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December 12, 2008.

The Honourable Mr. John C. Major, Q.C.
Commissioner
Commission of Inquiry into the Investigation of
the Bombing of Air India Flight 182
P.O. Box 1298, Station "B"
Ottawa, Ontario K1P 5R3

Dear Commissioner Major:

RE: AIVFA Written Submission (New Documentary Disclosures)

On behalf of the Air India Victims' Families Association (AIVFA), co-lead counsel Mr. Norman Boxall and I provide you with AIVFA's written submission with respect to new documentary disclosures.

We take this opportunity to express once again our appreciation for the cooperation and hard work of lead counsel, Mr. Mark Freiman, as well as other members of the legal team and Commission staff.

It is our sincere hope that our collective efforts will assist you as you prepare your final report.

Sincerely,

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AIVFA Submission: Post Final
Submission Documentary
Disclosures

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

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Ottawa, ON



Joint Counsel to Air India Victims Families Association (AIVFA)



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Joint Counsel to Air India Victims Families Association (AIVFA)

Introduction

1. The Commission of Inquiry into the Investigation of the Bombing of Air India Flight 182 granted an opportunity for Parties to provide the Commission with final submissions responding to the different Terms of Reference of the Inquiry. The Air India Victims Families Association (AIVFA) submitted its final submissions on February 29, 2008.
2. Subsequent to the delivery by AIVFA of its final submissions and the formal close of public hearings, the Commission produced new documentary disclosures to counsel for the families, starting in October 2008, through to and including, December 1, 2008. Unfortunately, like so many other documents disclosed during this Inquiry, many of them contained significant redactions.
3. AIVFA regrets that the new voluminous documentary disclosures were not disclosed to counsel during the public proceedings of the Inquiry, so that counsel could have cross-examined witnesses or made oral and/or written submissions on their contents. AIVFA submits that having an opportunity to cross-examine relevant witnesses concerning the contents of these new documentary disclosures would have yielded far greater insight and value to the work of the Commission.
4. Given that the new documentary disclosures contain information of a significant nature that reinforces many of the conclusions provided by AIVFA in its final submissions of February 29, 2008, counsel for AIVFA felt that despite not having an opportunity to cross-examine witnesses on the contents of the new disclosures, providing written submissions would nevertheless add value to the continuing work of the Commission, as it prepares its final report and recommendations with respect to the investigation of the bombing of Air India Flight 182.
5. AIVFA takes this opportunity to provide the following written submissions with respect to the new documentary disclosures made available to counsel for the families since the formal adjournment of the Inquiry in February 2008.

Pre-Bombing

Intelligence Collection Failure:

6. At pages 71 to 72 of its final submissions, AIVFA notes that the Parmar warrant application was crucial for the investigation of Sikh extremism in Canada before the Air India Flight 182 bombing. In fact, the Parmar warrant emphasized that Parmar is "...the most radical and potentially dangerous Sikh in the country with a close circle of like-minded associates."
7. The conclusion in the Parmar warrant with respect to the serious threat posed by Parmar is drawn from a new documentary disclosure with respect to "Security of Indian Missions in Canada" (Public Production #4224). This 1984 document notes that, "The activities of Parmar in Canada are viewed as a definite stimulant to those Sikhs possessing the propensity to commit violent acts...our assessment of Parmar is that he is the most

radical and potentially dangerous Sikh in the country with a close circle of like-minded associates. Together they pose a serious threat.”

