

**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 mercredi 15 juin 2005

Held at:

Algonquin Room
Old City Hall
111 Sussex Drive
Ottawa, Ontario

Wednesday, June 15, 2005

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1 Ottawa, Ontario / Ottawa (Ontario)

2 --- Upon commencing on Wednesday, June 15, 2005 at

3 10:02 a.m. / L'audience reprend le mercredi

4 15 juin 2005 à 10 h 02

5 THE REGISTRAR: Please be seated.

6 Veuillez vous asseoir.

7 THE COMMISSIONER: Good morning.

8 AMBASSADOR PILLARELLA: Good

9 morning, Commissioner.

10 PREVIOUSLY SWORN: FRANCO PILLARELLA

11 THE COMMISSIONER: Go ahead.

12 MR. CAVALLUZZO: Thank you,

13 Commissioner.

14 EXAMINATION (Continued)

15 MR. CAVALLUZZO: Good morning,

16 Mr. Pillarella.

17 AMBASSADOR PILLARELLA: Good

18 morning, Mr. Cavalluzzo.

19 MR. CAVALLUZZO: How are you?

20 AMBASSADOR PILLARELLA: I'm fine,

21 thank you. I hope you are well as well.

22 MR. CAVALLUZZO: Yesterday we had

23 reached May of 2003 and we will go on from there.

24 Prior to doing that, there are

25 just a couple of questions I should have asked you

1 yesterday relating back to the CSIS visit in
2 November 2002.

3 You recall our discussion as far
4 as that is concerned?

5 AMBASSADOR PILLARELLA: Mm-hmm.

6 MR. CAVALLUZZO: I just want to
7 clarify in my own mind, the genesis of this CSIS
8 visit, was that from an invitation from the
9 Syrians or --

10 MS McISAAC: Mr. Commissioner, I
11 believe that the government has claimed national
12 security confidentiality with respect to aspects
13 of the CSIS visit, other than the fact that CSIS
14 visited, the fact that they didn't meet with
15 Mr. Arar, and I believe these questions would be
16 eliciting information which, quite frankly, is
17 subject to that claim.

18 MR. CAVALLUZZO: Well, I wonder if
19 I might have a minute, a sidebar, with my friend?

20 THE COMMISSIONER: Sure. If
21 Mr. Atkey has any views on it, we can hear from
22 him as well.

23 --- Off record discussion / Discussion officieuse

24 MR. CAVALLUZZO: That sidebar was
25 not successful. I will come back to that.

1 THE COMMISSIONER: Okay. If you
2 are going to have a discussion on an issue like
3 this, you might do so at recess.

4 I might just indicate for the
5 record, and those who are listening -- and this
6 is not to discourage Commission counsel from
7 attempting to bring out everything that is proper
8 publicly, but again, with respect to the CSIS
9 visit, we have heard in camera the full story
10 and I will be, in my report, reporting on the
11 entire story.

12 So the public shouldn't be misled
13 to think that I won't have heard it all. I have.

14 Nonetheless, I think it is
15 important, as I have said many times, that we call
16 in public as much of the evidence as we can, at
17 the same time respecting the national security
18 claims that the government asserts.

19 So why don't we leave that issue.
20 Perhaps at the recess or some point later on
21 counsel can discuss whether we can pursue it in
22 public or not.

23 MR. CAVALLUZZO: Maybe I can show
24 the witness Exhibit P-134, which you have in front
25 of you. We did review this. Tab 8 concerns the

1 CSIS visit.

2 AMBASSADOR PILLARELLA: Mm-hmm.

3 MR. CAVALLUZZO: This is the
4 Jonathan Solomon e-mail. What we do have is his
5 statement, in the middle:

6 "You will remember..."

7 This obviously is the e-mail to
8 you from Solomon, who was from ISI, and it states:

9 "You will remember that at a
10 interdepartmental meeting
11 held on Wednesday,
12 November 6, it was agreed
13 that it would be useful if
14 CSIS were to travel to Syria
15 to speak to Syrian
16 authorities on international
17 terrorism."

18 Then:

19 "In light of recent media
20 reporting on Arar, we had
21 doubts about the timeliness
22 of the CSIS visit, although
23 not about its substance."

24 Then it talks about deferring the
25 visit and the Minister.

1 So that is the context that I was
2 raising in respect of this conversation.

3 I guess the question I was
4 asking -- I think this is a fair question. If my
5 friend wants to object, then we will put it off
6 until later.

7 The question that I would ask is:
8 In light of this interagency discussion concerning
9 a CSIS visit to Syria, can you share with us whose
10 idea it was for CSIS to go to Syria?

11 Just stopping there. If my friend
12 wants to object to the question...?

13 MS McISAAC: I'm not sure
14 I understand.

15 Whose idea among Canadian agencies
16 or whose idea vis-à-vis Canada and Syria?

17 MR. CAVALLUZZO: Initially
18 the question would be: Which Canadian agency
19 brought forward the idea? That would be the
20 first question.

21 MS McISAAC: I believe that would
22 all be covered by our claim for national security
23 confidentiality, but I will seek instructions
24 during the break.

25 MR. CAVALLUZZO: Okay.

1 Mr. Pillarella, we did deal with
2 that in camera but let's jump seven months to May
3 2003, and ask you to look at Exhibit P-117,
4 tab 75.

5 AMBASSADOR PILLARELLA: I'm sorry,
6 which tab?

7 MR. CAVALLUZZO: This is tab 75,
8 and tab 3 of tab 75. So it is the bright orange
9 tab No. 3, okay?

10 What I am showing you here,
11 Mr. Pillarella -- we have heard evidence from
12 Mr. Pardy and others. This is a draft Pardy memo,
13 it is an Action Memorandum to have the Minister
14 sign. The point of the memorandum was what we
15 discussed yesterday, that is, to have the
16 Solicitor General and the Minister of Foreign
17 Affairs sign a letter which would hopefully
18 expedite and facilitate the return of Mr. Arar
19 to Canada.

20 As you can see, on the very first
21 page, the objective is set out in the first bullet
22 point, where it says that:

23 "Efforts continue to
24 establish a common
25 understanding within the

1 government of Canada on this
2 case with the objective of
3 the issuance of a statement
4 signed by the Solicitor
5 General and the Minister of
6 Foreign Affairs that could be
7 used with the Syrian
8 authorities."

9 Then it goes on:

10 "The visit to Syria by the
11 Deputy Minister be used to
12 again impress upon the
13 Syrians the seriousness with
14 which we view this case, make
15 an appeal that charges not be
16 laid and that Mr. Arar be
17 released and permitted to
18 return to Canada."

19 Then so on and so forth.

20 If you read the bulk of the
21 memo -- and we won't bring you to it -- you will
22 see, for example, at page 3, in paragraph 6, that
23 there are a number of issues that are raised. One
24 of the issues is what we asked you about
25 yesterday -- in fact, let's just look at

1 paragraph 8, where it says, once again:

2 "CSIS officials visited Syria
3 earlier this year and
4 discussed Mr. Arar with their
5 counterparts. They did not
6 meet Mr. Arar. Subsequent to
7 these discussions Syrian
8 officials informed us that
9 they were informed by CSIS
10 officials that Canada did not
11 want to have Mr. Arar
12 returned. The CSIS officials
13 denied that they had said
14 this to the Syrians."

15 Then, finally, on the next page,
16 at the top you will see what Mr. Pardy is
17 attempting to achieve. He said:

18 "- there is a need for an
19 unambiguous statement by the
20 government of Canada,
21 preferably signed by the
22 Solicitor General and the
23 Foreign Minister, to the
24 effect that we have no
25 evidence in Canada, or from

1 foreign sources, that
2 Mr. Arar is or was a member
3 of al-Qaida, that we do not
4 believe that such information
5 exists and that Mr. Arar
6 should be permitted to return
7 to Canada."

8 So this was the objective. We are
9 trying to get Canada to speak with one voice, and
10 to accomplish that, at least at this point in
11 time, it was thought that a joint letter from the
12 Solicitor General and Deputy Prime Minister would
13 be of great use.

14 The question that I have for you
15 is: With that context in mind, were you aware of
16 this particular draft memo?

17 AMBASSADOR PILLARELLA: No, I
18 was not.

19 MR. CAVALLUZZO: So that you --

20 AMBASSADOR PILLARELLA: In fact,
21 this is the first time I see it.

22 MR. CAVALLUZZO: Okay. So you
23 weren't asked for your views as to whether a joint
24 letter such as this would be expedient in terms of
25 facilitating his return?

1 AMBASSADOR PILLARELLA: No, I
2 was not.

3 MR. CAVALLUZZO: Then let us move
4 on in May to May 30th. I would ask you to refer
5 to tab 417 of volume 5.

6 This, Mr. Pillarella, is an e-mail
7 from Mr. Pardy --

8 AMBASSADOR PILLARELLA: Mm-hmm.

9 MR. CAVALLUZZO: --to you, dated
10 May 30, 2003 wherein Mr. Pardy states that:

11 "It was extremely regrettable
12 that the Deputy (Minister)
13 did not raise Mr. Arar's
14 situation during his
15 discussions with Syrian
16 officials. Quite clearly it
17 probably left the wrong
18 message with the Syrian
19 authorities concerning our
20 deep and abiding interest in
21 the welfare of Mr. Arar. As
22 such would appreciate if you
23 could submit a request to the
24 Foreign Ministry immediately
25 seeking a visit with Mr. Arar

1 at the earliest possible
2 opportunity. Should you not
3 hear promptly from the Syrian
4 authorities on the request
5 then you should followup in
6 one week intervals."

7 Your response was that:

8 "I agree that we should now
9 seek a meeting with Arar, as
10 over a month has passed since
11 ... the visit by
12 Ms. Catterall..."

13 Just if you could give us some
14 context here as to the failure of the Deputy
15 Minister to raise Mr. Arar's case, whether you
16 have any knowledge as to why it was not raised?

17 AMBASSADOR PILLARELLA: Well, I
18 will admit that it was regrettable that the Deputy
19 Minister could not raise the issue with the Syrian
20 authorities, but one has to understand the context
21 in which this visit happened.

22 First of all, it was a one-day
23 visit, and it so happens that on that particular
24 day the Syrians were preoccupied with this
25 Security Council Resolution on -- I believe it had

1 to do with sanctions. Therefore, the people who
2 would have been meeting with the Deputy Minister
3 were all involved into a session trying to
4 determine what the Syrian position was going
5 to be.

6 In fact, the whole program which
7 had been approved by the Syrians with regard to
8 the visit of the Deputy Minister simply went by
9 the wayside. Mr. Mouallem, the Vice-Minister
10 Mouallem, for instance, was supposed to offer a
11 luncheon for the Deputy Minister. That luncheon
12 did not take place.

13 The fact was that the meeting with
14 the Minister, Minister Shara'a, the Foreign
15 Minister, was supposed to take place. It did take
16 place, but Mr. Shara'a had to be taken out of that
17 intensive session where he was and he met with the
18 Deputy Minister for just a few minutes, literally.

19 I can assure you that I had
20 discussed with the Deputy Minister the case with
21 Mr. Arar and we had reviewed what the Deputy
22 Minister was going to say to the Syrians about
23 Mr. Arar and the fact that there was nothing in
24 Canada against him and that we wanted him back.

25 So while I admit that it was

1 extremely unfortunate, it was no one's fault. The
2 Syrians simply were so preoccupied with the U.N.
3 Security Council Resolution that I believe the
4 Deputy Minister was even lucky to say hello to the
5 Minister for a few minutes.

6 MR. CAVALLUZZO: The Deputy
7 Minister at the time was...?

8 AMBASSADOR PILLARELLA: It was
9 Mr. Lavertu.

10 MR. CAVALLUZZO: Okay. If you
11 stay in the same volume and go to tab 424, we see
12 here the diplomatic note that was sent, Note
13 No: 134, requesting that the Ministry intervene to
14 assist you in having the consul visit Mr. Arar?

15 AMBASSADOR PILLARELLA: Mm-hmm.

16 MR. CAVALLUZZO: This was sent to
17 the Foreign Ministry?

18 AMBASSADOR PILLARELLA: That was
19 sent to the Foreign Ministry, yes.

20 MR. CAVALLUZZO: If you go now to
21 tab 427. On June the 4th it would appear -- just
22 let me read this to you and ask for your comments.

23 It says, in paragraph 8 -- this is
24 a document that unfortunately this page is
25 standing on its own:

1 "The Ambassador raised the
2 case of Maher Arar, a
3 Syrian-Canadian dual national
4 detained on security
5 charges.... Mouallem..."

6 Obviously the meeting was with
7 Mr. Mouallem. You review the history, and so on,
8 that charges -- or the trial will occur soon.

9 I just want to refer to the last
10 sentence. It says:

11 "The Ambassador reiterated
12 that the Arar case continued
13 to receive media coverage in
14 Canada, and it was in Syria's
15 own interest to cooperate by
16 allowing consular access.
17 Mouallem committed to
18 speaking to the Head of
19 Military Intelligence about
20 the Arar case."

21 Do you recall that meeting
22 with the Deputy Minister and raising those issues
23 with him?

24 AMBASSADOR PILLARELLA: Yes, of
25 course. I mean, even though the meeting with the

1 Vice-Minister at that time was not focused on
2 Mr. Arar, because this was a separate visit, this
3 is an indication that every time I was meeting
4 with a Syrian official, regardless of what the
5 purpose of the meeting was, I would raise the
6 issue of Mr. Arar, because this was at the
7 forefront of our preoccupation.

8 MR. CAVALLUZZO: Then, just
9 in terms of time, if we go once again to
10 Exhibit P-134. This is the newly redacted
11 tab 459.

12 If you go to tab 20 of the
13 small booklet, we see that this is dated around
14 July 1st. It is a message to you and it says:

15 "PCO and MINA..."

16 Or the Minister of Foreign
17 Affairs:

18 "...have given approval for
19 the appointment of Senator
20 Pierre de Bane as the Prime
21 Minister's Special Envoy who
22 will go to Syria in order to
23 deliver a letter from the
24 Prime Minister to the
25 President seeking action on

1 Mr. Arar."

2 Then it talks about:

3 "...de Bane, prior to

4 visiting Syria...

5 He will do something:

6 "...then drive to Damascus to

7 meet with the President..."

8 Then somebody:

9 "...would be available for a

10 meeting with the President

11 around July 19-20."

12 Then the question or request

13 to you:

14 "Would appreciate if you

15 could make informal inquiries

16 as to the availability of the

17 President to meet with the

18 Prime Minister's special

19 envoy..."

20 Do you recall receiving this

21 particular message?

22 AMBASSADOR PILLARELLA: Yes.

23 MR. CAVALLUZZO: Do you recall,

24 pursuant to those instructions, seeking some kind

25 of meeting that Mr. de Bané could have?

1 AMBASSADOR PILLARELLA: Yes,
2 absolutely.

3 MR. CAVALLUZZO: The next day, on
4 July 2nd, if you go back to volume 5 at tab 462,
5 we see from this CAMANT note that:

6 "In a July 2 meeting with
7 Syrian Foreign Vice-Minister
8 Mouallem (Mr. Pillarella)
9 pressed once more for
10 consular access. Mouallem
11 indicated he would do his
12 utmost to assist.

13 And you would, or Mr. Martel would
14 keep head office informed of any developments.
15 That is proceeding.

16 If you go to tab 466 we see your
17 report of Mr. de Bané's visit.

18 Do you see that?

19 AMBASSADOR PILLARELLA: Yes.

20 MR. CAVALLUZZO: Why don't you
21 just -- we don't have to go through this. If you
22 could just briefly describe what happened at
23 Mr. de Bané's meeting, who it was with, and what
24 he did with the letter?

25 AMBASSADOR PILLARELLA: Well,

1 first of all, I met with Senator de Bané at the
2 border between Lebanon and Syria and we reviewed
3 the case in the car driving back to Damascus,
4 because we didn't know whether the meeting with
5 the Deputy Minister might take place that
6 afternoon or not. In the end, the meeting took
7 place the next day.

8 MR. CAVALLUZZO: Right.

9 AMBASSADOR PILLARELLA: When we
10 met with Vice-Minister Mouallem, the Senator
11 indicated the purpose of his visit and that he had
12 been sent as a Special Envoy by the Prime Minister
13 to discuss the case of Mr. Arar.

14 Obviously there were other issues
15 discussed because this is customary. The Syrians
16 were extremely sensitive that, you know, we
17 address geopolitical issues because of the context
18 at the time. So these issues were discussed.

19 Then obviously the Senator
20 presented the case of Mr. Arar and gave the
21 letters. Because, if I recall, the Senator had
22 two letters.

23 MR. CAVALLUZZO: Right.

24 AMBASSADOR PILLARELLA: These
25 letters were given to Mr. Mouallem, and

1 Mr. Mouallem -- of course I don't need to repeat
2 what the Senator said, but he pleaded the case of
3 Mr. Arar, that, again, Mr. Arar was a Canadian
4 citizen. He may have been a Canadian citizen with
5 a dual nationality, but that did not matter as far
6 as Canada was concerned, in the sense that a
7 Canadian citizen is a Canadian citizen and, as
8 such, he is entitled to the assistance by the
9 Canadian government.

10 We did recognize the fact
11 that the Syrians did not accept this, but for us
12 that was, to a certain extent, irrelevant. He
13 was a Canadian citizen entitled to Canadian
14 government support.

15 MR. CAVALLUZZO: Right. Okay.

16 AMBASSADOR PILLARELLA: The
17 Senator indicated that we, Canada, would very much
18 like to see Mr. Arar returned to Canada because,
19 once more, there was absolutely nothing in Canada
20 which would indicate that Mr. Arar was the subject
21 of a criminal investigation or was sought for any
22 crime and, therefore, if the Syrians were to
23 release him we would take him back to Canada as a
24 Canadian citizen.

25 MR. CAVALLUZZO: Okay. Now, in

1 terms of the letter, I assume that the Deputy
2 Foreign Minister agreed that he would give this
3 letter to the President?

4 AMBASSADOR PILLARELLA: The
5 Vice-Minister made the commitment that he would
6 personally see that the letter, or the letters, by
7 the Prime Minister be given directly to the
8 President. That was a commitment that he made.

9 MR. CAVALLUZZO: Do you have
10 personal knowledge as to whether he ever did, in
11 the sense that he told you "I have given it to the
12 President"? If so, do you recall the timing of
13 that exchange?

14 AMBASSADOR PILLARELLA: No,
15 unfortunately I can't comment on that.

16 MR. CAVALLUZZO: Okay. Then let
17 us move on in terms of time to early August. If
18 we could go back to the small booklet, P-134,
19 tab 22, which is the newly redacted tab 485.

20 This is a message from Damascus,
21 sent to JPD, Mr. Parady, and several others, and
22 it states:

23 "On August 4, in the context
24 of a courtesy call made by
25 the Ambassador on Member of

1 Parliament and ... latest
2 developments in the case of
3 Arar. As the former ...
4 instrumental in facilitating
5 Embassy's initial access to
6 Arar by intervening with ...
7 2. Ambassador Pillarella
8 took the opportunity to
9 acquaint (whoever this is)
10 with how the case had evolved
11 since his departure from the
12 (whatever). He explained
13 that despite repeated
14 requests to the (whoever) the
15 Embassy had been denied
16 access to Arar since the
17 April visit of ... Catterall
18 and Sarkis Assadourian."

19 Then, finally, it says in the last
20 paragraph we can read:

21 "The Ambassador acknowledged
22 that this case had probably
23 placed Damascus in a
24 difficult position.
25 Nevertheless, he insisted

1 that it was in the interests
2 of both countries to solve
3 this problem. Concern in
4 Canada over this matter was
5 unlikely to die down since
6 Arar's wife remained very
7 active in maintaining public
8 attention on the case."

9 Do you recall that particular
10 meeting, whoever it was with, and giving that
11 advice to whoever you were meeting with?

12 AMBASSADOR PILLARELLA: Yes.

13 MR. CAVALLUZZO: Do you
14 recall what was percolating at that time in terms
15 of the public attention which the Arar case was
16 receiving in Canada in early August of 2003? What
17 was that issue.

18 Do you recall?

19 AMBASSADOR PILLARELLA: The issue,
20 as it is indicated in this message, is that there
21 was great interest in Canada in resolving this
22 case and I kept pressing the point with the
23 Syrians that it was in their own interest to try
24 and find a solution because it was not going to
25 die down in Canada and it was not in the interest

1 of Syria to see this continue.

2 MR. CAVALLUZZO: At that point in
3 time -- if you go to tab 478 -- do you recall that
4 there was a publication of the Syrian Human Rights
5 Committee Annual Report?

6 Do you see that?

7 AMBASSADOR PILLARELLA: Yes.

8 MR. CAVALLUZZO: In particular
9 there is express reference to Mr. Arar at page 4,
10 wherein it states that:

11 "Security Forces continue to
12 hold Maher Arar, who is also
13 a Canadian national, and who
14 was forcibly deported by
15 American Immigration
16 Authorities to Syria whilst
17 passing by a Transit lounge
18 on his way back to Canada.
19 The SHRC (Syrian Human Rights
20 Committee) had received
21 confirmed reports that
22 Mr. Arrar has been subject to
23 severe torture and intensive
24 interrogation and charged
25 with cooperating with

1 Al-Qaeda."

2 Do you recall that at this point
3 in time in early August there was a great deal of
4 public attention given to this issue that Mr. Arar
5 had been tortured while in Syria?

6 AMBASSADOR PILLARELLA: Yes.

7 MR. CAVALLUZZO: I would ask you
8 to refer to volume 6 at tab 573. Within that tab
9 you will see there are numbers. If you would go
10 to tab 11 of tab 573 you will see that there is a
11 letter dated July 29, 2003 to Dr. Mazigh from the
12 Syrian Human Rights Committee, wherein it
13 describes the torture which it is alleged that the
14 Syrian Human Rights Committee has confirmed in
15 respect of Mr. Arar.

16 Did you see a copy of this
17 particular letter which was sent to Dr. Mazigh at
18 this point in time?

19 AMBASSADOR PILLARELLA: Yes.

20 MR. CAVALLUZZO: Were you called
21 upon to do anything by the headquarters in Ottawa
22 to deal with this particular issue of whether
23 Mr. Arar had been subjected to torture, as was
24 stated in the report?

25 AMBASSADOR PILLARELLA: I believe

1 there must be a document somewhere.

2 Can you remind me which
3 document that is?

4 MR. CAVALLUZZO: Let me just take
5 you through it. We will get there then.

6 If you go, for example, to
7 tab 491, there was a discussion, because of these
8 reports, that you should be recalled --

9 AMBASSADOR PILLARELLA: Yes.

10 MR. CAVALLUZZO: -- from Syria.
11 The Ambassador should be recalled. This is
12 tab 491 of volume 5, the other volume.

13 AMBASSADOR PILLARELLA: Yes.

14 MR. CAVALLUZZO: Okay. So you
15 recall that kind of discussion?

16 AMBASSADOR PILLARELLA: Yes.

17 MR. CAVALLUZZO: So clearly within
18 Canada it was being treated very seriously, this
19 allegation, even to the point of discussing your
20 being recalled to Canada.

21 If you go to 492, the next tab,
22 you will see that there is an e-mail to you from
23 Minister Graham's office, and the e-mail, if I
24 interpret it correctly, seems to be asking you to
25 try to get consular access to Arar because the

1 media attention is intense, especially in light of
2 the troubling allegations of torture.

3 Am I interpreting that correctly?

4 AMBASSADOR PILLARELLA: Yes, yes.

5 MR. CAVALLUZZO: Okay. Then in
6 terms of your response, you said that it could be
7 frustrating to deal with the Syrians because it
8 takes a long time, but that is what you have to
9 live with. Those are the conditions which you are
10 facing every day. Okay.

11 AMBASSADOR PILLARELLA: Up to now
12 I had received indications, "Don't call us, we'll
13 call you", so...

14 MR. CAVALLUZZO: I was told that
15 very frequently by young women in the past, but
16 that is another story.

17 --- Laughter / Rires

18 AMBASSADOR PILLARELLA: It
19 happened a few times. When I became too
20 persistent, that is when they would say, "Stop
21 now. We will let you know when."

22 MR. CAVALLUZZO: Okay. Right.

23 Moving along, if you go to
24 tab 497, we see that in that -- this is a CAMANT
25 note dated August 8th. We see that the Prime

1 Minister has ruled out recalling the Ambassador,
2 despite Dr. Mazigh's plea to that effect.

3 I assume you would have been
4 informed of that, obviously --

5 AMBASSADOR PILLARELLA: Yes.

6 MR. CAVALLUZZO: -- that the
7 decision had been made by Ottawa? Okay.

8 Then if you go back to P-134, the
9 small document book, at tab 23 there are a series
10 of e-mails that I want to bring you through.
11 Unfortunately, they start at the back, so let's
12 start at around page 9.

13 We see at the bottom, this is from
14 Graeme McIntyre. Graeme McIntyre is with GMR,
15 that is the Middle Eastern desk?

16 AMBASSADOR PILLARELLA: Yes.

17 MR. CAVALLUZZO: It is dated
18 August 7th, to you, and it says:

19 "Ambassador,

20 MJM..."

21 You told us yesterday that he is
22 Assistant Deputy Minister John McNee.

23 AMBASSADOR PILLARELLA: Correct.

24 MR. CAVALLUZZO: Is he responsible
25 for the Middle East?

1 AMBASSADOR PILLARELLA: Yes. He
2 was at the time, yes.

3 MR. CAVALLUZZO: John McNee "has
4 discussed this with" -- I guess that is with the
5 Minister's office, "O/MINA"?

6 AMBASSADOR PILLARELLA: Yes.

7 MR. CAVALLUZZO: Okay.

8 "We would be grateful if you
9 could continue best efforts
10 to arrange a phone call
11 between FM Graham and his
12 Syrian counterpart at the
13 earliest possible
14 opportunity, and advise for
15 our open of business on
16 Friday 8 August where matters
17 stand."

18 You respond in the next e-mail on
19 August 8th, saying that you have just spoken with
20 Shara'a's office and you were told several things.

21 "It is very frustrating. The
22 person I spoke to in the
23 Minister's office, an
24 assistant to Tamman, said he
25 would try to reach his boss

1 and would call me back."

2 So that is in process, you are
3 trying to make that contact.

4 There are a couple of other
5 messages which we need not deal with, but if you
6 go to the next page, page 8, on August 11th we see
7 a message from you to Mr. McIntyre, and the
8 subject matter is "RE: Syria/Arar: Continued
9 efforts". You say:

10 "Despite repeated efforts I
11 have still not been able to
12 speak with Foreign Deputy
13 Minister Mouallem. I have
14 therefore decided to go back
15 to my `parliamentarian'
16 contact who (and that is
17 blacked out. During my
18 conversation with him this
19 morning, he had assured me
20 once more that he would do
21 all he can and would call me
22 back later this afternoon or
23 at the latest this morning."

24 This parliamentary contact, is
25 this the person that used to be a Foreign Deputy

1 Minister? His name is --

2 AMBASSADOR PILLARELLA:

3 Commissioner --

4 MR. CAVALLUZZO: His name is -- I
5 just don't --

6 MS McISAAC: The name is blacked
7 out for a reason, to protect the individual's
8 cooperation with Ambassador Pillarella. I'm not
9 sure that it matters who the person is and I would
10 be reluctant to allow us to delve into it to the
11 extent we might inadvertently identify him.

12 MR. CAVALLUZZO: Okay. Just I am
13 just advising my friend his name was used several
14 times yesterday.

15 In any event, we will move on.

16 Message from you, August 12th,
17 middle of the page?

18 AMBASSADOR PILLARELLA: Mm-hmm.

19 MR. CAVALLUZZO: It says:

20 "This may be good news.

21 While I am still awaiting to
22 speak with my

23 `parliamentarian' contact, I
24 have received confirmation
25 earlier today that I will be

1 meeting Thursday morning at
2 10h with the Head of the
3 organisation detaining Arar.
4 You will recall that I have
5 met with him several times
6 before, but this will be the
7 first meeting in quite some
8 time. In addition, I have
9 received an invitation for
10 lunch, for the same day, from
11 Foreign Deputy Minister
12 Mouallem on the occasion of
13 the departure of the American
14 Ambassador. This may be the
15 first occasion I will have to
16 speak with him, since he has
17 yet to return my calls."

18 So that you do have a meeting set
19 up with the head of the Syrian Military
20 Intelligence on Thursday at 10 o'clock?

