker, to present his opening as to the perspective of the
18 agencies and departments that he represents on the work of the next phase of our Inquiry.

19 **THE COMMISSIONER:** This dossier is open for public review?

20 **MR. FREIMAN:** It is open for public review. It is available in
21 both official languages and I invite those interested in acquiring a copy to consult with
22 the Registrar or our staff.

23 **THE COMMISSIONER:** I think I saw them being distributed.

24 **MR. FREIMAN:** Yes.

25 **MR. BRUCKER:** Thank you, Mr. Freiman.

1 --- **STATEMENT BY / DÉCLARATION PAR MR. BARNEY BRUCKER:**

2 Commissioner, I only have some very short remarks about really
3 the next couple of weeks of evidence that we're going to hear because I don't have any
4 idea as to who the witnesses will be after that and I think the Commission is still
5 considering who those might be. So I'll limit my remarks to that.

6 The next segment of the Inquiry will begin -- will deal mainly
7 with paragraphs B-1 and B-2 of the Terms of Reference which deal with the
8 Government's assessment of the potential threat of Sikh terrorism and cooperation
9 between government departments and agencies including the CSIS and the RCMP in the
10 investigation pre- and post-bombing. These topics have a number of aspects which are
11 too numerous to deal with in these brief remarks. They'll be explored likely over several
12 weeks with evidence from a number of witnesses.

13 When we reconvene on March the 5th, we'll hear evidence
14 concerning the creation of CSIS which began its operations in July of 1984, its legislative
15 mandate and its relationship with the RCMP, which also began to operate under a new
16 mandate following the creation of CSIS.

17 Prior to the bombing, the Canadian Government was aware of the
18 threat posed by Sikh extremists. As part of its mandate, CSIS provided assessments of
19 the threat to government agencies and departments with an operational mandate to
20 determine resource allocation and a plan to protect Canadians. Those assessments were a
21 result of collection and analysis of information from a range of sources; domestic,
22 international, reliable and of unknown reliability. CSIS investigated the threat that Sikh
23 extremism posed to Canada and reported these threats to the Government of Canada,
24 threats that did not disappear after the tragic events of June 23rd, 1985. A collection of
25 information and intelligence continued, much of which was shared with the RCMP.

1 You will hear that CSIS has discretion in sharing information with
2 law enforcement, and you will learn of the reasons why this discretion is employed and
3 why it is important.

4 The policy and legal issues underlying the relationship between
5 CSIS and the RCMP were new and the Air India investigation tested the relationship.
6 Not surprisingly the RCMP had its view of its mandate after the creation of CSIS and the
7 way in which the Force and the newly minted service should interact as did CSIS. That
8 said, challenges in the cooperation still exist today but the relationship has matured over
9 the more than 20 years since the Air India disaster. Together, both organizations have
10 put into place a working regime to share information and resolve contentious issues.

11 We understand that following the March break, Commission
12 counsel will begin calling a series of witnesses to address various aspects of the
13 government's activities leading up to the bombing and the subsequent investigation. In
14 doing so, Commission counsel will focus on specific aspects of the Air India
15 investigation including the way the RCMP pursued certain leads or potential witnesses in
16 the days and weeks before and after the bombing. In this way we will be beginning --
17 we will begin looking through the lens of a microscope operated today at a selection of the
18 government's specific investigative decisions made many years ago without the benefit
19 of today's knowledge.

20 This kind of exercise must be approached with caution. An
21 investigation involving hundreds of police and intelligence officers labouring over the
22 course of decades investigating a myriad of potential leads cannot easily or accurately be
23 replicated in the testimony of a few individuals involved in a few specific incidents. The
24 glare of hindsight can rob us of the proper context or a proper understanding of the
25 complexities involved.

1 As I stated in the remarks I made to you in early November, the
2 Air India investigation is the largest police investigation ever carried out in Canada.
3 RCMP, CSIS, Transport, External Affairs as well as other Canadian and foreign agencies
4 utilized extensive resources in an effort to aid the investigation of this crime.

5 The RCMP and newly formed CSIS were required to find ways of
6 sharing information and effectively working together in a crisis situation. This was not
7 an easy investigation, nor have the results to date been satisfactory, not for the families
8 and not for those who worked so very hard.

9 Many of those involved in this investigation worked extremely
10 long hours and many made personal and professional sacrifices in an effort to bring the
11 perpetrators to justice. Allegations of racism, assertions that this matter would have been
12 solved if the majority of passengers were not Indo-Canadians are groundless and
13 demeaning to those who worked so hard.

14 The government witnesses that will come before you face the
15 unenviable task of being asked to testify about events that occurred more than 20 years
16 ago. Not only that, they will often be asked to pinpoint when they learned of certain
17 information, information that is now common knowledge. Many of these people are
18 retired, some are elderly, some are in poor health, all have volunteered to assist you in
19 your work and I ask that all parties remember that when these witnesses appear.

20 It's easy to assert with the benefit of subsequent knowledge and 20
21 years of hindsight that the RCMP and CSIS should have seen this disaster coming and
22 that there should have been an ability to lay criminal charges quickly; easy, but ill judged.

23 Pieces of information and evidence were like jigsaw puzzle pieces.
24 It was not until the puzzle was near completion that the picture was discernable.

