

**COMMISSION OF INQUIRY INTO THE
INVESTIGATION OF THE BOMBING OF AIR INDIA FLIGHT 182**

**PHASE I
SUBMISSIONS OF
ATTORNEY GENERAL OF CANADA**

INTRODUCTION

1. The Air India disaster of 1985 was a tragedy – a Canadian tragedy, which we are now revisiting more than two decades after it took place. As in any disaster of this magnitude in which governments, individuals and organizations must pick up the pieces amidst suffering and pain there are compelling personal stories, which this Inquiry has brought to public light. Much of the testimony offered by witnesses in Phase I was moving and powerful and needs no qualification or comment.

2. The response of the Government of Canada to this tragedy was immediate, involving both short term actions and longer term responses on the part of numerous departments and agencies. From the very first hours of the tragedy, its management was taken in hand by senior officials in key departments and by a senior official in the Prime Minister's Office. Over the course of many months and years action has been taken as a consequence of this tragedy, in the form of investigations and criminal prosecutions, policy and program reviews and many other areas to be examined by this Inquiry. Most of the Government's dealings with the families were coordinated through the Consular Bureau of what was then the Department of External Affairs (DEA). This submission will be confined to that aspect of the Government's response,

namely the consular dimension, in accordance with the evidence of the Government's employees and former employees who testified in phase I of the Inquiry.

3. The events of June 23, 1985 unfolded against a background very different from today. Air India did not have complete records of passenger lists. Communications capacity was radically different. There was no internet nor were there cell phones. Telecommunications in Cork which became the centre of consular, rescue and recovery operations was not conducive to rapid and timely sending and receiving of information critical to the needs of the families or the government consular team. To add to these difficulties, accommodations for the family members who travelled to Cork were not available in the quantity required and in some cases the families were eventually accommodated considerable distances from the key centres responsible for the painful process of recovery and identification of the victims.

4. As in the management of the aftermath of any major disaster there were logical and rational divisions of responsibility, in some cases buttressed by international convention. Because the tragedy took place near Ireland, the management of the rescue and recovery operations and consequent handling of the victims' remains was within the jurisdiction of the Irish authorities. Air India, as the carrier, also had a role to play and policies in place to respond to disasters of this magnitude.

5. Some family members testified that they felt abandoned by the Canadian government and were of the view that their plight was completely ignored. That could not be further from the truth in that the government of Canada was committed immediately to responding to both the enormity of the event and its impact on the lives of so many people. Like any tragedy of

unprecedented magnitude, the responders must cope with the realities on the ground as best they can. The situation on the ground was considerably different than that remembered by many family members. Regrettably, many are seeking to assign blame long after the tragedy as a result of factors which were simply beyond anyone's control – difficulties in accommodating the families, problems of communications on the ground, the length of time required to complete forensic work, as well as other matters outside the jurisdiction of Canadian responders.

6. The Attorney General of Canada seeks not to refute allegations of family members arising out of the chaotic and stressful circumstances which were encountered by all in Cork but to offer the perspective from the point of view of the consular team quickly assembled to deal with this disaster.

7. Amidst the chaotic and tragic circumstances of the aftermath of this tragedy the Canadian consular response was timely and unprecedented in scope, effort and execution. There was never a moment when this terrible event was looked upon as anything other than a major Canadian tragedy.

PART I – DEPARTMENT OF EXTERNAL AFFAIRS' RESPONSE TO THE AIR INDIA TRAGEDY

8. The Air India disaster occurred in the middle of the night at approximately 2:15 am EST over the coast of Ireland on Sunday, 23 June, 1985. Officials in Ottawa were alerted to the disaster at approximately 6:30 AM EST. Within one hour, or at 7:30 AM, a task force was formed in the Department of External Affairs and senior officials and Ministers began to be

alerted. Within four hours, at 10:30 AM, a senior-level task force was convened under the chairmanship of the Associate Deputy Minister (Foreign Policy).¹

9. A number of immediate measures were undertaken, including the provision of additional security to Indian officials in Canada, and arranging telephone calls from the Prime Minister to the Prime Minister of India and the Prime Minister of Ireland.² Within hours, a decision was made to dispatch Canadian officials to Cork, Ireland, to offer consular assistance. In addition, a decision was made to dispatch a team of officials, led by a senior DEA official, to establish a Canadian office and manage the consular response. Within eight hours, the first team member arrived in Cork.³ The Canadian team began to arrive in Ireland on 24 June, little more than 24 hours after the disaster, maintaining an office in Cork for more than two weeks between June 24 and July 12, 1985.⁴

10. As is the case in almost any disaster, the first, initial hours and days following the Air India crash were confusing and somewhat chaotic, owing, for the most part, to the inadequacy of information. Despite the absence of detailed information on the disaster, the DEA Task Force acted prudently and pro-actively by taking the following steps.