21 AMBASSADOR PILLARELLA: That is
22 correct.

23 MR. CAVALLUZZO: Then you send
24 another e-mail, if we go to the previous page, on
25 August 12th, at 8 o'clock. This is a message from

1 you once again to McIntyre. It is at the top of
2 page 8, and it says:

3 "Shortly after sending my
4 last message, my
5 `parliamentarian' contact
6 called informing me that our
7 consul will be able to meet
8 with Arar and that I should
9 discuss the arrangements with
10 our `common friend' when I
11 meet with him on Thursday
12 morning. If this is
13 confirmed on Thursday, a
14 meeting with Arar should help
15 us to rebut the recent
16 charges of torture. This may
17 not represent all we would
18 wish to obtain in this case,
19 but given the circumstances
20 and the difficulties
21 encountered, to be able to
22 meet with Arar after so many
23 weeks of silence, it can be
24 considered as a small
25 break-through. I will keep

StenoTran

1 you informed."

2 Now, in respect of this
3 particular message, the wording you use is very
4 peculiar, because you talk about, if the consular
5 access goes ahead and a meeting with Arar takes
6 place, it:

7 "...should help us to rebut
8 the recent charges of
9 torture".

10 Now, you are legally trained?

11 AMBASSADOR PILLARELLA: Yes.

12 MR. CAVALLUZZO: You are a lawyer?

13 AMBASSADOR PILLARELLA: Yes.

14 MR. CAVALLUZZO: Lawyers use the
15 word "rebut" in a particular way. It is used in
16 the manner of attempting to disprove allegations
17 of torture. The question that I would have is:
18 What is the Ambassador, Canadian Ambassador to
19 Syria, doing attempting to disprove allegations
20 of torture?

21 Can you help us in that regard?

22 Because it looks like you are acting on behalf of
23 the Syrians at this point in time, not Mr. Arar?

24 AMBASSADOR PILLARELLA: Well, let
25 me enlighten you.

1 I am not acting for the Syrians,
2 as you seem to suggest. I will concede that
3 perhaps the use of the word "rebut" is not the
4 most felicitous choice. I could have used another
5 word. You have to understand that this was
6 dictated in a rush, the word came out but, as I
7 said, I could have used another word. That is
8 a given.

9 However, what that means is simply
10 this: I had seen the letter from the SHRC. This
11 was a very alarming letter to me because it
12 alleged a number of things and that was quite
13 worrisome, if these allegations were true.

14 So what struck me most in this
15 letter is paragraph 4, and the second sentence --
16 or perhaps I should read the whole paragraph.

17 It says:

18 "Mr. Arar has received
19 heavy and severe torture at
20 the initial stage of
21 interrogation. At present,
22 he receives torture and abuse
23 from time to time as a daily
24 routine of the Syrian prisons
25 practices against political

1 myself, did not conform to that.

2 So I concede that the use of the
3 word "rebuttal" was perhaps not the happiest
4 choice, but the meaning of it was simply to try to
5 find out whether these allegations were true or
6 not. It was in this context that I asked for
7 another meeting with General Khalil to obtain
8 another meeting with Mr. Arar and to be able to
9 verify that.

10 So I do not believe that you
11 should see anything else in the word "rebut."

12 MR. CAVALLUZZO: Okay. You used a
13 very interesting word in describing the second
14 sentence. Once again, we are referring back to
15 tab 573, tab 11 of volume 6, which is the letter
16 you were referring to. You were just reading from
17 that letter. I have just got it now.

18 AMBASSADOR PILLARELLA: Sorry,
19 yes.

20 MR. CAVALLUZZO: You said that in
21 reference to that second sentence that you wanted
22 to -- that the letter said that he was presently
23 receiving beatings and it didn't conform to your
24 understanding.

25 AMBASSADOR PILLARELLA: Yes.

1 MR. CAVALLUZZO: The second
2 sentence doesn't say he is receiving beatings.
3 Let me re-read the second sentence to you. It
4 says:

5 "At present, he receives
6 torture and abuse from time
7 to time as a daily routine of
8 Syrian prisons practices
9 against political detainees."

10 It doesn't say "beatings", it says
11 "torture and abuse."

12 AMBASSADOR PILLARELLA: But it
13 does say here -- hold on. I'm sorry.

14 MR. CAVALLUZZO: See, what that
15 indicates to me, Mr. Pillarella --

16 AMBASSADOR PILLARELLA: Yes.

17 MR. CAVALLUZZO: -- is that your
18 interpretation of "torture", at least at that
19 point in time, was physical, a physical beating,
20 physical mishandling, physical whatever. That was
21 your interpretation of torture?

22 MS McISAAC: In fairness, read the
23 paragraph before that, please.

24 MR. CAVALLUZZO: I wish my
25 friend would make an objection --

1 THE COMMISSIONER: Yes.

2 MR. CAVALLUZZO: -- rather than a
3 direction to the witness.

4 THE COMMISSIONER: Yes.

5 Ms McIsaac, I have asked you before, if you have
6 an objection, rise, put the objection through me,
7 and I will deal with it.

8 MS McISAAC: Well, sir, but
9 Mr. Cavalluzzo has an obligation as Commission
10 counsel to at least be fair in his asking of the
11 question.

12 THE COMMISSIONER: Thank you for
13 the submission, Ms McIsaac. That is the proper
14 way to do it.

15 Go ahead.

16 MR. CAVALLUZZO: I was referring
17 specifically to the second sentence of the fourth
18 paragraph to which you referred me.

19 AMBASSADOR PILLARELLA: Yes.

20 MR. CAVALLUZZO: You read the
21 sentence and then when you were recounting what it
22 said you referred to physical beatings.

23 AMBASSADOR PILLARELLA: Yes.

24 MR. CAVALLUZZO: Right? I am
25 putting it to you that in August 2003 your

1 interpretation of torture was physical beatings,
2 physical mishandling, physical abuse.

3 Isn't that correct?

4 AMBASSADOR PILLARELLA: There is
5 also psychological abuse --

6 MR. CAVALLUZZO: Right.

7 AMBASSADOR PILLARELLA: -- I have
8 admitted that also yesterday.

9 MR. CAVALLUZZO: When you were
10 referring to that sentence which says "torture and
11 abuse", why did you just refer to physical
12 beatings if you are aware that torture also covers
13 mental torture?

14 AMBASSADOR PILLARELLA: I could
15 have referred also to mental torture, yes.

16 MR. CAVALLUZZO: Okay.

17 AMBASSADOR PILLARELLA: But the
18 manifestation -- again, this doesn't disprove what
19 I was trying to say before in the sense that every
20 time that Mr. Arar was met -- and Mr. Martel will
21 be able to testify to that -- he did not seem to
22 present manifestations of mental torture. He did
23 not show any symptom that could be visible,
24 because even mental torture will have some effects
25 on an individual.

1 MR. CAVALLUZZO: Are you
2 satisfied that throughout his whole stay in Syrian
3 detention that Mr. Arar was not subjected to
4 mental torture?

5 AMBASSADOR PILLARELLA: I don't
6 know. He -- all I can say is that he was probably
7 subjected to some form of abuse, but I don't know
8 what form that was.

9 MR. CAVALLUZZO: We will come
10 specifically to his last visit because I'm going
11 to ask you very specific questions about that.

12 You focused in, in the fourth
13 paragraph of the letter to Dr. Mazigh, to the
14 second sentence:

15 "At present, he receives
16 torture and abuse from time
17 to time..."

18 You left out the first sentence,
19 which reads:

20 "Mr. Arar has received heavy
21 and severe torture at the
22 initial stage of
23 interrogation."

24 Are you saying now, today, that
25 you agree that in the initial stage he received

1 heavy and severe torture in the initial stage?

2 AMBASSADOR PILLARELLA: I can only
3 repeat what I have said yesterday.

4 MR. CAVALLUZZO: That it is up in
5 the air?

6 AMBASSADOR PILLARELLA: That I
7 simply do not know, because from the very first
8 visit, there was no evidence. You referred to
9 the fact that I am trained as a lawyer, and that
10 is true, and lawyers deal with facts, not with
11 suppositions. We could only -- try to put
12 yourself in our shoes at the time with what
13 we had.

14 MR. CAVALLUZZO: Lawyers also rely
15 on patterns of con --

16 AMBASSADOR PILLARELLA: Could I
17 finish my sentence, please?

18 MR. CAVALLUZZO: I'm sorry, I
19 thought you were.

20 AMBASSADOR PILLARELLA: No.

21 MR. CAVALLUZZO: Go on.

22 AMBASSADOR PILLARELLA: Try to
23 picture yourself in our shoes at the time.

24 MR. CAVALLUZZO: Mm-hmm.

25 AMBASSADOR PILLARELLA: We could

1 go by only what we observed, what Mr. Martel was
2 observing, and he reported on what he observed.
3 In the very first meeting he reported some very
4 negative points. Those very negative points
5 started slowly disappearing, in fact, as of the
6 second visit. Those are facts.

7 And I repeat what I said
8 yesterday. If we had had any indication, any
9 indication, of torture at the time, we would have
10 reported it. We would have not kept it silent,
11 believe me.

12 MR. CAVALLUZZO: Now, you have
13 introduced what lawyers rely on, and lawyers
14 obviously rely on facts. Lawyers also rely on
15 patterns of conduct, on practices, on public
16 records, and so on and so forth.

17 I'm not going to belabour the
18 point, but I'm putting it to you that at that
19 point in time, the whole period of time from
20 October 2002 through October 2003, the public
21 record was very clear as to the predilection of
22 these security forces, particularly in the
23 Palestine Branch, to engage in torture.

24 I submit to you, I am putting it
25 to you, that that is a factor that you should have

1 had in mind when you were dealing with Mr. Arar?

2 AMBASSADOR PILLARELLA: Those
3 facts were always at the forefront of our
4 preoccupations. Do not --

5 Let me say one thing. You seem
6 to imply that I am perhaps somewhat indifferent to
7 human rights.

8 Yesterday in my CV you underlined
9 the fact that I had been Director of Foreign
10 Intelligence, but perhaps simply by an oversight
11 you omitted the fact that I was also Director of
12 Human Rights. In other words, I was absolutely
13 cognizant of what human rights means.

14 But again, the fact is that in
15 this particular case we were dealing with one
16 individual, and it was a very particular case, and
17 therefore we needed facts.

18 So I don't follow when you
19 say that --

20 MR. CAVALLUZZO: Let me just
21 give you the opportunity to rebut what an
22 impression could be of your --

23 AMBASSADOR PILLARELLA: Now, if
24 you use that word it is your choice.

25 MR. CAVALLUZZO: It is my

1 choice and I am using it in, I think, the
2 appropriate way.

3 I want you to comment on this
4 statement, and that is: It could look to a
5 bystander, an innocent bystander, that while you
6 are using that kind of language and while you are
7 attempting to rebut the charges of torture, is
8 that if torture did occur, then it could be a
9 comment on how you, as the Ambassador, performed
10 your job.

11 Do you agree with that, that that
12 is a possibility?

13 AMBASSADOR PILLARELLA: You use
14 again the word "rebut" and I have explained what
15 it means. I have explained to you that perhaps
16 this was not the most felicitous choice of words,
17 yes, but then, Mr. Commissioner, I explained what
18 that word meant when I used it, that it was not a
19 question of trying to be a support of the Syrians
20 or anything. Our interest was Mr. Arar's
21 well-being, and what we had been able to verify
22 from day one was that there did not seem to be any
23 evidence of torture.

24 Now, this was saying something
25 quite different and therefore it was important for

1 us to be able to verify that.

2 If I may, Mr. Commissioner, I
3 believe that I have given an example in camera and
4 therefore I will not give details, but in general
5 terms I want to introduce something here because
6 Mr. Cavalluzzo said that I should have observed a
7 pattern in addition to facts.

8 The point is the following:
9 I said yesterday that one could not go from the
10 general to the specific. In other words, yes,
11 there are general allegations, but then there
12 are specific cases. As Mr. Livermore testified,
13 he had had cases where, you know, in countries
14 where they had the worst record of human rights,
15 some people had been detained and had not been
16 tortured.

17 I also had one case that I was
18 able to verify by myself when I was in Syria of
19 someone -- and I will not divulge who that person
20 might have been, but let's say that the detainee
21 was kept by security forces, was in the hands of
22 the security forces for six months in conditions
23 which were not very appealing, conditions of
24 detention, and again I said yesterday that the
25 conditions of detention of Mr. Arar were not --

1 probably not very good, in fact they probably were
2 appalling.

3 The point is that when I had the
4 opportunity of speaking with this person who was
5 released six months later without any charges, in
6 the confines of the Canadian official residence
7 that person described to me the conditions of
8 detention. When I asked whether that specific
9 detainee had been tortured during these six months
10 the answer was a flat no.

11 So there you have one
12 concrete example.

13 If one goes by the general
14 statement that everybody that is detained by
15 security forces, according to the allegations, is
16 going to be tortured --

17 MR. CAVALLUZZO: Was this person
18 alleged to have been a member of al-Qaeda?

19 AMBASSADOR PILLARELLA: I cannot
20 comment on that. All I will say -- all I will say
21 is that it was for political reasons.

22 MR. CAVALLUZZO: Was this person
23 alleged to have engaged in terrorist activity?

24 AMBASSADOR PILLARELLA: All I will
25 repeat is that the person was detained for

1 political reasons. I will not say more than that
2 because I cannot identify what the person is.

3 MR. CAVALLUZZO: Okay. If you
4 want to deal with the general to the specific, we
5 have, if we want to get specific, in this case --
6 in this case we have heard evidence, and will
7 perhaps hear evidence, of four Canadians who were
8 detained by security forces in Syria. Each of
9 these Canadians allege that they were tortured.

10 Does that not add some perspective
11 to how you would do your job in terms of
12 representing these individuals in Damascus?

13 AMBASSADOR PILLARELLA: Those
14 Canadians that you refer to did not receive
15 consular visits. Mr. Arar did. And we devoted --

16 MR. CAVALLUZZO: Well, that is
17 not correct.

18 THE COMMISSIONER: Let him answer
19 the question, please.

20 AMBASSADOR PILLARELLA: During my
21 time -- during my time that I was there.

22 MR. CAVALLUZZO: During your time,
23 okay. Are you aware that --

24 AMBASSADOR PILLARELLA: But I am
25 dealing with one case, Mr. Cavalluzzo, I am

1 dealing with one case. I can only repeat what I
2 said yesterday: Had we had any inkling of what
3 you are suggesting, that would have not been kept
4 silent. This would have been reported to Ottawa,
5 the same way that in the very first visit that
6 Mr. Martel had with Mr. Arar we reported some very
7 negative points.

8 MR. CAVALLUZZO: Okay. Let us
9 move, then, to the consular visit and your meeting
10 with your contact.

11 If you go to volume 6 -- actually,
12 we can stay in the small -- there is a newly
13 redacted tab 24, which is the former tab 507.

14 Tab 24 of Exhibit 134. This is
15 dated August 14th.

16 The first portion of tab 24 -- the
17 first portion deals with, I guess, your meeting
18 with General Khalil. It says:

19 "I met this morning with
20 General Hassan Khalil, head
21 of military intelligence, to
22 discuss the Arar case. The
23 meeting lasted for over two
24 hours and produced some good
25 and some less good news.

1 2. The good news is that the
2 General agreed to let our
3 Consul, Leo Martel, meet with
4 Arar this very day. A
5 separate message will
6 describe that meeting.
7 3. The less good news is
8 that according to General
9 Khalil, Arar will be put on
10 trial within one week. The
11 reason I treat this
12 information as less good news
13 is because of the
14 following..."

15 That portion is redacted but we
16 did hear that portion in camera.

17 Then if we go three pages in,
18 Mr. Pillarella, we have the August 14th report of
19 the consular visit --

20 AMBASSADOR PILLARELLA: Which tab
21 is that, please?

22 MR. CAVALLUZZO: It is the same
23 tab, three pages in.

24 AMBASSADOR PILLARELLA: Oh, yes,
25 sorry. I see.

1 MR. CAVALLUZZO: I guess, just to
2 flesh this out, presumably after your meeting with
3 Khalil you told Martel that he could see Mr. Arar,
4 and that very same day he presumably --

5 AMBASSADOR PILLARELLA: The
6 meeting, as I recall, took place within half an
7 hour. I got in touch with Mr. Martel and the
8 meeting took place. But I was not present at the
9 meeting.

10 MR. CAVALLUZZO: Okay.

11 "Consular access was granted
12 for approximately 30
13 minutes..."

14 I'm reading in terms of the
15 report.

16 "Meeting took place in the
17 office of General Hassan
18 Khalil..."

19 Then in the portion that I would
20 refer to as paragraph 3, it says -- and this is
21 obviously Mr. Arar:

22 "He was able to express
23 himself freely at times and
24 he indicated that prison
25 conditions had been more

1 difficult in the past than
2 now. He mentioned he did not
3 wish to have adverse media
4 publicity as he felt this
5 would only harm his case.
6 `The press will know the
7 truth when I return home'.
8 He confirmed that he had not
9 been beaten nor tortured. He
10 also said he had not been
11 paralysed. When asked to
12 explain he could not find
13 another word for it. He also
14 said his long detention had
15 destroyed him mentally. He
16 indicated that as far back as
17 he knows he was not receiving
18 a worse treatment than that
19 given to other prisoners."

20 Then Khalil advises that
21 Arar's case would be going to a civilian court
22 within a week.

23 In terms of that civilian court, I
24 noticed in the Human Rights Report of the
25 Department of State that there is reference to

1 military courts and there is reference to civilian
2 courts and security courts.

3 Do you know what court he was
4 going to be tried in?

5 AMBASSADOR PILLARELLA: It was
6 none of these two. It was a civilian court.

7 MR. CAVALLUZZO: It was a...?

8 AMBASSADOR PILLARELLA: A civilian
9 court, as far as I know, but it was not the
10 military nor the economic one, from what --

11 MR. CAVALLUZZO: But there are
12 military courts, there are security courts?

13 AMBASSADOR PILLARELLA: Yes, yes.

14 MR. CAVALLUZZO: Civilian courts
15 perhaps?

16 AMBASSADOR PILLARELLA: Yes.

17 MR. CAVALLUZZO: So you are saying
18 it is the civilian court, not the security court?

19 AMBASSADOR PILLARELLA: Yes, that
20 is what he said.

21 MR. CAVALLUZZO: That is your
22 understanding? Okay.

23 Then it refers to what Mr. Arar
24 would be able to do in terms of lawyers and
25 whatnot.

1 Then in paragraph 5 it says:

2 "When asked about the
3 possibility of future visits
4 the General indicated he had
5 to seek higher authority
6 before providing us with a
7 response."

8 Presumably after that visit
9 Mr. Martel came back to the embassy, reported to
10 you, and presumably drafted this report, which you
11 approved.

12 AMBASSADOR PILLARELLA: Yes.

13 MR. CAVALLUZZO: Okay. We have
14 heard evidence that on this very day somebody
15 advised Minister Graham as to this consular visit,
16 and Mr. Graham held a press scrum and stated that,
17 "We have just heard from Mr. Arar's consular visit
18 that we have seen him independently and we are
19 happy to say that he has not been tortured."

20 The question I have for you is:
21 Do you know who would have reported back to Ottawa
22 regarding this particular meeting?

23 AMBASSADOR PILLARELLA: As you can
24 see at the top of the message, this went to GMR
25 and JPD. So what it must have been -- I can only

1 assume that since JPD was in action, that JPD must
2 have reported that to the Minister.

3 MR. CAVALLUZZO: I just want to be
4 clear. So that the communication --

5 AMBASSADOR PILLARELLA: Yes.

6 MR. CAVALLUZZO: -- would have
7 been by the C-4 e-mail rather than a telephone
8 call?

9 AMBASSADOR PILLARELLA: That is
10 correct.

11 MR. CAVALLUZZO: So whoever got
12 this --

13 AMBASSADOR PILLARELLA: Yes.

14 MR. CAVALLUZZO: -- in Ottawa
15 would have or could have briefed the Minister, not
16 you or Mr. Martel --

17 AMBASSADOR PILLARELLA: In fact,
18 if you notice on the cc line, it says "MINA",
19 which means that it is the Minister's office, so
20 someone in the Minister's office had received that
21 same message at the same time as GMR and JPD.

22 MR. CAVALLUZZO: Okay. Now, when
23 you left -- or when Mr. Martel came back to the
24 embassy after having left this meeting and
25 discussing it with you and then drafting this

1 consular report, were you satisfied that Mr. Arar
2 had not been tortured?

3 AMBASSADOR PILLARELLA: Again,
4 where was the evidence? In fact, I would draw
5 your attention to this sentence in paragraph 4.
6 It says:

7 "Arar indicated to the
8 General he wished to know
9 what law he had broken in
10 Syria, if any. He reaffirmed
11 he did not belong to any kind
12 of an organization."

13 It seems to me that Mr. Arar is
14 talking back to the General, is not being
15 submissive or anything. To me this indicates that
16 he is very much alive and very much in shape.

17 MR. CAVALLUZZO: But on the basis
18 of this report and what was reported to you, you
19 are satisfied that he wasn't tortured?

20 AMBASSADOR PILLARELLA: I'm
21 satisfied that I had no evidence of torture.

22 MR. CAVALLUZZO: What about being
23 "mentally destroyed"?

24 AMBASSADOR PILLARELLA: Well,
25 someone like Mr. Arar who talks back to the

1 General -- and surely he should have been
2 intimidated by the General, but he talked back to
3 him -- to me, I don't know -- I don't know about
4 you, but it doesn't seem that this is someone who
5 has been cowed by the General or anyone else.

6 MR. CAVALLUZZO: I guess that is
7 one of our problems as lawyers; we are not expert
8 in this area. In other words, if somebody is
9 mentally destroyed it would seem to me that that
10 could amount to torture within the meaning of the
11 Convention Against Torture and Canadian law.

12 You would agree with that?

13 AMBASSADOR PILLARELLA: If one is
14 destroyed mentally, yes, that could be, but --

15 MR. CAVALLUZZO: But you didn't
16 interpret that. You were satisfied, it seems to
17 me, that there was no evidence of torture, even
18 though at this meeting Mr. Arar said, "I have been
19 mentally destroyed by this experience"?

20 AMBASSADOR PILLARELLA: You are
21 asking me to interpret something.

22 MR. CAVALLUZZO: Yes.

23 AMBASSADOR PILLARELLA: I said
24 before, I deal with facts and the facts did not
25 indicate what you are trying to imply.

1 MR. CAVALLUZZO: So the fact that
2 a detainee who has been in detention for, by this
3 time we are looking at eight, eleven months --
4 ten, eleven months, in conditions which you don't
5 know about because they are not letting you see
6 it, but we have an idea in the public record as to
7 the conditions, and the fact that a detainee says
8 "I have been mentally destroyed by this
9 experience" to you is not evidence of torture
10 within the meaning of our international norms and
11 Canadian norms?

12 AMBASSADOR PILLARELLA: I have
13 said before, and I said yesterday, that the
14 conditions in which Mr. Arar must have been
15 detained must have been quite appalling, and I
16 recognize that, but you are trying to make me say
17 something --

18 MR. CAVALLUZZO: I'm not --
19 please. I'm not trying to get you to say
20 anything. I'm just asking questions.

21 AMBASSADOR PILLARELLA: I think I
22 have answered all your questions.

23 MR. CAVALLUZZO: That's fine.

24 If you go to the last page of the
25 tab we see that Mr. Pardy immediately gives

1 instructions, "Okay, we have this information
2 now --" this is August the 15th. Mr. Pardy says:
3 "Thank you for your prompt
4 reporting yesterday and the
5 news of the visit with
6 Mr. Arar and meeting with
7 General Hassan Khalil. The
8 decision by the Syrians to
9 charge Mr. Arar in civil
10 court, as soon as next week,
11 requires immediate action by
12 the mission. These actions
13 are as follows:
14 (a) urgent efforts to contact
15 the appropriate officials...
16 (b) urgent efforts to
17 identify a local lawyer...
18 (c) immediate contact with
19 the Ministry of Foreign
20 Affairs seeking authority for
21 the issuance of visas for
22 Dr. Mazigh ... and a Canadian
23 lawyer who will observe the
24 trial.
25 2. On these points we will

1 be calling in the Syrian
2 ambassador here and
3 registering the same
4 requests."

5 Presumably with these instructions
6 from head office you and Mr. Martel got in
7 immediate action in terms of lawyers, and so on
8 and so forth?

9 AMBASSADOR PILLARELLA: Yes,
10 absolutely.

11 MR. CAVALLUZZO: Okay. Now, if we
12 go to Exhibit P-28 -- I may come back to that. I
13 have asked you that question.

14 If we go to DFAIT tab 519. This
15 is volume 6.

16 AMBASSADOR PILLARELLA: Yes?

17 MR. CAVALLUZZO: What this
18 demonstrates, you will see at the bottom of the
19 page is the very same instructions that we have
20 reviewed with you from Mr. Pardy, and then there
21 is a trail of e-mails in terms of the efforts that
22 you and Mr. Martel expend. For example, in
23 respect of a lawyer, you were instrumental in
24 getting Mr. Arar a lawyer.

25 Is that correct?

1 AMBASSADOR PILLARELLA: Correct.

2 MR. CAVALLUZZO: This lawyer was
3 obviously a Syrian lawyer?

4 AMBASSADOR PILLARELLA: Yes.

5 MR. CAVALLUZZO: His name was --
6 it is not?

7 AMBASSADOR PILLARELLA: Al Maleh,
8 I believe. That is the one that was suggested by
9 Ms Mazigh that she wanted.

10 MR. CAVALLUZZO: Right. In terms
11 of giving instructions to the lawyer, we are now
12 towards the end of August. I know you are going
13 to be returning to Canada shortly thereafter.

14 Did you play a role in terms of
15 giving the lawyer instructions, giving the lawyer
16 information, and so on and so forth?

17 AMBASSADOR PILLARELLA: No. First
18 of all, the lawyer was contacted and he was trying
19 to find out where the dossier was.

20 MR. CAVALLUZZO: By the dossier,
21 you mean the brief, all the information?

22 AMBASSADOR PILLARELLA: Yes,
23 exactly. So he was spending his time trying to
24 get the whereabouts of where things stood, because
25 even then, we knew -- we had been told that

1 Mr. Arar was going to be put on trial but we
2 still, you know, had no concrete things. It was
3 at the very beginning of the process, or what was
4 supposed to be the process.

5 So what you are saying is, any
6 instructions that might have been given or any
7 information would have probably been passed on
8 later on when things were going to gel. At that
9 particular point, it was still a little bit up in
10 the air.

11 MR. CAVALLUZZO: Did you, or did
12 you instruct anyone, to give the lawyer the
13 alleged confession that Mr. Arar made in early
14 November 2002, the one we discussed yesterday that
15 we were somewhat sceptical of?

16 AMBASSADOR PILLARELLA: No, I did
17 not at the time. As I have just said, this was at
18 the very beginning of what might have been a
19 process if the trial had gone on. But at the very
20 beginning the lawyer who had been brought into
21 this was simply trying to find his way in the maze
22 of the Syrian bureaucracy.

23 MR. CAVALLUZZO: Then, as
24 Mr. Pardy instructed, there were attempts to get
25 visas for this independent lawyer --

1 AMBASSADOR PILLARELLA: Yes.

2 MR. CAVALLUZZO: -- who would have
3 observed the trial, and so on and so forth.

4 AMBASSADOR PILLARELLA: Yes.

5 MR. CAVALLUZZO: Is there anything
6 else we should know in terms of your role
7 respecting the prospective trial and the lawyer,
8 or is that basically it?

9 AMBASSADOR PILLARELLA: Well,
10 this -- I repeat, this was the very beginning, so
11 there was very little for us to do except for the
12 lawyer that had been designated to defend
13 Mr. Arar, to try and find his way, as I said, in
14 the maze of the bureaucracy, the Syrian
15 bureaucracy.

16 MR. CAVALLUZZO: Okay. Then,
17 finally, you left Syria on September 12, 2003?

18 AMBASSADOR PILLARELLA: The 12th
19 or the 13th. I can't quite recall, yes.

20 MR. CAVALLUZZO: You related to me
21 a very interesting discussion you had at the
22 airport in Damascus as you were about to leave?

23 AMBASSADOR PILLARELLA: Yes.

24 MR. CAVALLUZZO: Could you tell
25 the Commissioner?

1 AMBASSADOR PILLARELLA: Yes, of
2 course.

3 This was around midnight, I was at
4 the airport. I was taken to the VIP lounge as I
5 was departing Syria and I met this Syrian high
6 official with whom I had had contacts in the past.
7 He simply took me aside and said, "This issue of
8 Mr. Arar will be solved very soon", and he left it
9 at that.

10 Of course, I could not report
11 that in writing as I was at the airport, but I
12 believe I passed this message orally when I came
13 back to Ottawa.