25 I believe, Commissioner, that you understand these difficulties. I

1 have noted in your opening statement, you said:

2 “This Inquiry will not focus on dissecting the past. It will
3 look on how we can establish parameters for the future.”

4 After 20 years we cannot retrace every step of this massive police
5 investigation or reevaluate from the distant vantage of this room the decisions that were
6 made on the ground over 20 years ago by professional investigators.

7 Instead, what we are best placed to do, and what I submit the
8 Terms of Reference ask of you, is to examine the systemic problems of the past and make
9 effective recommendations to government designed to ensure such problems will never
10 endanger Canadians in the future. It is our hope, Commissioner, that through the
11 evidence you hear in the coming weeks, that you will be able to fulfill that task.

12 Thank you.

13 **THE COMMISSIONER:** Before you sit down, you understand
14 of course that the Terms of Reference preclude our finding fault?

15 **MR. BRUCKER:** I understand that, sir.

16 **THE COMMISSIONER:** And equally, the witnesses who
17 appear, who are retired and aged, a premium on their memory would be unfair. We
18 would be asking them, I presume, to the best of their knowledge what occurred.

19 The experience will preclude them being harassed. It will simply
20 be their recollection of what happened those many years ago and to give the family some
21 comfort that we have sufficiently investigated the circumstances so that they know what
22 led, for instance, to the admission in the British Columbia trial, that there was
23 unacceptable negligence, or words to that affect.

24 We do not need infallibility from the witnesses. I do not see these
25 witnesses being in danger of being embarrassed, harassed or jeopardized, but their

1 evidence is necessary.

2 **MR. BRUCKER:** I appreciate that, Commissioner. I am
3 comforted by those words. I think I should point out that the reference you refer to in the
4 trial in British Columbia as to unacceptable negligence related to the tape erasures and
5 nothing else.

6 **THE COMMISSIONER:** Whatever the case --

7 **MR. BRUCKER:** Yes.

8 **THE COMMISSIONER:** -- there should be a reason as to why it
9 was said.

10 **MR. BRUCKER:** And I think we will hear that. Thank you.

11 **MR. FREIMAN:** If I might just address one point that Mr.
12 Brucker made, I don't intend to have a formal opening. The exchange that you and he
13 had about the importance of witnesses who participated in these events and the fallibility
14 of memory after 22 years and the maturation process underlines in my submission the
15 importance of the documents and the importance of access to useable documents in
16 public to supplement, to bolster and to underline the testimony of the witnesses.

17 Having said that, I would like to call on Mr. Shore and Mr. Boxall
18 to present opening remarks.

19 --- **STATEMENT BY/DÉCLARATION PAR MR. JACQUES SHORE:**

20 **MR. SHORE:** Thank you.

21 Mr. Commissioner, these remarks that Mr. Boxall and I will be
22 providing to you this morning are more broad-based general remarks at this juncture of
23 the phase of hearings.

24 Our hope is to address the specific substantive issues as we move
25 along but we appreciate the opportunity and we were encouraged at this point,

1 recognizing how important it is, as some of the additional work will be done over the
2 coming weeks to raise with you what we see overall as the critical issues for your
3 consideration and for those that are working closely with you.

4 Mr. Commissioner, the bombing of Air India Flight 182 on June
5 23, 1985 is a Canadian tragedy. The bombing is also an international tragedy. This
6 tragedy was, as best as we can tell at this moment, perpetrated by Canadians against
7 Canadians.

8 Of the 329 innocent victims most were Canadians. They were
9 spouses, parents, children, friends, coworkers, neighbors and loved ones. Twenty-nine
10 (29) families were completely wiped out, 32 families left with one spouse. Eight couples
11 lost all their children, and two children lost both parents. Over 80 victims were children
12 12 years of age and under. The magnitude of those affected by this tragedy reaches into
13 the thousands and spans continents.

14 The Air India tragedy was Canada's introduction into the modern
15 age of terrorism. At that point in time it was the single worst act of terrorism against the
16 traveling public known to the world.

17 According to a commentary by Thomas Walkom, and I quote:

18 "While Air India never grabbed this country's attention in
19 the way the 2001 Twin Towers attack did, Canadians
20 should not be sanguine."

21 As a portion of the population, the 331 people killed in
22 1985 are equivalent to the 3,044 murdered in New York
23 and Washington 16 years later."

24 The Air India bombing was Canada's 9/11 awakening or certainly
25 should have been, as the world was moving into a more dangerous period. New and

1 unimaginaire horrors now laid ahead and no one would be immune.

2 This tragedy and its lessons to be learned are perhaps more
3 relevant today than had we held this inquiry 20 years ago. While we waited long to
4 address these issues, in the words of Air India Victims Family Association member,
5 Monique Montpetit-Castonguay;

6 “On n’a jamais voulu le reconnaître comme tel, un attentat
7 terroriste.”

8 The time is now to understand what happened, why does terrorist
9 action happen, and how to avoid such a tragedy from ever happening again.

10 We face even greater threats today from home grown terrorism;
11 terrorism similar to what caused the bombing of the Air India Flight 182. This is why
12 this Commission of Inquiry is so important today, albeit 21 years after the catastrophe.
13 The Air India tragedy speaks directly to the world in which we live today. This is what
14 had motivated the Air India Victims Family Association to continue in its advocacy
15 efforts to push for an inquiry all these years. Not simply for themselves, but for the
16 benefit of all Canadians.

