

**Commission d'enquête
sur les actions des
responsables canadiens
relativement à Maher Arar**



**Commission of Inquiry into
the Actions of Canadian
Officials in Relation to
Maher Arar**

Audience publique

Public Hearing

Commissaire

L'Honorable juge /
The Honourable Justice
Dennis R. O'Connor

Commissioner

Tenue à:

Salon Algonquin
Ancien hôtel de ville
111, Promenade Sussex
Ottawa (Ontario)

le lundi 30 mai 2005

Held at:

Algonquin Room
Old City Hall
111 Sussex Drive
Ottawa, Ontario

Monday, May 30, 2005

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Mr. Ronald G. Atkey	<i>Amicus Curiae</i>
Mr. Lorne Waldman Ms Marlys Edwardh Ms Breese Davies Ms Brena Parnes	Counsel for Maher Arar
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Ms Lori Sterling Mr. Darrell Kloeze Ms Leslie McIntosh	Ministry of the Attorney General/ Ontario Provincial Police
Mr. Faisal Joseph	Canadian Islamic Congress
Ms Marie Henein Mr. Hussein Amery	National Council on Canada-Arab Relations
Mr. Steven Shrybman	Canadian Labour Congress/Council of Canadians and the Polaris Institute
Mr. Emelio Binavince	Minority Advocacy and Rights Council
Mr. Joe Arvay	The British Columbia Civil Liberties Association

APPEARANCES / COMPARUTIONS

Mr. Kevin Woodall	The International Commission for Jurists, The Redress Trust, The Association for the Prevention of Torture, World Organization Against Torture
Colonel Me Michel W. Drapeau	The Muslim Community Council of Ottawa-Gatineau
Mr. David Matas	International Campaign Against Torture
Ms Barbara Olshansky	Centre for Constitutional Rights
Mr. Riad Saloojee Mr. Khalid Baksh	Canadian Council on American-Islamic Relations
Mr. Mel Green	Canadian Arab Federation
Ms Amina Sherazee	Muslim Canadian Congress
Ms Sylvie Roussel	Counsel for Maureen Girvan
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1 Ottawa, Ontario / Ottawa (Ontario)

2 --- Upon commencing on Monday, May 30, 2005

3 at 10:00 a.m. / L'audience débute le lundi

4 30 mai 2005 à 10 h 00

5 THE REGISTRAR: Please be seated.

6 Veuillez vous asseoir.

7 THE COMMISSIONER: Good morning.

8 Mr. Cavalluzzo?

9 MR. CAVALLUZZO: Good morning,
10 Mr. Commissioner.

11 At the outset, prior to having
12 Mr. Graham testify this morning, we want to deal
13 with two housekeeping matters.

14 The first will be a ruling
15 relating to the motion concerning questions
16 relating to parliamentary privilege.

17 Second, there are a number of
18 documents that I want to introduce initially,
19 prior to Mr. Graham's appearance, resulting from
20 the government's agreement to have those documents
21 disclosed, and Ms McIsaac will have some comments
22 relating to that as well.

23 RULING / DÉCISION

24 THE COMMISSIONER: With respect to
25 the ruling, as indicated I gather by Commission

1 counsel, I am ruling that the statements made in
2 Parliament in the minutes of the parliamentary
3 committees not be admitted at this stage of the
4 inquiry. I will release a ruling with my reasons
5 at the lunch hour break today.

6 The second issue then,
7 Mr. Cavalluzzo.

8 MR. CAVALLUZZO: Mr. Commissioner,
9 the second issue relates to documents that were
10 the subject of a motion brought on behalf of
11 Mr. Arar's counsel, wherein they sought to be
12 released from their undertaking, in effect to have
13 these documents disclosed to the public.

14 In several discussions during the
15 weekend with my friend, Ms McIsaac, the government
16 has agreed to disclose those documents. We will
17 be introducing those documents as exhibits and
18 questioning Mr. Graham and Mr. Pardy in particular
19 about those documents.

20 Prior to introducing them as
21 exhibits, I would call upon Ms McIsaac, who has
22 some comments.

23 THE COMMISSIONER: Thank you.

24 Ms McIsaac?

25 MS McISAAC: Thank you, sir.

1 As you are aware, last year the
2 Commission released documents to Mr. Arar's
3 counsel team for which the government had not yet
4 completed its review for national security.

5 Both the Commission and the
6 government have undertaken a review of what
7 happened, and the release appears to have been the
8 result of a miscommunication between the
9 government and Commission staff.

10 Be that as it may, we have to
11 figure out how to move forward on this.
12 Mr. Arar's counsel team received the documents
13 pursuant to an undertaking not to release them to
14 the public until the Commission had itself filed
15 them publicly, and Mr. Arar's counsel team have
16 now applied to you to be released from that
17 undertaking and have brought a motion to that
18 effect. And it's that motion that I am responding
19 to.

20 I also want to take this
21 opportunity to thank Ms Edwardh and her counsel
22 team for the way they have dealt with this matter,
23 and recognized the importance of the undertaking.

24 THE COMMISSIONER: I would join in
25 that, if I can interrupt. I appreciate their

1 respecting the undertaking.

2 MS McISAAC: Right.

3 I want to make it clear that the
4 government remains of the view that some of the
5 information in question does raise national
6 security concerns as contemplated by the Canada
7 Evidence Act, and it would have been the
8 government's preference that the information in
9 these documents be dealt with during in-camera
10 proceedings, not because we wanted to hide
11 anything but because of these national security
12 concerns.

13 After considerable consultation
14 and review of the complex issues involved, I can
15 advise you that the government will not be calling
16 further evidence on this matter or making any
17 further arguments with respect to the national
18 security concerns.

19 In the circumstances of the
20 inadvertent disclosure of these particular
21 documents to Mr. Arar and his counsel, if you rule
22 that this information should be made public now,
23 the government will comply with that ruling.

24 It's important for the public,
25 however, to understand the government's position,

1 and I would like to take just a moment, if I may,
2 to explain that.

3 THE COMMISSIONER: Please do.

4 MS McISAAC: First, your terms of
5 reference make it clear that you and your counsel
6 have access to all of the relevant information, so
7 the fact that this was redacted, as we have used
8 this term, does not mean that your counsel team
9 and you have not had access to it.

10 You have received thousands of
11 pages of material and heard dozens of witnesses
12 from several agencies and departments, and you
13 have received these documents in their complete
14 form and all of the information relating to them
15 either has been, or would have been, explored in
16 the in-camera sessions as we move back into those.

17 Second, there are some very
18 important principles at play here.

19 The first relates to the
20 government's responsibilities regarding a criminal
21 investigation.

22 As you know, as a matter of sound
23 public policy, the police and the government do
24 not generally confirm who is or is not the subject
25 of a criminal investigation. There are a couple

1 of reasons for this.

2 First, to do so may compromise the
3 investigation. But it's also simply not fair to
4 the individuals who are involved. In our legal
5 system information about the subjects of an
6 investigation is usually only released once
7 charges have been laid, or at least imminent in
8 the sense that perhaps a warrant has been issued.
9 It's one thing for the media and others to
10 speculate or piece together parts of a puzzle;
11 it's an entirely different matter for the
12 government to publicly comment on who is under
13 investigation.

14 There are also some important
15 principles relating to the security of the state
16 and international relations, which we have tried
17 to apply in a rational manner to the evidence
18 before you.

19 It is CSIS which is primarily
20 charged with providing the government with timely
21 intelligence relating to national security.
22 National security is the security of Canadians,
23 both at home and abroad, the security of our
24 democratic institutions, and the security of our
25 allies and international partners.

1 CSIS, and indeed other agencies
2 such as the RCMP, must rely on the security and
3 intelligence services and policing agencies of
4 other countries to provide much of the
5 intelligence which is vital to their role in
6 fulfilling this most important mandate.

7 Terrorism, in particular, is a
8 global threat and it's important that we recognize
9 that it is not just our closest allies that can
10 assist in providing timely intelligence. It is
11 important that we not lose our respected
12 international reputation in the policing and
13 intelligence community or jeopardize our
14 relationship with countries which may be able to
15 assist in countering this global threat and other
16 global issues.

17 Similarly, the Department of
18 Foreign Affairs also provides vital information to
19 the government. This information is gathered
20 through Canada's membership in the U.N. and other
21 international organizations, through both formal
22 and informal contacts by embassy personnel, and
23 through the relationships that officials develop
24 with their counterparts in other countries.

25 Canada's ability to conduct

1 foreign relations, including the provision of
2 consular assistance, depends greatly on our
3 foreign officials having confidence that their
4 private, confidential discussions with Canadian
5 officials will be protected from public
6 disclosure.

7 Canada is a respected member of
8 the international community, and its police and
9 security agencies are respected internationally.
10 But as we all recognize, Canada is a middle power,
11 and we are a net importer of intelligence and
12 information.

13 It is against this background,
14 sir, that the government has undertaken its review
15 of information being provided to this Commission.
16 These principles are ones which I expect most
17 right-thinking people would agree with. It's the
18 application of these principles to thousands of
19 documents, and as Mr. Atkey has recognized this is
20 not an easy task. It's a very difficult process
21 for all involved, and as far as I am aware it is
22 unique for a Canadian commission of inquiry.

23 So in closing, sir, I want to
24 assure you that I and my counsel team will
25 continue to work with the Commission to ensure

1 that we achieve the necessary balance between the
2 public interest in disclosure of information and
3 the public interest in the protection of
4 information which, if released, would be injurious
5 to international relations, national defence, or
6 national security.

7 And over the weekend and this
8 morning, I have had some additional discussions,
9 both with Mr. Cavalluzzo and with Ms Edwardh, and
10 I am hoping that going forward we can work
11 together to resolve any of these issues so that we
12 can move ahead as quickly and as expeditiously as
13 possible.

14 Thank you.

15 THE COMMISSIONER: Thank you very
16 much, Ms McIsaac. That's very helpful, and I
17 appreciate the thoughts and the comments that you
18 have made on behalf of the government.

19 Ms Edwardh, do you have anything
20 to add to this? This, I think, started with your
21 motion.

22 MS EDWARDH: Mr. Commissioner, we
23 are very pleased with the decision of the
24 government. As I understand Ms McIsaac's
25 proposition, it requires a ruling from you and

1 they would be content if this matter went into the
2 public domain. Certainly from our perspective,
3 the documents are important and will advance the
4 public part of the inquiry, and I would ask that
5 such a ruling be granted.

6 THE COMMISSIONER: Just so that I
7 am clear, does the ruling that is being sought
8 apply to four documents only? That's as I
9 understand it.

10 MS McISAAC: That's correct, sir.
11 There were -- let me just count them.

12 THE COMMISSIONER: Mr. Cavalluzzo
13 and Ms Edwardh?

14 MS McISAAC: Actually there are
15 three documents for which the motion originally
16 applied, but we identified a fourth document which
17 would also be involved. So there are four
18 documents.

19 THE COMMISSIONER: So that the
20 ruling would be that Mr. Arar's counsel, and
21 Mr. Arar, be released from their undertaking with
22 respect to those four documents and that those
23 documents now form part of the public record of
24 this inquiry?

25 MS McISAAC: That's correct. As a

1 matter of logistics, I think Mr. Cavalluzzo will
2 actually file them.

3 MS EDWARDH: Thank you very much,
4 Mr. Commissioner.

5 THE COMMISSIONER: Then I so
6 direct.

7 MR. CAVALLUZZO: Perhaps now,
8 Commissioner, is the appropriate time to file
9 these documents.

10 THE COMMISSIONER: Should they be
11 marked as a single exhibit?

12 MR. CAVALLUZZO: I think they
13 should be separate exhibits because we are going
14 to be dealing with each document separately.

15 THE COMMISSIONER: Mr. Registrar,
16 what numbers would those be?

17 THE REGISTRAR: 102.

18 THE COMMISSIONER: 102?

19 There are four of them?

20 MR. CAVALLUZZO: Yes.

21 The first document is an action
22 memorandum to the Minister of Foreign Affairs
23 dated June 3rd, 2003.

24 THE COMMISSIONER: That would be
25 P-102.

1 EXHIBIT NO. P-102: Action
2 memorandum to Minister of
3 Foreign Affairs, dated 3 June
4 2003

5 MR. CAVALLUZZO: The second
6 document is another action memorandum to the
7 Minister of Foreign Affairs, dated June 5th, 2003.

8 THE COMMISSIONER: 103.

9 EXHIBIT NO. P-103: Action
10 memorandum to Minister of
11 Foreign Affairs, dated 5 June
12 2003

13 MR. CAVALLUZZO: The third
14 document really contains two e-mails, both of
15 which are dated November 19, 2002; the difference
16 being the second e-mail, or the third page in, has
17 some handwriting on it.

18 THE COMMISSIONER: Ms McIsaac, did
19 you have a comment?

20 MS McISAAC: Mr. Commissioner, we
21 just recounted. I think there are five documents.

22 MR. CAVALLUZZO: There are five
23 documents.

24 THE COMMISSIONER: Thank you.

25 The two e-mails will be 104.

1 EXHIBIT NO. P-104: Two
2 e-mails, dated 19 November
3 2003

4 MR. CAVALLUZZO: I will explain,
5 Mr. Commissioner, how it went from three to five.

6 In any event, the next one is an
7 e-mail dated December 2, 2003, which captures a
8 conversation between Secretary of State Colin
9 Powell and Minister Graham.

10 THE COMMISSIONER: That's 105.

11 EXHIBIT NO. P-105: E-mail
12 dated 2 December 2003 re
13 conversation between
14 Secretary of State Colin
15 Powell and Minister Graham

16 MR. CAVALLUZZO: And the fifth and
17 final document is a DFAIT chronology which is
18 dated March 10th of 2004.

19 THE COMMISSIONER: 106.

20 EXHIBIT NO. P-106: DFAIT
21 chronology dated 10 March
22 2004

23 MR. CAVALLUZZO: The two
24 additional documents which are not part of the
25 motion would be the e-mail, the second-last e-mail

1 concerning the conversation between Mr. Powell and
2 Mr. Graham, and the June 5th memorandum, which is
3 virtually identical to the June 3rd memorandum.
4 So those two documents would be outside the
5 subject of the motion.

6 THE COMMISSIONER: All right. Are
7 we to take a break now?

8 MR. CAVALLUZZO: I think it would
9 be appropriate to take a break of a few minutes
10 and then we will have our witness.

11 THE COMMISSIONER: We will rise
12 for five minutes.

13 THE REGISTRAR: Please stand.
14 Veuillez vous lever.

15 --- Upon recessing at 10:15 a.m. /

16 Suspension à 10 h 15

17 --- Upon resuming at 10:23 a.m. /

18 Reprise à 10 h 23

19 THE REGISTRAR: Please be seated.

20 THE COMMISSIONER: Good morning,
21 Mr. Minister.

22 MR. CAVALLUZZO: Good morning,
23 Minister.

24 HON. BILL GRAHAM: Good morning,
25 sir.

1 MR. CAVALLUZZO: I don't know if
2 the cameras were for me or for you.

3 HON. BILL GRAHAM: They don't give
4 me this much attention in the House of Commons, so
5 they must have been for you.

6 MR. CAVALLUZZO: I have a couple
7 of introductory things, Mr. Commissioner.

8 I would like to introduce a few
9 more exhibits. First of all, there are the
10 redacted personal notes of Minister William
11 Graham.

12 THE COMMISSIONER: That will be
13 107.

14 EXHIBIT NO. P-107: Redacted
15 personal notes of Minister
16 William Graham

17 MR. CAVALLUZZO: Second, there is
18 going to be another Book of Documents, which are
19 the redacted PSEP relevant documents. That's the
20 Public Security Emergency Preparedness Ministry
21 book of documents.

22 THE COMMISSIONER: That will be
23 108.

24 EXHIBIT NO. P-108: Redacted
25 PSEP book of documents

1 MR. CAVALLUZZO: And finally there
2 will be an addition to P-85. It will be Volume 5
3 of P-85.

4 THE COMMISSIONER: All right.

5 MR. CAVALLUZZO: Finally, just one
6 last exhibit before the examination of Minister
7 Graham, and that is Mr. Graham's curriculum vitae.

8 THE COMMISSIONER: The CV will be
9 109.

10 EXHIBIT NO. P-109:

11 Curriculum Vitae of Minister
12 William Graham

13 THE COMMISSIONER: Do you wish to
14 be sworn or affirmed, Mr. Graham?

15 HON. BILL GRAHAM: Sworn is fine
16 by me, sir.

17 THE COMMISSIONER: All right. If
18 you would rise and take the Bible in your right
19 hand, I will administer the oath.

20 SWORN: WILLIAM C. GRAHAM

21 THE COMMISSIONER: Thank you. You
22 may be seated.

23 EXAMINATION

24 MR. CAVALLUZZO: Mr. Graham, you
25 are presently in the cabinet of the Government of

1 Canada?

2 HON. BILL GRAHAM: Yes, I am.

3 MR. CAVALLUZZO: And your
4 position?

5 HON. BILL GRAHAM: I am Minister
6 of National Defence.

7 MR. CAVALLUZZO: At the material
8 time in 2002-2003, you were the Minister of
9 Foreign Affairs?

10 HON. BILL GRAHAM: Yes, sir.

11 MR. CAVALLUZZO: Just some
12 introductory comments, Mr. Minister, in respect of
13 your education and professional background.

14 You graduated with Honours with a
15 Bachelor of Arts from the University of Toronto?

16 HON. BILL GRAHAM: Yes.

17 MR. CAVALLUZZO: You also
18 graduated from the University of Toronto Law
19 School with an LLB?

20 HON. BILL GRAHAM: Yes, sir.

21 MR. CAVALLUZZO: You received a
22 Doctorate of Laws from the University of Paris?

23 HON. BILL GRAHAM: Yes.

24 MR. CAVALLUZZO: In respect of
25 your employment history prior to your role as a

1 politician and member of the cabinet, prior to
2 1993 you were a professor at the Faculty of Law at
3 the University of Toronto?

4 HON. BILL GRAHAM: Yes, I was.

5 MR. CAVALLUZZO: In that capacity
6 you taught international trade law, public
7 international law and the law of the European
8 Community?

9 HON. BILL GRAHAM: Yes.

10 MR. CAVALLUZZO: Between 1986 and
11 1988, you were the director of the Centre of
12 International Studies at the University of
13 Toronto?

14 HON. BILL GRAHAM: I was.

15 MR. CAVALLUZZO: And prior to your
16 teaching career, you practised law in the City of
17 Toronto?

18 HON. BILL GRAHAM: Yes, sir.

19 MR. CAVALLUZZO: In respect of
20 your political career, you were initially elected
21 in 1993?

22 HON. BILL GRAHAM: Yes.

23 MR. CAVALLUZZO: In which riding
24 was that?

25 HON. BILL GRAHAM: It was at that

1 point called -- still perhaps Rosedale; became
2 Toronto Centre Rosedale, and now it's known as
3 Toronto Centre. But subject to some minor
4 boundary changes, it's basically been the same
5 riding ever since then.

6 MR. CAVALLUZZO: And you have been
7 re-elected on three other occasions since 1993?

8 HON. BILL GRAHAM: Yes, sir.

9 MR. CAVALLUZZO: And as far as our
10 concern in respect of Mr. Arar's situation, I
11 understand that between January of 1995 and
12 January of 2002, you served as the Chair of the
13 Standing Committee on Foreign Affairs and
14 International Trade?

15 HON. BILL GRAHAM: Yes, up until
16 my appointment to the cabinet, I was chairman of
17 the Foreign Affairs Committee, yes.

18 MR. CAVALLUZZO: And on January
19 15th of 2002, you were appointed as the Minister
20 of Foreign Affairs and International Trade?

21 HON. BILL GRAHAM: Yes, sir. Much
22 to my astonishment, if I may say.

23 MR. CAVALLUZZO: Not to others.

24 In any event, you have many
25 publications and honours and so on, and I will

1 just advise the public that you have those and we
2 will not review those today.

3 I would like to start a little
4 prior to your appointment to the cabinet in
5 January of 2002, but after 9/11, after September
6 11th of 2001. Obviously you were appointed four
7 months after that fateful day.

8 I would ask you, first of all, in
9 terms of the subsequent events in Canada after
10 9/11, what impact it had, if any, on Canadian-U.S.
11 relations?

12 HON. BILL GRAHAM: Well, it
13 certainly had a dramatic impact on Canada-U.S.
14 relations because you will recall that in the
15 United States at the time there was a significant
16 thought, fed a great deal by some of the
17 newspapers in the United States, that in fact the
18 perpetrators of 9/11 had come from Canada. This
19 is in fact what our present ambassador,
20 Mr. McKenna has said has achieved the level of
21 urban myth and is still said by people in the
22 United States, and still believed by some people.

23 But at that time, it clearly was
24 of great concern to us.

25 I also at that time served on the

1 Canada-United States Parliamentary Committee, and
2 we met with our parliamentary counterparts. I
3 discussed with my colleague, Ben Gilman, who was
4 then head of the Foreign Relations Committee of
5 the U.S. congress, all of those issues.

6 Basically I would say since 9/11,
7 and even going on through when I became Foreign
8 Minister, the role of Mr. Manley in particular
9 dealing with Governor Ridge and the rest of us was
10 making sure that we had an open border which would
11 satisfy Canada's need for open trade with the
12 United States, our economic dependency on the
13 United States, some \$2 billion a day in trade, the
14 way in which families and people, and individuals,
15 and students, and others moved back and forth
16 across the border. Over a million people a year.
17 And keeping that border open was a big
18 preoccupation at all levels.

19 At the same time you will recall
20 that within Canada itself we were looking at
21 adjustments to our own Criminal Code to deal with
22 the problem of terrorism which we had become
23 conscious and recognizing as a potential threat to
24 Canada and Canadians as well, and there was
25 therefore the debates around that bill, the

1 necessary balance to keep between civil liberties
2 and at the same time protecting citizens.

3 This was all going on at once, if
4 I can put it that way.

5 MR. CAVALLUZZO: In terms of the
6 Americans' heightened response to terrorism, would
7 you venture to say that the threshold for
8 terrorist activities in the United States was
9 somewhat lower than in Canada?

10 HON. BILL GRAHAM: Well,
11 certainly -- yes. The United States, as you know,
12 had the process where they would go to orange
13 alert when they felt there was a possible
14 incidence. I don't believe in Canada we ever went
15 to that. I don't believe that Canadians saw
16 themselves threatened in the same way that
17 Americans saw themselves threatened. That's not
18 to say Canadians weren't killed in terrorist
19 incidents. They were in New York, they were in
20 Bali, they were in Moscow.

21 Canadians were killed in terrorist
22 incidents, but we did not have the same level, if
23 you like, of heightened awareness in terms of what
24 we were doing in Canada to protect ourselves
25 against terrorism as they did in the United

1 States. That's not to say we were less
2 protective, but our level of approach to it was
3 different.

4 MR. CAVALLUZZO: In terms of the
5 American response, one of the things that we have
6 seen, and this would have been after you became
7 Minister of Foreign Affairs, and that is that on
8 September 11th of 2002, one year after 9/11, the
9 Americans introduced something called the NSEERS
10 program, which targeted in particular five Middle
11 Eastern countries in respect of people coming into
12 the United States.

13 You were no doubt aware of that?

14 HON. BILL GRAHAM: Yes, sir.

15 MR. CAVALLUZZO: This is, by the
16 way, just for counsel, Exhibit P-90, which is the
17 travel alerts that we reviewed with Mr. Pardy.

18 In respect of the application of
19 the NSEERS program, which as I said would have
20 affected five countries in particular, did you
21 experience any responsibilities relating to this
22 in terms of your constituency responsibilities
23 resulting from the impact of this American policy?

24 HON. BILL GRAHAM: Prior to my
25 becoming Foreign Minister?

1 MR. CAVALLUZZO: Either before or
2 after.

3 HON. BILL GRAHAM: Yes, I did. I
4 had many constituents come to my office,
5 particularly those of the Islamic faith, who
6 pointed out that it was becoming very difficult
7 for them to cross the border into the United
8 States. It wasn't just those that were subject to
9 the NSEERS.

10 And at the same time, while
11 dealing with the anguish of people who were used
12 to going back and forth across the border with the
13 United States -- of course we were engaged with
14 the United States itself, pointing out that these
15 were Canadian citizens -- I can't remember the
16 exact details, but my recollection was that at one
17 point the United States took the position that if
18 your passport showed you were born in a certain
19 place, you were going to be singled out for
20 special treatment as opposed to other people.

21 We strongly objected to that; that
22 all Canadians were Canadians.

23 There was a different approach to
24 people that were of landed immigrant status, and
25 that was also a problem for many people, and this

1 was clearly an issue for many of my constituents.
2 I happen to represent a very multiethnic riding,
3 and there were a lot of people affected by this
4 and I discussed it regularly.

5 MR. CAVALLUZZO: Through the
6 evidence of Mr. Pardy, we understand that shortly
7 after the implementation of the NSEERS program,
8 the American government agreed to exempt Canadian
9 citizens from the application of that program
10 sometime in November of 2002?

11 HON. BILL GRAHAM: I believe it
12 would have been Mr. Manley would have negotiated
13 that with Governor Ridge, but that was certainly
14 the position of the government, and our position
15 as well.

16 MR. CAVALLUZZO: The other
17 contextual fact I would like to discuss with you
18 prior to coming to your role as Minister of
19 Foreign Affairs is your knowledge, if any, of what
20 we have been referring to either as rendition or
21 extraordinary rendition that seems to have been
22 practised by the Americans.

23 What this means, of course, is
24 that it would involve the transfer of a citizen
25 from one country to another country for the

1 purposes of interrogation and perhaps harsher
2 treatment.

3 I would ask whether you were aware
4 of this American policy in or about 2000, prior to
5 the time that Mr. Arar was detained?

6 HON. BILL GRAHAM: All I can say
7 is that once of course this terrible incident
8 happened with Mr. Arar, there was no question we
9 became focused on it and immediately aware of it.
10 Whether I might have read something in the
11 newspapers prior to that -- I don't know how
12 public it was or to what extent. But we certainly
13 became more than aware of it afterwards.

14 Of course, since that time there
15 has been a great deal of treatment of this issue
16 in the American press itself, as well as in our
17 own press. So I certainly became aware of it. I
18 wouldn't have said it was something that I was
19 particularly focused on prior to Mr. Arar's having
20 been sent to Syria.

21 MR. CAVALLUZZO: Okay. I would
22 like to come then to your position of Minister of
23 Foreign Affairs and, in particular, your
24 relationship with the Consular Affairs Bureau,
25 because we have heard a great deal of evidence

1 from officials within the Consular Affairs Bureau.

2 I am wondering what your
3 relationship was with them in terms of reporting
4 structures.

5 You obviously know who Mr. Gar
6 Pardy is.

7 HON. BILL GRAHAM: Yes.

8 MR. CAVALLUZZO: He was the
9 Director General of Consular Affairs.

10 I wonder if you might review with
11 us the mechanics as to how you would be briefed in
12 respect of consular issues, such as Mr. Arar's
13 case?

14 HON. BILL GRAHAM: Right. Well,
15 consular issues in the department tended to be a
16 rather separate department and focus of the
17 department. Of course, I was responsible for the
18 general conduct of Canada's foreign policy and so
19 was constantly being briefed on all issues: the
20 U.N., G-8, all of the other issues that we were
21 engaged in at the time.

22 So I would have been briefed on
23 consular issues and specific cases that were
24 important, bearing in mind there are some 3,000
25 Canadians in jail in various places around the

1 world at any one time. So I would have been
2 briefed on those which became important.

3 Clearly Mr. Arar, Mr. Sampson --
4 there were other issues, other consular cases,
5 which I personally got engaged in, in which case I
6 would have been brought in to them both through
7 the Deputy Minister or through people in my office
8 who would have been speaking to the consular
9 officials directly.

10 I understand Robert Fry will be
11 giving evidence before the Commission. He
12 personally was directly involved with Mr. Pardy,
13 with other people, managing many of these consular
14 issues on a day-to-day basis while I was doing
15 other things.

16 MR. CAVALLUZZO: Right. And what
17 position did Mr. Fry hold in your office?

18 HON. BILL GRAHAM: He was senior
19 policy advisor. He would have been very much
20 considered the number 2 after Mr. Costello, who
21 was my chief of staff.

22 MR. CAVALLUZZO: So what you are
23 saying is that most of the communications between
24 your office and Mr. Pardy would be through Mr. Fry
25 or another person employed in your office?

1 HON. BILL GRAHAM: Possibly either
2 through -- if it was through the -- the
3 departmental channels would have been Mr. Pardy
4 would have reported to his Director General who
5 would have reported to the Deputy Minister -- to
6 the ADM, who would have reported to the Deputy
7 Minister, and thereby would have come to me
8 through that channel.

9 Or if there was a direct political
10 engagement, it would have been through largely
11 either Mr. Costello or Mr. Fry.

12 I did meet Mr. Pardy on, I think,
13 two occasions during the course of doing these
14 issues, but largely I would have discussed these
15 matters with the Deputy Minister and with my
16 political staff.

17 MR. CAVALLUZZO: I understand you
18 sit on something called the security cabinet
19 meetings?

20 HON. BILL GRAHAM: Yes, sir.

21 MR. CAVALLUZZO: What is that? I
22 wonder if you could briefly tell us what its role
23 is, what its duties are.

24 HON. BILL GRAHAM: Well, since the
25 recommendations of our national security policy

1 which came forward last year, and a restructuring
2 of our cabinet, now there is a cabinet committee,
3 chaired by the Deputy Prime Minister Anne
4 McLellan, as Solicitor General and responsible for
5 security matters, and with myself, the Foreign
6 Minister, and other Ministers on it. It is all
7 public as to who sit on that committee.

8 We consider issues of national
9 security interests to the country. That is a new
10 cabinet committee that was set up to try and deal
11 with the issue of national security and arose out
12 of that report. It was put into place by Prime
13 Minister Martin.

14 In Prime Minister Chretien's time,
15 the issues generally would have been discussed in
16 terms of national security. There was no specific
17 cabinet committee, but there was a sub-committee
18 which would meet in order to determine whether or
19 not entities would be listed on the United
20 Nations' terrorist list pursuant to the United
21 Nations' regulations, or whether they would be
22 listed under the Criminal Code after it was
23 amended to be terrorist lists under the
24 appropriate provisions of the Criminal Code.

25 That was a committee of cabinet

1 which was convened by Mr. Boudria, as the chair,
2 and we met to discuss these issues.

3 MR. CAVALLUZZO: On this cabinet
4 committee would you discuss any operational issues
5 about CSIS or RCMP, or was it just more of a
6 general kind of policy discussion and debate?

7 HON. BILL GRAHAM: What we would
8 do is we would be advised by the officials as to
9 what were the characteristics of given persons,
10 individuals, or entities, as to whether or not
11 they should be listed as a terrorist entity. We
12 would get recommendations from them, but we never
13 discussed operational issues and never instituted
14 operational issues. Those were very much for the
15 police and CSIS to institute and manage without us
16 particularly knowing the details of any of them.

17 MR. CAVALLUZZO: In some of the
18 recent texts, indeed in some of the evidence that
19 we have heard, it seems different in the United
20 States. We hear something of briefing up right up
21 to the President of the United States wherein he
22 may be engaged in discussions on operational
23 matters, and it seems to be different in Canada.

24 I am wondering if you could
25 comment on that difference and why there is that

1 difference?