14 MR. CAVALLUZZO: You passed that
15 message on to -- do you recall?

16 AMBASSADOR PILLARELLA: It must
17 have been to the geographic division responsible
18 for Syria.

19 MR. CAVALLUZZO: Thank you,
20 Mr. Pillarella. I have no further questions.

21 AMBASSADOR PILLARELLA: My
22 pleasure.

23 THE COMMISSIONER: Mr. Waldman?

24 MR. WALDMAN: (Off microphone).

25 THE COMMISSIONER: Okay. We will

1 take a break for 15 minutes.

2 THE REGISTRAR: Please stand.

3 --- Upon recessing at 11:14 a.m. /

4 Suspension à 11 h 14

5 --- Upon resuming at 11:34 a.m. /

6 Reprise à 11 h 34

7 THE REGISTRAR: Please be seated.

8 Veuillez vous asseoir.

9 THE COMMISSIONER: Mr. Cavalluzzo?

10 MR. CAVALLUZZO: Mr. Commissioner,
11 government counsel and myself and Ms Verma met
12 over the break and I think we have worked out a
13 way in which we can get this information out
14 publicly.

15 THE COMMISSIONER: Okay. Go
16 ahead.

17 MR. CAVALLUZZO: Fortunately we
18 did.

19 I have some remaining questions
20 for you, Mr. Pillarella.

21 Once again, these questions relate
22 to the CSIS visit that we discussed yesterday,
23 that visit in November 2002.

24 What I want to ask you is whether
25 Mr. Khalil said to you that on a very exceptional

1 basis he would agree to have a Canadian
2 intelligence official come to Damascus to review
3 the information provided by Arar.

4 Is that correct?

5 AMBASSADOR PILLARELLA: He did,
6 yes.

7 MR. CAVALLUZZO: Is it true that
8 you asked whether it would be possible for the
9 official to directly ask questions of Mr. Arar?

10 AMBASSADOR PILLARELLA: That
11 is correct, but the General was non-committal
12 on this.

13 MR. CAVALLUZZO: Okay. Is it true
14 that General Khalil went on to say that the
15 official -- that is the security official from
16 Canada -- would be welcome to attend the
17 interrogation sessions and satisfy himself that
18 everything was above board?

19 AMBASSADOR PILLARELLA: Yes. In
20 fact, he said the official would be welcome to
21 attend the interrogation sessions and satisfy
22 himself that everything was above board. For
23 this, however, it would help if the official could
24 speak Arabic.

25 Then he went on to say that

1 whether or not the Canadian official could ask
2 direct questions, he would leave Damascus
3 absolutely satisfied regarding the exact
4 circumstances of Arar. He added that despite --
5 this he would do only for Canada, because he said
6 that -- he added that despite repeated requests by
7 Americans, British and Germans, this had not been
8 granted, they had not been granted such a
9 privilege, but the Syrians would be ready to
10 receive a Canadian official at our convenience.

11 MR. CAVALLUZZO: Just one final
12 question, Mr. Pillarella, and that is whether you
13 are aware as to whether any Canadian individual or
14 official attended at any interrogation session of
15 Mr. Arar?

16 AMBASSADOR PILLARELLA: The answer
17 is no.

18 MR. CAVALLUZZO: Okay. Thank you.

19 THE COMMISSIONER: Mr. Waldman?

20 EXAMINATION

21 MR. WALDMAN: I'm just going to
22 clarify a few quick points and then I will move on
23 to some other areas.

24 I just wanted to ask you about
25 your evidence about Mr. Almalki.

1 If I understood you correctly
2 yesterday, you told us that Mr. Almalki had asked
3 that he not be given consular services?

4 AMBASSADOR PILLARELLA: That is
5 not what I said.

6 MR. WALDMAN: Could you explain,
7 then, what you said?

8 AMBASSADOR PILLARELLA: What I
9 said is that when we heard about the detention of
10 Mr. Almalki, we immediately sent a note verbale to
11 the Foreign Ministry asking for consular access.
12 I also said that we never received a reply. In
13 fact -- yes, we did receive a reply, but that
14 reply was received almost 10 months later.

15 In the meantime, we were informed
16 by Ottawa that the family of Mr. Almalki did not
17 want to continue to press for access. That is
18 when -- for us it remained a consular case, but
19 the family of Mr. Almalki decided otherwise.

20 MR. WALDMAN: So did you get some
21 kind of document instructing you of this, because
22 my information is that the family never made such
23 an instruction to the officials in Ottawa.

24 AMBASSADOR PILLARELLA: Well,
25 perhaps you can put the question to Mr. Pardy,

1 because I got the information from Mr. Pardy.

2 MR. WALDMAN: So you are sure that
3 you got some kind of written direction from
4 Mr. Pardy that the family did not want you to
5 press for consular access?

6 AMBASSADOR PILLARELLA: I cannot
7 recall whether there was a written statement or
8 not. The only thing I can confirm is that this
9 information was passed on to us.

10 MR. WALDMAN: Okay. I would like
11 to move on to another area briefly.

12 One of the themes that you
13 repeated through your examination with
14 Mr. Cavalluzzo over the course of the last day or
15 so has been that you repeatedly told the Syrians
16 about the amount of publicity this case was
17 generating in Canada and how important it was, you
18 know, because of the media interest in the case
19 and you used this as sort of a bargaining chip to
20 pressure the Syrians to give you more access and
21 to be more helpful with respect to Mr. Arar.

22 Is that a fair summary of what you
23 have been saying?

24 AMBASSADOR PILLARELLA: It is one
25 of the arguments, yes.

1 MR. WALDMAN: So would you agree
2 with me, then, that the conduct of Ms Mazigh in
3 raising the profile of this case throughout the
4 year that Mr. Arar was in detention was a useful
5 bargaining chip for you in your work to try and
6 get Mr. Arar released?

7 AMBASSADOR PILLARELLA: Up to a
8 certain point, because you will recall that at one
9 point the consular visits stopped, and one of the
10 reasons why they stopped was precisely because of
11 this continued criticism of the Syrians in Canada.
12 Of course, you have to understand that on the one
13 hand they were trying to accommodate us in
14 providing those consular visits, and at the same
15 time they didn't seem to get anything in return
16 but criticism.

17 I'm not defending anyone here, I'm
18 just stating facts.

19 So, yes, publicity can help, but
20 up to a certain point because then it can have the
21 opposite effect.

22 MR. WALDMAN: Right. But even
23 while they were denying consular access, I think
24 you testified this morning that you kept going
25 back and saying, "Look, you better give us more

1 access because there has been a lot of publicity."
2 So you continued to use the publicity in Canada as
3 a bargaining chip to pressure the Syrians to give
4 more access.

5 Is that correct?

6 AMBASSADOR PILLARELLA: That is
7 true. But the point is, I was using every tool
8 that I had at my disposal and, I must say, I did
9 not have that many.

10 MR. WALDMAN: Well, isn't it true
11 that as opposed to the cases of Mr. Almalki, where
12 you didn't get consular access for well over a
13 year, as a result of the publicity in Mr. Arar's
14 case you were able to get consular access very
15 quickly and were able to continue getting consular
16 access over a long period of time because of the
17 fact that this was a high profile case?

18 AMBASSADOR PILLARELLA: No, I
19 don't believe that you can say that we got
20 consular access simply because there was this
21 publicity in Canada about it. Yes, that was one
22 factor, I repeat.

23 But we got consular access
24 because the Syrians had good relations with Canada
25 and, for their own reasons -- for their own

1 reasons -- they thought that they would grant this
2 consular access.

3 But I cannot agree to ascribe the
4 consular access only to the publicity that was
5 going on in Canada.

6 MR. WALDMAN: But it was certainly
7 a highly important factor and one theme that you
8 repeated, according to the documents, at virtually
9 every opportunity, that this was a high profile
10 Canadian case?

11 AMBASSADOR PILLARELLA: I said
12 before, I was using what I had.

13 MR. WALDMAN: Right.

14 AMBASSADOR PILLARELLA: I did not
15 have much, and whether it was -- for me it was
16 useful. For the Syrians perhaps it was less so,
17 but at least I was using what I had.

18 MR. WALDMAN: Right. It is also
19 true to say that although you requested consular
20 access of Mr. Almalki, it took well over a year,
21 or even longer for you to get it. In
22 Mr. Almalki's case, one of the factors that was
23 missing was the high profile nature of the case
24 in Canada.

25 Is that also not correct?

1 AMBASSADOR PILLARELLA: No. I
2 would say that you say it took a long time for us
3 to receive a reply, but we did receive a reply in
4 the case of Almalki. In the case of Mr. Arar, we
5 never received a reply.

6 MR. WALDMAN: Yes, but you got
7 consular access after a few weeks.

8 AMBASSADOR PILLARELLA: That is
9 correct.

10 MR. WALDMAN: In Mr. Almalki's
11 case it was almost over a year and a half, if I'm
12 not mistaken, before you ever saw Mr. Almalki.

13 AMBASSADOR PILLARELLA: No, it was
14 not a year and a half.

15 MR. WALDMAN: Well, how long
16 was it?

17 AMBASSADOR PILLARELLA: I think it
18 was several months, but it was not a year and a
19 half, according to my recollection, that we
20 received a reply.

21 MR. WALDMAN: No, no. I'm asking
22 about consular access, sir.

23 AMBASSADOR PILLARELLA: Oh, that I
24 don't know because this happened after I --

25 MR. WALDMAN: Right. So

1 Mr. Almalki was detained in Syria, if I recall
2 correctly, sometime in the summer of 2002, and you
3 left in September 2003 and you still hadn't had
4 consular access. So it was well over a year.

5 Correct?

6 AMBASSADOR PILLARELLA: But I
7 repeat, I cannot talk about something that I
8 don't know.

9 MR. WALDMAN: Yes.

10 AMBASSADOR PILLARELLA: I don't
11 know when he --

12 MR. WALDMAN: But it was after
13 you left?

14 AMBASSADOR PILLARELLA: Most
15 probably, yes.

16 MR. WALDMAN: Yes. Well, do you
17 recall him getting it before you left?

18 AMBASSADOR PILLARELLA: No. No,
19 no.

20 MR. WALDMAN: So it was after. If
21 at all, it was after. And by that time
22 Mr. Almalki had been in detention for well over a
23 year and you still hadn't got consular access?

24 AMBASSADOR PILLARELLA: I told you
25 earlier that the reason why we did not press it

1 was because of the request from the family. It
2 means that if the family had not asked us not to
3 press it, perhaps we could have obtained consular
4 access. That I don't know.

5 But you are assuming that because
6 there was no publicity about Mr. Almalki, that is
7 the reason why we did not get consular access. We
8 did not get consular access because we did not ask
9 for it after the family asked us not to press it.

10 MR. WALDMAN: Okay. Well,
11 according to the information you received anyways.
12 The family didn't ask.

13 All right. I would like to move
14 on to another area, sir.

15 You testified that as part of
16 your responsibilities as an Ambassador you were
17 to inform yourself of all aspects of Syrian
18 political life.

19 Is that correct? That was
20 your role?

21 AMBASSADOR PILLARELLA: Correct.

22 MR. WALDMAN: and to be able to
23 advise Canadians and officials in Canada on all
24 the different aspects.

25 Is that correct?

1 AMBASSADOR PILLARELLA: Correct.

2 MR. WALDMAN: So you would be
3 required to be aware of the political institutions
4 and how they worked?

5 AMBASSADOR PILLARELLA: Yes.

6 MR. WALDMAN: And you would be
7 required to know about the key persons and the key
8 positions and how they operated, and which people
9 you should get to know and which ones were the
10 persons of influence.

11 AMBASSADOR PILLARELLA: Yes.

12 MR. WALDMAN: And how the
13 judiciary worked, how the parliament worked?

14 AMBASSADOR PILLARELLA: Yes.

15 MR. WALDMAN: And you would be
16 required to know whatever was necessary to be able
17 to advise Canada and Canadian officials and their
18 counterparts.

19 Correct?

20 AMBASSADOR PILLARELLA: I think I
21 have already indicated all this before, yes.

22 MR. WALDMAN: Would you not agree
23 with me that in a country like Syria knowing the
24 human rights situation was vital to you exercising
25 your function?

1 AMBASSADOR PILLARELLA: I'm sorry,
2 I don't understand your question.

3 MR. WALDMAN: Well, I was asking
4 you, as part of your obligation to be briefed it
5 would be very important for you to be briefed
6 about the human rights situation in Syria.

7 Correct?

8 AMBASSADOR PILLARELLA: Yes. We
9 do have briefs on human rights, yes.

10 MR. WALDMAN: No, but I'm not
11 asking if you have briefs. I'm asking whether it
12 would be important for you personally as the
13 Ambassador to be briefed.

14 Correct?

15 AMBASSADOR PILLARELLA: Yes.

16 MR. WALDMAN: So I'm assuming,
17 therefore, that when you became appointed
18 Ambassador of Syria you would have made an effort
19 to inform yourself about the human rights
20 situation in the country.

21 Is that correct?

22 AMBASSADOR PILLARELLA: Well, yes.

23 MR. WALDMAN: That would be
24 something that would be very important to you as
25 part of your functions.

1 Correct?

2 AMBASSADOR PILLARELLA: Yes.

3 MR. WALDMAN: You have already
4 told us that you read the DOS report, the
5 Department of State reports?

6 AMBASSADOR PILLARELLA: Yes.

7 MR. WALDMAN: I assume that you
8 read the -- we know, although it is classified,
9 that the embassy does a human rights report on
10 Syria. So I assume you would have read that
11 report as well.

12 Correct?

13 AMBASSADOR PILLARELLA: Yes.

14 MR. WALDMAN: But you told us that
15 you didn't read or couldn't recall reading the
16 Amnesty International report that Mr. Cavalluzzo
17 put to you.

18 Is that correct?

19 AMBASSADOR PILLARELLA: I read a
20 lot of documents, believe me. So when you ask me
21 whether I recall having read this particular
22 document over another one, my answer is, I don't
23 know. I don't recall. I may have read it, I may
24 not have read it.

25 MR. WALDMAN: Could you tell me

1 what other sources you consulted during this time
2 so that you were satisfied that you were informed
3 about the human rights situation besides the
4 Department of State report and the embassy report?
5 Do you recall what other documents you read?

6 AMBASSADOR PILLARELLA: I knew
7 about the Amnesty International reports, yes.

8 MR. WALDMAN: You knew --

9 AMBASSADOR PILLARELLA: But you
10 asked me whether I had read that particular report
11 and I said I don't remember.

12 MR. WALDMAN: You don't remember.
13 But I'm asking you, do you remember reading
14 anything else besides the Department of State
15 report and the embassy reports?

16 AMBASSADOR PILLARELLA: I told
17 you, Amnesty International reports I was aware of
18 them, yes. Now, whether I read that particular
19 one over another one, that I don't remember.

20 MR. WALDMAN: I would put it to
21 you, sir, if you would have read the Amnesty
22 International reports, virtually every Amnesty
23 International report that deals with Syria has a
24 very long section on the Palestine Branch, and yet
25 yesterday you told Mr. Cavalluzzo that you never

1 heard of the Palestine Branch?

2 AMBASSADOR PILLARELLA: I did not
3 say that I did not hear about the Palestinian
4 Branch. At that particular point I was asked
5 whether I knew Mr. Arar was detained in the
6 Palestinian Branch and I said I didn't know that.

7 MR. WALDMAN: Okay. So let me ask
8 you then: Were you aware of a detention centre
9 called the Palestinian Branch?

10 AMBASSADOR PILLARELLA: I might
11 have been aware of it, but -- yes, but --

12 MR. WALDMAN: You might have or
13 you were? As a lawyer you know there are yes or
14 no answers?

15 AMBASSADOR PILLARELLA: Look, you
16 are asking me to remember things that go back
17 three or four years ago. I can't recall. To say
18 yes or no would be misleading because I wouldn't
19 be -- I would just making this up at the moment.

20 MR. WALDMAN: So you don't recall
21 at this point whether you had read about the
22 Palestine Branch?

23 AMBASSADOR PILLARELLA: I might
24 have read about it, but I don't recall at this
25 particular point, yes.

1 MR. WALDMAN: In your research,
2 did you come across the names of other notorious
3 military detention centres in Syria? Do you
4 recall any of those?

5 AMBASSADOR PILLARELLA: I might
6 have come across them, but I don't recall, no.

7 MR. WALDMAN: You told us that you
8 were informed that Mr. Arar was being detained by
9 Military Intelligence in a Military Intelligence
10 detention centre. So given that you have told us
11 that you read the DOS reports, didn't this raise
12 an immediate concern for you about the risk of
13 torture that Mr. Arar might confront?

14 AMBASSADOR PILLARELLA: I said
15 that I knew that he was being detained in some
16 sort of compound, but nothing more. That is what
17 I said in my testimony.

18 MR. WALDMAN: Well, I think there
19 are documents -- and if I have to find them I
20 will -- that he was detained by Military
21 Intelligence.

22 Correct?

23 AMBASSADOR PILLARELLA: Yes. But
24 when I was asked whether this was the Palestine
25 Branch I said I don't know. It was a sort of

1 compound, but I don't know what it was.

2 MR. WALDMAN: But clearly if he
3 was detained by Military Intelligence --

4 AMBASSADOR PILLARELLA: Yes.

5 MR. WALDMAN: -- you would agree
6 it would have been at some Military Intelligence
7 detention centre.

8 Correct?

9 AMBASSADOR PILLARELLA: Could have
10 been, yes.

11 MR. WALDMAN: Yes. Yesterday you
12 told us that you were obsessed with Mr. Arar, but
13 yet when you were taken to the Military
14 Intelligence centre where he was detained, you
15 didn't make any effort to try and find out where
16 he was detained?

17 How obsessed could you have
18 been, sir, if you couldn't have even been
19 bothered to try to find out the location where he
20 was being detained?

21 AMBASSADOR PILLARELLA: For me
22 what was important was not the location. For me
23 what was important was to have access to Mr. Arar.
24 We had been looking for Mr. Arar. We had no idea
25 where he was. Suddenly we hear that he is in

1 Syria, and for us the first and foremost
2 preoccupation was to meet with him. For that I
3 was in the hands of the Syrians.

4 So that for me was important, that
5 we could have access to Mr. Arar more than where
6 he was being detained.

7 MR. WALDMAN: Once you had
8 access and found where he was being detained,
9 wouldn't the next logical step be to find out what
10 kind of place this was, what the conditions were
11 in this place, so you could get some kind of
12 reading on what Mr. Arar was being subjected to,
13 if you were so obsessed about him as you told us
14 yesterday, sir?

15 AMBASSADOR PILLARELLA: I say to
16 you that immediately after I spoke with the
17 General, the very next day we had access to
18 Mr. Arar and Mr. Martel could see in what
19 condition he was and reported on it. So that was
20 the important factor for us.

21 When you talk about obsession,
22 yes, it became an obsession throughout the time
23 that we were dealing with Mr. Arar's case,
24 because we were trying to convince the Syrians to
25 let him go.

1 I can confirm once more that all
2 the resources of the embassy were geared to that
3 effect. We all spent -- we went beyond anything
4 that we had done before in any consular case to
5 try to get Mr. Arar out of Syria. That was the
6 obsession I was talking about.

7 MR. WALDMAN: If there was so
8 much resources at the embassy, why didn't you
9 spend some resources in trying to understand where
10 he was being detained so you could give Canadian
11 officials a proper evaluation of his conditions,
12 given what --

13 AMBASSADOR PILLARELLA: We were --

14 MR. WALDMAN: -- excuse me, I
15 haven't finished. Given what we know in the
16 documentary evidence, which I would like to
17 take you to.

18 If you could go to P-27, please.
19 P-27, page 2. The section starts, "Torture and
20 Other Cruel and Inhuman Treatment."

21 The first paragraph that
22 starts "Despite," the fourth-last line, talking
23 about prison:

24 "Although it occurs in
25 prisons, torture was most

1 likely to occur while the
2 detainees were being held at
3 one of the many detention
4 centres run by the various
5 security services throughout
6 the country, especially while
7 authorities were attempting
8 to extract a confession."

9 (As read)

10 Then moving down three paragraphs:

11 "Prison conditions generally
12 were poor and did not meet
13 international standards for
14 health and sanitation."

15 (As read)

16 Then it goes on.

17 "Facilities for political or
18 national security prisoners
19 were generally worse than
20 those of common criminals."

21 (As read)

22 Given this evidence, didn't you
23 think it was important to try and find out where
24 Mr. Arar was being detained so you could send a
25 proper evaluation back to Canada as to the

1 conditions he was facing?

2 AMBASSADOR PILLARELLA: My answer
3 to you is the same. We met with him. Mr. Martel
4 met with Mr. Arar four times within five weeks, so
5 he could see from one visit to the other in what
6 state he was. That was much more important.

7 These are general statements. We
8 had to deal with a concrete case, and I said
9 before that one cannot go from the general to the
10 specific.

11 MR. WALDMAN: Well, I would like
12 to pick up on that because, you know,
13 Mr. Pillarella, in my normal practice I am a --

14 AMBASSADOR PILLARELLA: My name is
15 "Pillarella".

16 MR. WALDMAN: Pillarella.
17 Mr. Pillarella.

18 AMBASSADOR PILLARELLA: Thank you.

19 MR. WALDMAN: Mr. Pillarella,
20 in my normal practice, I practice refugee law,
21 and what we do all the time in refugee law is we
22 evaluate whether or not there is a risk of
23 torture.

24 AMBASSADOR PILLARELLA: Right.

25 MR. WALDMAN: So it is rather

1 interesting that you have repeated something that
2 I heard Mr. Livermore tell us, which is that a bad
3 human rights record does not necessarily mean that
4 a person who is detained would be tortured. I
5 want to tell you, sir, that that certainly is a
6 principle of refugee law, that in order for a
7 person to establish a well-founded fear of
8 persecution, it is not enough to point to a bad
9 human rights record but you also have to prove
10 that there is a connection between the person and
11 the risk of torture.

12 Correct? Would you agree
13 with that?

14 AMBASSADOR PILLARELLA: My answer
15 to you is this: In an ideal world what you are
16 saying would be what we would ask, you say, to see
17 where the person is being detained and so on and
18 so forth.

19 We are not dealing in an ideal
20 world. We are talking about Syria. We were
21 already fortunate that, despite the fact that for
22 the Syrians they did not recognize Mr. Arar as a
23 Canadian citizen, that we were being accorded
24 access to him.

25 So you have to deal -- you have to

1 be on-site. You have to be in the field within
2 the conditions that you find yourself to assess
3 what you can get and what you cannot get. We were
4 extremely fortunate to get access to Mr. Arar.

5 So, I repeat, in an ideal world
6 perhaps we would have done all the things that you
7 are suggesting. But we were not in an ideal
8 world, we were in Syria.

9 MR. WALDMAN: I think you are
10 misunderstanding me, sir. I wasn't suggesting
11 anything about asking for conditions. I was
12 suggesting working with the information that you
13 had, which was (a) what you knew about Mr. Arar,
14 what you had been told by the authorities about
15 the nature of their investigation; and what you
16 knew about the human rights condition; and drawing
17 reasonable inferences. This is something
18 Mr. Cavalluzzo discussed with you.

19 What I'm putting to you, sir, is
20 that what we do all the time in refugee law, and
21 what I am suggesting that you ought to have done
22 as Ambassador when dealing with this, is put
23 together the specific human rights -- the general
24 human rights conditions and the specific
25 conditions that confronted Mr. Arar and draw a

1 reasonable inference, one which you obviously did
2 not want to do.

3 But I would like to put to you --
4 AMBASSADOR PILLARELLA: I'm sorry,
5 what did I not want to do?

6 MR. WALDMAN: You didn't want
7 to draw a reasonable inference. Let me put it to
8 you --

9 AMBASSADOR PILLARELLA: No, I'm
10 sorry. You are putting words in my mouth, or --
11 all I can say is that I have admitted that the
12 conditions of detention in Syria are most probably
13 more than appalling and I don't wish that anyone
14 should find himself or herself in detention in
15 Syria. So this is admitted.

16 But I repeat, I was dealing with a
17 very concrete case. You believe that it would
18 have been easy to go to General Khalil and say,
19 "Oh, by the way, General, is this what you call
20 the Palestine Branch? Is this where you are
21 keeping Mr. Arar?"

22 I mean, it is very difficult to do
23 anything like that.

24 I repeat, we were given access to
25 Mr. Arar. That was the important thing. We were

1 able to monitor the evolution of the detention of
2 Mr. Arar. That was important to us.

3 MR. WALDMAN: What I'm putting to
4 you, sir, is that you had in front of you evidence
5 that should have suggested to you quite clearly
6 that Mr. Arar was at very serious risk of torture,
7 because not only did you have the DOS report, you
8 knew specific things about Mr. Arar.

9 Now, if we look at the DOS report
10 which I just took you to, I would put to you that
11 there are some very clear things that we, as
12 refugee lawyers, look for when we try and evaluate
13 whether there is a risk of torture, sir. In this
14 DOS report what it says quite clearly is that
15 there are three fundamental things that increase
16 the risk of torture.

17 It says, for example, in the
18 section I just read to you:

19 "Although it occurs in
20 prisons, torture was most
21 likely to occur while the
22 detainees were being held at
23 one of the many detention
24 centres run by the various
25 security services..."

1 So the first fact, if you had
2 taken the time to read the DOS report you would
3 have had before you, is that the risk of torture
4 is highly more likely at the type of detention
5 centres where Mr. Arar was being detained.

6 Is that not correct? Is that not
7 what the DOS report says?

8 AMBASSADOR PILLARELLA: This is a
9 general statement.

10 MR. WALDMAN: Right now I'm
11 asking you --

12 THE COMMISSIONER: Let him finish
13 the answer.

14 AMBASSADOR PILLARELLA: I said
15 this is a general statement.

16 We were having access to Mr. Arar.
17 Mr. Martel was basing his report on something that
18 he was able to verify with his own eyes.

19 So, therefore, when you talk about
20 this report, this is a very general report. It
21 may be exact or not. The thing is that when we
22 are talking about Mr. Arar we are talking about a
23 concrete case with evidence.

24 MR. WALDMAN: All right. Well --

25 AMBASSADOR PILLARELLA: You are

1 trying to apply this document to the very specific
2 case, when Mr. Martel could verify with his own
3 eyes in what conditions Mr. Arar was.

4 MR. WALDMAN: So your
5 conclusions about Mr. Arar being tortured were all
6 based upon Mr. Martel's verbal -- I mean
7 observations of Mr. Arar during the consular
8 visits, where he was never alone with Mr. Arar,
9 was always accompanied by Syrian officials?

10 Is that what you are saying to me?

11 And you didn't consider the human
12 rights evidence that suggested that in the very
13 detention centres where Mr. Arar was being
14 detained torture is very frequent, especially
15 during the times where people are trying to
16 extract confessions?

17 You didn't consider that?

18 So your conclusions -- just to be
19 100 per cent clear, because I think you have said
20 this -- were based upon Mr. Martel's observations.

21 Is that correct?

22 AMBASSADOR PILLARELLA: What I'm
23 saying is that the preoccupation that some kind of
24 abuse could take place, yes, or even torture for
25 that matter could take place, this was at the

1 forefront of our preoccupation indeed.

2 However, I repeat once more,
3 because we met Mr. Arar right from the start and
4 there were no visible signs, there was no
5 indication that torture had taken place, that is
6 what has been reported.

7 MR. WALDMAN: Okay.

8 AMBASSADOR PILLARELLA: So --

9 MR. WALDMAN: All right, thank
10 you. So let's go on to that point, sir.

11 So if I understand you correctly,
12 because Mr. Martel didn't see any physical
13 sequelae of the torture, and he appeared more or
14 less alert, you concluded that he wasn't tortured.

15 Correct? He concluded he wasn't
16 tortured?

17 AMBASSADOR PILLARELLA: The
18 evidence of torture was not there.

19 MR. WALDMAN: Okay. So --

20 AMBASSADOR PILLARELLA: And I
21 repeat, if it had been there, if anything had been
22 noticed, once more I say, this would have been
23 reported.

24 MR. WALDMAN: So yesterday you
25 testified that neither you nor Mr. Martel are

1 experts in torture.

2 Is that correct?

3 AMBASSADOR PILLARELLA: Correct.

4 MR. WALDMAN: And I believe from
5 the evidence that came out there are no training
6 programs that are given to consular officials with
7 respect to identifying signs of torture.

8 Correct?

9 AMBASSADOR PILLARELLA: That I
10 know of, yes, there are none.

11 MR. WALDMAN: You personally never
12 went to any of the consular visits with Mr. Arar,
13 save and except the time the MPs were there.