17 According to a family member, Aleem Quraishi;

18 “This is the last chance we have to be heard and to bring
19 about a change in the society, bring about changes to the
20 systems.”

21 We need to fully appreciate the lessons of the Air India tragedy
22 with a view to improving national security and the protection of Canadians. We need to
23 fully understand because the best memorial for the loved ones lost and the thousands of
24 families impacted by this horrific tragedy is that Canada, as well as other nations should,
25 at the very least, learn important lessons from what happened, thus ensuring that those

1 lives cut short in such a heinous way were not lost in vain, and that every conceivable
2 effort will be made to ensure that this sort of terrorist episode never happens again.

3 The Commissioner is well aware that for 21 years the Air India
4 Victims Family Association has been pleading to be heard; to be able to ensure light
5 would be shed on this reprehensible act of violence which has now caused this
6 immeasurable sorrow and grief upon all those connected to the victims.

7 I must make a comment relating to Mr. Brucker's earlier remarks.
8 This Commission would not have begun and this Inquiry would not have been called with
9 you at the helm, Mr. Commissioner, had the families not fought as hard as they did to
10 make this happen.

11 There's no doubt that we're not -- we wouldn't expect for a
12 moment the government to be reckless in terms of the way in which documents are
13 presented or information is provided in the public way, but it's absolutely critical that
14 every measure, every step we take and to make this as public as possible, for us to have
15 confidence that what is in the private domains and the hands of government bureaucrats
16 and within those agencies that are responsible to help through us -- help us essentially,
17 are keen to understand our obligation, in a sense, our duty on behalf of the families and
18 Canadians to make this as public as possible.

19 While we did take this step months ago -- rather, weeks ago, to
20 address the issue of in camera hearings, we did that recognizing there would likely be
21 some portions -- but also recognizing that perhaps those within government that would be
22 providing instructions to Mr. Brucker, would perhaps provide the same comments, and if
23 I may dare say, excuses as to why nothing would be made public.

24 We want to understand what happened and there likely are
25 documents that have not seen the light of day in a public way that likely should, for us to

1 take the steps necessary.

2 Et en maintenant complete l'étape un de Enquête les famillies de
3 victims de cette tragedie Canadianne on du l'occasion d'entre entendu et departage avec
4 nous un partie de leur souffrance. Ce qui on parle l'on fait avec elequance. Cette
5 occasion a parmi au canadien de comprend les aspeq humaine de cette catastrophe.

6 This Commission heard dozens of emotional stories of lives
7 affected in countless ways. We heard Dr. Bal Gupta express his inner sorrow at the loss
8 of his wife; mother to his two sons, when he told this Inquiry that:

9 "All happy occasions, my sons winning a game, passing
10 examinations, getting awards, getting married, myself
11 getting a promotion or an award or some recognition have
12 been tainted by an underlying pain. We have cried
13 internally even when we appear to laugh on the outside."

14 Dr. Gupta is here with us today, recognizing the importance as we
15 continue.

16 The Air India Victims Family Association appreciates that it has
17 had the opportunity to seek closure through the stories conveyed by family members of
18 their personal tragedy with fellow Canadians. However, we are also abundantly aware
19 that for this Inquiry to have any real and lasting significance to this nation, Stage 2 must
20 succeed in addressing the Inquiry's mandate, as defined in its Terms of Reference.

21 As Susheel Gupta, who is also here this morning, a victim of this,
22 this Commission had heard from her earlier, said so poignantly, "As a nation we have
23 somehow failed to prevent this tragedy."

24 It continues:

25 "More importantly, we failed also to incorporate this

1 terrorist attack into our history. That has been hurtful, not
2 only to the families but to the entire country. As a result,
3 we collectively acted as if terrorism has never happened
4 here, as if we are somehow immune from the current threat
5 of global terrorism. We always have thought of terrorism
6 as occurring somewhere else, but terrorism in Canada has
7 already been a fact of life and the sooner we learn from it
8 the better.”

9 With that said, we must know more about how Canada assessed
10 the terrorist threats at the time, in 1985. We must know how Canada’s security
11 intelligence and police forces addressed anti-terrorism initiatives and how they managed
12 the investigation. We must learn how Canada’s airport safety regulations worked and
13 how they failed to prevent Canada’s worst terrorist-motivated bombing. From this, we
14 must establish what went wrong and make sure that these mistakes are not repeated.

15 As the Honourable Bob Rae notes:

16 “The Air India bombing was Canada’s introduction into the
17 modern age of terrorism. Have we learned its lessons?”

18 We have no choice but to learn and take note of what must be
19 avoided so as not to instill an atmosphere of complacency by government and those
20 officials upon whom we rely to protect Canadians from politically motivated or extremist
21 generated violence.

22 Now, I will call on my lead counsel, Norm Boxall.

23 **THE COMMISSIONER:** Mr. Shore, you understand that some
24 of the points you make, some of the allegations, may require you to support that by
25 evidence as we proceed through the next phase of the Hearing.

1 **MR. SHORE:** I appreciate that, Mr. Commissioner.