2 HON. BILL GRAHAM: Well, the
3 United States obviously operates in a very
4 different constitutional framework than we do.
5 It's not a parliamentary democracy; it's a
6 congressional one, and one with a President.

7 As Mr. Powell would say to me: I
8 am not like you, Bill, I am not an elected Member
9 of Parliament, and I work for the President. I am
10 the President's Secretary of State, not anybody
11 else's. That is the way the whole U.S. system
12 works, so ultimately everything goes to the
13 President of the United States.

14 So the National Security Advisor
15 and others in the White House have quite a
16 different role than, say, the Solicitor General in
17 our system, or our system. We have to accommodate
18 the nature of a parliamentary democracy which,
19 given cabinet responsibilities, is fundamentally
20 different than the nature of the U.S. cabinet.

21 I often discussed it with
22 Mr. Powell and he said, "We don't have cabinet
23 meetings. I meet with the President, with
24 Mr. Rumsfeld, with others, to discuss these issues
25 and he calls us together when he calls us

1 together."

2 It is a totally different system.
3 So apart from that, I think we have to recognize
4 that.

5 But there is no doubt about it --
6 whether or not these matters would get on to the
7 desk of Mr. Bush is one thing. But there is no
8 doubt about it, everything of a national security
9 nature, whether it was through Mr. Ashcroft or
10 other members, Mr. Ridge or others, went directly
11 to the National Security Advisor in the White
12 House who was directly responsible for
13 coordinating their cabinet responses to these
14 issues.

15 MR. CAVALLUZZO: Right. We will
16 come back to that theme a little later on.

17 I would like to move on now to the
18 bulk of your evidence, which will be dealing with
19 the situation of Mr. Arar.

20 I would ask the clerk to give you
21 Volume 1.

22 I wonder if we might start,
23 Mr. Graham, with tab 65?

24 HON. BILL GRAHAM: All right.

25 MR. CAVALLUZZO: And this is an

1 e-mail which is dated October 11th of 2002, from
2 Helen Harris, who is in the emergency desk of
3 consular affairs, to Mr. Pardy, and it basically
4 says:

5 "I had a call ... is putting
6 together the briefing package
7 for a lunch Minister Graham
8 is having with US Ambassador
9 Cellucci on Tuesday, October
10 15."

11 We are going to come to that
12 luncheon you had with Mr. Cellucci, the American
13 ambassador, but prior to that time I would ask
14 you: Was this the first indication that you had
15 respecting the situation of Mr. Arar?

16 HON. BILL GRAHAM: October the
17 15th?

18 MR. CAVALLUZZO: October 14th.

19 HON. BILL GRAHAM: October 14th.

20 THE COMMISSIONER: It's actually
21 October the 11th.

22 MR. CAVALLUZZO: October the 11th,
23 sorry.

24 HON. BILL GRAHAM: October the
25 11th, which is -- do you know what day of the week

1 would that be? How close would that be to the
2 weekend of --

3 MR. CAVALLUZZO: Well, October
4 11th, if you look at the calendar here, it's a
5 Friday.

6 HON. BILL GRAHAM: Friday. And
7 Mr. Arar disappeared on the weekend of the 6th --

8 MR. CAVALLUZZO: No, he would have
9 disappeared around the 7th or 8th.

10 HON. BILL GRAHAM: Seventh or 8th.

11 MR. CAVALLUZZO: Right.

12 HON. BILL GRAHAM: Well, this
13 would then probably -- this might have been the
14 first time that I would personally -- at this
15 point, obviously we were concerned about the
16 whereabouts of Mr. Arar, and we know that he
17 disappeared from the United States, so it would be
18 logical for someone to say, "You are going to have
19 lunch with Cellucci. You had better bring this
20 up."

21 And I see there was somebody else
22 there that would have been talked about too, but I
23 don't know who that person was.

24 MR. CAVALLUZZO: In terms of the
25 public awareness of Mr. Arar's situation, if you

1 go to tab 80, you will see that there was a report
2 in The New York Times, dated October 12th of 2002,
3 and it talks about -- for example, in the third
4 paragraph, it says:

5 "It is not clear what caused
6 Mr. Arar's detention as he
7 arrived in New York City on
8 Sept. 26 on a flight from
9 Tunisia and Zurich ..."

10 And then you will see there are
11 quotes from Muslim groups in Canada, two
12 paragraphs below, and there is a quote there from
13 Riad Saloojee which says:

14 "There is a significant risk
15 that he will be tortured and
16 punished in Syria."

17 And he said that Mr. Arar had not
18 fulfilled his obligation to perform military
19 service in Syria when he left the country and
20 could face legal repercussions there.

21 Certainly at that point in time
22 there seemed to be a public awareness that
23 Mr. Arar had disappeared, as you stated, and at
24 that point in time there seemed to be an
25 indication that he might be headed off for Syria.

1 HON. BILL GRAHAM: That may be
2 October 12th. That was pure speculation as far as
3 we were concerned in the department because I had
4 a meeting later, the following week, with the
5 Syrian ambassador, where I specifically asked him
6 if he could help trace Mr. Arar.

7 So we didn't know even until
8 certainly the following week where Mr. Arar was.
9 But the two countries mentioned were Jordan and
10 Syria.

11 MR. CAVALLUZZO: Okay. And in
12 respect of your luncheon engagement with
13 Mr. Cellucci, the American Ambassador, if you go
14 now to tab 74, we see that there are certain --
15 this is what is called a CAMANT note, but you will
16 see that there is attached a briefing note for
17 talking points, the points you will raise with
18 Mr. Cellucci.

19 And in particular on page 2, there
20 are references to Mr. Arar and the statements
21 are -- the talking points are:

22 "We are most concerned with
23 the procedures that were used
24 to remove Mr. Arar from the
25 United States."

1 And so on and so forth. Second:
2 "The information from the
3 American authorities on
4 Mr. Arar's whereabouts has
5 been far less than timely or
6 complete. We have been
7 unable to locate Mr. Arar in
8 either Syria or Jordan
9 despite high level
10 representations to those
11 governments."

12 And so on and so forth. And then
13 the third point is that in future cases there
14 should be some kind of prior consultations.

15 These were the talking points that
16 you were given by your officials in respect of
17 going in to see Mr. Cellucci.

18 HON. BILL GRAHAM: Right.

19 MR. CAVALLUZZO: And I am
20 wondering if you raised those points with
21 Mr. Cellucci?

22 HON. BILL GRAHAM: Yes, I did.

23 MR. CAVALLUZZO: And you
24 registered a protest in terms of this man was
25 carrying a Canadian passport, and so on and so

1 forth, and you felt he was dealt with unfairly by
2 the Americans?

3 HON. BILL GRAHAM: Yes, and the
4 background was by then I would have been briefed
5 by our officials as to what I was told had
6 occurred from our consular person in New York, to
7 the effect that her understanding was that after
8 calls from Mr. Arar's wife and her intervention
9 with the authorities, that Mr. Arar had a lawyer,
10 there had been a hearing planned. She had assumed
11 the lawyer was going to go to that but for some
12 reason the lawyer didn't. She came into her
13 office at 9:00 in the morning and she finds that
14 Mr. Arar has totally disappeared into the -- and
15 nobody will tell her where he is or what happened
16 to him.

17 And I made the point to
18 Mr. Cellucci that I believed that was totally
19 inappropriate.

20 His response was we were
21 completely entitled to do what we did. There was
22 evidence that Mr. Arar had contacts with people
23 that we believe made him a danger to the United
24 States of America, and the fact that he didn't
25 have just Canadian citizenship gave us the right

1 to deport him elsewhere.

2 I believe, in fact I have been
3 informed the United States takes the position that
4 they can deport people of any citizenship -- they
5 don't necessarily have to deport them to their
6 country of origin, which was a surprise to me. I
7 would have assumed if they were Canadian, if
8 deported somewhere would be deported to Canada.

9 MR. CAVALLUZZO: Did you demand
10 that Mr. Cellucci report back to you as to the
11 whereabouts of Mr. Arar --

12 HON. BILL GRAHAM: I certainly
13 asked for his help to find out what had happened
14 to Mr. Arar. I said, look, this is someone who is
15 a Canadian who has gone missing and you know more
16 about this than I do, or your government does --
17 recognizing, of course, that Mr. Cellucci, as
18 well, the State Department are not responsible for
19 these matters. It is, I believe, INS or it was
20 Mr. Ashcroft's office.

21 So their ability to find out would
22 be the same in our own bureaucracy. He wouldn't
23 know immediately. He would have to go to
24 somebody, who would ask somebody and go into it.

25 But I certainly asked his help in

1 finding out what had happened. We had to first
2 know what happened to Mr. Arar before we could
3 know what to do about it.

4 MR. CAVALLUZZO: We can't go into
5 detail concerning what Mr. Cellucci told you, but
6 there is on the public record, if you go to tab
7 84, a briefing note to the Commissioner -- or
8 actually it's a briefing note to you.

9 First of all, let's just go to the
10 public statements that were made by Mr. Cellucci
11 subsequent to that meeting, and I am referring now
12 to tab 84. It is at the bottom of the page, the
13 bottom bullet point, which is dated October 16th
14 of 2002.

15 The introductory sentence is:

16 "Further to our briefing note
17 to the Minister on Mr. Arar
18 for use in his meeting with
19 the American Ambassador on
20 October 15, we can report the
21 following:"

22 And then the bottom paragraph
23 states:

24 "This afternoon a Globe and
25 Mail correspondent called the

1 departmental press office and
2 advised that he interviewed
3 the American ambassador this
4 afternoon..."

5 Of course, that's Mr. Cellucci.

6 "In summary, the American
7 will be quoted as saying 'I
8 think that the USINS
9 authorities acted properly in
10 deporting Mr. Arar to Syria.
11 You should talk to your local
12 people who may know the
13 reasons.'"

14 And we can show you the newspaper
15 article or the several newspaper articles.

16 HON. BILL GRAHAM: Right.

17 MR. CAVALLUZZO: Do you recall
18 that Mr. Cellucci was taking that public position
19 at that particular point in time?

20 HON. BILL GRAHAM: And that would
21 be inconsistent with the position he took with me
22 in private as well. Basically, he took that
23 position publicly a lot of times subsequent to
24 this, too.

25 MR. CAVALLUZZO: Okay. Now, I

1 would also like to go to another briefing note,
2 and this is in Exhibit P-84, M-2.

3 HON. BILL GRAHAM: Is this 84 in
4 my book?

5 MR. CAVALLUZZO: We will come back
6 to that. Keep that volume. We are just going to
7 get you another volume.

8 And if you refer to --

9 HON. BILL GRAHAM: Sorry.

10 MR. CAVALLUZZO: Starting at page
11 53.

12 HON. BILL GRAHAM: Fifty-three of
13 this document? The pages are numbered in kind of
14 writing at the bottom?

15 MR. CAVALLUZZO: At the bottom, in
16 writing, right.

17 HON. BILL GRAHAM: Fifty-three.

18 MR. CAVALLUZZO: This is a
19 briefing note, once again to the Commissioner of
20 the RCMP, dated October 18th, and I am just
21 reading it to you for those that do not have it.

22 It talks about the issue being
23 Maher Arar's deportation from the U.S. to Syria,
24 and then it goes on:

25 "The Minister for the

1 Department of Foreign
2 Affairs, Mr. Bill Graham, met
3 with the U.S. ambassador to
4 Canada, Mr. Paul Cellucci, to
5 voice his concerns over the
6 deportation of Maher Arar to
7 Syria. Following the
8 meeting, the Minister of
9 Foreign Affairs voiced his
10 concern to his staff that he
11 was not aware of information
12 that the Americans had
13 regarding Arar and felt that
14 he should be briefed in more
15 detail on this matter."

16 And then it goes on:

17 "During a meeting hosted by
18 DFAIT and attended by ... in
19 the RCMP, a request was made
20 for additional information
21 regarding Arar, that is, what
22 role did Canada play in
23 Arar's deportation from the
24 U.S. to Syria? What
25 information had been provided

1 to U.S. authorities regarding
2 Arar? And what prompted the
3 decision to deport Arar to
4 Syria instead of allowing him
5 into Canada?"

6 And it goes on.

7 Now, the question I have for you
8 is: Does this ring true: that is, subsequent to
9 this meeting, you felt that Mr. Cellucci had far
10 more information than you did, and you felt that,
11 as result of that, you wished to be further
12 briefed on Mr. Arar's situation?

13 HON. BILL GRAHAM: Right. Well, I
14 certainly felt that Mr. Cellucci was making
15 allegations that I had no way of either analysing
16 or being able to refute. I mean, he made
17 allegations both in respect of Mr. Arar's conduct,
18 which was justification in their terms, in terms
19 of what they had done, and he also made
20 allegations about the fact that Canadian
21 authorities have been either complicit or implicit
22 in the decision to send him abroad, both of which
23 were matters of which I had no independent way of
24 verifying whatsoever and wanted to get to the
25 bottom of it from our own people on those two key

1 points.

2 There were two dimensions to it,
3 and I wanted more information, as we see here. I
4 am the Foreign Minister, and as you will see
5 through the piece, I had to talk to Mr. Powell. I
6 got the same thing back from the Americans all the
7 time, and I was getting one story from them,
8 another story from our own people. We were
9 constantly trying to work through to find out
10 which was accurate and how we could verify both of
11 those.

12 MR. CAVALLUZZO: This briefing
13 note finally states at the bottom.

14 It says:

15 "DFAIT also advised that they
16 are pursuing an option to
17 request through the Solicitor
18 General a thorough briefing
19 to the Minister of Foreign
20 Affairs regarding Arar and
21 other individuals of interest
22 to DFAIT that may be subject
23 to investigations by the RCMP
24 and and of interest to
25 foreign agencies."

1 And I am asking whether in fact
2 that objective was carried out: that at that point
3 in time you asked for and received a thorough
4 briefing from the Solicitor General who, of
5 course, is responsible for the RCMP --

6 HON. BILL GRAHAM: Right.

7 MR. CAVALLUZZO: -- and CSIS?

8 HON. BILL GRAHAM: No. My
9 recollection is no. My recollection is that we
10 were informed that -- obviously we would be given
11 every bit of information that the police
12 considered it appropriate, but that it was their
13 practice not to share operational details, even
14 with the Solicitor General, for the purpose of
15 making sure that there is no political
16 interference in the operations of the police, and
17 that therefore anything we would be given would
18 not go beyond that.

19 So any information I would get was
20 very general and related to the basic facts being
21 that, yes, Canada and the United States share
22 information on files, whether national security,
23 police, kidnappings, crime, or anything -- drugs,
24 everything else, on a regular basis every day; and
25 that, yes, information was shared back and forth

1 about Mr. Arar; and that, to their knowledge,
2 nobody, however, in the police, RCMP or anywhere
3 else in the Government of Canada had anything to
4 do with the decision of the Americans to deport
5 him, and in their view they were quite astonished
6 that this had taken place.

7 But that was sort of the level of
8 information which I got.

9 MR. CAVALLUZZO: Now, in light of
10 the fact that you were dealing with such people as
11 Secretary of State Powell -- and we will see a
12 number of conversations and meetings that you held
13 with him over the course of the year -- were you
14 of the view that you were entitled to know more
15 than you were being told on Mr. Arar's file?

16 HON. BILL GRAHAM: Well, the real
17 frustration I had with, I guess, Secretary Powell
18 and the Ambassador was that they consistently
19 asserted that somebody in Canada had given them
20 the go-ahead, if you like, to deport Mr. Arar, and
21 Mr. Powell said that to me when he came in
22 November to Ottawa. He said it to me when I
23 talked to him again about this matter in Prague.
24 He said it to me as late as after Mr. Arar was
25 back. He still had that position.

1 So my frustration was very much
2 around that. Why couldn't we get to the bottom of
3 absolutely whether anybody here had anything to do
4 with it?

5 Now, there is obviously two organs
6 which would have been engaged, and that was CSIS
7 and the RCMP.

8 MR. CAVALLUZZO: Right.

9 HON. BILL GRAHAM: But I had the
10 impression that our officials in Dan Livermore's
11 shop, which would be this --

12 MR. CAVALLUZZO: Security.

13 HON. BILL GRAHAM: -- this
14 security thing, were very much given limited
15 information by their RCMP counterparts.

16 I wasn't asking to know the
17 specific details myself, but I felt that the
18 security people in our department should be able
19 to get all the information that the police or
20 others had, and I did not believe that was taking
21 place.

22 I therefore was concerned about
23 the level of briefing that I was getting. And of
24 course when Mr. Powell looks you in the eye and
25 says, "Bill, you don't know what's going on, and I

1 do because I've talked to the people that know,"
2 this obviously makes it difficult because you are
3 sitting across the table from him saying, "Hey,
4 that's not my advice." But you don't have quite
5 the same confidence in terms of the level of
6 information you are getting.

7 MR. CAVALLUZZO: Okay. If we can
8 come back to the green book in front of you, to
9 your left, let's look at perhaps tab 90.

10 We are still in the middle of
11 October.

12 This is just a media report which
13 basically captures your meeting with Mr. --

14 HON. BILL GRAHAM: I am sorry,
15 which tab is that, sir?

16 MR. CAVALLUZZO: This is tab 90.
17 It is dated 16 October 2002 on the top, and the
18 title of the article is: "Graham protests to U.S.
19 over treatment of Canadian citizen deported to
20 Syria. It is a Canadian Press report.

21 If we just read you a couple of
22 paragraphs, it says in the third paragraph down:

23 "But Graham said he was
24 informed by U.S. officials
25 that Arar was deported to

1 Syria instead of Canada. He
2 met with U.S. Ambassador Paul
3 Cellucci on Tuesday to
4 discuss the matter."

5 And you are quoted as saying:

6 "'I have registered our
7 protest to the United
8 States.'"

9 And it says you said this after a
10 speech on global governance and civil society,
11 which we will get back to.

12 It goes on:

13 "'Our position is a person
14 travelling on a Canadian
15 passport ... has a right to
16 be treated as a Canadian
17 citizen and we have, in
18 international law, a right to
19 have consular access to that
20 person.'"

21 And then you go on at the bottom:

22 "Graham said Arar's case is
23 one of many in which
24 Canadians who hold a second
25 passport don't have their

1 Canadian passports
2 recognized. He added that
3 U.S. officials told him they
4 felt they had every right to
5 send Arar to Syria because he
6 has citizenship there."

7 Finally, it says:

8 "But Arar's supporters in
9 Canada have said he could
10 face severe punishment in
11 Syria because he avoided
12 compulsory military service
13 before leaving the
14 country..."

15 HON. BILL GRAHAM: Yes.

16 MR. CAVALLUZZO: We will come back
17 to the Syrian human rights record in a bit.

18 In fact, maybe at this point in
19 time you could go to tab 94 of the same book,
20 where you will see that there is a letter from
21 Amnesty International to the Commissioner of the
22 Immigration and Naturalization Service in the
23 United States, with a copy going to you and
24 Mr. Powell, on the second page, you will see.

25 In that letter, in the fourth

1 paragraph down, it states:

2 "Amnesty International is
3 further concerned that
4 deportation to Syria would
5 place Maher Arar at risk of
6 serious human rights abuses
7 including torture and
8 incommunicado detention.
9 Expulsion in such
10 circumstances, without being
11 given an opportunity for a
12 fair hearing, would be in
13 violation of the US
14 Government's obligations
15 under international law and
16 the principle of
17 non-refoulement."

18 And I would just ask you: In the
19 course of your responsibilities as Minister, would
20 you have read a copy of this Amnesty International
21 protest to the INS in the United States?

22 HON. BILL GRAHAM: It certainly
23 would have come to the attention of Mr. Fry and
24 others in my office, who would have been in touch
25 with Amnesty and with other organizations

1 throughout this piece.

2 Whether I actually -- I don't have
3 any personal recollection of seeing this letter in
4 the context of everything else going on at the
5 time. I couldn't speak to whether I saw this
6 letter or not.

7 MR. CAVALLUZZO: I wonder just
8 generally then at this point in time, as the
9 Minister of Foreign Affairs and with your
10 extensive background in international law, whether
11 in October of 2002 you were aware of the human
12 rights record of Syria in respect of security
13 forces; that there is a risk of security forces
14 torturing detainees who are held incommunicado for
15 a period of time to get information from them,
16 that kind of thing, that Mr. Pardy discussed in
17 his evidence?

18 Were you aware of the Syrian human
19 rights record?

20 HON. BILL GRAHAM: I certainly
21 would have been generally aware of Syria's human
22 rights record, and the regime and how it had
23 repressed internal dissent of any kind. And I
24 believe later on, when we came to the question of
25 the consular access and actually dealing with

1 Mr. Arar, one of the concerns I had was there was
2 an allegation that he was a member of the Muslim
3 Brotherhood, and I certainly know they had been
4 severely repressed in Syria.

5 So there was no question that I
6 knew Syria's human rights record was not in any
7 way anything like our own. I wouldn't have known
8 of specific acts of torture and things like that.
9 I wouldn't be that familiar with it.

10 But I certainly had no illusions
11 that these people were going to conduct themselves
12 the way we would expect a western democracy would
13 do it, and I made that point to the Syrian
14 ambassador when I talked to him in Halifax.

15 MR. CAVALLUZZO: Would you have
16 been aware at this particular point in time that
17 in the previous year, for example, a Canadian
18 detainee by the name of El Maati, in August of
19 2002, alleged publicly that he had been tortured
20 while he was detained in Syria between November of
21 2001 and the early part of 2002?

22 Were you aware of those
23 allegations?

24 HON. BILL GRAHAM: It certainly
25 was brought to my attention at some point during

1 the course of this, but whether it was at that
2 immediate time -- I probably would not have known
3 that at this immediate time. As we became more
4 and more engaged in Mr. Arar's case, all of these
5 other issues of the other detainees, people's
6 evidence was there.

7 I certainly was also, as you know,
8 engaged in the case around Mr. Sampson in Saudi
9 Arabia. So we were becoming very sensitized to
10 issues of these kind around these consular cases,
11 yes.

12 MR. CAVALLUZZO: And a final
13 question in terms of context before we go on, and
14 that is: Were you aware of the difficulties that
15 your consular affairs division was having in
16 respect of consular access regarding Mr. El Maati
17 and another Canadian who were detained in Syria
18 around this point in time?

19 HON. BILL GRAHAM: No, I didn't
20 know about those two cases until in fact we got
21 into trying to get consular access to Mr. Arar.

22 MR. CAVALLUZZO: I would like to
23 move on to October 17th. Between October 17th and
24 October 19th, apparently you were attending at
25 some conference in Halifax?

1 HON. BILL GRAHAM: Yes.

2 MR. CAVALLUZZO: And you were
3 going to be making a speech at this international
4 conference?

5 HON. BILL GRAHAM: Yes.

6 MR. CAVALLUZZO: We have heard
7 evidence from Alexa McDonough, Member of
8 Parliament for Halifax, and I just want to ask and
9 give you the opportunity to comment on her
10 evidence.

11 She stated and testified under
12 oath that during the course of that conference
13 that she spoke to you and specifically asked you
14 about Mr. Arar's case and problems of locating
15 him, and so on, and what happened to him in the
16 United States, and she stated that you indicated
17 to her words to the effect that Mr. Arar is a bad
18 guy and she should be careful in terms of putting
19 representations forward on his behalf.

20 So I am wondering if you recall
21 that conversation at that time.

22 HON. BILL GRAHAM: Well, I don't
23 specifically recall that particular conversation.
24 I am sure I did have it with Alexa in Halifax, if
25 she says so. That was the occasion when I raised

1 the matter with the Syrian Ambassador. At that
2 particular point, we didn't know that Mr. Arar was
3 in Syria at all.

4 All I would have said -- I don't
5 believe I would have said to Alexa that Mr. Arar
6 was a bad guy, because I know nothing about
7 Mr. Arar. All I can say to Alexa, as I would have
8 to any Member of Parliament, I would have repeated
9 to her on other occasions that I am getting
10 information. The American ambassador has told me
11 that they had justification to do what they did;
12 that they had evidence that he had had contact
13 with people. We are all concerned about
14 terrorism, and I think you want to know the
15 background of that.

16 Now, if she wanted to take that as
17 my saying that he was a bad guy -- I didn't make
18 value judgments about Mr. Arar. We have to be
19 careful about that. Our job is to make sure that
20 people and Canadians get consular access and their
21 rights are protected. We can't prejudge their own
22 conduct.

23 MR. CAVALLUZZO: She also
24 testified that you made comments like that or
25 similar to that throughout the piece, throughout

1 the period from October 2000 --

2 HON. BILL GRAHAM: I reinforced,
3 when I spoke to any Member of Parliament who came
4 to speak to me about this case, basically the
5 information that I had, that I did not consider
6 classified information, which was basically,
7 frankly, nothing more than what the American
8 ambassador was saying publicly: that they had
9 every reason to do; they had evidence; that they
10 were making this allegation, and that there were
11 allegations against Mr. Arar.

12 Therefore, any Member of
13 Parliament or any of us dealing with the case had
14 to function in the light of those allegations and
15 understand them. I think that was appropriate, to
16 warn any Member of Parliament of the context in
17 which they were dealing.

18 MR. CAVALLUZZO: Okay. She also
19 said that at times you expressed frustration as to
20 the amount of information you were getting from
21 CSIS and the RCMP relating to Mr. Arar.

22 Do you recall discussions like
23 that with --

24 HON. BILL GRAHAM: Well, they
25 would have been similar to the conversation you

1 and I just had about that. Alexa is a
2 parliamentary colleague and I tend to be frank
3 with my parliamentary colleagues, and I probably
4 could have said the same to Marlene Catterall and
5 Sarkis Assadourian and anybody else who wanted to
6 discuss the case with me, that there was a real
7 problem here about the role of the Foreign
8 Minister trying to help people in these
9 circumstances and the ability to get the
10 information and know exactly what you are up
11 against, if I can put it that way.

12 MR. CAVALLUZZO: Okay. If you go
13 to tab 108, this is a letter from Mr. Pardy of
14 your ministry to Monia Mazigh, dated October 19,
15 2002.

16 The reference in the second
17 paragraph I want to ask you about.

18 It states:

19 "The Minister of Foreign
20 Affairs, Bill Graham, raised
21 the matter with the Syrian
22 Ambassador to Canada on
23 October 18 and asked for the
24 cooperation of the Syrian
25 authorities in locating

1 Mr. Arar."

2 I understand that the Syrian
3 ambassador's name is Mr. Arnous?

4 HON. BILL GRAHAM: Yes, sir.

5 MR. CAVALLUZZO: And he was
6 attending at Halifax as well?

7 HON. BILL GRAHAM: Yes, he was
8 there. This was a diplomatic forum. There would
9 have been ambassadors from all over the world.

10 MR. CAVALLUZZO: Do you recall at
11 that point in time, on or about October 18th,
12 raising the issue of Mr. Arar with Mr. Arnous in
13 an attempt to get Syrian authorities' assistance
14 in locating him?

15 HON. BILL GRAHAM: Yes. At that
16 point I was saying, "Rumours are that Mr. Arar has
17 been sent to Syria. We can't trace him. Can you
18 help and find out from your authorities whether or
19 not he's actually in Syria; and if so, can we get
20 access, consular access to him, so we can know
21 what's going on?"

22 MR. CAVALLUZZO: And what was
23 Mr. Arnous' response? Was he of any assistance to
24 you?

25 HON. BILL GRAHAM: Yes, he was

1 supportive. He said he would try to find out what
2 he could from his government. But obviously he
3 knew nothing about the case at that point himself.

4 MR. CAVALLUZZO: Right. So that
5 at this point in time you still don't know where
6 Mr. Arar is. There is some idea that he's in
7 Syria --

8 HON. BILL GRAHAM: Right.

9 MR. CAVALLUZZO: But that had not
10 certainly been ratified.

11 HON. BILL GRAHAM: Or possibly
12 Jordan. That was the other country that was spoke
13 of.

14 MR. CAVALLUZZO: Okay. If we move
15 on then to tab 111, this is another e-mail. This
16 is dated October 20th of 2002 from Mr. Pardy to
17 Myra Pastyr-Lupul, who is an assistant in his
18 department, as well as several others.

19 It states in the second paragraph,
20 and I am reading it:

21 "The lines have been updated
22 to reflect the response from
23 the Syrians that Mr. Arar is
24 not with them. As well, I
25 have updated some of the

1 earlier lines to reflect
2 additional information. I
3 have included the facts that
4 the Minister and the Prime
5 Minister will be meeting
6 Powell and Bush later this
7 week in Mexico and that the
8 matter will be raised if we
9 do not have a response by
10 then. If there are any
11 comments or changes they must
12 be with Ms Pastyr-Lupul by
13 10:00am."

14 Do you have a recollection of a
15 meeting sometime in late October between yourself
16 and the Prime Minister and President Bush and
17 Secretary of State Powell?

18 HON. BILL GRAHAM: Well, my
19 only -- if it was in Mexico and the Prime Minister
20 and I were there together, it would have been a
21 meeting of APEC, probably in Los Cabos, and that
22 would have to be the site of that meeting.

23 MR. CAVALLUZZO: And do you recall
24 in Los Cabos, raising with Mr. Powell any protest
25 or objection in respect of Mr. Arar?

1 HON. BILL GRAHAM: I may have. I
2 am sure this was top of mind at the time and I
3 would have, but there was a lot of other things.
4 That meeting was around APEC and around a lot of
5 other issues, as you can imagine. And at that
6 type of meeting -- the way these meetings work,
7 sometimes you have what are called a bilateral
8 with your counterpart.

9 I mean, at the APEC meeting there
10 would have been some 20, or whatever there is,
11 government leaders, plus 20 foreign ministers.
12 You are sitting in a big room and you are talking
13 to one another. So any opportunity you get to
14 raise anything is if you can get your officials to
15 go over to his officials and say, Mr. Powell, I
16 want to get a pull-aside with you and I want to
17 discuss with you.

18 I definitely remember I did that
19 in Prague. Whether or not at this point we were
20 still trying to find out more matters, I certainly
21 had raised it with the ambassador, I probably
22 would have raised it with Powell. A lot would
23 have depended at that meeting as to the
24 opportunity. These meetings go over time. There
25 are a lot of other people there, and when you ask

1 to see the Secretary of State, you don't
2 necessarily get a meeting. You may just have to
3 tug his sleeve as you are going into dinner and
4 say, "Hey, what's going on here?"

5 That's the way it also worked.

6 MR. CAVALLUZZO: We will come back
7 to the two later meetings that year with
8 Mr. Powell.

9 If we can move on then to tab 120,
10 which is a scrum, or a series of public interviews
11 you gave on or about October the 21st, I have a
12 couple of questions relating to this.

13 First of all, on the very first
14 page, about halfway down, it stays "Question" and
15 then it says:

16 "(Inaudible) actually had
17 been deported?"

18 And then it goes on.

19 "Was the consular staff aware
20 that he was going --"

21 Presumably, to finish that, going
22 to be deported? And your answer was:

23 "No, the consular staff had
24 access to him but were not
25 aware that he was going to be

1 deported."

2 HON. BILL GRAHAM: Right.

3 MR. CAVALLUZZO: First of all,
4 does that reflect a fair description of what your
5 answer was to that question?

6 HON. BILL GRAHAM: Oh, I am sure
7 it does. That's probably what I would have said
8 at that time, yes.

9 MR. CAVALLUZZO: Okay. The
10 question I have is that, during the period while
11 Mr. Arar was detained in the United States, the
12 evidence that we have before us was that on at
13 least two occasions your officials would have been
14 advised of a threat that Mr. Arar said that the
15 Americans had given him, that they were going to
16 deport him to Syria.