14 Correct?

15 AMBASSADOR PILLARELLA: That is
16 correct, yes.

17 MR. WALDMAN: So you are relying
18 on Mr. Martel's observations and expertise?

19 AMBASSADOR PILLARELLA: And
20 Mr. Martel is an extremely, extremely, extremely
21 experienced officer with many years in the
22 department and with many years dealing with
23 consular cases, yes.

24 MR. WALDMAN: Yes, but he never
25 had any experience in identifying -- any training

1 specifically in identifying torture cases.

2 Correct?

3 AMBASSADOR PILLARELLA: He may not
4 have any formal training, but his past experience
5 of the over -- close to 40 years has certainly
6 given him --

7 MR. WALDMAN: Well, you discussed
8 this with Mr. Martel, how many times he had dealt
9 with torture victims in the past? Was this part
10 of your discussions?

11 AMBASSADOR PILLARELLA: Not on
12 those terms but --

13 MR. WALDMAN: No. So how do you
14 know how many times Mr. Martel interviewed torture
15 victims previously?

16 AMBASSADOR PILLARELLA: Because I
17 know that Mr. Martel has dealt with consular cases
18 over his whole career.

19 MR. WALDMAN: Yes, but --

20 AMBASSADOR PILLARELLA: And every
21 time, every time that Mr. Martel was coming back
22 from one of the meetings with Mr. Arar, that was
23 the first thing that we would discuss. My very
24 first question was: Are there any signs of
25 torture, or any signs of molestation of any kind?

1 The answer was always the same. No.

2 MR. WALDMAN: Okay. But you never
3 formally discussed with Mr. Martel his expertise
4 in recognizing torture cases --

5 AMBASSADOR PILLARELLA: No.

6 MR. WALDMAN: -- you just assumed
7 because of his experience that he was an expert?

8 AMBASSADOR PILLARELLA: No, but I
9 relied on his wide experience of over 35 to
10 40 years in dealing with consular cases and he is
11 a very mature person and -- yes.

12 MR. WALDMAN: So we did have
13 experts who testified on torture, and one of them
14 was Dr. Donald Payne. I printed out the page of
15 the transcript and I will read it to you. Because
16 what Dr. Payne told us on page 6058 -- I don't
17 know if you want to --

18 What he told us is that torturers
19 have become quite expert and, in fact, they have
20 learned to torture people so that they don't leave
21 visible marks or scars that last very long.

22 Were you aware of this fact, sir?

23 AMBASSADOR PILLARELLA: To that
24 precise question, probably not, but I testified
25 yesterday, I believe, to when Mr. Martel met for

1 the first time and shook hands with Mr. Arar.

2 MR. WALDMAN: Okay. Would you
3 also not agree with me that the mere fact that if
4 Mr. Arar, as you testified, told us that he had
5 been beaten during the first two weeks, the fact
6 that his physical condition --

7 MS McISAAC: Excuse me. Mr. Arar
8 has not testified.

9 MR. WALDMAN: Well, Mr. Arar's
10 statement that we are relying on, which is at
11 tab 693 which Mr. Pillarella was taken to,
12 indicates that the beatings occurred at the
13 beginning.

14 So that the fact that over time
15 his physical condition improved would not be an
16 indication of whether or not he had been tortured
17 during the first two weeks

18 Is that correct?

19 AMBASSADOR PILLARELLA: Yes, but
20 if I read the statement correctly, it says that it
21 lasted over three weeks, and Mr. Martel met him
22 after two weeks.

23 MR. WALDMAN: I'm just talking
24 about the fact that one of the factors you pointed
25 to was that as the consular visits went on his

1 physical condition improved, although you
2 acknowledge that in the first consular visits
3 there were quite a few negative signs --

4 AMBASSADOR PILLARELLA: Yes.

5 MR. WALDMAN: -- it got better.

6 So with respect to the physical
7 abuse, if it was at the beginning, the fact that
8 it got better wouldn't be conclusive as to whether
9 there was abuse at the beginning.

10 Correct?

11 AMBASSADOR PILLARELLA: No. But I
12 said that -- the statement said -- I don't say
13 that. The statement says three weeks. Mr. Martel
14 met him, according to what Mr. Arar says, that he
15 has been detained for two weeks, he met him after
16 two weeks, not three.

17 MR. WALDMAN: Excuse me.

18 Well, perhaps we could go to --
19 since you have referred to the statement, let's go
20 to tab 693.

21 AMBASSADOR PILLARELLA: Sorry.

22 Which one? I don't know.

23 MR. WALDMAN: Tab 693.

24 THE COMMISSIONER: Tab 693 was it?

25 MR. WALDMAN: I think it is

1 tab 693.

2 THE COMMISSIONER: Yes, you are
3 right.

4 MR. WALDMAN: Yes.

5 AMBASSADOR PILLARELLA: This
6 doesn't seem to be the document in which I saw
7 that particular --

8 MR. WALDMAN: I think this is just
9 a different reproduction of the same document. If
10 you go to page 4 of 6.

11 THE COMMISSIONER: In the fifth
12 last line, or sixth last line, it says:

13 "Around October 17th the
14 beatings subsided."

15 MR. WALDMAN: Yes.

16 THE COMMISSIONER: Up towards
17 the middle.

18 MR. WALDMAN: It says:

19 "The cable is a black
20 electric cable, it is a
21 shredded cables, about two
22 inches thick. They hit me
23 with it everywhere on my
24 body. They mostly aim for my
25 palms but sometimes missed

1 and hit my wrists. They were
2 sore and red for three
3 weeks."

4 So that is what you are referring
5 to about the three weeks --

6 THE COMMISSIONER: Up above he
7 says:

8 "...and was very intense for
9 a week. And then less
10 intense for another week."

11 Which seems to suggest --

12 AMBASSADOR PILLARELLA: What I
13 recall reading -- but this is not the document --
14 is that the bruises lasted for over three weeks.
15 Well, I read that. I mean --

16 MR. WALDMAN: Well, that is the
17 only document.

18 AMBASSADOR PILLARELLA: No, there
19 was another document that I saw. Now, I don't
20 know what the --

21 MR. WALDMAN: I don't think so,
22 sir. The only document we have is that -- the
23 only public statement Mr. Arar has --

24 AMBASSADOR PILLARELLA: But it was
25 not in this format. Or maybe it was in his

1 statement of claim in his -- but I read that. I
2 mean, I'm not making this up.

3 MR. WALDMAN: Okay. Let's just go
4 on for a bit, because I wanted to look at another
5 aspect of this.

6 If you could go to tab 507, sir?
7 These are Mr. Pillarella's notes -- Mr. Martel's
8 notes, sorry.

9 AMBASSADOR PILLARELLA: I'm sorry,
10 which tab?

11 MR. WALDMAN: Tab 507. Tab 508,
12 sorry.

13 The first thing I want to point
14 out to you is that there is some information in
15 this note that didn't make it into your note back
16 to Ottawa.

17 These are the notes that have been
18 identified as the ones that Mr. Martel took during
19 his consular visit?

20 AMBASSADOR PILLARELLA: I don't
21 know. I mean, this is the first time that I see
22 it, so I have no idea what it is.

23 MR. WALDMAN: I don't think it is
24 in dispute that these are the notes, sir.

25 AMBASSADOR PILLARELLA: No, but I

1 have never seen those notes and I don't know what
2 they are.

3 MS McISAAC: I think they were
4 made by Mr. Martel after the consular visit.

5 THE COMMISSIONER: Thank you.

6 MR. WALDMAN: But shortly
7 thereafter. Okay?

8 AMBASSADOR PILLARELLA: Sorry?

9 MR. WALDMAN: This was the basis
10 upon which he drafted the memo?

11 AMBASSADOR PILLARELLA: I assume
12 so, but I cannot say.

13 MR. WALDMAN: Okay, that's fine.

14 If you assume for a second, sir,
15 that these are the notes, if I could ask you to
16 go -- it says:

17 "Prison conditions".

18 It is tab 508, the first of three.

19 It says:

20 "Present conditions - I have
21 not been paralysed - not
22 beaten - not tortured.

23 Very beginning very little.

24 3' x 6 x 7.

25 Sleeping on ground. Mentally

1 destroyed."

2 If you go back to the previous
3 tab, page 3 of 4 --

4 AMBASSADOR PILLARELLA: Excuse me.
5 You said that these did not make the report, but
6 if I read this correctly this seems to be the last
7 report in August.

8 MR. WALDMAN: Right. This is
9 the --

10 AMBASSADOR PILLARELLA: And that
11 was in the report.

12 MR. WALDMAN: I'm going to take
13 you to the report. If you could go back to the
14 previous tab.

15 He said -- the way it is put in
16 the report was:

17 "He was able to express
18 himself freely at times and
19 he indicated that prison
20 conditions had been more
21 difficult in the past than
22 now."

23 So Mr. Arar has told Mr. Martel
24 that he had been detained in a 3 by 6 by 7 grave
25 and you describe this as "Prison conditions -

1 more difficult"? I mean, don't you think it would
2 have been important for the Canadian officials to
3 know that Mr. Arar had been detained in a 3 by
4 6 by 7 cell?

5 AMBASSADOR PILLARELLA: I would
6 suggest that you ask that of Mr. Martel when he
7 comes to testify, because this is the first time
8 that I see these notes. When I approved this
9 message is the draft that he presented to me and
10 that is all I saw. I don't believe that he
11 mentioned the 3 by 6 by 7. So I suggest that you
12 ask that question of Mr. Martel.

13 MR. WALDMAN: So you weren't
14 aware that?

15 AMBASSADOR PILLARELLA: No.

16 MR. WALDMAN: You were never told
17 by Mr. Martel that he was in a -- that Mr. Arar
18 had been held for 10 months and 10 days --

19 AMBASSADOR PILLARELLA: Not that
20 I recall.

21 MR. WALDMAN: -- in a 3 by 6 by 7
22 cell?

23 AMBASSADOR PILLARELLA: Not that I
24 recall, no.

25 MR. WALDMAN: But I thought you

1 told us that you were very concerned about --

2 AMBASSADOR PILLARELLA: Yes. But
3 if Mr. Martel doesn't tell me, how am I supposed
4 to know what question to ask him? I kept asking
5 the question in what condition he saw Mr. Arar and
6 he kept giving me a certain answer, but now you
7 are showing this to me and, as I said, it is the
8 first time that I see it, so --

9 MR. WALDMAN: That is very helpful
10 because maybe it will help us going on with the
11 next few questions I wanted to ask you.

12 Because we had an expert,
13 Professor Burns, who also came, and he was an
14 expert on the definitions of torture, and he
15 testified that holding someone for 10 months and
16 10 days incommunicado in a 3 by 6 by 7 cell for
17 the purposes of interrogation was torture.

18 So now, sir, will you tell me
19 whether -- that you have just found out that
20 Mr. Arar was detained for 10 months and 10 days in
21 a 3 by 6 by 7 detention centre, was Mr. Arar
22 tortured?

23 THE COMMISSIONER: Just before you
24 answer the question.

25 Yes, Ms McIsaac?

1 MS McISAAC: I guess the
2 difficulty I have, sir, is we that have not had
3 Mr. Martel's testimony as to what exactly Mr. Arar
4 told him. I mean, we have a notation 3 by 6 by 7,
5 but I don't know that Mr. Arar told Mr. Martel
6 that he had been in that cell for 10 months and
7 10 days. I simply don't know because we have not
8 had Mr. Martel's public testimony. So the premise
9 of the question is a bit difficult.

10 MR. WALDMAN: I will rephrase it.
11 If we assume that the information
12 Mr. Martel had was that Mr. Arar was in a 3 by 6
13 by 7 cell for 10 months and 10 days incommunicado,
14 would you now finally, sir, accept that Mr. Arar
15 was subject to torture in Syria?

16 AMBASSADOR PILLARELLA: If this
17 were the case, you might define that as torture.

18 My point is, I have no idea what
19 3 by 6 by 7 means --

20 MR. WALDMAN: That is not my
21 question. I'm asking you now -- I'm asking you to
22 assume that it means -- I'm just asking you now
23 based on an assumption, sir. I understand that we
24 haven't heard from Mr. Martel, we will get the
25 evidence from Mr. Martel.

1 I'm just asking you now to assume
2 that it was a 3-foot by 6-foot by 7-foot cell that
3 Mr. Arar was detained in for 10 months and
4 10 days. Would you not describe that as torture?

5 AMBASSADOR PILLARELLA: It could
6 be defined as torture, if you say so, but the
7 point is --

8 MR. WALDMAN: Well, I'm asking you
9 your opinion. Would you define it as torture?

10 You have been the one who has said
11 for the last two days Mr. Arar wasn't tortured.
12 I'm asking you now whether you would define that
13 being held in a 3 by 6 by 7 cell for 10 months and
14 10 days is torture?

15 That is what I'm asking you, and I
16 want a yes or no answer?

17 AMBASSADOR PILLARELLA: I don't
18 know in what cell Mr. Arar was detained. These
19 are notes, I don't know what they mean. I don't
20 know -- you assume that Mr. Arar was detained
21 incommunicado, I don't know that, so therefore I
22 cannot answer your question.

23 MR. WALDMAN: Well, I'm asking you
24 to assume those facts.

25 THE COMMISSIONER: Let me just

1 clarify it.

2 As I understand this question is:
3 Just assume that we will hear evidence. You can
4 assume this if it doesn't turn out to be the case,
5 that he was held in a cell of that size for
6 10 months.

7 As I understand the question
8 now, it is simply on that fact. So take that as a
9 given for the purposes of the question, and if you
10 can answer the question, do it. If you can't,
11 tell us.

12 AMBASSADOR PILLARELLA: If
13 international experts define that this is torture,
14 then maybe it is torture. But I cannot vouch for
15 it because I don't know what this means. I don't
16 know what 3 by 6 by 7 means here.

17 MR. WALDMAN: Thank you, sir.

18 Now I would like to go on to
19 another area of questioning.

20 Mr. Pillarella, you have told us
21 that you worked with ISI and ISD for a number of
22 years, correct, as you were the head of one of the
23 two or both.

24 Is that correct?

25 AMBASSADOR PILLARELLA: That is

1 correct.

2 MR. WALDMAN: As I understand
3 it, one of their key functions was to obtain
4 intelligence information to use by embassies
5 abroad.

6 Is that correct?

7 AMBASSADOR PILLARELLA: Yes.

8 MR. WALDMAN: I assume that given
9 that you worked for them and your expertise, they
10 do a good job in what they do and they provide
11 reliable information.

12 Is that correct?

13 AMBASSADOR PILLARELLA: One can
14 assume so.

15 MR. WALDMAN: So that if you got
16 information from ISD, you would generally think it
17 was accurate and reliable.

18 Correct?

19 AMBASSADOR PILLARELLA: It
20 depends.

21 MR. WALDMAN: It depends?

22 AMBASSADOR PILLARELLA: Well, I
23 don't know what your question is. I mean, you --
24 what is the -- what it is that --

25 MR. WALDMAN: I'm just asking you

1 generally speaking whether information that you
2 received from your colleagues in ISD, where they
3 asserted it as being a fact, whether you would say
4 that that was reliable information?

5 AMBASSADOR PILLARELLA: Well, we
6 received information from all sorts of sources and
7 sometimes it is -- we can take it -- depending on
8 where it is coming from we can take it as reliable
9 and sometimes not.

10 MR. WALDMAN: No, but I'm not
11 asking you from other sources. I'm asking you, if
12 you got a communication from --

13 AMBASSADOR PILLARELLA: From --

14 MR. WALDMAN: -- ISI or ISD where
15 they said "`X' is a fact", would you accept that
16 as being the case?

17 AMBASSADOR PILLARELLA: I would
18 take it as face value. I mean, yes.

19 MR. WALDMAN: Now, you told
20 Mr. Cavalluzzo that when Mr. Arar told you that
21 he had been in detention since October 10th,
22 you didn't know whether to believe him over
23 General Khalil.

24 Did I understand you correctly?
25 General Khalil had said he had

1 come the day before and Mr. Arar, in conversation
2 with Mr. Martel, had said he had been only in
3 Jordan for a few hours. You weren't sure who to
4 believe? That was your evidence yesterday.

5 AMBASSADOR PILLARELLA: I said
6 that I could not make a choice because I did not
7 have the facts, and not having the facts I
8 couldn't say yes or no.

9 MR. WALDMAN: So as it came out
10 yesterday, you didn't know who to believe between
11 the head of Syrian Military Intelligence and a
12 Canadian citizen.

13 Correct? Because you didn't have
14 confirmation.

15 AMBASSADOR PILLARELLA: I deal in
16 facts, and not having facts it is difficult to say
17 yes or no.

18 MR. WALDMAN: Okay. Well, could
19 you go to P-134, tab 1.

20 AMBASSADOR PILLARELLA: Which tab,
21 I'm sorry?

22 MR. WALDMAN: Tab 1.

23 --- Pause

24 MR. WALDMAN: This is a document
25 from ISI, right, and you found it generally

1 reliable. So when you were confronted on
2 October 23rd with choosing who to believe, I put
3 it to you, sir, that, contrary to what you said,
4 you did have evidence to corroborate Mr. Arar's
5 side of things, but you just chose to ignore it.

6 AMBASSADOR PILLARELLA: What
7 evidence, I'm sorry?

8 MR. WALDMAN: Well, I'm going to
9 take you to this.

10 Could I ask you to go to the third
11 paragraph of this very reliable source. It says:

12 "ISI has been informed that
13 (Mr. Arar) has been flown to
14 Syria."

15 So on October 10th ISI is telling
16 you that Mr. Arar is in Syria.

17 I understand that you didn't
18 confirm that until the 22nd -- 21st, but you had
19 confirmation from ISI that Mr. Arar had been in
20 Syria from October 10th.

21 Why did you not choose to believe
22 your own ISI officials, when taken in conjunction
23 with Mr. Arar's statement, over Mr. Khalil?

24 Could you explain that to me, sir?

25 AMBASSADOR PILLARELLA: The fact

1 that ISI has been informed that he has been flown
2 to Syria, there is no confirmation of that. They
3 may have received that information, but there is
4 no confirmation of it. The fact is that we were
5 looking for him in Jordan as well.

6 MR. WALDMAN: Right. But you got
7 confirmation on the 21st, and then, when you got
8 the confirmation on the 21st, you should have
9 looked back to realize that ISI had told you that
10 he had been flown to Syria on the 10th.

11 But it's not only that, sir, if I
12 could ask you to go to P-137, this was another --
13 --- Pause

14 MR. WALDMAN: So this is a
15 document that was provided to us. Page 4 of that
16 document, seems to be another copy -- another
17 similar document. This one is sent by consular
18 affairs but it has the same information in it.
19 This was sent to both you and to Jordan, and it
20 says ISI has been informed.

21 But attached to that is -- could I
22 ask you to go to the next page, sir?

23 This is a briefing memo from the
24 RCMP that was sent to DFAIT on October 18th, and I
25 suggest to you that this was further proof that

1 well before you found Mr. Arar there was evidence
2 that he was in Syria.

3 Could you go to the second page,
4 sir, of that, page 6 of 15?

5 AMBASSADOR PILLARELLA: This is
6 the first time that I see that memo. I have never
7 seen it before.

8 MR. WALDMAN: It was sent to
9 Damascus, sir.

10 If I could ask you to go back to
11 page 4?

12 AMBASSADOR PILLARELLA: When was
13 it sent to Damascus?

14 MS McISAAC: I'm sorry, sir.
15 These documents are produced this way, but I don't
16 believe the RCMP document would have been attached
17 to the --

18 AMBASSADOR PILLARELLA: No.

19 MS McISAAC: -- document that
20 went to Amman, Jordan.

21 I also think it would be fair,
22 while I'm on my feet, if Mr. Waldman were to
23 bring the Ambassador's attention to the second
24 paragraph after the one he just referred to, the
25 fifth paragraph.

1 THE COMMISSIONER: On which page,
2 I'm sorry?

3 MS McISAAC: Page 4 of 15.

4 THE COMMISSIONER: Page 4 of 15,
5 to the second paragraph.

6 MS McISAAC: The one commencing:
7 "Gar Pardy is currently in
8 Washington..."

9 THE COMMISSIONER: Right.

10 --- Pause

11 MR. WALDMAN: I guess I have some
12 confusion, because the original tab 119 also has
13 the same document attached as part of it. So I am
14 at some loss to understand, because we have been
15 working under the assumption that logically if it
16 was part of it it was attached and sent along with
17 the document.

18 MS McISAAC: If I can assist, sir,
19 that probably has more to do with the methodology
20 by which the documents would have been scanned
21 into the system, and it is quite possible that
22 they were in a group in the file from which they
23 were retrieved for the purposes of scanning.

24 But I am informed that it is
25 unlikely at the extreme that the RCMP memorandum

1 would have, in fact, been forwarded along with
2 the e-mail.

3 THE COMMISSIONER: Am I right in
4 reading this that the document at page 4 that was
5 sent to Amman was October 11th and the next one is
6 dated October the 18th.

7 MS McISAAC: That is correct
8 too, yes.

9 It is unfortunately the
10 methodology whereby the documents were retrieved
11 from files and scanned into the system.

12 MR. WALDMAN: So, sir, what I'm
13 suggesting to you, sir, is that you did have
14 information in this document that, when taken with
15 Mr. Arar's statement, should have led you to
16 believe that Mr. Arar was telling you the truth,
17 because ISI had told you he had been flown to
18 Syria on the 10th.

19 Now, it is true you were looking
20 for him for 11 days, but when you found him in
21 Syria why didn't you go back and say, "Well, we
22 were told he was in Syria on the 10th. Obviously
23 Mr. Arar is telling me the truth."

24 Isn't that evidence?

25 AMBASSADOR PILLARELLA: This is

1 conflicting information.

2 First of all, if I refer to the
3 memorandum that you have yourself indicated to me,
4 where you say:

5 "ISI was informed that he has
6 been flown to Syria."

7 If you read the previous sentence,
8 it says:

9 "The INS (informed consular
10 officials) that he was
11 `removed' from the US, but
12 were not willing to tell them
13 where."

14 In other words, already there
15 is contradiction.

16 Furthermore, if you go to the
17 other memo that you have just quoted to me, it
18 says in paragraph one, two, three, four, five:

19 "Gar Pardy is currently in
20 Washington for consular
21 meetings and has received
22 information from sources
23 there that Mr. Arar was
24 removed to Syria and that
25 Syrian authorities `dumped'

1 him into Jordan."

2 So how am I supposed to make
3 assumptions when I have contradictory information
4 to assume that Mr. Arar was already in Syria?

5 MR. WALDMAN: Perhaps you could go
6 to tab 82, sir, because I'm suggesting to you that
7 you didn't have contradictory assumptions.

8 AMBASSADOR PILLARELLA: To me,
9 these are contradictory information.

10 MR. WALDMAN: Well, look at
11 tab 82, sir.

12 THE COMMISSIONER: This is tab 82
13 in the DFAIT documents?

14 MR. WALDMAN: Right.

15 Now, you said, you know, the
16 conflicting information was, well, maybe he was
17 in Syria, maybe he was in Jordan. But by
18 October 15th, Jordan had told you they had
19 checked everywhere and he wasn't there, he hadn't
20 been there and he wasn't registered.

21 Is that correct?

22 AMBASSADOR PILLARELLA: Yes.

23 MR. WALDMAN: And at tab 89 it
24 says, if you look at that --

25 --- Pause

1 MR. WALDMAN: Were you not aware,
2 sir, that there had been delay in other cases in
3 Syria notifying people with respect to detention?
4 Wasn't that common practice?

5 You told us that it happened to
6 Mr. Almalki, that they had taken 10 months to
7 acknowledge that?

8 AMBASSADOR PILLARELLA: Yes.

9 MR. WALDMAN: So this was
10 standard practice?

11 AMBASSADOR PILLARELLA: I
12 don't know if it is standard practice. It can
13 happen, yes.

14 MR. WALDMAN: So, Mr. Pillarella,
15 I put to you, sir, that you had the October 10th
16 e-mail, you had the October -- you had the
17 October 15th e-mail saying that there was no
18 evidence he was in Jordan; you had Mr. Arar's
19 word; and I put it to you, sir, that you had ample
20 evidence to accept Mr. Arar's word and that the
21 fact is you were just being wilfully blind and
22 refusing to acknowledge what is obvious on the
23 record before you, sir.

24 AMBASSADOR PILLARELLA: I disagree
25 with you. I was not blind. I did not have the

1 facts and I deal only with facts. If that can
2 be -- if I have to repeat that again I will repeat
3 it, because what I needed were facts and I did not
4 have them.

5 MR. WALDMAN: Sir, to what
6 standard of proof does Mr. Arar have to prove to
7 you, beyond a reasonable doubt, that he was in
8 Syria incommunicado for 10 days?

9 AMBASSADOR PILLARELLA: I don't
10 know. I'm not saying that he is not saying the
11 truth. I'm not saying that. I'm simply saying, I
12 don't have facts to base myself in order to make a
13 choice. I don't know. That's all I'm saying.

14 MR. WALDMAN: Okay. I would
15 like to talk to you about another matter.

16 We see from our review of the
17 documentary evidence that you didn't hesitate to
18 give your opinion on a series of issues.

19 AMBASSADOR PILLARELLA: I'm sorry?

20 MR. WALDMAN: That when you were
21 consulted, for example, about whether there should
22 be a Special Envoy in December, you gave your
23 opinion and you were given expert advice about a
24 whole series of issues relating to consular
25 matters relating to Mr. Arar and other things.

1 Correct?

2 Would you not agree with me that,
3 as Ambassador, your opinion would carry a lot of
4 weight.

5 Is that correct? Like, they
6 would give you advice and they would expect that
7 people would --

8 AMBASSADOR PILLARELLA: My advice
9 can be accepted or it can be refused, yes.

10 MR. WALDMAN: Right. And you
11 testified that you were aware -- that you had a
12 conversation on November 6th, and at that time
13 you are aware that CSIS was thinking of coming
14 to Syria.

15 Correct?

16 AMBASSADOR PILLARELLA: Can you
17 rephrase your question, because I don't know what
18 you are saying, I'm aware of --

19 MR. WALDMAN: Well, we heard
20 evidence yesterday that there was a meeting on
21 November 6th --

22 AMBASSADOR PILLARELLA: Yes.

23 MR. WALDMAN: -- that you were
24 there, where you talked about the "bout de papier"
25 and you also talked about the possibility of a

1 CSIS trip to Syria.

2 AMBASSADOR PILLARELLA: Yes.

3 MR. WALDMAN: If we look at P-134
4 again, Tabs 7 and 8?

5 AMBASSADOR PILLARELLA: Which tab,
6 I'm sorry?

7 MR. WALDMAN: Tabs 7 and 8.

8 AMBASSADOR PILLARELLA: Yes?

9 MR. WALDMAN: Perhaps we could
10 start with -- start with 7 first.

11 Is it fair to say there was a
12 debate between DFAIT and CSIS and the RCMP about
13 the advisability of a CSIS trip to Syria at this
14 particular time given Mr. Arar's detention.

15 Is that fair to say?

16 AMBASSADOR PILLARELLA: I don't
17 know if you want to call it a debate. There was a
18 discussion, yes.

19 MR. WALDMAN: I would say that
20 there was, at least according to these documents,
21 a disagreement, because it would appear that the
22 people in DFAIT were saying it wasn't a good idea
23 and were proposing -- or some of the people in
24 DFAIT were proposing that it should be cancelled,
25 and CSIS was insistent on proceeding.

1 So there was a discussion as to
2 whether it was advisable or not and a
3 disagreement.

4 Is that a fair characterization?

5 AMBASSADOR PILLARELLA: I think
6 that there was no disagreement on a visit to
7 discuss terrorist issues. I think that if there
8 was a disagreement it was on the timing.

9 MR. WALDMAN: Right. That's
10 what I was asking -- about the timing of the
11 visit, right.

12 You agree with that?

13 AMBASSADOR PILLARELLA: Yes.

14 MR. WALDMAN: So as an expert on
15 Syria I assume that you agreed -- or am I correct
16 in assuming that you agreed with your colleagues
17 in DFAIT that given Mr. Arar's recent detention by
18 the Syrian Military Intelligence a visit at that
19 time wasn't a good idea?

20 AMBASSADOR PILLARELLA: Yes, I
21 would agree with that.

22 MR. WALDMAN: You agree with that.
23 So you didn't think it was a good idea for CSIS to
24 visit at the time.

25 AMBASSADOR PILLARELLA: At that

1 time. The timing.