2 --- **STATEMENT BY / DÉCLARATION PAR MR. NORMAN BOXALL:**

3 **MR. BOXALL:** As we really embark on Stage 2 of the Inquiry,
4 Stage 2 of the Air India Inquiry is a policy review as mandated by the Terms of
5 Reference. It is the Commission's opportunity to share what lessons are to be learned
6 from the Air India tragedy.

7 Stage 2 will examine the institutional and public policy
8 implications of the bombing of Flight 182 and what followed, with a view to establishing
9 a foundation that will enable you, as Commissioner, to make recommendations that will
10 assist the government to improve the ability of our police enforcement, security
11 intelligence, revenue, and transport related institutions, in addition to our criminal justice
12 system, to respond to the threat that terrorism poses in the 21st century.

13 Your work will have been successful when those who prey on
14 innocent victims in the name of hate will know that they will not succeed in fulfilling
15 their evil deeds in this country because of the measures taken by the government in light
16 of your recommendations.

17 **THE COMMISSIONER:** (off mic)

18 **MR. BOXALL:** It sure is.

19 The Air India Victims Family Association looks forward with
20 great anticipation to the findings and recommendations that you will make, Mr.
21 Commissioner, with respect to the Inquiry's Terms of Reference.

22 Our goals to accomplish for this Inquiry correspond to your Terms
23 of Reference and the answers they seek, with the additional element that accountability,
24 either individual or organizational, figures into your findings.

25 This Inquiry must not be, in the words of Esther Venketeswaran,

1 offered to us? Did we not qualify? Did our situation not
2 matter? My feeling is that this wasn't recognized as a
3 Canadian tragedy until very recently and that it did not
4 really matter to them.”

5 Three, the consistent unwillingness or inability by the government
6 to offer an apology for the failure to protect Canadians, failure to communicate directly
7 with the victims until June 1995, bring the accused before the criminal justice system,
8 and commence an inquiry in a timely manner.

9 Four, the systemic response by the government that nothing could
10 be done while the criminal investigation was ongoing.

11 Five, and whether the poor response of the government to the
12 disaster was as surmised by some as a result of systemic discrimination. Too many times
13 the question has been asked whether the treatment of the families and the response to the
14 tragedy would have been the same if 329 Canadians of light skin would have lost their
15 lives on Air India flight 182. In the words of AIVFA member, Dr. Ramji Khandelwal:

16 “Mr. Commissioner, I ask you whether we should tolerate
17 such things in our country. Is this because the majority of
18 victims were of Indian origin? We wonder if victims were
19 of European descent, whether public or the government
20 would have been inertly tolerant for the lack of response
21 and the progress in this case; why it took twenty years for
22 our Prime Minister to say that it was a Canadian tragedy.”

23 Too many times has the question been raised for it to be ignored.
24 We hope that the Commissioner will also provide advice to the government about how to
25 treat and assist any future victim's families in terrorism-related cases should, heaven

1 forbid, a similar terrorist attack ever occur again.

2 With respect to deficiencies in the relationship between the Royal
3 Canadian Mounted Police and the Canadian Security Intelligence Service, AIVFA
4 members, Ali Tahir Sadiq and Jayashree Thampi and their testimony before this
5 Commission, expressed concerns that for them and us, continue to persist.

6 Some of their concerns were:

7 One, about the failure of both organizations to adequately assess
8 the threat of Sikh terrorism and prevent the Air India bombing.

9 Two, where there was a duty to warn those traveling to India of a
10 threat.

11 Three, about the inability of both organizations to work together
12 properly at least through the early days when the RCMP Security Service mandate was
13 removed and the new CSIS mandate imposed.

14 Four, about the lack of translators at CSIS and the calling off of
15 surveillance by CSIS of suspected Sikh terrorist immediately before the Air India
16 bombing, or yet after suspicious behaviour by suspected individual targets.

17 Five, whether CSIS might have prevented the Air India bombing if
18 they had, as a senior CSIS official admitted a year after the Air India disaster, recognized
19 the sound of the test bomb exploding after CSIS observed Messrs. Parma and Reyat
20 entering a wooded area in Duncan, British Columbia on June 4, 1985.

21 Six, about the destruction of the tapes; and Seven, the untimely
22 delay and inability by the RCMP to obtain cogent evidence to successfully bring to
23 justice the conspirators of this heinous crime and those responsible for committing the
24 murder of 329 innocent lives.

25 It is critical that the Commission analyze and take the time needed

1 to identify any deficiencies in the cooperation between the RCMP and CSIS and other
2 government agencies. Related to this is a necessary reconciliation of the goals of
3 gathering intelligence with the goals of criminal justice and the prosecution of crimes
4 relating to terrorism. How best can or should the RCMP use intelligence information
5 held by CSIS in criminal trials?

6 With respect to airline security, we know that there were
7 significant deficiencies in dealing with Air India flight 182. AIVFA member Deepak
8 Khandelwal asked in his testimony before this Commission, “What else needs to be done
9 to improve airline and airport security?” Can Canadians be assured that air travel to and
10 from Canada is safe and that a similar bombing of an aircraft departing from a Canadian
11 airport could not happen today? What is the level of airline security today? What are the
12 standard measures to which we in Canada ascribe to regarding airline security related
13 policies and procedures? How do they compare with other countries that are subject to
14 terrorist threats? How does one ensure our security related policies and procedures are
15 followed? Is there a duty to warn the travelling public when there exists a known threat
16 to airline security?