8. Unfortunately, despite the threat posed by Parmar, processing of the Parmar warrant took a total of five long months. At page 72 of its submissions, AIVFA quotes from the testimony at the Air India Inquiry of a former investigator with CSIS, Mr. Kobzey. According to Mr. Kobzey, “...I felt that we have an emergent situation taking place here in the field and housekeeping matters with respect to converting Official Secrets Act warrants to CSIS Section 21(1) warrants, taking priority over an emergent terrorist-extremist activities in the field, I didn’t feel personally that was a wise way to go.”
9. New documentary disclosures reveal just how unprepared the federal government was to deal with the operational challenges posed by the haste in which CSIS was created in 1984. In a memorandum from the Director General of Counter Terrorism, Mr. Deschenes states that with respect to the warrant conversion process, “Problems were encountered at all levels and throughout the process” (Public Production #4225).
10. In addition, another new document notes that with respect to the CSIS warrant application process, “By the same token we were asked to provide a legal document without being given sufficient training in this area” (Public Production #4226). Furthermore, in a “post mortem” memorandum on the warrant application process, Mr. Jacques Jodoin, former Director General, Communication Intelligence and Warrants at CSIS, states that among other things, with respect to the lack of experience of desk analysts in writing affidavits, “More prior training should have been given” (Public Production #4227).
11. At page 73 of its final submissions, AIVFA states to its dismay that the lengthy process for processing warrant applications still exists today. AIVFA quotes again from Mr. Kobzey: “As far as my personal knowledge of the situation, all I can say, Sir, is I’ve been a member of the Mounted Police since 1990 and in conversation with my CSIS counsel, DOJ counsel, I’ve been apprised that the situation is essentially lengthy still, and I’ve heard testimony that it still takes several months to put a warrant through.”
12. A new documentary disclosure confirms the above conclusion AIVFA drew from the testimony of Mr. Kobzey (Public Production #4230). A 1992 study by the Honourable George Addy, Q.C., relating to the process for the acquisition of warrants by CSIS, found that this process could “...best be described as a bureaucratic quagmire...” in that “It takes over three months and, most frequently, up to six months, to obtain a warrant from the time permission to initiate a request for it is given by TARC, until it is actually issued by the Court.” This study outlines potential adverse consequences of the “bureaucratic quagmire” that is the process for obtaining a CSIS warrant. The study states that, “...a situation might well arise where, within a couple of months or more from the time that the process has been undertaken and before the warrant is issued, the threat is in fact transformed into reality, with very dire consequences.”
13. At page 72 of its final submissions, AIVFA states that, “The tragedy of this delay relates to the collection of intelligence by CSIS and what they could have learned in that five-

month time delay.” New documentary disclosure pertaining to a review by the RCMP of the CSIS report to Bob Rae, notes that CSIS handwritten intercept logs for April, May, and June 1985, clearly show that Parmar was involved in significant subversive activity prior to the Air India bombing (Public Production #2852).

14. AIVFA submits that if the “bureaucratic quagmire” that was the CSIS warrant acquisition process had not existed at the time, the Parmar warrant likely would have been obtained earlier, with the potential that the intercepts could have revealed information that may have thwarted the bombing of Air India Flight 182, or at the very least, perhaps incriminated Parmar and/or his associates in planning the Air India Flight 182 and/or Narita bombings.

Deficient Civil Aviation Monitoring by Transport Canada:

15. At page 90 of its final submissions, AIVFA discusses the lack of compliance monitoring of aviation security plans by Transport Canada. In its submissions, AIVFA quotes from Transport Canada official Mr. Mattson that “Resources were limited and inspections were sporadic rather than cyclical.”
16. New documentary disclosures confirm the extent to which Transport Canada neglected its responsibility to monitor the aviation security programs of airlines operating in Canada. A Transport Canada evaluation completed prior to 1985 of civil aviation security in Canada, provides that with respect to the Aviation Regulation, Civil Aviation Security Branch (DAX), “This Branch is responsible for accepting the air carrier security programs on behalf of the Minister and overseeing the application of those programs...One of the problems with this group is that things have been done on quite an ad hoc basis because of very limited resources available” (Public Production #4274).
17. An additional new Transport Canada documentary disclosure dated August 19, 1985, with respect to a security audit of Vancouver International Airport, Lester B. Pearson Airport, and Mirabel Airport, found “...specific deficiencies related to day-to-day monitoring, security inspection procedures, and follow-up action related to security reviews” (Public Production #4338).
18. AIVFA submits that when Transport Canada undertook to monitor the security programme of Air India and other airlines, it ought to have devoted sufficient resources to the task otherwise it should not have undertaken the responsibility.

Lax Airport Security:

19. At page 139 of its final submissions, AIVFA describes how Mr. Brian Simpson, who was employed in Cabin Services in June 1985, went on Air India Flight 182 after the aircraft had been cleaned. He testified about going into the cockpit and sitting in the Captain’s chair and that he did not see anyone else on the aircraft while he was on it, nor did he see anyone at the door to the aircraft or near the aircraft itself.