17 I am just wondering at this point
18 in time would your officials have advised you of
19 these threats that Mr. Arar had related to them?

20 HON. BILL GRAHAM: No. At this
21 point, no, I don't believe so. I wouldn't have
22 got that level of detail.

23 What I was informed, when I
24 inquired as to what on earth happened in New York,
25 was that basically the consular officials who were

1 responsible for getting consular access to
2 Canadians and doing everything else they do in New
3 York as part of their daily routine, contacted
4 Mr. Arar. I think I was informed that they had
5 two opportunities of meeting with him personally,
6 certainly one; that they had had discussions with
7 various officials, I don't know who, about how he
8 was being handled; that there had been a
9 conversation, I believe with his wife, who was
10 concerned; that the consular official in a
11 question had understood that he had retained a
12 lawyer and that there was going to be an
13 immigration hearing, at which he would be
14 represented by the lawyer and therefore it was not
15 appropriate for her to be there.

16 Therefore, on the Monday morning,
17 or whatever day it was, she got something on her
18 voicemail when she came back to the office saying
19 that Mr. Arar has been deported and is no
20 longer -- or he is no longer in our custody or
21 whatever it was.

22 At that point, obviously, she was
23 completely shocked. And I understand now from
24 going over all of the events there is all sorts of
25 things about whether the lawyer was retained or

1 was not retained. All of that, of course, I
2 wouldn't have known at the time.

3 I really was basically informed,
4 look, we did our job in New York to try to make
5 sure we were in contact, and we understood that
6 there was legal representation; that the U.S.
7 system would function with the lawyer there, that
8 it wasn't -- you know, that was what we did.

9 MR. CAVALLUZZO: The other
10 question I have relating to Mr. Arar's detention
11 in the United States is whether you were apprised
12 or advised by your officials that during the
13 course of his detention in early October of 2002,
14 that a person from the INS advised your consular
15 officials of the seriousness of the case and that
16 they should raise this matter with the ambassador
17 in Washington who would raise it with officials in
18 Washington, D.C.

19 HON. BILL GRAHAM: No, I only know
20 that as historical hindsight. It wouldn't have
21 been contemporary information I had.

22 MR. CAVALLUZZO: Okay. I wonder
23 if we might move on then to Volume 2.

24 I would ask you to turn,
25 Mr. Graham, to tab 129.

1 HON. BILL GRAHAM: Right.

2 MR. CAVALLUZZO: Which is what we
3 have been referring to as questions and answers,
4 or Q&A's, that evolve over time and are given to
5 you to deal with any questions that may arise
6 regarding Mr. Arar.

7 Then if you go into page 7 within
8 the tab -- the pagination is at the bottom of the
9 page.

10 HON. BILL GRAHAM: There's a bunch
11 of different numbers here. Is this the page that
12 is in rather small print?

13 MR. CAVALLUZZO: Yes, 7 of 19.

14 HON. BILL GRAHAM: Okay.

15 MR. CAVALLUZZO: This is the
16 background assessment or evaluation advice to the
17 Minister, and it is dated October 23rd "For
18 Minister's Eyes Only".

19 Is this the kind of document that
20 you would have read, or would somebody in your
21 office have read it and briefed you?

22 HON. BILL GRAHAM: For Minister's
23 eyes only obviously doesn't mean exclusively me.
24 It is the political staff in the office.

25 This I would assume is what is

1 accompanied quite often, prepared answers for
2 questions in the House of Commons in case
3 something is brought up, and sometimes those
4 answers have a backgrounder attached to them.

5 But it would be rare I think for
6 it to say "Minister's eyes only" on it because it
7 is background information to answers.

8 MR. CAVALLUZZO: Well, let's look
9 at it.

10 In the first paragraph on the
11 third line, it states -- this is obviously the
12 Syrians have now said that Mr. Arar is in Syria.
13 You may recall they said he appeared the day
14 before at the Jordanian border and that he was now
15 in their custody.

16 There was a consular visit with
17 your official, Mr. Martel, on October 23rd.

18 And then if we pick up in the
19 third line of the first paragraph, it says:

20 "Mr. Arar appeared to be
21 healthy. We learned that he
22 had been detained in the US
23 for two weeks before being
24 transferred by private jet to
25 Jordan. It was not clear

1 from the conversation exactly
2 how long Mr. Arar had been in
3 Syria, given that the Syrian
4 officers intercepted the
5 questions."

6 The evidence that we have in the
7 consular report of Mr. Martel is that Mr. Arar, in
8 that very first meeting, advised him that he had
9 only been in Jordan for a few hours, or a number
10 of hours, which would have indicated that he would
11 have been in Syria at least from October -- say
12 October the 9th, thereabouts, to the 23rd, a
13 period, as you can see from the calendar, of
14 approximately two weeks.

15 Would you not have been advised of
16 that at that point in time; that Arar was saying
17 that he had only been in Syria in transit for a
18 period of hours and certainly not days?

19 HON. BILL GRAHAM: I can't answer
20 that. I mean, I have no recollection. My only
21 recollection is that we knew that he had been in
22 Jordan before he went to Syria, and there was some
23 confusion around how long he had been in Jordan.

24 Clearly this information is saying
25 that we were told that in fact from this visit

1 with Mr. Arar that he had only been in Jordan for
2 a few hours, and so this clearly is something we
3 would have known in the office at that time.

4 But we wouldn't have known this
5 before we received this memo.

6 MR. CAVALLUZZO: I think it's
7 significant because I want to ask you the next
8 question. If that is the case, that Mr. Arar had
9 only been in Jordan for a number of hours and had
10 been in Syria for approximately two weeks before
11 the Syrians disclosed his whereabouts, then that
12 would be consistent with the public record, and
13 that is that there was a tendency of the security
14 forces in Syria to hold somebody incommunicado for
15 a period of time, whereby they get the information
16 they want, or some information, and then they will
17 disclose his whereabouts.

18 And in respect of that public
19 record, we heard evidence last week from Mr. Gar
20 Pardy, who suspected that there was a reasonable
21 suspicion that that in fact had occurred in the
22 case of Mr. Arar.

23 I am wondering whether that
24 knowledge or suspicion, or whatever one wants to
25 call it, that Mr. Pardy had at that point in time,

1 was shared with you as the Minister of Foreign
2 Affairs?

3 HON. BILL GRAHAM: No. Someone
4 might have said to me, "Look, Mr. Arar was in
5 Syria a lot longer than we thought." I honestly
6 can't recall at this time whether that was or was
7 not.

8 At that particular point, the
9 focus of our attention was on getting consular
10 access to Mr. Arar. I mean, that was my focus,
11 was (a) to ascertain where he was, not to worry
12 about all the details of how long he had been
13 there, but rather finally we know exactly where he
14 is; and (b) that we got consular access.

15 Our experience has been in these
16 cases of other cases of people with dual
17 citizenship, our rights under the Vienna
18 Convention, as you know, are extremely limited.
19 We don't have the same rights if they were
20 exclusively a Canadian citizen.

21 In other cases we had been
22 familiar with, the country in case took -- and
23 Syria did say in this case, well, he's a Syrian
24 citizen. You know, that comes through the thing.

25 But at least in this case they are

1 willing to recognize his Canadian nationality in
2 the sense they gave us consular access. That was
3 not true of some other people.

4 We were particularly pleased at
5 this point, (a) that we had identified where he
6 was and (b) that we had consular access. We felt
7 that was a great step in the right direction.

8 MR. CAVALLUZZO: Now, in terms of
9 what was going on at this point in time, we see
10 shortly thereafter that in fact in the very first
11 consular report -- or the meeting with
12 Mr. Pillarella, that the Syrians said, "He has
13 already admitted to having terrorist connections",
14 which, if he had only been there for less than 24
15 hours, was a very quick interrogation and result
16 therefor.

17 So this was part of the equation
18 that Mr. Pardy considered in terms of making that
19 determination; that likely the human rights record
20 of Syria bore itself out in Mr. Arar's case.

21 But coming back to Mr. Pardy's
22 knowledge or suspicion at that point in time, is
23 that something that he should have shared with the
24 Minister of Foreign Affairs who was going to be
25 fighting on behalf of Mr. Arar in gaining his

1 release?

2 HON. BILL GRAHAM: Well, I have a
3 lot of respect for Gar Pardy, so he might well
4 have passed it up the chain. As I say, it may
5 have been brought to my attention, it may not. I
6 don't have any specific recollection, because at
7 this time I see the whole continuum of what took
8 place over the case of Mr. Arar.

9 My recollection at this time is we
10 were particularly anxious to make sure that we had
11 consular access, and that we did have consular
12 access and the information in fact came back
13 saying that while Mr. Arar clearly was in
14 detention in a place where he was not being
15 treated the way we would treat people that he had
16 not been tortured.

17 That was the information I had all
18 through the piece. That was consistently given to
19 me by my officials and so that was what I would
20 have focused on.

21 MR. CAVALLUZZO: Right. And just
22 a final question perhaps before the break.

23 If you were advised very firmly
24 early on, like in October of 2002, that Mr. Arar
25 was the subject of torture within the first two

1 weeks of his detention in Syria, would that have
2 changed at all as to how you would have dealt with
3 the Syrians and Americans in terms of getting his
4 release?

5 HON. BILL GRAHAM: Well, it
6 certainly would have -- it certainly would have
7 raised alarm bells and pushed the urgency element
8 of what we were trying to do. There is no
9 question about that.

10 Whether it would have changed the
11 results we got into something different --
12 Mr. Arar was in the custody of Syria. I had to
13 deal with the Syrian authorities. We had to get
14 our consular officials to get in touch. Then I
15 had to see the ambassador. Then I tried to get
16 through to the Foreign Minister.

17 I mean, I really feel very
18 strongly that that knowledge certainly would have,
19 you know, energized us, but I don't think it would
20 have fundamentally changed our ability to change
21 the picture, because we didn't have control over
22 Mr. Arar. And even the Americans didn't at this
23 point when I raised it with Mr. Cellucci and
24 others. "Well, he's now in Syria. Go and talk to
25 the Syrians."

1 And when you talk to the Syrians,
2 they say, "We've got him. He has confessed to
3 terrorist activities, and we are going to put him
4 on trial", or whatever they are going to do.

5 So our object as the consular
6 officials was to, first, find out how he was, get
7 consular access, which is limited in international
8 law to access only, as you know; ascertain his
9 wellbeing; and then move forward from there, as we
10 did, trying to see we could do, what measures we
11 could bring to bring him home as quickly as
12 possible.

13 So we would have certainly had an
14 increased sense of urgency, if we had known that,
15 but I am not sure that we could have moved the
16 Syrians any faster or have done anything
17 differently than we did do to ensure his
18 wellbeing.

19 MR. CAVALLUZZO: Mr. Commissioner,
20 we are about to come to a meeting with Mr. Powell,
21 and it may be an appropriate time to have the
22 morning break.

23 MR. COMMISSIONER: All right. We
24 will take the morning break for 15 minutes.

25 HON. BILL GRAHAM: Thank you, sir.

1 THE REGISTRAR: Please stand.

2 Veuillez vous lever.

3 --- Upon recessing at 11:31 a.m. /

4 Suspension à 11 h 31

5 --- Upon resuming at 11:48 a.m. /

6 Reprise à 11 h 48

7 THE REGISTRAR: Please be seated.

8 Veuillez vous asseoir.

9 THE COMMISSIONER: Mr. Cavalluzzo?

10 MR. CAVALLUZZO: Thank you,

11 Commissioner.

12 Mr. Graham, prior to coming to
13 this meeting with Mr. Powell in the middle of
14 November, a couple of questions relating to the
15 evidence you gave earlier this morning.

16 And that is first dealing when
17 Mr. Arar is New York. Now, you have told us that
18 you weren't aware that there were a couple of
19 threats concerning his possible deportation to
20 Syria, and you weren't aware of the statement of
21 the INS official that you should ratchet this up,
22 bring it to the ambassador, and so on and so
23 forth. You weren't aware of that.

24 But I would ask you: If you were
25 aware of those two specific factors and taking

1 into account by this point in time that the
2 Americans were alleging that Mr. Arar was a member
3 or associated with al-Qaeda and the lower
4 threshold that the Americans had concerning
5 terrorism or terrorist activities than Canadians,
6 would you have ordered your consular officials to
7 have acted differently if you were furnished with
8 that information?

9 HON. BILL GRAHAM: Well,
10 certainly -- I guess if I had been furnished only
11 with that information. But I think I have to go
12 back.

13 I mean, we asked our consular
14 officials to act responsibly and correctly in the
15 circumstances. We don't divine to -- we don't
16 demand, or we cannot require perfection. So with
17 hindsight, yes. But I think if I had raised that
18 with that particular consular official, I think
19 the answer I would have got back would be the
20 answers I got, which was: Look, there is a lawyer
21 involved in this. The lawyers will deal with
22 this. It's the United States where the lawyers go
23 and do what do. We are consular officials, and we
24 have done the right thing here.

25 So in hindsight, with the

1 knowledge you now have, and particularly the
2 knowledge we know of everything else that has
3 transpired since that time, would we have
4 immediately contacted the embassy? Of course.
5 With hindsight, yes.

6 MR. CAVALLUZZO: Okay. Now, the
7 second question relates to arming you with
8 sufficient information to deal with people like
9 Secretary of State Powell, who we will come to in
10 respect of that meeting, and that is that if you
11 take a situation like this -- and I am talking now
12 in terms of a policy judgment call. If you take a
13 situation like we have with Mr. Arar, he is in
14 custody at this point in time. We know that he is
15 in custody in Syria, which does not have a stellar
16 human rights record. And you are about to come
17 and meet with Secretary of State Powell, one of
18 the matters being Mr. Arar that you were going to
19 discuss.

20 Do you not agree with me that in
21 that situation, in that situation, you are a
22 Minister of the Crown, that information from the
23 RCMP or CSIS, operational information about what
24 they know about Mr. Arar, could have been given to
25 you in confidence so that you could sit down with

1 Mr. Powell on a level playing field, so to speak,
2 in respect of making a plea on behalf of Mr. Arar?

3 Would you agree with that?

4 HON. BILL GRAHAM: Well, as I said
5 earlier, my frustration about the information was
6 at two levels: One was at the level of trying to
7 find out whether somebody in Canada was involved
8 in this decision, which is different really from
9 the question you are asking me now, which is
10 really, how much -- in other words, should the
11 RCMP have come to me and said, "Look, here's what
12 we found. Here's what the computer was. This is
13 the information especially that was shared with
14 the United States of America. Here is what they
15 had, here is what we had", et cetera.

16 That would require my personal
17 engagement in operational details in a way that I
18 think, as a Minister of the Crown, I think we
19 would have to be very careful of. I would have to
20 think about that a lot.

21 I would have been more comfortable
22 with a higher level of information, but I am not
23 sure whether it would have been appropriate to
24 drill down to the level you are going. I think
25 the level you are going is something even the

1 Solicitor General normally would not get, and he
2 is the person responsible, or at least was
3 responsible before we had the new system, for
4 managing these cases.

5 Would I have preferred more
6 information? Yes.

7 And of course here, in this
8 circumstance, what would that have changed? In
9 fact, it would have been probably information
10 suggesting that what information the Americans had
11 about Mr. Arar's contacts were accurate.

12 I was at that point interested in
13 telling Mr. Powell we wanted to get Mr. Arar back.
14 We wanted to find out why the United States had
15 done this.

16 MR. CAVALLUZZO: I understand the
17 concerns and the concept of the independence of
18 the police, but once again it would seem to me --
19 and I am putting it to you. It would seem to me
20 that if a rookie RCMP officer who happened to be
21 working on the file had access to that
22 information, it would seem to me that surely in
23 these circumstances, where we have a Canadian who
24 is detained in a country with a very poor human
25 rights record, that a Minister of the Crown can

1 also be given that information in confidence so
2 that you can fulfil your cabinet responsibilities?
3 It just seems counter --

4 HON. BILL GRAHAM: Well, obviously
5 this is something that you and the Commissioner
6 are going to have to decide, I mean, about the
7 nature from the public policy concerns around here
8 and what lessons are to be learned from this
9 event.

10 But I just have to tell you, given
11 the parameters under which we operated under at
12 that time, we were very limited in having
13 operational details, and there are strong public
14 policy reasons for that and they were respected in
15 this case.

16 Whether or not a case of a similar
17 nature in the future will be handled differently
18 will be for this Commission to decide.

19 MR. CAVALLUZZO: Then, Minister,
20 if you go back to Volume 2, and if we can pick up
21 at tab 199, we are coming to a meeting with
22 Secretary of State Powell.

23 HON. BILL GRAHAM: Sorry. 199?

24 MR. CAVALLUZZO: That's correct.
25 There is a lot of black --

1 HON. BILL GRAHAM: It looks like
2 my conversation with Mr. Powell was one big black
3 hole.

4 MR. CAVALLUZZO: That's right.
5 --- Laughter / Rires

6 HON. BILL GRAHAM: What happened
7 to Mr. Powell? Oh, we are all down a black hole,
8 are we?

9 I can assure you we had more to
10 talk about.

11 MR. CAVALLUZZO: It looks like the
12 meeting lasted about 30 seconds.

13 HON. BILL GRAHAM: Yes, exactly.
14 Then we went to lunch. Diplomacy.

15 MR. CAVALLUZZO: Anyway, let's
16 pick it up at page 2. We see that the date of
17 this briefing note for you -- that is "Briefing
18 Note for MINA" -- is dated Wednesday, November
19 13th, and the subject matter of course is the
20 meeting with U.S. Secretary of State Colin Powell,
21 which is to take place Thursday, November 14th.

22 And under the Summary we can read
23 two lines there. It says:

24 "You will want to register
25 with the Secretary Canada's

1 serious concerns about the
2 U.S. handling of ... and
3 Maher Arar."

4 HON. BILL GRAHAM: Right.

5 MR. CAVALLUZZO: So there may have
6 been another subject matter that you would have
7 discussed?

8 HON. BILL GRAHAM: No, that would
9 have been another consular case in that context,
10 because there were obviously dozens of other
11 issues.

12 MR. CAVALLUZZO: Right. Then if
13 we go to page 3 of 6, a couple of pages in, there
14 is some portions there relating to Mr. Arar.

15 HON. BILL GRAHAM: Yes.

16 MR. CAVALLUZZO: And the statement
17 there, or the talking point, is:

18 "We remain troubled by the
19 decision of the American
20 authorities to deport
21 Mr. Arar to Syria. While we
22 recognize that we have to
23 work together on these files,
24 such deportations without
25 full consultation undermine

1 public support for the
2 anti-terrorism campaign."

3 HON. BILL GRAHAM: Yes.

4 MR. CAVALLUZZO: Then you go on to
5 the future:

6 "We would hope if such cases
7 occur in the future that
8 there would be appropriate
9 consultations with Canada
10 before such decisions are
11 taken."

12 HON. BILL GRAHAM: Right.

13 MR. CAVALLUZZO: I want to bring
14 your attention back to that meeting with
15 Mr. Powell, and if you could just describe what
16 protests, what objections, or what comments you
17 made to Mr. Powell concerning Mr. Arar?

18 HON. BILL GRAHAM: Well, this
19 would have summarized it. I think to give you
20 some context, this was the first time Mr. Powell
21 had come to Canada on an official visit. He had
22 been here at the G-8 in Whistler before.

23 It was just around the time of the
24 decision of the United Nations to send the
25 inspectors back into Iraq. So the top-of-mind

1 issue with Mr. Powell would have been security
2 issues, particularly Iraq, but other things, the
3 International Criminal Court, a whole host of
4 issues around the sort of international climate in
5 which we were operating; maybe North Korea nuclear
6 as well.

7 And then we had the U.S.-Canada
8 bilateral issues, of which NSEERS would have been
9 one, softwood lumber, other issues -- the open
10 border, which was a preoccupation with us.

11 And within that context, I raised
12 three consular cases with him, of which Mr. Arar
13 was the most prominent and the most troubling at
14 that time.

15 And as I say, as we said here in
16 the memo, I think this was good advice from the
17 officials as a way in which to put it to
18 Mr. Powell, to say, "Look, Mr. Powell, we all have
19 an interest in security. We believe very strongly
20 in security. But security will only come if our
21 own citizens believe that it is being handled in a
22 way where the right balance is being, and we don't
23 believe the balance was maintained here."

24 That was a good way to put it to
25 the Secretary of State, and I would have done

1 that.

2 MR. CAVALLUZZO: Do you recall --

3 HON. BILL GRAHAM: And as you see
4 here, I said let's have a consultation mechanism.

5 As we know, as the piece goes on,
6 that did not occur until a lot later.

7 MR. CAVALLUZZO: We will come to
8 that. That happens about a year or so later.

9 Do you recall what Mr. Powell's
10 response was to your pleas about the appropriate
11 balance and so on?

12 HON. BILL GRAHAM: Well,
13 Mr. Powell's response was substantially that which
14 Mr. Cellucci's response was to me, which was also
15 public because Mr. Cellucci said it. "We had
16 evidence about Mr. Arar's contacts and we were
17 justified in doing what we were doing. He was a
18 national security threat to the United States of
19 America, which we were entitled to ascertain
20 ourselves in our own sovereign right. You don't
21 tell us who are our security threats. We make up
22 that decision. We had a right to deport him the
23 way we did and we acted within our own rights."

24 And, by the way, as Mr. Cellucci
25 said, "By the way, your guys knew what we were

1 doing all along," which is something Mr. Powell
2 consistently said to me until the very end when he
3 said, "I was mistaken." But for over a year he
4 maintained, or for the better part of eight months
5 he personally maintained very strongly that this
6 was a matter which Canadian authorities were aware
7 of.

8 MR. CAVALLUZZO: Did you ask him
9 to do anything, to check his facts --

10 HON. BILL GRAHAM: I said to him,
11 look -- whether it was at this meeting, or the
12 subsequent meeting in Prague where we discussed
13 this, because again we were getting the answer
14 back, "Look, nobody was." The Americans were
15 saying, "Yes, yes, we can assure you there was."

16 So we are trying to ascertain, are
17 we getting the full information from our own
18 system or not? And so how do you do that?

19 I said to him, "Okay, if somebody
20 by a wink or a nod or explicit said something,
21 tell us who it is, and we can go to that person
22 and say what did you do?"

23 That's just a natural way to do
24 it. Mr. Powell and I had a pretty good
25 relationship. I said, "Listen, if you've got a

1 name, give us the name. We can track it down and
2 we will find out who it is. But I have to tell
3 you we are going through the system at the moment
4 and everybody is saying nobody did."

5 So we had two totally inconsistent
6 stories. One of the ways we could have
7 unscrambled it was to have got an actual name.
8 And we consistently had that conversation, as I
9 said, up until November, when finally he came back
10 and said, "We don't have a name and it didn't
11 occur." But at that time we were trying to get to
12 the bottom of it.

13 MR. CAVALLUZZO: If you go now to
14 tab 202, there is a recollection of what occurred
15 at this meeting.

16 This is an e-mail from Jonathan
17 Solomon, who was in your security and intelligence
18 department. It is dated November 15, 2002.

19 The body of the e-mail says:

20 "As indicated during our
21 phone conversation at lunch
22 time, US side indicated to
23 Canadian side yesterday,
24 during Powell-Graham meeting,
25 that 'US government' had

1 indicated to 'Canadian
2 government' reasons/rationale
3 behind Arar's deportation to
4 Syria. It does not look,
5 however, that
6 reason/rationale was given by
7 State to DFAIT, but rather
8 from one US law-enforcement
9 agency to their Canadian
10 counterpart."

11 And is that consistent with your
12 understanding from your discussion with
13 Mr. Powell, that the Canadian law enforcement, or
14 the RCMP --

15 HON. BILL GRAHAM: Well, it seems
16 to suggest that there were more details given.
17 But, I mean, Mr. Powell was consistent with what
18 Mr. Cellucci had told me earlier about phone
19 numbers and a telephone -- you know, the things,
20 the reasons they had. They had reasons to do what
21 they did.

22 Mr. Powell's story was
23 substantially not the same. So Mr. Powell would
24 have told me that -- whether or not the security
25 officials, when talking to one another, were more

1 explicit as to the details of what and everything,
2 which is quite likely. We would have kept it at a
3 level of a conversation between Mr. Powell and
4 myself, about, "Look, we are protesting that you
5 did this," and his protest back is, "We were
6 entitled to do what we did."

7 MR. CAVALLUZZO: Would it be fair
8 to say at this point, in the meeting on the 14th
9 between Powell and yourself, Powell would have
10 likely had all the information from his security
11 and police agencies whereas you had gaps,
12 obviously, because of what we talked about
13 earlier?

14 HON. BILL GRAHAM: I honestly
15 don't know what information Mr. Powell had from
16 his security.

17 MR. CAVALLUZZO: Right.

18 HON. BILL GRAHAM: We do know of
19 circumstances where security briefings were
20 less-than-perfect on both sides of the border.

21 MR. CAVALLUZZO: On both sides of
22 the border?

23 HON. BILL GRAHAM: And you will
24 recall Mr. Powell's appearance at the United
25 Nations --

1 MR. CAVALLUZZO: Which occurred on
2 February the 5th of 2003, which we will not --

3 HON. BILL GRAHAM: Right.

4 MR. CAVALLUZZO: -- get into
5 today.

6 HON. BILL GRAHAM: So security --
7 I don't know. I will say, without revealing
8 anything particularly about the United States,
9 that Mr. Powell and I on occasion shared some
10 frustration together with the level of information
11 both of us had in terms of the fact that security
12 in the two countries is run by totally different
13 agencies than the diplomacy people, and sometimes
14 things that affect our diplomacy, or what we are
15 going to do with a foreign country are done in the
16 name of security without us necessarily either
17 being pre-informed or even after-informed.

18 This is the nature of the silo
19 nature of government and often of these particular
20 operations, which tend to be particularly
21 protected from a lot of people knowing what is
22 going on.

23 MR. CAVALLUZZO: We will be coming
24 back to that theme subsequently.

25 I wonder, Mr. Clerk, if you could

1 give Mr. Graham Volume 3?

2 --- Pause

3 MR. CAVALLUZZO: Perhaps we could
4 start at tab 241.

5 If you would refer to page 2, once
6 again we are in the middle of November.

7 HON. BILL GRAHAM: Yes.

8 MR. CAVALLUZZO: Really the
9 reference would be the media lines, that is
10 two-thirds of the way down, November 18th, 2002.

11 HON. BILL GRAHAM: The Ottawa
12 Citizen.

13 MR. CAVALLUZZO: Yes, the Issue.
14 And it says:

15 "The November 18 Ottawa
16 Citizen carries a story
17 claiming that Foreign Affairs
18 officials were 'embarrassed
19 to learn' from Secretary of
20 State Colin Powell that RCMP
21 officials had received
22 information linking Maher
23 Arar to Al Qaeda."

24 And then it goes on:

25 "The report also states that

1 Mr. Arar's wife is returning
2 to Canada today after
3 vacationing in Tunisia. Arar
4 is currently being held in
5 Syria after he was detained
6 at New York's Kennedy
7 airport."

8 And then if you go on to the next
9 page, I won't take you through it, but there is a
10 CFRA-AM interview of the reporter concerning the
11 issue here as framed that: "Foreign Affairs were
12 embarrassed to learn from Powell that RCMP
13 official had received information linking Arar to
14 al-Qaeda."

15 Do you remember at this point in
16 time that at least in the public it appeared that
17 DFAIT was operating on the basis that it didn't
18 have all of the information that the RCMP had?

19 HON. BILL GRAHAM: Yes, clearly.
20 Yeah, for sure.

21 MR. CAVALLUZZO: And do you also
22 recall around this point in time that certain
23 opposition, and I won't name them, but certain
24 opposition politicians were saying to you that
25 this guy, Arar, is a bad guy and Canadians had

1 missed the boat on him, and it took the Americans
2 to get Mr. Arar, so to speak?

3 Do you recall discussions along
4 those lines from the opposition politicians at
5 that time?

6 HON. BILL GRAHAM: Well, I can
7 certainly recall them because I was in the House
8 of Commons and the subject matter -- I was accused
9 by the Leader of the Opposition as going to bat
10 for a known terrorist, a terrorist. And I was
11 absolutely attacked by other members of the
12 opposition for the same thing at the same time.

13 MR. CAVALLUZZO: So that you were
14 obviously in a situation where you didn't
15 necessarily have all of the information. You have
16 opposition politicians that are alleging that
17 Mr. Arar is not such a good guy, and on the other
18 hand you have other people that are saying you are
19 not doing enough to get Mr. Arar back.

20 HON. BILL GRAHAM: Right.

21 MR. CAVALLUZZO: This is normally,
22 presumably, part of the job of a Minister of
23 Foreign Affairs?

24 HON. BILL GRAHAM: Yes. And I
25 think you do have to make a significant

1 distinction in these cases between people's legal
2 rights, and particularly in these murky areas
3 where you are not being told everything, we did
4 have a consistent line, which was that Mr. Arar
5 had consular rights. Regardless of what the
6 allegations were -- and we will go through that as
7 we go on.

8 I mean, whatever the allegations
9 were, he had rights. And one of them was our
10 consular right to see him, try and give him as
11 much as we could possibly do in Syria when he was
12 there, and do what we could to get him released.

13 If in fact Mr. Arar is guilty of
14 an offence of some kind, then there is a
15 prosecution -- there is a process to deal with
16 that. Our job is to protect Canadian citizens
17 within the full framework of the law, recognizing
18 the limits on that in international law and in
19 international practice, particularly when you are
20 operating in countries that don't operate to the
21 same standards we do.

22 MR. CAVALLUZZO: Okay. In terms
23 of your basic relationships with the Syrians, we
24 can see that we are now at November the 18th. If
25 we look at an e-mail at 241, at the very first

1 page, we see the beginning of your strategy, if we
2 can call it that, in respect of the Syrians.

3 For example, the e-mail itself
4 says:

5 "Minister Graham has decided
6 over the weekend to call by
7 telephone his Syrian
8 counterpart..."

9 That would have been the Minister
10 of Foreign Affairs of Syria?

11 HON. BILL GRAHAM: Yes, sir.

12 MR. CAVALLUZZO: "...on Tuesday
13 morning... Can you arrange
14 for this call to take place?"

15 HON. BILL GRAHAM: Sorry, is that
16 241 again?

17 MR. CAVALLUZZO: Yes, 241, the
18 very first page, the e-mail at the top there.

19 HON. BILL GRAHAM: The problem
20 with these e-mails is they always go backwards.

21 MR. CAVALLUZZO: Right.

22 HON. BILL GRAHAM: The most recent
23 one is at the top and the earlier ones are at the
24 bottom, and you are always totally confused
25 reading them.

1 Yes. Sorry about that.

2 MR. CAVALLUZZO: Okay. And if you
3 go now to tab 215, we see on the same date,
4 November 18th, there is a briefing note that is
5 prepared for you concerning a possible telephone
6 call to Mr. Shara'a, the Minister of Foreign
7 Affairs?

8 HON. BILL GRAHAM: Yes.

9 MR. CAVALLUZZO: In effect what
10 this does, it just sets out the talking points
11 that you would raise with Mr. Shara'a?

12 HON. BILL GRAHAM: Right.

13 MR. CAVALLUZZO: I understand that
14 this particular telephone conversation with the
15 Foreign Minister of Syria did not take place at
16 this particular point in time?

