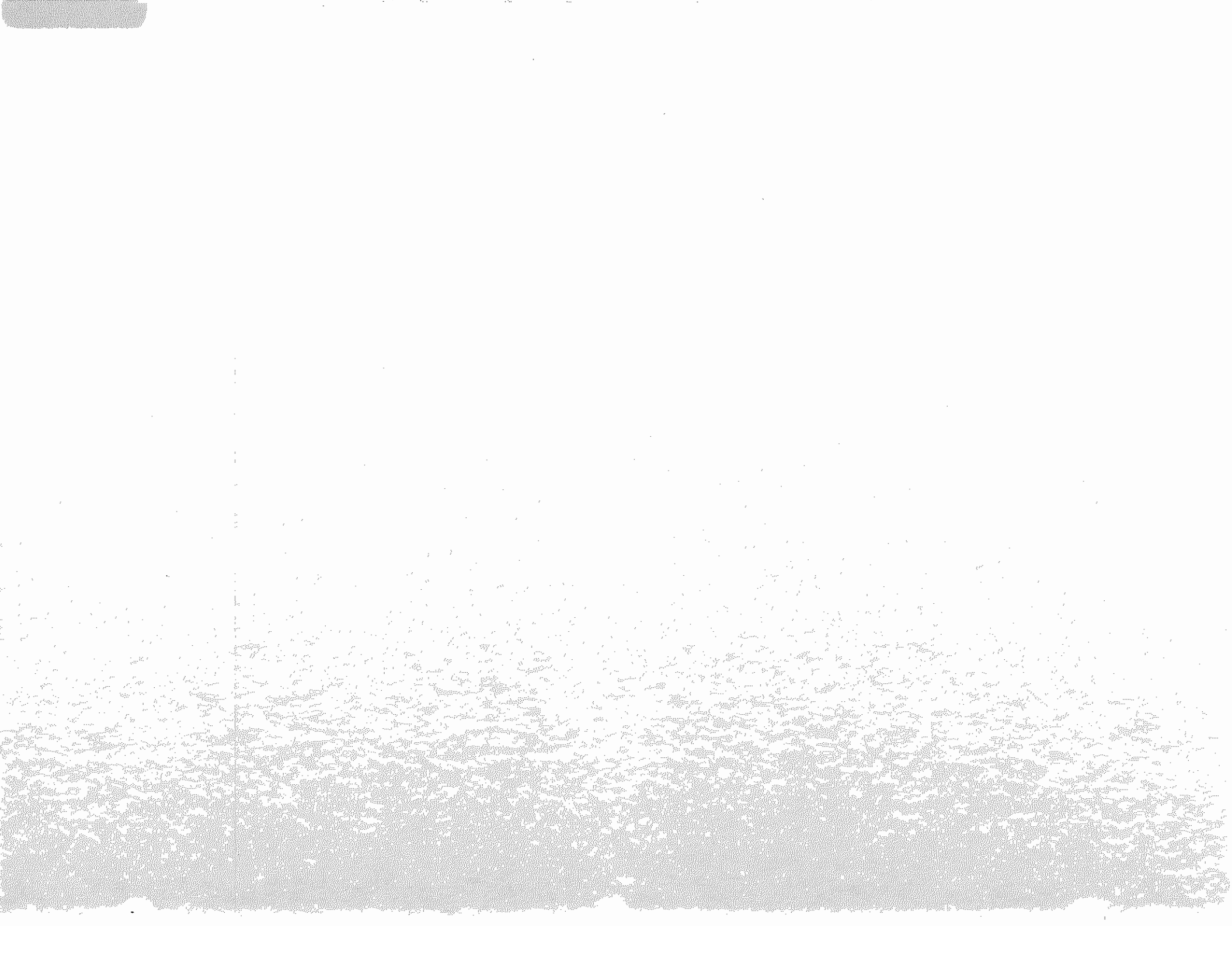

Karlheinz Schreiber
Suite 908, 350 Sparks Street, Ottawa, Ontario
Telephone: (613) 563-3321 Fax: (613) 563-7648

PRIVATE AND CONFIDENTIAL
FOR HIS EYES ONLY

18 October 1990

The Hon. Bill McKnight
Minister of National Defence
Room 401
Confederation Building
Ottawa, Ont.
K1A 0A6

Dear Bill:

I have always regarded you as a friend who shares many common friends within the Conservative Party. Therefore, I take the opportunity to write this letter to express some concerns to you on a private basis.

Years ago, we worked hard to elect a Conservative Government in Canada and finally in 1984 and 1988 found success with back to back majority governments under Brian Mulroney. I am very proud that I was able to contribute to this cause. I did this having complete confidence in Brian Mulroney as the leader who would carry Canada into a better future.

As a member of the 1990 Atlantic Bridge Conference this past week in Ottawa, I was amazed how speakers such as Mr. John Godfrey, Dr. Sylvia Ostry, Mr. de Montigny Marchand, and Senator Roch Bolduc, were so frank in their comments on the frustrating situation Canadians are in. Your parliamentary colleague Felix Holtman MP and Senator Guy Charbonneau were also present, and they may have shared this with you already.

The German participants of this meeting find it hard to understand why a country so rich in natural resources can find itself in such a situation.

PRIVATE AND CONFIDENTIAL
FOR HIS EYES ONLY

The outcome of the Atlantic Bridge Conference was as follows:

1. The dramatic challenges in the world will be economic.

2. These problems cannot be handled by Governments. Governments' role will be only to support industry as the engine of recovery.

3. NATO will continue in a role of keeping the trans-Atlantic Family together and as the key player in UN peace-keeping.

4. Finally, the problems of the environment will also only be solved by private sector activities supported by Government.

What Canada needs is increased business in exports, exports, exports. Not only in natural resources but increasingly in finished products.

The Canada-US Free Trade Agreement secures an open door to the most important market in the world and gives Canada one of the greatest opportunities, so long as we can deliver what that market demands. History will prove the vision of the Mulroney Government in having secured a treaty to guarantee Canada's access to the US market.

Five years ago, the Thyssen Company was ready to extend its activity in North America. In response to solicitation from the Canadian Ambassador to Germany and statements by Federal Government Ministers that Canada was "open for business", it was decided to choose Canada instead of the U.S. as a base for this new activity in North America. The priority activity planned for this new facility was defence production and representatives of the Canadian Government readily argued that under the Canada-United States Defence Production Sharing Agreement a Canadian site would be considered equal to an American site from the perspective of trade in defence goods. Furthermore, Ministers of the Crown specifically cited the Prime Minister's priority to bring new jobs and industrial diversification into Atlantic Canada. This was the main reason that I committed myself to bring this investment to Canada.

As you know, Thyssen is a broadly diversified industrial company with some 136,000 employees worldwide, achieving 2 billion DM in profits last year and an equally strong outlook for this year. In the United States, Thyssen employs some 16,000 persons with two new plants under construction, while in Canada, there are some 2,000 employees, mainly in Ontario.

PRIVATE AND CONFIDENTIAL
FOR HIS EYES ONLY

I hope you understand that Thyssen does not need an order from DND to survive. What Thyssen does need is a reason to locate its plant for military vehicles and environmental protection technology in Canada. I expect that you may agree it is reasonable that the Americans would find it hard to understand why we want to produce in Canada vehicles for their procurement, when we have not yet received any order from the Canadian DND.

Thyssen does not need grants from the Government, nor does it want to be involved in another industrial tombstone erected at Canadian tax payers expense. What Thyssen needs is a start-up order for 250 Fox armoured personnel vehicles, an order that could be adjustable to the MRCV specifications. Both vehicles are especially well suited to peace-keeping missions due to protection against 7.62mm armour piercing ammunition and the nuclear, biological and chemical (NBC) threat.

I would like to inform you again that the Governments of the United States, United Kingdom, Saudi Arabia, Turkey and France have all petitioned the German Government for supply of the Fox vehicle on an urgent basis from German Army stocks. Delivery of the first thirty vehicles to the U.S. Forces in Saudi Arabia is complete and the result of their performance is very positive.

It surprises me that the Canadian DND has taken no similar action to protect Canadian military personnel stationed in the Gulf. It is also amazing to read today's press accounts that the Canadian Forces had to recover defensive weapons from a museum for deployment on the Naval vessels in the Gulf.

I for one would feel guilty having not done enough to change these problems in shortfalls of equipment capability. You may well imagine how I felt when, in February 1990, I learned from your officials that NBC protection was considered an unnecessary requirement in Canadian armoured vehicles.

Then in trying to help and bring the project forward and bring the necessary equipment to the Canadian Forces, I learned from LGen. David Huddleston:

> I "will ruin the reputation of Thyssen within DND completely and end up with nothing".

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FOR HIS EYES ONLY

When I responded that I felt confused by such a remark, because we were invited by the Canadian Government he said:

"We are the Government".

I then said that Ministers soliciting investment for Canada abroad should explain to investors that Canada has two different Governments. LGen Huddleston's concluding remark was:

"We don't care what *#@^*# Ministers whisper in your ears
and cannot deliver later on."

I will try to put this remarks aside as an unpleasant memory.

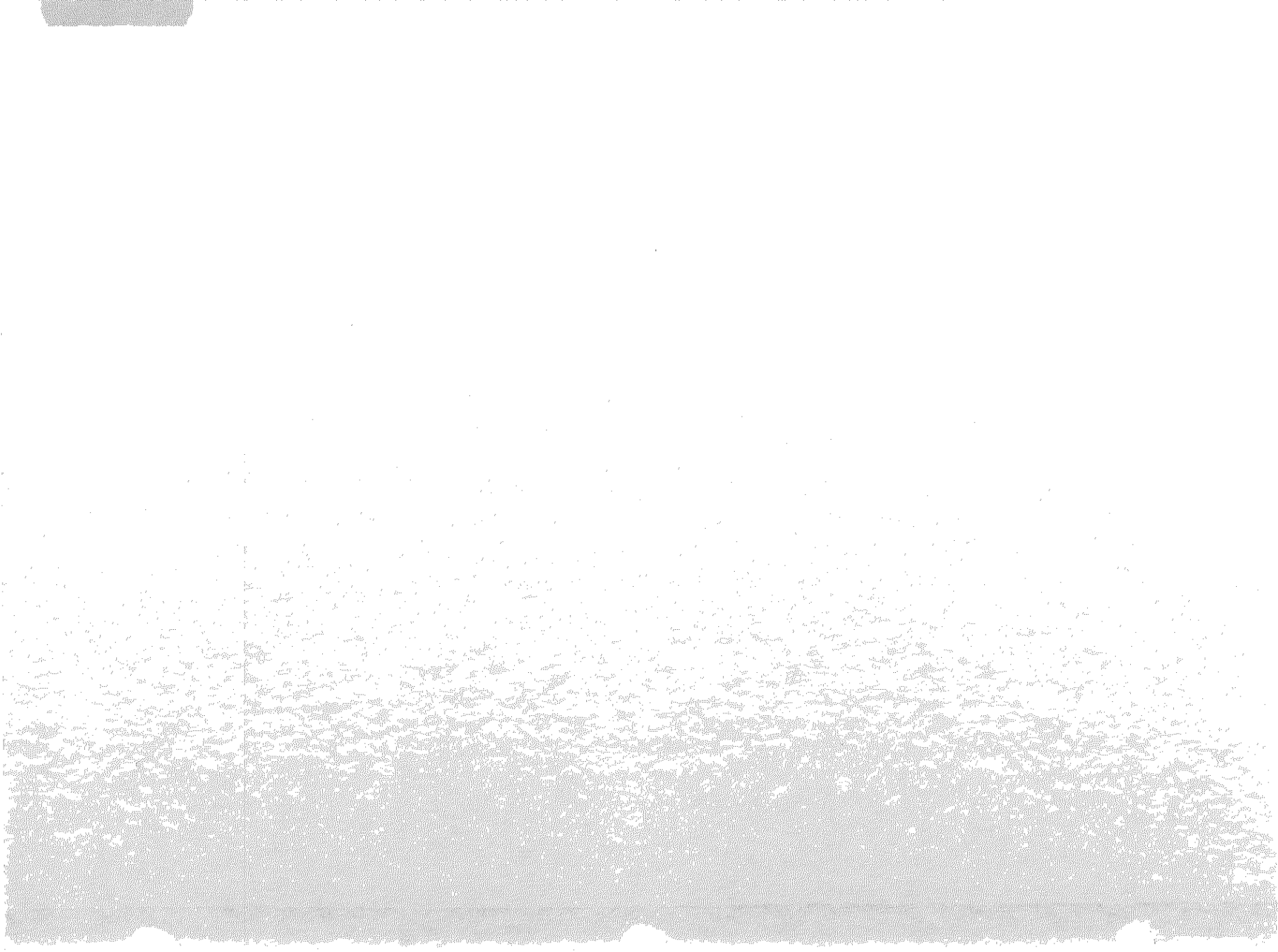
More recently, I learned from you that financing is the only problem that prevents you from equipping your soldiers with a modern vehicle. Thyssen is in a position to explore a variety of financing options which would assist in overcoming the obstacle of near term financial restrictions and I stand ready to help in finding the right solution for DND. In any event, we should do everything we can to give Canadian soldiers proper equipment and at least the same protection as our NATO allies seek for their soldiers.

Furthermore, activation of the Bear Head project will benefit the objectives of the Canadian economy through increased exports to the United States. I can see how, in meeting the primary equipment needs of the Forces, we also can multiply the effect by using the Forces needs to enhance our export position, a result that will help to address critical economic and employment problems all over Canada. Moreover, in exporting a system like this which requires ongoing maintenance, spare part supplies, and upgrading, we stand to create constant economic benefits for Canada of a significant and long term nature. For your interest, I enclose an article by Hyman Solomon which appeared in the Financial Post 10/17/1990, which argues strongly for the need of such linkage between Government and industry.

I stand ready to meet with you at the earliest opportunity to meet this challenge.

Kind personal regards,

Karlheinz Schreiber



KARLHEINZ SCHREIBER

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The Honourable Vic Toews, P.C., M.P.
Minister of Justice and Attorney General of Canada

House of Commons
Ottawa, Ontario
K1A 0A6

Ottawa, October 25, 2006

Subject: "Political Justice Scandal" and the "Airbus" Affair
From Allan Rock to Irwin Cotler

Dear Mr. Minister,

I am taking the liberty to sending you copies of the

"Political Justice Scandal" Canadian Case (Binder),
"Political Justice Scandal" International Case (Binder),
"Political Justice Scandal" International Case and the "Airbus" Affair, Case Report (attachment tab18),
"Political Justice Scandal" International Case the "Airbus" Affair – Allan Rock & William Corbett (attachment tab19)
for your personal political information.

On May 17, 2006 and on August 10, 2006 my lawyer Edward Greenspan Q.C., LL. D. sent letters and submissions to you concerning the political aspects of my extradition case, including his submissions to the then Minister of Justice and Attorney General of Canada, Irwin Cotler together with the Minister's decision for surrender.

Since your decision in my case is of highly important political nature in Canada and Germany, I feel strongly that I have an obligation and a right to give to you my views of the story and the scandal. Let me tell you why:

All my life I was and I am a Conservative on an international level.
The conservative Governments of the Province of Bavaria, Germany with Premier Franz Josef Strauss (Chairman of the CSU) and the conservative Government of the Province of Alberta, Canada with Premier Peter Lougheed made me come to Canada in 1974.

On September 2, 1978 I became a Canadian landed immigrant.
On February 23, 1982 I became a Canadian Citizen.

As requested I brought jobs and substantial amounts of money to Canada.
I felt very comfortable with my new Canadian conservative friends and was happy to provide support and financial help to them when required and became a member of the Conservative 500.

I don't want to drop names to impress you, but it might be that we share some friends or there are also people you may want to speak to.

The Hon. Dr. Hugh Horner's son, The Hon. Doug Horner, M.L.A.
The Hon. Ken Kowalski, M.L.A.
Rowland McFarlaness's widow Jan
William (Bill) Skoreyko M.P.'s widow Helen and his son Alan Skoreyko
The Hon. Dr. Horst A. Schmid
Norman Wagner professor and University president's widow Cathy
Rod Sykes (Major of Calgary)
Dr. Eric Waldmann professor
Robert Hladun, Q.C.
The Hon. Jack Major, Q.C., LL.D.
Lee Richardson, M.P.

The Right Hon. Brian Mulroney
The Hon. Don Mazankowski
The Hon. Elmer MacKay
The Hon. Frank Oberle
The Hon. Charles Mayer
The Hon. Robert Coates
The Hon. Frank D. Moores's widow Beth
The Hon. Bill McKnight
The Hon. Paul Dick
The Hon. Sinclair Stevens
The Hon. John M. Buchanan
The Hon. Don W. Cameron
The Hon. Peter MacKay, M. P.

The Hon. Jean Charest
The Hon. Benoit Bouchard
The Hon. Marcell Masse
The Hon. Monique Vezina
The Hon. Jean Corbeil
The Hon. Michel Cogger
Mr. Fred Doucet
Mr. Gerry Doucet
Mr. Garry Ouelett's widow Renee

Lieutenant – General J.E. Vance CMM, CD. RT and Army Major Ian Read
Major – General G.M. Reay, Commander MBE, CD's widow Lesley
Lieutenant- General J. A. Fox, Commander RT

The older we become the more friends we loose.

1997 LEGAL PROCEEDINGS AGAINST THE ATTORNEY GENERAL OF CANADA

Allan Rock, then the Minister of Justice and Attorney General of Canada initiated the "Airbus" affair based on talks with journalists (for all the details see the reports and the Binder Canadian Case).

On August 24, 2006 my Lawyer, Robert Hladun, Q.C. filed an appointment for Examination for Discovery concerning Allan Rock in the Court of Queen's Bench of Alberta in Edmonton.

On October 2, 2006 John H. Sims, Deputy Attorney General of Canada filed a Notice of Motion with the Court in Edmonton that he will bring an application for an order setting aside the Appointment for Examination of Allan Rock, which will start another battle all the way up to the Supreme Court of Canada. This is another chapter of the 9 year-delay tactics of the Liberal Underground Government of Canada – the Liberal bureaucracy (attachment tab 1).

The aim is still the same: make sure that Canadians will never find out about the secrets of the "Airbus" Mulroney Vendetta and the biggest "Political Justice Scandal" in Canadian history with international political implications.

When the legal battle begun the Attorney General was with a Liberal Government, responsible for the scandal and trying everything to stop the lawsuit.

Since February 6, 2006 the situation has changed and the Attorney General of Canada is a member of the Conservative Government, but the bureaucrats are still the same.

I will send all this material and information to you in order to bring the situation to your attention. I will ask The Right Honourable Stephen Harper M.P., Prime Minister of Canada for help to make sure that it gets to you because you are shielded by those who are the target of my legal proceedings.

CANADIAN GREAT LIARS: ALLAN ROCK, HERB GRAY, STEVIE CAMERON!

CBC Watch, Thursday, June 3, 2004
RCMP launched fraud investigation after hearing journalist Stevie Cameron on CBC Radio. The Cameron interview spurred police on.

Supt. Mathews said that two senior officers contacted her after the 1995 broadcast. They persuaded her to supply potential evidence in return for anonymity and insider information, an arrangement that recently erupted into a major legal and journalistic controversy (attachment tab 2).

The arrangement paid well for Steve Cameron, not for the RCMP, not for the Minister of Justice and Attorney General of Canada, not for the Solicitor General of Canada, not for the Government of Canada, not for several governments abroad, not for Canadian international reputation, not for important international industrial companies and not for Brian Mulroney, Frank Moores, Garry Ouelett and Karlheinz Schreiber.

Stevie Cameron provided stories with the support of Giorgio Pelossi (a convicted Swiss criminal) and helped the Mounties and other Canadian officials to find reasons to travel the world for 11 years on Canadian taxpayer's money. This started the longest RCMP criminal investigation in Canadian history. It cost millions of dollars without any result.

With the insider information from the RCMP Stevie Cameron (a.k.a. "Stevie Wonderful") published her second book *On the Take: Crime, Corruption and Greed in the Mulroney Years* in October 1995 DRAMATIC NEW MATERIAL ADDED and her book *The Last Amigo: Karlheinz Schreiber and the Anatomy of a Scandal* in 2001. (See the Case Report September 27, 2006 page 3.)

The books created public support for the RCMP and the Liberal Government concerning the political vendetta against Brian Mulroney and Karlheinz Schreiber.

On January 6, 1997 in a Statement by Allan Rock and Herb Gray regarding the case with Brian Mulroney and the Settlement Agreement, Herb Gray, the then-Solicitor General of Canada pointed out:

Finally, we learned three days ago that, during the investigation, there may have been a disclosure by a member of the RCMP investigative team to an unauthorized third party outside government, about who was named in the Letter of Request.

While the Privacy Act prevents disclosure of the names of either individual involved, I can tell you that the Commissioner has already initiated a Code of Conduct investigation and he will be available to you following this press conference to discuss the details of this process (attachment tab 3).

Stevie Cameron writes in her book *The Last Amigo* on page 289:

The Privacy Act *notwithstanding, within hours of the press conference's conclusion, Rock's senior staff and counsel, as well as public relations specialists hired to give him advice on how to handle the affair, were telling reporters openly that the Mountie in question was Staff Sergeant Fraser Fiegenwald and the "third party" was Stevie Cameron* (attachment tab 4).

Mike Niebudek, President, Mounted Police Association of Ontario, reported: *Southam wanted to cover the disciplinary hearing of S/SGT. Fraser Fiegenwald, who was charged with two offenses under the Code of Conduct following the Airbus Affair. Judge Rutherford ruled that the section of the* RCMP Act *which allowed hearing in private was unconstitutional. Following this ruling, the RCMP decided to negotiate a deal with good old Fraser instead of carrying on with the disciplinary hearing. And I could go on....*

Considering all these legal battles, which cost hundreds of thousands of dollars to Canadian taxpayers, maybe we should send a copy of the Constitutional Act of 1982 to the Commissioner and to the Attorney General of Canada.

You have to agree that it is inconceivable that the leaders of our country and of a national police force ignore this Act which takes precedence over any other legislation in our land. After all, our main mandate is to maintain the law, as says our motto. ***Before insuring that the Canadian people respect the laws of our country, maybe the RCMP should set the example in its own back yard*** (attachment tab 5).

Dear Mr. Minister, do you understand what is going on with this case?

Why was Fraser Fiegenwald fired because he spoke to Stevie Cameron (the confidential RCMP informant Code A 2948) when she was entitled to insider information?

Why did Fraser Fiegenwald get a nice deal after Judge Rutherford's ruling?

Why did Herb Gray, then the Solicitor General of Canada, lie about Fraser Fiegenwald unethically speaking to Stevie Cameron when he ought to know that she was entitled to receive RCMP insider information?

Why did Allan Rock, then the Minister of Justice and Attorney General, who initiated the whole affair send people out to broadcast the untrue story on Fraser Fiegenwald and Stevie Cameron?

Why did all the individuals - from the Department of Justice, the International Assistance Group (IAG) and the RCMP - who are involved in the case, try to stop me with my lawsuit through delay, detention or extradition?

There is an explanation as long as it concerns individuals of the previous Liberal Governments, or the Canadian Underground Government - of the Liberal bureaucracy:

PLAIN FEAR!

Imagine the truth about the biggest "Political Justice Scandal" in Canadian History with all the international implications comes to light in a Canadian court.

Imagine Canadians will learn that the "Airbus" affair was nothing more than a political vendetta against Brian Mulroney and Karlheinz Schreiber is the innocent victim.

The case of **Maher Arar** shows what can happen to an innocent victim of the RCMP and the Canadian Department of Justice.

What would happen if a Judge, like Mr. Justice Dennis O'Connor, conducted an inquiry into the "Airbus" affair and the "Political Justice Scandal"? Both affairs tortured for 11 years the families of Brian Mulroney and Karlheinz Schreiber. They damaged their reputation with confidential RCMP informant Stevie Cameron's books and their skillful manipulation of the media.

On June 5, 2006 Christine Ashcroft, a lawyer of the Department of Justice, acting for the Attorney General of Canada in the lawsuit with Karlheinz Schreiber is asking in her letter for a better Affidavit of records, regarding the business of Mr. Schreiber and payments to Brian Mulroney (attachment tab 6).

On July 31, 2006 Christine Ashcroft writes in her letter: We can advise that we object to any examination of Mr. Rock (attachment tab 7).

Since this situation is not in accordance with the announcement of the Prime Minister to clean up the Government in Ottawa, it seems to be obvious that you have no knowledge about the legal proceedings in Edmonton. I hope this information is of some help to you.

THE LIBERAL GOVERNMENT AND THE EXTRADITION OF KARLHEINZ SCHREIBER

In 1985, I became the Chairman of Thyssen – Bearhead Industries and came to Ottawa on the request of the Canadian Government and The Right Hon. Prime Minister Brian Mulroney to create jobs in the Province of Nova Scotia and to bring success to the USA–Canadian Defense Production Sharing Agreement.

For eight years I worked on the project. I learned, through bitter experience, that the Liberal bureaucracy in Ottawa with Paul Tellier, Bob Fowler and the support of Joe Clark undermined the policies of the Government of Brian Mulroney everywhere. What I did find were lies, frauds, conspiracy, greed, ignorance, arrogance, disappointment and great sadness for Canada and Canadians. The failure to use the superior military products developed by Thyssen – Bearhead (especially their armoured personnel carriers) cost the lives of Canadian soldiers and for what. The only gain was to achieve the Liberal Underground Government's goal to frustrate the policies of the legitimately-elected Conservative government of Canada.

Thyssen, the Canadian soldiers, the people of Nova Scotia, Quebec and I have been misused and betrayed after Thyssen spent more than $60 Million on the project for peacekeeping and environment – protection.

In other words, it was easy for me to make enemies with the second Canadian Government (the Liberal bureaucracy).

If Canadians will ever get to know what really happened they will be shocked from coast to coast. I am still in contact with the witnesses including four Generals of the Canadian Armed Forces and several Ministers of previous Canadian Governments.

Having this situation in mind it is easy to understand why my enemies in the spring of 1995 teamed up with the German prosecutors, Stevie Cameron the RCMP informant and Giorgio Pelossi, the Swiss convicted criminal (see the Case Report).

On April 1, 1998 R. Brettschneider, RCMP Liaison Officer at the Canadian Embassy in Bonn, Germany send a letter to the German authorities and wrote: *"Canadian investigators are equally interested in having Schreiber arrested. You will be contacted immediately in the event of any information which would assist you."*

Why and on what legal basis did the RCMP want Schreiber arrested? There was never a charge or an arrest warrant issued against Mr. Schreiber (the document is in the International Case binder tab 5).

From the 11th to the 15th of September 1999 and from the 4th to the 9th of October 1999 some lawyers of the Canadian Department of Justice (IAG) were in Augsburg, Germany and assisted the German prosecutors to prepare the record of the case for Mr. Schreiber's extradition from Canada (read the whole story in the Case Report). The cooperation is still working.