17 Regarding terrorist financing, AIVFA member Perviz Madon, in
18 her testimony before the Commission, put it simply, “I think it needs to stop.” We must
19 seek to know whether Canada’s current laws are adequate to preclude the flow of funds
20 to terrorist organizations. Does the government have sufficient capabilities to monitor
21 and investigate instances of terrorist financing? Did we learn any lessons since 1985?
22 What current measures are in place to stifle the ability of designated charitable entities
23 from applying monies for non-charitable purposes?

24 Moreover, with respect to the judicial process, what is the
25 suitability of having terrorism-related trials conducted by a panel of three judges instead

1 of a single judge? In this testimony AIVFA member Eric Beauchesne felt that:

2 “Any one man having to decide on the fate of men that are
3 accused of killing hundreds, perhaps thousands of others
4 should not be given to any one person. This is just simply
5 too much.”

6 What is the ability of police authorities to protect witnesses? Why
7 have we failed in this regard? In addition, concerns about the lack of cultural sensitivity
8 and understanding at all stages, including investigation, prosecution and judicial
9 termination also need to be addressed.

10 Mr. Shore will have some concluding remarks.

11 --- **CONCLUDING STATEMENT BY / DÉCLARATION FINALE PAR MR.
12 JACQUES SHORE:**

13 **MR. SHORE:** As stated at the outset, and in need of being
14 repeated, Mr. Commissioner, these concerns raised some questions posed by the Air
15 India Victims Family Association are particularly relevant because they speak directly to
16 the complex world in which we live today.

17 Par exemple, dans un article du National Post, publié le 4 mai
18 2006, nous avons appris que dans des documents préparés par le Service canadien du
19 renseignement de sécurité à la suite des attentats suicides de l’été de dernier à Londres, il
20 était écrit que le Canada avait son propre réseau d’extrémistes et que le SCRS avait mené
21 une enquête sur ces terroristes. Cette nouvelle génération de terroristes consistait
22 principalement d’extrémistes radicaux nés au Canada.

23 On October 27, 2006 in a news article entitled, “Spy Agency
24 Mounties Rethink Relationship”, we learned that the RCMP and CSIS recently signed a
25 new Memorandum of Understanding that lays out guidelines for how the two agencies

1 should now share information. We learned the relations between the two agencies have
2 been strained over the years with CSIS objecting to being compelled to notify the RCMP
3 of potential criminal activity and that in the opinion of CSIS the RCMP is too
4 decentralized with inadequate central control to steer national investigations.

5 At the same time, we learn that the RCMP feels that CSIS
6 sometimes attempts to block or control the information that is already released. Indeed,
7 interesting that it was only a short while ago we heard through public statements many
8 times over how the relationship between these two organizations were positive and that
9 their respective officials were cooperating with each other.

10 In August 2006, Senator Colin Kenny warned us that, and I quote:

11 “Airport security in Canada is like a house where the front
12 door is locked but the back door is ajar and the windows
13 are wide open.”

14 Since Senator Kenny’s warning, we learned that in September
15 2006, five years after 9/11, a \$7 million program that requires pilots and airport workers
16 to go through biometric screening before entering secure areas isn’t fully in place, among
17 other things.

18 In October 2006, we learned that organized crime is intimidating
19 Customs workers at Montreal’s Pierre Elliott Trudeau International Airport to prevent the
20 search of some aircraft and that alleged mobsters had given money to airport workers in
21 exchange for their help in some cases.

22 In late 2006, the review of the *Canadian Air Transport Security*
23 *Authority Act* alerted us to gaps and vulnerabilities in Canada’s aviation security system.
24 According to the CATSA review, air cargo operations and passengers at Fixed Base
25 Operations represent significant security gaps because they are largely unscreened at

1 present and more needs to be done with respect to "difficult to detect substances" and to
2 shore up security at air terminals where unauthorized persons have been known to gain
3 access to restricted areas of airports.

4 Interestingly, this review rejected CATSA's request to become a
5 member of the Federal Integrated Threat Assessment Centre, the government's critical
6 centre with responsibility to produce comprehensive threat assessments for various
7 government departments and agencies despite the fact that Senator Colin Kenny,
8 Chairman of the Senate's National and Security Defence Committee, suggests that
9 CATSA, I quote:

10 "…has something to add because they are implementers;
11 what they have to bring to the practical insight of how a
12 user might deal with something."

13 It is anticipated that the recommendations that will follow in a
14 separate report currently being prepared by the CATSA Review Advisory Panel will be
15 made available to this Commission concerning whether further changes in practice or
16 legislation are required to address the specific aviation security breaches associated with
17 Air India Flight 182, particularly those relating to the screening of passengers and their
18 baggage.