20. In addition to the evidence AIVFA provided in its final submissions, which corroborates the testimony provided by Mr. Simpson, a new documentary disclosure concerning a security audit report noted above in paragraph 17, found “Problems associated with access control include open gates, insecure doors, non-standard fencing, insecure aircraft, and inadequate control and inspection of I.D. passes” (Public Production #4338). The new documentary disclosure noted above in paragraph 16, found that with respect to the airport detachment of the RCMP, “At some of the large airports they perform ramp patrol but this is not consistent” (Public Production #4274).
21. At page 138 of its final submissions, AIVFA describes the poor manner in which employees of the company Air India contracted with for the provision of passenger and baggage screening, namely Burns Security, were trained. AIVFA quotes from the testimony provided by Mr. Daniel Lalonde, then an employee of Burns Security: “Essentially, I was shown a video on how to operate an x-ray machine and that lasted approximately say, half an hour to an hour, and I was instructed by other people who were doing the same jobs as I was actually doing it.”
22. In a new documentary disclosure, Mr. Jim Frederick, another employee of Burns Security, describes the training he received prior to the bombing of Air India Flight 182. With respect to whether he had received the Transport Canada Passenger Screening course, he stated “No. I was taken out and dumped in and told to do the job of checking the baggage.” With respect to any training he had received from Burns Security, he stated “None at all, except the eight films for the Burns Security Orientation Program...I haven’t received any training at the airport” (Public Production #4343).
23. Likewise, another new Transport Canada documentary disclosure entitled, “National Air Transportation Security Plan”, dated prior to the Air India Flight 182 bombing, found more generally that, “Employees of the private security agencies hired by air carriers are generally not of a high calibre in terms of educational level, experience or performance” (Public Production #4289).
24. At page 87 of its final submission, AIVFA recounts how upon arrival of Air India Flight 182 in Montreal from Toronto, the RCMP Dog at Mirabel airport was away on training in Vancouver. AIVFA’s final submission describes how, despite calling Mr. Serge Carignan, a dog handler with Quebec’s provincial police to assist with searching the plane and luggage with his dog Arko, that Air India Flight 182 departed before Mr. Carignan and his dog arrived.
25. In a new documentary disclosure of a 1981 letter to the Director of the Civil Aviation Security branch of Transport Canada, the Officer in Charge of the RCMP Airport Policing Branch states that, “There are no other explosives detection devices available as a replacement for the dogs currently in place in Canada” and that “broader use of their capabilities would be beneficial to Transport Canada and the Force” (Public Production #4288).
26. At page 87 of its final submission, AIVFA quotes from the testimony of Mr. Carignan at the Air India Inquiry: “Well, I’ve always wondered, first thing, why, if I was called to

search an airplane and some luggage, why the airplane had left or why did they leave—why did they let the airplane go before I arrived there. I did not have a chance to search that airplane, and I believe if I had had a search—a chance to search it, things might have turned out differently.”

27. It is remarkable that after more than 20 years since the bombing of Air India flight 182 that a recent investigation has identified such fertile ground for unlawful activity within Canada’s airports. Project Spawn, a two-year RCMP inquiry into hundreds of police investigations at Canada’s eight largest airports, has identified nearly 60 active gangs infiltrating airports in order to smuggle drugs and people into Canada.¹ Project Spawn revealed that federal laws prevent federal agencies from sharing information that would allow for better screening of airport employees.
28. AIVFA submits that with respect to the findings of Project Spawn, where organized crime is permitted to flourish at airports in Canada, terrorists will also flourish.
29. AIVFA further submits that lax airport security, such as the fact that Air India contracted with Burns Security who poorly trained their staff, in addition to the fact that the RCMP dog was away on training in Vancouver when Air India had only one flight a week, is not acceptable, especially in light of that fact that at the time, Air India was one of the few airlines that operated under a high or specific threat environment.

Air India Management Confusion:

30. New documentary disclosures reveal a state of confusion on the ground at Pearson International Airport on July 22, 1985, among senior managers at Air India (Public Production #4359, #4361). According to an RCMP document, “It appears that there is some confusion with respect to who was in charge or Airport Manager on 85-06-22. It may well be that no one was acting in this capacity on 85-06-22 through poor communication and/or misunderstanding of assigned duties.” The document goes on to note that, “...in fact no one at the airport that day performed the duties that go along with the position. It is apparent that neither advised BURNS to keep a baggage count and in fact none was kept by BURNS. There was no checks with respect to the Interline bags and only because of the Air Canada employees did this baggage go through the x-ray machine. It is my opinion that the Airport Manager should have at least attended the x-ray machine when it malfunctioned and been satisfied the PD-4 was a competent instrument to clear the remaining baggage.”
31. AIVFA submits that despite a foreboding awareness of the threat to its flights, Air India failed to respond appropriately to the heightened threat environment, by among other things, failing to ensure senior managers on the ground on June 22, 1985, knew who was in charge as Airport Manager.