My lawsuit against the Liberal Attorney General of Canada is the only legal route besides a public inquiry to bring the "Political Justice Scandal" in a Canadian court to light. This is why my enemies try everything to stop my actions. Their greatest wish is to have me extradited to Germany, hoping that I will disclose matters of interest to them during a trial in court and at the same time bring the lawsuit to an end in Edmonton. (Read all the details in the Case Report, in the report on Allan Rock & William Corbett and in the binder of the Canadian Case and the International Case of the "Political Justice Scandal".)

IRWIN COTLER'S LIBERAL RESCUE ACTION

When The Hon. Irwin Cotler, then the Minister of Justice and Attorney General of Canada, signed the warrants ordering Mr. Schreiber's surrender to the Federal Republic of Germany on October 31, 2004 he wrote to my Lawyer Edward Greenspan Q.C., LL.D

VI. Conclusion

It is my opinion that none of the circumstances which you raise, either individually or cumulatively, lead to a finding that Mr. Schreiber's surrender to Germany would be "shocking or fundamentally unacceptable to our society", or that his circumstances are such that they "constitutionally vitiate an order of surrender". I have also determined that there are no other considerations that would justify ignoring Canada's obligations under the ***Treaty between Canada and Germany Concerning Extradition.***

On page 13 of the same letter Mr. Cotler wrote: ***My decision on surrender is a political one which involves balancing the interests of the person sought with Canada's international obligation.***

With his conclusion and decision he presents the evidence that he is either fully integrated in the cover up of the "Political Justice Scandal" initiated by Allan Rock, Stevie Cameron RCMP informant, Herb Gray and other Liberal companions or he was totally under the control of the IAG and ignorant.

It looks to me that Mr. Cotler ascribed to the same credo, as do all the other people who are involved in the "Airbus" vendetta and the "Political Justice Scandal": maintain at all costs the principle of the "Constant Lie"

There is no Canadian obligation to extradite its Nationals to Germany.

Mr. Cotler knows that Germany will never extradite one of its Nationals to Canada. The German Constitution, Article 16 (2) will not allow the extradition of its Nationals.

ARTICLE V OF THE TREATY: EXTRADITION OF NATIONALS

(1) NEITHER OF THE CONTRACTING PARTIES SHALL BE BOUND TO EXTRADITE ITS OWN NATIONALS.

The truth is: Te TREATY BETWEEN CANADA AND THE FEDERAL REPUBLIC OF GERMANY CONCERNING EXTRADITION applies only to individuals, who are not German Nationals.

Canada has 49 not 50 Bilateral Extradition Treaties (attachment tab 8).
15 of the Treaties entered into force during the last Centuries.
22 countries, with the highest standards of civilization and culture do not extradite their Nationals.
21 countries have reserved the rights to decide on the extradition of their Nationals. Only 7 countries extradite their Nationals. See the Treaties and the publication of the RCMP, Interpol, the Canadian Central Authority and the IAG (attachment tab 9).

I reviewed every single Extradition Treaty which is on the list and found another huge lie: imagine the government of Canada signed 42 out of 49 Extradition Treaties without reciprocity, which is the most elementary common basis of each Treaty, and the misled members of the Canadian House of Commons ratified the Treaties (Treaty attachments tabs 15 – Germany, 16 – Finland, 17 – Korea as examples).

RCMP Interpol Ottawa published an Interpol History Report (attachment tab10).
On page 3 you will read: Assistance to the Canadian Law Community and Interpol Member Countries - point 5:

CANADA EXTRADITES ITS NATIONALS

Dear Minister, people from around the world followed the invitation of the Canadian government and came to Canada like myself and helped to grow the country. I saw quite a few of them with tears in their eyes at the day, when they became Canadian Citizens. Don't you think that all of them expected to receive a Canadian Citizenship with quality standards other civilized countries provide for their Nationals?

I have never seen a Government advertising the extradition of its Nationals. I wonder what you may think when you read this.

On May 5, 1995 the Department of Justice announced:
EXTRADITION REFORMS TABLED. The signature of Kimberly Prost (IAG) was on the document.
On June 17, 1999 the Department of Justice announced:
NEW EXTRADITION ACT COMES INTO FORCE. The signature of William Corbett (IAG) was on the document. (See the report attached "Political Justice Scandal" International Case).

The new Extradition Act reduced the jurisdiction of the Extradition Judge and increased substantially the Jurisdiction of the Minister of Justice and Attorney General.

In my case the Extradition Judge had to believe in the statements made by a German prosecutor and ignore the rulings of Liechtenstein Courts, the decisions of Liechtenstein Investigative Judges and prosecutors, the sworn affidavit of a lawyer (a previous Swiss prosecutor), the decision of the Minister of Justice in Switzerland who refused to grant legal assistance related to my case and the only statement from the so called Crown witness Giorgio Pelossi even given under oath in the Court of Augsburg: ***"None of the Liechtenstein companies mentioned in the accusations was incorporated for the purpose of tax evasion."***

Irwin Cotler then the Minister of Justice and Attorney General of Canada had the duty to examine my case and to make a personal decision.
RCMP Interpol I - The Canadian Central Authority publication page 14:

"While the Minister relies upon advise from the IAG, he or she decides each case personally."

The Minister relies upon advice from the IAG, the officials who drafted and sent the Letter of Request to Switzerland, who are responsible for the "Political Justice Scandal," the "Airbus" affair and my lawsuit against the Attorney General of Canada.

The RCMP and the IAG officials conspire with the German prosecutors to cover up the huge problems they have with the threat of disclosure and exposure through my legal proceedings in Edmonton, knowing that they lost the lawsuit at the moment when the RCMP finally closed the files on the Brian Mulroney "Airbus" vendetta.

Let me show to you a perfect example: On Mai 17, 2006 and on August 10, 2006 my Lawyer Edward Greenspan, Q.C. sent letters to you concerning the political prejudgment of the German authorities in my case. There is no law or extradition request or charges for the introduction of political corruption in Germany. The statements of Judge Häeusler brought the truth about the political reasons of my case to light.

On March 9, 2006 the following article was available on the Deutsche Presse – Agentur website (DPA is one of the world's leading international news agencies supplying news on a global basis):

Schreiber Requests that Supreme Court of Canada Refuse Extradition.

In that article the following comments were made:

....Judge Karl Heinz Haeusler, spokesman for the Regional Court of Augsburg, told dpa that after his extradition, Schreiber would have to reckon with the "full force of the law". **"He is the trigger of the entire affair and has caused damage to Germany."**

...Until the Schreiber case, Germany had been considered a country immune to bribery [he stated] – **the arms dealer's "unconcealed exertion of influence" on politicians and managers made the "unspeakable" reality. Schreiber had done Germany a "disservice", said the Court spokesman...**
(Mr. Greenspans letters, attachments tabs 11 and 13).

The IAG officials know that the German authorities ruined my extradition case by themselves and therefore it is in their own interest to try to rescue it.

On July 28, 2006 Barbara Kothe, Senior Counsel, International Assistance Group sent a memorandum to you regarding the case, which speaks for it self (attachment 12).

On October14, 2004 Jacqueline Palumbo, Counsel, International Assistance Group, Barbara Kothe, A/Director, International Assistance Group and William Corbett, Senior General Counsel, Criminal Law Section sent a memorandum to Irwin Cotler, then the Minister of Justice and Attorney General for Canada.

The memorandum was the basic document for the Minister's decision to surrender Mr. Schreiber. The memorandum speaks for itself (see the report "Political Justice Scandal" International Case, The "Airbus" Affair – Allan Rock & William Corbett).

The IAG, the Department of Justice and the office of the Attorney General of Canada seek to delay the legal proceedings for many more years. Their aim is to help the Liberals to cover the Brian Mulroney "Airbus" affair and the biggest "Political Justice Scandal" in Canadian history with great international political implications (see the Case Report and the "Political Justice Scandal" binders attached).

The continuation of the already lost lawsuit will just increase the amount of the already wasted Canadian taxpayer's money under your responsibility, you inherited from Allan Rock and Irwin Cotler.

How will you ever get to know what is going on if you have to relay on the advice of the IAG who are the enemies of the Canadian Conservatives in this case since 1995?

How is the continuation of this case in accord with the Conservative's federal election promise to Canadian voters to clean up government in Ottawa?

I am an expert on the tactics of the Liberal Underground Government and the often-used arguments to prevent the ministers responsible to do the right thing:

Mr. Minister, don't do this, the matter is before the court (and there it will be dragged along for the next five to ten years). Who cares about the citizens involved and the tax payer's money?

Mr. Minister, don't do this, the matter is a RCMP investigation, which we cannot jeopardize. They know what they are doing. They are our friends. Who cares when they travel for ten years to Germany, Liechtenstein, Switzerland, Italy, France, United Kingdom, United States and Mexico enjoying life in nice hotels on the account of Canadian taxpayers' money as long as they hunt Brian Mulroney and Karlheinz Schreiber and keep the Conservatives busy?

Mr. Minister, don't do this, we had already calls from the Ottawa Citizen, the CBC Fifth Estate Harvey Cashore and Stevie Cameron, you better get prepared for question hour today and tomorrow.

Dear Minister, I am certain that you have heard similar stories many times since you began your career in politics.
None of the stories applies to my case, because you have nothing to hide, you can only be interested in the clean up in the "Airbus" affair and the "Political Justice Scandal".
You are the central authority; you have the jurisdiction for the final political decision concerning my extradition.
You are the responsible Attorney General of Canada, representing the government in my legal proceedings against the previous Attorney General of Canada.

Dear Minister, all the decisions on the cases have to be made by you and nobody else. The Canadian Courts play no role concerning the political decisions. Only you have the jurisdictions and the responsibilities related to these cases.

On January 20, 1997 I sent a letter to Allan Rock, then the Minister of Justice and Attorney General of Canada and responded to his Letter of Apology to me.
I wrote:
I recognize your apology but this matter will only be properly clarified in a court room (attachment tab 14).

Today, nine years and nine months later, I take the liberty to ask you respectfully for your support and help by reviewing my case and let me bring to light to Canadians the biggest "Political Justice Scandal" in Canadian history and to bring to an end the nightmare of this case for my family and me.

The new Extradition Act grants you the jurisdiction and the political mandate to inform the Supreme Court of Canada about your review of my case and ask the Supreme Court of Canada to put the extradition request on hold.

I believe that my request is in accordance with the Prime Minister Stephen Harper's announcement to clean up the Government in Ottawa and the need for a Director of Public Prosecutions when he referred to the Mulroney – Airbus affair.

The history of Canada proves that the Conservative governments were always interim solutions. The Liberals governed Canada most of the time. This is the success of the Liberal bureaucracy, the underground Government of Canada, which brought down the Conservative government of The Right Honourable Brian Mulroney from 211 seats in 1984 to two seats in 1993.

Dear Minister, please stop the support from the Department of Justice and the IAG in favor of the Liberal Underground Government concerning the "Airbus" Vendetta.

There is no Conservative future in Canada without a real clean up!

Yours sincerely

Karlheinz Schreiber

Copy to The Right Honourable Stephen J. Harper, P.C., M.P.
Prime Minister

KARLHEINZ SCHREIBER

8912 KAUFERING · RAIFFEISENSTRASSE 27 · TELEFON (08191) 7884 · TELEFAX (08191) 7888

Mr. Alexander M. Haig jun.
President
Worldwide Associates Inc.

Washington, DC. 2005

Fax no. 001-202-833-5296

July 1st, 1991

Dear Alexander:

Thank you very much for your fax dated June 28th, 1991. It is good to hear that you had a wonderful meeting with Ministerpräsident Streibl. In fact, I am not much surprised considering how popular you are in Bavaria - because of your friendship with the late Franz Josef Strauss and your always helping hand when safety and interests of Germany were concerned.

I very much enjoyed our Munich meeting and ask you to give my and my wife's best personal regards to Mrs. Haig and Mr. Goldberg.

Wednesday, July 3rd, I will fly to Ottawa and on Friday I will meet with some Ministers of the Canadian Government. Prime Minister Brian Mulroney arranged this meeting to discuss and decide about the Canadian participation in the overall project. I will inform you after this meeting and discuss our further proceedings concerning this project.

You can reach me in Ottawa via Thyssen Bear Head Industries Ltd., tel. no. 613-563-3321, fax no. 613-563-7648.

Thank you for your cooperation and looking forward to a future team work,

Yours sincerely,

Karlheinz Schreiber

Karlheinz Schreiber
Suite 908, 350 Sparks Street, Ottawa, Ontario
Telephone: (613) 563-3321 Fax: (613) 563-7648

PRIVATE AND COMMERCIAL CONFIDENTIAL
FOR HIS EYES ONLY!

29 November 1989

The Hon. Elmer MacKay
Room 509
Confederation Building
Ottawa, Ontario
K1A 0A6

Dear Elmer:

I just finished the letter you find attached, dealing with the Bear Head Industries (BHI) situation.

Reading this letter, I cannot stay away from sending you another private note on the same subject.

When you think of our lack of progress, it is ironic to look back at the phrases that we started out with in 1984/85, "come to Canada to invest", "Canada is open for business".

The Hon. John Crosbie and dozens of delegations are travelling around the world and especially in Germany to invite companies to invest in Canada. In Germany, I receive an invitation every few weeks from the Canadian Ambassador or the Canadian Counsel General in Munich to attend meetings with these groups. Recently, the Premiers of New Brunswick, British Columbia, Quebec, Mayor of Montreal, Trade Commissioner from Alberta, etc., have all come to Germany with the same basic requests.

Now consider, Thyssen

- one of the largest industrial and high technology companies in Europe
- 130,000 employees worldwide
- extensive diversification,
- extensive international sales,
- some 15,000 employees in the U.S. and;
- almost 2,000 in Canada.

For five years Thyssen has been prepared to carry out exactly what all the aforementioned delegations are asking for.

The main conditions to start the project:

- a start-up order to design and build 250 armoured vehicles to meet the operational requirements of Canada's army,
- support from the Government of Canada on exports to the U.S
- the land and basic infrastructure of road, rail and services.

On the other hand, Eastern Nova Scotia faces high unemployment in light of the difficulties encountered in Sydney, Trenton, Sheet Harbour, and with the close of the Heavy water plants.

Nova Scotians who have left their home Province to find work have written us from all over Canada, to tell us that they would like to return to Nova Scotia if they can find work with us.

The poor Canadian soldiers with inferior equipment, face the danger of being shot on a peace keeping mission even while they are inside their so called armoured personal carriers (which are of a more than 30 year old design), with no capability to stop 7.62mm (armour piercing) machine gun bullets. This type of ammunition is now used all over the world as standard issue to soldiers. You yourself have seen the samples of how this small bullet pierces through the so called armour aluminum plate, having a thickness of more than one inch.

Canadian soldiers, aboard either their M113 or the AVGP would be wiped out by as common a weapon as the standard artillery shell.

Of course, in light of the changing international scene there is a temptation to delay and delay any decision on acquisitions for the Canadian Armed Forces. But experts starting with NATO's Secretary General confirm that the events occurring in the east bloc are the direct result of NATO's very existence. All are agreed starting with our own Prime Minister that now is not the time to disband or withdraw from NATO.

Let's look at the NATO partners and the moves they are making to acquire vehicles with a multi-role combat capability for their forces. The British have launched their program for 7,500 vehicles, the Norwegians for 400, the Swiss for 400, the French have a new requirement for 2,000, the Americans have a broad range of vehicle programs that reach $200 billion in value. As I mention the Swiss, with their reputation of a neutral country, not only are they buying these 400 heavily protected vehicles, they do this having just held a national referendum which decided 2 to 1 in favour of retaining their armed forces.

NATO nations together are facing the need to devote their attention and resources to equip their armed forces with a multi-role vehicle

that will allow them to carry out their role in peace-keeping as well as maintaining the ability to serve other roles such as territorial defence.

No NATO nation needs such a vehicle more than Canada, the recognized leader among all NATO for our peace-keeping role. In short, Canada needs a single modern vehicle which can be used in a variety of roles from NATO to peace-keeping while providing an adequate degree of protection in each scenario.

This is exactly the vehicle concept which Thyssen has proposed to develop and build in Nova Scotia for Canada's Forces and for the United States.

Canada is finding a lead role in the international scene with efforts to protect the environment. Thyssen is regarded as a world leader in environmental protection technology, in particular with their scrubbers which stop acid rain causing sulphur dioxide. Thyssen's environmental systems are the first priority among their broad range of non-military technology which Thyssen have committed to the production line at Bear Head Industries.

To me there seems an obvious opportunity for Nova Scotia; just consider the following :

- Coal is an essential part of the economy in Nova Scotia,as well as New Brunswick and British Columbia,
- mining coal provides essential employment,
- Coal's major use is for fuel in thermal power generating,
- the power generated serves the domestic market and can be a valuable export as is envisaged by the Blue Nose Project of Nova Scotia Power.

If we simply burn coal we will continue to release into the environment, acid rain causing sulphur dioxide and nitric oxide, unless power stations are fitted with scrubbers. Thyssen want to produce those very scrubbers in Nova Scotia for Canada and for export.

Why shouldn't we build the technology in Canada which will solve coal's impact on the environment and give coal a continued future as a safe energy source.

Every Canadian taxpayer must be frustrated with the constant losses they see through industrial development programs of grants which have left a trail of industrial tombstones. Grants are not a foundation for success. What is required to assure success is technological expertise, internationally competitive capability, and new private investment.

Thyssen has proven this by its annual return of increasing profits.

A healthy industrial infrastructure has to emerge in Atlantic Canada, and Thyssen is prepared to make their contribution to that infrastructure.

Here we sit in BHI, having spent well over $2 million on travel, office operations, staffing, etc, having seen all the efforts you have made championing this project with the support of the Prime Minister, and nothing has yet been accomplished.

So, I ask what is going on in our country?

Is it really necessary that a company from abroad with the intention to place a substantial investment in Canada must first give a controlling share of its own company to a U.S. company and locate in Ontario to make it work. By this, you know, I refer to the "shotgun" marriage" orchestrated by DRIE officials between Thyssen and General Motors. Is this the Canadian Sovereignty we have to protect so badly?

On top of this history, you are also aware that we are in competition in the U.S. to supply our NBC Fox vehicle to the U.S. Army. Our teaming partner is General Dynamics and if we win this project and can establish BHI in time, we will bring the Fox hull fabrication to Nova Scotia. The competition to this bid in the U.S. is General Motors teamed with TRW. We have learned that the technical evaluation team has recommended our Fox vehicle for selection, and last week, this information appeared in Washington's defence media. Now we are finding that the champion of an assault on the Thyssen selection is none other than the Canadian Embassy. This seems to suggest that our intention to bring jobs to Nova Scotia is less valued than the interests of Ontario.

Elmer, I truly cannot believe that the Prime Minister with his busy schedule is aware of what is really going on with and around the project. What is going on here hurts the Prime Minister's reputation and is damaging the interest of the Canadian people.

If it is in the interests of the Government to see the Bear Head Industries plant come into being with its associated jobs in construction, engineering, production, etc, then I must draw your attention to the attached "shortest time schedule for development and production" of this new multi-role combat vehicle.
I am really scared that Thyssen could give up on this project and the story of what happened over the last 5 years will come out in public. For sure, then the Canadian Government can save a lot of money by not sending Government delegations to Germany to invite investment, because they will not be taken seriously.

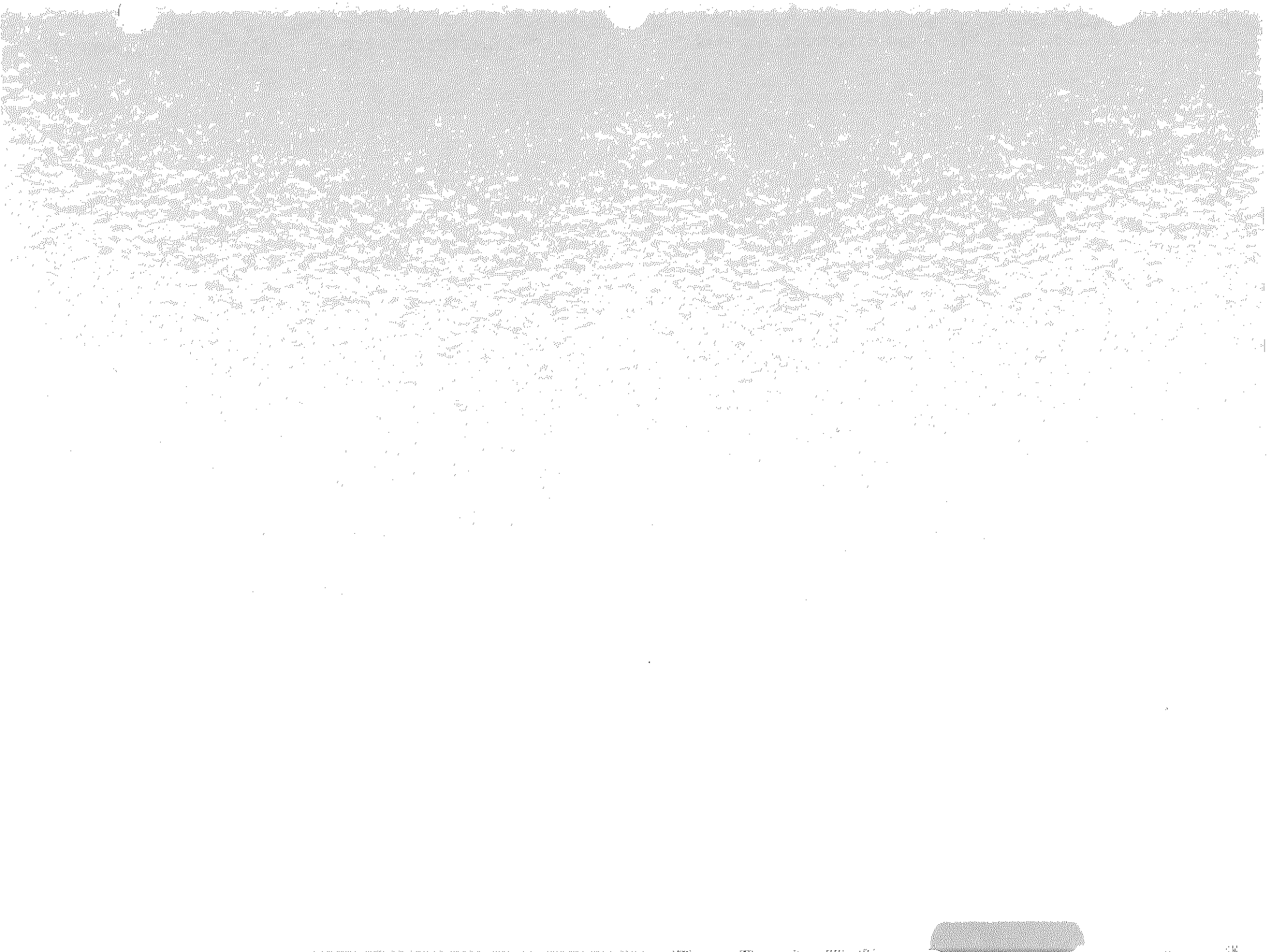
Consider the impact this would have on Canada's target for further sales to Germany's Armed Forces for Challenger jets, reconnaissance drones, etc.

Elmer, you for sure, are the best advocate to witness Thyssen's and my personal patience in this matter, but it comes to an end.

I would ask you to think my letter through and advise me whether you prefer to discuss the matter with the Prime Minister yourself or for me to write to him directly.

Yours very truly,

Karlheinz Schreiber



ADDENDUM #2

CONTINUATION REPORT / RAPPORT DE CONTINUATION	OCCURRENCE NO. - N° D'INCIDENT Y-A.
	95A-517

RE - OBJET:

PROJECT A102

KHS CONTACT - LEAD FILE #52

DATE	TIME HEURE	ACTION TAKEN - MESURES PRISES
02-01-08	1100 hrs	SCHREIBER phoned to advise that he had some material from his German lawyer for me, which his Canadian counsel Ed GREENSPAN had now reviewed. KHS wanted to meet with me as the material required some explanation. We agreed to meet at the Westin Hotel at 1400 hrs
	1400 hrs	Insp. Peter HENSCHEL and I met with KHS outside the 3rd floor lounge at the Westin. After introductions, at which he agreed to have HENSCHEL sit in, we sat at a table for three. The meeting lasted to 1650 hrs, over coffee, tea & water. Unlike our meeting of 01-12-18 he did not begin by trying to keep the meeting between ourselves (except in one instance, to which we did not agree, see below re BEAR HEAD). KHS asked HENSCHEL several times how he liked Augsburg and suggested that he (HENSCHEL) had been there repeatedly on this matter. KHS had a two page German language excerpt that his German counsel, Jan Olaf LEISNER had forwarded to him and which appears to deal with the deductibility of commissions, Schmiergelder and bribery expenses under German tax law. KHS's point with this is that these are straightforward business matters in Germany and their payment is not controversial (a point he has made before to us). We retained this document. **[Note:** the document is part of an article by a German lawyer published in a German publication, *Betriebs-Berater (BB)* (trans: Business-Advisor/Consultant), in 1994. The article refers to public debate over the need to limit the deductibility of bribes, etc. for tax purposes, since this tax provision potentially leads to corruption, criminal behaviour and poor ethical and moral actions and is a hindrance to the political goal to fight corruption in the developing world. The author then explains certain circumstances under which commission payments and bribes can be deducted from

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Investigator - Enquêteur: MATHEWS & HENSCHEL		Date: 02-01-08/09		Signature	Date: 02-01-09
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taxes.]

KHS suggested that the idea of approaching us came from a conversation he had with Fraser FIEGENWALD in Alberta during the discovery process in his civil action. KHS says that his point of meeting with us is to see what he can do for us to satisfy us that our investigation can be concluded. He suggested that we needed a way to conclude the investigation and save face, and seemed to suggest that we were in need of protection. Throughout the meeting he kept returning to this topic, indicating that his fight was with Germany, or the German investigators, or certain specific Germans. KHS indicated on numerous occasions that we were being used by the Germans, and that we had never done anything wrong to him. He also alluded several times to his access to German file material by way of disclosure, and his expectation that his suit against Germany will mean more of such disclosure. At the end of the meeting, in the underground parking garage, he referred to Albert BIRKNER's "testimony" and its content, and noted that HENSCHEL had been there, a clear reference to KHS' access to the statement given by BIRKNER to us in the LOR context. He specifically referred to BIRNKER's statement in the interview, that he (BIRKNER) had recently terminated his friendship with KHS via a letter, and that he no longer wanted KHS to send him salmon at Christmas.

KHS briefly touched on his early days with PELOSSI (1969), when Lugano was swimming in Italian money, and when PELOSSI had brought some Italian money to UNILEIT so that KHS could buy out the estate of KHS's deceased partner.

His details were not clear, but KHS spoke of KENSINGTON, and that Dr. PAGANI *(now deceased)* would have had all the answers as to ownership, and that PELOSSI certainly was wrong to attribute it to KHS. (At one point

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he seemed to suggest that PAGANI would possibly know to whom commission money had been paid.) He spoke of the hotel notepaper *(arrangement)* between himself and PELOSSI in 1976 (which KHS confirmed in a backhand way by pointing out that Bill KAPLAN in the book *Presumed Guilty* had misdated to 1986). KHS spoke in a way that accepted the note's existence, but interpreted it differently than PELOSSI has, namely that it was PELOSSI sketching out a proposed organization under KENSINGTON, not KHS.

