

IN THE MATTER OF THE COMMISSION OF INQUIRY INTO THE INVESTIGATION OF  
THE BOMBING OF AIR INDIA FLIGHT 182

The Honourable John C. Major, Q.C., Commissioner

AND IN THE MATTER OF a Motion by Air India for  
Partial Standing in Stage II of the Inquiry

**MOTION RECORD**

(returnable Tuesday, July 18, 2006)

July 6, 2006

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Solicitors for the Moving Party Air India

**TO: THE COMMISSIONER**  
Commission of Inquiry into the Investigation of the Bombing of  
Air India Flight 182  
222 Queen Street  
Ottawa, Ontario  
K1P 5V9

**AND TO: THE COMMISSION COUNSEL**  
Commission of Inquiry into the Investigation of the Bombing of  
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IN THE MATTER OF THE COMMISSION OF INQUIRY INTO THE INVESTIGATION  
OF THE BOMBING OF AIR INDIA FLIGHT 182  
The Honourable John C. Major, Q.C., Commissioner

AND IN THE MATTER OF a Motion by Air India for Partial Standing in Stage II of the  
Inquiry

**NOTICE OF MOTION**  
(returnable Tuesday, July 18, 2006)

**TAKE NOTICE THAT** Air India will make a motion to the Commissioner on Tuesday, July 18, 2006 at 9:30 a.m., or as soon thereafter as the motion can be heard, at Victoria Hall, Bytown Pavillion, 111 Sussex Drive, Ottawa, Ontario.

THE MOTION IS FOR:

- a) An Order granting Air India partial standing as a party at Stage II of the Commission of Inquiry into the Investigation of the Bombing of Air India Flight 182 (hereinafter the "Inquiry") with respect to the following portions of section (b) of the Terms of Reference, as established by the Order in Council, P.C. 2006-293:
  - i. if there were deficiencies in the assessment by Canadian Government officials of the potential threat posed by Sikh terrorism before or after 1985, or in their response to that threat, whether any changes in practice or legislation are required to prevent the recurrence of similar deficiencies in the assessment of terrorist threats in the future;
  - ii. if there were problems in the effective cooperation between government departments and agencies, including the Canadian Security Intelligence Service and the Royal Canadian Mounted Police, in the investigation of the bombing of Air India Flight 182, either before or after June 23, 1985, whether any changes in practice or legislation are required to prevent the recurrence of similar problems of cooperation in the investigation of terrorism offences in the future;

iv. whether Canada's existing legal framework provides adequate constraints on terrorist financing in, from or through Canada, including constraints on the use and misuse of funds from charitable organizations;

vi. whether the unique challenges presented by the prosecution of terrorism cases, as revealed by the prosecutions in the Air India matter, are adequately addressed by existing practices or legislation and, if not, the changes in practice or legislation that are required to address these challenges, including whether there is merit in having terrorism cases heard by a panel of three judges; and

vii. whether further changes in practice or legislation are required to address the specific aviation security breaches associated with the Air India Flight 182 bombing, particularly those relating to the screening of passengers and their baggage.

**THE GROUNDS FOR THE MOTION ARE:**

- a) Air India Limited is a corporation wholly owned by the Government of India, which operates as Air India;
- b) Air India's Canadian office is located at the following address: 5955 Airport Road, Suite 218, Mississauga, Ontario, L4V 1R9, telephone (905) 405-2168, facsimile (905) 405-2169, email [yyz@airindiacanada.ca](mailto:yyz@airindiacanada.ca);
- c) Air India was the operator of Air India Flight 182 that is the subject matter of the Inquiry;
- d) Air India was also the employer of 22 of the victims of the bombing of Air India Flight 182;

- e) Air India, as the target of the terrorist attack, as well as the employer of a number of the victims, is directly and substantially affected by the portions of the mandate of the Inquiry set out in clauses (b)(i), (b)(ii), (b)(iv), (b)(vi) and (b)(vii) of the Terms of Reference of the Commission, P.C. 2006-293;
- f) Air India is not directly and substantially affected by matters solely relating to criminal justice issues, which are set out in clauses (b)(iii) and (b)(v) of the Terms of Reference of the Commission, P.C. 2006-293;
- g) Air India has extensive information, experience and firsthand knowledge of the issues giving rise to the Inquiry, as well as the subsequent investigations;
- h) Air India represents a distinct and ascertainable interest and perspective, which is essential to the Commission's mandate and its participation would enhance the work of the Commission with respect to the issues under consideration; and
- i) Such further and other grounds as counsel may advise and the Honourable Commissioner may permit.