2 MR. WALDMAN: Right.

3 AMBASSADOR PILLARELLA: Exactly.

4 MR. WALDMAN: So if that is the
5 case, and given what you just told us about how
6 important your opinion is, and I think if I
7 understood, why didn't you speak out and express
8 yourself and say to the officials, "This isn't a
9 good idea now. This could put Mr. Arar in
10 jeopardy. Please intercede to cancel this trip"?

11 AMBASSADOR PILLARELLA: But where
12 do you take that I did not express that idea.

13 MR. WALDMAN: You did express it?
14 I thought I understood yesterday you didn't for
15 Mr. --

16 AMBASSADOR PILLARELLA: I don't
17 recall saying that. I don't know.

18 I said that I did not object to
19 the visit but I said that the timing was perhaps
20 wrong. In fact, when you say that my opinion was
21 important -- you said it, I didn't -- but the fact
22 is that the visit went ahead after a consultation
23 with the Minister's office and the Minister did
24 not stop the visit.

25 So the Minister is the highest

1 authority, and so if the visit went on, I couldn't
2 object to it.

3 MR. WALDMAN: Well, let me just
4 understand your evidence because maybe I
5 completely misunderstood you yesterday and I think
6 it would be important that we have clearly on the
7 record what your position was with respect to this
8 visit.

9 You expressed your opposition to
10 the visit by CSIS at that time?

11 AMBASSADOR PILLARELLA: I object
12 to the timing, not to the visit.

13 MR. WALDMAN: Did you do this -- I
14 haven't seen any written material to that effect.
15 I mean, it could be that there is a redacted
16 document.

17 Did you do it in writing?

18 AMBASSADOR PILLARELLA: We are
19 talking about a meeting. I attended a meeting.

20 MR. WALDMAN: Oh. So you are
21 saying to me on the November 6th meeting this was
22 discussed, and at that meeting you said to CSIS,
23 "Don't come to Syria now. It is not a good time"?

24 AMBASSADOR PILLARELLA: I can't
25 recall the words that I used, but I probably

1 agreed with my Foreign Affairs colleague that
2 the timing was not the best, but that the visit
3 to discuss international terrorist issues was a
4 good idea.

5 MR. WALDMAN: I guess, obviously,
6 not having access to all the documents, it puts us
7 in a bit of a difficult position here.

8 But the impression we got from
9 reading these documents was that the issue of the
10 timing of the visit and the opposition by DFAIT
11 emerged after the November 6th meeting.

12 This opposition occurred on the
13 November 6th meeting that --

14 AMBASSADOR PILLARELLA: This was
15 discussed then. But then the decision was taken
16 later on.

17 I left -- I mean, I said yesterday
18 that I was in Ottawa, not for Mr. Arar. I just
19 happened to be in Ottawa for other reasons. I
20 participated in that meeting and then I left. I
21 was here on other business.

22 So the decision was taken much
23 later, and I wasn't consulted any more. I was
24 only informed at one point -- I think it goes back
25 to this message that there would be a visit and

1 that was it.

2 MR. WALDMAN: Let's go to tab 7
3 for a second.

4 AMBASSADOR PILLARELLA: Yes?

5 MR. WALDMAN: So, it says:

6 "For your personal
7 information, following a
8 meeting with the DMA..."

9 That is the deputy -- no, DMA?

10 "...of 18 November, senior
11 DFAIT representatives asked
12 CSIS to delay their visit to
13 Syria. While CSIS indicated
14 they would not attempt to
15 visit Maher Arar, they still
16 intended.... PCO chose not
17 to intervene ... so unless
18 the Minister attempts to
19 block this visit, CSIS will
20 arrive in Damascus on
21 schedule."

22 So at this point it was still up
23 in the air because -- so why didn't you intervene
24 at this point and send an e-mail back, "I
25 personally oppose this visit. I don't think it is

1 good for Mr. Arar now to have a visit"?

2 AMBASSADOR PILLARELLA: Because
3 they knew. And the message is very clear:

4 "PCO chose not to
5 intervene..."

6 They were going up to the
7 Minister. So the opinion of the Ambassador at
8 this point, going up to the Minister, was not that
9 relevant. I had made my views known at that
10 meeting, and of course the decision was not taken
11 at that meeting.

12 MR. WALDMAN: Right.

13 AMBASSADOR PILLARELLA: So they
14 knew. Here I am informed that they are going up
15 to the Minister.

16 MR. WALDMAN: The Minister. That
17 is the Minister of Foreign Affairs.

18 Correct?

19 AMBASSADOR PILLARELLA: That's
20 correct.

21 MR. WALDMAN: Right. And you
22 didn't think it would be important for you to
23 chime in at that time and say, "Hey, wait a
24 second. I think it is really a bad idea, don't --
25 don't send CSIS now", given the weight your

1 opinion would have with our Minister?

2 AMBASSADOR PILLARELLA: I was on
3 the phone very often, on the secure phone with
4 Ottawa, and I believe that I reiterated my views.
5 But once they are going to the Minister -- they
6 knew what my views were. Once they were going to
7 make a recommendation to the Minister, that is
8 where the last authority is, and if the Minister
9 doesn't object I have to follow the instructions.

10 MR. WALDMAN: Right. But your
11 opinion would be important to the Minister --

12 AMBASSADOR PILLARELLA: But I had
13 given my opinion already and my opinion would be
14 conveyed in whatever memorandum goes up to the
15 Minister. I'm sitting in Damascus, so I don't
16 write the memo. The memo is written in Ottawa.
17 It goes through the process, right up to the
18 Minister. But my views were known.

19 MR. WALDMAN: So you are
20 suggesting to me, sir, then, that your opposition
21 would have been communicated in some document to
22 the Minister --

23 AMBASSADOR PILLARELLA: Yes --

24 MR. WALDMAN: -- but you didn't
25 think it was necessary to --

1 AMBASSADOR PILLARELLA: I don't
2 know how it reached the Minister, but yes, the
3 view of Foreign Affairs was that the visit was an
4 opportune one but the timing was wrong.

5 MR. WALDMAN: Would you not agree
6 with me, sir, that it is extremely unfortunate,
7 given the rather unfortunate consequences of the
8 CSIS visit in terms of the misunderstanding that
9 emerged about whether CSIS wanted Mr. Arar back or
10 not, that it was really, really unfortunate that
11 the advice of the DFAIT officials to cancel the
12 visit was not followed at that time, that
13 historically we have seen that they were correct?

14 AMBASSADOR PILLARELLA: It may be
15 the case, but it would have been for the Minister
16 to speak with his colleague and stop the visit,
17 but this did not happen.

18 MR. WALDMAN: I'm understanding
19 you. I'm just asking you to put on your hindsight
20 and look back, and I'm asking your opinion.

21 Would you not agree with me, sir,
22 that it was unfortunate that the decision was
23 taken to allow the visit, because looking back
24 now, we see that very serious consequences flowed
25 from the visit because the Syrian Military

1 Intelligence were left, for a very long time as a
2 result of that visit, with the impression that
3 CSIS did not want Mr. Arar back.

4 Is that fair to say?

5 AMBASSADOR PILLARELLA: I will say
6 that if it is correct that this impression was
7 conveyed to the Syrians, I have to repeat what I
8 have said many times before, is that I said to the
9 Syrians, "I don't know what others may have told
10 you. As the representative of Canada, there is
11 only one voice. I am the voice of Canada in this
12 particular case, and what I'm telling you is that
13 Canada is not seeking Mr. Arar for any offence in
14 Canada and, therefore, if you release him, Canada
15 will take him back as a Canadian citizen."

16 This was the constant message
17 that I passed on to the Syrians at every
18 opportunity I had. So I don't know what others
19 might have been saying. And I said that, I said
20 "There is only one voice that speaks for Canada
21 and that is my voice."

22 MR. WALDMAN: I just want to
23 understand something you just said. You said "if
24 there was a misunderstanding".

25 Are you doubting at this point,

1 sir, after everything that you have been taken to
2 over the last few days, that the Syrians were not
3 left with the impression by CSIS that CSIS did not
4 want Mr. Arar back?

5 AMBASSADOR PILLARELLA: No, no --

6 MR. WALDMAN: Are you doubting
7 that now?

8 AMBASSADOR PILLARELLA: No, no.
9 That is not what I said. What I said is, the
10 Syrians told me that. I had the occasion to ask
11 the then Director of CSIS about this and he denied
12 that CSIS had ever given this information to the
13 Syrians. So that is what I'm saying.

14 But, yes, the Syrians told me
15 that, and I reported that.

16 MR. WALDMAN: Right. So there
17 is no dispute that there was a misunderstanding,
18 that the Syrians were clearly left with that
19 impression?

20 AMBASSADOR PILLARELLA: They said
21 that this is what they had been told, but I
22 corrected that impression not once, not twice, but
23 many, many times. Every time I had the
24 opportunity, whenever -- and this goes back to
25 only one time when this was mentioned.

1 And yes, two people repeated that
2 on a few occasions, and on these occasions I said,
3 "No, that is not correct. If this is what you
4 have been told, this is not correct. What is
5 correct is what I, as Canada's representative in
6 Syria, am telling you. Canada wants Mr. Arar back
7 in Canada."

8 MR. WALDMAN: Okay. Despite the
9 fact that you kept saying this, the message kept
10 being repeated, for months and months and months,
11 that Intelligence understood that they didn't want
12 Mr. Arar back.

13 Correct?

14 AMBASSADOR PILLARELLA: Let me say
15 this: With all due respect to CSIS, if the
16 Syrians did not let Mr. Arar back in Canada until
17 the time that they did, believe me, this is not
18 because CSIS might have asked the Syrians to keep
19 Mr. Arar. The Syrians let Mr. Arar back to Canada
20 when it suited their purposes, not because CSIS
21 might have asked them to keep him.

22 MR. WALDMAN: So you are saying to
23 me that in your opinion CSIS had absolutely no
24 influence over Syrian Military Intelligence?

25 AMBASSADOR PILLARELLA: I'm saying

1 that if the Syrians did not let Mr. Arar back into
2 Canada before the time they did it was certainly
3 not because CSIS might have asked them to keep
4 him. That's all I'm saying.

5 MR. WALDMAN: But I think it is
6 quite clear -- in many of the e-mails that you
7 were sending back and reports that you were
8 sending back, it was clear that foreign military
9 intelligence was the more powerful group and they
10 had much more sway.

11 AMBASSADOR PILLARELLA: Yes.

12 MR. WALDMAN: And you also said in
13 many of your e-mails back that they preferred --
14 and you said that yesterday again --

15 AMBASSADOR PILLARELLA: Yes.

16 MR. WALDMAN: -- that they
17 preferred to deal with intelligence agencies.

18 AMBASSADOR PILLARELLA: That is
19 correct.

20 MR. WALDMAN: Indeed, in your
21 testimony this morning, just after the break, you
22 also confirmed that General Khalil went to the
23 extraordinary lengths of inviting our security
24 services to come and even attend an interrogation
25 of Mr. Arar.

1 Is that correct?

2 AMBASSADOR PILLARELLA: That is
3 correct.

4 MR. WALDMAN: You also told us
5 that they were so anxious to have cooperation with
6 Canada that they said, "We are going to cooperate
7 with your Canadian intelligence in a way that we
8 are not cooperating with the Americans, the
9 Brits," and I can't remember the other -- "and the
10 Germans".

11 Is that correct?

12 AMBASSADOR PILLARELLA: Yes.

13 MR. WALDMAN: Doesn't that suggest
14 to you, sir, that the intelligences were extremely
15 interested in developing a very close and good
16 relationship with CSIS?

17 AMBASSADOR PILLARELLA:
18 Mr. Commissioner, may I point out that I have
19 indicated in camera certain aspects which I am not
20 free to discuss here, but you know that I have
21 testified on this very particular point and I just
22 wanted to point this out that you have heard me
23 discuss on this particular issue.

24 THE COMMISSIONER: Well, if
25 you are able to answer the question with

1 publicly available information, do. If you are
2 not, then --

3 AMBASSADOR PILLARELLA: Well,
4 unfortunately, I am not able. I have to ask for
5 NSC on this particular issue.

6 But you will remember that on this
7 relationship between CSIS and the Syrians I
8 provided testimony that cannot be made public.

9 MR. WALDMAN: But you are not
10 disputing any of the facts that I just put before
11 you, sir?

12 AMBASSADOR PILLARELLA: No, I'm
13 only repeating what I said before, is that in my
14 opinion, knowing what I know, is that if Mr. Arar
15 was not released before he was released it is not
16 because CSIS might have asked them to keep him.
17 That's all I'm saying.

18 MR. WALDMAN: But we have just
19 gone through several minutes about how important
20 the relationship was.

21 AMBASSADOR PILLARELLA: The
22 relationship was important with Canada, and many
23 times, many times, the General said he was dealing
24 with me as Canada's Ambassador.

25 So, yes, Canada is manifested in

1 various departments and in various agencies, but
2 he was dealing with me as representative of
3 Canada. That was the important relationship.

4 MR. WALDMAN: Mr. Commissioner, I
5 have a rather lengthy area I was going to go into
6 next. I have about another hour and I need to get
7 some instructions from my client about a document
8 that I got this morning that I need to discuss
9 with him. So perhaps it is about 10 minutes early
10 for the break.

11 THE COMMISSIONER: You will be
12 just another hour.

13 Is that what you are saying?

14 MR. WALDMAN: Yes. So we
15 could break until 2:15, because I want to speak
16 to Mr. --

17 THE COMMISSIONER: Do you know how
18 long will you be, Ms McIsaac?

19 MS McISAAC: We wouldn't expect to
20 be more than half an hour.

21 THE COMMISSIONER: Okay. Then we
22 could do it. Until 2:15.

23 THE REGISTRAR: Please stand.

24 --- Upon recessing at 12:50 p.m. /

25 Suspension à 12 h 50

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 MR. WALDMAN: Thank you,
6 Mr. Commissioner, for accommodating me.

7 The reason why I needed the extra
8 time was, about three minutes before the hearing
9 started I got handed this new unredaction of a
10 document we've had, and obviously it's an
11 extremely important document, and we needed to
12 review it before we could take a position on it,
13 and indeed, it's going to form part of my
14 cross-examination.

15 So we had to take a position on --
16 obviously we're always consulted about release of
17 documents, and Mr. Arar's position has always been
18 that everything should be released but I had to
19 show it to Mr. Arar to get his instructions, which
20 I was able to do over lunch, so we're content to
21 have the document released.

22 I'm not blaming anyone, I'm just
23 saying that the way we're getting these documents,
24 sometimes the day before, sometimes the day of, is
25 making our task extremely, extremely difficult,

1 and that's why, you know, it's sometimes necessary
2 to ask for accommodations.

3 And it brings me to this document,
4 because -- first of all, we need the document to
5 be entered, but I don't know if you have copies
6 made of it yet? No.

7 MR. CAVALLUZZO: Well, we can get
8 copies made. Are you going to be referring to it
9 immediately?

10 MR. WALDMAN: No. I want to make
11 a brief comment on the document because I have a
12 request to make arising out of the document, and
13 then I'll do some other areas and then I'll come
14 back to the document.

15 THE COMMISSIONER: Should I be
16 looking at a copy of the document?

17 MR. WALDMAN: Well -- yes, I think
18 you're going to need to see the document to
19 understand where I'm coming from with respect to
20 my comments.

21 MR. CAVALLUZZO: There are two
22 documents but ...

23 THE COMMISSIONER: Okay. Go
24 ahead.

25 MR. WALDMAN: Now, this document

1 contains more detailed information about the
2 alleged confession of Mr. Arar in paragraph 2,
3 and --

4 AMBASSADOR PILLARELLA: Excuse me.
5 Can I have a copy of that document?

6 MR. WALDMAN: I'm not questioning
7 you now, sir. Believe me, before we question you
8 about it, we'll give you a copy.

9 AMBASSADOR PILLARELLA: Very well.

10 MR. WALDMAN: Right now I'm making
11 a submission to the Commissioner about some relief
12 that we're seeking because of the document.

13 This is relevant because we also
14 have -- before the Commission you will recall,
15 Mr. Commissioner, when Mr. El Maati filed an
16 application to intervene, he filed a detailed
17 affidavit where he detailed his experiences as
18 well in interrogations by the same officials; and
19 if we had had this information when Mr. Ofshe was
20 called last week, we would have wanted to put it
21 to him directly because it's highly relevant.

22 Because if you'll recall, some of
23 the evidence of Mr. Ofshe was related to the
24 Central Park joggers and how the individuals were
25 all arrested and interrogated by the same police

1 force at the same time and were induced into
2 making confessions, and it would have been
3 important to be able to put this information to
4 Mr. Ofshe.

5 Now, we're not proposing that
6 Mr. Ofshe be called again, but what we would like
7 to be able to do is to make a written question to
8 him and ask him to review these documents and be
9 able --

10 THE COMMISSIONER: This document?

11 MR. WALDMAN: This document and
12 Mr. El Maati's affidavit, and be able to give his
13 opinion on that.

14 THE COMMISSIONER: Well, you had
15 Mr. El Maati's affidavit when he was here.

16 MR. WALDMAN: Yes, but we didn't
17 have this. We didn't have the pattern. The whole
18 issue is the one of the pattern, sir.

19 THE COMMISSIONER: Right. Does
20 anybody else -- Ms McIsaac, have you heard of this
21 request before?

22 MR. WALDMAN: Obviously she
23 hadn't. I just developed it over lunch.

24 MS McISAAC: I'm not quite sure I
25 follow it either.

1 THE COMMISSIONER: I think, as I
2 understand it, the request is that this document,
3 Mr. El Maati's affidavit, be sent to Mr. Ofshe and
4 he be asked to give an opinion that -- you'll have
5 to finish the sentence.

6 MR. WALDMAN: Well, he gave us
7 evidence in terms of how people are -- that
8 there's a whole pattern where a whole series of
9 people interrogated by the same people at the same
10 time are induced to give false confessions and
11 whether this might possibly fit into that type of
12 pattern. We didn't have the two at that time. We
13 didn't have any information with respect to
14 Mr. Arar's confession at that time. We now do.

15 THE COMMISSIONER: Mr. Cavalluzzo?

16 MR. CAVALLUZZO: If I could just
17 ask a question?

18 What is Mr. Ofshe going to
19 compare? I assume you've got the El Maati
20 affidavit there. But what's he going to compare
21 that to?

22 MR. WALDMAN: Well, not compare it
23 to, but just give an opinion with respect to --
24 you know what? Perhaps -- maybe we can leave this
25 for now, and I'll discuss it again overnight with

1 Ms Edwardh --

2 THE COMMISSIONER: I'm not sure
3 that -- in fairness to Mr. Ofshe, it's not clear
4 to me exactly what opinion it is you're seeking
5 from Mr. Ofshe, but one would want to be careful
6 that he has expertise in the area.

7 I mean, normally the pattern type
8 of evidence you're talking is something that a
9 judge will determine -- patterns depend on
10 similarities between courses of conduct and it's a
11 matter of probative value and relevance that a
12 judge would normally --

13 MR. WALDMAN: I understand, sir.

14 THE COMMISSIONER: In any event,
15 why don't you -- if you want to put it to one
16 side. If you have any questions of this witness
17 about this document, then you'll have a chance to
18 ask him.

19 MR. WALDMAN: I plan to.

20 THE COMMISSIONER: We should get
21 copies made of it. Why don't you carry on with
22 your cross-examination and we'll get enough copies
23 made, and then once we get the copies made, you
24 can ask the witness about this document.

25 MR. WALDMAN: I've got a few lines

1 of questions.

2 THE COMMISSIONER: Okay.

3 MR. WALDMAN: Or another line of
4 questions, so ...

5 I can come back to the document in
6 a while.

7 THE COMMISSIONER: Okay.

8 MR. WALDMAN: So, I just want to
9 carry on, Mr. Pillarella, with respect to the last
10 point we were talking about, your evidence that
11 Syria -- if I understood you correctly, basically
12 Syria made its decision about whether to release
13 Mr. Arar based upon its evaluations of its
14 self-interest. Is that what you were saying?

15 AMBASSADOR PILLARELLA: Correct.

16 MR. WALDMAN: So that when it made
17 a decision with respect to this or anything else,
18 it wasn't based -- it was based on its assessment
19 as what was in its self-interest at the time, when
20 it released Mr. Arar?

21 AMBASSADOR PILLARELLA: That is
22 correct.

23 MR. WALDMAN: And it's fair to
24 say, sir, that, in terms of how Syria defines its
25 self-interest, that's something for the Syrians to

1 know, correct?

2 AMBASSADOR PILLARELLA: Yes, it
3 should be.

4 MR. WALDMAN: Right. And, you
5 know, we can all guess, I suppose, and some of us
6 might have better educated guesses or not, but
7 it's the Syrians themselves who are going to be
8 the ones that define self-interest, right, their
9 self-interest?

10 AMBASSADOR PILLARELLA: Yes.

11 MR. WALDMAN: And they're the only
12 ones that can tell us for sure what was in their
13 mind when they decided that it was in their
14 self-interest to release Mr. Arar. Is that fair
15 to say?

16 AMBASSADOR PILLARELLA: Correct,
17 yes.

18 MR. WALDMAN: And would it be fair
19 to say that neither you nor I can know for certain
20 what factors Syria might have taken into account
21 when it decided in October of 2003 to release
22 Mr. Arar?

23 AMBASSADOR PILLARELLA: Mm-hmm.

24 MR. WALDMAN: We could hypothesize
25 but we can't put ourselves into the heads of the

1 Syrian Generals, right?

2 AMBASSADOR PILLARELLA: Obviously
3 not.

4 MR. WALDMAN: And it would also be
5 fair to say, sir, that during the time from
6 October 2002, when Mr. Arar as arrested, and until
7 he was released, we can't really know what were
8 the factors that were defining, in Syria's mind,
9 their self-interest to keep him detained. Is that
10 fair as well?

11 AMBASSADOR PILLARELLA: Well, I
12 believe that this -- I have indicated before, the
13 Syrians were convinced that Mr. Arar posed a
14 threat to their national security, and that was
15 one of the reasons why they were keeping him.
16 I've said that yesterday.

17 MR. WALDMAN: Right.

18 And their concern seemed to switch
19 at different times between the Muslim Brotherhood
20 and al-Qaeda. That's also true?

21 AMBASSADOR PILLARELLA: As I have
22 indicated, once they spoke about the Muslim
23 Brotherhood, another time they spoke about
24 al-Qaeda, but what was important to them, from the
25 way I understood it, was extremism in terms of

1 terrorism, and therefore they were crossing from
2 one to the other, because they claimed that the
3 Muslim Brotherhood does have links with al-Qaeda.

4 MR. WALDMAN: Okay. But at the
5 same time, obviously their decision to accept
6 Mr. Arar had to do with possibly considerations of
7 U.S. interests as well, when they took him -- we
8 don't know, but it might have been?

9 AMBASSADOR PILLARELLA: Well, I
10 can -- and this, of course, I have to be very
11 careful. I did ask the General why had the
12 Americans taken Mr. Arar to Syria rather than
13 sending him back to Canada.

14 Commissioner, you will remember
15 that I testified to that and I have mentioned the
16 reply, but unfortunately, that reply has to be
17 covered by NSC, but you know what the reply was.

18 MR. WALDMAN: Right. But
19 ultimately, for the purposes of the public, I
20 mean, you would accept that when the Syrians
21 decided to take him, considerations of U.S.
22 relations, I mean, I think -- it's filled through
23 the documents that at that time they were taking
24 him as a favour to the U.S. There's all sorts of
25 suggestions of that.

1 I'm not asking you to confirm
2 that, but it might have been a factor. Is that
3 fair to say, as part of their self-interest?

4 AMBASSADOR PILLARELLA: Yes,
5 absolutely.

6 MR. WALDMAN: So there's a whole
7 series of factors that might go into their
8 definition of self-interest.

9 And you also agreed with me this
10 morning, sir, that it's clear, and we went over a
11 whole series of indicators of this, that Syria
12 wanted to create a good impression with Canada and
13 especially with our security services. Is that
14 correct?

15 AMBASSADOR PILLARELLA: No, that
16 is not quite what I said this morning. In fact, I
17 specified that the General said that the
18 relationship was with Canada, through me, not with
19 the various services.

20 So the good relationship that they
21 wanted was with Canada but not with any specific
22 service per se, and he made that very clear. He
23 said, "My relationship is with you, as
24 representative of Canada."

25 MR. WALDMAN: Right. And you were

1 representing Canada in all of its different
2 aspects --

3 AMBASSADOR PILLARELLA: That is
4 correct.

5 MR. WALDMAN: -- including the
6 security services?

7 AMBASSADOR PILLARELLA: That is
8 correct. But your question was that he wanted to
9 have a special relationship with the intelligence
10 or the security service, and I said, not quite.

11 He established that it was with
12 Canada, through me, not with a specific service in
13 particular.

14 MR. WALDMAN: Okay. But having
15 said all of that, sir, you would agree with me,
16 though, that when we try and understand how the
17 Syrians were evaluating their self-interest, we
18 can't say for certain that their concern about
19 pleasing one part of Canada, i.e. CSIS, might not
20 have been something that was a relevant factor in
21 their evaluation of self-interest?

22 AMBASSADOR PILLARELLA: Once
23 again, I have to come back to you, Commissioner.
24 I believe that in camera I provided you with the
25 answer with regard to the relationship with the

1 service, but I cannot mention this in public
2 because it is covered by the National Security
3 Confidentiality. But you know the answer to that.

4 MR. WALDMAN: Okay. So I think
5 I've done as much as I can. I'll move on.

6 THE COMMISSIONER: I think so.

7 MR. WALDMAN: I'd like to deal
8 with the consular visits for a bit. I'd like you
9 to go to tab 3, P-134.

10 I just want to ask you just a few
11 general questions about the practice with respect
12 to the consular notes, and I think some of this
13 was covered, but I just want to be 100 percent
14 sure I understood it.

15 This is a consular note that was
16 prepared by Mr. Martel and approved by you?

17 AMBASSADOR PILLARELLA: Correct.

18 MR. WALDMAN: So I just want to
19 understand your practice. I think you told us a
20 bit about this, but I just want to make sure I
21 understood it completely.

22 Mr. Martel would write the notes
23 and you would approve them, and I just want to get
24 a full appreciation of what it meant by approving.
25 I gather that you would have had to read them

1 before you approved them, right?

2 AMBASSADOR PILLARELLA: First of
3 all, every time that Mr. Martel visited Mr. Arar,
4 he would come back to the embassy and the first
5 thing he would do would be to debrief me, and he
6 would tell me about the visit.

7 The next step, he would go back to
8 his office and prepare the draft.

9 Now, it was my habit, and it still
10 is my habit, that anything of importance that goes
11 out of the embassy comes to me because I want to
12 be aware of what goes out because, ultimately, it
13 is my responsibility, regardless of who drafts any
14 message, and I want to make sure that what goes
15 out is accurate.

16 And then, also because you have
17 noticed that there is a paragraph of comments, and
18 these comments can be drafted either by Mr. Martel
19 or by myself, but as the facts are concerned,
20 those are drafted by Mr. Martel and they are not
21 touched by me because he is reporting on facts and
22 I have to rely on what he says and that,
23 obviously, I just read and take note of them, and
24 that's it.

25 MR. WALDMAN: Just to be clear, at

1 no point would you say, "Well, Mr. Martel, there's
2 this fact missing, that fact missing." You relied
3 on Mr. Martel to prepare the facts.

4 AMBASSADOR PILLARELLA:
5 Absolutely.

6 MR. WALDMAN: And with respect to
7 the comment -- some of the comments might have
8 been written by you and some of them by Martel.

9 AMBASSADOR PILLARELLA: Yes,
10 because if you look at the nature of the comments,
11 it doesn't have anything to do with the facts per
12 se. I mean, these may be general comments and
13 say -- now, if we --

14 MR. WALDMAN: So the one on -- if
15 you could look -- if I could ask you to go to the
16 one on page 2 of tab 3 --

17 AMBASSADOR PILLARELLA: Yes.

18 MR. WALDMAN:

19 "Given the circumstances of
20 this case ..."

21 Was that written by you or
22 Mr. Martel? Do you recall?

23 AMBASSADOR PILLARELLA: As I
24 recall, I think that this was mostly written by me
25 because this had nothing to do with the facts per

1 se.

2 What goes right up to paragraph 9,
3 that was drafted by Mr. Martel because he was the
4 one who met with Mr. Arar and he knew the facts,
5 and that, he is responsible for those facts. I
6 only read them and I just take note of them,
7 that's all.

8 MR. WALDMAN: Okay.

9 So you would never have said,
10 "Well, Mr. Martel, you told me this in the
11 debriefing, but the facts are different here, and
12 you should change this"? You never recall doing
13 that?