¹ Colin Freeze & Thanh Ha, “Gangs infiltrating Canadian airports: Hundreds of airline employees of smuggling drugs and people, report says” *Globe and Mail* (11 December 2008).

The Threat of Aviation Bombings was Known:

32. At page 135 of its submissions, AIVFA quotes from the testimony of Professor St. John. According to St. John, the notion of bombing an aircraft was known in 1974. According to Professor St. John in his testimony before the Air India Inquiry, “And it’s almost predictable that a series of events will build up until the big bang occurs. And Air India was the 10th and the big bang event, as far as the Khalistan independence movement was concerned. And therefore, to that degree, it was predictable. We could anticipate that something might happen.”
33. Several new documentary disclosures reveal the extent to which concerns about aviation sabotage had overtaken concerns about hijacking, in addition to the great extent to which actual bombings of aircrafts had occurred prior to the Air India Flight 182 bombing. In a July 1980 letter from the Air Transport Association of Canada (ATAC) to Mr. Paul B. Sheppard, Executive Officer in the Civil Aviation Security branch of Transport Canada, ATAC states that, “...the serious threat to civil aviation is now perceived to be detection of the components of explosives and incendiary devices as opposed to the metal detection of guns or other similar weapons” (Public Production #4284).
34. Likewise, a memorandum entitled, “Threat to Civil Aviation in Canada – 1980”, which was handed out by the then RCMP Security Service during a meeting on February 8, 1980 to attendees from ATAC, the RCMP, and Transport Canada, states that, “A glance at the developments in recent years reveals that the vast majority of incidents has involved bombings and incendiary attacks followed by assassinations and kidnappings et al.” (Public Production #4282).
35. Similarly, a 1980 paper entitled, “Evolution of Canadian Civil Aviation Security Program”, prepared by the Civil Aviation Security branch of Transport Canada, states that, “Recent events would indicate that acts of sabotage, rather than hijacking, will be the main threat to civil aviation in the ‘80’s” (Public Production #4281).
36. Other new documentary disclosures reveal similar information:
 - Transport Canada document entitled, “Report of the Review into the National Airport Security Program” lists worldwide criminal acts involving civil aviation in 1974, many of which involve bombings (Public Production #4278).
 - Minutes of Meeting, April 11, 1979 (ATAC, RCMP, TC Review of National Civil Aviation Security Program): “Mr. Johnson, Air Canada, indicated that sabotage/bomb threats as more of a concern than hijackings” (Public Production #4280).
 - Minutes of Meeting, March 4, 1980 (ATAC, RCMP, TC Joint Study Committee on Civil Aviation Security): “Mr. Pickard (ATAC) reiterated that

while the industry perceived acts of sabotage as posing a greater threat to civil aviation in Canada than hijacking..." (Public Production #4283).²

- January 26, 1982 Transport Canada document re "Aircraft Cargo/Baggage Security Measures" notes that, "Increasing acts of sabotage and/or subversion in the international scene have created concern amongst government and Industry officials and employee associations about security measures directed to ensuring sterile baggage/cargo facilities" (Public Production #4292).³

37. AIVFA submits that deficient civil aviation monitoring by Transport Canada and the generally lax airport security environment at the time of the bombing of Air India Flight 182, is all the more appalling given that the threat of sabotage related bombings at the time was well known.
38. AIVFA further submits that the question that arises from the above documents is why did it take the government (Transport Canada) so long to act with respect to changes to aeronautic regulations to address the more serious concern posed by sabotage/bombings as compared to hijackings? Why did regulatory changes with respect to passenger-baggage reconciliation (or other procedures/technologies) vis-à-vis the *Aeronautics Act*, not come into force until after the bombing of Air India Flight 182, when so much was known about the increasing threat to civil aviation posed by bombings, prior to June 23, 1985?