**STATUTORY PROVISIONS OR RULES UPON WHICH AIR INDIA PLACES RELIANCE ON:**

- a) The *Inquiries Act*, R.S. 1985, c. I-11;
- b) The Inquiry's *Rules of Procedure and Practice*; and
- c) Such further and other provisions as counsel may advise and the Honourable Commissioner may permit.

**IN SUPPORT OF THIS APPLICATION, THE APPLICANT RELIES UPON:**

- a) The Affidavit of Rajesh B, Chopra, sworn July 6, 2006;
- b) The written submissions of Air India;
- c) The oral submissions of counsel; and

- d) Such further and other material as counsel may advise and the Honourable Commissioner may permit.

**AIR INDIA MAY BE SERVED WITH DOCUMENTS PERTINENT TO THIS APPLICATION:**

- a) By service through counsel at Paterson, MacDougall LLP, One Queen Street East, Suite 2100, Box 100, Toronto, Ontario, M5C 2W5, fax (416) 366-3743, telephone (416) 366-9607, [soma.ray-ellis@pmlaw.com](mailto:soma.ray-ellis@pmlaw.com).

July 6<sup>th</sup>, 2006

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**AND TO: THE COMMISSION COUNSEL**  
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IN THE MATTER OF THE COMMISSION OF INQUIRY INTO THE INVESTIGATION  
OF THE BOMBING OF AIR INDIA FLIGHT 182

The Honourable John C. Major, Q.C., Commissioner

AND IN THE MATTER OF a Motion by Air India for  
Partial Standing for Stage II of the Inquiry

**AFFIDAVIT OF RAJESH B. CHOPRA**  
**(sworn July 6, 2006)**

I, Rajesh B. Chopra, of the City of Mississauga in the Regional Municipality of Peel,  
**MAKE OATH AND SAY:**

1. I am currently Manager Canada of Air India in Toronto, Ontario, Canada, and have been since March 27, 2005.

2. I have been employed by Air India since February 15, 1978 and at the material time, I was the Assistant Duty Manager stationed in Delhi, India and my responsibilities included flight handling at the Delhi Airport.

3. In my position as Assistant Duty Manager and my current position as Manager Canada, I have become intimately acquainted with the tragic bombing of Air India Flight 182 and its aftermath. As such I have personal knowledge of the matters hereinafter deposed. Where I do not have personal knowledge, I have relied on "Lessons to be Learned: The report of the Honourable Bob Rae, Independent Advisor to the Minister of Public Safety and Emergency Preparedness, on outstanding questions with respect to the bombing of Air India Flight 182" and the Canadian Aviation Safety Board's Occurrence Report, dated January 22, 1986. Attached hereto and marked as Exhibits "A" and "B" to this my Affidavit are true copies of the respective reports.

**Air India**

4. Air India is one of two government-owned airlines in India and is the largest international airline of India. Air India was and remains the national flag carrier of India.

5. Air India Limited is a corporation wholly owned by the Government of India, which carries on business as a commercial air carrier in Canada and throughout the world and operates as Air India.

6. Air India commenced operations in Canada effective October 2, 1982 out of Montreal and January 1985 out of Toronto. Immediately following the terrorist attack on Air India Flight 182, Air India ceased operations in Canada as a result of the attack. Canadian operations resumed in June 1991.

7. In 1985, Air India operated three flights a week originating from Toronto and Montreal to destinations in India.

### **The Attack**

8. Air India Flight 182, a Boeing 747, originated at the Toronto International Airport and continued to Mirabel Airport in Montreal, Quebec, Canada on June 22, 1985 and was scheduled to depart from Montreal at 20:20 EDT. It was destined for a re-fuelling stop at London Heathrow before continuing on to Delhi. The flight was scheduled to arrive in Delhi on June 23, 1985.

9. En route to London, Air India Flight 182 disappeared from the radar screens of the Shannon Air Traffic Control Centre in Ireland at 07:14 GMT. Ultimately, it was learned that the aircraft had crashed into the Ocean approximately 110 miles south-west of Cork, Ireland. Of the 329 persons onboard the aircraft, none survived.