11. On June 24, the day following the disaster (and the first working day of the week), Passport Offices in key Canadian cities were alerted, in the event that Canadians needed to

¹ Evidence of Stewart, Vol.12, November 12, 2006, p.1119:23-1121:3, Exhibit P-92, Tab 2, p.4, "Consular Operations Division Response to the Air India's Disaster"; Tab 9, p.48-51, "Operations Centre Logbook – Air India Disaster – 23 June 85" Exhibit P-164, "Report of The Court Investigating Accident to Air India Boeing 747 Aircraft VT-EFO, "Kanishka" on 23rd June 1985"

² Evidence of Heatherington, Vol. 4, September 28, 2006, p.407:3-12; Exhibit 92, Tab 9, p.48-51, "Operations Centre Logbook – Air India Disaster – 23 June 85" Exhibit P-93, Tab A, p.2, "Memorandum for the Prime Minister" and Tab 8, p. 27, "External Affairs Canada – Message"

³ Evidence of Stewart, Vol. 12, November 6, 2006, p.1123:10-21

⁴ Evidence of Molgat, Vol. 13, November 7, 2006, p.1160:8 to 1161:3

obtain passports for urgent travel to Ireland.⁵ The consular bureau in Ottawa began to compile lists of victims from incomplete or partial Air India sources and to try to establish contact with next-of-kin in Canada.⁶ (Given the severity of the tragedy it took the airline until 30 June to establish a definitive list of Canadians and Canadian residents who perished in the disaster.) In the meantime, and in order to speed up contacts with Canadians, DEA issued a press release on 26 June inviting relatives of victims of the Air India disaster to contact DEA at any time, at a specific collect number.⁷

12. Canadian officials in Ottawa immediately recognized the disaster as a large-scale Canadian tragedy. The Government issued its first press release on June 24, 1985 and continued to issue periodic press releases for the next several days. A daily interdepartmental meeting was chaired by Dr. Fred Doucet, a senior member of the Prime Minister's staff in the Prime Minister's Office, covering all issues, both consular and non-consular. The immediacy of the Government response to the tragedy was a tangible example of the Government's recognition and effort in dealing with this Canadian tragedy.⁸

13. A number of Canadian families were frustrated that, in the days immediately following the disaster, they had not been contacted by DEA. But in the first few days DEA did not have full information on the Air India passenger list, and some of the information that began coming

⁵ Evidence of Sheehan, Vol. 13, November 7, 2006, p.1219:14-17

⁶ Evidence of Sheehan, Vol. 13, November 7, 2006, p.1222:11 to 1223:8

⁷ Evidence of Sheehan, Vol. 13, November 7, 2006, p.1225:16 to 1229:3; Exhibit P-92, Tab 27, p.116 – "Air India Disaster Meeting, 26 June 1985

⁸ Exhibit P-92, Tab 18, p.82 Press Release, dated June 24, 1985; Evidence of Molgat, Vol. 12, November 6, 2006, p.1147:21 to 1148:1; 1216:10 to 1217:16; Evidence of Heatherington, Vol. 4, September 28, 2006. p.405:19 to p.406:8; p.407:3-12 p.405:19 to p.406:8

in from Air India was fragmented with incomplete names.⁹ Thus, it was not immediately possible to assemble a complete list of relatives in Canada or abroad.