17 HON. BILL GRAHAM: No, I don't
18 think I got through to him until early the next
19 year, actually.

20 MR. CAVALLUZZO: That's right, on
21 January the 18th, and we will come to that.

22 Do you recall why that particular
23 phone call did not take place at that time?

24 HON. BILL GRAHAM: I don't
25 specifically. It could have been the result of

1 two things. It could have been the result of his
2 schedule. At one point, when we tried to get him,
3 it was said that he was out of the country and we
4 couldn't get at him. Whether it was this time or
5 at a later time -- it is difficult often, given
6 the travel schedules of two foreign ministers, to
7 sometimes make these hook-ups.

8 And it may well also -- my
9 recollection is that we decided we should speak to
10 the Syrian ambassador directly, and it may have
11 been on the basis of advice from the department,
12 that let's work on the ambassador first and then
13 work up to the foreign minister, because if we can
14 get -- we always do this. If we can get
15 satisfaction at one level -- as you move up the
16 chain, your options are getting limited more and
17 more, and once you have shot that bolt of that
18 phone conversation -- so we may have felt there
19 was more underbrush to clear away before we
20 actually made the specific call, but I can't
21 recall that.

22 I just know, as you suggested,
23 that we weren't able to make it at that time. But
24 clearly from the memo here, this is the position
25 that we were taking and we wanted to try and get

1 him returned to Canada.

2 MR. CAVALLUZZO: We have evidence
3 now that CSIS went to visit the Syrians, although
4 they didn't see Mr. Arar. But CSIS went to visit
5 the Syrians around this time, around November the
6 21st-22nd of 2002.

7 HON. BILL GRAHAM: Right.

8 MR. CAVALLUZZO: Do you recall
9 whether the fact of the CSIS visit would have
10 impacted on the timing of your phone call to the
11 Foreign Minister?

12 HON. BILL GRAHAM: No, I don't. I
13 have reviewed the documents where it is suggested
14 that we put off the call to accommodate the CSIS
15 visit. That is not in accordance with my
16 recollection of the events. I don't think I knew
17 anything about the CSIS visit until after it took
18 place, and well after that.

19 Certainly it says the Minister's
20 office, or the Minister said this. But my
21 recollection strongly is I didn't know anything
22 about the CSIS visit until early in the following
23 year.

24 I probably knew about it before I
25 had the second call with him -- before I actually

1 got through. But I wouldn't have known it at this
2 time, I don't believe.

3 MR. CAVALLUZZO: Once again on a
4 question of policy, here we have the Minister of
5 Foreign Affairs that is trying to get a Canadian
6 released from Syria, and we have a security
7 intelligence agency having a visit to the Syrians,
8 apparently now without the knowledge of the
9 Minister of Foreign Affairs.

10 Is that information something
11 which you should have known in light of your
12 responsibilities as the main communicator with
13 foreign nations?

14 HON. BILL GRAHAM: It would depend
15 on what was the nature of the CSIS visit.
16 Normally the Director General of CSIS would speak
17 to the Deputy Minister, and they would decide what
18 information should be conveyed.

19 Again, I am only going on my
20 review of these documents, because I knew nothing
21 of this at the time. But my recollection of the
22 document is that in fact the CSIS visit was not
23 specifically about Mr. Arar. They didn't see
24 Mr. Arar. They were going to talk about CSIS
25 matters with the authorities in Syria, in which

1 case there would be no particular reason for me to
2 be advised in this context.

3 MS McISAAC: Mr. Commissioner, if
4 I could just remind the Minister and
5 Mr. Cavalluzzo that while we are acknowledging the
6 CSIS visit, the fact that CSIS did not meet with
7 Mr. Arar, we are not in a position to provide
8 public evidence about any details regarding what
9 was discussed, who it was discussed with, or the
10 objectives of the visit itself.

11 MR. CAVALLUZZO: I would like to
12 respond to that, Mr. Commissioner.

13 Of course, we have heard extensive
14 evidence about that already, and certainly when
15 Mr. Graham is recalled in camera I will be
16 questioning Mr. Graham about that visit.

17 HON. BILL GRAHAM: For sure.

18 MR. CAVALLUZZO: Thank you.

19 Mr. Graham, if you go now to tab
20 218, this is once again an e-mail dated November
21 19th from Jonathan Solomon, who is within your
22 ISI, or security and intelligence division.

23 In the first paragraph it talks
24 about your meeting with Secretary of State Powell,
25 et cetera, and then in the lines between the two

1 redactions it says -- and this is you:

2 "He also questioned an
3 assessment of Arar's possible
4 involvement in terrorist
5 activities. Any further
6 information beyond your
7 report of November 3 would be
8 extremely useful in this
9 respect."

10 Do you recall asking for a further
11 assessment relating to Mr. Arar's possible
12 activities in respect of terrorist activities?

13 HON. BILL GRAHAM: Well, I don't
14 recall this specifically, but I certainly would
15 recall. As I said, going back to our earlier
16 conversations, I was anxious to be armed with as
17 much information as I could so that if the
18 Americans were making allegations, or somebody
19 else, I could say, well that's not in accordance
20 with our information, or it is, or something.

21 I am sure I would have pressed for
22 that, but I don't specifically remember this date
23 or that memo. But it's consistent with what we
24 were trying to do to get more information at the
25 time.

1 MR. CAVALLUZZO: Now, this is also
2 around the time, late November, where you had
3 mentioned earlier that there was a meeting at
4 Prague in late November of 2002?

5 HON. BILL GRAHAM: Yes, sir.

6 MR. CAVALLUZZO: And did you see
7 Mr. Powell at this meeting in Prague?

8 HON. BILL GRAHAM: I did, yes.

9 MR. CAVALLUZZO: Did you discuss
10 Mr. Arar's situation with Mr. Powell in Prague?

11 HON. BILL GRAHAM: Yes. Again,
12 like I described the Los Cabos situation, this is
13 a heads of government and ourselves. I was there
14 with Mr. Chretien, with NATO, so there would have
15 been 26 countries there. Mr. Powell is obviously
16 there with Mr. Bush and others.

17 I just went around the room and
18 said, "Look, I want to speak to you for a couple
19 of minutes around the troubling issues around
20 Mr. Arar. We spoke about this when you were in
21 Ottawa. My information still is that nobody in
22 Canada had any participation in the decision that
23 Mr. Arar be taken to Syria, and would you please
24 continue looking into this." And he said, "Bill,
25 my story is exactly the same. You are not getting

1 the straight goods from your guys. I am telling
2 you my information is there were people involved
3 in this decision in Canada."

4 So that was basically that. We
5 obviously talked about other things as well.

6 MR. CAVALLUZZO: What I am getting
7 at -- and if I put it humbly, if I was the
8 Minister of Foreign Affairs and I am meeting the
9 American Secretary of State and he says to me,
10 "Bill, you are not getting the goods from your
11 guys," I would go and see my guys and scream like
12 hell.

13 Did you do that? I assume you
14 did.

15 HON. BILL GRAHAM: Yes, of course.
16 Do you see the frustration? We are saying "what
17 the hell?" But as it turns out -- and you know
18 and I know now, in the benefit the hindsight -- in
19 fact it was Mr. Powell that was wrong, and our
20 guys were telling us the truth; that in fact there
21 was nobody in Canada.

22 But that didn't stop Mr. Cellucci
23 and Mr. Powell saying it to me on every occasion
24 until November of that year.

25 So, in fact, my frustration was

1 certainly right. But in terms of the information,
2 you know, who was involved -- which I was trying
3 to get from him. I mean, if he had given me a
4 name, we could have quickly tracked it down and
5 said to the person, "Look, did you or didn't you?"
6 We could have found out. But we never got a name,
7 we never got a lead into Canada of anybody that we
8 could go to. That was the frustrating aspect of
9 it.

10 MR. CAVALLUZZO: Let us go now to
11 your diary, and to the entry for December 4th.

12 This is Exhibit P-107.

13 HON. BILL GRAHAM: Sorry, December
14 4th?

15 MR. CAVALLUZZO: Yes, the very
16 first page. It says "Cellucci reception".

17 HON. BILL GRAHAM: Right.

18 MR. CAVALLUZZO: And:

19 "Arar - Syria - Sarkis /
20 Diane St. Jacques"

21 HON. BILL GRAHAM: Right.

22 MR. CAVALLUZZO: We do find out
23 subsequently that Sarkis Assadourian does become a
24 parliamentary envoy to Mr. Arar in April of 2003.
25 I assume that is the reference to that.

1 Is that correct?

2 HON. BILL GRAHAM: Yes, this
3 actually -- I looked at my actual note as usual
4 when you cut things out. The context of this is
5 this is a note that I would have made in caucus on
6 my schedule, which I get every day. So on that
7 schedule I make follow-up notes for myself, or I
8 may make notes about who said what to who, or
9 something like that. I keep fairly extensive
10 notes; sometimes they are rather cryptic.

11 This, in fact, if you look at the
12 total document you would find it says "To follow
13 up". So this would have been an advice to me to
14 speak to Dan Costello about the Cellucci
15 reception -- I don't know what that reference
16 is -- and to follow up with Sarkis on the Arar and
17 Syria thing, because, as you say, Sarkis, being of
18 Syrian origin and a good friend of mine, thought
19 maybe he could be helpful in this respect. And he
20 certainly offered his good offices.

21 I don't know what the reference to
22 Diane St. Jacques is. I don't think it has
23 anything to do with this case.

24 MR. CAVALLUZZO: The next entry is
25 for December 11th of 2002.

1 We see it says:

2 "Follow up Arar: Irwin C."

3 I assume that is Irwin Cotler?

4 HON. BILL GRAHAM: Again, this is
5 caucus days so it would have been follow-up after
6 caucus.

7 MR. CAVALLUZZO: And Sarkis, is
8 that right?

9 HON. BILL GRAHAM: Yes.

10 MR. CAVALLUZZO: "Mrs. A". I
11 assume that's -- is that Mrs. A?

12 HON. BILL GRAHAM: Mrs. Arar.

13 MR. CAVALLUZZO: Mrs. Arar?

14 HON. BILL GRAHAM: Yes.

15 MR. CAVALLUZZO: It says possible
16 meeting with her. You were thinking about one at
17 that point in time?

18 HON. BILL GRAHAM: Yes, because I
19 believe there was a request that we should get
20 together, and would a meeting have been productive
21 or helpful and what would we do about it?

22 MR. CAVALLUZZO: And then it says
23 "Alexa". Presumably that's one of the discussions
24 you --

25 HON. BILL GRAHAM: Alexa McDonough

1 as well, to go and speak to her, or whatever.
2 These would have been people -- Irwin Cotler was
3 at that time I think engaged by the family, or had
4 something to do with the case, so I would have
5 spoken to him about it.

6 MR. CAVALLUZZO: Right.

7 HON. BILL GRAHAM: Sarkis. These
8 would all have been follow-up notes to myself or
9 to my staff.

10 MR. CAVALLUZZO: Then in terms of
11 time, if we move to December 18th, going back to
12 Volume 3 at tab 261.

13 HON. BILL GRAHAM: Sorry, 261?

14 MR. CAVALLUZZO: 261, correct.

15 These are the steps in terms of
16 your dealings with the Syrians. This is a memo
17 that is dated December 18th. In the memorandum to
18 you, it is recommended that you call in the Syrian
19 ambassador, Mr. Arnous, to discuss the case of
20 Arar, and to pass over the attached talking
21 points.

22 And then in the next paragraph it
23 talks about the difficulties in arranging that
24 telephone call with the Minister of Foreign
25 Affairs?

1 HON. BILL GRAHAM: Right.

2 MR. CAVALLUZZO: And then it sets
3 out some talking points.

4 It also makes reference in the
5 next page, in paragraph 9, that:

6 "Several Canadian
7 parliamentarians have
8 expressed a desire to
9 intervene on Mr. Arar's
10 behalf."

11 And then there was a suggestion of
12 a possible visit to Syria.

13 Do you recall calling in the
14 Syrian ambassador to express more protests?

15 Actually, if you go to 262, we see
16 a minute, or minutes, of that meeting.

17 HON. BILL GRAHAM: Right.
18 Exactly. Yes, certainly. Yes, sir.

19 MR. CAVALLUZZO: For those who
20 don't have it, I will read certain aspects of
21 this. This is the meeting that you had with
22 Mr. Arnous on or about December 19th.

23 If we go to the third paragraph,
24 it says:

25 "The Minister noted that

1 Syria was still conducting
2 its inquiries into the case.
3 He then explained that he had
4 been discussing the case with
5 Mr. Arar's wife just this
6 morning as well as with
7 several Canadian
8 parliamentarians and that
9 there is an interest in the
10 case in Canada.
11 Minister Graham stated that
12 in the international war
13 against terrorist it is
14 necessary to respect human
15 rights. He then said he was
16 making a representation to
17 the Syrian government to
18 return Arar at the earliest
19 time or if Syria suspects
20 that he is guilty, if they
21 would charge him so that he
22 could defend himself against
23 the accusations. He noted
24 that he should not be held in
25 limbo for a long time not

1 knowing what he is accused of
2 doing."

3 And then you go on to say that:

4 "... Canada would prepared to
5 provide the Syrian
6 authorities the appropriate
7 assistance to get his
8 release.

9 Ambassador Arnous said that
10 this was a complex case ..."

11 HON. BILL GRAHAM: Right.

12 MR. CAVALLUZZO: Maybe if we just
13 complete this, we see at the bottom where it says
14 that you:

15 "... discussed the case with
16 Mrs. Arar who asked how long
17 her husband may be detained.
18 The Minister replied that we
19 did not know and ..."

20 HON. BILL GRAHAM: I think that
21 must have been a telephone conversation because I
22 don't believe I met personally with Mrs. Arar at
23 that point.

24 MR. CAVALLUZZO: Okay.

25 "... did not know and did not

1 have any control over the
2 length of the process. She
3 also expressed concern about
4 her husband being in limbo
5 and not having any charges
6 against him that he could
7 defend himself against. She
8 asked what the government was
9 doing. The Minister stated
10 that the Canadian Embassy in
11 Damascus was in frequent
12 contact with Mr. Arar, that
13 the Department was working
14 hard on the case and that he
15 would call the Syrian Foreign
16 Minister to discuss the
17 situation."

18 Now, there were two questions I
19 have relating to this, Mr. Graham.

20 The first relates to the statement
21 that you are making here that you are impressing
22 upon the Syrians the interest that Mr. Arar's case
23 has achieved in Canada.

24 HON. BILL GRAHAM: Right.

25 MR. CAVALLUZZO: I just want to

1 know your views, as an experienced diplomat, as to
2 the strategies that may be pursued in Canada when
3 a Canadian is being detained in a country like
4 Syria with a human rights record that is not
5 nearly as good as Canada's.

6 Is there a general rule that we
7 should be doing everything we possibly can to make
8 the issue of Mr. Arar, or whoever the citizen is,
9 as public as possible so that we apply pressure on
10 the Syrians, or whatever the government is, to
11 release Mr. Arar?

12 I am wondering if you have any
13 views that you can share with us on that important
14 issue.

15 HON. BILL GRAHAM: Well, clearly
16 this is a matter very much of judgment and very
17 much a matter of individual cases as to how we can
18 be most effective in trying to secure the release
19 of the person or their proper treatment. Many
20 people are in jail in foreign countries that have
21 committed an offence in that place, and we are
22 just trying to make sure that they are properly
23 looked after.

24 So individual cases will require a
25 very different approach.

1 Where the public pressure on
2 someone like myself -- and I met with Mr. Neve, I
3 met with other people. I have total respect for
4 NGOs saying, "Look, we want you guys to do your
5 job, we want you to be more active," and things
6 like that.

7 That is then where I -- and you
8 will see this. This is a regular refrain through
9 here when I speak to the Foreign Minister, when I
10 met with him eventually personally in New York, my
11 position is -- and I have done this not just in
12 this case but with other countries, Ukraine, Iran,
13 others -- to say, "Look, you, I assume, want to
14 have good relations with Canada. There's an
15 interest in good relations both because there are
16 people of Syrian descent here, there is business,
17 everything else. You want good relations. The
18 Canadian public is not going to be satisfied with
19 conduct which is totally inconsistent with what
20 our belief is in human rights standards and what
21 we should be doing."

22 This gives me a strength and I can
23 say this case is raising huge concerns. I raised
24 this with Amir Moussa when I met with later on in
25 the year. I said, "Amir," -- who I happen to

1 know. I said, "The Arab world's credibility is
2 being called into account by cases like Mr. Arar,
3 Mr. Sampson, and other cases in your region where
4 the conduct of governments is regarded by
5 Canadians as being offensive."

6 So editorials in The Globe and
7 Mail, or in any newspaper, or any conduct of
8 pushing by NGOs or by the family, yes, very
9 helpful in making that argument.

10 Is there a point sometime where
11 that can become counterproductive? That's the big
12 issue.

13 And later on you will see we come
14 to my meeting with Mr. Shara'a in New York, and he
15 is accompanied by an intelligence officer, and he
16 says to me, "Bill I'm working with you on good
17 relations," and the intelligence officer says,
18 "You'll never see Mr. Arar. We are not going to
19 let him out because of all the fuss that is being
20 made in Canada. Why the heck would we let him go
21 home and cause more trouble for us?"

22 So how do you make that balance?
23 It's a very, very delicate balance in any case,
24 and we have to do that on a regular basis.

25 In the end, I think that public

1 scrutiny -- I mean, we live in a society where
2 public scrutiny and public conduct is what we live
3 in. I have to answer questions in the House of
4 Commons. I have to answer questions in scrums.
5 We live in that nature of a democracy.

6 So these matters will be publicly
7 discussed. And in the end, we have to manage
8 them. But we do have to recognize that sometimes
9 there can be other consequences to that.

10 My view is in the long run they
11 are helpful because it enables us to say, look, we
12 want to have relations with your country, but
13 those relations are being interfered with by these
14 activities. And it's not just Syria. There is a
15 whole host of countries where that same argument
16 applies.

17 MR. CAVALLUZZO: We will come back
18 to that conversation you had with that security
19 individual. That is the one that took place on
20 September 25th, 2003?

21 HON. BILL GRAHAM: Well, it was
22 whenever I was in New York for the United Nations
23 meeting.

24 MR. CAVALLUZZO: We will come back
25 to that.

1 HON. BILL GRAHAM: Yes.

2 MR. CAVALLUZZO: The other
3 question that I would raise, and perhaps we could
4 get your views on this, and that is in your
5 discussions with the Syrian ambassador when you
6 called him in on December the 19th, you talk about
7 human rights and so on and you say that you want
8 Mr. Arar's release at this earliest possible time.
9 Then you also say, don't leave him in limbo, and
10 if you have anything on him, you should charge him
11 as quickly as possible so that he can be tried.

12 HON. BILL GRAHAM: Right.

13 MR. CAVALLUZZO: What I would say
14 to you as a Canadian is: Why on earth would you
15 ever, ever recommend to the Syrians that they
16 charge Mr. Arar and have a trial in light of the
17 fact that the public record is clear that Syria's
18 judicial process is corrupt, not independent --

19 HON. BILL GRAHAM: Right.

20 MR. CAVALLUZZO: -- and so on and
21 so forth.

22 Why would you even make that
23 suggestion to Syria?

24 HON. BILL GRAHAM: Well, it's a
25 fallback position. The first position we took

1 strongly was we want Mr. Arar back. We want him
2 in Canada. My position was if he is guilty of
3 some offence in Canada that relates to terrorism
4 or anything else, we are perfectly capable to
5 prosecute him in this country in accordance with
6 our laws; that that prosecution will take place
7 and he will have a chance to defend himself.

8 But as you can see from the
9 conversation that I had with his wife, she too was
10 saying, you know, don't leave him in limbo. Give
11 him a chance to defend himself against charges.

12 So everybody was saying, look, you
13 know, at least if you are not going to release
14 him -- I have no way to force them to release him.
15 I am asking, but I can't -- there is no lever I
16 have to force the release.

17 We are saying, "Look, as an
18 alternative, you've got to give this person an
19 opportunity to defend themselves in a fair and
20 open process, so that he can say, look, maybe
21 there is something on my cell phone, but what do I
22 know about that person? I could have talked to
23 anybody."

24 You might have something on my
25 cell phone that is something to do with somebody

1 who is undesirable, but that doesn't mean that I
2 have had some conduct myself. You have to have a
3 chance to deal with that.

4 So I don't think it was -- it
5 certainly was not the preferred option, but it was
6 not an unreasonable suggestion in the
7 circumstances to say to the Syrian authorities,
8 look, as usual, either prosecute or release. But
9 we would prefer -- we want you to release him.

10 MR. CAVALLUZZO: And do you feel
11 that if they were to prosecute him that there were
12 certain checks and balances that could be
13 encouraged by Canadian authorities so that it
14 would be a fairer process than normal?

15 HON. BILL GRAHAM: Well, this is
16 not -- this is very complicated. In this
17 particular case it was complicated by virtue of
18 the fact at one point, I forget exactly when,
19 there was some suggestion that he would be tried
20 by a military tribunal, at which point I said,
21 "Look, that's not satisfactory. Any trial has got
22 to be something that is in open court where
23 somebody can understand and see."

24 And they moved off that and said
25 there would be a civilian trial, if there was a

1 trial in Syria.

2 MR. CAVALLUZZO: Right.

3 HON. BILL GRAHAM: So that was
4 certainly better than the suggestion of a military
5 court.

6 But we have had other cases of
7 other countries where our presence in the court to
8 watch and everything has not necessarily given us
9 the level of comfort we would like to have.

10 You can think of Iran and other
11 countries where we have sought to do this, and we
12 have had some success but it's tended to be
13 limited and particularly in countries where they
14 have a judicial system that is entirely different
15 from our own.

16 So this was not the preferred
17 option but it was an option, that if they were not
18 going to release him, that was preferable to him
19 sitting in limbo in a jail cell for the next 20
20 years, never knowing what he was being charged
21 with or having any opportunity to defend himself.

22 MR. CAVALLUZZO: Okay. Then let
23 us move on to the phone call you had with the
24 Syrian Foreign Minister in January.

25 If you go initially to tab 271, we

1 see an e-mail to Mr. Pardy dated January 3rd from
2 Dr. Mazigh.

3 If you go to about ten lines up,
4 it just captures the phone call. It says:

5 "On December 20th, I got
6 Mr. Bill Graham on the phone
7 with Mrs. Marlene Cateralle
8 my deputy..."

9 HON. BILL GRAHAM: Right.

10 MR. CAVALLUZZO: "... Mr. Graham
11 assured me that people at the
12 very high level of the
13 government are working in
14 order to have this situation
15 clarified. He promised me to
16 call the Syrian Minister of
17 Foreign Affairs and let him
18 know about his concern."

19 And so on and so forth.

20 HON. BILL GRAHAM: Right.

21 MR. CAVALLUZZO: You are now in
22 direct contact with Dr. Mazigh, although by
23 telephone?

24 HON. BILL GRAHAM: Right. And I
25 think other people in my office too were in

1 contact. I think Robert Fry would be able to
2 testify to other contacts with her.

3 MR. CAVALLUZZO: Okay. And if you
4 go to tab 288, we see the briefing note for this
5 important phone call with the Syrian Foreign
6 Minister.

7 HON. BILL GRAHAM: Yes.

8 MR. CAVALLUZZO: And in
9 particular, what I would like to do is focus on
10 page 2 at the bottom bullet point in terms of the
11 Maher Arar case, and what it states -- and I am
12 quoting now.

13 It says:

14 "I understand from recent
15 reports that the Syrian
16 authorities may have the
17 impression that Canada has no
18 wish to see Mr. Arar return
19 to Canada. I would like to
20 make it very clear that the
21 Canadian government would
22 like Mr. Arar to be returned
23 to Canada."

24 HON. BILL GRAHAM: Right.

25 MR. CAVALLUZZO: Do you have any

1 information about this impression that the Syrians
2 have that Canada doesn't want Mr. Arar returned to
3 Canada?

4 HON. BILL GRAHAM: Well, clearly
5 this would be based on information from my
6 officials they are giving me to raise this with
7 the Syrian Foreign Minister. So this clearly was
8 a significant concern on our part.

9 I believe I discussed it with
10 Ms Mazigh, actually, in a subsequent meeting that
11 we had, that there was a definite feeling that
12 while the foreign department was saying, look, we
13 want Mr. Arar released, there were other people
14 saying that's not really the Government of
15 Canada's position; that the Foreign Minister will
16 always say nice things but the real truth is
17 somewhere else.

18 That was definitely a rumour that
19 was there.

20 I have no idea where it started or
21 ultimately how it came about, but it clearly was a
22 rumour. There were suggestions of this nature,
23 and it was our belief we had to knock it on the
24 head very strongly and say, "This is not true.
25 The Government of Canada consistently wants to get

1 him back."

2 And that is why in all
3 conversations with Mr. Chretien and others
4 subsequently, we strongly took the position we
5 wanted to get him back. And there was no kind of
6 other agenda.

7 Now, this got murkier because when
8 Sarkis got back, he said maybe it is the Americans
9 that are saying this. And there is a whole host
10 of theories out there that people shared with me
11 in the course of events.

12 But this is something -- my
13 position was consistent. We want him back. There
14 is no hidden agenda of the Government of Canada
15 that is inconsistent with that message.

16 MR. CAVALLUZZO: Okay. I have a
17 couple of questions.

18 One is: Did you get that
19 impression from Ambassador Arnous when you met
20 with him on December 19th; that Canada was not
21 necessarily speaking with the one voice?

22 HON. BILL GRAHAM: No, I don't
23 think I would have got it from him, sir, no. I
24 would have got it from our own officials.

25 MR. CAVALLUZZO: Your own

1 officials?

2 HON. BILL GRAHAM: Yes.

3 MR. CAVALLUZZO: And your own
4 officials presumably got that from Syrian
5 authorities?

6 HON. BILL GRAHAM: They might
7 have, yes. I can only assume that was so, and it
8 might have been Mr. Arnous amongst them, and
9 others, and maybe conversations in Damascus as
10 well.

11 MR. CAVALLUZZO: And as you said,
12 this is a very serious situation. In other words,
13 if your responsibility is to get Mr. Arar released
14 as soon as possible and the party with whom you
15 are dealing, that is the Syrians, are of the view
16 that someone is saying we don't want him back,
17 then that's a very serious situation.

18 HON. BILL GRAHAM: Well, it makes
19 it impossible, really, because -- yes, exactly.

20 MR. CAVALLUZZO: And did you
21 express your concerns to Syrian Foreign Minister
22 Shara'a and tell him in no --

23 HON. BILL GRAHAM: Yes.

24 MR. CAVALLUZZO: -- unambiguous
25 terms that this is the position of Canada?

1 HON. BILL GRAHAM: Absolutely.

2 MR. CAVALLUZZO: This is the
3 position of Canada. We want Mr. Arar home.

4 HON. BILL GRAHAM: I consistently
5 made that case when I spoke to him, or any of the
6 Syrian officials right up to when I had the actual
7 face-to-face meeting with him in New York.

8 MR. CAVALLUZZO: Right.

9 If you go to the third page of
10 this briefing note, in the final paragraph it
11 says:

12 "The Ambassador reports..."

13 This would be Mr. Pillarella, the
14 Canadian ambassador in Syria.

15 "... reports that the Syrians
16 believe Arar has been
17 involved with the Muslim
18 Brotherhood and is part of a
19 terrorist cell. The
20 Ambassador expects that
21 Mr. Arar is destined to
22 remain in Syria for a long
23 time and that he will be
24 prosecuted."

25 Then it goes on:

1 "The Syrian Vice Foreign
2 Minister informed Ambassador
3 Pillarella that according to
4 their information, Arar does
5 not wish to return to Canada
6 (this contradicts the
7 information contained in
8 Arar's letters ..."

9 And so on.

10 Did you ever hear that one, that
11 Mr. Arar does not want to return to Canada?

12 HON. BILL GRAHAM: This is the
13 first time recently that's been brought to my
14 attention. We certainly would have -- we would
15 have discussed that, I guess, in the office, but
16 nobody gave any credence to that suggestion.

17 MR. CAVALLUZZO: Okay.

18 HON. BILL GRAHAM: I don't think
19 that was taken seriously by anybody -- at least
20 not on our side. Maybe the Syrian side.

21 MR. CAVALLUZZO: Right.

22 Okay, then if we can move on to
23 293, tab 293, which is an e-mail dated January 17.

24 And this summarizes the phone call
25 between you and Mr. Shara'a, and it talks about,

1 in the second paragraph there, under the
2 redaction:

3 "Mr. Graham raised the case
4 of Maher Arar, noting it has
5 attracted media and
6 Parliamentary attention in
7 Canada and that the manner of
8 his deportation from the USA
9 had upset many Canadians."

10 And thereby you're advising of the
11 political situation in Canada.

12 And it goes on in the next
13 paragraph:

14 "Mr. Graham noted that the
15 Syrians were carrying out an
16 investigation and that he was
17 not commenting on Arar's
18 legal situation. He thought
19 that if charges were brought,
20 then Arar could defend
21 himself. Mr. Shara'a assured
22 Minister Graham that if their
23 investigation shows Arar was
24 associated with Al-Qaida, he
25 will have a fair trial."

1 And then it goes on:

2 "Mr. Graham noted that there
3 had been a suggestion that
4 Canada did not want Arar
5 returned. He emphasized that
6 he wanted to make it clear
7 that the preferred option of
8 the Canadian government was
9 that Arar be returned to
10 Canada."

11 And then it goes on, finally:

12 "Mr. Shara'a ended this part
13 of the conversation by noting
14 that they would remain in
15 contact with the Canadian
16 Ambassador and that 'Your
17 concern is as much as our
18 concern, we respect his
19 Canadian citizenship. He's a
20 dual national, and you
21 respect he is Syrian.'"

22 HON. BILL GRAHAM: I think
23 that's -- I think -- I can't say -- this is
24 obviously a note-taker's interpretation of what
25 was said. I don't think I would have said it that

1 way.

2 I think I said, "He's a dual
3 national. As far as we're concerned, he's
4 Canadian. As far as you're concerned, he's
5 Syrian." But, you know, I don't say, "You respect
6 he is Syrian."

7 I would have said, you know, "I
8 understand the position: we're taking the
9 position he's Canadian; you're taking the position
10 he's Syrian. But we want him back."

11 MR. CAVALLUZZO: Okay, then. If
12 we could move on then to tab 456. It's
13 unfortunately in another volume. It's out of
14 order. It's in volume 5.

15 HON. BILL GRAHAM: 456?

16 MR. CAVALLUZZO: Correct.

17 And this is, I guess, a press
18 scrum after Question Period on January 29.

19 And at page 3 of 4, you're asked a
20 question about Mr. Arar, and once again, you
21 capture your conversation with Mr. Shara'a. You
22 say:

23 "Well, I personally spoke to
24 the foreign minister of Syria
25 about this case just before

1 Christmas..."

2 Now, that obviously should be just
3 after Christmas, presumably.

4 HON. BILL GRAHAM: Right.

5 MR. CAVALLUZZO:

6 "...and made clear our point.
7 Our preference would be to
8 have Mr. Arar return to
9 Canada. My point is that
10 Mr. Arar, while technically a
11 Syrian citizen, left Syria at
12 the age of 13 and was
13 carrying a Canadian passport.
14 But the Syrian government's
15 position is that he is a
16 Syrian citizen, that he is
17 properly in their
18 jurisdiction, that they
19 believe and are conducting an
20 investigation which they
21 believe will lead to charges
22 against him and I got
23 assurance from the Syrian
24 foreign minister that they
25 will either lay charges,

1 which Mr. Arar can defend
2 himself against, or he'll be
3 returned to Canada."