10. The Canadian Aviation Safety Board later determined that Air India Flight 182 and its passengers and crew had been the victims of an explosive device that was contained in baggage stowed in the aircraft's cargo compartment.

11. Of the 329 victims, 22 were employees of Air India, they are:

- (1) Captain: Hanse Singh Narendra
- (2) Co-pilot: Satninder Singh Bhinder
- (3) Flight Engineer: Dara Dumasia

- (4) Inflight Supervisor: Sampath Lazer
- (5) Flight Purser: K.M. Thakur
- (6) Flight Purser: Inder Thakur
- (7) Flight Purser: Mr. Shukla
- (8) Flight Purser: S.P. Singh
- (9) Assistant Flight Purser: N. Vaid
- (10) Assistant Flight Purser: B.K. Sena
- (11) Assistant Flight Purser: N. Kashipri
- (12) Assistant Flight Purser: J.S. Dinshaw
- (13) Assistant Flight Purser: K.K. Seth
- (14) Airhostess: Miss. Raghaven
- (15) Airhostess: Miss. S. Ghatge
- (16) Airhostess: Miss. R. Bhasin
- (17) Airhostess: Miss. L. Kaj
- (18) Airhostess: Miss. P. Dinshaw
- (19) Airhostess: Miss. Lasarado
- (20) Airhostess: Miss. E.S. Rodricks
- (21) Airhostess: Miss. S. Gaonkar
- (22) Airhostess: Miss R.R. Phansekar



**Post-Attack**

12. At the time of the terrorist attack, I was on duty at the Delhi Airport. After it was learned that the aircraft had crashed, I was responsible for assisting the relatives of the passengers and crew members.

13. In the weeks and months that followed the terrorist attack, Air India and its employees were engaged in providing relevant information to the Canadian Government, making arrangements for passengers' relatives to fly to London, England or Cork, Ireland and handling all inquiries related to the terrorist attack.

14. As a result of the bombing of Air India Flight 182, Air India was the subject of or referenced in a number of reports, inquiries and investigations into the circumstances surrounding the incident of June 23, 1985, including:

- (a) Canadian Aviation Safety Board's Occurrence Report, January 22, 1986;
- (b) Lessons to be Learned: The report of the Honourable Bob Rae, Independent Advisor to the Minister of Public Safety and Emergency Preparedness, on outstanding questions with respect to the bombing of Air India Flight 182;
- (c) The Kirpal Report: Report of the Court Investigating, Accident to Air India Boeing 747 Aircraft VT-EFO, "Kanishka" on 23<sup>rd</sup> June 1985;
- (d) People and Process in Transition: Report to the Solicitor General by the Independent Advisory Team on the Canadian Security Intelligence Service, October 1987;
- (e) Report on Security Arrangements Affecting Airports and Airlines in Canada, September 24, 1985; and
- (f) Security Intelligence Review Committee Annual Report 1991-1992.

**Effect of Attack on Air India**

15. Air India's name, reputation and goodwill has been inextricably damaged as a result of the violence and tragedy surrounding the events of Air India Flight 182.

16. In fact, Air India as a result of the incident, ceased operations out of Canada in 1985. Air India recommenced operations out of Canada in 1991.

17. As a result of this incident and other factors, Air India is classified by Transport Canada as a high security threat, along with only one other international carrier. As such, Air India is required to take additional security precautions and provide additional security services that are not required of other airlines.

18. Due to the inordinate length of time over which the investigation and criminal proceedings have taken place, Air India's goodwill and reputation continue to be effected.

**Interests of Air India in Participating in the Inquiry**

*Pre-Terrorist Attack Investigation Issues*

19. Air India, as the target of the terrorist attack on June 23, 1985 and the employer of 22 of the victims of the attack, is directly and substantially affected by the determination as to whether there were deficiencies in the Canadian Government's assessment of the potential threat of Sikh terrorism or whether problems in effective co-operation between government agencies prevented that potential threat from being properly assessed.

20. Air India continues to be the potential target of terrorist attacks. As such, Air India is directly and substantially affected by the Inquiry's mandate with respect to improving security practices and policies, relevant legislation and inter-governmental co-operation with the goal of preventing further terrorist attacks.