14. DEA had to rely on relatives contacting DEA, especially after the publication of the collect call telephone number on 26 June, or wait until Air India's lists began to come through. At the time all DEA had was a rough photocopy of a manifest with handwritten notations and without complete names of the passengers. DEA officials in Canada and in Ireland explored many avenues, including visiting personally most of the hotels and B and B's in the Cork area, in the search for Canadian relatives. Unfortunately, despite these continued efforts it was not until the airline produced a definitive passenger list that DEA had a complete contact list from which to work.¹⁰

15. Air India and Irish authorities advised the families against travelling to Cork immediately to allow local authorities to prepare for their arrival and to allow time to gather and assemble information regarding their loved ones. Indeed, Air India asked family members travelling through London to remain in London, and paid for their expenses in London, in order to avoid a burden on the local authorities before they were fully prepared.¹¹

16. Nevertheless, families began arriving quickly, even as the Canadian team was arriving on June 25 and establishing an office, overwhelming the Canadian mission. Officials based the size of the initial team on legitimate expectations of workload. Had officials anticipated that families would be arriving very quickly, and in fairly substantial numbers, they would have initially sent a larger Canadian team. In recognition of the overwhelming workload, the team

⁹ Evidence of Stewart, Volume 12, November 6, 2006, p.1127:1- 18; Exhibit P-92, Tab 13, p.63 – Telex re: Passenger Manifest, June 23, 1985; Tab 14, pp.65-72 – Copy of Manifest

¹⁰ Evidence of Stewart, Volume 12, November 6, 2006, p.1126:15-16, p.1127:1 to 1128:25

leader in Cork asked for increased assistance, which he received within three days, on June 28. There were eventually seven Canadian-based officials from DEA, in addition to three support staff, in Cork during this period.¹²

17. The early arrival of families had an impact in Cork, because the city lacked facilities to accommodate them due to the high number of tourists in the area. Some families found lodging many kilometers away and had difficulties in arranging their local travels. Others were assigned hotels by Air India but made their own arrangements, and as a result neither Air India nor Canadian officials knew of their location. (Canadian officials did thorough searches of accommodation choices in Cork, but some family members were undoubtedly not contacted in the process.)¹³

18. Canadian officials agreed upon a process with Air India that would have Air India bringing family members to the ad hoc Canadian office at Jury's Hotel in Cork. Despite the agreed upon procedure, this did not happen on a consistent basis, causing the Canadian team to change its plan. It then made exceptional efforts to meet with family members at various inns and hotel facilities in and around Cork (which quickly became a large and extended geographical area).¹⁴

19. Canadian officials met 15 of the 18 aircraft which landed in Cork with Canadian relatives on board (the other three aircraft arrived prior to the establishment of the Canadian office.) As of June 26, 1985, a team of at least two officers met each incoming flight which

¹¹ Evidence of Stewart, Volume 12, November 6, 2006, p.1125:10-20; Exhibit P-92, Tab 20, p.91, "Air India Disaster Meeting, June 25/85"; Tab 21, p.96, "Situation Report -0800 25 June 1985"

¹² Evidence of Stewart, Volume 12, November 6, 2006, p.1131:15-21

¹³ Evidence of Stewart, Volume 12, November 6, 2006, p.1124:13-17; Evidence of Molgat, Volume 12, November 6, 2006, p.1144: 7-15

¹⁴ Evidence of Stewart, Volume 12, November 6, 2006, p.1128:1 to 1129: 25, p.1130:11 to 1131:4

transported family members (to the extent of the office's knowledge). Relatives met at the airport were asked by Canadian officials to keep the Cork office informed of their accommodation arrangements and if there were any changes to those arrangements (which in most cases were made by the carrier, Air India). Officials also impressed upon the relatives that they were welcome to come to the office at any time. The family members arriving from Canada and elsewhere were fluent in English and French in addition to other languages such as Hindi and Urdu, and as a consequence the Canadian consular staff never encountered any problems communicating with and responding to their concerns.¹⁵

20. The Consular team in Cork responded to the grim realities of the immense grief and shock experienced by the family members, in accordance with their function and role, namely by taking whatever steps possible to assist the families of victims. There were many noteworthy examples, from the efforts taken to fly a family with the body of their deceased daughter back to Canada, to efforts to secure DND aircraft for the transport of bodies, to Helen Amundsen's hospital bedside vigil of a grief-stricken young wife who had a nervous breakdown in reaction to the death of her husband.¹⁶

21. Confronted with such a tragedy, possibly only an experienced and well-trained psychologist or psychiatrist could have helped to manage and contain the grief. Canadian officials found it difficult even to introduce themselves to relatives, given the enormity of the grief they were suffering.¹⁷

¹⁵ Evidence of Molgat, Volume 12, November 6, 2006, p.1142:21 to 1143:7; Evidence of Molgat, Volume 13, November 7, 2006, p.1164: 15-22