4 And then you say:

5 "I can't of course get an
6 undertaking from them as to
7 how long the investigation
8 will take."

9 And so on and so forth.

10 HON. BILL GRAHAM: Right.

11 MR. CAVALLUZZO: Now, in February,
12 if we go back to volume 3?

13 HON. BILL GRAHAM: Sorry. Which
14 number?

15 MR. CAVALLUZZO: Volume 3 again,
16 and tab 307.

17 HON. BILL GRAHAM: 307?

18 MR. CAVALLUZZO: Yes. And in
19 terms of the public situation, if we go to the
20 second page of the Q&A's, we will see -- we see
21 that at that time there's a suggested possible
22 question that you might get, and the question:

23 "Is there confusion among
24 agencies of the Government of
25 Canada with respect to the

1 information on the activities
2 of Mr. Arar?"

3 And the proposed answer there is:

4 "There is close cooperation
5 and coordination among all
6 Canadian agencies on such
7 matters."

8 You would agree with me that
9 certainly, at least publicly, there seems to be a
10 suggestion that there is confusion, or certainly
11 not unison or consensus, among Canadian agencies
12 as to the situation of Mr. Arar?

13 HON. BILL GRAHAM: Right.

14 MR. CAVALLUZZO: And you would
15 agree with me that certainly your position is
16 that, in retrospect and in hindsight, there should
17 have been more cooperation and coordination
18 amongst the Canadian agencies. Is that correct?

19 HON. BILL GRAHAM: Yes, I think
20 more coordination, particularly in these matters,
21 would always be helpful, and that's from lessons
22 we learn from everything we do.

23 There's no doubt about it, the
24 whole purpose of trying to deal with these very
25 difficult issues of the -- in something like

1 asymmetric threats of the nature we're talking
2 about, is coordination.

3 And knowledge and information is
4 the single most important asset we have in dealing
5 with them. We often make that point.

6 I guess there's a difference
7 between how high up you go in terms of that
8 coordination and how public you make any of that
9 information. That's a different discussion, which
10 would be different in different circumstances, and
11 where you take that coordination.

12 I mean, I hope our authorities are
13 coordinated with one another very closely on this
14 issue. My understanding, as the Defence Minister
15 today, is that, yes, they are coordinated, and we
16 have very good working relationships between our
17 agencies to ensure the security of Canadians.

18 So that is not a -- that is not
19 for -- that is a totally acceptable proposition.

20 MR. CAVALLUZZO: Let us look at a
21 recommendation that was made to the Ministry by
22 Mr. Gar Pardy about the kinds of coordination and
23 consultation which really should be necessary in
24 this kind of a situation. And if we go to tab 325
25 in the next volume.

1 HON. BILL GRAHAM: 325?

2 MR. CAVALLUZZO: Yes, in the next
3 volume.

4 HON. BILL GRAHAM: I'm getting a
5 bit of a pile here, counsel.

6 MR. CAVALLUZZO: That's okay. You
7 won't have to do your weight workout tomorrow.

8 HON. BILL GRAHAM: Sorry, 325?

9 MR. CAVALLUZZO: That's correct.
10 This is an action memorandum to
11 you, and just let me give you some context here by
12 reading it.

13 The issue is "Consular Cases
14 Relating to Terrorism: Need for better, more
15 consistent coordination and consultation across
16 government."

17 And the recommendation is:

18 "You agree that the deputy be
19 authorized to consult with
20 his colleagues as the need
21 arise and ensure that there
22 is inter-departmental
23 coherence in the management
24 of such cases; and

25 That the exchange of

1 information for such cases be
2 done in full conformity with
3 the appropriate laws and
4 regulations."

5 You will see -- we have heard
6 evidence that this is a memorandum that went
7 through about eight or nine drafts and culminated
8 in this ultimate action memorandum.

9 And if you go to page 3 --
10 HON. BILL GRAHAM: I'm sorry.
11 You're saying this is the ultimate action
12 memorandum?

13 MR. CAVALLUZZO: Yes, this is the
14 action memorandum, yes.

15 HON. BILL GRAHAM: Well, not that
16 would have come to me.

17 MR. CAVALLUZZO: That's what we're
18 going to ask you. Let me give you the context
19 first, okay?

20 What it's about, if you go to page
21 3 of 5, you will see that the author, who we heard
22 in evidence is Mr. Pardy, really picks it up at
23 the top of the page where he says:

24 "As noted above, a
25 significant element in the

1 terrorism related cases is
2 the involvement of Canadian
3 security and police
4 officials. This involvement
5 relates in part to
6 investigations of possible
7 contravention of Canadian law
8 while in others relates to
9 assistance to foreign
10 governments. For the most
11 part the involvement of
12 Canadian security and police
13 agencies becomes publicly
14 known within the same time
15 frame as when the case
16 becomes known to Canadian
17 consular authorities. In
18 these circumstances there is
19 a need for a higher degree of
20 inter-departmental coherence
21 to ensure that from the
22 outset there are common press
23 lines or articulation by the
24 different authorities
25 involved of the respective

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1 jurisdictions and
2 responsibilities."

3 And he talks in the next paragraph
4 about occasional consultations with RCMP and CSIS.

5 "However, for the most part,
6 these consultations have
7 occurred because of apparent
8 public differences in the
9 comments make to the media or
10 to apparent confusion in the
11 minds of the public as to
12 whether the government has a
13 coherent approach on such
14 cases."

15 And then he concludes:

16 "The primary responsibility
17 of this department for such
18 cases is to the consular. As
19 such, particular care must be
20 taken not to create the
21 perception that this
22 responsibility does not take
23 second place in order to meet
24 the responsibilities of other
25 governmental agencies. The

1 issue in closer consultations
2 and coherence is not to
3 diminish the responsibility
4 of any department or agency.
5 Rather, the effort is to
6 create an environment in
7 which all can carry out their
8 specific responsibilities
9 more effectively and
10 efficiently."

11 HON. BILL GRAHAM: Right.

12 MR. CAVALLUZZO: Certainly we've
13 heard evidence from Mr. Pardy as to this memo, and
14 I'm asking you whether this memorandum ever
15 reached your desk as Minister of Foreign Affairs?

16 HON. BILL GRAHAM: Well, no. It's
17 not in the form of a memorandum. Any memorandum
18 that would come to me would have to be signed by
19 the Deputy Minister and also signed by Mr. Pardy.

20 So clearly this is a draft
21 somewhere in the process that might have come up
22 in another form to the office, whether it got to
23 me directly on my desk or whether it would be
24 dealt with by someone else and I'd be briefed on
25 it.

1 But clearly this is Mr. Pardy
2 laying out his thoughts and his consideration
3 around these issues; and Mr. Pardy, as we said
4 earlier, is very experienced in these matters, and
5 I believe he's testified as to these issues.

6 MR. CAVALLUZZO: His testimony was
7 that he completed this memorandum, and he was
8 under the impression that it went up the ladder
9 and, for whatever reason, the Minister decided not
10 to go with it, not to accept the recommendations.

11 HON. BILL GRAHAM: Well, I'd have
12 to see the memorandum that I got, see what
13 recommendations I got, before I can testify as to
14 what I refused to do. So...

15 MR. CAVALLUZZO: But do you recall
16 seeing anything like this during this period of
17 time where Mr. Pardy is clearly saying, "We've got
18 a problem. We've got a problem of coordination
19 amongst agencies."?

20 HON. BILL GRAHAM: Yes. There's
21 no doubt about it, Mr. Pardy was frustrated with
22 the level of coordination.

23 He wouldn't have come to me
24 personally; he would have talked to officials on
25 my floor.

1 As I say, I know I met Mr. Pardy a
2 couple of times. Once I think was around the
3 Sampson case; once may have been involving this
4 case.

5 He was very experienced in dealing
6 with these issues, wanted deeper coordination.

7 So there's nothing in this memo
8 that, if I had seen it or had discussed it at the
9 time, I would have -- I personally would have, you
10 know, refused.

11 I mean, clearly this is a matter
12 that has to go through the various levels and get
13 to the deputy minister and he has to consider its
14 relationship to other departments before any
15 recommendations get to my desk.

16 So we cannot assume that this memo
17 in this form got to me, but we can assume that
18 there was a discussion around two things in the
19 department at this time: what is the appropriate
20 level of coordination, so that we can all do our
21 job properly, as Mr. Pardy said; and, secondly,
22 how can we manage these consular cases in a way
23 that the department could be more effective for
24 the Canadians that were involved, because we were
25 now getting involved in a series of consular cases

1 which raised similar issues, and we wanted to
2 improve our performance on how we could do that.

3 So those two issues were certainly
4 issues that were discussed on a policy level. I
5 would have discussed them with my staff, I
6 probably would have discussed them with the
7 deputy, but I couldn't speak to the specific
8 recommendations in this memo.

9 MR. CAVALLUZZO: But you would
10 agree with the points that are being made by
11 Mr. Pardy as to certainly the need, in this kind
12 of case, terrorist allegation, where you've got a
13 police agency, you've got a security intelligence
14 agency, that a great deal of coordination is
15 required --

16 HON. BILL GRAHAM: Right.

17 MR. CAVALLUZZO: -- in order to
18 advance the interests of the Canadian?

19 HON. BILL GRAHAM: Right. I think
20 that's a -- yes, I would have. Yes, sir.

21 MR. CAVALLUZZO: And this is
22 particularly so when it's just a month after -- a
23 month after -- you're getting reports that the
24 Syrians are getting a message from other parts of
25 government that Canada doesn't want this guy back.

1 This is a serious issue, you stated --

2 HON. BILL GRAHAM: Mm-hmm.

3 MR. CAVALLUZZO: -- and I would
4 think that -- and if we move on, that is even
5 emphasized further. If we go now to Exhibit P-89?

6 If you could give that to the
7 Minister, please?

8 --- Pause

9 MR. CAVALLUZZO: Give me a second.
10 It's P-99.

11 HON. BILL GRAHAM: P-89? 99?

12 MR. CAVALLUZZO: I'm sorry. It's
13 P-99.

14 HON. BILL GRAHAM: I wondered how
15 we got into this Israeli raid thing. We're kind
16 of straying far afield. But anyway -- there's
17 lots going on in the world, as we know.

18 MR. CAVALLUZZO: Okay. P-99, as
19 you will see, is dated March 24, 2003, and the
20 subject matter is a telephone conversation with
21 Marlene Catterall. It's notes by one of your
22 officials, and it says:

23 "Marlene Catterall and Sarkis
24 Assadourian met with the
25 Syrian Ambassador last

1 Wednesday, March 21. They
2 discussed the case of Maher
3 Arar and made a personal and
4 humanitarian pitch for the
5 release of Arar and asked
6 what the Syrians need for
7 this to happen. They learned
8 that initially during this
9 case that CSIS officials told
10 the Syrians that they have no
11 interest in Arar. The
12 Syrians took this to mean
13 that the CSIS have no
14 interest in having Arar back.
15 They may have meant that they
16 have no security reasons to
17 investigate Arar in Canada.
18 Due to the miscommunication,
19 the Syrians believed that
20 CSIS did not want Arar back
21 in Canada and therefore
22 decided to detain him -- or
23 keep him in Syria."

24 (As read)

25 Now, this, it would seem to me,

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1 must have been a terrible surprise to you, because
2 you had your conversation with the Syrian Foreign
3 Minister on January 16, where you clearly said to
4 him that Canada is speaking with one voice, "We
5 want him back."

6 HON. BILL GRAHAM: Right.

7 MR. CAVALLUZZO: Then two months
8 later, over two months later, your two
9 parliamentarians meet with the Syrian foreign
10 ambassador who is still stating that there is this
11 mixed message that -- at least they're confused or
12 there's some miscommunication, and they feel that
13 CSIS does not want Mr. Arar back.

14 HON. BILL GRAHAM: Right.

15 MR. CAVALLUZZO: Does that concern
16 you, if you were advised of this -- were you
17 advised of this telephone conversation?

18 HON. BILL GRAHAM: Well, whether I
19 was advised of this -- I certainly met with
20 Marlene and with Sarkis upon their return to
21 Syria -- from Syria, and they shared their
22 concerns with me, that would be accurately
23 reflected in this memo, whether I saw it --

24 MR. CAVALLUZZO: Are you saying
25 that they said that when they returned on April 23

1 or 24? Because this is a -- this talks about a
2 meeting they had before they went to Syria.

3 HON. BILL GRAHAM: That could be.
4 I'm sorry, I'm confusing two things then. I
5 mean -- that's the problem with these memos. I
6 mean -- these are shorthand form of people -- of
7 conversation between other people that were not me
8 and I wasn't there and I don't know who said what
9 to who.

10 It says in here -- maybe the
11 Syrians misinterpreted "We have no interest in
12 Arar" might well have meant "We've got no
13 interest" -- CSIS said we've got no interest in
14 him.

15 So that would have been a clear
16 indication that there was no problem. But you'd
17 have to get the CSIS people to testify to that. I
18 can't speculate on, you know, what --

19 MR. CAVALLUZZO: But the question
20 I have for you is whether you were advised on
21 March 24, or thereabouts, that the Syrians had
22 given this message to Marlene Catterall and Sarkis
23 Assadourian?

24 HON. BILL GRAHAM: That I wouldn't
25 specifically know. But I would agree with you,

1 sir, that I was aware of the fact there was still
2 confusion on this issue.

3 In fact, it came up when we had a
4 meeting with Ms Mazigh in my office and others.
5 This was clearly an issue which had remained
6 unresolved.

7 Where its source was, who said
8 what to who or how it came about, I couldn't help
9 you in any way as to that.

10 MR. CAVALLUZZO: Let's see what
11 the note goes on to say. It says:

12 "What we need to do now is
13 send a clear message in
14 writing to the Syrians from
15 CSIS that outlines clearly
16 that we have no information
17 which has led us to believe
18 that Arar poses a serious
19 threat to Canada.
20 Furthermore, the Syrians need
21 to hear from the security
22 people and DFAIT in writing
23 that if we do have any
24 information that shows any
25 involvement in terrorist

1 activities, that we will
2 charge him in Canada and deal
3 with his case through the
4 usual law enforcement
5 channels." (As read)

6 Now, the question that I have is
7 whether, at this point in time, there was any
8 direction, suggestion, encouragement,
9 recommendations to CSIS through, presumably, the
10 Solicitor General, over whom they were responsible
11 to, that they send a message, a clear and
12 unequivocal message, to the Syrians saying, "You
13 have misunderstood us. We want Mr. Arar returned
14 to Canada."?

15 --- Pause

16 HON. BILL GRAHAM: Well, it
17 certainly -- that would be consistent with the
18 position we had taken consistently, you know, up
19 to date. But I cannot remember specifically
20 saying to the Solicitor General personally or
21 giving a direction that CSIS be told to do this,
22 particularly the idea that CSIS will write a
23 letter.

24 But you will recall there is a
25 later discussion about what might be contained in

1 a letter, and we got different feedback from them
2 about what to --

3 MR. CAVALLUZZO: We're going to
4 come to that. That's a few months later --

5 HON. BILL GRAHAM: I'm not sure
6 that a CSIS letter would have been very helpful if
7 it was to be along the lines of what was
8 suggested.

9 MR. CAVALLUZZO: Right. We'll
10 come back to that. That's in May and June.

11 But I just want to know, at this
12 particular point in time, what you're testifying
13 to, is that you were unaware as to whether CSIS
14 was encouraged or recommended to send a letter to
15 the Syrians saying, "Don't get confused. We want
16 Arar back."?

17 HON. BILL GRAHAM: I honestly
18 don't know the answer to that. I would have
19 thought it would be unusual practice for CSIS
20 to -- I mean, I guess, obviously, CSIS must
21 communicate with its foreign counterparts, so
22 those must take place. But in terms of an
23 official Government of Canada communication
24 between government to government, that would be
25 from the Foreign Minister to the Foreign Minister

1 rather than from another federal government
2 agency.

3 MR. CAVALLUZZO: We will see in
4 the evidence later on, through some discussions
5 that you had, that you would not disagree that a
6 communication from CSIS to Syria, in light of the
7 fact that Mr. Arar is being held by security
8 forces there, would be effective in the sense that
9 they are security people, they would prefer to
10 deal with security people?

11 HON. BILL GRAHAM: Right, and make
12 the point, as I said here, that if there's an
13 offence being committed, that we will deal with it
14 under Canadian law. We have the capacity to deal
15 with it.

16 MR. CAVALLUZZO: Okay.
17 Mr. Commissioner, it's one
18 o'clock.

19 THE COMMISSIONER: Okay. Is 2:15
20 the suggestion?

21 MR. CAVALLUZZO: 2:15 should be
22 fine.

23 Now, just in terms of counsel, I
24 probably will be to the afternoon break. So I'm
25 wondering if we might sit a wee bit late tonight,

1 depending on the Minister's schedule, and also
2 start tomorrow morning at nine o'clock in order to
3 accommodate the number of witnesses we have this
4 week?

5 THE COMMISSIONER: All right.
6 What's the anticipation? Are we going to finish
7 with Minister Graham today or do you think...

8 HON. BILL GRAHAM: That is
9 certainly -- well, I'm only the witness, but
10 that's my anticipation, if I'm allowed to speak
11 about this matter.

12 --- Laughter / Rires

13 MS McISAAC: I can say we weren't
14 anticipating that Mr. Graham would be testifying
15 tomorrow, and I don't know if his schedule can
16 accommodate it or not.

17 THE COMMISSIONER: Ms Edwardh, do
18 you know how long you will be?

19 MS EDWARDH: I will endeavour,
20 Mr. Commissioner, to ensure that Minister Graham
21 is out of here today.

22 THE COMMISSIONER: Well, thank
23 you.

24 HON. BILL GRAHAM: Could you
25 specify the time?

1 --- Laughter / Rires

2 MS EDWARDH: That, sir, I cannot
3 do.

4 HON. BILL GRAHAM: I was afraid of
5 that.

6 THE COMMISSIONER: I think what we
7 will do, then, and if people can look at their
8 schedules, is we will do whatever is necessary to
9 accommodate you so we will finish today.

10 HON. BILL GRAHAM: I appreciate
11 that, Commissioner.

12 Obviously, tomorrow I do have to
13 be back in the House. I have leave from the House
14 today, but --

15 THE COMMISSIONER: What may be
16 necessary is that we would sit later than normal.
17 If you can accommodate that in today's schedule,
18 we would appreciate it.

19 HON. BILL GRAHAM: Thank you, yes.

20 THE COMMISSIONER: We'll rise
21 until 2:15.

22 THE REGISTRAR: Please stand.
23 Veuillez vous lever.

24 --- Upon recessing at 1:03 p.m. /

25 Suspension à 13 h 03

1 --- Upon resuming at 2:18 p.m. /

2 Reprise à 14 h 18

3 THE REGISTRAR: Please be seated.

4 Veuillez vous asseoir.

5 THE COMMISSIONER: Good afternoon.

6 HON. BILL GRAHAM: Good afternoon,
7 sir.

8 THE COMMISSIONER: Mr. Cavalluzzo?

9 MR. CAVALLUZZO: Thank you,
10 Mr. Commissioner.

11 Mr. Graham, just before we move on
12 into April, there is one last question I have
13 relating to Exhibit P-99, the Catterall note --

14 HON. BILL GRAHAM: Right.

15 MR. CAVALLUZZO: -- about the
16 confusion that the Syrians may have had and the
17 clear and unequivocal letter from CSIS.

18 I just want to be clear that you
19 understand that when I am referring to a letter
20 from CSIS, I don't think that anything need be
21 disclosed in terms of operational matters or
22 whether or not Mr. Arar was a threat or not to the
23 security of Canada.

24 But don't you agree with me that
25 even though normal channels are through the

1 Department of Foreign Affairs, that a letter from
2 CSIS, a simple letter from CSIS saying, "We want
3 to clarify your confusion if you miscommunicated
4 our message. We, as every other part of the
5 Government of Canada, want Mr. Arar returned."
6 Don't you agree with me that that would have been
7 an effective letter, particularly in light of the
8 fact -- and we will come to this. We know that
9 the Syrian security people like to deal with the
10 Canadian security people as opposed to other
11 emanations of government.

12 So a simple letter like that could
13 have done the trick?

14 HON. BILL GRAHAM: I just don't
15 know whether or not it was appropriate to send
16 such a letter in the system of government and how
17 it works, because that is CSIS and RCMP business.
18 But I totally agree with you that if there had
19 been some form whereby we could have conveyed
20 clearly that these were the security people saying
21 there is no impediment, whatever else they want to
22 say, there is no reason why Mr. Arar couldn't come
23 back to Canada, that would have been good.

24 Now in the end, I think when the
25 Prime Minister sent his letter and said that as

1 the Prime Minister of Canada, that includes not
2 just the foreign ministry but includes CSIS, the
3 RCMP, and the whole of the Government of Canada.

4 So in the end we got that, if you
5 like. But at this point it would have been
6 helpful. I don't disagree with your analysis. I
7 just don't know the form that might have taken.

8 MR. CAVALLUZZO: We will come to
9 the form.

10 Now we are in April, at April 3rd,
11 and there is a tab that I could refer you to.

12 Perhaps if we go to tab 368, it's
13 letter from Dr. Mazigh to you. It's tab 368.

14 Basically Dr. Mazigh is talking
15 about the length of time now since the last
16 consular visit. I just want to put some context
17 into a concern that Dr. Mazigh had, or indeed any
18 wife would have in these circumstances, and that
19 is the political context.

20 We are now in April of 2003, and
21 something started in March of 2003, I understand?

22 HON. BILL GRAHAM: March 17th.

23 MR. CAVALLUZZO: What was that?

24 HON. BILL GRAHAM: My birthday.

25 Also there was an invasion of Iraq.

1 MR. CAVALLUZZO: I thought you
2 were going to say it was also St. Patrick's Day.

3 HON. BILL GRAHAM: It might have
4 been St. Patrick's day, but it happens to be my
5 birthday, and that's how I happen to remember it.

6 MR. CAVALLUZZO: The war in Iraq
7 started on that date, and that obviously created
8 certain added complexities in your job as
9 Minister?

10 HON. BILL GRAHAM: Yes.

11 MR. CAVALLUZZO: And added
12 complexities in terms of the relationship that the
13 Canadian government had with Syria?

14 HON. BILL GRAHAM: Yes, sir.

15 MR. CAVALLUZZO: Could you
16 describe what complications those are as a result
17 of the Americans going into Iraq?

18 HON. BILL GRAHAM: Well, clearly
19 there would be various factors -- and these are
20 alluded to in some of the documents, and certainly
21 would have been in my conversations with Sarkis
22 and others -- as to what position the Syrians
23 might take in respect of Mr. Arar, not bearing in
24 mind what Canada's wishes might be but what the
25 United States' reaction might be. Given the fact

1 that the United States was now in Iraq, Syria was
2 a potential perhaps future subject matter for
3 their consideration. So there is no question
4 about it, that was one factor that complicated
5 things.

6 And I can't -- that's all
7 speculation as to how that played and how that
8 influenced events. But I believe it was there in
9 the back of people's minds.

10 The other thing, of course, was
11 the fact that at this time then, the role of our
12 Damascus embassy became more important than ever
13 as a listening post in the Middle East and as a
14 place where we needed to be to closely follow
15 events.

16 So there were additional
17 complicating factors as a result of the conflict
18 in Iraq, there is no question about it.

19 MR. CAVALLUZZO: Some people would
20 argue that the conflict in Iraq should have
21 improved Canada's leverage with Syria because, of
22 course, Canada decided not to join the American
23 forces and go into Iraq, which presumably would
24 have been pleasing to the Syrians at that point in
25 time.

1 So our leverage may have improved,
2 which would have assisted Mr. Arar's situation.

3 Would you agree with that?

4 HON. BILL GRAHAM: It could have,
5 and maybe it was countered by this other factor of
6 how they perceived relations with the United
7 States, which is, as I say, speculative. But
8 there was no doubt about it, Canada's position in
9 respect of the Iraq war was appreciated by many
10 countries around the Middle East.

11 MR. CAVALLUZZO: The other factor
12 which I think we should bring to bear in terms of
13 the complicating relationship, or complicated
14 relationship with Syria, and that is in December
15 of 2002 I understand that the Canadian government
16 listed Hezbollah as one of the terrorist
17 organizations under the new provisions of the
18 Criminal Code.

19 Do you recall that?

20 HON. BILL GRAHAM: Yes. We
21 already listed Hezbollah under the U.N.
22 regulations and we added them to the Criminal
23 Code.

24 Was it in December? It was
25 certainly around that time, yes.

1 MR. CAVALLUZZO: And I understand
2 that perturbed the Syrians as far as our relations
3 with Syria are concerned?

4 HON. BILL GRAHAM: Yes, Hezbollah
5 was a clear ally to Syria, both in Lebanon, where
6 it is, as you know, an important political force,
7 as well as a military force. And that certainly
8 did affect relations as well, yes.

9 MR. CAVALLUZZO: Okay. I would
10 like to move now to the meeting in Syria. This is
11 on April 22nd of 2003, at tab 395, which is the
12 meeting between Catterall, Assadourian, Pillarella
13 and Syrian officials.

14 We are going to be hearing from a
15 couple of separate witnesses directly involved in
16 this, so that we need not hear you on the visit
17 itself.

18 But there is one portion I would
19 ask you about in terms of the brief, and that is
20 at paragraph 9, at page 3 of 3, wherein it states
21 that:

22 "In a debriefing with the
23 Ambassador, Mrs. Catterall
24 and Mr. Assadourian expressed
25 disappointment that all the

1 security aspects of the Arar
2 case, as seen by the Syrians,
3 had not been explained to
4 them earlier."

5 And this was the point here:

6 "Mrs. Catterall even
7 suggested that perhaps
8 Minister Graham had been kept
9 in the dark concerning some
10 of this information, a view
11 that was not shared by
12 Mr. Assadourian."

13 Now, that comment there in respect
14 of her concerns that you had been kept in the
15 dark, did you do somewhat of an investigation into
16 that or have someone look into that?

17 HON. BILL GRAHAM: Well, I would
18 have discussed this matter with Marlene when she
19 came back, obviously, and Sarkis.

20 MR. CAVALLUZZO: Right.

21 HON. BILL GRAHAM: I think the
22 problem here is -- well, you will have to hear
23 from her, but I think one of the problems was
24 obviously the Syrians said things to Mrs.
25 Catterall and Mr. Assadourian about Mr. Arar that

1 they had not heard from me. And while I had been
2 very clear in telling people that there were
3 security aspects to the case, I wasn't in a
4 position, and I would not have specifically told
5 people specific information about Mr. Arar. As
6 far as consular access was concerned and as far as
7 what we were doing, that wasn't relevant.

8 So I think she was upset that the
9 Syrians said, "Oh, we've got this, we've got
10 that," all of these things. It came as a surprise
11 to her. And certainly some of it probably I
12 wouldn't have known myself, because I wouldn't
13 have any direct relationship with the security
14 authorities in Syria either. So some of them
15 might well have been a surprise to me as well.

16 MR. CAVALLUZZO: Okay. Tab 385 is
17 the -- and I just want you to identify it -- the
18 letter that went with Catterall and Assadourian
19 which was delivered to the Syrians on your behalf?

20 HON. BILL GRAHAM: Yes.

21 MR. CAVALLUZZO: Okay.

22 HON. BILL GRAHAM: This is the
23 text of the letter. I mean, it's obviously not
24 signed, but this is the text of the letter, is it?

25 MR. CAVALLUZZO: Yes.

1 HON. BILL GRAHAM: Right.

2 MR. CAVALLUZZO: Then if we go to
3 your notes, Exhibit P-107, for the entry April
4 30th of 2003, I wonder if you might read that to
5 us, because I have difficulty reading it.

6 HON. BILL GRAHAM: It's like a
7 doctor's prescription. It is not designed to be
8 read.

9 MR. CAVALLUZZO: Okay.

10 HON. BILL GRAHAM: It says:

11 "Caucus follow-up. 1) Arar
12 and Penny C. and Marlene's
13 comments."

14 And then the next page:

15 "Marlene Catterall. The
16 Ambassador said that he'd
17 been sending advice back that
18 Arar would be charged."

19 So this relates to the discussions
20 around whether he would be charged and in what
21 form.

22 "This is an opening bid in
23 negotiations with the
24 Americans. Is this real or a
25 'ritual dance?'"

1 In other words, these are things
2 we would have discussed. Is this a threat? Are
3 they really going to charge him? Or is this just
4 sort of, well we'll charge him? Is this a ritual
5 dance?

6 "She's horrified with what
7 Penny Collette told me last
8 night about what the American
9 ambassador is saying about
10 Arar (that the Americans were
11 told that we didn't want him
12 back.)"

13 That can only be a reference to a
14 speech that the American ambassador gave, I
15 believe, to the Harvard Club which Penny
16 Collette went to, and spoke to me about saying
17 this is what Mr. Cellucci is saying around this
18 subject. So I don't remember the exact details.

19 It clearly was the same thing
20 Mr. Cellucci had been saying all along: that our
21 officials agreed with the sending of Mr. Arar
22 abroad.

23 Now, whether he went on to say
24 that Americans were told that we didn't want him
25 back, that's ...

1 MR. CAVALLUZZO: Right.

2 HON. BILL GRAHAM: He may have
3 said that at that speech, in which case this would
4 just be a statement as to what Penny had told me,
5 and I was relaying this information on to Marlene.

6 MR. CAVALLUZZO: Right. You are
7 talking about April 29th, which would have been a
8 speech given by Mr. Cellucci at the Harvard Club
9 in Ottawa, wherein he stated that Americans were
10 told by Canadians that we didn't want Mr. Arar
11 back.

12 Is that correct?

13 HON. BILL GRAHAM: I think that's
14 what the statement is that he made, and obviously
15 Mrs. Catterall was horrified by it. And that
16 would be the first time I had ever heard that
17 statement.

18 I mean, the statement I had heard
19 before was Canadians knew what the Americans were
20 doing. But this is the first time we heard from
21 somebody that -- or at least that I personally
22 heard that we were telling Americans or, again,
23 somebody was telling Americans -- this is the
24 problem, because of the situation. We didn't know
25 who was telling who what. It certainly wasn't me.

1 MR. CAVALLUZZO: Your
2 understanding, in terms of what Mr. Cellucci was
3 saying, was this at the time that Mr. Arar was
4 being deported from the United States to Syria,
5 that Canadians didn't want him back, or while
6 Mr. Arar is in Syria that Canadians didn't want
7 him back?

8 HON. BILL GRAHAM: I don't know
9 the answer of what Mr. Cellucci would have
10 intended by that.

11 MR. CAVALLUZZO: Did you pick up
12 the phone and call him and say, "What are you
13 talking about now, Cellucci?"

14 HON. BILL GRAHAM: Well, we would
15 have had conversations with Mr. Cellucci. Whether
16 I phoned him immediately upon this or whether we
17 went back to the office and said, you know, let's
18 get more information here on what is going on. We
19 were in constant -- you know, in regular contact
20 with my officials, and also our office staff was
21 trying to figure out exactly what is going on.

22 I don't think I picked up the
23 phone immediately to call Mr. Cellucci immediately
24 after this, but I certainly would have engaged him
25 on it when I had an opportunity to.