21. I do verily believe that Air India is directly and substantially affected by the portions of the mandate of the Inquiry set out in (b)(i) and (b)(ii) of the Terms of Reference as summarized by the Commissioner as follows:

- (i) The extent to which the potential threats posed by Sikh terrorism prior to 1985 have been resolved, any legislative and procedural changes that are still needed;
- (ii) The extent to which any systemic problems with the inter-agency co-operation in the investigation of the bombing of Air India Flight 182 have been resolved with any legislative and procedural changes that are still needed.

*Post-Terrorist Attack Investigation Issues*

22. Air India, as the target of the terrorist attack on June 23, 1985 and the employer of 22 of the victims of the terrorist attack, has been directly and substantially affected by the failure to bring all persons responsible for the attack on Air India Flight 182 to justice.

23. Furthermore, Air India is directly and substantially affected by the Inquiry's mandate to examine why it took almost 20 years to identify, arrest and try three individuals allegedly involved in the commission of the terrorist attack. The publicity generated by the trials continue to effect the reputation and goodwill of Air India, more than 20 years after the attack occurred.

24. With respect to the resulting investigations and trials, Air India wishes to assist in examining whether and to what extent systemic discrimination issues and lack of understanding and appreciation of cultural differences resulted in the failure to bring all responsible parties to justice and/or contributed to the length of time that it took to conclude the investigation and criminal trials of the accuseds.

25. I do verily believe that Air India is directly and substantially affected by the portions of the mandate of the Inquiry set out in paragraphs (b)(ii) and (b)(vi) of the Terms of Reference as summarized by the Commissioner as follows:

- (ii) The extent to which any systemic problems with the inter-agency co-operation in the investigation of the bombing of Air India Flight 182 have been resolved with any legislative and procedural changes that are still needed.

- (vi) The sufficiency of our existing system to meet the unique challenges presented in prosecuting terrorism cases; and any changes that might be required, in particular the merits in having terrorism cases heard by a panel of three judges;

*Aviation Security Issues*

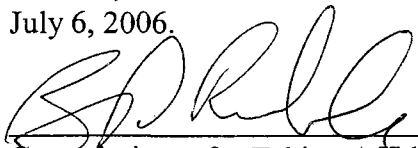
26. Air India, as an air carrier that operates out of Canada and as a potential target for terrorism given its status as the flag carrier for the Government of India, has a direct and substantial interest in preventing future terrorist attacks against Air India property and personnel and more broadly, as against other air carriers operating in Canada. Air India's particular susceptibility to terrorism is evidenced by the fact that Air India is classified as a high security threat, along with only one other international carrier.

27. I do verily believe that Air India is directly and substantially affected by the mandate of the Inquiry set out in paragraphs (b)(iv) and (b)(vii) of the Terms of Reference which are summarized by the Commissioner as follows:

- (iv) Whether Canada's existing legal framework provides adequate constraints on terrorist financing in, from or through Canada;
- (vii) The question as to whether future changes in practice or legislation are required to address the specific aviation security breaches associated with the Air India Flight 182 bombing, particularly those relating to the screening of passengers and their baggage.

28. I swear this Affidavit in support of Air India's request for standing at the Inquiry into the investigation of the bombing of Air India Flight 182 and for no other or improper purpose.

SWORN BEFORE ME at the City of Toronto, in the Province of Ontario on July 6, 2006.

  
\_\_\_\_\_  
Commissioner for Taking Affidavits



\_\_\_\_\_  
Rajesh B. Chopra

IN THE MATTER OF THE COMMISSION OF INQUIRY INTO THE INVESTIGATION OF  
THE BOMBING OF AIR INDIA FLIGHT 182

The Honourable John C. Major, Q.C., Commissioner

AND IN THE MATTER OF a Motion by Air India for  
Partial Standing in Stage II of the Inquiry

**Written Submissions of Air India**

July 6, 2006

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OF THE BOMBING OF AIR INDIA FLIGHT 182

The Honourable John C. Major, Q.C., Commissioner

AND IN THE MATTER OF a Motion by Air India for Partial Standing in Stage II of the  
Inquiry