¹⁶ Evidence of Stewart, Volume 13, November 7, 2006, p.1136:4 to 1137:20; Evidence of Molgat, Volume 13, November 7, 2006, p.1169:23 to 1170:10

¹⁷ Evidence of Stewart, Volume 13, November 7, 2006, p.1197: 14-17

22. In the Air India disaster, there was also substantial, understandable frustration on the part of family members about forensic issues. Within hours of the crash, Irish authorities were beginning to recover bodies. However, definitive identification did not come quickly and family members were not allowed to view the bodies. The Irish and Air India authorities were dealing with important questions touching on legal liability and compensation and therefore established thorough rules which were relatively time-consuming and triggered understandable frustration on the part of families anxious to identify their loved ones and move on to burial or other services. Consular officials, while the conduit of this information, were at no time involved in making these decisions.¹⁸

23. The Canadian consular effort was very much dependent on the information received from Irish authorities and Air India at the time. Air India, as the air carrier, was the only one with definitive information on the victims, and some of their early reporting contained errors and spelling mistakes, which complicated follow up work. Air India took responsibility for transporting the family members, arranging for their stay in Cork and transporting bodies and facilitating funeral arrangements. Canadian officials did, however, serve a crucial intermediary function between the chosen funeral director, Kenyons, and the families. In some cases, Canadian officials had to request further information which would enable identification. Officials repeatedly went back to Canadian sources in order to request dental records from Canada which would further the forensic work in Ireland.¹⁹

24. Local officials in charge of autopsy and repatriation had their own laws and procedures, which were strict. Implementation of these measures meant that there were

¹⁸ Evidence of Stewart, Volume 12, November 6, 2006, p.1133: 6-25

sometimes substantial delays in identification, which was upsetting to family members. Canadian consular officials were very sensitive to the family members' reaction to the delay in the identification process and their concern for timely burial rights. Canadian officials conscious of this concern would do whatever possible to expedite the process while at the same time being sensitive to the jurisdictional reality that the Irish authorities had exclusive authority and control over the forensic examinations and the identification process.²⁰

25. The Consular effort in response to the Air India disaster in 1985 was the biggest single consular operation that the Department had mounted in its history to that point. Several factors made the operation unprecedented and difficult. The disaster took place over Cork, Ireland. The Canadian Embassy in Ireland is a small mission (in 2007, as well as in the early 1980s), and the disaster took place at a time when the embassy was short-staffed and without a head of mission. Moreover, Cork is a considerable distance from Dublin, and Cork lacked the infrastructure (hotels, etc.) to accommodate the large numbers of people who arrived quickly in the area shortly after the disaster.²¹

26. As in any emergency situation, most of the key decisions were *ad hoc* decisions which had to be taken quickly, and for which no overall and specific guidelines were possible. Canada dispatched a team of senior officials to Ireland within 48 hours, reinforcing Dublin's small mission with senior staff from Canada and the Canadian High Commission in London. A small working mission was established in Cork to manage the situation and to deal with the large number of persons, mainly relatives, who arrived quickly in the region. As would be the

¹⁹ Evidence of Stewart, Volume 13, November 7, 2006, p.1180: 8-15, Evidence of Stewart, Volume 12, November 6, 2006, p.1134: 22-25, p.1135:1-15; Exhibit P-92, Tab 31, p.125 – Briefing Note: Consular Affairs, Tab 51, p.175 – Air India Disaster Meeting, 28 June 1985 (AM)

²⁰ Evidence of Stewart, Volume 12, November 6, 2006, p.1133:5 to 1133:16, p.1133:17 to 1136:3; Evidence of Stewart, Volume 13, November 7, 2006, 1168:19 to 1168:24

case with any disaster in 2007, and as was the case, for example, with respect to more recent challenges (such as Lebanon in 2006), staff dispatched to Ireland consisted of experienced working officials re-assigned to the Air India disaster, from Ottawa or from other missions.²²

27. In spite of the unprecedented, large-scale nature of this tragedy, the efforts of consular officials, from the moment they first became aware of the Air India crash until the last days of their work in Cork and in Ottawa, exceeded any reasonable standard of diligence and professionalism. The evidence shows that DEA officials went beyond their own standing consular practices to assist family members by providing information, facilitating the procedures for identifying victims, and pro-actively working towards family reunification visitor visas for family members of victims.²³ Modern technologies have changed the way that a similar situation would be handled today, with a much greater capacity for individual “case management” and more fluid flows of information. But improvements in our current ability to deal with large-scale disasters should not obscure the fundamental point that the consular response to the Air India disaster in 1985 was outstanding, timely and diligent.