1 MR. CAVALLUZZO: Okay. If you
2 look at Exhibit P-48, I am trying to nail down
3 what Mr. Cellucci said.

4 THE COMMISSIONER: Which volume?

5 MR. CAVALLUZZO: Volume 1 of
6 P-48 -- Volume 1 of 2.

7 And if we go to tab 21 there are
8 two letters from Dr. Mazigh. One is to Jean
9 Chretien, copied to you. And then the second one,
10 that I am going to refer to, is to Wayne Easter,
11 dated July 18th, with a copy to you as well.

12 And on the second page, we will
13 see that Dr. Mazigh says at the top:

14 "Indeed U.S. sources,
15 including the U.S. ambassador
16 to Canada, have implied that
17 it is Canadian authorities
18 which have information
19 implicating my husband and
20 that Canadian authorities had
21 something to do with his
22 deportation. On October 16,
23 2002, while at an awards
24 luncheon in Toronto, U.S.
25 Ambassador Cellucci was asked

1 by reporters why the U.S.
2 deported my husband. He
3 replied, 'I think you may
4 want to check with your local
5 people on that.'

6 Of course, that's the public
7 position, as we saw before, the day after the
8 meeting with you.

9 And then it goes on to the meeting
10 we are talking about now, and it says:

11 "On April 29, 2003, the U.S.
12 ambassador was again asked
13 about my husband while
14 speaking at the Harvard Club
15 in Ottawa. He replied that
16 it was Canadian elements that
17 did not want Maher Arar
18 returned to Canada, which is
19 why the U.S. deported him to
20 Syria."

21 So that at least the suggestion in
22 here -- and we will get that speech -- is that
23 when he was saying Canadians didn't want him back
24 in Canada, it was at the point where he was
25 deported to Syria, rather than when he was in

1 Syria.

2 HON. BILL GRAHAM: Right, exactly.
3 The suggestion being that they were consulted and
4 said, no, don't send him here, send him there.

5 MR. CAVALLUZZO: Okay. If you go
6 to your entry at the next date, April 30th, in
7 your diary?

8 HON. BILL GRAHAM: Yes.

9 MR. CAVALLUZZO: And could you
10 read us once again that handwriting?

11 HON. BILL GRAHAM: Again, this
12 would have been a note about my conversation with
13 Sarkis.

14 I don't know what day of the week.
15 What day of the week was this?

16 --- Pause

17 MR. CAVALLUZZO: Well, Wednesday
18 is --

19 HON. BILL GRAHAM: It's redacted
20 in a way such that --

21 MR. CAVALLUZZO: Wednesday, April
22 30th.

23 HON. BILL GRAHAM: So this is all
24 part of the April 30th?

25 MR. CAVALLUZZO: I think so.

1 HON. BILL GRAHAM: So:
2 "Sarkis Assadourian - Arar.
3 What an experience. There's
4 a difference of opinion
5 between the Syrian Foreign
6 Minister and their
7 intelligence who are in
8 cahoots with the Americans?"

9 This is going back to what I said
10 earlier: that there are wheels within wheels,
11 making it very difficult. This is obviously
12 Sarkis' opinion to me, based on his Syrian
13 background, that he believed there was a
14 difference of opinion between the Syrian Foreign
15 Minister and the intelligence people, who he
16 believed -- I can only assume from my note -- were
17 in cahoots with the Americans.

18 That is Sarkis' opinion and that
19 is what he told me.

20 MR. CAVALLUZZO: Okay. I would
21 like to move on now to May 5th.

22 If you go to Exhibit P-85, tab 7,
23 which is Volume 5.

24 HON. BILL GRAHAM: Thank you, sir.
25 What tab?

1 THE COMMISSIONER: Tab 7, I think.

2 HON. BILL GRAHAM: 7? Thank you,
3 sir.

4 MR. CAVALLUZZO: I am sorry, it
5 should be Volume 1; P-85, Volume 1, tab 7.

6 HON. BILL GRAHAM: This is Volume
7 5.

8 MR. CAVALLUZZO: And this is a
9 draft memo from Gar Pardy, an action memorandum
10 that was going to be prepared by you.

11 I understand that you did not see
12 this, but I just want to point out for context --
13 ultimately you did receive a memo of June 5th, and
14 I just want to point out certain aspects of this
15 draft memorandum.

16 First of all, in the first page
17 under "Recommendations", the recommendations are:

18 "Efforts continue to
19 establish a common
20 understanding within the
21 government of Canada on this
22 case with the objective of
23 the issuance of a statement
24 signed by the Solicitor
25 General and the Minister of

1 Foreign Affairs that could be
2 used with Syrian
3 authorities."

4 Then it talks about the visit to
5 Syria by the Deputy Minister, et cetera.

6 Thirdly:

7 "That you call in the Syrian
8 ambassador at an appropriate
9 time and provide a response
10 to the Syrian stated
11 intentions to prosecute."

12 And finally:

13 "If necessary that you meet
14 the Solicitor General and the
15 Deputy Prime Minister to
16 arrive at a common
17 understanding on the case."

18 HON. BILL GRAHAM: Right.

19 MR. CAVALLUZZO: And in terms of
20 the central issue which gave rise to this memo and
21 the ultimate memo, if you go to page 3, at
22 paragraph 6, under "CONSIDERATIONS", that very
23 first sentence, it says, at paragraph 6:

24 "The central issue in our
25 dealings with the case is the

1 fact that there are
2 inconsistencies in what we
3 are being told by the
4 American authorities and what
5 the Canadian police and
6 security officials have
7 reported."

8 HON. BILL GRAHAM: Yes, sir.

9 MR. CAVALLUZZO: And then if you
10 go to the next page, page 4, top bullet, wherein
11 it is stated:

12 "there is a need for an
13 unambiguous statement by the
14 Government of Canada,
15 preferably signed by the
16 Solicitor General and the
17 Foreign Minister, to the
18 effect that we have no
19 evidence in Canada, or from
20 foreign sources, that Mr Arar
21 is or was a member of
22 al-Qaida, that we do not
23 believe that such information
24 exists and that Mr Arar
25 should be permitted to return

1 to Canada."

2 And then it refers to other issues
3 in the days ahead, that there be a multi-agency
4 meeting communicating a consistent approach with
5 the Syrian authorities and making representations
6 to the Syrians.

7 Now, that led to -- just for the
8 record, if you go to tab 423?

9 THE COMMISSIONER: We're going to
10 volume 5.

11 MR. CAVALLUZZO: We're coming now
12 to some new exhibits, Mr. Commissioner, so I just
13 want to give you an indication of what they are.

14 423 is the June 3 memo.

15 THE COMMISSIONER: All right.

16 HON. BILL GRAHAM: So what was the
17 last -- so the draft is May 5?

18 MR. CAVALLUZZO: Right.

19 HON. BILL GRAHAM: And June, this
20 document, is the follow-on of that draft.

21 MR. CAVALLUZZO: Yes, June 3 is a
22 draft, and ultimately, in 429, we have the final
23 memorandum, which is dated June 5.

24 Okay. So that the June 3 memo,
25 now in it's less-redacted form, is Exhibit P-102.

1 And the June 5 memo, in it's less redacted form is
2 Exhibit P-103.

3 What I'd like to do now is take
4 the witness through P-103, which is the less
5 redacted final version of the memorandum dated
6 June 5, 2003.

7 THE COMMISSIONER: So is that the
8 only one we need to have regards to?

9 MR. CAVALLUZZO: Yes.

10 THE COMMISSIONER: Okay, thank
11 you.

12 HON. BILL GRAHAM: This is the
13 signed one by Mr. Pardy and by Mr. Lavertu.

14 MR. CAVALLUZZO: That's correct.

15 HON. BILL GRAHAM: Okay.

16 MR. CAVALLUZZO: Do you have that
17 in front of you?

18 HON. BILL GRAHAM: Yes.

19 MR. CAVALLUZZO: Okay.

20 And this is virtually identical to
21 the June 3 one, except on page 1, you will see
22 that there's a second recommendation, and that
23 recommendation, which is new, states that:

24 "We also recommend that you
25 meet with Mrs. Arar at a

1 mutually convenient time."

2 Okay? Now, I'd like to ask you
3 certain questions, starting at paragraph 9 of the
4 less redacted form, okay?

5 Now, paragraph 9 talks about
6 police investigations and as to how Mr. Arar came
7 on the radar screen. It says, paragraph 9:

8 "From the early days of this
9 case, Canadian police
10 officials (the Canadian
11 Security Intelligence Service
12 (CSIS) initially indicated
13 that it had no interest in
14 Mr. Arar) stated that their
15 interest in Mr. Arar was
16 based on his contacts with
17 persons in Ottawa who were of
18 interest to them. In a
19 message dated October 18,
20 2002, the RCMP stated they
21 maintain 'an interest in
22 Mr. Arar as part of any
23 ongoing criminal
24 investigation'."

25 And then it goes on to talk about

1 who those contacts were, including Mr. Almalki and
2 Mr. El Maati, both former residents of Ottawa.

3 So paragraph number 9 deals with
4 the interest that the police agencies, including
5 CSIS and the RCMP, have in Mr. Arar.

6 HON. BILL GRAHAM: Right.

7 MR. CAVALLUZZO: Paragraph 10
8 deals with information to and from the Americans.

9 It says:

10 "We have not been able to
11 engage the Americans in any
12 substantive discussion on
13 Mr. Arar outside of
14 intelligence and security
15 channels. At the time of his
16 deportation, the Americans
17 stated that their reasons for
18 doing so was Mr. Arar's
19 membership in al-Qaida. In
20 your..."

21 That's your, Minister -- in the
22 Minister's

23 "...meetings with the
24 American Ambassador and
25 Secretary of State Powell

1 late last year, both stated
2 that American action in
3 deporting Mr. Arar was based
4 on information from Canadian
5 authorities. The American
6 Ambassador reiterated this in
7 response to a question from a
8 member of parliament in a
9 private meeting a few weeks
10 ago."

11 Now, are you aware of that private
12 meeting that is being referenced in that memo --

13 HON. BILL GRAHAM: I don't know --

14 MR. CAVALLUZZO: -- who it was?

15 HON. BILL GRAHAM: I would have to
16 assume it would be Mrs. Catterall or
17 Mr. Assadourian, but I don't know.

18 MR. CAVALLUZZO: Okay.

19 It goes on:

20 "The RCMP has confirmed that
21 the Americans consulted them
22 prior to deporting Mr. Arar,
23 but did not raise the issue
24 of his possible deportation
25 to Syria nor did the RCMP

1 give any indication that such
2 a course of action would be
3 acceptable to them."

4 Okay? Then in paragraph 11 it
5 deals with --

6 HON. BILL GRAHAM: Sorry. Right.
7 Well -- is this a statement that the RCMP at that
8 point has confirmed that the Americans consulted
9 them prior to deporting Mr. Arar?

10 MR. CAVALLUZZO: That's correct.

11 HON. BILL GRAHAM: Or is that a
12 statement that the American ambassador said that?

13 MR. CAVALLUZZO: Well, we will
14 ask --

15 HON. BILL GRAHAM: If the American
16 ambassador said that, that clearly was consistent
17 with everything he said up till now.

18 But if, in fact, this is a bald
19 statement that the RCMP has confirmed that the
20 Americans consulted them prior to deporting
21 Mr. Arar, it would be totally contrary to
22 everything else that we understood up until --

23 MR. CAVALLUZZO: No, I think --

24 HON. BILL GRAHAM: -- or least
25 that I have understood --

1 MR. CAVALLUZZO: No, I think
2 that's the response that the Americans gave DFAIT
3 on October 18.

4 HON. BILL GRAHAM: That makes
5 sense.

6 MR. CAVALLUZZO: If you want to
7 see it, it's at tab --

8 HON. BILL GRAHAM: Well, that
9 makes sense to me, yes.

10 MR. CAVALLUZZO: Tab 104. But, in
11 any event, it appears to be that. We can ask
12 Mr. Pardy that, as to what he meant by that.

13 HON. BILL GRAHAM: Right.

14 MR. CAVALLUZZO: Now, paragraph 11
15 deals with the CSIS visit. It states:

16 "CSIS officials visited Syria
17 earlier this year and
18 discussed Mr. Arar with their
19 counterparts. They did not
20 meet Mr. Arar."

21 So it looks like, according to
22 this, they discussed Mr. Arar with their
23 counterparts but did not meet him.

24 HON. BILL GRAHAM: Right.

25 MR. CAVALLUZZO: Do you see that?

1 HON. BILL GRAHAM: Yes.

2 MR. CAVALLUZZO:

3 "Subsequent to these
4 discussions, Syrian officials
5 informed us that they were
6 informed by CSIS officials
7 that Canada did not want to
8 have Mr. Arar returned. The
9 CSIS officials denied that
10 they had said that to the
11 Syrians."

12 So that here we are in early June
13 of 2003, and we still see this --

14 HON. BILL GRAHAM: Still
15 struggling with this thing, yes.

16 MR. CAVALLUZZO: -- spectre of the
17 CSIS communication or alleged communication to the
18 Syrians, so that that's still up in the air on,
19 certainly June 5.

20 And then paragraphs 12 and 13.

21 Twelve deals with the leverage
22 that Canadians had with the Syrians concerning
23 foreign policy, and we've really discussed that.

24 That is, that the war in Iraq
25 really complicated things because the Syrians may

1 have been discouraged from doing any things that
2 would perturb the Americans in that very sensitive
3 period of time.

4 And then finally, in paragraph 13,
5 it talks about whether you're going to get any
6 help from CSIS or the RCMP, and it stays:

7 "In recent days we have
8 discussed the case with both
9 CSIS and the RCMP. They have
10 maintained their positions...
11 of the evidence of his
12 connections with others who
13 are. In these circumstances,
14 they will not provide any
15 direct support in having
16 Mr. Arar returned to Canada.
17 Should Mr. Arar return to
18 Canada, CSIS and the RCMP
19 have both indicated that they
20 want to interrogate him. As
21 such, the best we can do in
22 these circumstances is to
23 again raise the matter with
24 the Syrian Foreign Minister
25 and to that end we have

1 attached a letter for your
2 signature. We would also
3 recommend that you call in
4 the Syrian Ambassador and
5 deliver the letter."

6 And that letter that was appended
7 to this particular memorandum can be found at tab
8 439.

9 And the key paragraph, as you can
10 see, is -- you're requesting that the Government
11 of Syria take into consideration Mr. Arar's return
12 on humanitarian and compassionate grounds, and
13 then these words are used:

14 "I assure you that there is
15 no Canadian Government
16 impediment to Mr. Arar's
17 return to Canada. Any
18 actions by your Government to
19 facilitate his return would
20 be greatly appreciated..."

21 Now, those very words were used in
22 your letter of April that went with
23 Mr. Assadourian and Ms Catterall.

24 If you look at tab 385?

25 HON. BILL GRAHAM: I'm sorry, 385?

1 MR. CAVALLUZZO: Yes, 385.

2 Unfortunately, it's in volume 4.

3 HON. BILL GRAHAM: Mm-hmm. Yes.
4 Yes, sir.

5 MR. CAVALLUZZO: This is the
6 wording of a letter that you identified, and you
7 can see that that very wording is used in the
8 middle paragraph, the last sentence where it says:

9 "Let me again assure you that
10 there is no Canadian
11 Government impediment to
12 Mr. Arar's return to Canada."

13 HON. BILL GRAHAM: Right.

14 MR. CAVALLUZZO: And of course the
15 letter, which was delivered on April 22, did not
16 get Canada anywhere as far as Mr. Arar's release
17 was concerned. And here we are, I guess a month
18 or so -- month and a half later, where, because
19 CSIS and the RCMP are not prepared to directly
20 support DFAIT's efforts, you're left with the same
21 language, which is appended to this June 5 memo?

22 HON. BILL GRAHAM: Right.

23 MR. CAVALLUZZO: You're not making
24 progress.

25 HON. BILL GRAHAM: Well, we're not

1 being -- we're not going any further in a more
2 explicit way in telling the Syrians that, not only
3 are we saying from the Government of Canada's
4 point of view, but actually the, if you like, the
5 security authorities themselves have no objection
6 whatsoever to Mr. Arar's return from Canada.

7 I mean, I think -- obviously the
8 contents of these letters would have been worked
9 out by Mr. Pardy, by CSIS, the RCMP, you know, and
10 the government through the PCO, to coordinate, to
11 make sure that we were saying something that was
12 appropriate for the Government of Canada to say.

13 And so I would not personally have
14 been involved in, if you like, this articulation,
15 but you will see that later on -- either later on
16 contemporary with this -- I had my meeting with
17 Ms Mazigh and wanted more -- stronger language.

18 MR. CAVALLUZZO: We'll come to
19 that --

20 HON. BILL GRAHAM: We came to a
21 conclusion, and it's clear Mr. Pardy's advice to
22 us was, this will not do the trick. But he was
23 not getting any success in having different
24 language adopted.

25 MR. CAVALLUZZO: Let's go to that

1 meeting at tab 443. This is the meeting that you
2 had with Dr. Mazigh on July 12 --

3 HON. BILL GRAHAM: Right.

4 MR. CAVALLUZZO: -- of 2003. And
5 you'll see in the first paragraph, it states:

6 "The meeting began with a
7 request by Dr. Monia Mazigh
8 to the Minister for a
9 coherent and clear statement
10 by the Canadian Government,
11 stating that the Government
12 of Canada has no evidence
13 linking her husband, Maher
14 Arar, to any terrorist
15 activities and that the
16 Government of Canada wants
17 Maher Arar to be sent back to
18 Canada immediately."

19 And then in the next paragraph it
20 refers to the lack of consensus on the issue with
21 the security agencies.

22 And then, in the next paragraph --
23 or the paragraph second from the bottom it talks
24 about Mr. Cellucci's statements that we need not
25 get into.

1 And then, at the bottom paragraph,

2 it says:

3 "Minister Graham stated that
4 the issue of who said what to
5 the US is very murky and that
6 no one can get to the bottom
7 of it, although Colin Powell
8 and Amb. Cellucci have both
9 been confronted on this issue
10 and they will not budge on
11 their standard lines on the
12 matter."

13 And I think the other point that I
14 would raise is three paragraphs from the bottom
15 where it says:

16 "The point was also made by
17 Dr. Mazigh, excusing herself
18 for saying this, but that a
19 message from the Security
20 agencies in Canada may have
21 more clout than a letter from
22 Foreign Affairs, as it would
23 mean more to the Syrian
24 security officials who may
25 override anything that the

1 Syrian Foreign Ministry says
2 about the case. The Minister
3 did not disagree."

4 HON. BILL GRAHAM: Right.

5 MR. CAVALLUZZO: So that here we
6 have two clear messages: one, as we've said
7 before, is that, because you're dealing with the
8 security agencies in Syria, that a letter from our
9 security forces would have more clout; and
10 secondly, that Dr. Mazigh is suggesting that we
11 need a letter which says that there is no evidence
12 that Mr. Arar could be tied in to terrorist
13 activities.

14 Now, as a result of that, I
15 understand that your office attempted to initiate
16 that kind of letter, a no-evidence letter, and I'm
17 going to show you an exhibit now, a new exhibit --

18 THE COMMISSIONER: What was the
19 number, Gilles?

20 THE SECRETARY: 110.

21 THE COMMISSIONER: P-110.

22 EXHIBIT NO. P-110:

23 E-mail from Pierre

24 Guimond sent Tuesday June

25 17, 2003 to EXTOTT JPD C4

1 MR. CAVALLUZZO: Now, this is an
2 e-mail dated June 17, from Pierre Guimond, from
3 MINA's office? Now who is he?

4 HON. BILL GRAHAM: Who is MINA?

5 MR. CAVALLUZZO: No. I know what
6 MINA is. MINA is the Minister's office.

7 HON. BILL GRAHAM: Pierre Guimond
8 was the contact person between the department and
9 my office on my floor. So that we had a --

10 He was a departmental official,
11 not a ministerial appointment. But he was part of
12 our office set up so that we would have constant,
13 seamless contact with the department.

14 MR. CAVALLUZZO: Okay. It says --
15 it's to Gar Pardy, obviously. It says:

16 "Gar, ministers' advisors
17 have reviewed your memo and
18 draft letter from Minister
19 Graham to Shara'a..."

20 (As read)

21 Which is tab 439.

22 HON. BILL GRAHAM: Right.

23 MR. CAVALLUZZO:

24 "... and would like to see
25 the following changes made,

1 below in italics, made to the
2 body of the letter. Could
3 you seek as early as possible
4 to seek from SOLGEN, RCMP and
5 CSIS if at all possible on
6 the next report? (As read)

7 And the new wording suggested is:
8 "I assure you that there is
9 no evidence he is involved in
10 terrorist activity nor is
11 there any Canadian Government
12 impediment to Mr. Arar's
13 return to Canada." (As read)

14 HON. BILL GRAHAM: Right.

15 MR. CAVALLUZZO: And that message
16 went to -- to SOLGEN from the Minister's office.
17 Is that correct?

18 HON. BILL GRAHAM: Yes. This is
19 what we were trying to do to strengthen the letter
20 so that it would be -- so that it would make it
21 clear.

22 We had -- you can imagine we had a
23 lot of discussion about what is the appropriate
24 language.

25 You'll see that Mr. Pardy says, in

1 his memo, there's no evidence -- to the effect:
2 we have no evidence in Canada or from foreign
3 services that Mr. Arar is or was a member of
4 al-Qaeda.

5 And this is the whole point about
6 the fact that Mr. Arar may have been a person of
7 interest, but that doesn't mean that he's guilty
8 of a terrorist offence.

9 MR. CAVALLUZZO: Right.

10 HON. BILL GRAHAM: So we were
11 trying to find language which would accommodate
12 the fact that he may have been a person of
13 interest, which anyone could be, but at the same
14 time saying, whatever that interest is, it has not
15 led to an appropriate conclusion that he is guilty
16 of a terrorist offence in Canada.

17 So that was the -- that was the
18 intent of what we were trying to achieve at our
19 level and seeing whether or not CSIS and RCMP
20 could agree with that language, to sort of take
21 you at least that far to get as much as we
22 possibly could.

23 MR. CAVALLUZZO: And what was the
24 response of CSIS and the RCMP?

25 HON. BILL GRAHAM: Well, I believe

1 there's an exhibit in here, but basically it was
2 that they were not -- that that language was not
3 acceptable to them.

4 Now, I don't know the reason for
5 that, clearly, but they will no doubt explain to
6 the Commission why they were of the view they
7 could not accede to that language, but they were
8 of the view they could not accede to that
9 language.

10 MR. CAVALLUZZO: And with the
11 language that was brought back by RCMP and CSIS,
12 would that have assisted Mr. Arar's release from
13 Syria?

14 HON. BILL GRAHAM: Could you show
15 me that? I think it's...

16 --- Pause

17 MR. CAVALLUZZO: Well, there's one
18 letter from Mr. Loepky dated June 24th of 2003,
19 that we will try and find for you.

20 In fact, I have found it for you.
21 It's in the Garvie report, which is Exhibit P-19
22 at page 41.

23 THE COMMISSIONER: The clerk will
24 get it for you.

25 Page 41?

1 MR. CAVALLUZZO: Yes, 41.

2 THE COMMISSIONER: Thank you.

3 MR. CAVALLUZZO: You will see at
4 the bottom there, Minister, it says:

5 "D/Comm. Loepky advised

6 Mr. Michel D'Avignon..."

7 HON. BILL GRAHAM: Right.

8 MR. CAVALLUZZO: "... major
9 concerns about the text of
10 the letter proposed by DFAIT.

11 The concerns were:

12 'with the misleading
13 statement made in
14 paragraph two of the
15 attached letter "I assure
16 you the Government of
17 Canada has no evidence
18 Mr. Arar was involved in
19 terrorist activities..."

20 And then it goes on.

21 "'These have been expressed
22 on a number of occasions to
23 DFAIT officials by RCMP ...
24 and the Solicitor General.
25 Mr. Arar is currently subject

1 of a national security
2 investigation in Canada ...
3 he remains of great interest
4 ... given this situation, we
5 do not believe it would be
6 advisable for Mr. Graham to
7 send this letter to his
8 Syrian counterpart.'"

9 HON. BILL GRAHAM: Right.

10 MR. CAVALLUZZO: So do you recall
11 seeing language --

12 HON. BILL GRAHAM: Well, we
13 certainly were told that -- we were certainly told
14 that the language we proposed, as I say, was not
15 acceptable. But there was at one point, I think
16 there was some language provided to us that, in my
17 view, made the matter worse rather than better.

18 So I still think it goes back to
19 this difficult judgment we are trying to do, make
20 sure we get the best consular assistance we can,
21 the best way we can get Mr. Arar's case, and yet
22 obviously we can't do something which will be
23 contrary to what the advice of the officials is.

24 But if I was wearing my own
25 lawyer's hat, I was trying to make a distinction

1 between what you might be in terms of a person of
2 interest and actually guilty of an offence. These
3 are two different things. You could be a person
4 of interest for all sorts of reasons.

5 However, we were not able to
6 accommodate that in the discussions between the
7 departments.

8 MR. CAVALLUZZO: And, of course,
9 we do have a Charter of Rights that says everyone
10 is presumed innocent until proven guilty?

11 HON. BILL GRAHAM: Absolutely.

12 MR. CAVALLUZZO: The next exhibit
13 I would ask you to look at is Exhibit P-108, which
14 are the relevant PCEP documents, relevant
15 documents filed today.

16 The clerk will get it for you.

17 THE COMMISSIONER: Do you want to
18 move some of those books away? Would it be
19 easier?

20 HON. BILL GRAHAM: I will just
21 leave that open. Thanks, Commissioner.

22 Sorry, what number?

23 MR. CAVALLUZZO: Tab 2. There is
24 some handwriting on this note which says:

25 "Joanne:

1 "Please speak to me. I don't
2 think Minister Graham should
3 walk out on a limb and say we
4 have no evidence. We may
5 have something or have
6 something in a few months."

7 And then it's signed.

8 Do you recognize this particular
9 note?

10 HON. BILL GRAHAM: No, I don't --
11 I'm sorry, I don't know who Joanne is. I
12 certainly don't know that signature at the bottom,
13 what that squiggle at the bottom is, and I don't
14 recognize the writing.

15 MR. CAVALLUZZO: Well, let me just
16 ask you then, and that is whether you were hearing
17 admonitions around this point in time. When you
18 are trying to get Mr. Arar back from Syria,
19 whether you are hearing people going, remember
20 what happened to the Prime Minister four or five
21 years ago when he got somebody else back from
22 Pakistan.

23 HON. BILL GRAHAM: Oh, that was --
24 yes, the reference to the case when the Prime
25 Minister made representations in Pakistan were

1 certainly raised by people. I mean, this is a
2 natural thing. You learn by your experience.

3 But I didn't -- well, that's
4 legitimate in terms of caution. I believe in this
5 case what we were anxious is to go as far as we
6 possibly could in saying, you know, this person
7 is -- there's nothing wrong with him being brought
8 to Canada.

9 But I mean at one point I said to
10 my Syrian counterpart, "Look, if there is a
11 criminal offence being committed by Mr. Arar, the
12 Canadian officials are perfectly capable of
13 prosecuting him themselves. So return him to
14 Canada."

15 MR. CAVALLUZZO: And that's the
16 whole point, isn't it?

17 HON. BILL GRAHAM: So, I think
18 this is what we were trying to achieve. Obviously
19 CSIS and RCMP will speak for themselves, but I
20 don't think they were deliberately frustrating
21 that. I believe that they were trying to make
22 sure that we didn't say anything that would
23 inhibit an inquiry which they were then carrying
24 on. And that is of course a matter for them to
25 speak to.

1 But from my perspective as the
2 Minister of Foreign Affairs, I had to be very
3 careful not to stray in that territory either.

4 MR. CAVALLUZZO: Now, under
5 section 10 of the Department of Foreign Affairs
6 Act, it says that the Minister of Foreign Affairs
7 is the final spokesperson for Canada with foreign
8 nations.

9 HON. BILL GRAHAM: Right.

10 MR. CAVALLUZZO: What I would ask
11 you is at this point in time, surely shouldn't you
12 have said to CSIS and the RCMP through the
13 Solicitor General, "Enough is enough. Canada is
14 going to speak with one voice, and that voice is:
15 We want Mr. Arar back"?

16 Couldn't you have done that?

17 HON. BILL GRAHAM: Well, we
18 certainly said that, that we wanted Mr. Arar back.

19 I do not believe -- I would have
20 to see section 10. I have not looked at it for --
21 I'm not sure I ever looked at it. But there's no
22 question but that section 10, if that's what it
23 says, says that the Minister of Foreign Affairs is
24 the spokesperson for Canada officially in
25 international affairs. That's right.

1 That doesn't mean the Minister of
2 Foreign Affairs can write any damn thing he likes
3 to any foreign country about anything. The
4 Minister of Foreign Affairs has to conduct himself
5 as an officer of the government, governed by the
6 Privy Council Office, the Prime Minister's Office,
7 relationships with other government departments.

8 If I decided I wanted to write a
9 letter that we are declaring war on the United
10 States, that doesn't make war on the United
11 States.

12 The Minister of Foreign Affairs is
13 not -- while he may be the final spokesperson for
14 the Government of Canada, is the spokesperson for
15 the Government of Canada. But the spokesperson,
16 not somebody who is acting on his own behalf.

17 So I wouldn't accept any
18 suggestion on your part that I had an unfettered
19 and unlimited ability to write whatever I wanted
20 to to any foreign government. Anything I would
21 write to any foreign government would be informed
22 by the best interests of the Government of Canada
23 as a whole, which would include of course the
24 security interests of Canada and Canadians when I
25 was doing that.

1 So that would certainly be why I
2 was approaching this the way I was. I didn't
3 believe I was entitled to just, you know, write
4 this -- although we were working hard to get this,
5 I didn't believe I was entitled to unilaterally
6 say, "Well, to heck with it. If you don't want to
7 come along, I'm going to do it without you."

8 MR. CAVALLUZZO: I guess that
9 raises once again the question I said at the
10 outset after the break, and that is that really
11 all we needed, it would seem to me, from CSIS is a
12 simple letter, not operational, not anything else,
13 "Syrians, you have misunderstood us. We, like
14 every other agency of Canada, want Mr. Arar back."

15 And I guess that's the problem I'm
16 having, seeing how that was so difficult to
17 achieve. It doesn't seem to be rocket science to
18 most Canadians, I would have thought. It just
19 seems to be such a struggle to get that out.
20 That's the problem I'm having.

21 HON. BILL GRAHAM: Yes. Well, you
22 would have to ask them that because they have
23 their reasons and I would be speculating, like
24 you, if I were to get into that.

25 You did point out that although,

1 as far as we were concerned, given what we were
2 being told about the influence of the Americans
3 and everything else in Syria -- I mean, this was
4 the problem. We felt we were making yards, but it
5 was very difficult making yards in Syria for all
6 sorts of other reasons. It didn't seem to matter
7 what we did. There were all sorts of other
8 factors that were playing in.

9 MR. CAVALLUZZO: I would ask you
10 now to refer to tab 451.

11 This is another draft memo. This
12 is within your department. It was to be signed by
13 two Assistant Deputy Ministers. It is dated June
14 24, and once again it deals with these conflicting
15 responsibilities.