**WRITTEN SUBMISSIONS OF AIR INDIA**  
**(motion returnable July 18, 2006)**

**PART I - OVERVIEW**

1. Air India was the operator of Air India Flight 182, that was the target of the terrorist attack that occurred on June 23, 1985. Twenty-two of the victims were employees of Air India and the remaining 307 victims were passengers of Air India.
2. Air India is seeking partial party status for Stage II of the *Commission of Inquiry Into the Investigation of the Bombing of Air India Flight 182* (hereinafter referred to as “the Inquiry”). Air India respectfully submits that the following portions of the Inquiry’s mandate directly and substantially affect it:
  - i. if there were deficiencies in the assessment by Canadian Government officials of the potential threat posed by Sikh terrorism before or after 1985, or in their response to that threat, whether any changes in practice or legislation are required to prevent the recurrence of similar deficiencies in the assessment of terrorist threats in the future;
  - ii. if there were problems in the effective cooperation between government departments and agencies, including the Canadian Security Intelligence Service and the Royal Canadian Mounted Police, in the investigation of the bombing of Air India Flight 182, either before or after June 23, 1985, whether any changes in practice or legislation are required to prevent the recurrence of similar problems of cooperation in the investigation of terrorism offences in the future;

...

- iv. whether Canada's existing legal framework provides adequate constraints on terrorist financing in, from or through Canada, including constraints on the use and misuse of funds from charitable organizations;

...

- vi. whether the unique challenges presented by the prosecution of terrorism cases, as revealed by the prosecutions in the Air India matter, are adequately addressed by existing practices or legislation and, if not, the changes in practice or legislation that are required to address these challenges, including whether there is merit in having terrorism cases heard by a panel of three judges; and
- vii. whether further changes in practice or legislation are required to address the specific aviation security breaches associated with the Air India Flight 182 bombing, particularly those relating to the screening of passengers and their baggage.

**Order in Council, P.C. 2006-293, (b)(i), (b)(ii), (b)(iv), (b)(vi) and (b)(vii), Tab 1.**

## **PART II - FACTS**

### *The Attack on Air India Flight 182*

3. Air India Flight 182, a Boeing 747, originated at the Toronto International Airport and continued to Mirabel Airport in Montreal, Quebec, Canada on June 22, 1985 and was scheduled to depart Montreal at 20:20 EDT. It was destined for a re-fuelling stop at London Heathrow Airport before continuing on to Delhi. The flight was scheduled to arrive in Delhi on June 23, 1985.

**Affidavit of Rajesh B. Chopra, sworn July 6, 2006, Motion Record of Air India, Tab 2, para. 8**

4. While en route to London, Air India Flight 182 disappeared from the radar of the Shannon Air Traffic Control Centre in Ireland at 07:14 GMT. Ultimately, it was learned that the aircraft had crashed into the Ocean approximately 110 miles south-west of Cork, Ireland. Of the 329 persons onboard the aircraft, none survived.

**Affidavit of Rajesh B. Chopra, sworn July 6, 2006, Motion Record of Air India, Tab 2, para. 9**

5. The Canadian Aviation Safety Board later determined that Air India Flight 182 and its passengers and crew had been the victims of an explosive device that was contained in baggage stowed in the aircraft's cargo compartment.

**Affidavit of Rajesh B. Chopra, sworn July 6, 2006, Motion Record of Air India, Tab 2, para. 10**

6. Prior to September 11, 2001, this attack on Air India Flight 182 was the deadliest terrorist attack involving an aircraft and caused the tragic death of all 307 passengers and 22 flight crew onboard.

**Affidavit of Rajesh B. Chopra, sworn July 6, 2006, Motion Record of Air India, Tab 2, Exhibit "A"**

*The Moving Party Air India*

7. Air India Limited is a corporation that is wholly owned by the Government of India. It carries on business as a commercial passenger and cargo carrier in Canada and throughout the world and operates as Air India.

**Affidavit of Rajesh B. Chopra, sworn July 6, 2006, Motion Record of Air India, Tab 2, para. 5**

8. Air India is the national flag carrier of India and is the largest international airline in India.

**Affidavit of Rajesh B. Chopra, sworn July 6, 2006, Motion Record of Air India, Tab 2, para. 4**



9. Air India commenced operations in Canada on October 2, 1982. As a result of the terrorist attack on Air India Flight 182, Air India ceased operations in Canada immediately following the attack. Operations in Canada were recommenced in 1991.