28. The chronology of events of the Air India tragedy indicates that DEA officials responded adequately and promptly to this disaster in its consular effort. DEA acted quickly, professionally and reasonably in light of the information available to them at the outset of the disaster, and mobilized an appropriate team to deal with the situation on the ground. During the mission in Ireland, in difficult circumstances for everyone, they undertook a number of extraordinary tasks which went well beyond the norm of consular activities. They managed an

²¹ Evidence of Sheehan, Volume 13, November 7, 2006, p.1237:8-16

²² Evidence of Sheehan, Volume 13, November 7, 2006, p.1237:8-20

²³ Evidence of Sheehan, Volume 13, November 7, 2006, p.1219:14-17

unprecedented and extraordinary situation as well as could be expected given the magnitude of the tragedy for many Canadians and amid an atmosphere of utmost grief and tension.

PART II – CONSULAR PROGRAM

A. OVERVIEW:

29. The Consular program is a core function of the Department of Foreign Affairs (and International Trade, (DFAIT) and is a major element of Canada's international activities. Its principal objective is the provision of service to Canadians abroad and to their families in Canada. This service ranges from helping to find local legal representation for Canadians in difficulties abroad, to assisting with obtaining new passports in the event of theft or loss while travelling, to helping to arrange for the return to Canada of Canadians who have died abroad. There is no definitive or authoritative list of consular activities, but there are service standards for the performance of certain consular duties by Canadian consular staff.²⁴

30. Canada's consular activities are governed in large part by international convention, namely, the Vienna Convention on Consular Relations, which helps to define the legal obligations of states and which sets a framework within which most states operate their consular programs. Consular programs, by definition, operate within the sovereign jurisdiction of other states. Those states set the ground-rules for consular operations on their soil, and local authorities have both legal responsibility and practical oversight for many things (like death certificates and autopsies) relevant to a consular operation. In the event of a major air disaster, the relevant air transport company also has important legal and practical responsibilities, some of which are defined in international conventions.

²⁴ Evidence of Stewart, Volume 12, November 6, 2006, p.1117:24 to 1118:9; Evidence of Heatherington, Vol. 4, September 28, 2006, p.404:23 to p.405:11

31. Canada has well over 200 points of consular service abroad, mainly but not exclusively in the capitals of other countries. Service is provided by Canadian consular officials conversant in Canada's two official languages and trained in consular affairs, as well as by local nationals in our network of embassies, high commissions and consulates abroad. Their activities are described in a variety of manuals and instructions. In addition, every mission has contingency plans for large-scale emergencies in which there may be a consular dimension.

B. EFFECTIVENESS OF THE CURRENT CONSULAR PROGRAM

32. Canadian consular activities have expanded enormously over the past two decades, because of the ever increasing number of Canadians who choose to work or travel abroad and because of the increasingly multicultural nature of Canada's population. Consular programs now have the benefit of more points of service with Canada's enhanced networks of missions abroad, while new communications technology has enabled the consular program to offer better, more effective and faster service throughout the world, as well as more timely information about consular services and situations abroad.

33. The Canadian Consular program is one of the most successful and effective programs of its type in the world. The Department of Foreign Affairs and International Trade has a 24/7 Operations Centre which monitors global events on a real time basis. Its personnel are trained in responding to emergencies in both official languages, and there are procedures in place for ensuring that action is initiated whenever there are reports of disasters abroad. Senior officials in Ottawa are available on a 24/7 basis as well, and procedures are in place to ensure that the right officials know of important developments at the right time, and in time to initiate a

Canadian response. Recent experience in dealing with natural disasters has shown that the Canadian Consular program responds quickly and effectively to large-scale disasters.²⁵

34. With respect to disasters having an important consular dimension, ie, the involvement of Canadians, the current consular program has drawn heavily upon procedures, previous experiences and improvements in technology. Department officials have drawn on their work experience from the Air India tragedy as well as their experiences in other subsequent consular crisis situations in designing the Operations Centre and developing its procedures. For example, Consular officials who had worked on the Air India tragedy immediately recalled that tragedy when first hearing about 9/11 and thinking about Canadian victims.²⁶