16 It opens by saying:

17 "It is very clear that there
18 has not yet been, on an
19 institutional level, a
20 meeting of minds between
21 DFAIT on the one hand and
22 CSIS and the RCMP on the
23 other with regard to the case
24 of Maher Arar. Recent
25 exchanges have been almost

1 testy and there is a fear
2 that the working relationship
3 between DFAIT and CSIS, in
4 particular, might be poisoned
5 if agreement is not reached
6 on a government-wide approach
7 to this case."

8 HON. BILL GRAHAM: Right.

9 MR. CAVALLUZZO: And then it goes
10 on in the bottom, under paragraph 2 under the
11 first redaction, and it talks about.

12 "Mrs. Arar, Dr. Monia Mazigh,
13 has been very active and able
14 in her public advocacy
15 campaign in support of her
16 husband. She generated a
17 great deal of publicity and
18 sympathy for her husband and
19 has presented his case to
20 Members of Parliament,
21 including the Minister of
22 Foreign Affairs (June 12,
23 2003)."

24 And then it goes on on a very
25 important statement.

1 It says:
2 "... officials ...
3 From whatever the agency.
4 "... do not seem to
5 understand that, guilty or
6 innocent, Maher Arar has the
7 right to consular assistance
8 from the Department and that
9 in the circumstances in which
10 he presently finds himself,
11 the best outcome might be his
12 return to Canada. Even
13 though there is a risk that
14 Arar might later be found to
15 have been involved in
16 extremist activities of one
17 sort or another, his right to
18 consular assistance must be
19 honoured."

20 I think you would agree with that
21 statement?

22 HON. BILL GRAHAM: That was what
23 was motivating, basically, our approach --

24 MS McISAAC: Mr. Commissioner, I
25 hate to interrupt, but I think it's only fair to

1 point out to the witness that the evidence has
2 been that this memorandum never found its way off
3 Mr. Gould's computer. I think Mr. Livermore
4 testified to the fact that no one in ISI had ever
5 seen it, or approved it, or dealt with it in any
6 way.

7 It was there, but just so that
8 background is there.

9 MR. CAVALLUZZO: As I said, it was
10 a draft, and I think it captured the sentiments
11 that the witness was sharing with us and he has
12 just agreed 100 per cent.

13 Then finally it says that:

14 "It is important that the
15 Minister and his staff be
16 made aware of the evidence
17 that can be marshalled
18 against Arar and a way must
19 be found for the Department
20 to respond to allegations
21 that there is no evidence
22 suggesting that Arar has a
23 connection to the activities
24 of Muslim extremists."

25 I assume you would agree with

1 that: that the more information you had, the
2 better?

3 HON. BILL GRAHAM: I'm not quite
4 sure I understand what that means.

5 "It is important that the
6 Minister and his staff ..."

7 MR. CAVALLUZZO: In other words, I
8 think what he is saying there is you have met with
9 Mr. Cellucci or Mr. Powell who are saying,
10 "Listen, we've got a lot of stuff on this guy."

11 HON. BILL GRAHAM: Right.

12 MR. CAVALLUZZO: If you had more
13 information, you could better deal with that
14 relationship. I think that is what that is
15 saying. You would agree with that: the more
16 information the better?

17 And then, finally:

18 "The Minister should seek a
19 briefing from his colleague,
20 the Solicitor General, about
21 the evidence facing
22 Mr. Arar."

23 And so on and so forth.

24 And you told us that that briefing
25 was never given at this point in time?

1 HON. BILL GRAHAM: Right. This is
2 June still?

3 MR. CAVALLUZZO: Yes, June 24th.

4 HON. BILL GRAHAM: I don't believe
5 this -- the Solicitor General at the time would
6 have been Mr. Easter.

7 MR. CAVALLUZZO: Easter, that's
8 correct.

9 We have talked about what CSIS
10 didn't do, and I am going to ask you another
11 question. Were you ever made aware of
12 representations made by CSIS or somebody in CSIS
13 about whether or not you should be sending a
14 letter yourself to Syria?

15 HON. BILL GRAHAM: No.

16 MR. CAVALLUZZO: Okay. Now, let
17 us move to July.

18 In terms of your efforts to get
19 Mr. Arar home, you became aware that Mr. De Bane
20 was going to be an envoy to the Middle East?

21 HON. BILL GRAHAM: Yes. This is
22 when we still had not resolved the issue of the
23 letter.

24 MR. CAVALLUZZO: That's correct.

25 HON. BILL GRAHAM: Yes.

1 MR. CAVALLUZZO: And as a result
2 of that, you decided that Mr. De Bane could be
3 used to the advantage of Mr. Arar.

4 HON. BILL GRAHAM: Yes, since he
5 was going.

6 MR. CAVALLUZZO: So why don't you
7 recount what happened there?

8 HON. BILL GRAHAM: Well, my
9 recollection is that Mr. De Bane, who I believe is
10 Lebanese descent but very familiar with the Middle
11 East, was going. I believe he was also going to
12 Saudi Arabia. We felt that he could go to Syria.
13 And therefore it was then decided that if he would
14 be going to Syria, it would be more effective if
15 he took a letter from the Prime Minister than
16 myself, given the fact I had already sent letters
17 to the Foreign Minister, and this had obviously --
18 we were now trying to move it up yet another
19 level, to see whether we could get some results.

20 MR. CAVALLUZZO: I don't know if
21 you need to refer to it, Mr. Commissioner, but
22 that letter can be found at Exhibit P-48 at tab
23 20, which is a letter from Prime Minister
24 Chretien, dated July 11th, 2003, to President
25 Assad.

1 Is that the letter that Senator De
2 Bane carried with him?

3 HON. BILL GRAHAM: I believe so,
4 yes.

5 MR. CAVALLUZZO: The language that
6 the Prime Minister used, as you can see, is:

7 "I can assure you that there
8 is no Canadian government
9 impediment to his return."

10 HON. BILL GRAHAM: Right.

11 MR. CAVALLUZZO: Now, as we are
12 moving through --

13 HON. BILL GRAHAM: But I would
14 assume that the statement by the Prime Minister,
15 "there is no Canadian government impediment",
16 covers all the Canadian government.

17 MR. CAVALLUZZO: Right. On August
18 the 1st of 2003, we see that there is a change in
19 the public position of Ambassador Cellucci.

20 Do you recall that change?

21 HON. BILL GRAHAM: In August?

22 MR. CAVALLUZZO: August 1st of
23 2003.

24 You may recall that on or about
25 July 30th, there was a reported statement of

1 Solicitor General Easter about possible rogue
2 elements in the RCMP, and shortly thereafter there
3 was a public statement by Mr. Cellucci which was
4 somewhat different.

5 I am showing you P-44. This is
6 Friday, August 1st, The Ottawa Citizen, and the
7 title of the article is: "RCMP didn't turn in
8 Arar, U.S. Embassy statement conflicts with claims
9 by Powell and Cellucci".

10 And it opens up:

11 "The U.S. Embassy says the
12 RCMP had no direct role in
13 the arrest and deportation to
14 Syria of an Arab Canadian on
15 suspicion of being linked to
16 al-Qaeda. The denial
17 yesterday comes after the
18 RCMP faced allegations of
19 helping the U.S. to deport a
20 Canadian citizen to a country
21 known for torture and calls
22 for a parliamentary inquiry
23 from Amnesty International
24 and the American Islamic
25 Relations Council."

1 And then it goes on.

2 If you see in terms of the comment
3 of the report, about halfway down it says:

4 "The official denial of any
5 Canadian participation in
6 Mr. Arar's deportation was
7 made under pressure from the
8 RCMP, sources say, and
9 conflicts with statements
10 made by U.S. Ambassador
11 Cellucci and U.S. Secretary
12 of State Colin Powell."

13 So do you recall certainly the
14 public position of Mr. Cellucci changes at that
15 point in time?

16 HON. BILL GRAHAM: Yes. Well,
17 certainly it changed. Exactly the date, I don't
18 recall.

19 But I certainly remember
20 Mr. Cellucci recognizing clearly at some point
21 that, contrary to his prior statements, that in
22 fact there was no one in Canada that was involved
23 in the decision that the Americans made.

24 MR. CAVALLUZZO: Okay. You
25 received a letter from Dr. Mazigh on July 23rd of

1 2003. It's Exhibit P-48, tab 21.

2 HON. BILL GRAHAM: Twenty-one?

3 MR. CAVALLUZZO: Yes, 21. And
4 this is a letter to the Prime Minister, dated July
5 23rd, 2003, a copy of which is sent to you.

6 The reference here is there is a
7 statement about the allegations of torture, and in
8 the fourth paragraph down it is stated:

9 "This is particularly
10 alarming because I have just
11 received news from the
12 London-based Syrian Human
13 Rights Committee that they
14 have confirmed that my
15 husband has been subjected to
16 severe torture and intense
17 interrogation."

18 We have certainly heard evidence,
19 if you go back to Volume 5 of the DFAIT volumes,
20 at tab 496.

21 We see that a press conference is
22 held. This is 496.

23 If you go to page 5 of 8, you will
24 see, at the bottom there, starting with Mr. Neve,
25 it talks about:

1 "The following is a rough
2 transcript based on closed
3 captioning of a press
4 conference concerning Maher
5 Arar..."

6 And this is where there are
7 allegations of torture from the Syrian Human
8 Rights Committee.

9 HON. BILL GRAHAM: Right.

10 MR. CAVALLUZZO: And there are
11 certain suggestions that are made.

12 For example, you are called upon
13 to withdraw the Canadian ambassador to Syria, and
14 I want you to comment on that: why, at this point
15 in time, you felt it wasn't appropriate to
16 withdraw the ambassador to Damascus at this time?

17 HON. BILL GRAHAM: Well, there is
18 a series of diplomatic and other responses to
19 every disagreement between states, of which this
20 had now become that, of which calling in their
21 ambassador, withdrawing your ambassador, engaged
22 in embargoes and there are a host of actions which
23 one can take, short of going to war, which seek to
24 enforce your point of view.

25 So the question we would ask, and

1 I have to say that in this context, I was guided
2 very much by the experts in the department,
3 Mr. Pardy and others, by a series of
4 considerations based on some experience we had had
5 in other cases as well.

6 And calling back your ambassador
7 has the advantage of being an extreme indication
8 of displeasure on behalf of the state and
9 therefore, you know, a way of registering your
10 displeasure. We have done that on occasion, as we
11 did in the tragic case of Madame Kazemi, when we
12 called back our ambassador.

13 But the downside of that is it
14 leaves you in the country without an ambassador to
15 be effective, if you believe you need an
16 ambassador at that particular time. So that
17 consideration has to be looked at from the point
18 of view of the individual case involved. Will it
19 be effective or not?

20 We called back our ambassador in
21 the case of Madame Kazemi. Madame Kazemi,
22 tragically, was dead. Mr. Arar was still alive,
23 he was in jail, and there were two other Canadians
24 in jail as well. It was our judgment that our
25 ambassador was absolutely necessary in Damascus at

1 that time if we were going to give effective
2 representation to protect their interests.

3 In addition to that, you have to
4 take into account the global interests of Canada
5 as a whole. Syria was, as you pointed out
6 earlier, in a key geographic position in an
7 extreme tinderbox where we were engaged in the
8 Middle East peace process and a lot of other
9 issues. If we were going to call back our
10 ambassador, that might have as well impeded our
11 ability to have effective representation for
12 Canada in that respect.

13 So overall, basically, we weighed
14 all the advantages, all the pros, all the cons,
15 and decided in this circumstance it would have
16 been unadvisable to call back the ambassador.

17 And I still believe that was -- I
18 strongly believe that was the right decision in
19 this case. I do not think it would have furthered
20 the case of Mr. Arar, and in fact it might have
21 made it worse.

22 MR. CAVALLUZZO: In terms of what
23 in fact happened, if you go now to tab 521 in
24 Volume 6, at page 13 of the backgrounder, in
25 "Advice to the Minister" in paragraph 2 we see

1 that:

2 "At 16.30 August 7 --

3 HON. BILL GRAHAM: Sorry, page 13
4 of 16?

5 MR. CAVALLUZZO: Thirteen of 16,
6 yes. In paragraph 2 --

7 HON. BILL GRAHAM: Paragraph 1?

8 MR. CAVALLUZZO: Paragraph 2 is
9 what I am going to ask you about.

10 HON. BILL GRAHAM: Sorry.

11 MR. CAVALLUZZO: It says:

12 "At 16.30 August 7, MJM..."

13 That is Assistant Deputy Minister
14 John McNee? Do you recall that?

15 HON. BILL GRAHAM: Yes, that would
16 be Mr. McNee.

17 MR. CAVALLUZZO: I was going to
18 say I hope I haven't reached the point where I
19 know these initials better than the Minister.

20 HON. BILL GRAHAM: Well, let's put
21 it this way. You have spent a lot more time on
22 this case in the last recent period of time than I
23 have.

24 MR. CAVALLUZZO: I sure have.

25 HON. BILL GRAHAM: I hope you are

1 more familiar.

2 MR. CAVALLUZZO: That person:
3 "... convoked Ambassador
4 Ahmad Arnous of Syria to
5 convey concerns of Canadian
6 government on the Arar case.
7 MJM referred to media
8 attention aroused by the
9 allegations of torture made
10 by the Syrian Human Rights
11 Committee. He noted that
12 MINA..."

13 Or the Minister.

14 "... would likely comment
15 publicly and that he had
16 asked the MJM to underscore
17 the problem in person to the
18 Ambassador."

19 So you sent an envoy to the Syrian
20 ambassador expressing those concerns concerning
21 these allegations of torture.

22 HON. BILL GRAHAM: Right.

23 MR. CAVALLUZZO: You also held a
24 press scrum on August 14th.

25 HON. BILL GRAHAM: Right.

1 MR. CAVALLUZZO: And just to give
2 context to this, as we know, August 14th of 2003
3 was the final consular visit that Mr. Martel had
4 with Mr. Arar, and shortly after that visit you
5 held a press scrum which can be found behind tab
6 505.

7 If you go 12 lines up from the
8 bottom it says -- and this is you speaking.

9 The date, by the way, says 13
10 August 2003. We have checked that. That is the
11 incorrect date. It is August 14th.

12 This is tab 505?

13 HON. BILL GRAHAM: Right.

14 --- Pause

15 MR. CAVALLUZZO: Obviously my book
16 is out of whack here, if someone could find the
17 press scrum of August; Bowden's?

18 HON. BILL GRAHAM: Counsel, maybe
19 this isn't appropriate for me to do this, but in
20 that 505, whatever it is, if you turn to page 4,
21 you will see there that Amnesty International
22 states that:

23 "Mr. Arar must be released
24 immediately if he is not
25 charged with a recognizably

1 criminal offence.

2 And they go on to suggest that
3 these charges must be laid and there must be a
4 trial in respect of that.

5 So that is no different from the
6 position that I took in respect of either release
7 him or prosecute him.

8 So, so far, Ms Mazigh and Amnesty
9 International both agree that saying to the
10 Syrians "charge him and give him a chance to
11 defend himself" was not an unreasonable position
12 to take.

13 MR. CAVALLUZZO: Okay. And that's
14 helpful, thank you.

15 Actually, it is tab 405. I have
16 505 and everyone else has 405, and it's in Volume
17 4.

18 It should, at the top, say
19 "Bowden's Media Monitoring Ltd."?

20 HON. BILL GRAHAM: Yes.

21 MR. CAVALLUZZO: As I say, the
22 date at the top is incorrect. It should be August
23 14th.

24 But if you go 12 lines from the
25 bottom it states:

1 "I'd like also to address
2 another case I know you're
3 all interested in: the case
4 of Mr. Arar who is in jail in
5 Syria. I've just been
6 speaking to my officials in
7 Ottawa, who have been on the
8 phone to Damascus this
9 morning. Mr. Arar has been
10 visited by our consular
11 officials in jail. Our
12 consular officials have
13 assured us that he's in good
14 physical condition. He
15 personally, totally rejects
16 all allegations of torture.
17 He was interviewed
18 independently by our consular
19 officials and he has stated
20 that his condition is better
21 than it was before we started
22 to intervene on his behalf."

23 In terms of this particular scrum,
24 just taking one thing at a time, first of all, the
25 statement "he was interviewed independently by our

1 consular officials"?

2 HON. BILL GRAHAM: Right.

3 MR. CAVALLUZZO: All of the
4 evidence that we -- and it is uncontradicted
5 evidence. In the eight or nine consular visits
6 that Mr. Arar had, not on one occasion, not for
7 ten seconds, was the consular official Mr. Martel
8 alone with Mr. Arar.

9 So this statement that he was
10 interviewed independently, which seems to suggest
11 that, is clearly contrary to the evidence we have
12 before this inquiry.

13 I am wondering if you have any
14 comments on that?

15 HON. BILL GRAHAM: Well, the only
16 explanation would be that I've misunderstood the
17 briefing I was given, which is -- you will
18 appreciate the circumstance of this was, as you
19 can see from this press conference, I was speaking
20 to the case of William Sampson. As I went down to
21 give the press conference on Wellington Street
22 about Mr. Sampson, I was told going down the
23 escalator, we've got breaking news on Mr. Arar:
24 that you will recall there were the allegations of
25 torture.

1 MR. CAVALLUZZO: Mm-hmm.

2 HON. BILL GRAHAM: The ambassador
3 then spoke to the General and we got consular
4 access to Mr. Arar.

5 My information was we have had
6 access to Mr. Arar. He has confirmed, in
7 circumstances which are beyond any doubt --
8 obviously I've said independently -- but in
9 circumstances beyond any doubt that he was not
10 being tortured at that time.

11 Now, that is the information I
12 got. That was the information I was seeking to
13 convey.

14 MR. CAVALLUZZO: Right.

15 HON. BILL GRAHAM: And just
16 reviewing the notes of what took place
17 subsequently -- and I wouldn't have known because
18 I wasn't there, obviously -- I see that in fact
19 clearly people, officials were in the room,
20 translators and others, but that I think there was
21 some suggestion that the General who normally
22 stuck around the whole time walked in and out.

23 All I can say was I had the
24 impression that this was a conversation with
25 Mr. Arar that was in much freer circumstances than

1 before.

2 So I might have gone too far in
3 saying independently, but I certainly was trying
4 to say -- you know, we felt we were getting -- I
5 felt that at least I was being told this is a
6 chance where Mr. Arar is freely expressing himself
7 as to what took place and he is not under any
8 inhibitions. That's what I would have been told.

9 MR. CAVALLUZZO: Not under any
10 inhibitions other than the fact that there are a
11 number of --

12 HON. BILL GRAHAM: People around.

13 MR. CAVALLUZZO: -- Syrian
14 detainees in the same room.

15 HON. BILL GRAHAM: Right.

16 MR. CAVALLUZZO: The information
17 that Mr. Arar "totally rejects all allegations of
18 torture", is this as well the information that you
19 received on that day?

20 HON. BILL GRAHAM: Yes, I believe
21 that's what I was told.

22 MR. CAVALLUZZO: Okay. So that
23 your information to this point in time, in light
24 of your earlier evidence as to whether he was
25 tortured early in the piece, that is the first two

1 weeks, your information as of August 14th, then,
2 is that Mr. Arar has never been tortured?

3 HON. BILL GRAHAM: That is
4 basically -- now, whether or not this is the
5 allegations of torture that were suggested in
6 the -- I mean, this is all in context of the
7 meeting that took place in London, the allegations
8 in London.

9 MR. CAVALLUZZO: Right.

10 HON. BILL GRAHAM: Whether they
11 went back right to the earliest days, or whether
12 they were about the time of his then
13 incarceration, I don't know.

14 But my understanding is that we
15 were informed and I was informed that there
16 were -- that he rejected having been tortured,
17 from the information I was given.

18 MR. CAVALLUZZO: Right. But you
19 told us earlier this morning that no official told
20 you that he had been tortured in the first few
21 weeks of his --

22 HON. BILL GRAHAM: Right.

23 MR. CAVALLUZZO: -- if he was
24 there for two weeks prior to them disclosing his
25 whereabouts and certainly up to August the 14th,

1 your information is he was never tortured?

2 HON. BILL GRAHAM: Right. Yes,
3 sir.

4 MR. CAVALLUZZO: Okay. As time
5 goes on -- and you referred to this earlier -- you
6 had a meeting with the Syrian Foreign Minister on
7 September the 25th at the United Nations.

8 If you go to tab 580, the last tab
9 in Volume 6 --

10 HON. BILL GRAHAM: Sorry, what
11 number?

12 MR. CAVALLUZZO: 580. It's the
13 very last tab in this volume.

14 HON. BILL GRAHAM: Yes.

15 MR. CAVALLUZZO: When we met
16 earlier last week, you told me that these were
17 like speaking notes that you would carry and look
18 at prior to meeting the Minister.

19 HON. BILL GRAHAM: Right.

20 MR. CAVALLUZZO: And obviously you
21 were talking about Mr. Arar's situation, and there
22 are a couple of aspects to it which I think are
23 important.

24 On the first page, for example,
25 you are saying there is no impediment to his

1 return to Canada.

2 On the second page you talk about
3 investment in Canada, that we are looking forward
4 to receiving Syrian business in petroleum missions
5 next year, and so on and so forth, obviously
6 bringing to bear the Syrian interest in improving
7 bilateral relations with Canada.

8 When it comes on to Maher Arar it
9 says:

10 "We are grateful for Syria's
11 continuing cooperation in
12 providing our Embassy
13 consular access to Mr. Arar,
14 including the exchange of
15 information ..."

16 Then there's an extensive
17 background, and in effect you are making your
18 pitch to Mr. Shara'a, and in the previous tab as
19 well, to get Mr. Arar released, if possible, to
20 Canada.

21 HON. BILL GRAHAM: Well, these are
22 the department's notes that are to kind of jog my
23 memory, an aide-memoire, that they would have
24 given me to carry around.

25 The way it works in New York, when

1 you go to the General Assembly, is you will have
2 perhaps five or six meetings with foreign
3 ministers every day you are there, because you are
4 there and everybody is in town at the same time so
5 you can get everybody.

6 So it is a very intense time, and
7 you probably have, as I say, five, sometimes six
8 or seven meetings, bilateral meetings with foreign
9 ministers.

10 We were able to arrange a meeting
11 with Mr. Shara'a, so I would have got this book
12 about him, like I would have got for other people.

13 But I understand there's actually
14 a briefing note on what we actually said. This is
15 what they told me to say. I mean, I don't
16 necessarily say what they tell me to say. I
17 sometimes have my own way of putting it.

18 MR. CAVALLUZZO: Right.

19 HON. BILL GRAHAM: So I would be
20 happier looking at what I actually said rather
21 than what the department suggested I said, as
22 being a more accurate reflection of what took
23 place at that meeting.

24 MR. CAVALLUZZO: It is in here
25 somewhere. My colleague will no doubt find it.

1 But who attended this particular
2 meeting? Is this the meeting at which the
3 security official attended with Mr. Shara'a?

4 HON. BILL GRAHAM: Yes. This
5 would have been the Foreign Minister, probably an
6 official from his United Nations delegation, and a
7 security official. And as well, on my side, I
8 believe Rob Fry was there with me --

9 MR. CAVALLUZZO: Maybe if you look
10 at --

11 HON. BILL GRAHAM: There would
12 have been somebody from the embassy as well who
13 would have been there. There would have been a
14 note taker there.

15 MR. CAVALLUZZO: Look at 533.
16 This may jog your memory a bit.

17 HON. BILL GRAHAM: 533?

18 MR. CAVALLUZZO: Correct. It's
19 entitled: "Meeting with Mr. Farouk Al-Shara'a,
20 Minister of Foreign Affairs".

21 HON. BILL GRAHAM: 533?

22 MR. CAVALLUZZO: 532, yes.

23 HON. BILL GRAHAM: Right. Well,
24 again, this is just a larger version of what you
25 just showed me. I mean, they prepared --

1 MR. CAVALLUZZO: That's all we
2 have.

3 HON. BILL GRAHAM: No, in
4 reviewing this case, I was shown a compte rendu of
5 the actual meeting that took place between myself
6 and the Foreign Minister, and it was a very
7 extensive discussion about what I discussed. I
8 have read at it and we looked at it.

9 MR. CAVALLUZZO: You have read it,
10 but I think it's completely redacted.

11 HON. BILL GRAHAM: Oh, okay.

12 MR. CAVALLUZZO: You have an
13 advantage.

14 HON. BILL GRAHAM: There you are.
15 So you can ask me questions about
16 who said what to whom about what. You can decide
17 to what extent you want to redact me as we go
18 along.

19 MR. CAVALLUZZO: If I am going to
20 redact you, I am going to throw this at you, and
21 that means don't say anything.

22 HON. BILL GRAHAM: At that point I
23 will duck and get under the table, and we can all
24 go home.

25 MR. CAVALLUZZO: If you can, first

1 of all, tell us what Mr. Shara'a said he would do,
2 if anything, on your behalf relating to Mr. Arar?

3 By the way, there were other
4 things you discussed. You discussed Iraq, and so
5 on.

6 HON. BILL GRAHAM: There's a lot
7 of stuff, including -- you will have seen the
8 references to trade and things like that.

9 Where that figures is, if I'm
10 having a meeting like this with Mr. Shara'a, with
11 any foreign minister of a country where we have
12 these types of problems, my approach always was to
13 say, "Look, you want to have better relationships
14 between Canada your country. You want more trade
15 relations. You've got Syrian nationals in Canada.
16 We've got Canadians in Syria. However, if we are
17 going to strengthen our ties, we have to have some
18 sense that human rights are being observed in your
19 country."

20 Now, I've made this pitch not only
21 in the occasion of Syria but many other countries
22 where we've had similar discussions.

23 And my view is that I tell the
24 foreign minister opposite me, "Look, you are not
25 going to get better relations if Canadians don't

1 believe they are going to get a fair shake in your
2 jurisdiction, in your country. Who is going to go
3 and invest money in your country if in fact they
4 are likely to get into jail, be treated
5 arbitrarily, and abused, and have no recourse?"

6 So with that as background, I say,
7 "Look, I'm willing to work with you on better
8 relations, but the case of Mr. Arar and the other
9 two cases we've spoken to are direct impediments
10 to our ability to do that, because the Canadian
11 public and anybody who wants to go to Syria is of
12 the view that the regime is not one which is going
13 to treat people fairly."

14 So from there we moved to
15 Mr. Arar, and the Foreign Minister assured me that
16 he would do his best to bring this to a positive
17 conclusion, and, again, I reiterated the fact that
18 we wanted Mr. Arar released to Canada and that was
19 what we wanted, and it was at this point that the
20 intelligence official who was present there, and I
21 don't know whether I'm entitled to say this,
22 because it seems to -- but you can stop me if --

23 MR. CAVALLUZZO: You already have
24 said it.

25 HON. BILL GRAHAM: Yes, well, the

1 intelligence official -- okay, so I'm -- the
2 intelligence official who was there said that --
3 my recollection is he said, well, Mrs. Arar has
4 made so much fuss about this case in Canada and
5 there's so much bad publicity of Syria in Canada
6 around this case, we, the intelligence people,
7 have no intention of releasing Mr. Arar
8 whatsoever.

9 So he virtually contradicted the
10 Foreign Minister and, you know, I said, well, I'm
11 dealing with the Foreign Minister, and I think if
12 you want good relations with Canada, we have to
13 proceed on the footing we're going to work on.

14 So there was clearly -- clearly
15 there was a disagreement between the intelligence
16 official there and the Foreign Minister about how
17 to approach this case. There's no doubt about it.

18 The Foreign Minister was cordial
19 and willing to talk about how we could try and get
20 to a positive conclusion, with a much more
21 negative attitude of the intelligence person.

22 MR. CAVALLUZZO: Just out of
23 interest, did the Foreign Minister admonish the
24 security official for talking out of line?

25 HON. BILL GRAHAM: No, he didn't,

1 no -- well, I can't remember that. You can ask
2 Mr. Fry. I mean, he'll be giving evidence. I
3 believe he was there, so... He might have a
4 better recollection of that.

5 I don't believe he did that. But
6 he did have a different approach. He really did
7 say, no, I'll work with you, Bill, to try and
8 resolve this. So there certainly was two distinct
9 messages we were getting in the room.

10 MR. CAVALLUZZO: There's a note in
11 Exhibit P-42 that I would ask you to comment on,
12 at tab 122?

13 HON. BILL GRAHAM: P...

14 MR. CAVALLUZZO: P-42.

15 HON. BILL GRAHAM: Forty-two?

16 MR. CAVALLUZZO: Yes, P-42.

17 HON. BILL GRAHAM: At what number?

18 MR. CAVALLUZZO: 122. It's way
19 out of order. It's in volume 1, that
20 unfortunately is a year out of order.

21 HON. BILL GRAHAM: 122.

22 MR. CAVALLUZZO: 122. These are
23 handwritten notes.

24 HON. BILL GRAHAM: Right.

25 MR. CAVALLUZZO: Can you tell us

1 whose handwritten notes these are? I understand
2 they're Aileen Carroll's.

3 HON. BILL GRAHAM: Yes, I've been
4 advised that they're notes made by my then
5 Parliamentary Secretary, Minister Carroll. But
6 apart from that I don't know under what
7 circumstances she made them, or...

8 MR. CAVALLUZZO: Right. At page
9 2, that I would ask you about, it says:

10 "Can. For. Min. met his
11 Syrian Counterpart in N.Y.
12 yesterday. He pressed for
13 the return of Mr. Arar to
14 Canada. Failing his return,
15 he insisted that there would
16 be a fair and open trial
17 ASAP.

18 He was given assurances by
19 the Syrian For. Min. of
20 continued consular access and
21 that all of our demands will
22 be conveyed to Syrian
23 Judicial Authorities."

24 HON. BILL GRAHAM: Right.

25 MR. CAVALLUZZO: Did Ms Carroll

1 attend at this meeting, or is this just a report
2 back?

3 HON. BILL GRAHAM: No, I don't
4 think so. I think you'd have to ask her. But I
5 think probably she made this note as a result of a
6 conversation.

7 I'm not sure she was in New York
8 with me. She might have been. But I don't
9 believe she was at that meeting.

10 MR. CAVALLUZZO: Okay.

11 HON. BILL GRAHAM: And I don't
12 know why she would have made that note.

13 MR. CAVALLUZZO: There's another,
14 I guess, reference that I would make. At 581,
15 you're maybe asked a question about this, but you
16 got a certain newspaper report with headlines --
17 this is dated September 25 as well -- saying that
18 Arar can get a fair trial in Syria, and then it
19 says "Graham".

20 And we've already asked you
21 certain questions about seeking -- how one can get
22 a fair trial in Syria, and you've answered those
23 questions.

24 But just to put this in total
25 context, at this point in time your officials are

1 attempting to assist or facilitate Mr. Arar and
2 his family in getting counsel that -- you're
3 appointing Mr. Lockyer as an independent observer
4 who would attend the trial, if a trial takes
5 place. And at this point in time there's a
6 suggestion that it's not a military court, but is
7 a civilian court. Is that correct?

8 HON. BILL GRAHAM: That was
9 certainly capital for me.

10 MR. CAVALLUZZO: Okay.

11 Then I'd like to move now to your
12 notes for September. We're getting to the end
13 now, September 29. This is your diary. Monday,
14 September 29.

15 HON. BILL GRAHAM: P-107?

16 MR. CAVALLUZZO: Yes.

17 --- Pause

18 HON. BILL GRAHAM: Right.

19 MR. CAVALLUZZO: And if you could
20 read those notes to us, just to clarify it?

21 HON. BILL GRAHAM:

22 "...still not clear who said
23 what to who. Did the CIC..."