**Affidavit of Rajesh B. Chopra, sworn July 6, 2006, Motion Record of Air India, Tab 2, paras. 6**

10. In 1985, prior to the terrorist attack, Air India operated three flights daily originating from Toronto and Montreal to destinations in India.

**Affidavit of Rajesh B. Chopra, sworn July 6, 2006, Motion Record of Air India, Tab 2, para. 7**

11. Air India was the operator of Air India Flight 182 as well as the employer of 22 victims of the attack.

**Affidavit of Rajesh B. Chopra, sworn July 6, 2006, Motion Record of Air India, Tab 2, para. 11**

*Effect of the Attack on Air India*

12. Air India's name, reputation and goodwill has been damaged as a result of the violence and tragedy surrounding the events of Air India Flight 182.

**Affidavit of Rajesh B. Chopra, sworn July 6, 2006, Motion Record of Air India, Tab 2, paras. 15 and 23**

13. Additionally, as a result of the bombing of Air India Flight 182, Air India was the subject of or referenced, in a number of reports, inquiries and investigations into the circumstances surrounding the incident of June 23, 1985, including:

- (a) Canadian Aviation Safety Board's Occurrence Report, January 22, 1986;
- (b) Lessons to be Learned: The report of the Honourable Bob Rae, Independent Advisor to the Minister of Public Safety and Emergency Preparedness, on outstanding questions with respect to the bombing of Air India Flight 182;

- (c) The Kirpal Report: Report of the Court Investigating, Accident to Air India Boeing 747 Aircraft VT-EFO, "Kanishka" on 23<sup>rd</sup> June 1985;
- (d) People and Process in Transition: Report to the Solicitor General by the Independent Advisory Team on the Canadian Security Intelligence Service, October 1987;
- (e) Report on Security Arrangements Affecting Airports and Airlines in Canada, September 24, 1985; and
- (f) Security Intelligence Review Committee Annual Report 1991-1992.

**Affidavit of Rajesh B. Chopra, sworn July 6, 2006, Motion Record of Air India, Tab 2, para. 14**

14. As a direct result of the terrorist attack, Air India ceased its operations in Canada for a period of six years. As a result of this incident and other factors, Air India is considered by Transport Canada as a high security threat, along with only one other international carrier. As such, Air India is required to take additional security precautions and provide additional security services that other airlines are not required to provide.

**Affidavit of Rajesh B. Chopra, sworn July 6, 2006, Motion Record of Air India, Tab 2, para. 17.**

15. Due to the inordinate length of time over which the various investigations and criminal proceedings have taken place, Air India's goodwill and reputation continue to be effected.

**Affidavit of Rajesh B. Chopra, sworn July 6, 2006, Motion Record of Air India, Tab 2, para. 18**

### **PART III - LEGAL TEST FOR STANDING**

16. The *Rules of Procedure and Practice* of the Inquiry as issued by the Commissioner, provide at paragraph 10, that full or partial standing as a party may be granted where the applicant "is directly and substantially affected by the mandate of the Inquiry or portions thereof."

***Commission of Inquiry Into the Investigation of the Bombing of Air India Flight 182, Rules of Procedure and Practice, Paragraph 10, p. 2. Tab 2.***

17. O'Connor J.A., as Commissioner of the Arar Commission, recently addressed the issue of what considerations should be applied when determining whether a person is to be awarded standing at a federal public inquiry. He noted that each situation is different and should be assessed on its merits taking into consideration:

- The mandate of the Inquiry;
- The nature of the aspect of the Inquiry for which standing is sought;
- The type of interest asserted by the applicant; and
- The connection of the particular applicant to the Inquiry's mandate.

***Commission of Inquiry Into the Actions of Canadian Officials in Relation to Maher Arar, Ruling on Standing and Funding, May 4, 2004, p. 6-7. Tab 4.***

18. Mr. Justice O'Connor further held in deciding whether a potential party has a sufficient connection with the Inquiry's mandate, the Commissioner should consider:

- The subject matter of the Inquiry;
- The potential importance of the findings or recommendations to the individual or organizations including whether their rights, privileges or legal interests may be affected; and
- The strength of the factual connection between the individual or group and the subject matter involved.