35. When a major incident occurs abroad, the primary responsibility for the response rests with local authorities. The role of DFAIT is to contact local authorities on behalf of the Government of Canada, transmit to Ottawa all relevant information on the incident, including Canadian victims or Canadian involvement, and provide whatever assistance that may be requested and that the Department or the Government is in a position to offer. There may be occasions when a Canadian Consular response to a disaster is not undertaken, because there were no Canadians involved in the disaster. Nevertheless, there may be a Canadian response, in the form of financial assistance, emergency crews, forensic experts, etc. These types of responses are coordinated by DFAIT through its geographic bureau.²⁷

36. In general terms, Canadian consular officers have an array of capabilities, based on their training and experience. But their role is not to duplicate the services or the support

²⁵ Evidence of Desjardins, Volume 14, November 8, 2006, p.1281:1 to p.1286: 13; p.1299:20 to 1300:11 p.1302:1-2

structures which exist in Canada. For example, consular officers are not psychologists; their responsibility is not to take on the task of grief counseling. While Canadian officials remained with some individuals suffering from especially intense stress this went well beyond consular standards. Rather, their responsibility is to ensure, to the extent possible in local or Canadian circumstances, that available resources are identified, such as the Red Cross or Red Crescent Society, and that those in need are directed to those services.²⁸

37. For example, in the Air India disaster response, Canadian officials directed families or family members to the local social workers who along with Canadian officials were on hand at the Cork Regional hospital. However, the mandate of the Consular program does not include providing the specific expertise necessary to deal with grief counseling in all circumstances, nor can DFAIT reproduce abroad the sophisticated support structure that exists in Canada. Moreover most aspects of consular service, by definition, end when Canadians return home to the support and facilities offered by various levels of government in Canada.²⁹

38. The emotional needs of the families were addressed to the extent possible in various ways by the Government of Canada such as: the creation of a counseling hotline established in Ontario, co-funded by the federal and provincial governments, employing 200 fulltime and volunteer workers providing information on psychiatric, legal and financial services at a cost of \$44,000; funding travel for 3 community representatives to Cork one year later to commemorate the victims; providing a \$30,000 grant to the Flight 182 Relief Program to act as a focal point for community contact and liaison for problems related to the crash; drafting and

²⁶ Evidence of Desjardins, Volume 14, November 8, 2006, p.1281:11 Tab 27, p.116 –“Air India Disaster Meeting, 26 Junto 1283:22

²⁷ Evidence of Desjardins, Volume 14, November 8, 2006, p.1293:12-16

²⁸ Evidence of Desjardins, Volume 14, November 8, 2006, p.1293:17 to 1294:1

designing an information guide to services for bereaved families and installing and operating toll-free hotlines in Montreal, Vancouver and Toronto.³⁰

39. In any disaster, local authorities are formally in charge of the follow-up, and Canadian consular officials necessarily act in a support or supplementary capacity. For example, the issuance of death certificates is a local responsibility. In a disaster in which identification procedures may be long or complex, or in which identification may not be possible, procedures may depend upon the national law of the home state of the victim, etc. Canadian consular officials can assist Canadians in identifying points of contact with local authorities, or authorities in other countries relevant to the case, but Canadian consular officials do not case manage or assume directing responsibilities in such circumstances. Canadians must directly engage local officials, or, in some cases, hire legal counsel to assist. There are practical, resource and legal implications which prohibit consular officials from extending further forms of assistance.³¹

40. There are consular roles in identification, which Canada performed in the Air India disaster and continues to perform today, namely, communicating with the local authorities, RCMP or other international agencies; helping to obtain forensic materials such as dental records, etc. from Canadian or other sources; and communicating with Canadian families, either on site or in Canada.

²⁹ Evidence of Stewart, Vol. 12, November 6, 2006, p.1133:17 to 1134:8; Volume 13, November 7, 2006, p.1169:6-18

³⁰ Evidence of Molgat, Volume 13, November 7, 2006, p.1170:20 to 23; p.1207:11-25; Exhibit 215 Heritage Canada Documents- "List of Contacts for Information and Assistance re: Air India Flight 182"; Letter to PM Mulroney from Minister of State for Multiculturalism Jack Murta; Memo to Minister of State – "Multiculturalism re: Multiculturalism Sector Involvement in AI Incident" dated March 3, 1986