19 À la fin de janvier 2007, un rapport d'examen spécial de
20 l'Administration canadienne de la sûreté du transport aérien a été rendu public par la
21 Vérificatrice générale du Canada. Le rapport cite, entre autres, les problèmes encourus
22 par l'Administration canadienne de la sûreté du transport aérien ont engagé, et en retenant
23 les services d'agents des projections faiblement rémunérées, ce qui a mené des
24 compagnies du secteur privé, engagées pour assurer la sécurité, à recourir à des pratiques
25 qui pouvaient augmentées les risques à la sécurité comme, par exemple, le manque

1 d'officiers de dépistage pendant les périodes de point où un agent devait exécuter deux
2 fonctions à la fois.

3 The report also noted that CATSA feels it is hamstrung by
4 regulations that prevent it from implementing measures it believes will make air travel
5 safer, such as using dogs to search people and baggage for explosives and behaviour
6 techniques, observation techniques, so screening officers can identify passengers for
7 closer scrutiny.

8 On October 5, 2006 we learn that Canada was a key cash conduit
9 for terrorists with an estimated \$256 million being funnelled by terrorist groups through
10 Canada according to the 2005-2006 Annual Report of the Financial Transactions and
11 Report Analysis Centre of Canada. We also learn that according to a newly disclosed
12 secret intelligence report prepared for Prime Minister Stephen Harper, I quote:

13 "A number of organizations that practice terrorism use
14 Canada as a source of funds, recruitment and safe haven."

15 On October 25, 2006 we learned that an armed Islamic group in
16 Afghanistan, that is blamed for attacks against Canadian soldiers, has allegedly been
17 raising money in Canada. Is the bill introduced by Finance Minister Jim Flaherty on
18 October 5, 2006 to strengthen the *Proceeds of Crime, Money Laundering and Terrorist*
19 *Financing Act* strong enough? What kind of assurances are there that the necessary
20 levers are in place to stop the criminal behaviour that we have witnessed in the past?

21 On October 7, 2006 we also learn that federal Public Safety
22 Minister, Stockwell Day, wants to close holes in the visa application process that is
23 letting security risks into Canada. Recently, visas were granted to enable travel by
24 perceived security risks to Canada at the invitation of religious societies with charitable
25 status. Well, we have to ask, what have we learned?

1 recommendations for change, though long overdue, is indeed now. The Air India
2 bombings, in your words, Mr. Commissioner, and I quote:

3 “...was the most insidious episode of cowardice and
4 inhumanity in our history at the time and remains among
5 the worst aviation disasters in Canadian and world history.”

6 Mr. Commissioner, while the loss of innocent lives is irreversible,
7 what is to be prevented is the possible recurrence of such tragedies. If this tragedy is to
8 truly strengthen our nation then this must be our goal. Only in this way do we
9 appropriately memorialize the victims and show respect to these grieving families left
10 behind to pursue a just and lasting legacy.

11 Thank you.

12 **THE COMMISSIONER:** Mr. Shore, do you intend to file this as
13 an opening statement?

14 **MR. SHORE:** Yes, we do, Mr. Commissioner.

15 **--- EXHIBIT NO./PIÈCE NO. P-103:**

16 AIVFA OPENING STATEMENT : Stage Two of the Air
17 India Inquiry Commission of Inquiry into the Investigation
18 of the Bombing of Air India Flight 182 - February 19, 2007

19 **THE COMMISSIONER:** I think it should be noted that this is an
20 opening statement; that it should not be taken as proof of the allegations that are
21 contained in it. That will be supported later, I understand from you, by evidence of a
22 different sort.

23 **MR. SHORE:** We thank you. Thank you, Mr. Commissioner.

24 **MR. FREIMAN:** Mr. Commissioner, pursuant to a ruling made
25 in the summer, we have a number of intervenors who have expertise or an interest in the

1 subject matter of these proceedings. You have granted them the opportunity to make
2 brief opening statements during those parts of our proceedings in which their interests or
3 their expertise is implicated.

4 This morning, one of those intervenors, the World Sikh
5 Organization, requests leave to address you in terms of its perspective on the
6 proceedings. You have not had an opportunity yet to see their counsel, so I'd like to
7 introduce to you, Mr. Alexander X. Sabharwal, who will be addressing you.

8 --- **STATEMENT BY / DÉCLARATION PAR MR. ALEXANDER SABHARWAL:**

9 **MR. SABHARWAL:** Good morning, Mr. Commissioner. Thank
10 you for the opportunity to make these opening submissions.

11 My name is Alexander Sabharwal and I am counsel to the World
12 Sikh Organization of Canada in these proceedings, along with my colleague Palbinder
13 Shergill, who is unable to attend today's hearing.

14 Mr. Commissioner, I would like to start by reviewing the terms of
15 the Order by which the World Sikh Organization has been granted intervenor status.
16 Pursuant to your Order, the WSO's participation will focus on matters affecting the
17 reputational interests of the Sikh community. This is a very important objective and as
18 the WSO is the only Sikh organization present at this Inquiry we have interpreted this
19 role broadly

20 The tragic nature of the events that are the subject of this Inquiry,
21 coupled with the public nature of the Inquiry and the widespread media attention makes
22 our role even more critical.

23 Mr. Commissioner, you will hear much evidence during this
24 Inquiry about the religious background of the victims of this tragedy, the political events
25 in Punjab, and the assumed religious and political affiliations of those responsible for this

1 tragedy.

2 The WSO would, with the greatest of respect, caution this Inquiry
3 against making conclusive statements about the political and religious affiliations of, as
4 yet, unidentified individuals, especially when such statements would have the effect of
5 synonymising the Sikh religion with terrorism.