Note, at the end of the meeting, in the parking garage, he linked BIRKNER and PELOSSI expectations for millions from KHS, i.e. BIRKNER's statement of a promise made by KHS and PELOSSI's claim for the 20% share, to a natural statement that could have been made amongst the 3 of them in the 1970s regarding the Alberta initiatives then in place or planned, to the effect that 'if this works out you could each be millionaires'.

KHS spoke a number of times of his road marking business in both Canada and Germany, saying 'look who controls the contracts - politicians', so of course he had lots of contract with politicians as a result, and they would have their hands out for donations.

He said at least twice that he had never bribed anyone at any time in Canada. He implied that the statement of Mr. LEISNER, his German counsel that he paid money to Canadian decision makers was referring to either MOORES or to GCI. He emphasized GCI as the recipient of much of the commission money and responsible for its destination in Canada, almost saying that he didn't know if they had paid bribes. *(Note: while GCI did receive money, as did MOORES, the majority of known payments by far went to IAL accounts controlled by KHS).* KHS stressed the ambiguous role of lobbyist in Canada. What is their job, he suggested several times, but to smooth the deal, in part (KHS example) by paying donations to

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election funds. He indicated that the lobbyist practice did not exist in Europe.

On this point he asked rhetorically "where does bribery begin" and answers his own question by looking to the constant political demand for money for election costs. (He has used the same example in at least 1 German media interview.)

On the issue of how he could help us he repeatedly indicated that this was his one desire. We repeatedly said that he could help by agreeing to submit to an interview in which we could cover each contract, either all at once, of separately) and answer what questions he could.

He repeatedly responded in several ways:

1. He just doesn't know the recipient of the money:

- The money was paid as he had described on 01-12-18, namely that the money flowed through to companies such as IAL and that KHS would take the money out in a cash withdrawal, then re-deposit it in the same bank & branch in a numbered account according to instructions he would receive. He would not keep any record of the instructions nor any receipt.

- This would satisfy the bank that the money was clean. KHS used the example that the bank would know that the money was THYSSEN money originally.

- This would also satisfy the need for anonymity as the middleman - KHS - would have actually made the payment and that the trail would stop with him. He described the anonymity as important to prevent the middleman himself being blackmailed by anyone afterwards, for example

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into having to give an additional bribe to someone, or a contract, as a result of an incriminating record.

- KHS tied this in to the present duplicity of the German politicians, who perfected and relied on the anonymity scheme that people like KHS made work, and who now claim taxes from KHS on the money that they knew was paid overseas as a NA, but which they also knew the anonymity scheme would prevent KHS from being able to prove as having been paid. In other words, because the payment was deliberately anonymous, with no record, KHS had no way of proving that the money was not income to himself.

- In particular he singled out the former Bavarian finance minister, Edmund STOIBER, who he stated was then also president of MBB's board, and who now is Bavaria's premier and a potential Chancellor candidate for the 2002 Federal German elections.

- He also claimed that this prevented him being able to satisfy us with detailed facts as to where the money went. We would never be able to trace it on his say so alone.

2. He can't give a statement right now due to developments with his book

- He is writing a book intended for release in mid 2002 which will have several bombshells in it. The sense was that these would relate primarily to the German situation and would be in time for the German elections.
(Note: in the German press he was often referred to the 2002 elections and that he would have revelations that would be explosive, particularly with respect to STOIBER.)

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- His concern was that if we had the information we would act on it, including checking with the German authorities prematurely.

- At one point, in response to our repeated demand for a structured statement, he asked if we could wait until midsummer, i.e. until the book is out.

3. That we should wait for his case against Canada and Germany

- This aspect is that he claims to be looking forward to the now permitted suit against Germany as it would allow him to get the Germans on the witness stand. In addition, he would be required to file with the Court his own case against Germany, and this would contain his bombshell material. On numerous occasions, KHS asked how we could help get his information and evidence before the courts. He stated that he was reticent to provide it to journalists. He noted that John GOETZ was coming to see him on Sunday in Toronto.

- This case is tied in (by him) with the deceitful PELOSSI, and certain German politicians who have let him down or lied in Germany. KHS would selectively quote, or claim to quote, from testimony from various German notables (e.g. GENSCHNER ex-foreign minister) before the parliamentary inquiries there that supported his view of the duplicity of the Germans attacking him.

Throughout the meeting, however, KHS maintained that he never bribed anyone in Canada.

He said his role for MBB was to connect MBB with MOORES as MBB wanted to do business in Canada, and that he did nothing with regard to the Coast Guard sale. He also suggested that if we charge MBB then

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4. That if he had tried to bribe MULRONEY, AIR CANADA would have loved it because AIR CANADA was known to be Liberal property. In other words, in his view, there is no way MULRONEY could have been bribed on the AIR CANADA contract. KHS also noted that Marc LALONDE was involved in the sales contract (suggesting this was KHS' work) but that when it was discovered that the law firm STIKEMAN ELLIOT was involved with AIR CANADA all LALONDE's work had to be redone and money returned (*if true, this would have not come as a surprise to LALONDE , or gone too far surely)*

KHS raised the issue of the HORNER loan, claiming that KHS was encouraged to get into this by Rolly MCFARLAND, who had told KHS that HORNER had money problems. KHS arranged for the loan from Mrs. FLICK (he never called it a mortgage). KHS said that the consequence for his road marking business in Alberta was absurd. Because KHS had given the loan, HORNER went far out of his way to avoid giving any business to KHS for fear of the look of the thing.

Near the end of the discussion, we had several times gone around the issue of our wanting a specific statement from him to satisfy us, and his flat assertions that there was no way we could prove the payments of the NA money because there was no record kept for reasons of anonymity (and with the denials of bribes in Canada). How could we ever be satisfied with what he could tell us, if he could tell us that. (He did not respond to our suggestion of beginning with the contracts and the MBB payments to IAL & him).

KHS then said that there was one thing that it was all about, and that he could tell us if we agreed to keep it to ourselves and not to use it (until his book?). I told him we could not accept that condition with the file where it was. After a trip to the washroom KHS came back to the table and said

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that there was one thing he could tell us about this. He then went on to ask if we recalled the letter between BITUCAN and THYSSEN *(1985-10-31 allotting commissions for BEAR HEAD product sales)*. And then, did we recall the business figure in his Allan MacEACHERN letter *(1995?)*. He said that this suggested an overall THYSSEN / BEAR HEAD product possibility of $340 **billion,** of which he would have reaped 3 to 5%. Several times in this he said words to the effect that this is what it was all about and that MBB and Air Canada were peanuts in comparison.

Throughout the conversation, KHS would ask how he could help us to close our investigations and still save face. Just prior to leaving the lounge, he again asked the question, but it came out as: how can you help me to get out of this.

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Royal Canadian Mounted Police **Gendarmerie royale du Canada**

1624 (1998-02)

-DRAFT-

THYSSEN

BEAR HEAD INDUSTRIES LIMITED

Suite 908, 350 Sparks Street
Ottawa, Ont., Canada
K1R 7S8

TELEPHONE (613) 563-3321

TELEFAX (613) 563-7648
TELEX 053-3981 bhi ott

Dr. Fred Doucet
FDCI
Suite 200
440 Laurier Ave. West
Ottawa, Ont.
K1R 7X6

April 2, 1991

Dear Fred:

As agreed during our most recent discussions, I write today to review the essential elements with respect to the Thyssen-Bear Head Industries (Thyssen-BHI) project.

From the outset, it has been the intention of the Thyssen-BHI project to establish in North America, an advanced technology, heavy industrial facility for both the domestic and the export market. In choosing to establish in Canada, we first had to reach the conclusion that our products could be successfully exported into the United States. This was soundly demonstrated in the success of Thyssen's Fox NBC vehicle which was selected by the U.S. Army, over an American competitor, last spring. It is our plan to fabricate a share of this 268 vehicle order in Canada, provided we can get the Thyssen-BHI facility in place to meet the 1993 production schedule.

With respect to the Canadian Army's requirement, it was recently confirmed in an Army speech to industry that the priority armoured vehicle program is the Multi Role Combat Vehicle (MRCV). The MRCV operational requirements must support the Army in a spectrum of roles which includes: defence of Sovereignty, collective security, civil responsibilities, and international peace and stability contingency operations-peacekeeping.

The Canadian MRCV performance requirements include air transportability via Hercules [illegible] and the ability to engage in mid intensity combat.

Thyssen has closely observed the Canadian Army requirements as the MRCV program was developed, and recently commenced the construction of prototypes for a new armoured vehicle, the TH 495. This vehicle has been designed to meet the requirements of Canada's MRCV program and of other NATO country programs which are similar.

The Gulf war made abundantly clear to the allied forces involved, the need for air transportability of modern armoured and NBC (Nuclear, Biological, Chemical) protected vehicles.

We see the Thyssen TH 495 having a strong market among NATO armies, and this assures the prospects for success with the Thyssen-BHI venture in Canada.

I have attached a few notes with regard to getting the Thyssen-BHI project underway in Canada.

I look forward to seeing you next week.

Best regards,

Karlheinz Schreiber

2. Land and Infrastructure Establishment

Sufficient land (300 acres) and basic industrial infrastructure and services (including rail spur) is to be provided at a site mutually agreeable to the Government of Canada and the Company.

Infrastructure costs for a "greenfield site" in 2 km proximity to existing roads and services are estimated at $12.2 M (Dec. 1990)

No establishment grant programs as administered under the Department of Industry Science and Technology are requested.

The estimated capital investment by Thyssen is $ 61 Million (Dec 1990)

The estimated direct employment is expected to be reached 500 by 1994

Indirect employment has been estimated at 750 to 1000 .

Summary

If this route can be chosen to establish the Thyssen-BHI facility, I believe it will bring significant benefits to Canada through the aforementioned direct and indirect jobs, new technology development in Atlantic Canada's industrial base, and the valuable contribution of exports to the economy.

Furthermore, I believe this very limited request for Government participation in this project should be a refreshing contrast to past demands made by industries who chose the Maritimes as their base of operations.

THYSSEN BHI

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CONFIDENTIAL

Mr. Brian Carter
Office of Hon. Jean Charest
Deputy Prime Minister of Canada
235 Queen St. 11 floor
Ottawa, Ont.

Dear Mr. Carter:

I am deeply grateful for the recent meetings attended by Ministers Charest and Corbeil with officials and representatives of Thyssen BHI. I am equally grateful for the meeting with you and your colleague M. Perron, on September 10, 1993. As an outcome of those discussions, I believe that a number of important issues were clarified, and any earlier false impressions which may have been held that the company has not been forthcoming with information have been corrected.

I would like to present this letter in two parts, first a review of the NATO based conclusion with respect to the subject family of vehicles being discussed along with the rationale for Canada's involvement in the NATO MBAV process and by extension in the subject proposal.

Secondly, this letter is intended to crystallize the present proposal before the Government of Canada and reflect the reductions of scale consistent with the suggestions made by Ministers.

NATO REVIEW

First, I wish to provide some general remarks on the market at which the new Thyssen

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vehicle TH 495 is targeted. I will limit market discussions only to NATO countries. Significant markets exist beyond NATO, in countries which are currently recipients of military products from Canada, but these will not be discussed in this letter, rather these should be considered separately with clear guidelines set down by the Government of Canada with respect to export control.

Turning to NATO, attached as Annex 1 is the most current "NATO UNCLASSIFIED" DRAFT of the NATO Multi-purpose Base Armoured Vehicle (MBAV). In 1991/92, NATO, through its Army Armaments Group (NAAG), of which the Canadian Army is a full and participating member, identified the finding where all countries in NATO presently employ fleets of light armoured vehicles (LAV) "even though they lack the protection, mobility, capacity and firepower needed on the modern battlefield". On the prospect of standardizing a new vehicle concept and system to replace the current inadequate LAV fleets, NATO observed that an "opportunity presents itself for potential cooperation leading to lower procurement and ownership costs, and to the possibility of achieving a high level of LAV standardization and inter-operability within the Alliance". NAAG then proceeded to establish an Outline NATO Staff Target (ONST) for a family of light armoured vehicles to fulfil the perceived future requirement, a vehicle family founded on a common Multi-purpose Base Armoured Vehicle (MBAV).

A large group of experts were assembled under the NATO Industrial Advisory Group (NIAG) sub-group 41 to address the MBAV concept. NIAG sub-group 41 is now in the final stages of writing their report on the MBAV and their conclusions favour as a first choice, a tracked vehicle design which is only met by one established pre-production prototype vehicle, that being the Thyssen TH 495.

In consideration of the market I would invite you to review the twelfth chapter of the NIAG study which in section 12.1.3 concludes a market assessment of 15,000 vehicles to be produced from the years 2002/3 onward. Indeed this should be recognized as a conservative assessment of the market, bearing in mind the forecast increasing number of regional crises which will require peacekeeping interventions, as described in the April 1992 Canadian Defence Policy. Furthermore, the market analysis section of the NIAG study

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discusses the dynamics and complexity of international cooperation programs, all of which are fully recognized by the Company through our experience as an established participant in the international market.

Canadian Forces' input to the NATO MBAV ONST is reflected by the consistency of the MBAV target characteristics with those which were being articulated by the Canadian Army in their Multi Role Combat Vehicle Program (MRCV). The April 1992, Minister for National Defence Policy Statement which showed the MRCV program as a Canadian Army priority. Attached in Annex 2 is a letter to the German Deputy Minister of National Defence which describes the MRCV requirement. The original MRCV program consisted of three variants, a Reconnaissance Vehicle (RCV), an Armoured Combat Vehicle (ACV) and an Infantry Carrier (ICV). In April 1992, the RCV requirement was downgraded in performance characteristics and contracted to GMDD on their 8x8 wheeled LAV. However, the ACV and ICV portions remain in the Army program and were recently briefed to industry as scheduled for fielding of the ACV in 1997 and the ICV in 2001.

The TH 495 concept is unique in its complete compliance with the NATO outlook for requirements in the MBAV class of vehicles and, having reached this stage of development, has a outstanding competitive advantage. It is reasonable to forecast that not all potential markets will engage immediately, and that some will be fulfilled by other yet to be developed vehicles, but, by having taken the early initiative for the TH 495 now, the product is positioned to obtain an early and significant share of the market. The early market entry is key to a large market share.

Highlights of TH 495 design which meet or exceed the NATO MBAV draft specifications and the former MRCV requirement are:

- Air transportable in Hercules C130 and larger
- Modular armour concept permits rapid in-field upgrade of armour protection level by crew members without special tools and within 30 minutes
- Armour protection levels meet or exceed those defined under the NATO MBAV study, and original Canadian MRCV requirement (postponed 1992)

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OTT / SDC / CCS
22216006

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- Protection meets or exceeds those defined by the NATO MBAV study
- Low IR and Radar signature through stealth technology
- State of the art ergonomic design standards of the year 2000 for soldier safety and comfort
- Excellent mobility on all terrain
- High reliability and maintainability
- Extensive growth potential
- Capacity to carry a range of armaments, from machine gun to 120 mm, plus all missile systems

Therefore the desire on the part of Thyssen to obtain the input of the Canadian Army into the TH 495 development is based on the fact, that with peacekeeping being an increasing area of assignment for most major armies, the experience of the Canadian Forces as an international leader in this field would provide a very valuable perspective which will benefit the ultimate design of the built-in-Canada TH 495.

In return for the input of the Canadian Forces and Government financial support of the research and development process, Thyssen commits to designate a Canadian facility for production of the TH 495. This will consist of technology transfer for the TH 495 family of vehicles and the production know-how. This facility will be located in an area consistent with Government of Canada economic objectives. The forecast permanent jobs in the production phase is in excess of 500 direct jobs being reached together with significant additional indirect jobs within five years.

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PROPOSAL

Thyssen offers the following proposal, which in recognition of Canadian Government financial constraints is scaled down from the 8 prototype proposal which was tabled to the Government of Canada through the Federal Office of Regional Development - Quebec (FORD-Q) in September 1992.

In essence our proposal is a co-operation between the Company and the Canadian Government and in particular the Canadian Forces, which would seek their advice in the design and development characteristics of the vehicle based on their experience in peacekeeping. Inherent in this is the further proposal that the Canadian Forces test the prototypes already developed and the new prototype upon its completion.

The company asks that the Canadian Forces agree to provide advice to the company on the essential and desirable performance characteristics for Multi-purpose Base Armoured Vehicles (MBAV) employed by a general purpose Army in all of their tasks, including peacekeeping. The company asks also that the Canadian Forces should test the resulting prototypes and advise accordingly of the test vehicle performance.

We propose a new TH 495 (ACV) prototype be developed and built by Thyssen. Also the two already existing prototypes Armoured Infantry Fighting Vehicle (AIFV) and Infantry Combat Vehicle (ICV) will be sent to Canada for a testing program by the Canadian Forces. Thyssen in parallel will market the TH 495 for production in Canada, and transferring the necessary technology. Marketing in major NATO nations will obviously require strategic partnership and co-production agreements which are utilized for effective international market success and a practice with which the Company is experienced.

With respect to TH 495 prototype development, we intend to involve Canadian engineers in the design at the earliest feasible moment and thus begin technology transfer to Canada.

Our proposal is, of course, subject to agreement being reached on a satisfactory level of

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CONFIDENTIAL 6

Government funding and assistance being contributed to the R&D development for the TH 495 ACV prototype, and for assistance in the ICV and AIFV prototype testing.

To effectively transfer technology, Thyssen will employ Canadian engineers to participate in the prototype design and development phase. At the testing phase, a Canadian based workshop will be established at a location which will be determined appropriate by the Government of Canada. This workshop will have facilities for complete vehicle overhaul, and modification. Over the course of testing, system changes, improvements or repairs will be carried out in this workshop. During the prototype development phase the company will enhance its already established relationship with Canadian defence industry, with the target to increase Canadian content in the TH 495.

Upon successful contracting of the TH 495 into export markets, the company commits to carry out the production phase in Canada, generating a forecast of more than 500 permanent jobs, plus a significant number of indirect jobs to be achieved within 5 years.

At this time, no preliminary financial commitment is requested from the Canadian Government for the future production facility, infrastructure or other related items. In this matter, the Company asks only that it be eligible for consideration under available Government incentive programs which would exist at that time.

The company confirms that no obligations toward product liability will be incurred by the Canadian Forces as a result of their input or testing.

All product liability will rest with the Company as the manufacturer.

Summary

Input by Thyssen:

- Production of TH 495 in Canada

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CONFIDENTIAL 7

- Transfer of TH 495 technology and production know-how to Canada
- Two existing TH 495 prototypes will be sent to Canada for testing and further development
- 500 (+) permanent jobs in production phase and significant number of indirect jobs
- diversification into non-defence technology from the range of industrial technology held in the Thyssen group of companies

Input by Government:

- R&D funding for the development, build and test of a new TH 495 MBAV (ACV) prototype
- Input of technical expertise and testing (as described) above by the Canadian Forces for the new TH 495 (ACV) prototype as well as the two TH 495 prototypes (AIFV and ICV) already built by Thyssen

I trust this letter and proposal summary has helped to clarify the key points and will serve as a base for our coming discussions.

Yours truly,

Jürgen Massmann
President
Thyssen BHI
Member of Executive Board Thyssen Henschel

Attachments: Annex 1 - NIAG MBAV - 10.06.93 Draft Study
Annex 2 - Minister of National Defence Masse letter to German Deputy Minister of Defence Dr. Phahls, describing MRCV requirement

September 13, 1993
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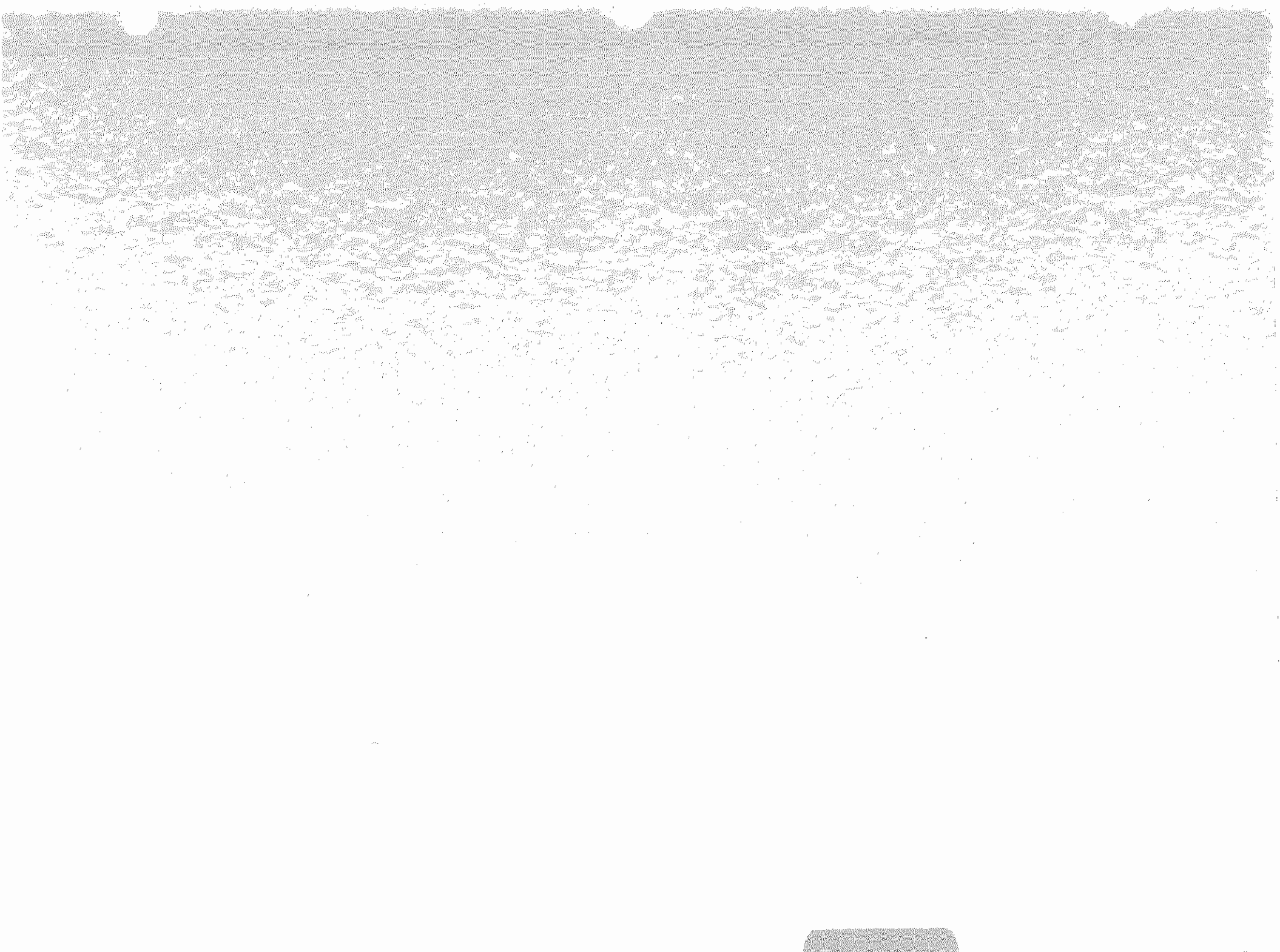


D17650/1

Thyssen

15

14.

Can. Generals got full briefing in Thyssen —

K.H Will dine with a group of generals Dec/14 ..

next program = upgrading of Leopard I.

[Min. would have said: you will get only a T: for peace keeping.]

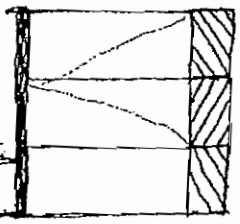
Minimum figure for this particular product: $ 95.

- Manley has already got a brief from the officials.

- Ouellet, Michaud, Duguis, + MacEachen are members of Atlantic Bridge (Canada. U.S. Germany Foundations) —

Collenette.

- We want export business for Canada
- DND. needed to test + machine
- not asking to buy + machine.



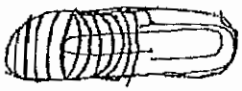
Unique offer (only) for Canada - vs. Sweden — (Protection to U.S. + participation of Jennal Dynamics when selling in U.S. — Thyssen already makes + Fuchs vehicle with G.D + used in Gulf ocean).

17650/2

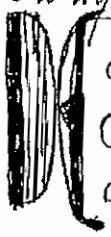
17780-007

Jurgen Massmann. + Greg Alford.

Bruce Deacon - Brodie (Industry).
Michael Williams (DND).



- R+D. is v priority + not taking by D.N.D.+
- DND testing alone is not good enough - and is not essential to a deal.
- Why Krupp in a govt.



(1) - govt. participation is good.
(2) Financial burden on Thyssen ~~was~~ about (~~150~~ m DM.) (about 70-100 m DM. to secure bulk / 170 mm. DM if a total program)
(3) - compatibility for air defence (decision) and gun. carrying.

Target: Jan 15/94 - to answer questions.

Fowler - as a problem in D.N.D. - fought this project constantly.
(Generals aware of this trend to poaching + priority for govt.

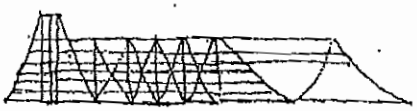
G.M. has a problem with the requirements -
G.M. had to subcontract in U.K. some Saudi deliveries.]

C. of Staff from Navy
Army chief visited Thyssen and is key favourable to project.

Positive information on market for 76 Mk vessels.
Recommendation going to 3 ministers to get direction -
industry, D.N.D. + a 3rd (Int. Trade or Sec. of S.)
Info from Thyssen to be in by ~~Dec~~ early Dec. -

K.H.S. - to be in Ottawa week of 13 Dec.
Meetings with ministers during that week.

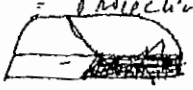
arrange with
- Manley.
- Collenette
- McLaren.
- Dingwall.



Speaker - Greg Alford + Jack Vance (retired general / ex minister of staff D.N.D.)

- Cancellation of Helicopter -

- Peace-keeping + leadership role
- Germany has technology
- Werner - Sec.-General NATO + German authorities
- new vehicle that fits in a Hercules.
- Fast reaction force.
- Protection against ABC weapons + reinforced shield.
- Mobile combat force.



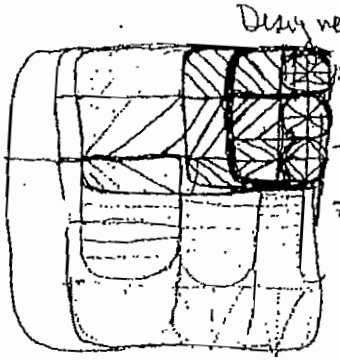
- Fowler rel. tried to get work to G.M.-
- Thyssen has developed + paid for development of vehicle.
- Standardization has the
- ~~Fact~~ Proof has to be made that there is an export market for this.

NATO figures = minimum 17,000 vehicles = $30 b. incl. maintenance + spare parts
(Teaming with General Dynamics - for U.S.) rest of world - Total = $40 b.