Passenger-Baggage Reconciliation:

39. In fact, passenger-baggage reconciliation was practiced during high threat situations prior to the bombing of Air India Flight 182. A new documentary disclosure concerning a comprehensive audit of CP Airlines in March/April 1984, states that, "During some high threat situations recently the CP Air and KLM staffs in Toronto (KLM is handled by CP Air) successfully developed and applied a baggage – passenger match system. They found it worked very well and there was definitely no bag put on the aircraft unless the passenger was on the aircraft. It caused some slight delay but it would not be impossible situation to tolerate in the event that we did run into high threat situations in Canada" (Public Production #4273).⁴
40. At page 136 of its submissions, AIVFA notes that CP Airlines and its employees were unaware of the threat to Air India in 1985. AIVFA submits, as it did in its final submissions, that "Undoubtedly, if all air carriers in Canada, including CP Airlines, with flights connecting to Air India had been warned that Air India was operating under heightened security alert, CP Airlines and its employees may have exercised more caution."

² See also Public Production #4280.

³ See also Public Production #4293.

⁴ New documentary disclosure re CP Air Regulations provides that, "Unaccompanied baggage normally shall not be carried, but when carried for specific reasons such as missed connections, etc., will be handled in the same manner as a cargo shipment" (Public Production #4275).

41. AIVFA further submits that given the heightened threat environment Air India was operating under at the time in June 1985, in addition to its knowledge of the June 1st telex which warned of the threat of bombs hidden in checked-in baggage, Air India could have implemented a system of passenger-baggage reconciliation for its flights once-a-week from Canada, instead of relying on PD-4 sniffer technology to screen checked-in baggage that it knew to be unreliable.

June 1st Telex:

42. At page 136 of its final submissions, AIVFA points out that Dr William Leiss, a risk analysis expert, testified at the Air India Inquiry that in "...light of the series of telexes and tips with respect to threats prior to the Air India Flight 182 bombing, including the June 1st telex, the RCMP and other agencies should have considered stopping all Air India flights leaving Canada in June of 1985 until the threat had been properly assessed." AIVFA quotes from the testimony by Dr. Leiss at the Inquiry: "So, as I say for this business, airline security, I would say that it is extremely rare to get such a specific piece of information and that would—I think if you asked almost anybody that would raise your level of concern to the highest possible level so that you would be at that point basically pulling out the stops. You might even ground the flights until you had a better handle..."
43. In a new documentary disclosure of an affidavit sworn by Dr. Leiss on August 20, 2008, after having reviewed additional documentary disclosures that he had not reviewed prior to testifying at the Air India Inquiry on December 7, 2007, Dr. Leiss swore that, "...I reaffirm all of my opinions, without modification, expressed in my original testimony. In particular, I reaffirm my comments in relation to, but not limited to, the June 1st telex."
44. An examination of Australian aviation regulations in force prior to June 1985, reveals an opportunity for greater political accountability with respect to the notification of threats against airlines (Public Production #4279). It is AIVFA's understanding that similar Canadian aviation regulations in force at the time prior to the Air India Flight 182 bombing did not provide for a similar level of political engagement or accountability.
45. AIVFA submits that as a result of the fact that Air India was only flying once a week from Canada in 1985, the June 1st telex along with a number of additional pieces of intelligence information and sources available to government agencies such as CSIS, the RCMP and Transport Canada, clearly should have demanded that this threat against Air India be regarded by all as a specific threat in the circumstances, with all the requisite precautions taken, including passenger-baggage reconciliation, availability of an RCMP dog, and a consideration seriously given to grounding Air India flights from Canada in June 1985, and/or warning the traveling public.

Post-Bombing

Strained RCMP/CSIS Relationship:

46. At page 100 of its final submissions, AIVFA states that, “In the haste to create CSIS, the government’s focus was on passing legislation and overlooked were the significant resource, policy, and operational challenges that would have to be met in order to make the relationship between CSIS and the RCMP fully functional.”
47. A new documentary disclosure substantiates that tensions that permeated the relationship between CSIS and the RCMP following the Air India Flight 182 bombing (Public Production #4326). In a document addressed to the RCMP, a CSIS Deputy Director writes the following: “Returning to the major issue of cooperation between CSIS and the RCMP, be assured that while CSIS will continue to cooperate with the Force with regard to matters of mutual concern or interest, I have to make it perfectly clear to you that unwarranted attacks, direct or implied, on the ability and integrity of this Service strain that spirit of cooperation to unnatural limits. I would suggest you consider seriously the extent to which the Force wants that cooperation and, in turn, to what degree the Force is prepared to contribute to that cooperation.”
48. This is why AIVFA submits, as it did at page 99 of its final submission, that “The investigation and prosecution of the Air India Flight 182 bombing was doomed from the start because of the challenge of moving from CSIS-obtained security intelligence to RCMP-useful evidence for a criminal trial. This was not as a result of any unwillingness on the part of either agency to see the case solved and the perpetrators brought to justice, but because of the challenges created by the political decision to remove the Security Service from the RCMP and establish CSIS.”