14 AMBASSADOR PILLARELLA: If you're
15 suggesting that seriously, I find that very
16 offensive, because I would never change facts that
17 Mr. Martel would report. He has the facts, he
18 writes the facts. I don't touch them.

19 MR. WALDMAN: Okay. That's very
20 helpful. And you also told us that you didn't see
21 Mr. Martel's notes that he took of the meetings,
22 and we went through one set of notes, and I assume
23 as a matter of practice he didn't show you his
24 notes?

25 AMBASSADOR PILLARELLA: No.

1 MR. WALDMAN: So, I'm just trying
2 to understand. Your approval of the -- if you
3 weren't going to change any of the facts, why
4 would you have to approve it before it went out?

5 AMBASSADOR PILLARELLA: It's a
6 word that is used, "approved". It could have read
7 "seen" and it's the same thing. This is a very
8 generic term that applies to everyone. It doesn't
9 only apply to this particular case.

10 Everything of importance, as I've
11 said, that goes out of the embassy, because I'm
12 ultimately responsible, I want to see what goes
13 out. I have to know. And if this goes without me
14 knowing about it, then I would not be doing my
15 job.

16 But this is a practice that is
17 followed -- each embassy and each ambassador has
18 different ways of doing things. In my case, I
19 want to see everything of importance.

20 MR. WALDMAN: Okay. But you
21 don't -- I just want to -- you were offended by my
22 comments. I just want to be absolutely clear.

23 You didn't touch any of the
24 factual portion. You didn't think that was your
25 job. You relied completely on Mr. Martel to

1 relate the facts. So when you say approved it,
2 it's just really that you saw it?

3 AMBASSADOR PILLARELLA: That's
4 correct. And that is the reason why I said -- if
5 you were suggesting that I might change facts,
6 that's what I found offensive.

7 MR. WALDMAN: No, no, no. I was
8 suggesting that maybe you had had a debriefing and
9 then you got one set of facts and then you read
10 the document and you said, well, something was
11 inconsistent with your debriefing and you said,
12 "Oh, Mr. Martel, you told me this here, you told
13 me that there. What's the right one?" Or
14 something like that. But, I think I'm quite
15 clear. I'm not suggesting that.

16 So your role was sometimes to put
17 something in the comments and sometimes Mr. Martel
18 would do that. Who would decide --

19 AMBASSADOR PILLARELLA: It's
20 simply that we would talk about it, and I might
21 have a, let's say, more general view of things,
22 and I could make comments of that nature, whereas
23 in this case, it was much narrower. Therefore,
24 because I was also talking to other people, I had
25 a better feel for the country.

1 So, for instance, when you read
2 the first sentence, it says:

3 "Given the circumstances of
4 this case and the fact that
5 the Syrians never allowed for
6 such encounters, the result
7 of the meeting was probably
8 better than one could
9 expect."

10 Well, this is probably my comment
11 simply because I knew the general lay of the land,
12 I had spoken with my other colleagues where this
13 had never happened, so I could make such a comment
14 with perhaps more authority than Mr. Martel. But
15 that does not concern the facts.

16 MR. WALDMAN: All right. So there
17 wasn't any time that you said to Martel, you know,
18 "Your debriefing had more facts and you're missing
19 something"?

20 AMBASSADOR PILLARELLA: I believe
21 that I have answered that question already.

22 MR. WALDMAN: All right. Did you
23 speak to Mr. Martel and give him instructions
24 before he went on his visits about what he should
25 be looking for, or was that not your role?

1 AMBASSADOR PILLARELLA: We always
2 spoke about the visits, and I've said the very
3 first question that I would ask Mr. Martel,
4 starting with the first visit, right up to the
5 last one, was, "How did Mr. Arar look? What was
6 his demeanour? What was his appearance?" Simply
7 to try to find out how he was and whether there
8 was any indication of any perhaps, well, violence
9 or mistreatment or anything like that, and that
10 was standard. Every time Mr. Arar -- Mr. Martel
11 came back from a visit with Mr. Arar.

12 MR. WALDMAN: No, but I was asking
13 you whether you spoke to him before the visits and
14 gave him instructions, not after.

15 AMBASSADOR PILLARELLA: Well, we
16 had spoken about it so many times that I didn't
17 have to repeat every time the same things, but I
18 wanted to hear if there was anything new after
19 each visit.

20 MR. WALDMAN: So in terms of
21 Mr. Martel's duty, he was consul, correct, and he
22 was in charge of consular matters, so his
23 responsibility would have been directed towards
24 Mr. Arar's well-being? Is that correct?

25 AMBASSADOR PILLARELLA: Yes.

1 MR. WALDMAN: And that was his
2 sole responsibility. He wasn't representing all
3 of Canada, like you, the Ambassador --

4 AMBASSADOR PILLARELLA: No, no,
5 no. He was wearing two hats: one was the
6 consular hat, and the other was the administrative
7 one, the administration of the embassy.

8 MR. WALDMAN: So what is the
9 administrative --

10 AMBASSADOR PILLARELLA: Well, the
11 administration of the embassy, all the rules and
12 regulations, the local employees, and things like
13 that, but --

14 MR. WALDMAN: He was not
15 representing any other part of the Government of
16 Canada except for consular affairs?

17 AMBASSADOR PILLARELLA: No, no.
18 That's correct, yes.

19 MR. WALDMAN: So it wouldn't have
20 been appropriate for you to instruct Mr. Martel to
21 try and obtain further details about Mr. Martel's
22 investigation for the purposes of criminal
23 prosecutions in Canada?

24 AMBASSADOR PILLARELLA: Absolutely
25 not.

1 MR. WALDMAN: But Mr. Martel did,
2 in fact, in addition to seek consular access, use
3 that access to inquire about getting further
4 information from Mr. Arar?

5 I'd like to take you to tab 192.

6 --- Pause

7 If you look at tab 192. Do you
8 have that there, sir?

9 AMBASSADOR PILLARELLA: Yes.

10 MR. WALDMAN: Paragraph 5:

11 "Martel tried to obtain some
12 information on the
13 progression of the
14 investigation but Syrians
15 remained silent. They said
16 that HOM had been provided
17 with a full report."

18 I put it to you, sir, that it
19 wasn't appropriate for Mr. Martel to be seeking
20 information about the investigation if his only
21 function was to protect Mr. Arar and deal with the
22 consular aspects? That was something that you
23 ought to have done?

24 AMBASSADOR PILLARELLA: I beg to
25 disagree, simply for the very simple reason that

1 Mr. Martel was visiting Mr. Arar as the consular
2 officer. But we also were trying to get Mr. Arar
3 out of jail, and I can only assume that
4 Mr. Martel, on his own, wanted to know what was
5 happening, because, as I've indicated yesterday in
6 my testimony with Mr. Cavalluzzo, any information
7 that could be provided to us could be used to
8 assist Mr. Arar; and therefore, there is
9 absolutely, in my view, there is absolutely
10 nothing wrong.

11 Mr. Martel was simply inquiring
12 about the progression of the investigation because
13 they kept telling us that Mr. Arar was connected
14 to terrorist organizations when we were saying,
15 "Look, we don't have anything like that in Canada,
16 and therefore we want him back."

17 So I don't see anything
18 inappropriate that you seem to suggest that
19 Mr. Arar -- Mr. Martel inquired about the progress
20 of the investigation of Mr. Arar.

21 MR. WALDMAN: Unless -- would you
22 see it as inappropriate if this information were
23 being shared with CSIS and the RCMP, as to further
24 a national security investigation of Mr. Arar.
25 Would that be inappropriate, sir?

1 AMBASSADOR PILLARELLA: The
2 information that we received could be used by --
3 first of all, I must say that the information was
4 relayed to the Department of Foreign Affairs, so
5 therefore, the Mission, neither Mr. Martel nor
6 myself said, "Share this information with
7 anybody." That position was taken in Ottawa.

8 But when we provided any
9 information to Ottawa, this was with the purpose
10 of saying, "Look, this is what the Syrians are
11 saying. Do we have anything that can counter
12 that, that can say, look, this is not true, and
13 therefore that would assist Mr. Arar."

14 MR. WALDMAN: Yet on November 5th,
15 you got back to Ottawa, November 6th you're
16 sitting in a meeting with CSIS and the RCMP,
17 discussing the statement Mr. Arar had given,
18 discussing whether CSIS should go to Syria,
19 discussing the possibility of CSIS officials
20 interrogating Mr. Arar, and you're telling me that
21 the only purpose you are gathering this
22 information was to assist Mr. Arar, not to assist
23 the criminal investigation, sir?

24 AMBASSADOR PILLARELLA: I'm sorry.
25 When you say that the meeting of the 6th we were

1 discussing Mr. Arar and whether the RCMP -- CSIS
2 or the RCMP should interrogate, that is not
3 correct. The visit of CSIS, as it was discussed,
4 was discussed in the context of discussing with
5 the Syrians terrorist activities in general, not
6 Mr. Arar.

7 MR. WALDMAN: Okay. Well, perhaps
8 we could go to this document, and I don't know if
9 we have copies now to introduce, because maybe
10 that will be of some assistance to us in
11 evaluating this point, sir.

12 THE COMMISSIONER: Thank you.
13 Shall we mark that as the next exhibit?

14 MR. WALDMAN: I've lost count.

15 THE COMMISSIONER: 138?

16 EXHIBIT NO. P-138: E-mail
17 from DMCS, Amb. Pillarella,
18 to JPD and ISI, subject:
19 ZJGR0211-Maher Arar-Meeting
20 with ..., dated November 3,
21 2002, 9:14 a.m.

22 MR. WALDMAN: Given that there's a
23 lot of people who don't have the document, perhaps
24 you could do me the favour of reading the third
25 paragraph to us, sir?

1 AMBASSADOR PILLARELLA: Yes.

2 "When I asked ... whether I
3 could get a resume of
4 information obtained so far
5 from Arar that I could take
6 to Canada with me, he agreed
7 to do so."

8 MR. WALDMAN: Perhaps I could just
9 interrupt you, sir. We have another unredacted
10 version of the document, it says General Khalil's
11 name, so --

12 AMBASSADOR PILLARELLA: No, I
13 don't have that.

14 MS McISAAC: Go to the second
15 page.

16

17 MR. WALDMAN: Oh, the second page.

18 AMBASSADOR PILLARELLA: Oh, all
19 right.

20 MR. WALDMAN: It's just that the
21 first page is a clearer copy.

22 AMBASSADOR PILLARELLA: All right,
23 okay. And I believe that I have explained
24 yesterday to Mr. Cavalluzzo what -- how this came
25 about, and I also indicated that despite the fact

1 that he agreed to do so, I did not believe that
2 this would happen.

3 MR. WALDMAN: Okay. So --

4 AMBASSADOR PILLARELLA: Then the
5 text continues.

6 "He promised I would receive
7 it before my departure,
8 unfortunately only in Arabic.
9 But General Khalil promised
10 much more. He said that,
11 again, on a very exceptional
12 basis, he would agree to have
13 a Canadian intelligence
14 official ... to come to
15 Damascus to review the info
16 provided by Arar."

17 Now, the comment I would make on
18 this, this was not me asking. I did not ask for
19 it. This was offered by General Khalil.

20 MR. WALDMAN: Okay.

21 AMBASSADOR PILLARELLA: So that is
22 a very important nuance. The General was -- I'm
23 sorry.

24 MR. WALDMAN: It says "When I
25 asked --"

1 Americans, British and
2 Germans had not been granted
3 such privilege."

4 MR. WALDMAN: Okay, perhaps we can
5 stop here. I just want to go back over and see if
6 we are on the same wavelength about what we know
7 about CSIS, and then I'm going to ask you a few
8 questions.

9 We know that CSIS agents travelled
10 to Syria just a few weeks after Mr. Arar was
11 detained. That's correct, right?

12 AMBASSADOR PILLARELLA: Yes.

13 MR. WALDMAN: And that according
14 to the documents that we've been provided, the
15 Minister, Mr. Graham, approved the visit, despite
16 warnings and debate from DFAIT officials about the
17 timing of the visit?

18 AMBASSADOR PILLARELLA: Mm-hmm.

19 MR. WALDMAN: And I think you told
20 us as well that you advised against that. Is that
21 correct?

22 AMBASSADOR PILLARELLA: Yes.

23 MR. WALDMAN: And we know that --
24 we have been told that while they were in Syria,
25 they discussed Mr. Arar with their counterparts?

1 AMBASSADOR PILLARELLA: The thing
2 is that I have absolutely no idea what they
3 discussed because, as I testified yesterday, I saw
4 them when they first arrived, they promised to
5 come back to me, they never did, and so I have
6 absolutely no knowledge of who they met with or
7 what they discussed.

8 MR. WALDMAN: But we've been told
9 from other sources that they did discuss Mr. Arar.

10 AMBASSADOR PILLARELLA: You have
11 to ask these other sources because I am not aware
12 of them.

13 MR. WALDMAN: Okay. And you just
14 told us that you were very unhappy that CSIS
15 didn't debrief you?

16 AMBASSADOR PILLARELLA: Very much
17 so, yes.

18 MR. WALDMAN: And now we've
19 received new information today, and I put it to
20 you that this new information provides us with
21 some interesting new facts. You suggested to us
22 that you didn't ask for the opportunity of having
23 CSIS officers -- this was something that
24 Mr. Khalil spontaneously offered to you?

25 AMBASSADOR PILLARELLA: Yes.

1 MR. WALDMAN: So perhaps now,
2 having said that, can I ask you to read the fourth
3 paragraph?

4 "It is obvious that ..."

5 Perhaps you could read that
6 because other people don't have the document?

7 AMBASSADOR PILLARELLA: You want
8 me to read it.

9 MR. WALDMAN: Just the fourth
10 paragraph?

11 AMBASSADOR PILLARELLA:

12 "It is obvious that the
13 Syrians continue to be well
14 disposed towards us. As
15 previously indicated, it
16 seems clear that the Syrians
17 have an interest in
18 projecting the best possible
19 image in this particular case
20 and as long as this remains
21 so, we should obtain more or
22 less what we ask. When I
23 raised the issue of ...
24 General Khalil seemed now
25 disposed to accept that he

1 could meet with a Canadian
2 official. You should know
3 that General Khalil ...
4 therefore this is something
5 which should be discussed in
6 Ottawa on the best way to
7 proceed. It is the RCMP that
8 has asked to have direct
9 access to --"

10 MR. WALDMAN: So this is referring
11 to another individual --

12 AMBASSADOR PILLARELLA: This has
13 nothing to do with Mr. Arar.

14 MR. WALDMAN: It's totally
15 another --

16 AMBASSADOR PILLARELLA: Totally
17 out of --

18 MR. WALDMAN: So there was another
19 person that the RCMP had asked to see, and Khalil
20 seemed to be favourably disposed to having that
21 person interviewed by the RCMP.

22 So I take it, sir, that what
23 you're saying here in the second -- in the fourth
24 paragraph is, Khalil seemed to be more or less
25 favourably disposed to whatever you were asking

1 for?

2 AMBASSADOR PILLARELLA: What this
3 paragraph means, when I say that we can continue
4 to obtain whatever we want, I was referring to
5 only one thing basically, access to Mr. Arar.

6 In other words, as long as the
7 Syrians were well-disposed towards Canada, we
8 could continue to obtain access, and that -- and
9 that, I repeat, that was the only thing that we
10 had to safeguard because we didn't know -- I mean,
11 we were in the hands of the Syrians. They had
12 agreed to allow for consular access, and we had to
13 keep it open.

14 MR. WALDMAN: With all due
15 respect, sir, despite the fact that you're saying
16 the only thing you're concerned about, it seems to
17 me that even if we accept that the idea of the
18 visit came from General Khalil --

19 AMBASSADOR PILLARELLA: Yes.

20 MR. WALDMAN: -- you went on and
21 said, "Well, could one of our security officers
22 question him?" So obviously you were asking for
23 more than just access to Mr. Arar for consular
24 people, you were asking for access for security
25 officials to interrogate him?

1 AMBASSADOR PILLARELLA: No, this
2 is your interpretation. Mine is somewhat
3 different. And the reason why I asked that
4 question, to say, "can a Canadian official ask
5 questions?" because I thought that this would be
6 favourable to Mr. Arar so that a Canadian, another
7 Canadian, could ask questions independently of the
8 Syrians. That's what it means.

9 MR. WALDMAN: Why would this be
10 favourable to Mr. Arar to have a Canadian official
11 interrogate him in a Syrian jail, sir?

12 AMBASSADOR PILLARELLA: Look. He
13 is being questioned by Syrians, accusing him of
14 something. In our case, we're not -- he is not
15 sought for anything in Canada. There is nothing
16 against him. So a Canadian, independently, could
17 discuss with Mr. Arar and see where he stood --

18 MR. WALDMAN: But, you're not
19 saying "discuss" here, sir, you're saying
20 "question" him, right. That's not the same thing
21 as having a meeting to discuss Mr. Arar about his
22 health.

23 AMBASSADOR PILLARELLA: Well,
24 obviously --

25 MR. WALDMAN: He goes on to say he

1 wouldn't be able to sit there, but he would be
2 able to sit in on the interrogation questions.

3 So it seems to me, sir, that what
4 this is all about is getting access to someone to
5 be able to interrogate Mr. Arar, not to have
6 questions about his well-being and his health?

7 AMBASSADOR PILLARELLA: No, no.
8 Don't -- don't forget, the Syrians kept claiming
9 that Mr. Arar was connected with terrorist
10 organizations, and we were insisting that no, in
11 Canada, he is not sought for anything, and
12 therefore, we want him back, and the General
13 offers, "Look, to prove what we're saying, have
14 some of your people come and they can -- they can
15 attend these sessions and see that everything is
16 over board."

17 Yes, I did ask the question and
18 say, "Would it be possible for the Canadians to
19 ask questions," or I don't know what expression I
20 used in this particular text.

21 But the point was that if
22 Canadians could speak with Mr. Arar, it would be
23 different from the Syrians, because the Canadians
24 were not reproaching anything to Mr. Arar, whereas
25 the Syrians were.

1 MR. WALDMAN: Well, I put it to
2 you, Mr. Pillarella, that your interpretation
3 doesn't make any sense, especially when you read
4 the last sentence of paragraph 4. It says:
5 "... therefore there is
6 something which should be
7 discussed in Ottawa on the
8 best way to proceed. It is
9 the RCMP that have asked to
10 have direct access to ..."

11 AMBASSADOR PILLARELLA: That has
12 nothing to do with Mr. Arar, as I have said
13 before. So now you're collapsing two things in
14 one. And I say, this is wrong. This last
15 sentence has nothing to do with Mr. Arar.

16 MR. WALDMAN: Yes, but it has to
17 do with obtaining access by our security services
18 to interrogate a Canadian citizen sitting in jail
19 in Syria, does it not.

20 AMBASSADOR PILLARELLA: We're
21 talking about Mr. Arar --

22 MR. WALDMAN: Yes, but I'm asking
23 you --

24 AMBASSADOR PILLARELLA: We're not
25 talking about --

1 MR. WALDMAN: Sir, I'm asking
2 about this other person, whose name is redacted.
3 We know from other sources -- from information you
4 gave before that the RCMP went to Syria to discuss
5 Mr. El Maati. We also know that there's another
6 detained Canadian -- it doesn't really matter. We
7 know his name, it's on the record, Mr. Almalki.
8 And, I'm telling you, sir, that this last sentence
9 clearly suggests that you were discussing with
10 General Khalil the possibility of facilitating
11 access by the RCMP to a Canadian citizen. Yes or
12 no?

13 AMBASSADOR PILLARELLA: I was
14 asking a question that had been put to me, and I
15 was simply reporting what the General said.
16 Whatever decision was taken -- there was no
17 decision taken, period, because it never happened.

18 MR. WALDMAN: I'm not asking
19 whether it happened, sir. I'm trying to -- help
20 us interpret the document. And I'm just asking
21 you to confirm clearly, because I still don't
22 think I got a clear answer to the question, is it
23 not true, sir, that you asked General Khalil if he
24 would agree to let the RCMP come to Syria to
25 interrogate a Canadian citizen, and he said yes?

1 Simple yes or no answer? Isn't that what this
2 says?

3 AMBASSADOR PILLARELLA: No, it
4 doesn't say interrogate. Here it says:

5 "... to accept that he could
6 meet with a Canadian
7 official."

8 And I don't know what were the
9 intentions of the RCMP.

10 MR. WALDMAN: Okay. So you would
11 agree with me that General Khalil said that an
12 RCMP officer could go into a Syrian jail and
13 meet -- whatever that word "meet" is -- with a
14 Canadian official, and that was part of this
15 briefing note that went back?

16 AMBASSADOR PILLARELLA: This is
17 part of the briefing note, but this part has
18 nothing to do with Mr. Arar. I think that is very
19 important. You're collapsing two different things
20 together, and I'm sorry, I cannot accept that.

21 MR. WALDMAN: In the paragraph
22 before, it's clear that General Khalil accepted
23 that officials would be allowed to come, view
24 interrogations of Mr. Arar, and maybe question
25 him. Clear? That's what he accepted --

1 AMBASSADOR PILLARELLA: You're
2 putting -- I did not ask. He offered. I did not
3 ask. This has to do with Mr. -- Mrs. Arar. And
4 that's why I say, please, keep the two things
5 separate. Because they are separate. They are
6 not connected.

7 MR. WALDMAN: Well, let me put it
8 to you this way: According to what you told us,
9 the official, Khalil, offered to have info
10 reviewed, and you asked if an official could meet
11 with Arar and question him. Is that correct?

12 AMBASSADOR PILLARELLA: I
13 explained to you --

14 MR. WALDMAN: I'm just asking, yes
15 or no? You asked in an official --

16 AMBASSADOR PILLARELLA: Yes, but I
17 explained to you what it means.

18 MR. WALDMAN: And he said maybe
19 not question but, yes, attend the interrogation
20 sessions?

21 AMBASSADOR PILLARELLA: It's
22 written right there so --

23 MR. WALDMAN: Yes, okay. And did
24 you ever ask whether a lawyer for Mr. Arar could
25 be present during any of these interrogation

1 sessions as the best way to protect his rights?

2 AMBASSADOR PILLARELLA: No, I did
3 not.

4 MR. WALDMAN: I've just got a few
5 more areas, Mr. Commissioner.

6 Well, I just want to carry on with
7 what you said. You said to us that the whole
8 purpose of providing the information to officials
9 in Canada was to assist Mr. Arar. Right? That is
10 why you were getting this information.

11 AMBASSADOR PILLARELLA: Right.
12 And I believe that Minister Graham said exactly
13 the same thing in his testimony.

14 MR. WALDMAN: But it is also fair
15 to say that you were aware that Mr. Arar was
16 subject to a national security investigation?

17 AMBASSADOR PILLARELLA: Yes, and I
18 have admitted from the start that this particular
19 case had a consular aspect and a security aspect.

20 MR. WALDMAN: So could you give us
21 one instance, sir, in the whole entire case where
22 either CSIS or the RCMP did anything to assist
23 Mr. Arar, given that they were being shared the
24 information?

25 Can you point to anywhere that

1 in any way CSIS or the RCMP, to your knowledge,
2 provided any assistance to Mr. Arar?

3 AMBASSADOR PILLARELLA: To my
4 knowledge, I saw no results of that, but you have
5 to ask these questions of CSIS and RCMP.

6 MR. WALDMAN: Well, I don't know
7 how much we will be able to ask them given
8 national security confidentiality, but to the
9 extent that we can, we will.

10 But you are not personally
11 aware --

12 AMBASSADOR PILLARELLA: No.

13 MR. WALDMAN: -- of any way in
14 which your or DFAIT's information-sharing to the
15 RCMP and CSIS assisted Mr. Arar?

16 AMBASSADOR PILLARELLA: It did not
17 happen, I guess.

18 MR. WALDMAN: Right. And you are
19 aware that the confession that you gave became
20 part of Mr. Arar's --

21 AMBASSADOR PILLARELLA: I'm sorry,
22 I never spoke about confession.

23 MR. WALDMAN: All right. The
24 statement, sir. The statement. Whatever it was.

25 The statement you brought back

1 became -- was given to the RCMP and CSIS and
2 became part of his file in their investigation.

3 AMBASSADOR PILLARELLA: I believe
4 you were told that that information was passed on
5 to them to see whether they could verify it or not
6 and it could help Mr. Arar.

7 The fact that it could not be
8 verified -- I mean, I cannot speak for that. But,
9 I mean, the reason why and the decision to share
10 that information was not mine, as you well know --

11 MR. WALDMAN: Yes, we know
12 that, sir.

13 AMBASSADOR PILLARELLA: But the
14 reason why I understand the decision was taken in
15 Ottawa to share that information was precisely for
16 the purpose that I have just described.

17 MR. WALDMAN: Okay. So if the
18 purpose of the information was to allow it to be
19 verified and to assist Mr. Arar in his defence,
20 one would think that the information should have
21 been shared, that the document should have been
22 shared with Mr. Arar --

23 AMBASSADOR PILLARELLA: What --

24 MR. WALDMAN: It should have been
25 shared with Mr. Arar.

1 Correct?

2 AMBASSADOR PILLARELLA: How can it
3 be shared with Mr. Arar?

4 MR. WALDMAN: If it was to help
5 Mr. Arar defend himself, wouldn't it have been
6 reasonable for that document to have been shared
7 with Mr. Arar, if that is the purpose of getting
8 the document?

9 AMBASSADOR PILLARELLA: You are
10 asking me whether General Khalil was going to --

11 MR. WALDMAN: No, no, I'm asking
12 you once you got the document, sir, and you said,
13 "I didn't get this document so I could help in a
14 national security investigation. I got this
15 document because I wanted to help Mr. Arar defend
16 himself and prove himself innocent." Right?

17 That is what you just said.
18 Right?

19 AMBASSADOR PILLARELLA: How could
20 I pass this information to Mr. Arar?

21 MR. WALDMAN: Well, you couldn't
22 pass it to Mr. Arar, but if the purpose of the
23 document was to assist Mr. Arar, wouldn't it make
24 sense that the document be passed to Mr. Arar's
25 family or to his lawyer?

1 AMBASSADOR PILLARELLA: This was
2 not my decision. Once I pass the information to
3 headquarters it is for headquarters to make a
4 decision on what to do with the document. That is
5 not my decision.

6 MR. WALDMAN: Right, okay. But to
7 your knowledge -- but you are assisting with the
8 legal team when Mr. Arar was in Syria, right, at
9 the beginning? You left before the trial --

10 AMBASSADOR PILLARELLA: What
11 legal -- oh, yes --

12 MR. WALDMAN: In Syria.

13 AMBASSADOR PILLARELLA: But we
14 were looking for -- we were trying to facilitate
15 finding a lawyer and --

16 MR. WALDMAN: Well, wasn't a
17 lawyer retained before you left? I think that was
18 your evidence this morning.

19 AMBASSADOR PILLARELLA: That is
20 correct. But again, I said this morning quite
21 clearly this was at the very beginning. The
22 lawyer had been brought in cold. He knew
23 absolutely nothing. He was trying to get through
24 the maze of the Syrian bureaucracy, where the file
25 was and what was in the file, and that took most

1 of the time. So there was no preparation yet to
2 be done.

3 MR. WALDMAN: Right, okay. So he
4 was having a hard time getting the file from the
5 General, which is consistent with the documentary
6 evidence that suggests in national security cases
7 lawyers often have a hard time.

8 So I guess my question to you is
9 this: If your purpose in getting the document was
10 to assist Mr. Arar, did you give it to his lawyer
11 in Syria?

12 AMBASSADOR PILLARELLA: I did not
13 give it, but that doesn't mean that it might have
14 not been given to him when the -- you know, at the
15 beginning of the procedures. I don't know that.
16 That was not for me to decide. I repeat, the
17 decision had to be taken elsewhere. That was not
18 my responsibility.

19 MR. WALDMAN: Well, you were the
20 Head of the Mission in Syria, sir. You told us
21 you got this document to assist Mr. Arar. You had
22 the document. You said the purpose of the
23 document was to assist Mr. Arar in his defence.
24 And you are telling me that you couldn't give it
25 to Mr. Arar's lawyer in Syria?

1 AMBASSADOR PILLARELLA: First of
2 all, I no longer had the document, because I had
3 only one copy of the document and I took it to
4 Ottawa. So I did not have a copy of the document.
5 The document would have to come in translation or
6 in Arabic, as it was originally, from Canada. I
7 did not have a copy.