³¹ Evidence of Desjardins, Volume 14, November 8, 2006, p.1293:12-16

41. If a disaster similar to the Air India tragedy were to happen today, there would be an immediate and effective consular response relying on current procedures, training, experience, and technological advancements. In many respects, the enhanced response of 2007 would be owing to better information-management systems which now exist and which did not exist in 1985. For example, DFAIT now runs an internet-based consular program which enables DFAIT to provide information to a global audience on virtually a real-time basis, as well as to gather information from interested Canadians and capture information on a sophisticated database. In recent disasters, DFAIT has put situation reports on the consular website for access world-wide.³²

42. Moreover, the consular bureau's case management software now enables a more effective management of the situation on the ground, particularly with respect to contacting family members and providing essential information. The difficulties over the arrival times of families, information-sharing, contact information, etc., which existed in 1985 would be greatly alleviated today, at least with respect to people capable of using the internet.

43. It should be pointed out, however, that many of the systems now in use depend on Canadians providing essential input prior to travelling abroad. As happened in the Lebanon tragedy of 2006, it remains difficult for DFAIT to manage all aspects of international crisis situations when Canadians have not notified DFAIT of their travel or of their whereabouts, or where Canadians, irrespective of the nature of the disaster, prefer not to notify DFAIT. Virtually all of consular service involves a balance of responsibilities between what DFAIT can do for Canadians and what Canadians must do for themselves.

³² Evidence of Desjardins, Volume 14, November 8, 2006, p.1280:14-21

44. Modern communications technology has also enabled DFAIT's Operations Centre to manage issues much more effectively from headquarters. For example, in the Lebanon crisis of 2006 and the Tsunami of 2004, the Operations Centre opened numerous telephone lines and advertised these numbers to Canadians to initiate contacts, and established a roster of Ottawa-based officers to manage the global telephone traffic on a 24/7 basis. This would have been prohibitively expensive in 1985, if not impossible, as the case-management software which allowed the management of these disasters had not yet been developed. Information-gathering, communications, and information-sharing have become much more efficient today in light of DFAIT's global communications capabilities.³³

45. The deployment of personnel to disaster zones is also much more efficient in 2007 than it was in 1985. In the Air India disaster, personnel were quickly asked to participate in the operation and were drawn out of existing jobs. Now, there is a roster of staff prepared to deploy at short notice. Those in headquarters can generally be ready to travel within 12 hours, while those at neighbouring posts might have an even faster time-table. The roster for service abroad includes experienced consular officers capable of providing effective service in Canada's two official languages. In addition, there are some core capacities in other languages which can and would be mobilized depending upon where the disaster takes place.

46. Ultimately, the effectiveness of consular operations depends upon communications, especially information which is accurate and timely. Modern technology is enhancing our capacity to improve service, and new advances will undoubtedly make even better service possible in the future. However, there is an expectation on the part of consular officials that Canadians will read the internet and use internet-based services. Without the provision of

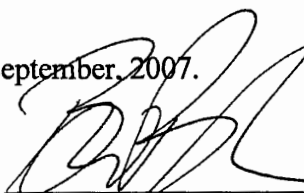
³³ Evidence of Desjardins, Volume 14, November 8, 2006, p.1280:6 to 1281:10

information to DFAIT by travelling Canadians, we cannot know the travel plans or locations of Canadians abroad. Similarly, as we move increasingly into internet-based solutions, there must be an expectation that Canadians have access to the internet and can use our systems.

47. But the human dimension remains important today, as it did in 1985. Much of what constitutes consular action does not stem from manuals or procedures as much as it does from what seems right in any given situation. Meeting people at an airport, for example, is not a consular function; it is an administrative measure taken because it meets a perceived need. Similarly, when Canadian consular officers confront situations in the future, they have to rely on their empathy and initiative, as one senior official testified. These are ultimately the most prized attributes of dealing with a crisis, the dimensions of which might be unknown as it begins to unfold. Canadians have a superb consular service of which they should be deservedly proud.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

Dated at Toronto this 24th day of September, 2007.



**Counsel for the Attorney General of
Canada**

John Sims
Deputy Attorney General of Canada
Department of Justice
Ontario Regional Office
130 King Street West
Suite 3400, Box 36
Toronto, Ontario
M5X 1K6

Per: Barney Brucker
Tel: (416) 954-6214
Fax: (416) 952-8437
E-mail: barney.brucker@justice.gc.ca