Insufficient Transport Canada Risk Management Procedures:

49. At page 136 of its final submissions, AIVFA points out that Dr. Leiss did not believe that Canadian authorities had the proper tools to do a proper risk assessment, and as a result, did not respond properly to the threat situation as it was evolving in June 1985. AIVFA quotes from Dr. Leiss that, “At the time, Canada lacked a more results-based regulatory regime; a regime proactive in nature that responds to potential threats in advance and subjects them to a risk assessment.”
50. A new documentary disclosure from a Transport Canada briefing held on July 24, 2008, confirms that Risk Assessment (RA) is central to Transport Canada’s aviation security mandate today (Public Production #4439).
51. However, in the same document noted immediately above, Dr. Leiss points out that “...RA itself does not assess the level of performance; an assessment of the effectiveness of the system is a separate judgment.” Dr. Leiss maintained that, “...confidence in the quality of intelligence can provide the basis for making the case that the system is performing to a standard that the Canadian public would find acceptable” (Public Production #4439).

52. AIVFA submits that in order to have the most effective anti-terrorism procedures in place today and in the future, Transport Canada must continually assess the effectiveness of its RA system, in addition to other policies and procedures designed to thwart aviation related terrorism.

Air Cargo Security:

53. At page 145 of its final submissions, AIVFA states that, "Presently, air cargo is the biggest gap in aviation security in Canada." AIVFA quotes from the testimony provided by Dr. Kathleen Sweet at the Air India Inquiry: "...I think that Osama Bin Laden has a penchant for the aviation industry, they will go for the cargo hold and that we have focused so much on passengers and passenger baggage that we have failed to recognize that there is a huge part of that aircraft that is loaded up with pellets of cargo that is moved around with passengers on board and how and where and when that cargo was screened is a huge gap, not just here in Canada but in the United States as well."
54. In a new documentary disclosure concerning a Transport Canada briefing on air cargo security, AIVFA learned that, "In 2004, attention focused on the security of air cargo. Transport Canada is currently completing a design and pilot-testing phase with a view to informing policy development in air cargo security" (Public Production #4438). As part of the pilot-testing phase, Transport Canada introduced the Regulated Agent Program in June 2007 (Public Production #4393). Non-binding Memoranda of Understanding (MOUs) between Transport Canada and freight forwarders will enable collaboration by creating a list of regulated agents who have agreed to an Air Cargo Security Plan with Transport Canada and who have authorized Transport Canada to inspect their facilities and air cargo transport vehicles to ensure compliance with their Air Cargo Security Plans.
55. In new documentary disclosure concerning U.S. air cargo security rules changes, August 2007 U.S. legislation will create a system to screen 100 percent of cargo transported on passenger aircraft within 3 years of the date of enactment (Public Production #4412).
56. In another new documentary disclosure, it is confirmed that, "A significant percentage of air cargo in Canada is conveyed on passenger aircraft. In the United States, only about 25 per cent of air cargo travels on passenger aircraft (Public Production #4438).
57. AIVFA questions why, when the Air India Flight 182 bombing happened over twenty years ago, Canada does not have policies in place for the security of air cargo in the way it does for carry on and checked baggage, especially in light of the fact that, unlike in the U.S., so much of the cargo carried on airlines operating in Canada is carried in the cargo hold of passenger airplanes?
58. This is all the more disconcerting when according to the findings of the recent RCMP investigation named Project Spawn, "Increased passenger and cargo traffic at Canada's Class 1 airports from known or transit countries for illicit contraband may provide greater smuggling opportunities." AIVFA submits that where opportunities exist for greater

contraband smuggling, greater opportunities exist for sabotage related smuggling of bombs, etc.

59. AIVFA submits that Transport Canada must follow the lead of the U.S. and accelerate its work to develop a program for the security screening of aviation cargo.