- may mean 65,000 jobs for 10 years -

Canada + Germany =

- meeting with Mr Maachen + Weeks in Dresden 2 weeks ago.
- If you want to make big deals, you have to get the top ministers involved -



Designed quickly with Canadian generals -
$1 b + order sent to G.M. - but G.M. fooling around about it.
- deal may have to keep Ont. quiet because of helicopter deal.
- Testing now taking place with Can. defence +

- Thyssen -

M. (613) 234-8090
cl. 769-0806 -

London Rac meeting; Commanders of Army - (Sh. Hubert).

- Replacement of M-113 + Peace majoran. - Replacement: TH-495.
(- (1st year of Pearson Adm.)
- Germany, France - U.K. - made study for Nato, (MPAV.
for standard vehicles (multi-purpose armored vehicle).
- Germany, France are trying to join together for a new. MPAV.
- Recently, Canada asked Germany, U.K. (+ France?) whether they could join?
- Need a vehicle with available before beginning of next century - 2nd year -
- For export reasons, France wants it to be seen in MPAV. - want Canadian
German are unhappy with this combination; - D.M. defense very pleased.
+ Germans need equipment before 2000 - to in order to join N.A. missions.
- French want to go for wheels only (neither Tracks nor Wheels and Tracks)
- Canada knows this equipment cannot do the job.
- Observer's reaction -
Army (U.S. Rac) very interested in getting a new vehicle.
(TH-495); - he is in a process looking for a replacement vehicle.
- Wants to have equipment from 1996 and up.
Advantage: - Canada can influence design - for Can. needs.
- Can get a navy as a priority now.
- If it goes ahead with Germany - 2 ex. in NATO could push
and NATO into procurement (Canada-Germ. worked of France-Germany)
Rac meets German colleague (Gen. Pfeiffer) in May.
Procurement strategy is determined by other people in D.N.D.
(B) - Can we afford to have 2 producers of armored vehicle?
(A) - Prepare to join Germans - French programs a junior partner
- Even if there is one country & one 2nd producer. (Kurtha f.M.)
In any event, f.M. would have to build & new facilities to
they are fully busy now until 2000 - Academy
Research on M.A.A.V. -

* Possibility for S.M. to do many other things incl. wheeled vehicles.
  Recommendation to speak to director of procurement.
* Race - needs approval by Declaclelaim, Fowler, + Minister.
  - needs help to get that approval.
  - need to change the philosophy of procurement directorate.

- Waste of $40.0 mm. to upgrade + fix-up current equipment.
- Real money would have to be start being paid.
The project could cost $200 mm/year for 100 vehicle/year.
  - total need 1700 vehicles over period of 11 years.
  First. Glass replacement 400-600 vehicle until 2000.
  on a budget of $12b.

sky.

- Getting results on our export possibilities
- See possibilities slightly < and timing a little later.
- No sense of urgency - unbelievably slow.
- Cont hey D.G. (Bruce Deconas involved - shows up in Townsville meetings
- Harry Swaine. - D.M.
  John Bannigan attended a meeting with Minister
  Meeting 20th in a morning.

Collenette.

- first sure whether they should have a 2nd producer.
- Visited S.M. + realized they are producing only under a licence from Swiss.
- Realizes impracticality of putting $ on 30-year-old vehicle

655/3

(3)

Opposition led by Fowler up to now.

Meeting with Fowler after meeting ~~with~~ between Dr Chamberlain + [Roe re visit.

G017655/4

R. M. Fowler.

(1) PEMP. Massi - Ingstrup. - Contrôle de gestion.

- contrat initial - renouvelé.
- DND. 8000 comb. militaires mis à f. c.l. (2000 ds asses urgent

- Rencontré 2 mai
  - Lt-Général - Paul Addey
  - Contre-Amiral Paul Bernard.

Si contrat obtenu réglerait un bon bout de cm/dol. Contrôle de fonds

(2) Thysson.
TH. 495 - Replacement M-113 - M.P.A.V.

G017655/5

L Green (retired)

Jack Vance

Home BHL (615) 565-3321

62 Lynne (615) 478-5034

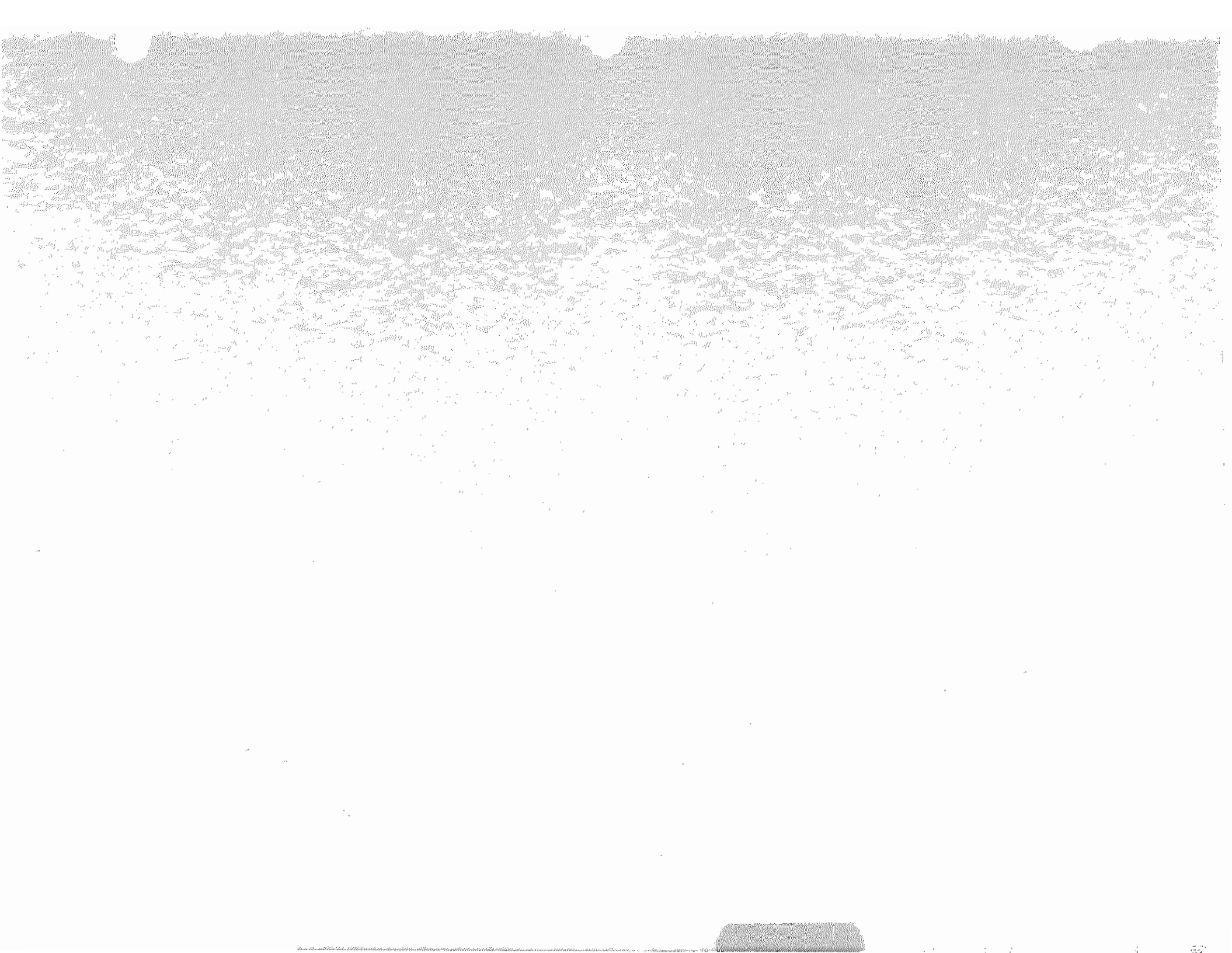
Thursday —

- meeting with Mr Randy Macaulay — Senior Policy Analyst — Procurement - Defence
  - Difficult person to talk to.
  - gave us a chance to be heard
  - "Hard for him to discuss anything" — but I am here to listen — "Nothing to be done Cabinet"
  - Macaulay said he wished we had prepared for workshop
  - meeting Stenger on Tuesday

We do not know what SPI is doing with Indust Canada.
- I.C. Diane Dansfield to find out Tuesday. Rick and Joyce Thursday
- Helen Jean Monday to Ouellet - negative on prejudice

Denise Coffey Rob. - to arrange meetup

Administrative Conference of Canada March 10 - in Ottawa



(1)

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TELEFAX

TO: MARC LALONDE
cc J. MASSMANN
K. SCHREIBER

FAX NO:

FROM: GREG ALFORD

PAGES:
(Including cover page)
7 pages Total

DATE: 19. Dec 1994

MESSAGE:

2 page LETTER + 4 page attachment follows

GregA

(2)

THYSSEN

THYSSEN BHI

Suite 908, 350 Sparks Street, Ottawa, Ontario, Canada K1R 7S8
Telephone: (613) 563-3321 Telefax: (613) 563-7648

December 16, 1994

M. Marc Lalonde
Stikeman, Elliott
Suite 3900
1155 Dorchester Blvd. West
Montreal, P.Q.
H3B 3V2

Dear Marc:

Thank you for the copy of your letter of December 13, 1994 to Hon. André Ouellet. We have provided an English translation of that to Messrs. Schreiber and Massmann today.

In subsequent discussions, they have asked me to pass on the following points for your reference:

1. NATO MBAV Study

As we hear that options for the APC program now includes a sole-sourced buy of GM's wheeled vehicles (the licensed technology of MOWAG/Switzerland), and possibly upgraded M 113 tracked vehicles, it is worthwhile to note the independent considerations of NATO which judged these solutions impractical.

In the NATO study for a new Multi Purpose Base Armoured Vehicle (MBAV) the NATO Working Group of Experts (WGE), which included Canadian representation, referred to the risk in upgrades as follows:

> "*Current Situation. Within the Alliance there are a multiplicity of light armoured vehicles (LAV) (M-113, VAB, PT2, FV432, etc.) in service. Some are capable of upgrades which will make them usable beyond 2010. There is a risk, however, that the cost of upgrades will be increasingly expensive and, in any event, will prove ineffective in the face of newer technology. Others will reach the end of their useful lives by 2000, necessitating their removal. Existing fleets generally offer limited protection, mobility, firepower and protection and are not truly suitable for the post - 2000 battlefield even in relatively benign situations.*" [page 4 of NATO MBAV ONST]

From that situation the NATO WGE then set out their target requirements to which a NATO Industrial Advisory Group (NIAG) produced a set of possible concepts fulfilling these targets. Of the three concepts described, concept 1 is a tracked design, meeting all of the target requirements and offering the lowest acquisition costs. TH 495 matches that concept and fulfils all of the NATO MBAV requirements.

We believe this not only speaks well to the suitability of TH 495 to be considered a contender in the Canadian APC requirement, but it also strongly endorses the export market projected for TH 495. (Attached are excerpts from NATO MBAV study and a magazine article reporting on same.)

2. Industry Canada

As we review the situation, we cannot overlook the fact that in September this year, it appeared the Minister of Industry was soliciting agreement from his colleagues to dismiss the Thyssen proposal based on three points of criticism:

i. "TH 495 will have no international market;
ii. TH 495 will compete directly with GM; and
iii. there is no Canadian requirement for armoured personnel vehicles (APCs) in the foreseeable future".

This communication attributed to the Industry Minister was clearly in contradiction to our department level discussions with Industry Canada which agreed on markets and the clear differentiation of export markets for the tracked TH 495 from the from the markets available to the wheeled GM vehicle. The third point, suggesting no Canadian requirements, was questionable since everyone following the defence policy review anticipated there would be a priority placed on procurement of new APCs for the Army. In fact, Mr. Rompkey, deputy chair of the House/Senate Committee on Defence made a public statement in July stating "new APCs for the Army were an agreed priority recommendation of the committee". This was confirmed in the committee's report Oct. 31, 1994, then included in the Government's White Paper on Defence December 1, 1994.

The actions by Industry Canada seem to have been designed to dismiss the Thyssen proposal before the White Paper, perhaps so we would not make awkward requests for a chance to be included in a fair competitive selection process for the APC project.

Regards,

Greg Alford

INTRODUCTION

1.1 General. The NATO Multi-Purpose Base Armoured Vehicle (MBAV) which is intended for the period post-2000 will be a low cost light armoured tactical vehicle. It will be a fundamental vehicle which will provide the characteristics of protection, mobility, capacity and firepower. The base vehicle will be capable of metamorphosis which will yield required variants (armoured personnel carrier, command post vehicle, artillery observation vehicle, etc). A fuller list of possible variants, derived from the MND for MBAV, is attached for information at Annex A. The characteristics will be provided to the extent necessary appropriate to the role of the variant. While it is not intended that the MBAV be primarily a direct combat vehicle, it must be capable of participating in combat operations in conjunction with other arms. In addition, MBAV must be capable of withstanding incidental indirect fire while moving about the combat zone.

1.2 Current Situation. Within the Alliance there are a multiplicity of light armoured vehicles (LAV) (M-113, YA8, PTZ, FV432, etc.) in service. Some are capable of upgrades which will make them usable beyond 2010. There is a risk, however, that the cost of upgrades will be increasingly expensive and, in any event, will prove ineffective in the face of newer technology. Others will reach the end of their useful lives by 2000, necessitating their removal. Existing fleets generally offer limited protection, mobility, firepower and protection and are not truly suitable for the post-2000 battlefield even in relatively benign situations.

1.3 Commanders' Requirements. NATO commanders require a MBAV with a high degree of standardization and accompanying interoperability of basic components and supply. Ideally, MBAV should be a single universally accepted vehicle family which would ease acquisition, training, supply, repair and sustainment. Given national priorities, timetables, requirements, etc., commanders require that, as a minimum, MBAV will have standard parts utilized to the greatest extent possible, and that rearming should be possible, refuelling feasible and repair available at any consolidated NATO re-supply or repair depot. Notwithstanding the foregoing, the differences between each nation's MBAV should be minimal.

1.4 General Requirement. MBAV will be required to:

a. Quickly move troops and/or materiel about the combat zone while out of direct contact with the enemy but subject to the possibility of accurate, lethal, indirect fire or ambush;

b. In co-operation with other arms, transport troops into an attack thus becoming subject to enemy direct fire including anti-tank;

c. Provide appropriate protection for the MBAV crew, personnel and cargo from direct, indirect, air delivered and NBC weapons and any resulting residual hazards existing on the battlefield;

MBAV

NATO's best chance for a truly co-operative vehicle program?

*by J.H. Brewer**

Over the years, NATO has actively promoted collaboration and standardization of various weapons systems, with some success in the ammunition, aircraft and missile areas. However all attempts at collaboration on armoured fighting vehicles (AFVs) have failed, from the Franco-German AMX30/Leopard 1, through the US/German MBT 70 in the mid 1960s, to the UK/German FMBT project in the mid 1970s. It will be interesting, therefore, to note the progress of the Multi-purpose Base Armoured Vehicle (MBAV — see *IDR* 10/1992, p.971) study now being conducted by the NATO Industrial Advisory Group (NIAG), which is due to report at the end of this year. Will much smaller defense budgets throughout NATO finally force countries to co-operate on this vehicle, thereby producing the first truly common AFV?

Even before the collapse of the Warsaw Pact and the unforeseen civil war in the former Yugoslavia, it was recognized that replacement of the most commonly used AFVs (epitomized by the M113) would become a necessity before the end of the century. Many of these vehicles were designed in the 1960s, and there are over 150,000 worldwide, costing ever more to maintain and becoming uneconomic to update. The roles for which these vehicles were designed have changed considerably, but a relatively large number would still be needed by NATO armies and production costs could be kept down assuming there were to be the necessary level of co-operation.

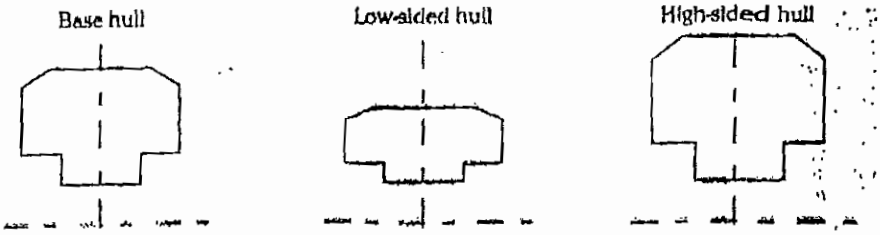
There are currently five different armoured vehicles operating in Bosnia — from the British Warrior to the French VAB — attempting to carry out a role for which they are not ideally suited. Such small numbers of different vehicles, each requiring their own logistic support, leads to severe operational problems. How much easier it would be if all the vehicles used the same basic chassis.

Design requirement

Hence, the Outline Staff Target (ONST) for a Multi-purpose Base Armoured Vehicle was put to NIAG in 1991. The vehicle required is a light armoured tactical vehicle able to be used in a variety of roles (see Figure 1) and able to accept any number of add-on or plug-in packages. It must, of course, be low-cost, use the latest technologies, require little maintenance and be transportable in the C-130 Hercules aircraft — not surprisingly, a true "ATTAM" ("all things to all men") requirement.

To meet it, an extremely versatile design would be needed, probably weighing between 20–30t, able to carry around 10 men in the personnel-carrier role, and probably a 105–120mm gun in the anti-tank kinetic-energy (KE) role. The NIAG Subgroup 41 (SG41), which had its first meeting in May 1992, found itself presented with a formidable task.

Figure 1



Roles:

BASE HULL		LOW-SIDED HULL	
1.	APC	1.	Anti-armour (gun)
2.	Radar carrier	2.	Mortar
3.	NBC reconnaissance	3.	Reconnaissance
4.	Artillery observation	4.	Scattering/mine laying
5.	Repair/recovery		
6.	Combat engineer vehicle	HIGH-SIDED HULL	
7.	Anti-tank missile platform	1.	Ambulance
8.	Weapon carrier	2.	Command post
9.	Anti-tank KE missile (LOSAT)	3.	Communication
		4.	Electronic warfare
		5.	Logistics carrier

Three different hull configurations would be required for the 18 different roles envisaged for MBAV

Three study teams were set up, each with its own chairman and *rapporteur*, to cover platform, payload, and systems. These teams were to examine the latest technologies, define the overall vehicle concept, examine the trade-offs and risks involved, and attempt to arrive at a common base vehicle. In particular the system team was charged with forecasting the number of vehicles likely to be required, and to explain how the NATO procedures might be adapted to assist in the procurement process. The design process was dominated by the need to incorporate the many roles into the concept, while ensuring the resulting vehicle could still fit inside a C-130 Hercules. Many suspension systems were examined for both wheeled and tracked concepts, including hydrogas, rubber and similar materials, and even electric springing to incorporate active actuation.

The same applied to the power train. Future multi-compound diesels, gas turbines and electric traction were considered, but the specified production date meant that the final concepts would have to use current or near-term diesel engines and transmissions of the current epicyclic type. Electric traction had been closely studied in 1988–1989 by the earlier SG25 and examined once again as part of the MBAV study, since there are obvious advantages in being able to do away with drive axles and differentials in the wheeled concepts, though such advantages are not so obvious for the tracked concepts. However, it is unlikely the technology will be mature enough to meet a production date early in the next century.

Unfortunately, it also seems highly unlikely that engines and transmissions will be developed specially for MBAV, since funds will not be available and the chance of proving reliability in this timescale would be low and costs high. This has led to all concepts having to be based upon powertrains which are larger than would be the case if sufficient time and development funds were available.

In the protection studies, many armour systems were examined within the security constraints. It is likely that steel and aluminium hulls will be proposed, depending on the concept, and all will be able to accept appliqué armours to meet the stringent protection requirements of the various roles. It is expected that the add-on armour would be removed for transportation. Composites for the hull structure have also been considered

* The author is a defense consultant and former Research Director at Vickers Defence Systems, UK.

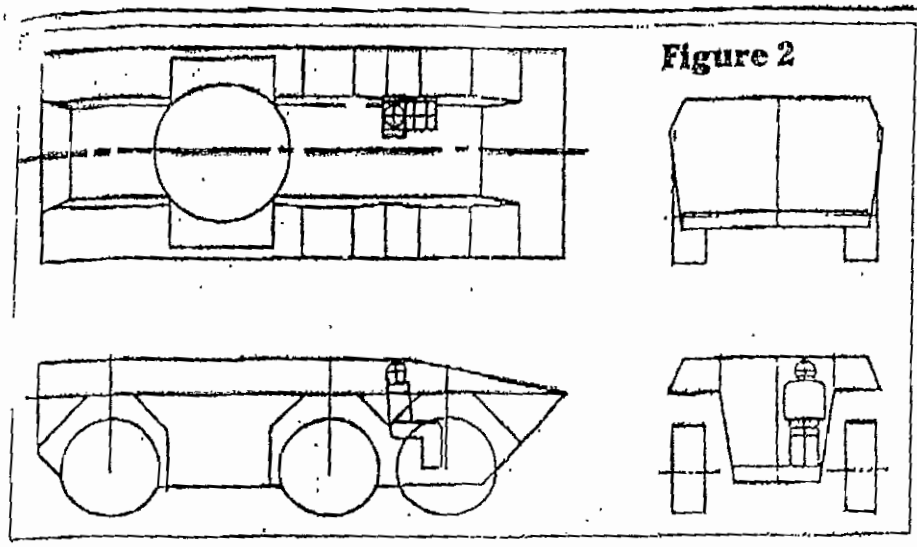


Figure 2

Six-wheeled concept of MBAV with a combat-loaded weight of 23t.

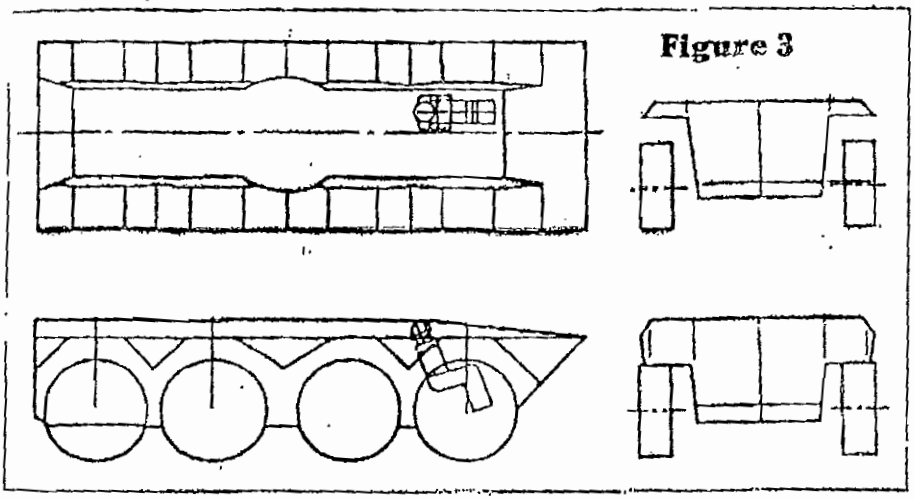
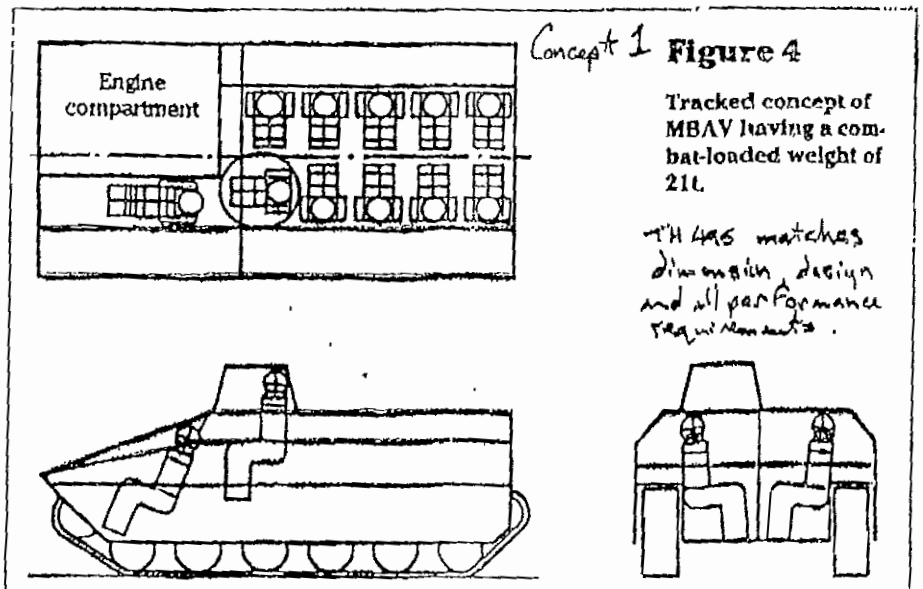


Figure 3

Eight-wheeled concept of MBAV having a combat-loaded weight of 25t.



Concept 1 **Figure 4**

Tracked concept of MBAV having a combat-loaded weight of 21t.

TH 445 matches dimension design and all performance requirements.

but were ruled out, presumably due to risk and timescale.

Weapon systems and electronics were studied to suit each role; this sector probably being the most important and difficult part of the study. In general, weapons and electronics have tended to improve in performance without an increase in weight or volume, which is fortunate since every spare cubic centimetre of space in the MBAV will be crammed with electronics. There is no doubt that MBAV will carry far superior firepower and surveillance systems compared with current vehicles.

Wheels or tracks?

Another area generating a great deal of work was a computer-based systematic trade-off study, used to select the best concepts. This covered such variables as prime cost, long-term cost of ownership, logistic support, reparability, maintainability and so forth, as well as the concepts' ability to meet all the various roles. This analysis highlighted the differences between wheeled and tracked solutions, showing that the tracked vehicle will always have more internal volume than a wheeled vehicle for the same external dimensions. The protagonists of the wheeled concept began to examine skid-steering and front-and-rear steering in order to reduce the volume needed to turn the vehicle. But even with the skid-steered solution, the large wheels needed for good cross-country mobility also need large suspension-travel so using valuable hull volume. There is no argument that the tracked vehicle will always be superior to the wheeled vehicle under extreme cross-country conditions, but is that what is needed for future peacekeeping and smaller conflicts? Wheeled vehicles have proved considerably cheaper to operate and maintain, and will perform most of the tasks that are now more likely to occur. Until a new material emerges to enable the track to last as long as the modern run-flat tyre, the wheeled AFV will always be cheaper to operate, even though it will not be that much cheaper to produce.

From all the discussion and analysis it seems highly likely that both a wheeled and a tracked solution will be suggested as base vehicles. It will certainly be easier to agree and produce a basic chassis than attempting to standardize on, say, the anti-tank guided missile variant. Perhaps then a complete missile module could be designed and produced by one country which could then be made available to other alliance members, thereby maintaining standardization.

SG41 will produce a comprehensive report which will then be commented upon by government experts. In the cases of the 1985–1986 SG18 and 1988–1989 SG25 studies (both concerning future MBTs), no follow-on actions were taken once these had been completed. At that time a cooperative tank was self-evidently not required by NATO or by any of its armies, as manifested for example by the survival of both Challenger 2 and Leclerc as national programs. This, to date, has always been the problem. Whilst it was obvious even then that a common tank could have saved money in the long run, their respective national solutions were obviously not so expensive that the UK and France could not afford to go their separate ways. National pride is also involved, but

until the cost of unilateral development and production becomes prohibitive, as has happened in the aircraft and missile fields, cooperation will not begin.