6 So, let me start if I could, by saying a word or two about the Sikh
7 religion. The Sikh religion advocates as its basic tenet respect for all humanity,
8 irrespective of faith, gender, race, ethnicity or caste.

9 Founded in the late 1400s in the northern part of what is now
10 known as India, Sikhism, from its inception has prohibited caste distinctions, spoken in
11 favour of religious freedom for persons of all religious beliefs and has practiced full
12 equality as between men and women.

13 Such notions were virtually unprecedented at that time. These
14 notions today form the basis of leading human rights documents, such as the *Canadian*
15 *Chart of Rights and Freedoms*.

16 Sikhs today comprise the fifth largest faith community in the
17 world. There are approximately 22 million members of the Sikh faith worldwide, with 12
18 million residing in India and the balance spread throughout the rest of the world. In
19 North America, there are approximately 700,000 Sikhs and of that number about
20 400,000, or more than half, live in Canada.

21 As the Commission has pointed out in its Background and
22 Summary of the Facts, over this past century and especially since the mid-60's -- the mid-
23 60s being a period which saw significant Sikh immigration from India, Canada's Sikhs
24 have established themselves in this country as hardworking, law-abiding citizens.

25 The Sikh community has been a part of the rich heritage of

1 Canadian society, Mr. Commissioner, for over 100 years. During that time, the Sikhs
2 have shown themselves to be vital participants in their communities. The challenges
3 faced by the Sikhs during the decades of their integration into Canadian society are, in
4 some measure, similar to those challenges which have been faced by other groups of
5 Canadians.

6 However, the events of the early and mid-1980s have been a
7 watershed moment in Canadian Sikh history. In 1984 the Sikh community was reeling
8 from the devastating political events in India which resulted in their holiest place of
9 worship being destroyed by the Indian government. It was during that tumultuous year
10 that the World Sikh Organization was founded.

11 The World Sikh Organization of Canada is a national
12 representative body of Sikhs in Canada and is a part of the international body called the
13 World Sikh Organization.

14 The WSO is an international human rights organization; its
15 mandate being to promote and protect the interests of the Sikh diaspora, as well as to
16 advocate for the promotion of human rights for all individuals, irrespective of race,
17 religion, gender, ethnicity or social or economic status.

18 In Canada, the WSO has been active in the field of human rights
19 and continues to strive towards the following objectives -- the following principle
20 objectives; fostering understanding and goodwill towards all nations, creeds, persuasions
21 and faiths; acting as a representative body and spokesperson for the Sikhs of Canada and in
22 this regard liaising with governmental and non-governmental agencies in apprising them
23 of the religious, social, legal and cultural interests of the Sikhs; and achieving these
24 objectives only in a way that is consistent with the doctrines and ethics of Sikhism and
25 with Canadian law.

1 that those steps that have been taken thus far be looked at carefully in order to determine
2 the extent to which they are working and the extent to which they can be improved.

3 Sadly, that which the families of the victims deserve most, to know
4 the identity of the culprits of this terrible crime is the one thing that this Inquiry is unable
5 to do.

6 We are pleased that this Commission has been established, Mr.
7 Commissioner, and that the WSO has been given an opportunity to participate. We
8 understand that the purpose of this Commission is broad.

9 It is established in an effort to learn about the mistakes that
10 might have been made in the past in investigating the Air India bombing so that such
11 mistakes are not made again.

12 For the Sikh community, the mistakes have been many. The Sikh
13 community has been subjected to widespread investigation by the Canadian Intelligence
14 Services with many innocent Sikhs being routinely followed, wire tapped and questioned
15 in an ethnic profiling process that often has seemed to make the term “Sikh” synonymous
16 with terrorism. It is in that context that the WSO sees its role at this Inquiry.

17 One final point, Mr. Commissioner, the WSO is concerned about
18 the tendency in these proceedings to use phrases such as “Sikh terrorism” “Sikh
19 terrorists” and “Sikh extremists”. Indeed, the first of these phrases, “Sikh terrorism” has
20 been embedded into the Terms of Reference of this Inquiry. Mr. Commissioner, for the
21 public at large such language can leave the impression that all members of the Sikh faith
22 are terrorists or extremists and it is the submission of the World Sikh Organization that
23 such language ought to be avoided, not only because such a notion is clearly factually
24 incorrect but also because any such notion is offensive to the values of equality and
25 multiculturalism on which our country and our society is built.

1 The fact is that the vast majority of the Sikh community is made up
2 of peaceful, law-abiding members of society, as for that matter, are the vast majority of
3 those members of the Sikh community who believe in the importance of an independent
4 homeland for Sikhs. Any language that would suggest anything to the contrary ought to
5 be avoided not just out of a desire to not offend members of our society who are of the
6 Sikh faith, but also in recognition of the fact that language has the power to influence
7 people's views and perceptions, notwithstanding that any such effect may be unintended.

8 The Sikh community, Mr. Commissioner, ought not to be branded
9 as terrorists or as extremists.

10 On that note that completes my opening, Mr. Commissioner.
11 Thank you again on behalf of the World Sikh Organization for the opportunity to make
12 this statement and I look forward to our participation in the weeks to come.