Conclusion

60. At page 176 of its final submissions, AIVFA notes that, “At the beginning of this Inquiry, Canadians heard, many for the first time, emotional testimonials by families of the victims. A theme that ran through each of those testimonials was a simple plea; a plea not for retribution against the perpetrators of Canada’s largest mass murder in history, but a plea for justice.”

61. AIVFA reiterates the theme that ran through its final submissions, where is justice? With respect to the new documentary disclosures noted in this submission, AIVFA asks where is justice:

- in the “bureaucratic quagmire” that was the CSIS warrant acquisition process that delayed the approval of the Parmar warrant?
- in the deficient civil aviation monitoring of Air India’s security programme by Transport Canada?
- in the fact that Air India contracted with Burns Security who poorly trained their staff, and in the fact that the RCMP dog was away on training in Vancouver when Air India had only one flight a week that operating under a high or specific threat environment?
- in the confusion among Air India senior managers on June 22, 1985, about who was in charge as Airport Manager, despite a foreboding awareness on the part of Air India concerning the threat to its flights?
- in the fact that the threat of aviation bombings was known prior to the Air India Flight 182 bombing, and yet the federal government neglected to introduce aviation regulatory amendments with respect to passenger-baggage reconciliation?
- in the fact that CP Airlines was unaware of the threat to Air India in 1985, and as a result did not implement passenger-baggage reconciliation for its flights connecting to Air India, although it had implemented such a system for other high risk flights prior to the Air India Flight 182 bombing?
- in the fact that despite a heightened threat environment, Air India relied on PD-4 sniffer technology it knew to be unreliable, instead of implementing a

system of passenger-baggage reconciliation for its flights once-a-week from Canada?

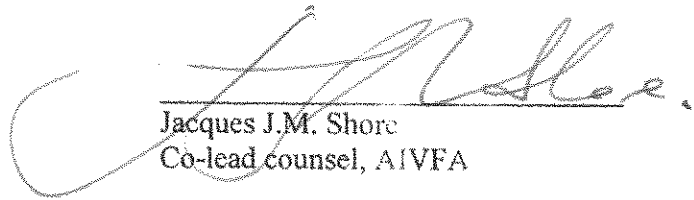
- in the fact that the June 1st telex warning of bombs being placed in baggage on Air India flights, in addition to a whole host of other pieces of intelligence, did not cause government agencies such as CSIS, Transport Canada, or the RCMP to treat the threat against Air India as a specific threat, with all the requisite precautions taken, including among other things, availability of an RCMP dog, and a consideration seriously given to grounding Air India flights from Canada in June 1985, and/or warning the traveling public?
- in a post-bombing investigation and prosecution doomed from the start because of the challenges created by the political decision to remove the Security Service from the RCMP and establish CSIS?
- in a Transport Canada that fails to continually assess the effectiveness of its Risk Assessment system post-bombing, in addition to other policies and procedures designed to thwart aviation related terrorism?
- when despite the fact that the Air India Flight 182 bombing happened over twenty years ago, Canada does not have policies in place for the security of air cargo in the way it does for carry on and checked baggage, especially in light of the fact that, unlike the U.S., so much of the cargo carried on airlines operating in Canada is carried in the cargo hold of passenger airplanes?

62. The recent terrorist attacks in Mumbai, India, where terrorists murdered an estimated 125 people and wounded more than 300 in a series of coordinated attacks at luxury hotels, restaurants, hospitals and a train station, demonstrates that the threat of terrorism is omnipresent and that the government of Canada must remain ever vigilant to guard against its threat. Living where we do in the world, where thankfully terrorism does not frequently rear its ugly head, must not be an excuse to be lax and to become complacent. Canada must learn from the past to meet future terrorist threats.


63. Thus, AIVFA submits that in its final report, the Commission should not avoid, if warranted, findings of intelligence failures on the part of Canada's security intelligence agencies, including CSIS, institutional failures on the part of various government agencies, including the RCMP and Transport Canada, and corporate failures on the part of corporations, including Air India. After all, the purpose of a public Inquiry is to determine the facts and learn lessons so that recommendations can be made to avoid similar tragedies in the future. If an Inquiry does not acknowledge failures and mistakes made, it is not possible to learn from them.

64. AIVFA appreciates the opportunity to provide the Commission with its submissions concerning the new documentary disclosures received since the public hearings of the Inquiry came to a close in February 2008. AIVFA looks forward to the Commissioners' final report and recommendations.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 12TH DAY OF DECEMBER,
2008.



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