The MBAV study is being carried out by experts from industry and there is no doubt the report could provide the basis of a comprehensive specification for this type of vehicle. Since industry has thereby already been made well aware of what is required, there is every reason to believe agreements could be made between interested companies to enable international consortia to be formed for the design, development and production of the MBAV, as soon as several countries have shown a willingness to fund the project.

Note that standardization would be an automatic outcome, since the consortia would be working in conformity with the MBAV specification, and the chosen team would have to agree the design of the powertrain, sighting systems, armour and weapon system, and all other components with its subcontractors. Further, it would probably be constrained by governments to guarantee areas of work or production to the countries involved. In fact, a good example of such a standardization effect has been the Tornado collaborative aircraft production program, in which the workshare and costs are determined by the production numbers required, and investment made, by each country in the consortia.

However, under normal NATO procedures, it would take at least until 2007 before MBAV saw the light of day. Meanwhile, both Germany and France have been pursuing studies with a view to procuring an MBAV-type vehicle by 2000, the French with their VBM and the Germans with the GTK program. The UK has let three contracts for a feasibility study for TRACER, which is intended to produce reconnaissance and utility vehicles to replace the old Scorpion and FV430 families of vehicles. All three countries are hoping to get into production by 2003–2005. So far, the US has not made clear its policy, even though it has been actively involved in the MBAV study and has both Future Scout Vehicle and Light Cavalry Vehicle requirements outstanding.

So, will the European or NATO countries at last co-operate on an armoured vehicle? The time would appear to be right, with three countries actually looking at what is needed to replace the most common AFVs in service. Certainly industry is willing and able to form international companies which could bid to produce MBAV by 2003, if a specification could be agreed between interested countries early in 1994.

NIAG: concord between competitors

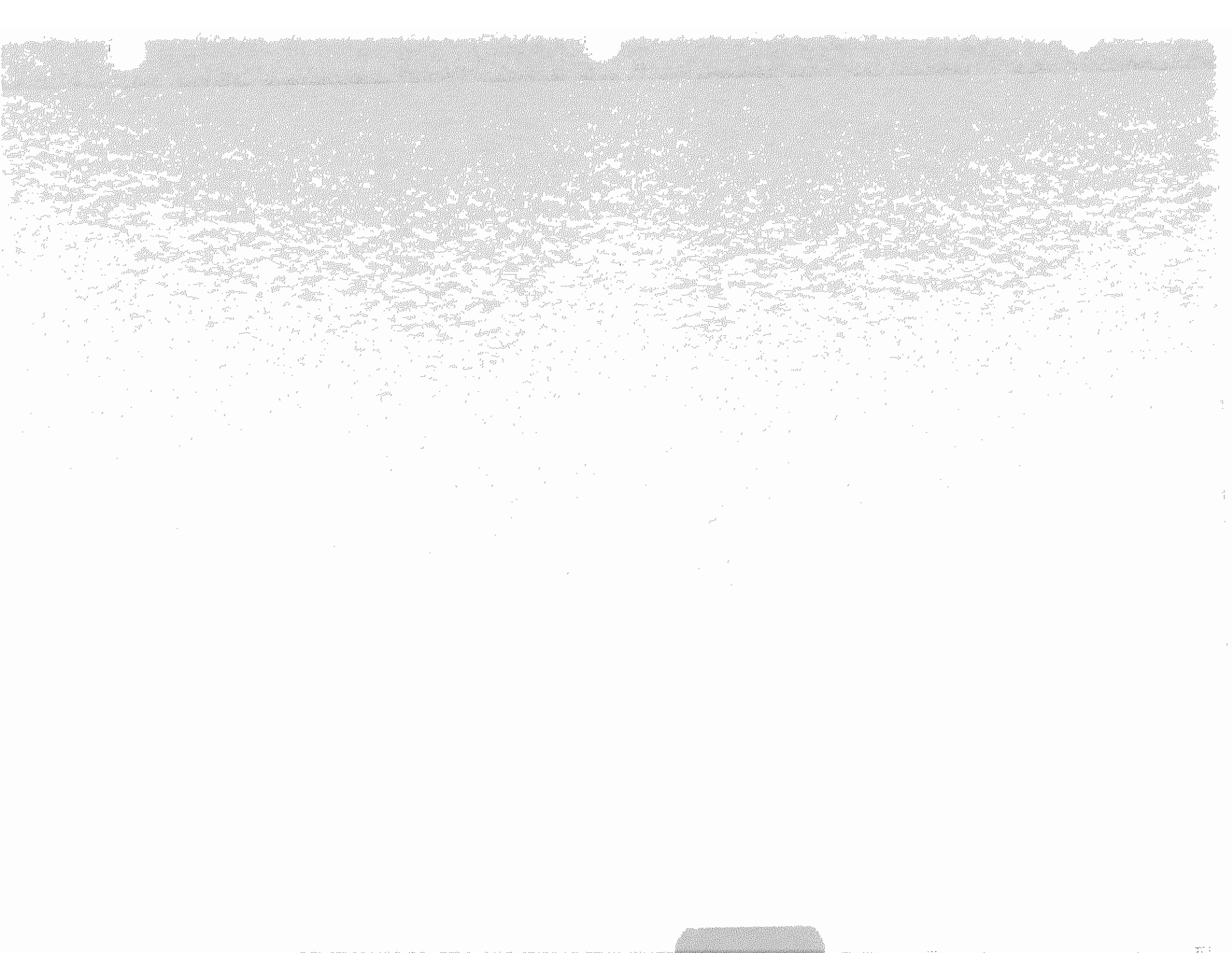
The NATO Industrial Advisory Group (NIAG) is a standing group within the NATO organization which consists of senior representatives from the major defense companies of the alliance nations.

Its main task is to advise NATO of the capabilities, capacity and views of the defense industry on a wide variety of subjects, from future technologies to advice on the contraction of the industrial base. NIAG is able to set up partly funded subgroups to study in more detail subjects which are of particular interest at that time. Previous subgroups have covered frigates, aircraft, helicopters, missiles, communications and armoured vehicles as well as studies on economic matters affecting the defense industry. Such groups operate to an agreed work program for about two years and are then disbanded.

Early groups tended to be large, but in recent years numbers have been about 40–50 people, with the ability to call on specialists as required. Each group chooses a chairman and a deputy chairman, along with a secretary or *rapporteur*. The latter really has the hardest job, bringing the report together in reasonable English which is not the native language of most of the members of the group. An organization and structure to suit the subject to be studied, and the number of meetings required, are agreed with NATO.

There have been two subgroups on AFVs since 1985, SG18 and SG25, before the current SG41 was set up in 1992 to carry out a pre-feasibility study on MBAV. Bearing in mind that most of the companies involved are competitors, it is surprising how much co-operation is achieved, and how a balanced mix of expertise is brought to bear regardless of nationality.

* THESS is now under formal consideration by Germany and UK as form of a future joint production program.
Germany has extended invitation to Canada to join Kies in hope of creating a Tri lateral joint project.
Canadian acceptance was not available until after the White Paper on Defence, and is still awaite



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Hon. David Collenette
Minister of National Defence
Mgen George Pearkes Building
Ottawa, Ontario
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March 8th, 1995

Dear Minister,

Further to our letters of December 2 and 14, I write with respect to the Canadian APC Requirement as announced in the White Paper on Defence, December 1, 1994.

In regard to the procurement strategy for the APC project, we naturally assume that the first priority of the Government will be to acquire a vehicle which best meets the needs of the Canadian Army for a well protected and highly mobile replacement for the Inservice M 113. Secondly, we assume that given the significant capital spending associated with such a program, there will be interest on the part of the Government to acquire a product which will prove adaptable and economic in its operation over the long term, and also offer strong industrial benefits for Canada.

Thyssen Proposal

With the confirmation of the Canadian Forces APC project in the White Paper, Thyssen intends to offer the tracked TH 495 to meet this requirement. On selection of the TH 495 for the Canadian Forces APC project, Thyssen will commit to produce in Canada for both the domestic and export market, thereby placing the World Product Mandate for the TH 495 in Canada.

As you are aware, Thyssen has formally withdrawn an earlier request for R&D funding and capital assistance which had been under discussion with Industry Canada (Reference: letter to Hon. John Manley, dec. 22, 1994, copied to Hon. David Collenette and Hon. Andre Ouellet).

Thyssen, as a builder of both tracked and wheeled APCs appreciates that the Canadian Army's mixed APC fleet exists for established operational reasons. We also note that the wheeled portion of the APC Fleet includes 199 GM Bison ordered in 1989, as well as an additional 229 GM LAV Recce ordered in 1992 (delivery pending), making some 428 modern wheeled systems in the fleet. Therefore our offer of the TH 495 addresses the need to acquire a modern, highly protected, highly mobile *tracked* APC which we believe now to be the Army's most urgent priority.

There is also the possibility that the Government may see fit to split the APC requirement in such a way that both tracked TH 495 and the GM wheeled LAV would be procured. From the Thyssen perspective we understand that some 650 units are planned for the APC Replacement program, and confirm that half of that quantity would be a sufficient initial order to secure the Thyssen commitment to transfer the World Product Mandate for TH 495 to Canada, and to commence production for domestic and export requirements, delivery starting 1997.

Thyssen's willingness to cooperate with interested Canadian partners includes a number of highly qualified systems and component manufactures in all regions of Canada. Among the potential partners are: Oerlikon Aeropsace, St. Jean; GM Diesel Division, London, Computing Devices Canada, Ottawa; Delmaca, Kitchener; and Temro, Winnipeg.

Thyssen has not committed to a specific site or region for production of TH 495 in Canada, though we have carried out internal studies to conclude that there are a variety of potential sites in the established industrial regions that can support efficient and competitive operations. The Company's planning and estimating has been based on direct experience of Thyssen Group companies in Canada and additionally on commercial information gathered from a variety of industrial locations which offer an appropriate set of conditions for operations, ie:

- -established labour skills
- - necessary transportation networks
- - existing suitable and competitively valued production facilities that can be acquired and activated in the necessary timeframe.

<u>TH 495 „Off the Shelf" and Ready for 1997</u>

Thyssen development of TH 495 has reached a stage much more advanced than achievable by older product development methods.In fact, our utilization of modern design technology has already allowed us to progress to the stage of pre-series production on the vehicle. The first TH 495 was rolled out as a prototype in September 1992, and this then served as our system test platform for extensive in-Company trials, and demonstrations with potential users. The basic design was confirmed and any necessary changes were implemented for the second vehicle which was built in 1993 as the „pre-series production vehicle". The fundamentals of modular design, and the use of modern but proven components, has allowed this highly efficient rate of development required in a privately funded project. The proof of the readiness of the TH 495 is in the fact that after further tests of several thousand kilometres Company trials on the pre-series production vehicle, we then handed it over to the Malaysian Army for a sixty day intensive user test which just concluded last month. The TH 495 completed the entire test with no systems failure and achieved the highest performance approval rating from the Malaysians.

To focus on the readiness of the TH 495 for production, we estimate the necessary time from concluding an order to first unit production at 12 to 18 months. In the context of the DND requirement, delivery of the TH 495 from Canadian production is quite feasible in 1997, were a contract concluded by end of 1995.

Export Potential

With respect to the exports for TH 495, an independent market study on the export market potential was conducted in 1994 by a Government committee led by Industry Canada, with participants from Foreign Affairs and International Trade and DND. Key conclusions of that study, briefed by the committee to Thyssen are:

. At the start of the study, the Government committee was doubtful of the market defined by Thyssen for the TH 495. However, the Government's study concluded that a specific tracked light armoured vehicle market does exist in the TH 495 category, in approximately the same scale and time frame as described by the Company's projection.

. The TH 495 as a tracked vehicle, will penetrate a distinctly different market from that which can be entered by the wheeled GM LAV. As such, any market share projected for the TH 495 represents a net increase in Canada's exports.

. The Government market analysis, assuming no Canadian sale, projects the TH 495 will achieve an export market of some 2,000 units over a period reaching out some 20 years. Furthermore, the Government committee agreed that if sale of the TH 495 to Canada were to occur, early in the market cycle, the projected market share probably would increase significantly for each export market projected. A reasonable increase to the Government's 2,000 units scenario would be to increase to 4,000 units as a most likely scenario.

. Thyssen projections indicate there is a reasonable market share potential for as much as an 8,000 unit market share, but for purposes of discussion in Canada, we are prepared to base our plants viability assessment on the Government scenarios. The Company confirms that a plant is viable even at the lowest market share projected by the Government of 2,000 units.

Status of Thyssen - DND Discussions

From a technical assessment, we have been informed by your Senior ADM Materiel that the TH 495 meets all of the technical requirements of the Canadian Forces APC program. We certainly welcome that assurance, but we are now very interested to engage in the more detailed technical discussions and vehicle demonstrations which logically would be a necessary part of the Canadian Forces' further consideration of their procurement decision. To date, we have experienced only the most limited discussion with requirements staff, and most recently raised this concern with Mr. Lagueux your ADM Supply, with a request that he consider allowing a more substantial opportunity for DND officials to assess TH 495 in open technical discussions along with vehicle demonstrations.

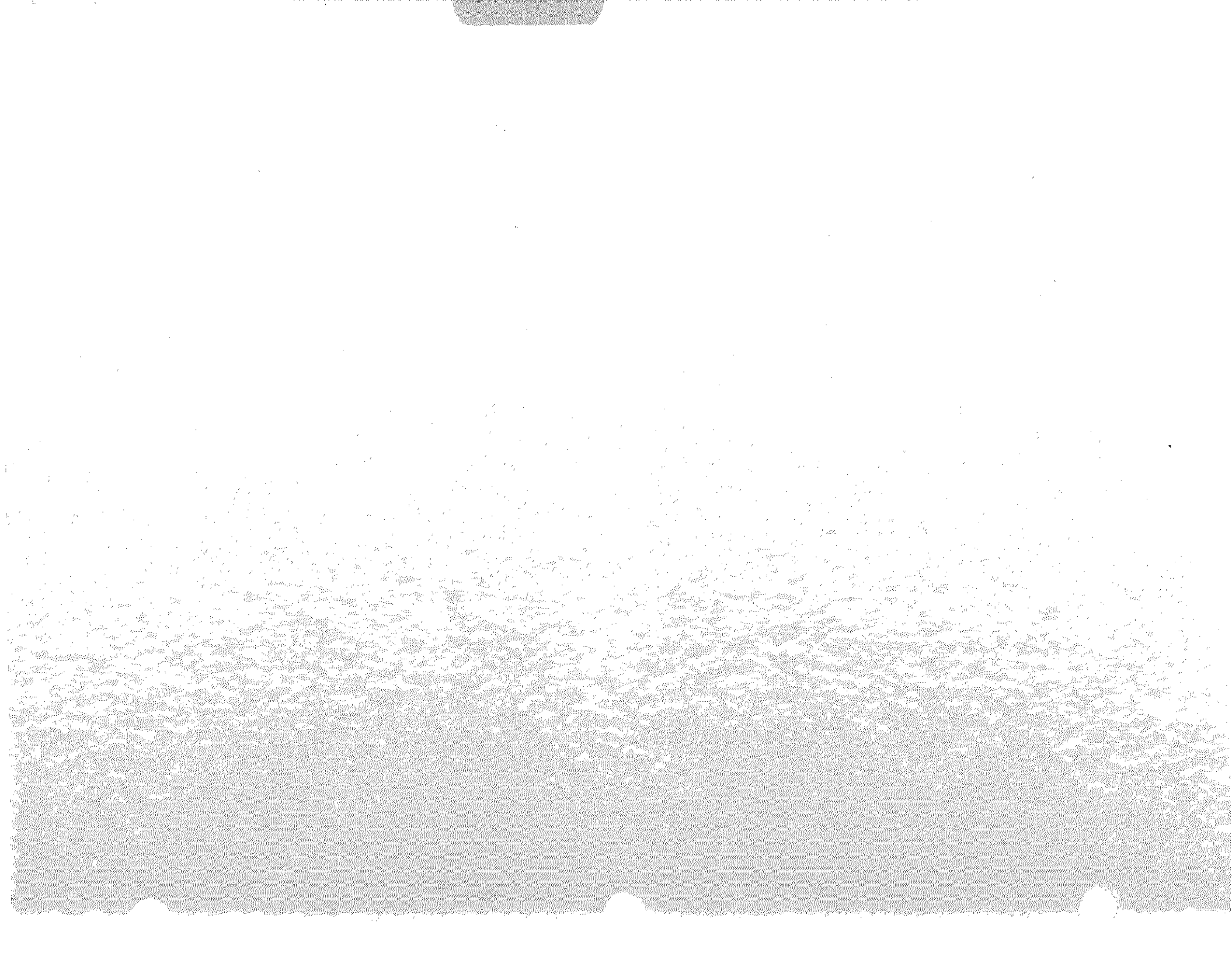
I have written to Mr. Lagueux to formally invite a visit by DND project staff to our Thyssen Henschel facility for technical discussions and a dynamic demonstration of our TH 495 vehicle. I would be most grateful if you could see fit to provide your approval for such discussions by your officials as I am certain a visit will only be helpful in the DND process of evaluation.

In summary, Minister, I believe that the Thyssen proposal offers the best vehicle to meet the Canadian Forces APC requirement an d at the same time offers a very high industrial benefit to Canada through additional new exports in tracked APCs which, as you know, is a product area in which Canada does not presently have a producer to address this significant export market niche.

I would welcome the opportunity to expand on any area contained in this letter at the convenience of you and your officials and can best be reached through our office in Ottawa at 563.3321.

Sincerely

CC
Hon. Andre Ouellet
Hon. John Manley
Hon. Roy MacLaren



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TELEFAX

TO: Marc Lalonde

FAX NO:

FROM: Greg Alford

PAGES: 4
(including cover page)

DATE: 17-3-95

MESSAGE:

Please find attached a note which I have prepared to summarize the themes of critizisms which we are picking up in DND contacts.

I plan to share this information with Patrick Tobin.

Regards,

(L)

Recent contacts with DND have revealed the following themes of criticism, directed at the Thyssen Proposal.

March 16, 1995

Thyssen is only hearing what they want to in their meetings and not accepting the "obvious messages", ie.

i) "The APC will be sole-sourced to GM and that decision is final , except for a Cabinet sign-off at Treasury Board".

Response: Thyssen has asked DND specifically - will purchase be a sole-sourced order to GM Diesel Division. The reply from the Assistant Deputy Minister Supply is that the APC project is not yet decided and subject to inter-departmental approval and then Cabinet approval.

Thyssen contacts at Cabinet level say emphatically - no decision has yet been taken for the APC project, and therefore Thyssen's offers and interest are welcome and encouraged.

ii) The Army prefers wheeled APCs.

Response: Thyssen has been given no indication from the user that the Army has established a preference for wheels, in fact, when we last discussed with the Army, their indication was a preference for a modern tracked vehicle which should be evaluated in comparison to a wheeled vehicle if a wheeled vehicle exists that could meet the anticipated mission requirements.

iii) GMDD, as an established armoured vehicle builder in Canada, must be the prime contractor by Government Policy.

Response: As to the suggestion that GMDD is the exclusive supplier to Canadian APC requirements, that has never been stated to Thyssen over the past 10 years. The Government has continually promoted our investment in Canada which has always been based on manufacture of APCs for both domestic and export markets.

iv) Current Government Policy is to decrease defence industry and defence exports; so the Thyssen proposal is in contradiction of that.

Response: If that is the specific policy of the current Government, then how can the Ministries of Industry, Foreign Affairs and International Trade and Defence not have dismissed the Thyssen proposal at its outset? In fact, the Thyssen proposal has been continually encouraged as a creator of jobs and exports. The Thyssen TH 495, as a vehicle targeted to the needs of Armies

(3)

engaged in peacekeeping is completely consistent with the Liberal "Red Book" statements on Defence industry, Defence procurement and Foreign Policy.

v) Thyssen's TH 495 will compete with GM's vehicle in export markets, eg. Malaysia

Response: The TH 495 is tracked, while the GM vehicle is wheeled. In most international markets users make a clear definition of requirement as either tracked or wheeled; or at minimum, set technical performance requirements achievable by only one type. Bidders decide whether to invest in pursuing each market based on an assessment of their equipment's capability to meet those requirements.

In the specific example of Malaysia, that customer has two clearly identified requirements. The TH 495 is presently being evaluated for the tracked requirement. There is also a wheeled requirement in Malaysia to which the TH 495 is not being offered, while it is understood the GM LAV/Mowag is being offered. The delineation tracked and wheeled export markets is quite clear.

vi) Thyssen has had plenty of opportunity to discuss requirements with "the user" (the Army) and present details on several occasion. DND has all of the information it needed to assess TH 495.

Response: True, Thyssen has spoken with the user on a number of occasions leading up to the APC requirement.

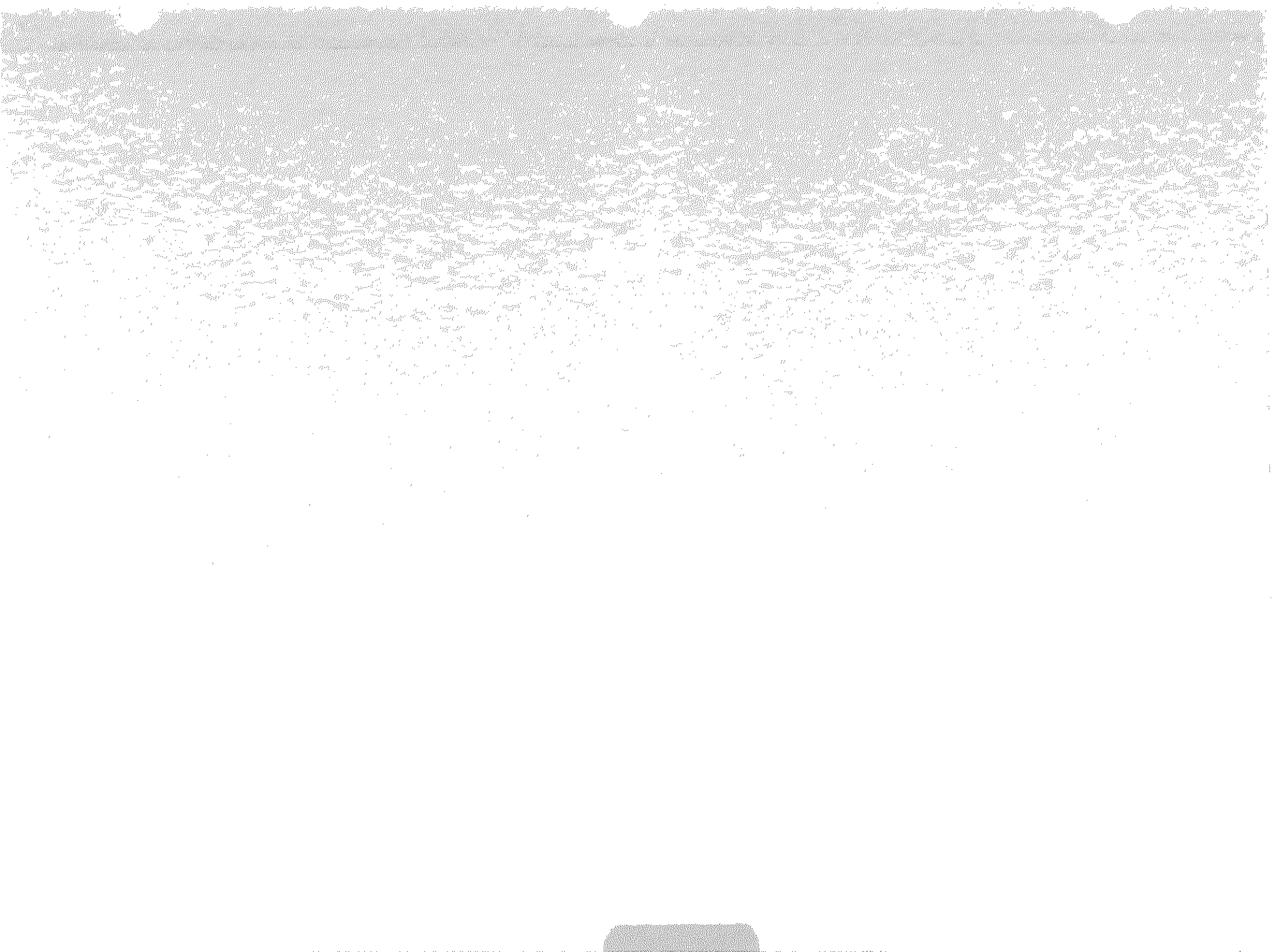
However, since the brief visit (2 hrs) of Army requirements staff to the static display of the TH 495 during the EuroSatory exhibition, June 1994, no substantial discussion with respect to the APC requirements has been possible. There was the suggestion that the Army Requirements Staff would visit Europe to drive vehicles of interest and have more detailed discussions during September. Unfortunately, when a visit to Europe occurred, it was limited only to the GM partner Mowag. As for discussions with the Requirements staff in September, Thyssen was told there was a "freeze" on industry contacts until "after the White Paper".
Since the White Paper was released, responsibility for the APC project shifted to the Program Management Office for Light Armoured Vehicles (PMO LAV). On Feb. 16, 1995, officers of PMO LAV received a presentation from Thyssen, but were restricted from discussing the APC requirement.

Thyssen's concern is that there is an apparent restriction on discussions

with interested bidders. It is common for a purchaser to outline their requirements and then invite industry to make respond with the equipment which they have available, in Thyssen's case "off the shelf", to fulfil that requirement.

vii) The Thyssen vehicle is only a prototype, it is not in production.

Response: The TH 495 has finished its APC prototype work and has advanced to a pre-series production vehicle. If an order is signed by end of 1995, TH 495 can be in production in Canada in 12 to 18 month, thereby meeting the 1997 delivery requirement for the Canadian Forces.



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May 14, 1992

M. Jean-Louis Dufresne
Conseiller exécutif
Gouvernement du Québec
Cabinet du Premier ministre
885, Grande Allée Est
Édifice J, 3e étage
Québec, Québec
G1A 1A2

Dear M. Dufresne,

First let me express my appreciation for the warm reception you have extended on behalf of M. Bourassa, on the occasion of our visit to your Montreal offices on May 8, 1992.

I found great encouragement in the positive response from you and M. Lussier of the Department of Industry Commerce and Technology to our proposal for investment in Québec. We consider this proposal to establish our North American base for light armoured vehicle development in Canada to be a first step in a significant future diversification and technology transfer from the broad range of technology within the THYSSEN INDUSTRIE AG group of companies.

With regard to discussions on the selection of a possible site, it is my understanding that officials in the department of Industry, Commerce and Technology are presently surveying the possibilities and will correspond with Messrs. Alford and Reid to ensure the physical characteristics are met.

I look forward to proceeding with further discussions with you and your colleagues in the near future with the objective of bringing this project to fruition quickly.