8 MR. WALDMAN: But if you wanted to
9 get it, you could have asked for it. Right? That
10 is a pretty flimsy excuse --

11 AMBASSADOR PILLARELLA: No, it is
12 not an excuse.

13 The point is that I, as
14 Ambassador, cannot get into the role of being the
15 advocate of the lawyer. This gets out of my realm
16 and gets into someone else's realm. The lawyer,
17 once he would have started his proceedings, he
18 could have come to us and said, "All right. What
19 is it that you have?" Then Ottawa would have to
20 decide what to give him, and probably -- probably
21 that document would have been given to him, or
22 that document might have been available in the
23 file when the lawyer was looking for the file.

24 You seem to forget that we
25 were at the very beginning of the process of a

1 trial and, therefore, to start to say, "Oh, here
2 is a document that might help you", there were
3 other things that had to be done before you would
4 reach that stage.

5 MR. WALDMAN: With all due
6 respect, sir, if I as a lawyer was retained on a
7 file and I wasn't able to get any information from
8 the prosecution about my client's case and the
9 Canadian Embassy had a document, I would certainly
10 expect that they would give the document to me
11 right away if the purpose of obtaining the
12 document was to assist in the defence.

13 I can't understand why there would
14 have been even a moment's hesitation about giving
15 that document to the lawyer if the reason for it
16 was to defend Mr. Arar.

17 I put it to you that that wasn't
18 the reason why you got the document?

19 AMBASSADOR PILLARELLA: Well, that
20 is your interpretation. I beg to disagree with
21 it, because the whole file -- the whole file,
22 disproves your theory.

23 MR. WALDMAN: The whole file?
24 Well, I don't think so, sir.

25 AMBASSADOR PILLARELLA: Well --

1 MR. WALDMAN: Mr. Arar's --
2 I'm sorry, Mr. Arar wants me to
3 pose a question. Just one second.

4 --- Pause

5 MR. WALDMAN: I put it to you,
6 sir, that by August 14th you had been told that
7 Mr. Arar was going to court. The process of
8 getting the lawyer had started. The lawyer was
9 retained and I fail to understand why you wouldn't
10 have given it to him if he didn't have anything
11 else. He had no clue what the charges were?

12 AMBASSADOR PILLARELLA: Look, that
13 document -- that document was just a very short
14 summary. I don't know what the charges were going
15 to be. I mean, I could think in general, but I
16 don't know, there was probably much more on the
17 file than that very short document.

18 I repeat, that document might
19 have been given to Mr. Arar's lawyer. The point
20 is, we were at the beginning of the process and
21 there were other things to be done before thinking
22 of that.

23 So what you are trying to say is
24 that this document would have never been given to
25 Mr. Arar's lawyer, and --

1 MR. WALDMAN: What I'm saying to
2 you, sir, is that up until the time that Mr. Arar
3 was released, even though Mr. Arar had counsel
4 from the beginning all the way through, and had
5 counsel in Canada, had very active people working
6 for him, including representatives from Amnesty
7 International, advocacy groups, and his wife all
8 actively involved in his defence, the document was
9 never given to any of them, and it still hasn't
10 been given, and the government is still claiming
11 national security confidentiality over it.

12 AMBASSADOR PILLARELLA: Well --

13 MR. WALDMAN: So if the purpose of
14 the document was to allow Mr. Arar to defend
15 himself, it is quite strange that even to this day
16 he still hasn't seen it.

17 AMBASSADOR PILLARELLA: Perhaps --

18 MR. WALDMAN: I mean, it is even
19 stranger when you think that if the purpose of the
20 document is to allow -- if your obtaining the --
21 just let me finish.

22 Wouldn't you agree with me it is
23 a rather strange proposition that you are putting
24 to us and the Canadian public that we are being
25 told that you got the document to allow Mr. Arar

1 to defend himself, and the Canadian government is
2 claiming national security confidentiality over
3 the government, and to this day isn't allowing
4 Mr. Arar or the Canadian public to see it?

5 So how could you have obtained it
6 to assist Mr. Arar if the government's not
7 allowing it to be made public?

8 THE COMMISSIONER: Don't answer
9 the question.

10 AMBASSADOR PILLARELLA: All right.

11 MS McISAAC: I simply wanted to
12 make the point it is not the Ambassador that made
13 the decision to claim national security
14 confidentiality with respect to the document, it
15 was a decision of the Government of Canada, and if
16 Mr. --

17 This argumentative line of
18 questioning on this particular issue is not very
19 helpful, sir.

20 THE COMMISSIONER: We will try to
21 just carry on.

22 Can you respond to the question?

23 AMBASSADOR PILLARELLA: I will
24 just make one comment.

25 Yes, the document is covered

1 under national security confidentiality, but that
2 document would serve to see whether that
3 information provided by the Syrians could be
4 verified by the Canadian services. That is all.

5 MR. WALDMAN: Okay. Well, I'm not
6 going to carry that any further. I think we have
7 gone as far as we can on that.

8 I want to move on to another --
9 I have got about another 15 to 20 minutes,
10 Mr. Commissioner?

11 THE COMMISSIONER: Go ahead.

12 MR. WALDMAN: Just two more lines
13 of questioning.

14 Do you agree with me that -- and
15 if it is necessary I will take you to the tab --
16 that from very early on General Khalil told you
17 that Mr. Arar would only be permitted to return to
18 Canada if it was proven that he didn't have any
19 terrorist connections.

20 Is that correct?

21 AMBASSADOR PILLARELLA: That is
22 correct.

23 MR. WALDMAN: So you understood
24 that if he was to be returned to Canada it was
25 important that the Syrians believe he was not

1 connected to the terrorists.

2 Is that correct?

3 AMBASSADOR PILLARELLA: Yes.

4 MR. WALDMAN: So would you not
5 agree with me that the CSIS visit to Syria in
6 November 2002, when they discussed Mr. Arar with
7 their counterparts, wasn't very helpful? You have
8 already said that it wasn't.

9 Do you agree with that?

10 AMBASSADOR PILLARELLA: I don't
11 know what they discussed, so how can I say whether
12 it was helpful or not?

13 MR. WALDMAN: Assuming they
14 discussed -- assuming they discussed Mr. Arar,
15 it wouldn't have been helpful to your efforts to
16 get him out?

17 AMBASSADOR PILLARELLA: Well, you
18 are asking me to speculate on what CSIS might have
19 said which might have influenced the Syrians to
20 not to listen to what I was saying that Mr. Arar
21 was not sought in Canada for any offence.

22 MR. WALDMAN: No, I'm asking you
23 to answer a question based on an assumption that
24 we know as a fact from other evidence.

25 AMBASSADOR PILLARELLA: What is

1 the question again?

2 MR. WALDMAN: That if CSIS
3 discussed Mr. Arar in November 2002 with their
4 counterparts, it wouldn't have been helpful to
5 your efforts?

6 AMBASSADOR PILLARELLA: Well, I
7 don't know if it would have been helpful or not.
8 The point is that we got Mr. Arar out of Syria.

9 MR. WALDMAN: Excuse me one
10 second.

11 I'm just going to review my notes
12 for one second.

13 THE COMMISSIONER: Take your time.
14 --- Pause

15 MR. WALDMAN: I have reviewed my
16 notes and I think Mr. Cavalluzzo covered all the
17 other areas.

18 THE COMMISSIONER: Thank you very
19 much, Mr. Waldman.

20 Ms McIsaac?

21 Oh yes.

22 There was a matter of somebody --
23 Mr. Cavalluzzo?

24 MR. CAVALLUZZO: Mr. Commissioner,
25 as you know, our rules specify that the

1 intervenors will have participation rights in
2 respect of these public hearings by submitting
3 questions to be asked, and that can be done either
4 through counsel for Mr. Arar or Commission
5 counsel.

6 I have been asked to ask a
7 number of questions on behalf of the intervenors
8 and I thought that it would be more appropriate if
9 I do think at this point in time so Ms McIsaac,
10 the government counsel, will have an opportunity
11 to respond.

12 THE COMMISSIONER: All right. Go
13 ahead.

14 EXAMINATION

15 MR. CAVALLUZZO: Mr. Pillarella,
16 a few questions I have for you on behalf of the
17 intervenors.

18 We have dealt with the issue
19 of whether you raised any concerns about the
20 possibility of torture on behalf of Mr. Arar,
21 and the question is whether you raised concerns
22 about the possibility of torture or other human
23 rights abuses in respect of the other Canadian
24 detainees that were held in Syria? At that point
25 in time I guess it would be Mr. El Maati and

1 Mr. Almalki, who are the other Canadian detainees
2 that were present in Syria while you were still
3 the Ambassador.

4 AMBASSADOR PILLARELLA: In the
5 case of Mr. El Maati, when I became aware of his
6 presence in Syria he had already left for Egypt.

7 MR. CAVALLUZZO: Okay. What about
8 Mr. Almalki?

9 AMBASSADOR PILLARELLA: In the
10 case of Mr. Almalki, we had asked for consular
11 access and immediately afterwards we were told not
12 to press the Syrians, so we did not.

13 MR. CAVALLUZZO: The next question
14 I am going to relate back to Exhibit P-138 because
15 it can be made specific in terms of that exhibit.

16 The question is: Did
17 Mr. Pillarella ever serve as a conduit for
18 intelligence information or requests flowing
19 from the other direction, that is from Canada to
20 Syrian officials?

21 We have seen in respect of the
22 November 3rd document that you just discussed with
23 Mr. Waldman that General Khalil gave you this
24 statement that you brought back to Canada and it
25 was distributed, not by you, but by others --

1 AMBASSADOR PILLARELLA: That was
2 the only instance.

3 MR. CAVALLUZZO: The question is
4 whether you ever brought security information, or
5 any kind of intelligence information, or indeed
6 any information about Mr. Arar, from Canada back
7 to Syrian officials?

8 AMBASSADOR PILLARELLA: The answer
9 is: Never.

10 MR. CAVALLUZZO: Okay. Then the
11 question I would raise to you is, if you look at
12 Exhibit P-138 --

13 AMBASSADOR PILLARELLA: Yes.

14 MR. CAVALLUZZO: It is the last
15 exhibit that we have identified?

16 AMBASSADOR PILLARELLA: Yes.

17 MR. CAVALLUZZO: In the second
18 paragraph it states:

19 "General Khalil was
20 absolutely positive about
21 Arar's links with El Quaeda."

22 I guess before we saw they were
23 absolutely positive that he wasn't in Syria -- but
24 in any event, that is another issue.

25 Then it goes on, "He said," this

1 is General Khalil:

2 "He said that he had been
3 recruited with the specific
4 purpose of recruiting others
5 in Canada. Apparently he had
6 identified members of sleeper
7 cells in Canada."

8 That seems to be specific Canadian
9 information, if there is any information out
10 there, and it would seem to me that that might be
11 the kind of information that CSIS or the RCMP
12 might have, and if they didn't have it, in other
13 words if they came to the conclusion that that was
14 nonsense, wouldn't that have assisted Mr. Arar if
15 that information was transported back to Syria and
16 say, "The information you have is nonsense."

17 You didn't carry it back. Were
18 you aware as to whether CSIS or the RCMP submitted
19 information back to the Syrians in respect of this
20 particular Canadian information?

21 AMBASSADOR PILLARELLA: Not to my
22 knowledge, no.

23 MR. CAVALLUZZO: Okay. So it
24 wouldn't have gone through you?

25 AMBASSADOR PILLARELLA: Absolutely

1 not.

2 MR. CAVALLUZZO: Okay. The next
3 question is: Did the Ambassador have concerns
4 about the fact that there were a mounting number
5 of cases of Canadian citizens detained in Syria
6 beginning in late 2001, that would be with
7 Mr. El Maati, all of whom who had in some manner
8 been the subject or interest in the course of a
9 national security investigation in Canada?

10 In other words, the question is:
11 Did you become concerned that Mr. Arar was the
12 third instance of a Canadian citizen who may
13 have been of interest to the police or security
14 services in Canada who ended up in detention
15 in Syria?

16 AMBASSADOR PILLARELLA: I didn't
17 know what was going on in Canada. I was not kept
18 informed. I mean, for us, these were consular
19 cases that had appeared, a Canadian was detained
20 in Syria, and that was it.

21 At the time, I repeat,
22 Mr. El Maati came to my attention around -- I
23 can't remember the time, but then immediately
24 was transferred to Egypt. Then Mr. Almalki
25 happened. So basically, as far as I was

1 concerned, there were only two cases.

2 MR. CAVALLUZZO: Right. There
3 were only two cases, but while Mr. Arar was in
4 Syria were you aware that El Maati and Almalki
5 both had been of interest to Canadian police
6 forces or security forces, so that by the time
7 Mr. Arar came there appeared to be a pattern?

8 Because we had Canadian
9 citizens -- subjects of interest to Canadian
10 police or security forces -- finding themselves in
11 detention in Syria.

12 Did that not raise an interest in
13 terms of a pattern?

14 AMBASSADOR PILLARELLA: At that
15 time, no, because in the case of Mr. Arar he was
16 brought in to Syria.

17 MR. CAVALLUZZO: Right.

18 AMBASSADOR PILLARELLA: In the
19 other cases, I don't know how they came into
20 Syria. I don't believe that they were brought
21 into Syria, I believe they entered Syria by their
22 own means. So how can one establish a pattern as
23 if these other Canadians had been sent to Syria.
24 That is not the case at all.

25 MR. CAVALLUZZO: Right. But

1 regardless of how they got to Syria the question
2 would be: Did you not notice a pattern developing
3 of Canadian citizens of interest to Canadian
4 police or security services ending up in detention
5 in Syria, in the same detention centre, and all
6 alleging torture? Does that --

7 AMBASSADOR PILLARELLA: I don't
8 know that they were in the same place. I have
9 absolutely no idea.

10 MR. CAVALLUZZO: Okay. Well, take
11 that part out of the equation --

12 AMBASSADOR PILLARELLA: Again,
13 when you talk of a pattern, as I said, at the
14 maximum there were two cases, Mr. Arar and
15 Mr. Almalki. So how can one establish a pattern
16 with two cases?

17 MR. CAVALLUZZO: Why wouldn't
18 Mr. El Maati be part of that?

19 AMBASSADOR PILLARELLA: Because,
20 as I have said, I had no idea why Mr. El Maati was
21 detained. He had entered, I believe, Syria on his
22 own, and then by the time I became aware of it he
23 had already left. He had been removed to Egypt.

24 MR. CAVALLUZZO: Right. But even
25 though he had been removed to Egypt by the time

1 you may have discovered his presence in Syria,
2 were you not aware that Mr. El Maati was of
3 interest to Canadian police?

4 AMBASSADOR PILLARELLA: When it
5 became known to me, he had already left.

6 MR. CAVALLUZZO: Right. But did
7 you become aware that he was of interest to the
8 police, even though he had been transferred to
9 Egypt at that time?

10 AMBASSADOR PILLARELLA: I learned
11 it at that time, yes. But the point is, again, it
12 is easy, for instance, today, three, almost four
13 years later, to say a pattern. At the time, it
14 was very difficult to see a pattern, believe me.

15 MR. CAVALLUZZO: But in any event,
16 you would agree -- at least what you are saying is
17 that you were aware, by the time Mr. Arar was
18 sitting in jail in detention in Syria, that two
19 other Canadians who were of interest to Canadian
20 police and/or security services had also been
21 detained in Syria?

22 AMBASSADOR PILLARELLA: But the
23 point is that Mr. Arar was brought in to Syria --

24 MR. CAVALLUZZO: I understand.

25 AMBASSADOR PILLARELLA: -- against

1 his will. The other two Canadians, I assume they
2 entered Syria on their own. That to me makes a
3 very big difference.

4 MR. CAVALLUZZO: Okay. I
5 understand that.

6 The next question -- there are two
7 more -- concerns what kinds of efforts
8 were brought to bear in respect of the Syrian
9 authorities in an attempt to get Mr. Arar
10 released, and that is whether the Ambassador
11 attempted to get the cooperation of your
12 counterparts in the diplomatic community in
13 Damascus to bring to bear other pressure on the
14 Syrians to release Mr. Arar, so that there would
15 be a coalition of diplomatic forces within
16 Damascus to put pressure on the Syrians to release
17 Mr. Arar?

18 The question is whether you
19 did that?

20 AMBASSADOR PILLARELLA: I don't
21 know who is asking this question, but obviously
22 they don't know the milieu. I can assure you
23 that, as I have said it before, this was
24 exceptional access that had been conceded to us
25 and no other embassy, none whatsoever, had

1 obtained the same thing.

2 So to suggest that a coalition
3 of other embassies might have done something, I
4 beg to --

5 MR. CAVALLUZZO: Right. Well, the
6 coalition would not be attempting to get access,
7 because you already had access. The coalition
8 would be attempting to bring pressure on the
9 Syrians to release Mr. Arar to Canada.

10 The answer is, you didn't do that.

11 AMBASSADOR PILLARELLA: I believe
12 that if -- now I'm speculating -- but based on my
13 knowledge of the country, if I had attempted to do
14 something like this, I can assure you, this would
15 have been the best way to cut any access to
16 Mr. Arar.

17 MR. CAVALLUZZO: Okay. Okay, the
18 final question is also a question of diplomatic
19 strategy, I guess we could call it, and that is:
20 Given the involvement of the U.S. Government in
21 Mr. Arar's case -- of course, as you have pointed
22 out before, that is how he found himself in
23 Syria -- what efforts did the Ambassador take to
24 have U.S. diplomatic representatives in Damascus
25 press Mr. Arar's case with Syrian officials?

1 AMBASSADOR PILLARELLA: That
2 had to be done between Ottawa and Washington.
3 That was not something that should be done
4 on-site between the Canadian Ambassador and the
5 American Ambassador.

6 MR. CAVALLUZZO: Thank you,
7 Mr. Commissioner.

8 THE COMMISSIONER: Thank you,
9 Mr. Cavalluzzo.

10 Ms McIsaac, do you want to take a
11 break before you start?

12 MS McISAAC: That would be
13 helpful.

14 THE COMMISSIONER: Okay,
15 15 minutes.

16 THE REGISTRAR: Please stand.

17 --- Upon recessing at 3:24 p.m. /

18 Suspension à 15 h 24

19 --- Upon resuming at 3:38 p.m. /

20 Reprise à 15 h 38

21 THE REGISTRAR: Please be seated.

22 Veuillez vous asseoir.

23 EXAMINATION

24 MS McISAAC: Thank you, sir.

25 Could you please provide the

1 Ambassador with tab 253, which I believe is in
2 volume 3?

3 AMBASSADOR PILLARELLA: Thank you.

4 MS McISAAC: This is a message
5 dated December 12 from yourself back to Ottawa,
6 Ambassador, and in it you deal with a couple of
7 issues.

8 Firstly, there is the question of
9 sending, at this stage, a special envoy to
10 Damascus on Mr. Arar's behalf. Was that discussed
11 in December?

12 AMBASSADOR PILLARELLA: Yes, and I
13 believe that I was consulted on it, yes.

14 MS McISAAC: All right. And what
15 was your view, at that point anyway, with respect
16 to the utility of a special envoy?

17 AMBASSADOR PILLARELLA: At that
18 time I thought that it would not be very helpful
19 because -- I haven't read the document --

20 MS McISAAC: Take a moment, sir.

21 AMBASSADOR PILLARELLA: But I seem
22 to recall it was because they considered Mr. Arar
23 to be a security threat to the country; and
24 therefore, the coming of a special envoy might not
25 be very helpful.

1 MS McISAAC: And that's the point
2 you made in questioning both from Mr. Cavalluzzo
3 and Mr. Waldman, and that is, the Syrian
4 perception of Mr. Arar driving their
5 decision-making?

6 AMBASSADOR PILLARELLA: I'm sorry,
7 I wandered for a moment.

8 MS McISAAC: Take a moment to
9 finish reading the document.

10 AMBASSADOR PILLARELLA: Yes, let
11 me, please.

12 --- Pause

13 Yes.

14 MS McISAAC: Let me pose the
15 question this way, sir: What was your general
16 assessment in early December with respect to the
17 circumstances that you had to deal with regarding
18 Mr. Arar's detention and the continued perception
19 of that by the Syrian government?

20 AMBASSADOR PILLARELLA: Well, I
21 think that having reread this message, I think
22 that the answer can be found in paragraph 3, and
23 it says:

24 "Given that Arar is being
25 detained for internal

1 security reasons, it is very
2 doubtful that a special envoy
3 could do much to obtain his
4 release. The sending of a
5 special envoy would also
6 raise this issue at the
7 political level. In the
8 Syrian context this would
9 most likely cause
10 considerable embarrassment
11 because it is far from
12 evident that the 'civilians'
13 would be able to prevail over
14 the security services. This
15 could also have the
16 unintended effect of putting
17 in jeopardy the present
18 discreet arrangement we have
19 with ... concerning our
20 unimpeded access to Arar. In
21 my view, the Syrians will
22 release Arar only if they are
23 convinced that he does not
24 constitute a potential menace
25 for Syria. Unfortunately

StenoTran

1 this is far from being clear
2 at the moment."

3 MS McISAAC: So I understand from
4 that assessment, and later comments in documents
5 and your evidence yesterday and this morning, that
6 there was always a possibility, no matter what you
7 did, that it would have the unintended consequence
8 of stopping the access you were having with
9 Mr. Arar?

10 AMBASSADOR PILLARELLA: And this
11 is the reason why I particularly was acting with
12 prudence when dealing with the Syrians, because we
13 knew how tenuous this link was in terms of keeping
14 an open line to Mr. Arar, and therefore, I had to
15 tread very carefully that, unintentionally, some
16 action on our part might jeopardize this link that
17 we had with him, because this was the only way
18 that we could keep monitoring, that Mr. Martel in
19 particular, could keep monitoring how Mr. Arar was
20 treated and his well-being.

21 MS McISAAC: Now, in that regard,
22 approximately how many embassies of foreign
23 countries would be located in Damascus, just
24 generally speaking?

25 AMBASSADOR PILLARELLA: I think

1 around 70 or something like that, but I can't
2 quite recall the number, but, yes, about 70.

3 MS McISAAC: To your knowledge,
4 had other countries had any ability to obtain the
5 kind of access you were obtaining for a dual
6 national who was a citizen of Syria as well as the
7 other country?

8 AMBASSADOR PILLARELLA: To my
9 knowledge, and I stand to be corrected, but to my
10 knowledge of what I knew at the time when I was in
11 Syria, basically the Canadian Embassy was the only
12 example of access to a dual national.

13 MS McISAAC: Now, in terms of the
14 efforts that you could make with respect to
15 Mr. Arar's release, Mr. Cavalluzzo took you to the
16 documents relating to the efforts in Canada,
17 spearheaded by Mr. Pardy, to obtain a letter,
18 either a joint letter from the Solicitor General
19 and the Minister of Foreign Affairs, and then
20 ultimately a letter from the Minister of Foreign
21 Affairs, which finally became a letter from the
22 Prime Minister.

23 AMBASSADOR PILLARELLA: Mm-hmm.

24 MS McISAAC: I realize you're
25 speculating, but what is your assessment as to the

1 effect that such a letter might have had in May or
2 June of 2003, with respect to the ability to
3 obtain Mr. Arar's release from Syria?

4 AMBASSADOR PILLARELLA: Well, as
5 you say, it's only speculation, but based on my
6 knowledge of the country, the letter of the Prime
7 Minister, for instance, when it was brought,
8 certainly it did help. Everything would help in
9 keeping the pressure, but -- to keep the pressure
10 on the Syrians and to show to them how serious
11 Canada was in wanting Mr. Arar back, that -- and,
12 of course, the letter of the Prime Minister
13 crystallized the idea that we were speaking with
14 one voice.

15 My point, though, is that, as I've
16 said earlier, is that the Syrians let Mr. Arar go
17 when they saw fit to let him go, and therefore, a
18 letter in May, a letter in July, I don't think
19 that this would have made much difference. Of
20 course, it would have kept the pressure on the
21 Syrians. But when they decide to release Mr. Arar
22 for their own reasons, that's when they released
23 him.

24 MS McISAAC: Now, with respect to
25 the suggestion, or confusion, emanating from Syria

1 with respect to the position of CSIS, I gather
2 this first arose in about January of 2003, and we
3 can go to the document, but I believe you were
4 told at one point two things: (1) that Mr. Arar
5 didn't want to come home, and the second one that
6 the Syrians -- pardon me, that CSIS had indicated
7 they didn't want Mr. Arar back in Canada.

8 AMBASSADOR PILLARELLA: Mm-hmm.

9 MS McISAAC: I'd like to just
10 explore this position with respect to CSIS again.

11 Did you have occasions, when
12 dealing with the Syrians in terms of the -- I
13 suppose it would happen with any country, the
14 information they give you, that the information
15 they give is the information that they think would
16 be useful to them?

17 AMBASSADOR PILLARELLA: Yes, I
18 think that one can say that, yes.

19 MS McISAAC: And the suggestion
20 has been made that the Syrians may have indicated
21 that CSIS didn't want Mr. Arar back because that
22 was a convenient thing for them to say. Is that a
23 plausible explanation to you?

24 AMBASSADOR PILLARELLA: Obviously,
25 again, it is speculation, because I don't think

1 that I have any way of knowing whether this is
2 true or not, but, yes, it could be an explanation.
3 Particularly in light of the fact that, as I've
4 said, they were going to detain Mr. Arar for as
5 long as they saw fit, and therefore, to resist the
6 pressure that we should release him. Yes, it
7 might have been convenient to say that a Canadian
8 agency had suggested that, you know, they were not
9 interested.

10 MS McISAAC: Again, this
11 morning -- I think it was this morning -- you were
12 shown Exhibit P-99, which is the record of the
13 discussion that Ms Pastyr-Lupul had with Marlene
14 Catterall after Ms Catterall and Mr. Assadourian
15 had had lunch with the Syrian Ambassador here in
16 Ottawa.

17 AMBASSADOR PILLARELLA: Thank you.

18 MS McISAAC: And the suggestion in
19 that document is that:

20 "CSIS officials told the
21 Syrians that they have no
22 interest in Arar. The
23 Syrians took this to mean
24 that CSIS had no interest in
25 having Mr. Arar back. They

1 had meant they had no
2 security reasons to
3 investigate Arar in Canada.
4 Due to the miscommunication,
5 the Syrians believed that
6 CSIS did not want Arar back
7 in Canada and therefore
8 decided to detain him, keep
9 him in Syria." (As read)

10 Now is that a plausible, from your
11 point of view, explanation for the Syrian
12 position?

13 AMBASSADOR PILLARELLA: I think
14 I've said this morning that if the Syrians
15 detained Mr. Arar was certainly not because CSIS
16 might have asked or indicated that they did not
17 want Mr. Arar back in Canada; I simply do not
18 believe that.

19 Again, what makes me say something
20 like that has to do with what I have revealed in
21 camera, and again, Commissioner, you will remember
22 what the relationship -- the type of relationship
23 was, and this is what makes me believe that it was
24 not because CSIS might have indicated that they
25 wanted Mr. Arar to remain in Syria that they kept

1 him there.

2 MS McISAAC: Now, moving on to
3 another area. We discussed a few moments ago the
4 sort of difficulty in taking an action and wanting
5 to be sure that wouldn't backfire on you in terms
6 of losing access to Mr. Arar.

7 As of the visit of Ms Catterall
8 and Mr. Assadourian in April, you were then
9 subsequently denied consular access to Mr. Arar
10 until August. Do you believe, and again you may
11 be speculating, that there was any link between
12 the visit and the loss of consular access?

13 AMBASSADOR PILLARELLA: Well, I
14 seem to recall that there is a message, and the
15 message --

16 MS McISAAC: Possibly tab 18 of --

17 AMBASSADOR PILLARELLA: I can't
18 remember which one it is, but --

19 MS McISAAC: -- P-134. That was
20 before the visit.

21 AMBASSADOR PILLARELLA: My
22 recollection was that we had indicated to Ottawa
23 that the visit of -- I'm sorry, which tab was it?

24 MS McISAAC: You may be referring
25 to tab 18 of P-134?

1 AMBASSADOR PILLARELLA: Yes,
2 that's precisely what I recall.

3 In paragraph 2 it says:

4 "We do not believe the change
5 is a result of the current
6 Iraqi events but may be
7 linked to recent pressure
8 Syrians have come under when
9 pressed to accept the MP's
10 visit. We had indicated in
11 our earlier correspondence
12 that putting additional
13 pressure on Syrians could
14 result in a loss of consular
15 access. It appears is if
16 this may have now happened."