13 **THE COMMISSIONER:** Can you tell me how many Sikhs were
14 on the plane of Flight 182?

15 **MR. SABHARWAL:** I don't have that number just offhand but
16 it would be dozens, and I could provide the exact figure in time.

17 **THE COMMISSIONER:** Would you do that to Commission
18 counsel?

19 **MR. SABHARWAL:** Yes.

20 **THE COMMISSIONER:** A point you raise about the description
21 of Sikh terrorists, how would you propose to describe those members of the Sikh
22 community who are terrorists assuming, as you say, that the vast majority are law abiding
23 good citizens? How do you separate the fundamentalists from that group without
24 describing them as terrorists within the Sikh organization or within the Sikh family?

25 **MR. SABHARWAL:** Thank you, Mr. Commissioner.

1 It's the World Sikh Organization's position that the proper way to
2 refer to terrorists of whatever ethnic or religious background is simply as terrorists. It's --
3 -

4 **THE COMMISSIONER:** But actually, that presents difficulties,
5 doesn't it if there is Islamic terrorists or, you name the organization, law abiding but
6 within that group are terrorists.

7 **MR. SABHARWAL:** Yes.

8 **THE COMMISSIONER:** Terrorists is sort of a generic term.
9 Can it apply to -- can we simply say terrorists without identifying the larger group from
10 which those terrorists were taken even though that larger group vehemently oppose
11 anything but law and order?

12 **MR. SABHARWAL:** There is no doubt that terrorism is an
13 extremely grave social -- is an extremely grave problem and that there are different
14 varieties of terrorism. Terrorism seeks to pursue a particular political agenda through
15 violence and it's clear that there are a number of situations throughout the world that
16 have given rise to this and it's inevitable.

17 In the investigation of terrorism there is no doubt, Mr.
18 Commissioner, that each category of terrorism needs to be investigated separately with
19 different resources and personnel and so on. And so there is no question that the term
20 "Sikh terrorism" will be used as a technical term within Sikh -- within security and
21 investigation services. The difficulty and the concern is when the use of that technical
22 security related term migrates to our general discussion of issues in the public forum.

23 There is no doubt what category or what the nature of the terrorism
24 is that we are dealing with in the Air India Inquiry and there isn't issues of others -- other
25 brands of terrorism involved in this Inquiry. And I think use of the term "terrorism" will

1 suffice for our purposes for that reasoning.

2 **THE COMMISSIONER:** Well, you'll have a chance to come
3 back but that answer I don't find complete enough. We have Irish terrorists. We have
4 Islamic terrorists. It seems to me that it's almost necessary depending on the activity to
5 identify the group that's suspected.

6 But let me ask you another question. In response to this Air India
7 tragedy did the World -- what was the response of the World Sikh Organization?

8 **MR. SABHARWAL:** The World Sikh Organization's immediate
9 response -- and that response has been consistent over the past 20-odd years has been to
10 call for an inquiry and to draw attention to the extreme tragedy of these events.

11 The WSO's mandate is -- it's a human rights organization with a
12 mandate to protect religious freedom, equality and other civil liberties and rights. So the
13 WSO's primary involvement has been in this, as I have indicated -- sorry. I shouldn't
14 repeat myself. It's simply we have -- the WSO has called for an inquiry very early on
15 and has steadily maintained that call.

16 **THE COMMISSIONER:** And I take it that they are unforgiving
17 of whoever it is that was the cause of the tragedy?

18 **MR. SABHARWAL:** There is no doubt that the World Sikh
19 Organization is an international human rights organization. It's not -- it doesn't advocate
20 or tolerate violence in the pursuit of political goals.

21 **THE COMMISSIONER:** Thank you.

22 **MR. SABHARWAL:** Thank you, Mr. Commissioner.

23 **MR. FREIMAN:** Mr. Commissioner, you have heard words of
24 hope. We have heard words of caution. We have heard words of trepidation as to the
25 way forward. It would be at this point that we would have proposed to begin calling

1 evidence. Your ruling, correctly in my respectful submission, recognizes that we can't do
2 that in the present state of the documents and that redoubled efforts are necessary to
3 ensure that the public nature of the answers to the questions that have been raised this
4 morning is respected.

5 We will go away and over the next nine sitting days work to ensure
6 that the information that the public needs and the family needs and that you need in order
7 to fulfil the mandate, that that information is publicly available and we will return on the
8 5th of March prepared to call evidence in that respect.

9 **THE COMMISSIONER:** So the matter then stands adjourned
10 till that date.

11 **THE REGISTRAR:** All rise.

12 --- Upon adjourning at 11:04 a.m./

13 L'audience ajournée à 11h04

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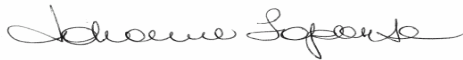
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C E R T I F I C A T I O N

I, Johanne Laporte, a certified court reporter in the Province of Ontario, hereby certify the foregoing pages to be an accurate transcription of my notes/records to the best of my skill and ability, and I so swear.

Je, Johanne Laporte une sténographe officiel dans la province de l’Ontario, certifie que les pages ci-hautes sont une transcription conforme de mes notes/enregistrements au meilleur de mes capacités, et je le jure.



Johanne Laporte, CVR

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