24 This was speculation we had.

25 MR. CAVALLUZZO: The CIC being

1 the?

2 HON. BILL GRAHAM: Canadian
3 Immigration.

4 There was -- in the office when
5 we're sitting around talking about this, we're
6 saying, if somebody talked to the Americans -- I
7 mean, who could it possibly be? RCMP? CSIS?
8 Well, maybe an immigration officer spoke to
9 another immigration officer. This was pure
10 speculation on our part.

11 We're just trying to find out.
12 It's still alleged by -- although I -- this may
13 have been post to when Mr. Cellucci denied the
14 American involvement. But Mr. Powell was still
15 saying to me that somebody told somebody. So
16 we're still --

17 The Mounties and CSIS swear, no,
18 it's not them, that have told anybody. Now I
19 don't know what the rest of the line says, but
20 then that's just a philosophical reflection on my
21 part. What is justice in this Kafka-esque
22 situation? It was basically a frustrating
23 reflection on my part about what chance did
24 Mr. Arar have to have justice?

25 You can't -- rumours are spreading

1 around about him. There's allegations all over
2 the place. No trial, no chance to defend
3 yourself, and it just seemed to me that it was
4 entirely Kafka-esque.

5 That's why we were trying as hard
6 as we were to get him out, at least to get to
7 Canada where, as I say, if there was a problem he
8 could clear his name, and in a proper process.

9 MR. CAVALLUZZO: Now, on October
10 1, you met the Secretary-General of the Arab
11 League in Ottawa?

12 HON. BILL GRAHAM: Yes.

13 MR. CAVALLUZZO: Who is he?

14 HON. BILL GRAHAM: Amir Moussa.

15 MR. CAVALLUZZO: Go on. If you
16 could just tell us the --

17 HON. BILL GRAHAM: Well,
18 Mr. Moussa is a former Foreign Minister of Egypt
19 and an extremely prominent person in the Middle
20 East, and, as Secretary of the Arab League, an
21 extremely powerful person.

22 I had had the opportunity to make
23 his acquaintance in New York. He came to Canada.
24 We were discussing matters such as the then
25 Israeli fence or wall (which was a matter of great

1 controversy at the time in the Middle East) and
2 generally Middle East prospects for peace in the
3 Middle East.

4 And I took the opportunity to
5 raise with him what I've said before, that I said
6 to him that it seemed to me that one of the
7 problems bedeviling us in our relationships with
8 middle eastern countries were these consular
9 cases. I was thinking specifically of Mr. Sampson
10 and Mr. Arar frankly.

11 And I said one of the problems we
12 have is the Canadian public had had a very bad
13 opinion of how conditions are in the Middle East,
14 and particularly conditions of human rights and
15 normal liberties that we as Canadians take for
16 granted.

17 I said, Amir, if you can help us
18 with these cases, it would be extremely helpful if
19 you would do it.

20 So he undertook to do that, and we
21 then went outside and did a press scrum together
22 where we talked about all the issues. And then,
23 at the end of the press scrum, where he was asked
24 by the press about various items, he then said to
25 me on the way out, he said, I see what you mean.

1 The press are really exercised about these.

2 I said, yes, these are very, very
3 important issues. I would appreciate if you
4 phoned the Foreign Minister of Syria or anybody
5 else and see if you could get some support for us.
6 So we left it at that.

7 MR. CAVALLUZZO: Right. And
8 shortly thereafter, on October 3 or 4, you
9 received a call while you were in Rome?

10 HON. BILL GRAHAM: Yes.

11 MR. CAVALLUZZO: And could you
12 tell us about that?

13 HON. BILL GRAHAM: Well, I guess,
14 Rome, I think was a NATO summit, and I believe
15 Minister Shara'a phoned obviously Ottawa and they
16 patched the call through there -- it was an early
17 morning call -- and he said that Mr. Arar was
18 being released because of the Prime Minister's
19 request to President Assad.

20 MR. CAVALLUZZO: And you
21 notified -- who did you notify as a result of that
22 call?

23 HON. BILL GRAHAM: Well, my recall
24 is we phoned immediately -- obviously Ms Mazigh
25 would have been the first person and most

1 important person to inform.

2 Obviously we were elated by the
3 news, but my recollection is that we were nervous
4 about getting out ahead about announcing it
5 because my recollection of what took place was
6 Mr. Arar was released to Mr. Martel, and then
7 Mr. Martel accompanied him back.

8 But we did not want to make any
9 public comment about it until we could get
10 Mr. Arar safely in either another country or in
11 Canada, and therefore, any calls I would have made
12 would have been strictly to say, look, it looks
13 like we've got this going. Let's make sure he
14 gets home before we make any public announcements
15 about it.

16 MR. CAVALLUZZO: Okay.

17 Now, upon Mr. Arar's return to
18 Canada, originally you were going to meet him in
19 early October; however, that was postponed to
20 October 29.

21 And if you go to tab 625, we see a
22 briefing note for you concerning the meeting you
23 are going to have with Mr. Arar.

24 And at 634, if you would look at
25 634, we have a summary of that meeting.

1 HON. BILL GRAHAM: Sorry. 634?

2 MR. CAVALLUZZO: Yes, 634. We can
3 skip 625, which are the minutes or talking points
4 or briefing notes for you, and 634 is dated
5 Friday, October 31, and is a summary of the
6 meeting.

7 HON. BILL GRAHAM: Right.

8 MR. CAVALLUZZO: Where you met
9 for -- Mr. Graham, yourself, and Mr. Fry met for
10 30 minutes, and then with Dr. Mazigh and Maher
11 Arar, and then subsequent to that time, a number
12 of officials came in as well as Mr. Lockyer and Ms
13 Pither and Mr. Neve from Amnesty International?

14 HON. BILL GRAHAM: Right.

15 MR. CAVALLUZZO: And you had a
16 thorough discussion on what happened.

17 However, what I want to ask you
18 about is about the torture allegation that is
19 referred to in paragraph 3.

20 HON. BILL GRAHAM: Right.

21 MR. CAVALLUZZO: You will see that
22 it says:

23 "Torture allegation is
24 inconsistent with statements
25 made by Arar to Martel during

1 the meeting on August 14 in
2 Damascus... and on October 6
3 while en route back to
4 Canada."

5 And then it says:

6 "Please confirm info in ref
7 messages..."

8 And so on and so forth.

9 And we'll look at responses to
10 that in terms of the inconsistencies --

11 HON. BILL GRAHAM: So this would
12 be from Mr. Chesson to Damascus saying to them
13 that in the meeting that Mr. Arar had with me, he
14 then told us about the torture and how he had been
15 treated, and it was inconsistent with what we had
16 been advised from Damascus up to that time,
17 basically, is what this is saying.

18 MR. CAVALLUZZO: Right. And he's
19 asking Damascus --

20 HON. BILL GRAHAM: So this was
21 from a note taker that was in the meeting then
22 sending to Damascus, "What's going on here?
23 There's a total inconsistency."

24 MR. CAVALLUZZO: Right.

25 And he's asking Damascus for

1 clarification.

2 HON. BILL GRAHAM: Okay.

3 MR. CAVALLUZZO: Okay. And then a
4 few days later, on November 4, Mr. Arar -- if you
5 go to tab 648, Mr. Arar has a press conference and
6 there's a press scrum that you have on that day?

7 HON. BILL GRAHAM: Right. I had
8 an earlier scrum where, as I recall, I said I
9 wasn't going to talk about it until he talked
10 about it, basically. So this would have been
11 after he actually spoke.

12 MR. CAVALLUZZO: Okay. And as far
13 as the questions that you were asked, for example,
14 the question at the top of page 1:

15 "...allegations are so
16 horrifying. Why not a public
17 inquiry to get to the bottom
18 of it?"

19 And then you say:

20 "Well, certainly Mr. Arar's
21 allegations are terrible.
22 Unfortunately, I was in
23 cabinet this morning, so I
24 wasn't able to watch what he
25 said publicly, but I met with

1 him last week as you know,
2 and he shared with me some of
3 his experiences which are
4 horrifying for us as
5 Canadians to understand that
6 a justice system could
7 operate in that way."

8 And then it goes on:

9 "And I will be calling in the
10 Syrian ambassador immediately
11 after lunch where I'm going
12 with --"

13 Who is that? Mr. Mbeki?

14 HON. BILL GRAHAM: The President
15 of South Africa. It wasn't to suggest that he was
16 going to express our concerns together. There was
17 a lunch with the President of South Africa, and I
18 would immediately be dealing with the Syrian
19 Foreign Minister, the Syrian Minister. I imagine
20 the lunch was probably at the Governor General's
21 with Mr. Mbeki, if my memory is -- that can only
22 be what it would be.

23 MR. CAVALLUZZO: In any event, you
24 had the ambassador called in where you expressed
25 concerns about the allegations of torture?

1 HON. BILL GRAHAM: Right.

2 MR. CAVALLUZZO: And do you
3 recall --

4 HON. BILL GRAHAM: Yes, sir.

5 MR. CAVALLUZZO: Okay. Do you
6 recall whether Mr. Arar's press statement -- was
7 that consistent with the kind of allegations he
8 shared with you on October 29?

9 HON. BILL GRAHAM: Mr. Arar's?

10 MR. CAVALLUZZO: Yes.

11 HON. BILL GRAHAM: Yes. Yes. I
12 mean, I absolutely believe --

13 MR. CAVALLUZZO: Right.

14 HON. BILL GRAHAM: -- that he --
15 he then went specifically public with what he told
16 us in private, and there was no inconsistencies.

17 MR. CAVALLUZZO: Okay. At 649 we
18 have something called Arar talking points, which
19 relate to --

20 HON. BILL GRAHAM: 649.

21 MR. CAVALLUZZO: 649. And I
22 assume this is the kind of document that would be
23 prepared for the Minister in dealing with these
24 allegations of torture? Or do you recall this
25 document at all? I understand that Mr. Fry

1 prepared these notes?

2 HON. BILL GRAHAM: Could be, or
3 they might have been prepared by my Communications
4 Director, but Mr. Fry could speak to that. I
5 think they may well have been.

6 These would be talking points that
7 I could use if I were in a press scrum or were
8 asked questions about it. They're an aide-memoire
9 of the events so that I would, you know, get it --
10 keep things straight.

11 MR. CAVALLUZZO: Right. Okay.
12 Now, on November 5, if you go to the next tab,
13 550 --

14 HON. BILL GRAHAM: 650?

15 MR. CAVALLUZZO: 650. Excuse me.
16 Correct. That you're going to be getting in touch
17 with Mr. Powell again. The summary is:

18 "On November 5, Minister
19 Graham placed a telephone
20 call to Secretary Powell on
21 the issue of Maher Arar,
22 conveying to Powell the
23 pressure the Canadian
24 government was coming under
25 to conduct a public inquiry

1 into the case, and his
2 concern over the negative
3 impact this could have on the
4 bilateral relationship. In
5 response to the Minister's
6 request for assistance in
7 determining who in the
8 Canadian government might
9 have conveyed information to
10 American authorities
11 concerning Mr. Arar,
12 Secretary Powell undertook to
13 look into the matter
14 immediately."

15 So this was a phone call that you
16 made to Mr. Powell?

17 HON. BILL GRAHAM: Mm-hmm.

18 MR. CAVALLUZZO: And I understand
19 it followed a statement in the House by the Prime
20 Minister about if the Americans have a name, then
21 they should give it to us, sort of message. Is
22 that correct?

23 HON. BILL GRAHAM: Yes. It may
24 have been even almost contemporary with it,
25 because I noticed Mr. Chrétien, when he answered

1 his question in the House -- I had a look at his
2 answer -- and I think he said something like "my
3 Foreign Minister tells me he's phoned Mr. Powell."

4 So it might have been -- I might
5 have phoned Mr. Powell in the morning, and
6 Mr. Chrétien gave his answer in the House, or it
7 might have been reverse. I wouldn't remember
8 that.

9 MR. CAVALLUZZO: Certainly the
10 minutes or the summary of this phone call is you
11 shared with Mr. Powell the background of your
12 discussions with him concerning this problem.

13 In paragraph 3 you informed him of
14 what had happened the day before. There was the
15 press conference, where there were detailed and
16 credible account of Mr. Arar's experience in
17 Syria. He had described his torture in Syria in
18 great detail and had given details concerning his
19 arrest in New York, et cetera, et cetera.

20 And then finally in paragraph 4 it
21 states:

22 "The Minister told Powell
23 that the Government was
24 coming under tremendous
25 pressure to conduct a public

1 inquiry into this case,
2 including calls for Syrian
3 and American officials to be
4 summoned to testify. Of
5 course, US officials could
6 not be compelled to testify,
7 but such an inquiry would
8 nevertheless not be
9 beneficial for Canadian-US
10 relations. The Minister
11 indicated that after Powell
12 told him that information had
13 been provided by Canadian
14 authorities, he had talked to
15 various agencies concerned
16 but that the investigation
17 had revealed nothing."

18 HON. BILL GRAHAM: Right. So this
19 was still -- this is after the Prime Minister in
20 the House, as I believe, said, you know, we're
21 asking the American authorities to tell us because
22 Mr. Arar had said he understood that Canadians had
23 been implicit complicit in his removal.

24 So the Prime Minister ratcheted it
25 up. The Prime Minister's level, that, as you can

1 imagine, got the attention of the ambassador and
2 everybody else.

3 So I then had this call with
4 Mr. Powell to say, "Look..." -- I obviously didn't
5 remind him in this conversation that, in fact, his
6 ambassador had already contradicted that. But in
7 any event, he was still of the position that
8 somebody in Canada was involved.

9 MR. CAVALLUZZO: Right.

10 HON. BILL GRAHAM: And it was only
11 then subsequent to that that he made his inquiries
12 and came back to me and said, "Well I agree with
13 you, there wasn't."

14 MR. CAVALLUZZO: We have to be
15 very careful here, but I understand that the
16 ambassador to the U.S. in Washington, Mr. Kergin,
17 tried to get information as well concerning --

18 HON. BILL GRAHAM: Yes, there was
19 some confusion in Washington around this issue,
20 which extended into the National Security Council,
21 and so the ambassador was engaged to that time.

22 MR. CAVALLUZZO: Just for
23 counsel's benefit, at tab 711 in Volume 8, we see
24 a very redacted e-mail from Mr. Kergin sent to the
25 Under Secretary of State, Mr. Harder at that time,

1 the subject being "Arar."

2 And all it says is:

3 "At NACO reception last
4 night, I approached ... to
5 have his take on this
6 intelligence imbroglio."

7 It is signed by Kergin. And then
8 there's a post script to it:

9 "PS Not surprisingly, I have
10 not heard back following my
11 request of ... for more
12 information concerning
13 Canadian interlocutors
14 leading up to Arar's
15 deportation."

16 HON. BILL GRAHAM: Mm-hmm.

17 MR. CAVALLUZZO: Now, at tab 740,
18 this is a memo to you dated November 21, which
19 attempts to explain the inconsistencies we talked
20 about between the statements of August 14th and
21 Mr. Arar's allegations in the press conference.

22 Do you see that?

23 HON. BILL GRAHAM: Mm-hmm.

24 MR. CAVALLUZZO: Okay.

25 HON. BILL GRAHAM: This goes back

1 to the meeting in August that I then talked about
2 in my press conference.

3 MR. CAVALLUZZO: That's correct.

4 HON. BILL GRAHAM: The meeting
5 that provoked the press conference statement that
6 he had had independent --

7 MR. CAVALLUZZO: We looked at that
8 e-mail or we had that e-mail to Damascus saying
9 there is an inconsistency and, Damascus, explain.

10 HON. BILL GRAHAM: Right.

11 MR. CAVALLUZZO: And this is just
12 a summary of that.

13 You will see in paragraph 4 it
14 talks about -- this is Mr. Martel. We will start
15 at paragraph 3:

16 "The Canadian Consul, Mr. Leo
17 Martel, reported on that
18 meeting in a confidential
19 message to the Department on
20 August 14, 2003, the main
21 excerpts of which follow."

22 And then paragraph 4:

23 "An interpreter and two aides
24 were present. Mr. Arar was
25 pleased to see the Consul and

1 thanked all concerned,
2 including the Syrian
3 authorities, for making this
4 visit possible. The Consul
5 questioned Mr. Arar on the
6 conditions of his detention
7 and asked whether he needed
8 anything. Mr. Arar made no
9 special request, but was
10 pleased that reading material
11 was brought for him. He
12 expressed himself freely at
13 times, indicating that:
14 - prison conditions had been
15 more difficult in the past
16 than now;
17 - he did not want adverse
18 media publicity in Canada as
19 this would only harm his
20 case, and he added that 'the
21 press will know the truth
22 when I return home';
23 - he had not been beaten,
24 tortured or paralysed (asked
25 to explain the latter term,

StenoTran

1 he could not find another
2 word);
3 - his long detention had
4 destroyed him mentally; and
5 - as far as he knew, he was
6 not being treated worse than
7 other prisoners worse than
8 other prisoners."

9 And then it goes on:
10 "The Syrian official said
11 that Mr. Arar was due to
12 appear before a civilian
13 court within a week."

14 And it talks about:
15 "... the account circulated
16 in a chronology prepared by
17 Mr. Arar and distributed at
18 his press conference ...
19 indicates that he told the
20 Canadian Consul in English in
21 front of the Syrian officials
22 about his cell and the
23 conditions that he was living
24 in. In his account, he
25 states the Consul asked if he

1 had been tortured and Arar
2 replied, 'Yes of course, at
3 the beginning.' Arar's
4 account is contrary to the
5 Embassy's report of the
6 August 14 visit on this
7 point, and thus appears to be
8 inaccurate."

9 And that is a memo which was
10 signed by both John McNee, the Assistant Deputy
11 Minister we have referred to earlier, and
12 Mr. Harder, who at that point in time is the --

13 HON. BILL GRAHAM: New Deputy
14 Minister, right.

15 MR. CAVALLUZZO: Okay.

16 I would like to go now to a couple
17 of final documents at Volume 9.

18 Let us look at tab 749. This is
19 another less redacted document which was
20 introduced this morning, Mr. Commissioner.

21 THE COMMISSIONER: Right. What
22 was the "P" number this morning?

23 MR. CAVALLUZZO: I am just looking
24 for it.

25 MS McISAAC: 105.

1 THE COMMISSIONER: Thank you. So
2 we might as well work off 105?

3 MR. CAVALLUZZO: Yes. It
4 coincides with 749.

5 THE COMMISSIONER: Okay.

6 MR. CAVALLUZZO: Now, it would
7 appear that Mr. Powell returned your call on
8 December the 1st, if we look at P-105?

9 HON. BILL GRAHAM: I am just
10 looking at it.

11 MR. CAVALLUZZO: Okay.

12 HON. BILL GRAHAM: I see. This is
13 the same one but ...

14 MR. CAVALLUZZO: Yes, just less
15 redacted.

16 It says in the summary portion:

17 "In a phone call on December
18 1, Secretary of State Colin
19 Powell provided a number of
20 responses to Minister Graham
21 on the Arar case. Namely,
22 Powell confirmed that the
23 decision to deport Arar to
24 Syria was taken by the U.S.
25 alone without consulting

1 Canada."

2 HON. BILL GRAHAM: Right.

3 MR. CAVALLUZZO: "He denied Arar
4 was inoculated with any
5 substance while in US."

6 Then it goes on:

7 "Minister Graham took
8 advantage of the opportunity
9 to raise with Powell the idea
10 of the US and Canada
11 negotiating a protocol ..."

12 Which we will come to. And then
13 there is a number of references to the four
14 questions, starting in paragraph 4:

15 "First, concerning who had
16 provided the US Government
17 with information it used in
18 making the decision to deport
19 Arar."

20 Then it's blacked out. Then there
21 is the second, and so on and so forth, and I just
22 leave that to the parties to read.

23 But if we go to P-106, we have a
24 fuller account in the chronology of this phone
25 conversation, the phone conversation at the top of

1 page 2 of P-106, for December 1, 2003.

2 Do you have that at the top of the
3 second page?

4 HON. BILL GRAHAM: Yes, I do. I
5 mean -- it's a chronology of events. It says
6 "Secret - Canadian Eyes Only", but who is it
7 prepared by and for whom?

8 MR. CAVALLUZZO: Well, I wonder if
9 government counsel would assist us, but I assume
10 it is prepared by DFAIT concerning a chronology,
11 and it would be prepared by officials in your
12 office, presumably.

13 MS McISAAC: Well, that is
14 correct. After Mr. Arar returned to Canada, at
15 the request of PCO the departments involved,
16 including Foreign Affairs, were asked to prepare a
17 chronology of their involvement with respect to
18 the matter, and this is a portion of that
19 chronology.

20 This particular paragraph
21 summarizes the information in the e-mail you were
22 just looking at.

23 HON. BILL GRAHAM: Right. The
24 document as a whole would not have been
25 exclusively DFAIT prepared. It would have been a

1 whole-of-government prepped document.

2 MS McISAAC: Each of the
3 departments prepared their own chronologies.

4 MR. CAVALLUZZO: Okay. Let us
5 just refer then to this chronology.

6 It states:

7 "MINA and US Secretary of
8 State Powell speak on the
9 telephone."

10 Once again, this is December 1st,
11 2003.

12 "Powell informs that (1) the
13 Arar affair was triggered by
14 enquiries by Canadian sources
15 and that Arar would not have
16 been on the US radar screen
17 had he not been the subject
18 of attention by Canadian
19 agencies; (2) contrary to
20 what he had alleged, Arar had
21 not been inoculated with any
22 substance while in US
23 custody; (3) US law
24 enforcement officials had
25 informed the RCMP about

1 Arar's detention and the RCMP
2 had informed the Consulate
3 General in New York; and (4)
4 no Canadian officials were
5 consulted prior to the US
6 decision to deport Arar.
7 MINA refers to a meeting the
8 previous week of Solicitor
9 General Easter and Attorney
10 General Ashcroft when Easter
11 raised the possibility of a
12 bilateral protocol to deal
13 with such cases in the
14 future."

15 And does that capture the
16 telephone conversation you had --

17 HON. BILL GRAHAM: Probably a
18 series of telephone conversations, as you suggest.
19 I mean, there was the one when I was in
20 Maastricht. There was the one before that. But I
21 would say that's an accurate summation.

22 MR. CAVALLUZZO: And as far as
23 your responsibilities as Minister of Foreign
24 Affairs are concerned, is that the last statement
25 of the position of at least the Secretary of State

1 as to what happened in respect of Mr. Arar that
2 you are aware of?

3 HON. BILL GRAHAM: Yes, I believe
4 so. I might have discussed -- I don't believe I
5 would have discussed this matter then any further,
6 once we had achieved the Memorandum of
7 Understanding. So this would be the last time
8 that Mr. Powell would have raised this issue with
9 me, yes. I believe that to be the case.

10 MR. CAVALLUZZO: Okay. Just two
11 other matters.

12 One would be -- okay. Really, the
13 final document then is tab 791, once again in the
14 last volume.

15 THE COMMISSIONER: 799?

16 MR. CAVALLUZZO: 791. And this is
17 what has been referred to as the Monterey
18 Protocol, which is an understanding reached
19 between Canada and the United States concerning
20 the removal of nationals to third countries.

21 We have a letter to Mr. Powell
22 from Mr. Graham, which is dated January 13th,
23 2004, and a counterpart letter from Mr. Powell to
24 Mr. Graham, dated January 13th, 2004.

25 HON. BILL GRAHAM: Right.

1 MR. CAVALLUZZO: Wherein what the
2 understanding is, is that in a situation in the
3 future, that prior to removing somebody from the
4 United States that the United States government or
5 the Canadian government indeed would at least
6 consult with officials in the other government so
7 that there could be a discussion prior to the
8 removal of that person.

9 Do you see that?

10 HON. BILL GRAHAM: Yes, sir.

11 MR. CAVALLUZZO: And I guess the
12 only question that I would have for you in respect
13 of this protocol is: Is it worth anything?

14 We have an American government
15 which seems to be acting unilaterally, doing what
16 it wants in its own interests, and what meaning is
17 there to have them have an obligation to consult
18 with the Canadian government prior to removing a
19 Canadian citizen to another country where that
20 person might be tortured? What good is it?

21 HON. BILL GRAHAM: Well, it
22 clearly is not as effective as an outright
23 undertaking not to deport anybody under these
24 circumstances, which would have been a preferred
25 option of the Canadian government.

1 But as you said, the security
2 position taken by the United States at this
3 particular time meant that they were not -- we
4 explored all possible avenues and were told the
5 best arrangement we could get would be an
6 agreement to consult.

7 Therefore, we entered into this
8 agreement. We will have to see how it is applied
9 in the future.

10 I would not be as cynical as your
11 question suggested to me, largely because my
12 experience, in terms of the practice between
13 states is, once these things get consulted on, you
14 have an opportunity to bring other people into the
15 picture. I mean, clearly this envisages that the
16 Director General of the Consular Affairs Bureau in
17 the Department of Foreign Affairs and
18 International Trade will be advised by the
19 appropriate official in Washington before anything
20 like this would happen again.

21 Once that is done, alarm bells are
22 going to go off all over the place, and if
23 necessary, we can ratchet it up, call in the Prime
24 Minister and the President. But you can be sure
25 that the Prime Minister's Office could phone Andy

1 Card in the White House.

2 There would be a whole host of
3 immediate responses that we could get to that
4 would move this to an action level that I believe
5 would make it virtually most unlikely that they
6 would go ahead in the light of a Canadian
7 government objection, just because you are going
8 to have such a high level of action on the file.

9 So I can't put it any higher than
10 that, sir, but I really do believe that this is a
11 very effective protection against this happening
12 in the future, because of the nature of what
13 consequences would flow from consultation and the
14 opportunity that it would give us to take that to
15 the highest levels for reflection from the United
16 States.

17 If, as you say, they were
18 determined absolutely they were going to do it,
19 there is nothing we could do to stop them from
20 doing it. But that's exactly why they wouldn't
21 sign any such agreement. They are not going to
22 bind themselves because they can't foresee unusual
23 or unforeseen circumstances in the future where
24 they would fetter their discretion.

25 But I believe this is a very

1 effective protection for Canadians, given the
2 nature of how things work in international
3 practice.

4 MR. CAVALLUZZO: If you will just
5 give me a second, Mr. Commissioner?

6 --- Pause

7 MR. CAVALLUZZO: That leaves just
8 one final question, and it relates to -- maybe you
9 could go to 756. This once again is something
10 from ISI --

11 HON. BILL GRAHAM: Sorry, 756?

12 MR. CAVALLUZZO: Yes, 756, the
13 same volume.

14 HON. BILL GRAHAM: Yes, sir.

15 MR. CAVALLUZZO: And it relates
16 to, if you go to page 2, at the top of the page it
17 talks about:

18 "The delivery of consular
19 services has changed since
20 9/11; the new threats have
21 led to a more security
22 conscious world, making
23 travel in some cases more
24 risky. The delivery of
25 traditional consular services

1 is now often greatly
2 complicated by the security
3 preoccupations of other
4 countries. This has led
5 human rights advocates to
6 become increasingly vocal in
7 criticizing what they say is
8 a disregard for customary
9 international law.
10 Therefore, the Deputy has
11 called for a review to be
12 conducted by DFAIT's internal
13 auditors to evaluate current
14 consular policies, practices
15 and procedures. This is
16 being undertaken as an
17 in-house matter."
18 Once again, this is dated December
19 4th, 2003.
20 HON. BILL GRAHAM: Right.
21 MR. CAVALLUZZO: And then it goes
22 on:
23 "DFAIT has a legislative
24 requirement to 'conduct all
25 ... consular relations on

1 behalf of Canada'. This we
2 have done and are doing, but
3 it often means that we (DFAIT
4 consular officials) find
5 ourselves in a state of
6 confrontation with Canadian
7 security authorities (CSIS
8 and the RCMP). This is
9 unlikely to change, but there
10 must be more transparency and
11 openness between the
12 Departments and agencies to
13 avoid the sort of 'nasty
14 surprise' and 'failure to
15 understand' each other's
16 motives that have marked some
17 cases."

18 Now, this, it seems to me, is a
19 refresher of the Pardy memo back in February or
20 March of 2003, which may not have reached you.

21 Do you recall whether a
22 department-wide audit was done in respect of
23 undertaking these consular services in the future?
24 I am wondering whether you are aware of that.

25 HON. BILL GRAHAM: Yes.

1 Mr. Harder, the then Deputy Minister, wanted to
2 examine how we could be more effective in
3 rendering consular services. And in addition to
4 these matters, which would be ensuring that there
5 was better coordination amongst internal
6 government sources, one of the objectives of the
7 departmental memorandum and the inquiry was to
8 make sure that our consular officials in countries
9 such as Syria or other countries where Canadians
10 could not be guaranteed a similar level of legal
11 or other protections, that the consular services
12 would be sensitized to, for example, the
13 possibility of torture or look for signs and make
14 sure that nobody is being misled by anyone.

15 I believe that memorandum was
16 done. I believe that, like all experiences in
17 life, the department has learned a great deal from
18 this terrible experience and hopefully will be
19 perfecting its performance of what it does for
20 Canadians in the future based on the experience
21 that they learned.

22 MR. CAVALLUZZO: Thank you.

23 Commissioner, I will be speaking
24 to government counsel. We are having discussions
25 as to the document, and so on and so forth.

1 But other than that, Mr. Graham,
2 thank you very much. That would complete the
3 direct examination.

4 HON. BILL GRAHAM: Thank you, sir.

5 THE COMMISSIONER: We will take
6 the afternoon break.

7 Ms Edwardh, do you know how long
8 you will be?

9 MS EDWARDH: I had not intended to
10 so quickly misspeak myself, Mr. Commissioner, but
11 my friend has in fact gone longer than he thought
12 he would, and Ms McIsaac and I were just caucusing
13 as between the two of us whether we have created a
14 real problem, since it's already --

15 THE COMMISSIONER: 4:15. So we
16 would resume at 4:30.

17 MS EDWARDH: We will talk. I
18 guess the question is whether we can possibly
19 complete the Minister today. That is really the
20 issue.

21 THE COMMISSIONER: Maybe you can
22 let me know after the recess if that's possible.
23 Let's see if we can.

24 I think that is your preference,
25 isn't it, Minister, to finish?

1 HON. BILL GRAHAM: Well, it
2 depends what you mean by "today",
3 Mr. Commissioner.

4 --- Laughter / Rires

5 HON. BILL GRAHAM: If you mean
6 11 o'clock tonight, I am a little less happy.

7 I know Ms Edwardh is a very
8 thorough lawyer, so I am getting more and more
9 nervous.

10 THE COMMISSIONER: Discussions
11 will take place during the break that will give us
12 some guidelines. We will take 15 minutes.

13 HON. BILL GRAHAM: Thank you, sir.

14 THE REGISTRAR: Please stand.

15 --- Upon recessing at 4:20 p.m. /

16 Suspension à 16 h 20

17 --- Off Record Discussion / Discussion officieuse

18 --- Whereupon the hearing adjourned at 4:42,

19 to resume on Tuesday, May 31, 2005,

20 at 9:00 a.m. / L'audience est ajournée

21 à 16 h 42, pour reprendre le mardi

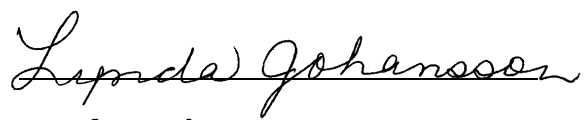
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Lynda Johansson,

C.S.R., R.P.R.

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