*Commission of Inquiry Into the Actions of Canadian Officials in Relation to Maher Arar, Ruling on Standing and Funding, May 4, 2004, p. 8, Tab 4.*

19. In deciding whether to grant a party standing, the Commissioner should err on the side of over-inclusiveness rather than under-inclusiveness. O'Connor J.A. noted in the *Report of the Walkerton Inquiry, Part One, Rulings on Standing and Funding* that:

My first criterion has been to ensure that the Inquiry is thorough. When in doubt, I have opted in favour of inclusion.

*Report of the Walkerton Inquiry, Part One, Rulings on Standing and Funding, Appendix E(ii), p. 96. Tab 5*

#### **PART IV - AIR INDIA'S REQUEST FOR STANDING**

##### *Factual Connection*

20. Air India as the operator of the aircraft that was the target of the terrorist attack on June 23, 1985 and as the employer of 22 victims of the attack was directly involved in the facts that underlie the mandate of this Inquiry.

21. In addition, Air India has extensive first hand knowledge of the facts underlying the mandate of the inquiry, including the events leading up to the terrorist attack, the aftermath of the attack and the subsequent investigation of the attack.

##### *Pre-Terrorist Attack Investigation Issues*

22. With respect to the portions of the Inquiry's mandate dealing with the deficiencies of the Canadian Government's investigation and assessment of the potential threat of Sikh terrorism prior to the terrorist attack on June 23, 1985, as the target of the attack and the employer of 22 of the victims, Air India has a direct and substantial interest in this portion of the Inquiry.

**Order in Council, P.C. 2006-293, (b)(i), (b)(ii), Tab 1**

23. Air India, as an airline that operates in Canada continues to be the potential target of terrorist attacks. As such, Air India is directly and substantially affected by the Inquiry's mandate to comment on how to improve security practices and policies, relevant legislation and intergovernmental co-operation with the goal of preventing further terrorist attacks.

**Order in Council, P.C. 2006-293, (b)(i), (b)(ii), Tab 1**

*Post-Terrorist Attack Investigation Issues*

24. The failure of the respective Canadian authorities to bring all of the persons who were responsible for the terrorist attack against Air India Flight 182 to justice has directly and substantially affected Air India. Air India was also directly and substantially affected by the inordinate amount of time it took to arrest and try three of the accused.

25. Air India is directly and substantially affected by the portions of the Inquiry's mandate in examining the investigation of the terrorist attack and the subsequent prosecution.

**Order in Council, P.C. 2006-293, (b)(ii), (b)(vi)**

26. Air India wishes to assist in examining whether and to what extent systemic discrimination issues including, lack of understanding and appreciation of cultural and religious differences and lack of inclusion of South Asians in governmental departments and agencies resulted in the failure to bring all responsible parties to justice and/or contributed to the length of time that it took to conclude the investigation and criminal trials of the accused.

*Aviation Security Issues*

27. Air India, as an air carrier that operates to and from Canada and as a potential target for terrorism given its status as the flag carrier for the Government of India, is directly and substantially affected by the portions of the Inquiry's mandate that deal with preventing future aviation terrorist attacks and addressing the issue of terrorist financing in, from or through Canada. Air India's particular susceptibility to terrorism is evidenced by the fact that Transport Canada considers Air India as a high security threat, along with only one other international carrier.

Order in Council, P.C. 2006-293, (b)(iv), (b)(vii), Tab 1

**PART V - ORDER REQUESTED**

28. An Order allowing the motion and granting standing as a partial party for Stage II of the Inquiry with respect to issues (b)(i), (b)(ii), (b)(iv), (b)(vi) and (b)(vii) as set out in the Order in Council, P.C. 2006-293 and the *Terms of Reference* of the Inquiry.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED**

July 6, 2006



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**PATERSON, MacDOUGALL**

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**SCHEDULE "A"**  
**LIST OF AUTHORITIES AND RELEVANT STATUTES**

1. Order in Council, P.C. 2006-293
2. *Inquiries Act*, R.S., 1985, c. I-11
3. *Commission of Inquiry Into the Investigation of the Bombing of Air India Flight 182, Rules of Procedure and Practice.*
4. *Commission of Inquiry Into the Actions of Canadian Officials in Relation to Maher Arar, Ruling on Standing and Funding*, May 4, 2004
5. *Report of the Walkerton Inquiry, Part One, Rulings on Standing and Funding, Appendix E(ii)*