Sincerely yours,

Karlheinz Schreiber
Chairman

THYSSEN

THYSSEN BHI

Suite 908, 350 Sparks Street
Ottawa, Ont., Canada
K1R 7S8

TELEPHONE (613) 563-3321

TELEFAX (613) 563-7648

May 14, 1992

M. Paul Lussier
General Director
Gouvernement du Québec
Ministère de l'Industrie, du
Commerce et de la Technologie
770, rue Sherbrooke St. West
8th floor
Montréal, Québec
H3A 1G1

Dear M. Lussier:

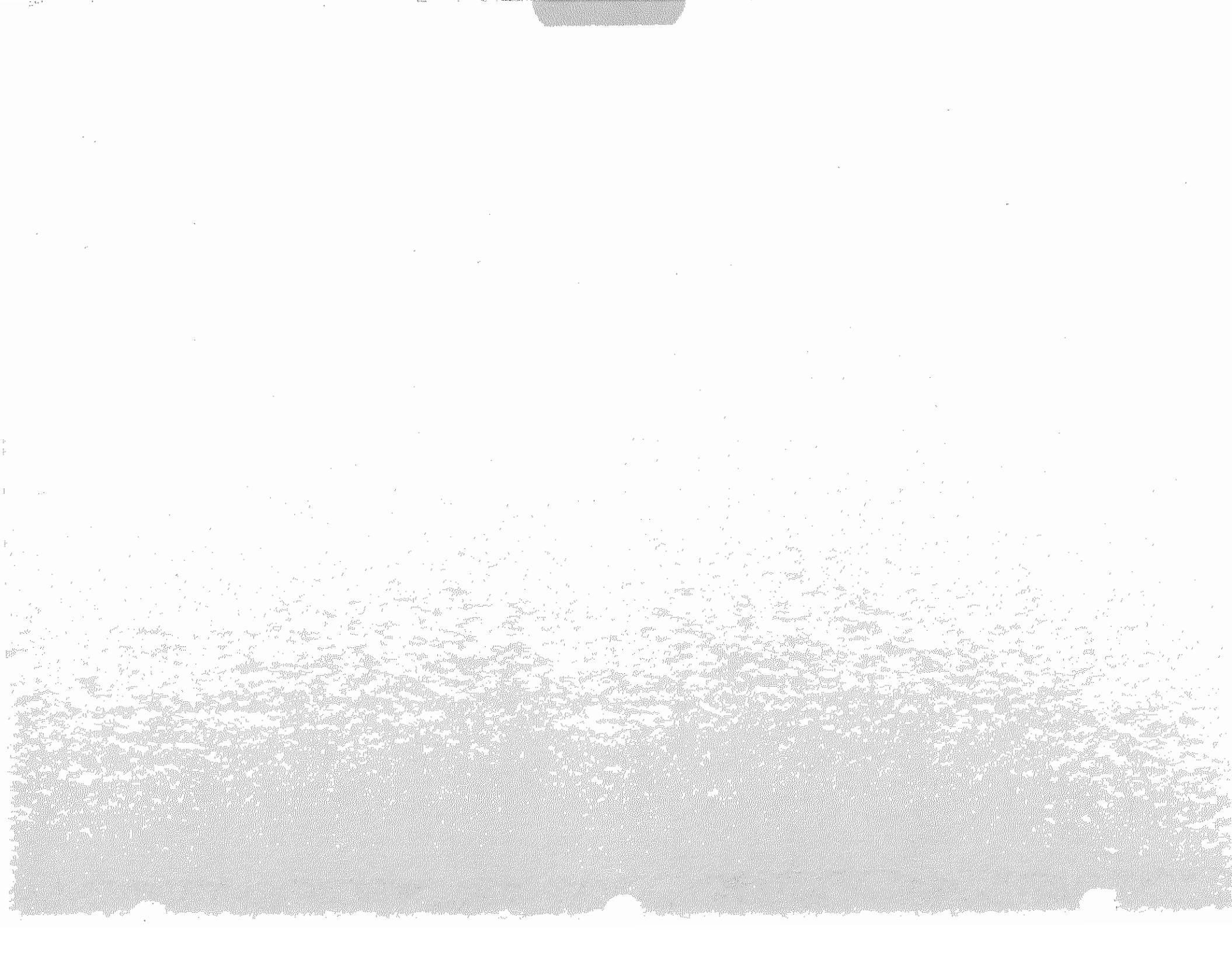
I would like to express my thanks for your kind reception last week on the occasion of the discussions regarding establishment of a new development and fabrication activity in the Province of Québec. I especially appreciated your agreement with our rationale for selecting Canada as our preferred site for this new expansion of THYSSEN activity for North America.

With respect to the basic parameters for site selection, I understand Messrs. Alford and Reid have already been in further contact with you and your colleague M. Marleau, and that activity is now underway to identify potential locations.

I look forward to early progress on this project and expect that we will return to Montral again for further discussions in the near future.

Sincerely,

Karlheinz Schreiber
Chairman



CONFIDENTIAL
July 23, 1992

COMPANY/PROJECT NAME:
Thyssen Bear Head Industries (BHI)

LOCATION:
Montreal, Quebec

ISSUE:
Proposal by BHI (a wholly owned subsidiary of Thyssen) to establish a facility in Quebec for the development and manufacture of light armoured military vehicles for peacekeeping.

BACKGROUND:
Thyssen Industries AG of Kassel, Germany produces a wide range of industrial products and military vehicles. Since 1985, BHI has been working to create the conditions favourable to their establishment of a facility in Canada to develop and manufacture light armoured vehicles.

In July 1991, BHI was informed that the Canadian government could not support their proposal to establish a plant in Nova Scotia in return for a directed contract for 250 light armoured vehicles under the DND Multi Role Combat Vehicle project (MRCV). In April 1992, DND cancelled the MRCV project and replaced it with the purchase of 229 light armoured vehicles from Diesel Division General Motors (DDGM) of London, Ontario.

CURRENT STATUS:
In May 1992, BHI submitted an unsolicited proposal for a MOU with the Minister of National Defence, wherein BHI would create a facility in Quebec for the development and manufacture of a light armoured vehicle for export for peacekeeping roles, and later would diversify into general industrial production. DND would participate in vehicle development, contribute $132 million over 3 years, and receive 5 prototype vehicles in return. The Government of Quebec was also approached for funding.

In June 1992, DND indicted to BHI that they had neither the requirement nor the funding for this initiative and suggested that support for such an activity be sought from ISTC and EAITC.

BHI has not submitted a proposal to either department but has written to the Prime Minister seeking his support. Pursuant to a June 10, 1992 meeting of senior officials from concerned departments, PCO has undertaken to draft a reply indicating that the government is not in a position to support BHI's plans.

DEPARTMENTAL POSITION:
This sector currently faces worldwide overcapacity. In DDGM, Canada already has a strong, internationally competitive industry presence. Should a market for a peacekeeping vehicle emerge, DDGM is well positioned to respond.

Contact: E. Leah Clark, Project Officer (954-3208)
Lloyd J. Beverly, Director (954-3148)

OTT/SDC/CCS

22222081

BB-500-2-5

KRAUSS MAFFEI REQUEST FOR CREDITS TO BE PROVIDED TO MAK SYSTEMS AEV PROGRAM:

BACKGROUND:

In May 1992, the ISTC manager of the AEV (Armoured Engineering Vehicle Program) was made aware of a proposal from Krauss Maffei that MaK Systems be given credit (against their outstanding IB obligation associated with the AEV contract) for a Krauss Maffei transaction entered into under the Leopard Tank IB Program.

In 1982, Krauss Maffei agreed, as part of the Leopard IB program, to assist Bombardier in meeting offset requirements associated with the sale of Iltis vehicles to Belgium. By the time the Iltis deal was consummated, Krauss Maffei had already completed its obligation to Canada, and no longer needed the credits. However, they had entered into a contractual agreement with Bombardier, which insists on completion of the agreed amount of offsets in Belgium (approx, 50 Million DM).

Krauss Maffei feels hard done by, and wants credits to be provided to MaK to finish off the obligation under the AEV program. Krauss Maffei is the major subcontractor on the AEV program as supplier of the base vehicle.

MEETING IN MONTREAL (June 4):

During the incoming mission associated with the AEV IB program, a meeting was held in Montreal attended by Offset Managers from Krauss Maffei, Krupp MaK and MaK Systems, and the IB managers for the Leopard and AEV programs. At this time, the German companies were told that the proposal, as submitted, was not acceptable as it did not meet our definition of industrial benefit as it was not incremental or causal to the AEV program. It also contravened our policy on banking.

STATUS:

A formal request for a decision on this matter was sent to Mike Taylor last week. The proposal is undergoing some analysis at this time, but we do not expect positive decision as the proposal offers no incremental benefit, nor is it causal to the AEV contract.

Particularly in light of the success of the recent incoming mission, there is no reason to believe that new business sufficient to meet the AEV commitment can not be generated.

Aug 10, 1992
Leah Clark (AEV Project Manager)
954-3208

OTT/SDC/CCS
22222082

GARY Q. OUELLET QC
BARRISTOR AND SOLICITOR
QUEBEC ADDRESS: 1262 JAMES LEMOINE, SILLERY, PQ G1S 1A2
OTTAWA ADDRESS50 O CONNOR SUITE 1300, OTTAWA, ONTARIO

Mr. Karlheinz Schreiber
Chairman
Bear Head Industries,
Suite 908 - 350 Sparks Street,
Ottawa, Ontario.
K1R 7S8

April 30th, 1992

Dear Karlheinz:

At your request I have studied recent events in the matter of the directed LAV order from DND to GM with a view to determining Thyssen's rights to remedy. What follows is a preliminary legal opinion.

Without repeating the details of the entire matter suffice it to recall that:

1. Thyssen's presence was solicited by the Government of Canada through its Minister Sinclair Stevens, and pursuant to such solicitation Thyssen commenced the Bear Head operation in Canada. To date, Thyssen has spent over $20 Million dollars on this venture. Numerous promises and assurances were given to Thyssen at this time.

2. On September 27, 1988, an Agreement in Principle was signed between the Government of Canada (through its DREI, DND and ACOA ministers) which agreement specified that Thyssen would be allowed to participate in the LAV program.

3. On April 7th, DND sole-sourced a 226 LAV order to General Motors for $800 Million dollars. Bear Head Industries was not given any chance to participate.

The obvious inference is that the Government of Canada has acted in open bad faith towards Thyssen. Further evidence of the bad faith is:

1. Last fall the Minister of National Defense personally assured Thyssen that an order would NOT be directed to GM and that Thyssen would have an opportunity to bid.

2. The specs that accompanied the press release on the GM order were written up in US spelling, indicating that the specs themselves were not written in Canada

but that the department hastily used GM material to justify new specifications to try to justify the sole source order.

3. You have shown me a document from the department (Q&A's) which indicate a series of possible replies to the Thyssen charge of inequitable treatment. Among other supposed justifications is the story that the project changed in nature. In effect, the original proposal was for a LAV. Later the LAV project was dropped and replaced by a MRCV Project (by the way, the MRCV Project Office was in operation up until the moment of the GM announcement at which point it ended its life). Thyssen could also supply a MRCV and was encouraged to continue its participation with this new vehicle. Then at the last minute the vehicle definition is again changed and an order directed to GM. Obviously, Thyssen-Bear Head could have competed on this contract.

It seems pretty clear to me that the driving goal behind this move was in fact to drive Thyssen from Canada. Canadian officials surely did not realize the legal implications (nor, probably the political implications as Thyssen, as you have told me, may well decide to move all its operations out of Canada to the US and Mexico, and along with them some 2000 jobs). The importance of this move is further underlined by the article which appeared in Deutshe Handelblatt to the effect that "Canada offers no chances to German companies".

Thyssen has received written and verbal assurances from all levels of Government, which assurances have been breached. A body of evidence further suggests that government officials acted in manifest bad faith.

It would appear as if Thyssen has a compelling claim for:

1. $20 Million already invested in the Project
2. $80 Million loss of profit on the Project
3. $100 Million damages for loss of future business opportunities.

Total claim: $200 Million dollars.

It is my advice that Thyssen proceed exploring this claim, and that further legal preparation should commence immediately, with a view to launching a lawsuit without delay.

Sincerely,

McCarthy Tétrault
AVOCATS · AGENTS DE BREVETS & MARQUES DE COMMERCE
BARRISTERS & SOLICITORS · PATENT & TRADEMARK AGENTS
"LE WINDSOR", 1170 PEEL, MONTRÉAL
QUÉBEC, CANADA H3B 4S8
FAX (514) 875-6246 · TELEPHONE (514) 397-4100

Direct line: (514) 397-4157
Internet : gtremblay@mccarthy.ca

Montreal, September 29, 1999

BY FAX (613-993-0309)
Original By Courier

J. Phillip Murray
Commissioner
ROYAL CANADIAN MOUNTED POLICE
1200 Vanier Parkway
Ottawa (Ontario)
K1A 0R2

Re: The Right Honourable Brian Mulroney
Our file: 151292-187816

Dear Commissioner:

We represent the Right Honourable Brian Mulroney, Prime Minister of Canada from 1984 to 1993.

Four years ago today the Government of Canada and the RCMP sent a Request for Assistance to the Government of Switzerland in which our client was described as a criminal, actively engaged in corrupt activities during his entire time in office.

Pursuant to a libel action initiated by our client against the Government and the RCMP, the defendants apologized fully to Mr. Mulroney and his family, acknowledged that any conclusions of wrongdoing were and are "unjustified" and paid all of his legal costs.

(This was essentially confirmatory of the initial RCMP Airbus investigation in 1988-1989).

Our client realized your investigation would continue - although not on the basis of a letter acknowledged to be groundless ("sans fondements") by its authors. In any event, Mr. Mulroney continues to be smeared by a constant repetition of the original government allegations in media stories related to the ongoing investigation.

On August 23, 1999, Mr. Andreas Huber-Schlatter, Secretary General of the Federal Department of Justice and Police, Switzerland, wrote the undersigned that "... none of the bank records so far produced or yet to be produced involve accounts of Mr. Mulroney's."

In the four years, our client has repeatedly denied involvement in any illegal or improper activity of any kind in any matter covered by your inquiry. He has offered to meet with your investigators at any time and provide them with any information they require. All relevant witnesses interrogated by lawyers from this firm in preparation for the trial confirmed and were prepared to testify to the ethical and appropriate conduct of our client throughout.

It is also our understanding that for some considerable period of time all Swiss banking records of Messrs. Frank Moores and Karlheinz Schreiber have been (officially or otherwise) in your possession and do not in any way (contrary to the original Government contention) implicate our client in any illegal activity. This confirms public statements by these two gentlemen to the effect that they never had any such association with our client.

Indeed, in the original letter of request sent to the Swiss, our client was specifically accused of acting illegally in three instances:

1. **The Air Canada Purchase of Airbus**

In fact, our client had no involvement of any kind in this matter.

2. **The Coast Guard Purchase of Helicopters**

In fact, our client had no involvement of any kind in this matter.

3. **The Bearhead Contract**

In fact, our client cancelled this contract between the Government and the promoters.

The uncertainty surrounding this matter and the ambiguous statements from RCMP spokesmen that our client may (or may not) be a subject/target of this ongoing investigation continue to damage Mr. Mulroney and his family both in Canada and around the world.

McCarthy Tétrault

It is an acknowledged truth that "justice delayed is justice denied." For more than four years our client has endured the anguish and humiliation of having his integrity questioned publicly. For any Canadian this would be an excruciatingly painful experience. One can only imagine how much more brutal and searing the experience must be for Mr. Mulroney who, as a long-serving Prime Minister of Canada, is especially prominent at home and internationally.

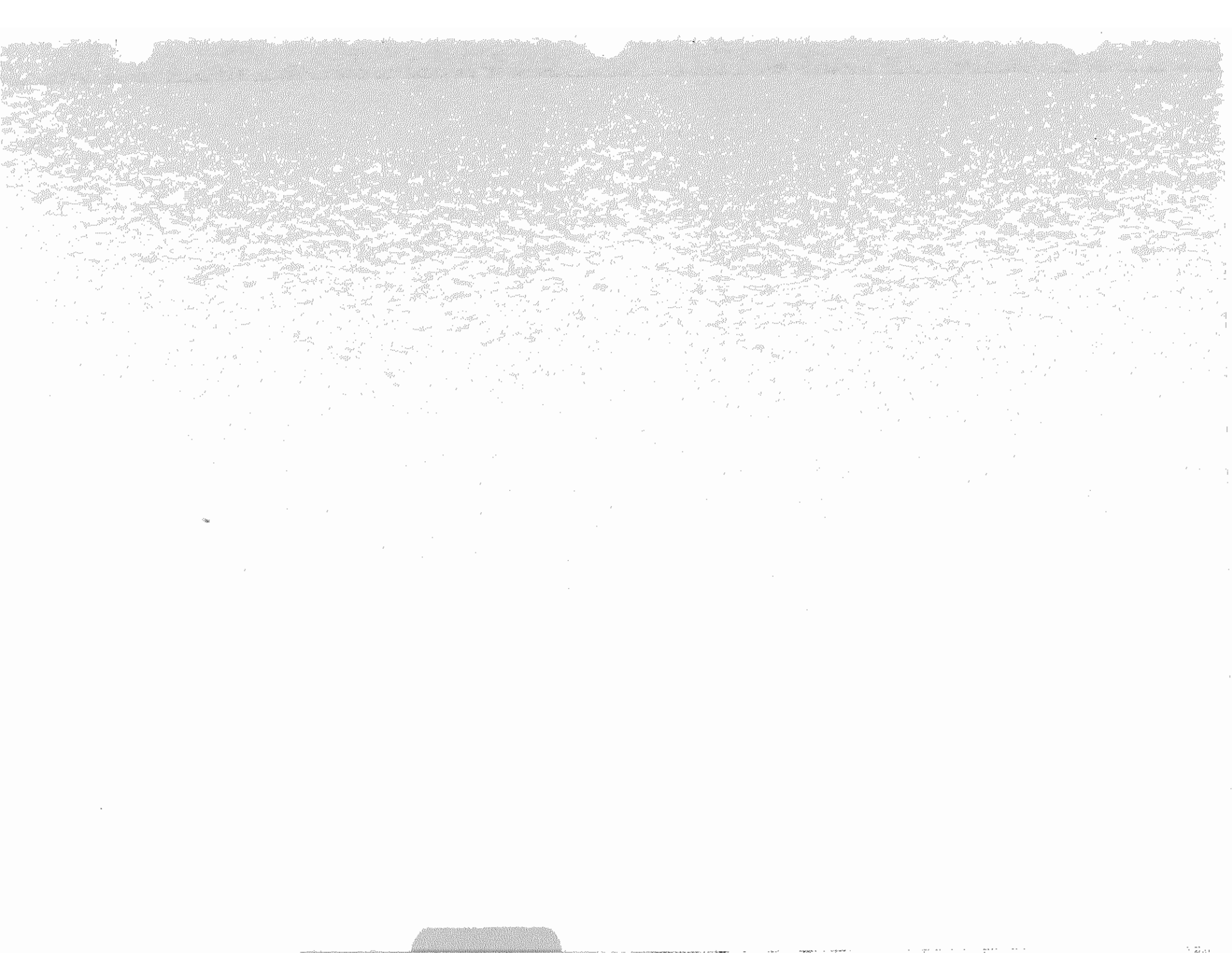
Some time ago you told the Globe and Mail editorial board that you would announce as soon as possible the results of the investigation as it applied to Mr. Mulroney. We would ask you to exercise your leadership of the RCMP to bring this nightmare for our client and his family to an end by announcing now what surely must be clear to your investigators after more than four years work: namely, that Mr. Mulroney did nothing improper or illegal in respect of any matter under consideration and that simple justice requires this matter, as it applies to him, be considered at an end.

Sincerely,

McCarthy Tétrault

Gérald R. Tremblay, Q.C.

GRT/sk



3 of 3 DOCUMENTS

November 10, 2003 Monday

SECTION: NATIONAL NEWS; SECRET NO MORE: Case Number : SM132/00; Pg. A1

LENGTH: 5989 words

HEADLINE: Schreiber hired Mulroney;
Shortly after the left office, the former prime minister accepted some $300,000 in retainers from the controversial German businessman. In the final part of this series, William Kaplan unravels the tale.

BYLINE: WILLIAM KAPLAN

BODY:

It was a shocking claim. In the confines of a closed-door Toronto court hearing, one of Canada's better-known lawyers drew a bead on one of Canada's better-known investigative journalists: "A major political enemy of the Right Honourable Brian Mulroney," Edward Greenspan declared, "and she's somehow in bed with the RCMP."

Greenspan accused Stevie Cameron of being so out to get the former prime minister, so keen to catch him doing something wrong, that she broke a key tenet of her craft and enlisted as a secret informant to help the police expose him as corrupt.

For two days, Greenspan castigated Cameron in his attempt to have a judge throw out the highly unusual secret warrant that in December, 1999, had allowed the Mounties to spend three days searching the Fort Erie, Ont., offices of Eurocopter Canada.

Greenspan's client, German-born businessman Karlheinz Schreiber, is alleged to have shared in more than $1-million in improper commissions after the German-based subsidiary's predecessor company sold 12 light helicopters to the Canadian Coast Guard in 1986. Also fighting to keep Schreiber from being extradited to his homeland to face tax-fraud charges, Greenspan wanted the warrant quashed to keep the helicopter allegations from being made public.

If he could show the case against Eurocopter was tainted because the abortive, infamous Airbus investigation from which it stemmed was itself tainted by Cameron's actions, Schreiber might escape unscathed. And by the time Greenspan had finished his argument in court, Cameron's role in the investigation had become an issue.

But what if Mulroney had a business relationship with Schreiber after all, not while he was in office but soon after leaving it?

For years, Cameron tried to establish, in book after book and speech after speech, that Mulroney was, as she almost asserted flat out, "on the take."

But the best she and her famous research binders - crammed with information about Mulroney-government wrongdoing, real and imagined - were able to establish was that some of those around Mulroney had crossed the line. The same has been said of prime ministers before and since.

On Mulroney, Cameron could never prove that he, personally, had done a single improper thing. Even the information she provided to the police, which eventually helped to spark the government's infamous 1995 letter to the Swiss that called the ex-PM a criminal, did not do the trick.

When Mulroney's ensuing defamation suit was settled, the RCMP and the government acknowledged there was no evidence of any unlawful activity on his part.

Whatever had been handed over had caused him huge damage, but fallen short of criminal charges.

However, the RCMP's' investigation into the three big projects - Air Canada's purchase of $1.8-billion worth of Airbus planes, the coast guard's $27-million worth of helicopters and German-based Thyssen Industries' proposed Bearhead project to build armoured military vehicles in Cape Breton - continued long after Mulroney settled his suit.

"Airbus probe still a top file for RCMP," Robert Fife, the well-connected reporter for the National Post wrote on Dec. 29, 2001. "Thousands of RCMP officers were redeployed after Sept. 11, but not the seven officers and team of forensic accountants assigned to the Airbus investigation. RCMP Corporal Louise Lafrance told the National Post yesterday the Airbus inquiry is one of the 'big investigations' kept intact."

Frank Moores was, Fife reported, far from impressed: "The thing has been going on for almost seven years and I have no idea whatsoever when they'll release my accounts." Unable to earn much of a living since Airbus, Moores wanted access to his money.

But as Fife reported: "The RCMP refuses to discuss details of the case or to explain why Moores's accounts remain frozen. Moores, an Ottawa lobbyist during the Mulroney years in government, said he was completely up-front as soon as the Airbus investigation was leaked to the media in November, 1995.

"He did not resist RCMP demands to obtain his Swiss bank account, and contacted Revenue Canada to settle any outstanding taxes."

This spring, however, the government finally called the whole thing off.

Dated April 22, 2003, the announcement was completely straightforward: "After an exhaustive investigation in Canada and abroad, the RCMP has concluded its investigation into allegations of wrongdoing involving MBB Helicopters, Thyssen and Airbus. In October, 2002, a charge of fraud was brought against Eurocopter Canada Ltd. (formerly MBB Helicopters Canada Ltd.) and two German citizens, Kurt Pfleiderer and Heinz Pluckthun.

"The RCMP has now concluded that the remaining allegations cannot be substantiated and that no charges will be laid, beyond the charge of fraud already before the courts. A preliminary inquiry in the Eurocopter fraud charge is scheduled to begin Sept. 8, 2003, at Ottawa.

"Today's announcement fulfills a commitment made by former commissioner Phil Murray to announce the results of the Airbus investigation once the RCMP concluded its investigation."

The case had gone on for eight years and cost untold millions, not to mention the $2-million the government had to reimburse Mulroney for expenses incurred in his $50-million defamation suit. In the end, only Eurocopter and two MBB officials in Germany were ever charged with anything.

The Germans, Pfleiderer and Pluckthun, have declined the Canadian invitation to attend the preliminary inquiry. An Interpol arrest warrant for the duo was issued, but as long as they stay in Germany the chances they'll be forced to face charges in Canada are nil. The preliminary is not expected to end until 2005, but with no evidence that Eurocopter's Canadian officials did anything wrong, how the Crown's case can succeed is a bit of a mystery.

Mulroney was informed first that the investigation was over - the RCMP came to see him and hand-delivered the

Question: "And the Canadian government alleges that very substantial sums were paid to Schreiber by Airbus Industries, and you didn't discuss with Schreiber whether it was true or not?"

Answer: "The document said, among other things, this: 'This investigation is of serious concern to the Government of Canada, as it involves criminal activity on the part of a former prime minister.' This is not an allegation, this is a statement of fact where the Government of Canada is judge, jury and executioner.

"And what preoccupied me - inasmuch as I had never heard of the Airbus matter in my life - what preoccupied me were the extraordinary falsehoods and injustices as they involve me. And I wondered with my family and friends, quite frankly, how in the name of God could this come about? How can something like this actually take place.

"And the fact that Mr. Schreiber may or may not have had any business dealings was not my principal . . . my principal preoccupation. I had never had any dealings with him."

"I had never had any dealings with him."

This was not quite correct. He had never had any dealings with him on Airbus. He had never had any dealings with him on the helicopter purchase. He had some prime ministerial dealings with him on Bearhead - he turned down the project and a request for federal money. But he had dealings with him while in office and since.

Later in the transcript, this exchange occurred: Question: "Perhaps I misunderstood. When you talked about having coffee with Schreiber at the Queen Elizabeth, it was in the period subsequent to November, 1995?"

Answer: "No, no, it was after I left office in 1993, and that's when he told me, as I indicated to you, that . . . he was dismayed that my government had not allowed him to proceed with his desire to build this Thyssen project.

"And that's when he told me that he had hired Marc Lalonde to represent him because he figured that Lalonde could prevail upon Chrétien and the government to have this done in the east end of Montreal. Which, by the way, had they been able to do it . . . I thought it was a good project, and so I wouldn't have been critical of anything.

"He told me he had hired Lalonde to do that; he told me he was contemplating legal action against my government; that [he] had hired a prominent law firm in Ottawa - I think Ian Scott's law firm, very distinguished lawyer - to take action against . . . the bureaucrats in my government who, he alleged, had frustrated the fact that he was never able to get a deal through. This deal . . . that was the kind of conversation we had.

"He expressed the hope that Lalonde would be successful in persuading the new Liberal government to agree to conditions that would enable him to proceed with the project. That was it."

"That was it."