17 This was drafted by Mr. Martel,
18 and I saw it and I agreed with it.

19 MS McISAAC: This preceded the
20 visit, though, and relates to the fact that you
21 were required now to go through the Ministry of
22 Foreign Affairs --

23 AMBASSADOR PILLARELLA: Yes.

24 MS McISAAC: -- in order to
25 arrange your access?

1 AMBASSADOR PILLARELLA: But the
2 point is that the Syrians -- how can I say? --
3 they were a bit irritated.

4 For instance, you may recall that
5 there was an indication of whether the visit of
6 the two MPs should be a private as opposed to an
7 official visit, and I took it to mean that it was
8 a private visit that Mrs. Catterall and
9 Mr. Assadourian were coming for humanitarian
10 reasons and so on and so forth, and I seem to
11 recall that in one message I said, and I can't
12 remember in which message, but it was prior to the
13 visit, when I said, for the Syrians, there is no
14 private visit. They consider it to be an official
15 visit. These are Members of Parliament. They are
16 coming with a letter from the Foreign Minister,
17 and therefore, for the Syrians, they do not
18 consider that as an official -- as a private
19 visit.

20 In other words, we were putting
21 additional pressure on them and they didn't like
22 it. So -- I mean, we may agree or disagree with
23 that, but that was their attitude. They did not
24 like it because they considered that they were
25 providing assistance to us when they did not have

1 to and yet we were asking forever more and more.

2 But, of course, we did ask for
3 more and we never relented. And it is because we
4 never relented that in the end I guess that we
5 succeeded in bringing Mr. Arar back to Canada.

6 MS McISAAC: Okay.

7 Now, if I could move on to August
8 of 2003, and the allegations of torture that were
9 made by the Syrian human rights organization and
10 the reaction both in Ottawa and in Damascus, and
11 if I could ask you to be given tab 489, volume 5.

12 AMBASSADOR PILLARELLA: Thank you.

13 MS McISAAC: And I really want to
14 draw your attention to the first paragraph. This
15 is an e-mail of August 6th from Myra Pastyr-Lupul
16 to a number of individuals, and I see that you
17 would be Franco Damascus HOM --

18 AMBASSADOR PILLARELLA: Yes.

19 MS McISAAC: -- on the cc line?

20 AMBASSADOR PILLARELLA: Yes.

21 MS McISAAC: Now, I realize it's
22 the media line, but the line that was prepared,
23 and I presume you're brought into -- would you be
24 giving interviews to the media in Damascus?

25 AMBASSADOR PILLARELLA: No,

1 absolutely not.

2 MS McISAAC: But you would be
3 advised as to the press lines, or the media
4 lines --

5 AMBASSADOR PILLARELLA: In Canada.

6 MS McISAAC: Why? Why?

7 AMBASSADOR PILLARELLA: As a
8 matter of information, just to know what was being
9 said.

10 MS McISAAC: And if you had
11 disagreement with the line, or if there was some
12 problem with it, would you comment on it?

13 AMBASSADOR PILLARELLA: I could
14 comment on it, yes.

15 MS McISAAC: And the position of
16 the government as expressed in this line is:

17 "We are equally troubled by
18 the statements regarding the
19 use of torture as noted in
20 the line as noted in the
21 report of the SHRC, and are
22 very concerned that we have
23 not had consular access to
24 Mr. Arar since April, despite
25 repeated efforts by our

1 Embassy in Damascus to obtain
2 access. We will not relent
3 in our efforts to seek
4 consular access to Mr. Arar."

5 Now, was that essentially the
6 instruction you received from Ottawa in terms of
7 how to respond to this allegation of torture?

8 AMBASSADOR PILLARELLA: Well, yes,
9 and this is the reason why I immediately tried to
10 get a meeting with General Khalil, because, yes,
11 when I saw these allegations, I was very much
12 concerned, because those allegations, as I've said
13 this morning, did not seem to correspond with what
14 we had been able to see throughout all these
15 consular visits.

16 MS McISAAC: One last question,
17 and it has to do with the most recent exhibit,
18 P-138, which refers to the offer by the General
19 with respect to having a Canadian intelligence
20 official participate in meeting with Mr. Arar.

21 How did you assess that offer on
22 the part of the General in terms of the
23 cooperation you were receiving?

24 AMBASSADOR PILLARELLA: Well,
25 first of all, I was extremely surprised, because I

1 was certainly not expecting, knowing the way they
2 acted and that already they had provided access,
3 this was a very surprising offer. One could
4 interpret it as wanting to try to be forthcoming,
5 and as indicated here, it says:

6 "The General promised that,
7 whether or not a Canadian
8 official could ask direct
9 questions, he would leave
10 Damascus absolutely satisfied
11 regarding the exact
12 circumstances of Arar."

13 MS McISAAC: Now, if it had been
14 decided that it was appropriate to have someone
15 attend from a security agency to meet with
16 Mr. Arar, would that have provided you with more
17 information about Mr. Arar's circumstances to
18 allow you to assess the conditions under which he
19 was being detained and questioned?

20 AMBASSADOR PILLARELLA: It is
21 difficult to say, but -- maybe yes, maybe no. I
22 really don't know. This is -- in answering the
23 question of Mr. Waldman this morning I thought
24 that, you know, say, why a Canadian official?
25 Because a Canadian asking a question of another

1 Canadian citizen separate from the Syrians, that
2 this might be helpful.

3 MS McISAAC: No, that's fine.
4 That completes that question.

5 Those are my questions.
6 Thank you.

7 THE COMMISSIONER: Mr. Cavalluzzo,
8 re-examination?

9 EXAMINATION

10 MR. CAVALLUZZO: Mr. Pillarella,
11 just staying with Exhibit P-138, which is the
12 November 3rd document that you just looked at.
13 You said in your earlier testimony that although
14 you didn't direct it that this November 3rd
15 alleged confession ended up with CSIS and the
16 RCMP. You didn't direct it, it was ISI that
17 did it.

18 But you gave some evidence in
19 respect of the justification of giving that
20 confession to CSIS and the RCMP --

21 AMBASSADOR PILLARELLA: I didn't
22 say it was a confession.

23 MR. CAVALLUZZO: Well, it has been
24 referred to -- we will call it a statement.

25 AMBASSADOR PILLARELLA: Mm-hmm.

1 MR. CAVALLUZZO: You said the
2 reason why it would be useful would be that the
3 Canadian intelligence or police agency may give us
4 information which would challenge or rebut the
5 information that the Syrians had.

6 Do you recall that evidence?

7 AMBASSADOR PILLARELLA: That was
8 the intent, yes.

9 MR. CAVALLUZZO: Okay. I come
10 back to paragraph No. 2 in Exhibit P-138. As you
11 may recall, I asked you about this clearly
12 relating to Canadian information where the
13 allegation is that Arar was recruiting others in
14 Canada, and apparently identified members of a
15 sleeper cell in Canada, and wondering whether you
16 said to CSIS and/or the RCMP, "This is Canadian
17 information. You guys can rebut it. Do you want
18 to investigate and give me information that I can
19 bring back to the Syrians"?

20 AMBASSADOR PILLARELLA: This was
21 not -- I did not have direct communication in
22 Ottawa. As you know, at headquarters
23 communication is between the two headquarters. So
24 presumably Foreign Affairs would have gone to CSIS
25 with this information. In fact, this is the

1 information that was passed on to them precisely
2 for that purpose. Now, what happened to it, that
3 I don't know.

4 MR. CAVALLUZZO: But you did have
5 an interagency meeting on November 6th at which
6 CSIS attended and the RCMP attended.

7 AMBASSADOR PILLARELLA: Yes.

8 MR. CAVALLUZZO: At that point in
9 time did you say to them, "There is Canadian
10 information here which you guys can disprove. Get
11 the information for me and I will bring it back to
12 the Syrians and we will get this guy out of jail"?

13 AMBASSADOR PILLARELLA: To my
14 recollection this was discussed, but you know very
15 well that in order to verify things like that, you
16 know, you don't verify that overnight, you pick up
17 the phone and say, "Oh, have you got a sleeper
18 cell there?" No.

19 MR. CAVALLUZZO: But you don't
20 know whether any such information went back to the
21 Syrians which would rebut these charges?

22 AMBASSADOR PILLARELLA: Not to my
23 knowledge, no.

24 MR. CAVALLUZZO: Okay.

25 The second question is that I just

1 want to complete the record here, because in my
2 earlier discussions with you we went through the
3 August 14th consular visit, and at that point in
4 time it said that General Khalil had decided that
5 Mr. Arar would be tried in a civilian court.

6 Now, you are aware that that
7 decision was changed and that he was going to be
8 tried in the State Security Court?

9 AMBASSADOR PILLARELLA: I think
10 that, if I recall --

11 MR. CAVALLUZZO: Let's get
12 specific then. Let's refer to tab 524. Tab 524
13 is a CAMANT note dated August 20th. It is filed
14 by Mr. Martel, and he says:

15 "We were able to have a short
16 telephone conversation with
17 Syrian contact today but
18 little has come out of it.
19 We were told the file has
20 been transferred to the
21 'Supreme State Security
22 Court' and that all of the
23 information would be
24 available from the court."

25 AMBASSADOR PILLARELLA: Mm-hmm.

1 MR. CAVALLUZZO: So that
2 ultimately it would appear that Mr. Arar was going
3 to be tried in the Supreme State Security Court,
4 not the civilian court.

5 AMBASSADOR PILLARELLA: Well, let
6 me just read the message.

7 --- Pause

8 AMBASSADOR PILLARELLA: Yes, it is
9 true that in my other message General Khalil had
10 said that he would be tried in a civil court.

11 Now, this information was provided
12 by a Syrian contact and you would have to ask
13 Mr. Martel who provided that contact, because I --

14 MR. CAVALLUZZO: We will ask him
15 that. I just wanted to ensure that the
16 Commissioner --

17 AMBASSADOR PILLARELLA: Yes.

18 MR. CAVALLUZZO: -- was aware that
19 the last statement was that Mr. Arar would be
20 tried in the Security Court --

21 AMBASSADOR PILLARELLA: That
22 is true.

23 The thing is, I don't know to what
24 extent this information is correct because the
25 source of this information might not have known.

1 For instance, it might have been somebody in the
2 security apparatus who might not have been aware
3 of the fact that the General had said that it
4 would be in a civilian court.

5 So I hesitate to --

6 MR. CAVALLUZZO: We will clarify
7 that with Mr. Martel --

8 AMBASSADOR PILLARELLA: -- to make
9 any comments on that.

10 MR. CAVALLUZZO: -- who was there
11 at the time of the alleged trial.

12 MS McISAAC: Mr. Cavalluzzo, I
13 just note, though, that it does go on to say:

14 "...that Supreme State
15 Security Court is
16 non-military but is a
17 Penal Court."

18 MR. CAVALLUZZO: Oh, absolutely.

19 MS McISAAC: So it would be a
20 civilian court, not a military court.

21 MR. CAVALLUZZO: Right. That's
22 fine. But I just wanted to clarify that there are
23 classes of courts. I just did not want the
24 impression left that he was going to be tried in a
25 civilian court. I wanted -- just a minute. Let

1 me finish.

2 AMBASSADOR PILLARELLA: No, no.

3 MR. CAVALLUZZO: -- that he was
4 going to be tried in the Supreme Security Court,
5 because we have a lot of information on that court
6 in the public record, particularly the Department
7 of State records.

8 Now, Mr. Pillarella?

9 AMBASSADOR PILLARELLA: One
10 comment that comes back to my mind is that when
11 General Khalil said to me that the reason why he
12 would be tried in a civilian court is that if he
13 were to be tried in front of a military court he
14 risked the death penalty, and he certainly did not
15 want that to happen, if found guilty. He made
16 that statement.

17 MR. CAVALLUZZO: Right. In any
18 event, we will clarify that to ensure. As I say,
19 there is a great deal of record on the Security
20 Court, which is in Exhibits P-26, P-27, P-28
21 and P-29.

22 AMBASSADOR PILLARELLA: But please
23 keep in mind this last remark, that General Khalil
24 was conscious of the fact that if Mr. Arar had
25 been taken to the military court and found guilty

1 he risked death penalty, and he said to me, "We
2 certainly wouldn't want that to happen."

3 MR. CAVALLUZZO: Mm-hmm, okay.

4 AMBASSADOR PILLARELLA: If found
5 guilty, obviously.

6 MR. CAVALLUZZO: Right. You told
7 us in response to a question from Mr. Waldman that
8 you spoke to the Director of CSIS at one time who
9 told you that CSIS did not make representations to
10 the Syrians to the effect that they didn't want
11 Mr. Arar back.

12 AMBASSADOR PILLARELLA: Mm-hmm.

13 MR. CAVALLUZZO: When did you have
14 that conversation with -- I assume it is Director
15 Ward Elcock? When did you have that conversation
16 with Mr. Elcock?

17 AMBASSADOR PILLARELLA: This
18 happened by chance because Mr. Elcock came to
19 Bucharest. I had already moved in Bucharest. I
20 cannot remember what time. We had breakfast at
21 his hotel and we spoke about a number of things,
22 and at one point I said, "By the way, this is what
23 I have heard in Syria. What do you say?" And he
24 said, "Absolutely not true." And that ended
25 there.

1 MR. CAVALLUZZO: What was the date
2 of this breakfast?

3 AMBASSADOR PILLARELLA: I can't
4 remember --

5 MR. CAVALLUZZO: Obviously it
6 would have been after you assumed
7 responsibilities --

8 AMBASSADOR PILLARELLA: As I said,
9 this was already when I was Ambassador in Romania.

10 MR. CAVALLUZZO: So it would have
11 been sometime in late 2003, early 2004?

12 AMBASSADOR PILLARELLA: Probably,
13 yes.

14 MR. CAVALLUZZO: So it would have
15 been after Mr. Arar's return to Canada?

16 AMBASSADOR PILLARELLA: Yes.

17 MR. CAVALLUZZO: Did Mr. Elcock,
18 during this conversation, feign surprise? Did it
19 look like this was the first time he heard this
20 allegation?

21 AMBASSADOR PILLARELLA: Now, you
22 are asking too much. As I said, we were talking
23 about a lot of things, and this came en passant
24 and we did not pursue the conversation. He just
25 denied it and that was the end of it.

1 MR. CAVALLUZZO: Did you know
2 Mr. Elcock? Well, you must have, I guess. You
3 had breakfast with him.

4 AMBASSADOR PILLARELLA: I knew
5 Mr. Elcock from Ottawa. When I was in Ottawa in
6 the Foreign Ministry we had had occasion, when he
7 was in PCO and I was in Foreign Affairs, and we
8 met on several occasions, yes.

9 MR. CAVALLUZZO: I guess the
10 question I would have to that is: When you got
11 the message from these two people high up in the
12 Syrian hierarchy that CSIS had given them this
13 message that they didn't want Mr. Arar returned to
14 Canada, why wouldn't you have picked up the phone,
15 called Mr. Elcock, and say, "Ward, you know what
16 these Syrians are saying? They are saying that
17 your outfit doesn't want Arar returned to Canada"?

18 First of all, did you do that?

19 AMBASSADOR PILLARELLA: No, I did
20 not do that.

21 MR. CAVALLUZZO: The second
22 question is: Why didn't you it?

23 AMBASSADOR PILLARELLA: For the
24 very simple reason that is not the way we work.
25 We report things to headquarters and then

1 headquarters picks it up from there. It is normal
2 practice. I mean, it is --

3 MR. CAVALLUZZO: Okay, normal
4 practice. You would agree, though, Mr. Arar's
5 case is not normal, is it -- was it? It may have
6 called for some unusual practices.

7 AMBASSADOR PILLARELLA: But once
8 the information is passed on to Ottawa, to
9 headquarters, headquarters moves very quickly and,
10 believe me, Mr. Arar mobilized half of the
11 government in trying to get him back to Canada.

12 MR. CAVALLUZZO: Okay. The next
13 question.

14 In response to a question from
15 Mr. Waldman you said something like this. You
16 said that the fact that -- even if the Syrians had
17 this impression that CSIS didn't want him
18 returned, you said that -- I think I understood
19 you to say that this wouldn't have prolonged
20 Mr. Arar's stay in Syria because they acted on
21 their own, for their own reasons, for their own
22 interests, and so on?

23 AMBASSADOR PILLARELLA: That is
24 correct, yes.

25 MR. CAVALLUZZO: You said this

1 was your opinion?

2 AMBASSADOR PILLARELLA: Yes.

3 MR. CAVALLUZZO: That obviously
4 was not an opinion shared by others. I am talking
5 now about Gar Pardy.

6 Do you remember I referred you to
7 the May 3rd memo --

8 AMBASSADOR PILLARELLA: Yes, yes.

9 MR. CAVALLUZZO: -- where he
10 specifically said that the problem we have is
11 that Canada is not speaking with one voice? And
12 the reason for that -- one of the reasons for that
13 is this CSIS impression that has been left with
14 the Syrians.

15 You were aware of that?

16 AMBASSADOR PILLARELLA: Yes, I saw
17 the testimony. But that is Mr. Pardy's opinion,
18 and you will allow me to disagree with it.

19 I mean, for the reasons that
20 have been indicated in camera, this is why I
21 believe that the fact that CSIS might have said
22 that they were not interested in seeing Mr. Arar
23 back in Canada, the Syrians released him when it
24 suited them.

25 MR. CAVALLUZZO: Right. I am

1 going to come to that, but you would agree with me
2 that -- if I can use the Canadian vernacular --
3 General Khalil was the big guy --

4 AMBASSADOR PILLARELLA: Yes.

5 MR. CAVALLUZZO: -- in Syria?

6 AMBASSADOR PILLARELLA: Yes.

7 MR. CAVALLUZZO: General Khalil
8 liked to deal with security agencies. Right?

9 AMBASSADOR PILLARELLA: Yes.

10 MR. CAVALLUZZO: So don't you
11 think that it would have made sense for the
12 security agencies to talk to the big guy and say,
13 "Listen, you have misunderstood us. We want this
14 guy back in Canada"?

15 Don't you think General Khalil
16 would have listened to CSIS?

17 AMBASSADOR PILLARELLA: Once more
18 I come back to what I said in camera. I think you
19 have the answer right there.

20 MR. CAVALLUZZO: Finally, a couple
21 of final questions, related once again to CSIS.

22 Ms McIsaac asked you the question
23 about this CSIS message or impression that is left
24 with the Syrians and you were asked: Is it
25 plausible that the Syrians could have been using

1 this as an excuse not to release Mr. Arar?

2 AMBASSADOR PILLARELLA: I said I
3 don't know, but it could have been.

4 MR. CAVALLUZZO: What do you think
5 the best way would be to remove that excuse?

6 AMBASSADOR PILLARELLA: I'm sorry?

7 MR. CAVALLUZZO: What do you think
8 would be the best way to remove that excuse from
9 the Syrians?

10 AMBASSADOR PILLARELLA: Well, the
11 best way was what I repeated continuously: I
12 don't care what anybody may be suggesting to you,
13 I speak for Canada. What I'm telling you is that
14 Mr. Arar is not the subject of any criminal
15 investigation in Canada and, therefore, if you let
16 him go, we will take him back.

17 This was the mantra that I repeat
18 from the first to the last day.

19 MR. CAVALLUZZO: It didn't seem to
20 work for a long time.

21 It seems to me that if you -- once
22 again I come back to General Khalil likes to deal
23 with security agencies. It seems to me an easy
24 answer might have been, in respect of whether it
25 is an excuse or whether it is the truth -- listen

1 to the question.

2 AMBASSADOR PILLARELLA: Yes.

3 MR. CAVALLUZZO: And the question
4 is -- to have CSIS communicate with their
5 counterparts in Syria and say, "You guys got it
6 wrong"? Very simple, short and sweet.

7 AMBASSADOR PILLARELLA: You might
8 have removed the excuse, but that would have not
9 advanced the release of Mr. Arar for the reasons
10 that I have mentioned in camera.

11 MR. CAVALLUZZO: Okay. That
12 is what I want to deal with. Not the in-camera
13 reasons.

14 You said that the Syrians only
15 released Mr. Arar when they thought it
16 appropriate, and then you have talked about
17 publicity in Canada not working in the interests
18 of Mr. Arar at certain points in time.

19 AMBASSADOR PILLARELLA: Mm-hmm.

20 MR. CAVALLUZZO: Okay? Then a few
21 minutes ago you said that one of the reasons why
22 there was a great gap in time between consular
23 visits after the Catterall and Assadourian visit
24 on April 22, 2003 was that the Syrians may have
25 been perturbed that the parliamentarians had come

1 at that point in time when obviously the war in
2 Iraq had gone on and they had more important
3 things on their plate than this.

4 AMBASSADOR PILLARELLA: Yes?

5 MR. CAVALLUZZO: I am going to put
6 to you another hypothesis, and that is: You would
7 agree with me -- you would agree with me that the
8 publicity campaign, or the public campaign in
9 Canada on behalf of Mr. Arar, was heightened after
10 the Syrian Human Rights Committee report
11 "Allegations of Torture" came out in July and
12 August?

13 You would agree with me that that
14 is when the public campaign was at its height?

15 AMBASSADOR PILLARELLA: In Canada.

16 MR. CAVALLUZZO: In Canada.

17 AMBASSADOR PILLARELLA: In Canada,
18 yes.

19 MR. CAVALLUZZO: The next thing
20 that happens is Mr. Arar gets a consular visit on
21 August 14th.

22 AMBASSADOR PILLARELLA: Because I
23 went to see General Khalil, and I said, "Look,
24 there is an accusation that you are practising
25 torture, and therefore -- and we haven't seen

1 Mr. Arar for a long time. So let us see him so
2 that we can see what these allegations -- whether
3 there is any truth in the allegations."

4 MR. CAVALLUZZO: Right. But the
5 only reason you went to see -- got in to see
6 Mr. Khalil, in my view at least from the evidence,
7 is because of the heightened public campaign in
8 Canada. And that's plausible.

9 Your theory is plausible. This
10 one is plausible too, you will agree? You are not
11 answering --

12 AMBASSADOR PILLARELLA: Yes, but I
13 don't see what the point is.

14 MR. CAVALLUZZO: All right. Let's
15 go on to the next point.

16 We have this heightened public
17 campaign in Canada. Right? We suddenly get the
18 next consular visit -- the previous one being on
19 April 22nd. That is a period of May, June,
20 July -- four or five months.

21 AMBASSADOR PILLARELLA: Yes.

22 MR. CAVALLUZZO: We get this
23 consular visit because of this heightened public
24 campaign, possibly?

25 AMBASSADOR PILLARELLA: Possibly.

1 MR. CAVALLUZZO: Possibly. The
2 next thing that happens is they move Mr. Arar to
3 another prison. They move him out of the
4 Palestine Branch, they moved him to -- do you know
5 where they moved him to?

6 AMBASSADOR PILLARELLA: I don't
7 know. Sednaya I believe.

8 MR. CAVALLUZZO: Yes. Where the
9 prison conditions were much better. He wasn't
10 living in a cell 3 by 6 by 7. He was with other
11 prisoners. In fact, they gave him more food, and
12 so on and so forth, so that the conditions, even
13 not great, were better. So that seems to be
14 another event that occurs, perhaps as a result of
15 the heightened public campaign in Canada.

16 Is that plausible?

17 AMBASSADOR PILLARELLA: It is
18 possible, but I have no proof that this is the
19 reason.

20 Because let me ask you a question
21 then, if I may? When was the next consular visit?

22 MR. CAVALLUZZO: Well, I guess
23 there didn't have to be a consular visit because
24 that is the next event, because they release
25 Mr. Arar on October -- just a minute.

1 You asked me the question. I
2 want to answer --

3 --- Laughter / Rires

4 MR. CAVALLUZZO: -- without
5 interruption from you, okay? Okay?

6 AMBASSADOR PILLARELLA: Sorry.

7 MR. CAVALLUZZO: The next event
8 that occurs is that Mr. Arar is released to
9 Canada, all flowing, in my view, it seems, from
10 the heightened public campaign in Canada in
11 August. That is my answer to you.

12 AMBASSADOR PILLARELLA: Okay.

13 MR. CAVALLUZZO: Do you have a
14 final question?

15 --- Laughter / Rires

16 AMBASSADOR PILLARELLA: Yes, my
17 point was this. You see, you say that the visit,
18 the consular visit took place because of this
19 heightened publicity in Canada, and I say, yes, it
20 is possible. Then my question was: When is the
21 next consular visit? And you say he was released
22 in October.

23 So between August and October
24 there was no access. So this heightened publicity
25 in Canada --

1 MR. CAVALLUZZO: No, no, no. You
2 are missing a very important fact, counsel --

3 AMBASSADOR PILLARELLA: All right.

4 MR. CAVALLUZZO: -- since you
5 are asking the question. The important fact is
6 that he was moved from the Palestine Branch. He
7 was moved in with other prisoners, he was moved
8 to Sednaya Prison, and shortly thereafter he
9 was released.

10 AMBASSADOR PILLARELLA: That is
11 because -- at that point he was moved because he
12 was going to be put on trial.

13 MR. CAVALLUZZO: That is your view
14 and I guess we will leave it for the Commissioner
15 to make the final view on that.

16 Thank you.

17 THE COMMISSIONER: Thank you,
18 Mr. Cavalluzzo.

19 Thank you very much, Ambassador,
20 for your second go-around at the Commission. I
21 appreciate the time and effort. I know you have
22 travelled a long way to come here, and so I'm
23 appreciative of the time and effort you put in to
24 testifying on both occasions.

25 AMBASSADOR PILLARELLA: Thank you.

1 It was a pleasure seeing you again, even though it
2 was not always easy. But thank you.

3 --- Laughter / Rires

4 THE COMMISSIONER: You may step
5 down. There are a couple of things that I want to
6 deal with. You can step out of the witness box
7 then, and I will just deal with tomorrow morning's
8 procedures.

9 AMBASSADOR PILLARELLA: Thank you.

10 THE COMMISSIONER: Thank you.

11 For the motion tomorrow, it is
12 scheduled for 8:30. I am going to suggest an
13 order of events and if anybody has any comment --
14 it is Mr. Bayne's motion, so that he will go
15 first. I will allocate a half an hour for him as
16 the moving party.

17 I understand Mr. Bell, who is not
18 here this afternoon, is going to support the
19 motion, so he should probably go next; 10 minutes.

20 Mr. Waldman, are you going to
21 speak to the motion?

22 MR. WALDMAN: Ms Edwardh will be
23 here tomorrow.

24 THE COMMISSIONER: Is Ms Edwardh
25 going to speak to the motion?

1 MR. WALDMAN: Yes. I will advise
2 her. I'm meeting her now.

3 THE COMMISSIONER: She will go
4 third; 10 minutes.

5 Ms McIsaac, will you be speaking
6 to it?

7 MS McISAAC: It will be
8 Mr. Fothergill.

9 THE COMMISSIONER: Mr. Fothergill.
10 Then next, Mr. Fothergill; 10 minutes.

11 How much have I allocated so far?
12 That is an hour.

13 MR. CAVALLUZZO: An hour, and
14 there is also Mr. Cameron, the amicus.

15 THE COMMISSIONER: Oh, yes, the
16 amicus, Mr. Cameron, will be here.

17 MR. CAMERON: Ten minutes.

18 THE COMMISSIONER: Ten minutes?
19 So far -- so the order --

20 --- Off microphone / Sans microphone

21 THE COMMISSIONER: Counsel in this
22 inquiry are typically much shorter than they
23 estimate, so that I'm sure we will get it done
24 within an hour, and then Mr. Bayne will have an
25 opportunity of reply.

1 Could people --

2 MR. WALDMAN: You left out
3 Mr. Cavalluzzo.

4 THE COMMISSIONER: No, he won't --

5 MR. CAVALLUZZO: I just may have
6 some general observations, no submissions, but it
7 wouldn't be more than a minute or two.

8 THE COMMISSIONER: Okay. Why
9 don't we deal with it on that basis?

10 Then the witness tomorrow is...?

11 MR. CAVALLUZZO: Mr. Edelson.

12 THE COMMISSIONER: Should we
13 schedule him to start at 10 o'clock? Would that
14 make sense?

15 MR. CAVALLUZZO: Yes.

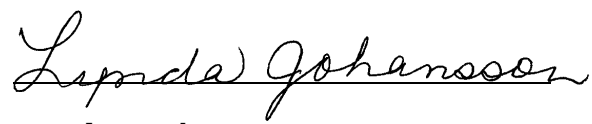
16 THE COMMISSIONER: Okay. That is
17 the way we will do it.

18 We will resume tomorrow morning
19 at 8:30.

20 THE REGISTRAR: Please stand.

21 --- Whereupon the hearing adjourned at 4:22 p.m.,
22 to resume on Thursday, June 16, 2005,
23 at 8:30 a.m. / L'audience est ajournée à
24 16 h 22, pour reprendre le jeudi 16 juin 2005
25 à 8 h 30

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Lynda Johansson,

C.S.R., R.P.R.

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