And yet Mulroney had by then accepted a retainer of some kind from Schreiber. The questions to him were badly framed - and very carefully answered .

An explanation has been offered about why Mulroney was not more forthcoming, given his commercial relationship with Schreiber. Earlier, he had offered to come to Ottawa and to make a complete financial disclosure - income-tax returns, business records, everything - to government and RCMP officials. He was turned down flat. His envoy was advised: We are just beginning our investigation.

Since then, the lawsuit had commenced and many months had passed. Mulroney was now facing at least nine government lawyers and he had no intention of doing their job. He had promised to respond to questions truthfully but did not volunteer any information.

Context is, of course, everything. So too, as Bill Clinton showed the world when he tried to explain what happened

with Monica Lewinsky, are meaning and interpretation. But Mulroney did have ample opportunity to come clean about his professional relationship with Schreiber.

Instead, he helped to create the impression that he carefully considered Schreiber's business proposal when he was prime minister - but rejected it after determining it wasn't in the best interest of the Canadian people - and subsequently maintained, at best, a cordial and infrequent acquaintance with Schreiber after he left office. Was it perjury? No. Had he misled the Canadian people? Probably yes. Should he have seized the opportunity to set out the entire story? Absolutely.

There were, Luc Lavoie points out, "nine lawyers sitting there on the government side and not one of them ever asked Mulroney whether he got money from Schreiber."

And what if they'd done so? "If they had," Mulroney told me recently, "I would have answered the question." But not according to Lavoie: "They would have been told that the relationship was privileged."

The government lawyers, Mulroney counsel Jacques Jeansonne explains, had no entitlement to ask Mulroney any questions about this payment, and Jeansonne has a technical explanation about the operation of the rules of civil procedure in Quebec and how those rules, properly applied to this case would have, if a question had been asked, been interpreted to disentitle the government lawyers to an answer.

But a technical defence, even a successful one, would have harmed Mulroney in the court of public opinion. The lawyers examining him may have blown it badly, but didn't he have an obligation, a special obligation as a former prime minister, to make it perfectly clear that he and Schreiber had a commercial relationship? It was, after all, by all accounts a proper commercial relationship. In a recent interview, Schreiber confirmed that he retained Mulroney's services "for totally legal reasons after he left office."

You have to admire Mulroney's bravado: suing the government for $50-million to refute a claim that he had been bribed by Schreiber when the two had done business together. Balls of steel. Had the government lawyers learned about it, they might never have settled. It was a very close call.

What is also very surprising about it all - and arguably telling of their legitimacy and Mulroney's innocence - is that Mulroney did not just deny the payments. Doing so, presumably, would have been the easiest course, as there were, by all accounts, no witnesses to the exchanges. Mulroney did admit them because the payments were above board.

Not that Mulroney doesn't have regrets: "If you accumulated all the sorrow over all my life, it does not compare to the agony and anguish I have gone through since I met Schreiber." he says. "I should never have been introduced to him because the people who introduced me to him didn't know him."

Today, at 64, Mulroney looks older and more tired than he should. Clearly he is weary of it all. Having his lawyers at the lengthy secret trial cost him hundreds of thousands of dollars, but at least it was money well spent.

Because, finally, the trial gave him the sustenance for his hunch that Cameron, his long-standing critic, was at least partly responsible for the criminal investigation that could have destroyed him. And now thanks to behind-closed-door proceedings and disclosure of the RCMP briefing notes, he had some pretty compelling evidence.

He insists that, no matter what, everything he has done is "clean as a whistle. . . . I can also tell you that I have declared every cent that I have ever received and I have paid all income tax on all monies owing.

"My affairs have been above board and proper, and I am not concerned about any of the legal implications whatsoever," he says, repeatedly saying that the RCMP investigated thoroughly and "gave me an apology letter." (In reality, the force simply announced the end of its criminal investigation but, again, interpretation is everything.) Most of all, he is adamant that the revelation of the identity of the informant not be overshadowed by any suggestion that he and

Schreiber hired Mulroney; Shortly after the left office, the former prime minister accepted some $300,000 in retainers from the controversial German businessman. In the final part of this series, Will

Schreiber did anything wrong.

"Anyone who says anything about that," he says, "will be in one fuck of a fight."

Postscript: When I finished *Presumed Guilty*, my book about Mulroney and Airbus, I concluded with the words "the investigation is continuing."

Police investigations, like politicians, come and go, but history is always up for re-examination. Not long after the criminal investigation ended, William Thorsell, a former editor of this newspaper, commented: "But concluded the matter is not. Records of other actions now before the courts will eventually be made public, and could contain substantially more information about the origins of this fiasco. A great stain has been made on the administration of justice in the Airbus affair, and history demands that we know much more about how it happened."

We now know a little bit more. A secret trial has been exposed - disturbingly it is not the only case in Canada today being held behind closed doors, keeping vital information from the public - and some of the loose ends have been tied up and some new questions raised. But none of us has the final word. The RCMP may have called it off, but as far as I am concerned, the investigation is still continuing.

SECRET NO MORE : CHAPTER 3

Today; author William Kaplan concluded the sequel to Presumed Guilty, his 1998 chronicle of the Airbus affair, with a remarkable revelation about Brian Mulroney.

The former prime minister won $2-million and an apology in a defamation suit after the government wrote to Swiss authorities describing a criminal conspiracy involving him, German-Canadian wheeler-dealer Karlheinz Schreiber and former Newfoundland premier Frand Moore. Now we learn for the first time that Mr. Mulroney and Mr. Schreiber really did have a business relationship. It began after the ex-PM had left officeand was, by all accounts, perfectly legal. But money did change hands and when a reporter learned about it, The National Post refused to publish his story.

CHRONOLOGY

1984: Brian Mulroney leads the Progressive Conservatives to power. Karlheinz Schreiber sets up International Aircraft Leasing (IAL) in Liechtenstein. Frank Moores and fellow Mulroney associates form Government Consultants International (GCI), a lobbying firm in Ottawa.

1985: GCI is hired by German companies, including helicopter manufacturer Messerschmidt-Bolkow-Blohm (MBB), which is negotiating a sale to the Canadian Coast Guard. Moores becomes an Air Canada director but leaves soon after because Airbus, bidding for a big contract, is another GCI client. Airbus also enlists Schreiber's IAL to help market in Canada.

1986: MBB's Canadian subsidiary, Messerschmidt Canada Ltd. (MCL), sells 12 light helicopters worth just under $27-million to the Coast Guard. The machines are to be manufactured in Germany and outfitted in Fort Erie, Ont.

1988: Mulroney wins second term. Air Canada awards much sought-after contract for 34 new passenger jets worth $1.8-billion to Airbus Industrie. Schreiber's old friend, Bavarian politician Franz Josef Strauss, dies.

1993: Mulroney leaves office, is succeeded by Kim Campbell and Liberals come to power with greatest landslide in federal history.

1995: After media reports surface regarding Schreiber's relationship with Airbus and the Air Canada contract, the

Schreiber hired Mulroney; Shortly after the left office, the former prime minister accepted some $300,000 in retainers from the controversial German businessman. In the final part of this series, Will

RCMP has the Justice Department write to Swiss authorities seeking information about secret bank accounts. The letter names Mulroney, who finds out about the allegation and sues the RCMP and federal government.

1997: After a variety of revelations, the federal government settles with Mulroney and pays $2-million in legal fees but continues its investigation.

1999: Schreiber leaves Europe for Canada but is arrested on a warrant from Germany where he faces criminal charges. He hires Edward Greenspan to fight the extradition request. In December, the Mounties execute five search warrants issued by Judge James Fontana in relation to the Airbus investigation, including Eurocopter Canada, the successor to MCL. The warrants are sealed as are the orders to seal them.

January, 2000: Eurocopter lawyer Paul Schabas applies to Judge Fontana to break the seal and allow access to the information justifying the searches. Meanwhile, word of the search leaks out to Schreiber, Mulroney and Der Spiegel, which reports on it. The proceedings are subjected to a publication ban, and on Jan. 31 the judge dismisses Eurocopter's application.

February: The judge again refuses to unseal the information, and Eurocopter seeks a judicial review of his orders.

March: The review begins before Mr. Justice Edward Then in Toronto. Journalist Harvey Cashore shows up and is booted out. Eurocopter again demands access. Crown again says no. Hearing is adjourned.

June: RCMP applies yet again for permission to hold the thousands of pages of documents. Crown again insists the matter be kept secret.

December: Judge Then turns down the judicial review and extends the document detention another nine months but says he'll reconsider the secrecy issue in four months.

April 9, 2001: Lawyers for Mulroney, Schreiber, Moores and the CBC are notified of the secret proceedings and told the case may be of interest to their clients.

April 24, 2001: The expanded cast appears in court, and the Crown suddenly applies to have seal largely lifted from information that led to the search warrants.

April 25, 2001: The parties get to see the long-suppressed information.

About the author

As well as *Presumed Guilty*, the 1998 prequel to *Secret No More*, William Kaplan's previous books include: *Everything that Floats: Pat Sullivan, Hal Banks and the Seamen's Unions of Canada* (1987); *State and Salvation: The Jehovah's Witnesses and Their Fight for Civil Rights* (1989); *Bad Judgment: The Case of Mr. Justice Leo Landreville* (1996); and the children's best-seller *One More Border: The True Story of One Family's Escape from War-Torn Europe* (1998).

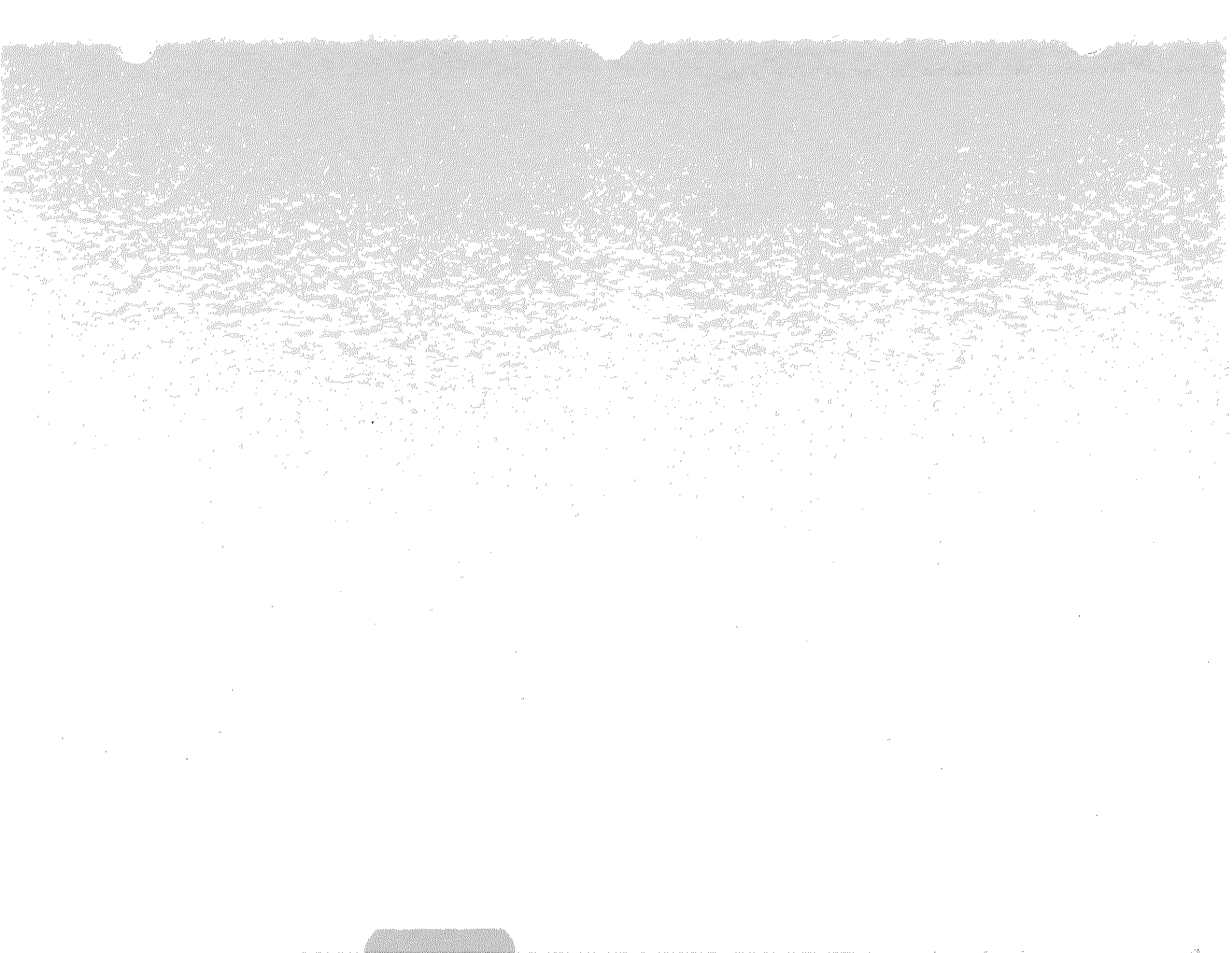
He also has edited several volumes of essays, including: Belonging: The Meaning and Future of Canadian Citizenship (1993) and with Donald McCrae, *Law, Policy and International Justice: Essays in Honour of Maxwell Cohen* (1993).

Based in Toronto, Mr. Kaplan is a labour-relations arbitrator and mediator as well as a former law professor at the University of Ottawa. A graduate of Osgoode Hall Law School, he received his doctorate from Stanford Law School and was a founding co-editor of the Labour Arbitration Yearbook and The Canadian Journal of Labour and Employment Law. In 1999, he was awarded the Law Society of Upper Canada Medal.

GRAPHIC: Illustration

Schreiber hired Mulroney; Shortly after the left office, the former prime minister accepted some $300,000 in retainers from the controversial German businessman. In the final part of this series, Will

LOAD-DATE: September 16, 2006



G005011/1

March 3, 2007
AFFIDAVIT

000001

IN THE FEDERAL COURT OF CANADA

BETWEEN:

KARLHEINZ SCHREIBER

Applicant

- and -

THE ATTORNEY GENERAL OF CANADA, THE SOLICITOR GENERAL OF CANADA AND THE COMMISSIONER OF THE RCMP

Respondents

AFFIDAVIT OF KARLHEINZ SCHREIBER

I, Karlheinz Schreiber, businessman, of the City of Ottawa, in the Province of Ontario, MAKE OATH AND STATE:

1. I am the Applicant herein, and as such, have personal knowledge of the matters hereinafter deposed to, except where stated to be on the basis of information and belief, in which case I verily believe the same to be true.

2. I was born in Germany on March 25, 1934 and am presently 72 years old.

3. I obtained landed immigrant status in 1978 and became a Canadian citizen on February 23, 1982.

4. I was a Judge of the Regional Court for commercial cases in Munich for nine years.

5. I have had residences in Canada since 1979.

6. I was the subject of an RCMP investigation from 1995 to April, 2003 and have been subject to extradition proceedings since 1999. I have learned many facts about the conduct of the Canadian authorities and of the Augsburg authorities from various sources, including the news media, books written on this matter and review of RCMP documents. I have been led to make this application as I am concerned that the administration of justice has been brought into disrepute in the cumulate result of the bad faith, abuse of process and egregious actions of the Respondents and their employees.

7. I am a citizen of this country. I ask this Honourable Court to review the breaches, in the result of the actions of the RCMP and the Minister of Justice, of my fundamental rights and legitimate expectations as a Canadian citizen.

BACKGROUND

8. In the early 1990's, the political atmosphere in Germany was very charged in the result of accusations and counteraccusations relating to political donations, attached hereto and marked as Exhibit "A" to my affidavit are copies of newspaper reports relating to the political scandal in Germany.

9. I understand from a review of the books of William Kaplan and of Stevie Cameron and of RCMP documents, that the RCMP made inquiries about Airbus in 1988 and there was no finding of wrongdoing.

10. It is my further understanding that in late 1993, Allan Rock, Minister of Justice, surmised from a conversation with a reporter that there might be wrongdoing in relation to Air Canada's Airbus acquisition. On December 2, 1993, Mr. Rock sent a note to that effect to the Solicitor General, Herb Gray; attached hereto and marked as Exhibit "B" to my affidavit is a copy of the Saturday Night article of October 1, 1996.

11. I understand that the RCMP interviewed Mr. Rock and that on February 22, 1994, informed him that there was no basis to pursue an investigation, attached hereto and marked as Exhibit "C" to my affidavit are excerpts of Hansard.

12. In January, 1995, the Commissioner of the RCMP asked that Stevie Cameron be interviewed about the acquisition of the Airbus planes, attached hereto and marked as Exhibit "D" to my affidavit are RCMP notes relating to the request.

13. Sergeant Fraser Fiegenwald of the RCMP was placed in charge of the investigation.

14. During 1995 there were many newspaper stories about Airbus and in March, 1995, Der Spiegel published a story that implicated me in the Airbus acquisition.

15. On March 28, 1995, the CBC's Fifth Estate aired a program suggesting there were problems with the Airbus purchase and implicated me.

16. A letter from the Augsburg City Tax Office (Germany) to the office of the Public Prosecutor on August 2, 1995 confirms that the RCMP, through their liaison office in Germany, had, since May 24, 1995 been in contact with the senior Augsburg Prosecutor and informed the authorities in Augsburg of their apparent investigation in Switzerland, attached hereto and marked as Exhibit "E" to my affidavit is a copy of the letter.

17. Sergeant Fraser Fiegenwald and Yves Bouchard, attended in Lugano, Switzerland at the end of June, 1995 in order to interview Giorgio Pelossi, my former business associate.

18. On July 24, 1995, Giorgio Pelossi was interviewed in Bregenz, Austria by the Augsburg tax investigators.

19. On August 24, 1995, RCMP Inspector McLean, liaison officer with the Canadian Embassy, Bern, Switzerland wrote to Sergeant Fiegenwald on how to draft the Letter of Request that was to be sent to Switzerland and commented on how to avoid any problems arising as a result of RCMP contact with a witness (Pelossi) without the necessary legal sanctions of the Swiss government, attached hereto and marked as Exhibit "F" is a copy of the letter McLean sent.

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20. In early September, 1995, members of the RCMP spoke with Giorgio Pelossi, attached hereto and marked as Exhibit "G" to my affidavit is a true copy of the German and English version of the note reflecting the meeting.

21. Attached hereto and marked as Exhibit "H" to my affidavit, is a copy of the Letter of Request sent by the International Assistance Group ("IAG") of the Department of Justice to a Competent Legal Authority in Switzerland on September 29, 1995.

22. Attached hereto and marked as Exhibit "I" to my affidavit is a publication that describes the role of the IAG within the Criminal Law section of the Department of Justice.

23. On, or about the first part of November 1995, I learned that I was named as a principal in the said Letter of Request.

24. My bank accounts, along with accompanying documents, in the Swiss Banking Corporation Zurich, were seized by the Swiss Federal Office for Justice as a result of the Letter of Request.

25. I successfully contested the legality of the actions of the Government of Canada and those of the Swiss in the Federal Court and in the Federal Court of Appeal but then the Supreme Court of Canada determined that, whilst a person present in Canada could not have his bank accounts searched without proper search warrants, the same was not available to a Canadian citizen whose banking records outside of Canada were sought with the assistance of a foreign government.

26. The Government of Canada refused to retract the Letter of Request, despite the fact that on January 20, 1997, the Minister of Justice and the Commissioner of the RCMP sent a letter of apology to me, attached hereto and marked as Exhibit "J" to my affidavit is a true copy of the letter sent to me.

27. On October 27, 1997, I filed a Statement of Claim in the Court of Queen's Bench of Alberta, action number 9703 20183, against the Attorney General of Canada alleging *inter alia*, abuse of public office and abuse of process and allegations of fact against members of

the IAG who had assisted the RCMP with the Letter of Request, attached hereto and marked as Exhibit "K" to my affidavit is a true copy of the Statement of Claim.

28. On, or about August 19, 1999, the Government of Germany sent to Canada a Provisional Warrant for my arrest.

29. I was arrested on August 31, 1999 and members of the IAG became involved on behalf of the Government of Germany in relation to the Extradition proceeding and also provided guidance and advise to the Minister of Justice in his determinations on the issue of my surrender to Germany.

30. On November 12, 1999, the Minister of Justice issued an Authority to Proceed in relation to the German extradition request.

31. In December, 1999, the RCMP obtained a Search Warrant in relation to MCL, a company now known as Eurocopter Canada. The RCMP obtained Orders to have the search warrant, Information and the results of their investigation sealed.

32. I learned through news reports and the Eurocopter court proceedings that the individual who had provided information to the RCMP in 1995 was classified as a "confidential informant," although there had been no suggestion that the RCMP had used such an informant when the investigation into Airbus was started in January of 1995.

33. On April 9, 2001, I received notice of the secret Eurocopter proceedings in the Ontario Superior Court of Justice and I arranged to have my counsel attend on my behalf before the Ontario Superior Court of Justice.

34. On April 24, 2001, Mr. Justice Then, of the Ontario Superior Court of Justice, granted me standing to be involved in the proceedings and, in time, the Crown's application to continue the sealing of documents was denied.

35. I testified at the Eurocopter Canada preliminary hearing over a number of days. Despite my best efforts to answer the questions asked of me, the Crown Prosecutor was unhappy with my

answers and unsuccessfully sought to have me declared a "hostile witness"; attached hereto and marked as Exhibit "L" to my affidavit is the excerpt of the decision relating to the Crown's application.

36. The Honourable Judge Belanger did not find sufficient evidence to commit Eurocopter Canada to stand trial. The Crown appealed the ruling and the Honourable Justice Rathusney agreed with the ruling of Judge Belanger.

37. This application relates to both the Letter of Request and the improper manner in which the Government and its agents have conducted themselves in the extradition proceedings against me.

38. I believe that the government and its servants and employees have treated me unfairly and abused their powers. I believe that my Charter rights as a Canadian citizen have been affected as a result of the cumulative egregious actions of the Respondents. I will outline the egregious conduct and abusive processes under the following headings: **CONDUCT OF THE RCMP; CONDUCT OF THE IAG; LIMITATION PERIOD RELATING TO THE OFFENCES, WRONGDOING OF AUGSBURG PROSECUTORS/JUDICIAL COMMENTARY.**

CONDUCT OF THE RCMP

39. On January 19, 1995, Commissioner Murray of the RCMP directed that senior investigators interview the journalist Stevie Cameron to find out what information she had in relation to the purchase by Air Canada of Airbus passenger jet planes.

40. Sergeant Fiegenwald and Inspector Gallant interviewed Ms. Cameron about the Airbus purchase and her knowledge of any illegal behavior.

41. Sergeant Fiegenwald obtained documents from Ms. Cameron and then attended in Lugano, Switzerland in the last week of June, 1995 in order to interview Giorgio Pelossi without legal authority from Swiss authorities.

42. Between July 1995 and September, 1995, Sergeant Fiegenwald met with a member of the IAG and on September 29, 1995, the Letter of Request was sent to the Swiss authorities.

43. My concerns about the conduct of the RCMP relate to the following:

a) the basis for the RCMP Airbus investigation were unfounded assertions made by Ms. Cameron that the former Prime Minister Mulroney had been involved in taking bribes;

b) Sergeant Fiegenwald interviewed Giorgio Pelossi before the formal request for assistance was sent to the Swiss authorities;

c) during 1995 and 1996 the RCMP were in continuous contact with Ms. Cameron and exchanged information with her. In or around 2001, the RCMP decided to designate her as a confidential informant;

d) Sergeant Fiegenwald was disciplined by the RCMP because he was said to have disclosed information about the Letter of Request to a journalist;

e) Sergeant Fiegenwald sought a public hearing relating to his discipline hearing and that led the RCMP to place him on pension thereby avoiding a public hearing;

f) the RCMP and the German authorities have relied on Giorgio Pelossi, a person of questionable character. On December 12, 1995, RCMP Inspector Mclean, liaison officer in Bern, informed the RCMP that Pelossi had a criminal record. Attached hereto and marked as Exhibit "M" to this my affidavit is Superintendent Matthews' description of Pelossi and an article in German from the publication Q-Archivide;

g) in the early part of 1996, the RCMP Liaison Office was contacted by the Angsburg prosecutor's office to discuss setting up a meeting: "such a meeting would be useful..... developments are very positive, German authorities have

been going to great lengths to avoid any perception they are presently cooperating/sharing information with us.... Prosecutors are being very cautions and they do not want to be seen or perceived as doing anything that could be viewed as improper. My view is that this lends support to the notion they are indeed in possession of substantial information of interest to you...still attempting to reach an attorney from German Justice to clarify your inquiry concerning what, if any, steps can be taken to compel the statement or testimony of a potential witness,.....", attached hereto and marked as Exhibit "N" to my affidavit is a copy of the memorandum relating to the conversation;

h) on October 15, 1996, RCMP Officers met with German prosecutors – Hillinger & Weigard. Hillinger was in charge of Schreiber investigation — "impossible for him to discuss specifics of the German investigation because of the confidentiality of the countries tax laws dealing with such investigations...informed him request for assistance would be in Germany in 3 weeks" ... impression, if Hillinger got the request, would be given favorable consideration by Federal German Justice, expect fullest cooperation...", attached hereto and marked as Exhibit "O" to my affidavit is the memorandum reflecting the meeting with the Augsburg prosecutors;

i) on Nov. 14/96 – Weigand spoke with RCMP Officer Brettschneider of the liaison office – "Air Canada subject to search? How many times have we received information from Swiss authorities? Where Canadian official request for assistance...German authorities in Augsburg are anxious to receive request..." Weigand called later – inquired if official request for assistance had been forwarded to France "..... prior to suspension (of letter of request) we received statement and supporting documents from Pelossi as well as bank documents respecting Moores.....are proceeding with criminal investigation on various fronts and that the request to Germany is our number one priority....We remain quite willing to assist the German authorities in their criminal probe. Do you foresee a request from them to us?", attached hereto and marked as Exhibit "P" to my affidavit is a copy of the memorandum relating to this conversation;

j) in April, 2004, Justice Then of the Ontario Court heard evidence on the conduct of the RCMP relating to Cameron and her status as a confidential informant in the Eurocopter Canada case. A decision has not been rendered yet;

k) Superintendent Matthews ("Matthews") deposed to several affidavits in relation to the Eurocopter Canada search warrants and in relation to justifying obtaining sealed Orders from the court;

l) Matthews's affidavits disclose that the RCMP cooperated with a "foreign agency" in getting a spy to get me to agree to commit illegal acts. Matthews stated "the goal of the undercover operation has been to seek a plausible introduction to Schreiber, to establish a relationship on the pretext of business initiatives of mutual interest, to develop this relationship by various methods of ingratiation, and to sustain it for a period of time sufficient to gather evidence germane to allegations under investigation. RCMP investigators, in cooperation with a foreign agency, have sought to infiltrate Schreiber as a target, by way of an introduction from secondary individual(s). The principle undercover operator (UCO) in this scenario has now successfully approached Schreiber portraying an entrepreneur engaged in various export/import enterprises..." attached hereto and marked as Exhibit "Q" to my affidavit are the Affidavits of Matthews; and

m) during the Extradition proceeding, the RCMP sought to show that I had access to two cell phones, which would be contrary to the terms of my bail. The basis of the RCMP allegations was a report in the German publication Zeit; attached hereto and marked as Exhibit "R" to my affidavit is a copy of the article.

44. I was called by a man named Vahe Minasian (the spy/UCO) who told me he was connected to the Russian Mafia who had access to Russian high speed torpedoes. He asked for my help in a joint venture. Minasian met me several times. He suggested to me that the venture could be done through the Canadians. He also asked me to place raw diamonds and to consider the sale of home containers to the Canadian Army through "helpful contacts". I had no desire to become involved in any of the schemes he put forward.

45. I did not know that Minasian was a spy. I did not expect that the RCMP and the Government of Canada would use a spy to entrap me into committing illegal actions.

46. The RCMP have not conducted themselves in good faith and I ask this Honourable Court to intervene and uphold my Charter rights as a Canadian citizen.

47. I verily believe that the Commissioner of the RCMP abused his office in enabling his officers to carry on with the Airbus investigation for as long as he did, in enabling his officers to improperly interview Pelossi, in enabling his members to collaborate with the German prosecutors, in enabling his members to use a spy to entrap me and in having his members designate Ms. Cameron as a confidential informant some six (6) years after she gave information to them.

48. On April 9, 2003, Commissioner Zaccardelli sent me a letter informing me that the Airbus investigation that commenced in 1995 was concluded, attached hereto and marked as Exhibit "S" to my affidavit is a copy of the letter.

CONDUCT OF THE IAG

49. On, or about August 1999, the German authorities sought the assistance of the IAG of the Department of Justice to have me arrested and extradited to Germany as the German authorities alleged they wanted to prosecute me on, *inter alia* of taxes owed.

50. I was arrested on the 31st day of August 1999 and released with stringent bail conditions, including the obligation to report to the authorities once daily, my telecommunications were monitored as part of my bail conditions since my arrest. I have not been at liberty to travel and, each time the Court renders a decision relating to my status, I am obligated to turn myself into detention. This has happened about seven (7) times since August 1999 and the last time was for a period of eight (8) days in February, 2007 before my release on strict bail conditions.

51. Members of the IAG have represented the Government of Germany in seeking to have me extradited to Germany and, in fact, members of the IAG attended in Augsburg in September

and October of 1999 in order to assist the German prosecutors to prepare the Record of the Case relating to my extradition, attached hereto and marked as Exhibit "T" to my affidavit is a copy of a newspaper article relating to this.

52. The extradition proceedings were held before the Honourable Mr. Justice Watt who made a committal decision on May 27, 2004 on the basis of the law extant at that time.

53. On October 31, 2004, the Honourable Irwin Cotler made the decision to surrender me to Germany. In making his decision, the Minister noted that Canada's obligations under the Treaty between Canada and Germany Concerning Extradition could not be ignored. I believe the Minister misapprehended the intention of the Treaty that Canada is "obliged" to extradite its citizens. Germany has not and would not extradite its nationals for fiscal offences.

54. My appeal to the Ontario Court of Appeal on the Committal and Judicial review of the Minister's Surrender decision was unsuccessful.

55. On December 14, 2006, the Honourable V. Toews, the Minister of Justice, decided to maintain the decision of the Honourable Irwin Cotler to surrender me to Germany. The Judicial review of the Minister's decision will be heard by the Ontario Court of Appeal on May 4, 2007.

56. On February 1, 2007, the Supreme Court of Canada refused my leave application.

57. My lawsuit in Alberta alleges misconduct of members of the IAG. I cannot understand how the members of the IAG can assist with preparation of the Letter of Request; defend the lawsuit I filed against them; act for the German government in the extradition proceeding; and advise the Minister in relation to the surrender decision. I believe that, by any reasonable standard, this is a blatant conflict of interest.

58. I verily believe the IAG has been in a conflict of interest since the provisional arrest warrant was sent to them as the same counsel within the IAG have been actively involved with the extradition proceedings before the Courts and then in advising the Minister of Justice on the decisions he must make in relation to me.

59. I understand that the Attorney General retains outside counsel in many instances and I believe that that ought to have occurred in this instance as I query how can the individuals in IAG, while defending my lawsuit, represent the interests of the Crown in proceedings against me, act as agents for the Government of Germany and advise the Minister of Justice.

60. I understand that in December of 2006, the Office of the Director of Public Prosecutions was established, attached hereto and marked as Exhibit "U" is information from the Department of Justice website relating to the formation of the office of the Director of Public Prosecutions.

61. Attached hereto and marked as Exhibit "V" to my affidavit are Conservative Party publications dated November 30, 2005, of which states at para. 2:

> "The Mulroney-Airbus affair: Officials in the Federal Department of Justice advised the RCMP during its investigation and it was the Justice Department that signed and sent the letter asking the Swiss authorities to cooperate. The Department's letter wrongly indicated that the RCMP had reached conclusions about criminal activity and the Attorney General Allan Rock subsequently apologized in writing to avoid any possibility of interference this is precisely the sort of issue that should have been handled by an independent Director of the Public Prosecutions."

62. I believe that the fact that the Government has established the Office of the Director of Public Prosecutions demonstrates the need for the independence of the prosecutors from actual or perceived political biases.

63. I have written to the Minister of Justice and asked him to review my concerns; to my dismay, the IAG responded to my letter and prepared a summary for the Minister.

64. The Minister of Justice has been, and continues to be, advised by members of the IAG in relation to the extradition and in relation to those matters that the Minister must consider in deciding whether Canada will surrender me to the German authorities. It is transparent and obvious that the Minister of Justice takes direction and counsel from the IAG.

65. Attached hereto and marked as Exhibit "W" to my affidavit are copies of newspaper reports dated January 24, 2007, which suggest that in February, 2006 Vic Toews, the Minister of Justice, had sought briefing notes relating to the actions he might need to take "in relation to Schreiber". The articles note that the Minister did not even review the briefing note. This Minister made the surrender decision on December 14, 2006. I have serious apprehensions as to whether Minister Toews actually reviewed and considered any of the materials that was provided to him and verily believe, that he simply signed the letter that was prepared by the IAG and placed in front of him for signature.

66. My counsel has made submissions to the Minister of Justice on several occasions to ask him not to surrender me to the German authorities as I, as a Canadian citizen, want to remain in Canada and to have the right to fully prosecute my civil action against the Crown. I believe that the establishment of the Director of Public Prosecutions shows that the government recognizes the need for an independent office in order to avoid conflicts and to avoid the appearance of conflicts.

LIMITATION PERIOD RELATING TO THE OFFENCES

67. The offences I am alleged to have committed in Germany are fiscal offences with discrete limitation periods. It is my understanding that the Warrant of Arrest and the extradition request allege contravention of German fiscal laws between the years 1988 and 1993.

68. Attached hereto and marked as Exhibit "X" to my affidavit is a chart relating to the offences I am accused of and the limitations relating to the same. The general and absolute limitations have expired for all of the charges.

69. Most of the offences would have become time barred in the fall of 2005. In order to ensure that I would be prosecuted if I am returned to Germany, the government of Germany passed a law known as Lex Schreiber, attached hereto and marked as Exhibit "Y" to my affidavit is a news report relating to the passage of Lex Schreiber.

70. I verily believe that the Minister did not give sufficient consideration to section 46 of the *Extradition Act* in two (2) respects: firstly that the prosecution would be barred by

"prescription or limitation under the law that applies to the extradition partner" and secondly, that the continued basis of Germany's desire to prosecute me is based on political reasons as shown by the passage of Lex Schreiber and as disclosed by the statement of the Judge and spokesman of the Augsburg Court, and as described below.

WRONGDOING OF AUGSBURG PROSECUTORS/JUDICIAL COMMENTARY

71. Attached hereto and marked as Exhibit "Z" to my Affidavit are newspaper reports relating to comments made by the Chief Prosecutor of Augsburg and by Judge Karl Heinz Hausler, spokesman for the Augsburg Court.

72. My counsel and I wrote letters to the Minister of Justice about the conclusory and political statements made by the Augsburg Court spokesman and the Chief Prosecutor. I will not receive a fair trial or have the benefit of fundamental rights if I am surrendered to the Germans.

73. Attached hereto and marked as Exhibit "AA" to my affidavit is the memorandum prepared by the IAG to the Minister that purporting to respond to the concerns raised about the conclusory and political statements made by the Augsburg prosecutor and court spokesman.

74. I do not believe that the comments that were made by the Chief Prosecutor and the Augsburg Judge can be disregarded as they state clearly the intention of the German Government, both in relation to pre-trial custody and in relation to the fact that I am seen as the person who led to the destruction of Germany's international reputation regarding former Chancellor Kohl.

75. The clarifications provided by the prosecutor and the court spokesman are but self serving explanations for untoward and unethical comments they made to the media.

76. It is my understanding that in 2002, the Swiss Justice Department had advised the Dusseldorf Prosecutors that they could not make use of the documents obtained by the Swiss, and that the Swiss were not prepared to give MLAT assistance as attached hereto and marked as Exhibit "CC" in my affidavit.

77. In 2005, the Swiss authorities had asked my Swiss counsel if I would consent to the use of the banking documents for the prosecution in Augsburg of Haasiert. I had said no as the Swiss had already taken the position that they would not give assistance in this regard.

78. On November 7, 2006, the Swiss Justice Department sent a letter to the German Federal Department of Justice located in Bonn, Germany and that the German Government may not make use of the banking documents that were seized by the Swiss as the prosecutors office had not acted in good faith in withholding certain information from the Swiss authorities, attached hereto and marked as Exhibit "BB" to my affidavit is a copy of the letter from the Swiss Department of Justice and a translation of the same.

79. Attached hereto and marked as Exhibit "DD" to my affidavit are newspaper articles from Europe relating to the problem with the documents.

80. I understand that it is the position of the Government of Canada that the documents are available and that it is up to the German Courts to determine whether or not they will make use of the documents. How can that be the case? If the Swiss government has said the documents are tainted, and cannot be used by Germany, then they are also tainted for the purpose of the extradition proceeding and the "available evidence" against me to support extradition.

81. Attached hereto and marked as Exhibit "EE" to my affidavit is a copy of a letter from my counsel in Germany, sent to Augsburg Prosecutors in relation to the bribery charge.

CONCLUSION

82. There has not been any explanation provided either by the Minister of Justice, the Solicitor General, or the Commissioner of the RCMP as to why the Airbus investigation took so long, cost exorbitant amounts of money and resulted in repeated conclusions that there had been no wrongdoing.

83. The cumulative actions of members of the RCMP, the IAG and the prosecutors in Augsburg have been such that to allow my extradition to Germany would deprive me of my Charter

rights as a Canadian citizen and would be a blatant abuse of process and such that the administration of justice would be brought into disrepute.

84. The last decade has been difficult for me. I have no criminal record, yet I have had to endure relentless media attention, attend legal proceedings, comply with bail conditions and give up enjoyment of my later years in life.

85. I want to remain in Canada as it is my right to do so as a Canadian citizen. It is my understanding that Germany does not extradite its nationals for fiscal offences and Canada should not surrender its citizens for such offences.

86. I believe the cumulative actions of the Respondents, their servants and employees have been so egregious that my rights as a Canadian citizen have been contravened, and the administration of justice has been brought in disrepute.

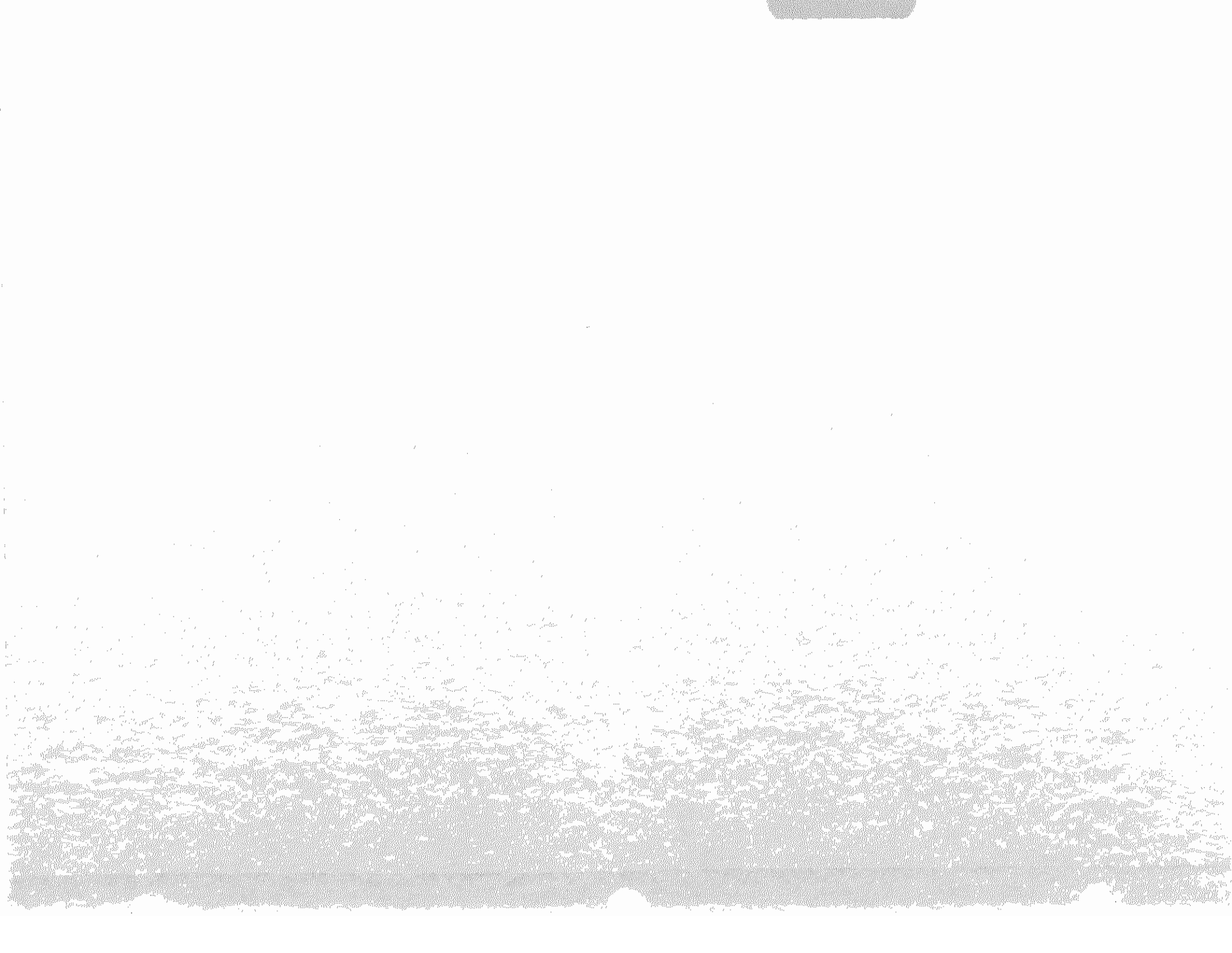
7. I seek consideration by this relating to breaches of the surrender decision stayed.

SWORN BEFORE ME at the City of Ottawa in the Province of Ontario, this 3RD day of March, 2007.

Public Notary

RICHARD AUGER

KARLHEINZ SCHREIBER



1 of 1 DOCUMENT

The Toronto Sun

December 2, 1995, Saturday, Final EDITION

MULRONEY 'TOTALLY INNOCENT'; BUSINESSMAN CLAIMS

BYLINE: ROBERT FIFE, OTTAWA BUREAU

SECTION: NEWS, Pg. 3

LENGTH: 499 words

DATELINE: OTTAWA

Accusations of bribery against Brian Mulroney are as much of a hoax as the Hitler diaries, German dealmaker Karlheinz Schreiber says.

In an exclusive interview with The Saturday Sun, Schreiber yesterday said the former Tory prime minister was "totally innocent" of RCMP allegations he accepted $ 5 million in kickbacks as a result of Airbus commissions, nor was a Swiss bank account ever opened for him.

"As much as I am involved, as much as I know, as much as I have seen, Mr. Mulroney is totally innocent," he said. "He is involved in this as much as the Pope - nowhere at all."

Schreiber, who spoke from Switzerland, said the allegations of a $ 20-million kickback scheme involving Airbus and two German arms manufacturers are a hoax concocted by disgruntled former employee George Pelossi and perpetuated by the media.

"Since the Hitler diaries, it is the greatest mess of nonsense that I have ever seen. What happened to (Mulroney) right now is totally unfair and foolish."

Schreiber, who is also a Canadian citizen, said he plans a libel suit next week against the CBC, author Stevie Cameron and "lots of others" for broadcasting and publishing the charges.

Pelossi, a Swiss businessman and the source of the media and RCMP allegations, claims Liechtenstein-based International Aircraft Leasing acted as a broker in the $ 1.8 billion sale of Airbus jets to Air Canada in 1988.

Pelossi alleges IAL is owned by Schreiber, who got $ 20 million in secret commissions from Airbus and two German firms dealing with Canada.

This money was transferred to Schreiber's bank in Zurich, he alleged, and part of it was deposited in Swiss accounts allegedly held by Mulroney and former Newfoundland premier Frank Moores.

"Where is the proof that IAL belongs to Mr. Schreiber? Where is the proof that there is a signed agreement between Airbus and IAL?," Schreiber said.

"Where is the proof that the bank accounts where the money was transferred belongs to Mr. Schreiber or Mulroney or Mr. Moores? Where is the proof? It's totally nonsense."

Pelossi admits he has no proof that money went into the Swiss accounts purportedly belonging to Mulroney or Moores.

"I can tell you one thing, sir. You will laugh yourself to death pretty soon. I'm not joking," Schreiber said about his pending lawsuits.

He was reluctant to discuss details of the allegations until the lawsuits are filed but stressed he is telling the truth that all the allegations are false.

"When I say something it is the way it is or I say I don't want to speak about it. It makes no sense to lie."

Mulroney launched a $ 50 million suit against the government and RCMP over the allegations in a justice department request to Swiss authorities to freeze accounts allegedly held by him, Schreiber and Moores.

The RCMP admit the allegations are based on a report by the CBC's fifth estate, which used Pelossi as its key source.

Cameron repeated the allegations in her book on Mulroney, On The Take.

LOAD-DATE: July 23, 1996

LANGUAGE: ENGLISH

GRAPHIC: 1. photo of BRIAN MULRONEY $ 50M lawsuit 2. photo of KARL-HEINZ SCHREIBER Charges a hoax

CBC

[This week on Parliament Hill, political power hangs in the balance as a high stakes chess match plays out in back rooms and corridors, a game of brinksmanship that has become a common]

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LINDEN MACINTYRE (HOST):

This week on Parliament Hill, political power hangs in the balance as a high stakes chess match plays out in back rooms and corridors, a game of brinksmanship that has become a common feature of the nation's business. Tonight a rare insight into one such game, how it burst into the open and transfixed the country just a year ago, and why it's set to once again erupt in controversy. It was a visit to Parliament unlike any before. A man who has been here many times, who once commanded the attention of the most influential people on the hill. A wealthy businessman named Karlheinz **Schreiber** who arrives on this day in handcuffs.

JOURNALIST:

How are you today, Mr. **Schreiber**?

KARLHEINZ **SCHREIBER** (RETIRED BUSINESSMAN):

Good morning.

JOURNALIST:

What will you say?

KARLHEINZ **SCHREIBER** (RETIRED BUSINESSMAN):

...(inaudible) Canadian justice.

LINDEN MACINTYRE (HOST):

It is political theatre, a spectacle that will captivate the press, the politicians and the public for weeks. And like the best of theatre, much of what will play out here is fiction.

PAUL SZABO (CHAIR, ETHICS COMMITTEE, LIBERAL MP):

I think it was very clear that there were people who for whatever reason, and it likely will come out, were not truthful.

PAT MARTIN (ETHICS COMMITTEE, NDP MP):

It's an insult to the Canadian people and an insult to the parliamentarians there if these people were trying to cover something up or lying to us.

LINDEN MACINTYRE (HOST):

This is a story about the way the world works. An inside look at how and why some very clever men manipulated Parliament a year ago. Good evening, and welcome to "The Fifth **Estate**". I'm Linden Macintyre and like many Canadians I was convinced in the fall of 2007 that we were about to get the truth of what has come to be known in the shorthand of scandal as the "Airbus affair." Well, we didn't. What we did get was a promise that the truth would eventually come out at a formal inquiry before a judge. Well, as matters now stand, that isn't going to happen either. And the reasons are as old as politics itself: theatrics, posturing and lies.

UNIDENTIFIED WOMAN:

The Right Honourable Brian Mulroney and Mrs. Mila Mulroney. (Applause)

LINDEN MACINTYRE (HOST):

It was a historic moment for Conservatives. Canada's 22nd prime minister publicly acknowledges the former leader of a Tory party he once considered too left wing and too corrupt to be worth salvaging.

STEPHEN HARPER (PRIME MINISTER OF CANADA):

I've only come to know Brian Mulroney personally over the past three years. In our relationship, Brian Mulroney has proven generous with his time and frank with his advice.

LINDEN MACINTYRE (HOST):

It was a public act of faith by Stephen Harper that would soon come back to haunt him.

STEPHEN HARPER (PRIME MINISTER OF CANADA):

What all of this shows, I believe, is that history will be kind to Brian Mulroney.

LINDEN MACINTYRE (HOST):

In a matter of months, old allegations about kickbacks and cover-ups would bring new scrutiny for the old prime minister and, by association, his new political admirer. October 31, 2007, "The Fifth **Estate**" reports new information about cash payments to Mulroney by Karlheinz **Schreiber**. There is evidence the money was somehow linked to the billion dollar Airbus sale of planes to Air Canada 20 years ago and that Mulroney tried to engineer a cover-up.

KARLHEINZ **SCHREIBER** (RETIRED BUSINESSMAN):

(October 31, 2007) It was a clear request towards me to commit perjury. And why would I do that?

LINDEN MACINTYRE (HOST):

In the House of Commons, the next day, there are demands by the opposition for an official public inquiry to once and for all decode the murky Airbus deal.

ST PHANE DION (LEADER OF THE OPPOSITION, LIBERAL PARTY OF CANADA):

When you have serious allegations of this kind, you go to the bottom of this issue. Faced with this information about Mr. Mulroney, will the prime minister call a public inquiry?

LINDEN MACINTYRE (HOST):

The demand for an inquiry resurfaces at a press conference. The prime minister responds with a threat.

STEPHEN HARPER (PRIME MINISTER OF CANADA):

Well, if I can just say, I think this call by the Liberal Party is really extraordinarily dangerous. Do they really want to say that I, as prime minister, should have a free hand to launch inquiries against my predecessors?

LINDEN MACINTYRE (HOST):

But the demands for an independent public inquiry wouldn't go away.

ROBERT THIBAULT (LIBERAL MP):

Mr. Speaker, I know this is very difficult for the Conservatives. Many of them are close personal friends of Mr. Mulroney, some even served in his government. But that does not excuse this government from taking immediate action to clear up this matter.

LINDEN MACINTYRE (HOST):

But the man they needed to clear up this matter wasn't exactly available. He was in jail just outside Toronto and days away from extradition to Germany to face charges of bribery and tax evasion. He'd been stalling extradition since 1999, successfully so far, often using courtroom tactics worthy of a chess master. And sure enough, on November 7th last year, **Schreiber** launched another legal gambit from inside the jailhouse walls. It was an affidavit with two explosive allegations that in the early 1990's, he'd been asked to divert money to the then-prime minister Mulroney through a lawyer in Switzerland, money allegedly from Airbus, and perhaps, to shut him up. Mulroney had recently promised to ask Stephen Harper to prevent **Schreiber**'s extradition. For the puritanical Harper, it was a stomach turner, a ghost from the Tory past, rising up to haunt his squeaky-clean, rebranded Tory team. He moved quickly and with unusual spontaneity. November 9th, at 4 pm on a Friday afternoon with only 30 minutes notice, he called a press conference.

STEPHEN HARPER (PRIME MINISTER OF CANADA):

Under these circumstances I am announcing today that I will be appointing an independent and impartial third party to review what course of actions may be appropriate given Mr. **Schreiber**'s new sworn allegations.

LINDEN MACINTYRE (HOST):

And there was this shocking afterthought.

STEPHEN HARPER (PRIME MINISTER OF CANADA):

I think it will be incumbent upon myself and also upon members of the government not to have dealings with Mr. Mulroney until this issue is resolved.

BRIAN MULRONEY (FORMER PRIME MINISTER OF CANADA):

And he said your principle responsibility...

LINDEN MACINTYRE (HOST):

If Brian Mulroney was offended by this turn of events, he didn't show it. At a speech to alumni from his old Nova Scotia alma mater he called for a, quote, "full-fledged royal commission of inquiry."

BRIAN MULRONEY (FORMER PRIME MINISTER OF CANADA):

I want to tell you here tonight that I, Martin Brian Mulroney, 18th prime minister of Canada, will be there before the royal commission with bells on because I've done nothing wrong, and I have absolutely nothing to hide. (Applause)

LINDEN MACINTYRE (HOST):

It was a magic moment. The Airbus story has for years been Canada's great unfinished political symphony or comic opera, depending on where you fit in it. We could now look forward to the final movement, a formal inquiry that would once and for all nail down the particulars of what, if anything, had been improper, illegal, or just plain sleazy about the $1.8 billion airplane contract. Mulroney, **Schreiber**, a cast of secondary characters would all assemble and get to tell their stories. And some honourable judge would get to winnow fact from fiction. But right from day one, there were hitches.

Hitch number one: the main player in the Airbus drama was about to disappear, back to Germany. There was no way his departure could be stalled for the time it takes to mobilize a formal inquiry. Not a bad thing if you are a Tory. And many Tories were already having serious misgivings about Harper's hasty move toward an independent inquiry.

PAT MARTIN (ETHICS COMMITTEE, NDP MP):

We were running against the clock. If the Conservatives ragged the puck anymore, Karlheinz **Schreiber** would be on an airplane back to Germany and we would lose our last faint hope of ever getting to the bottom of this.

LINDEN MACINTYRE (HOST):

Pat Martin was an NDP member of the House of Commons ethics committee, an all-party group set up to probe suspected ethical lapses by public officials. He was worried by what he saw as Tory efforts to retreat from Harper's undertaking to hold a public inquiry.

PAT MARTIN (ETHICS COMMITTEE, NDP MP):

I think the party managers started to come in and say, "Okay, look, we're going to have to be seen to be in favour of a public inquiry, but we have to find a way to not let it happen." (Committee hearing): Mr. Chairman, I have the floor and I would like to move the motion that I submitted on...

LINDEN MACINTYRE (HOST):

For Martin, one solution would be a kind of mini-inquiry by the ethics committee. All they had to do was get **Schreiber** to appear before them, get him to air some dirty laundry here, and in doing so make a more substantial independent inquiry unavoidable, but first there was that small complication. **Schreiber** was about to leave for Germany, and a lot of Tories would be glad to see him go.

PAUL SZABO (CHAIR, ETHICS COMMITTEE, LIBERAL MP):

We went to extraordinary lengths to keep him in the country.

LINDEN MACINTYRE (HOST):

Paul Szabo, a Liberal MP, was the chair of the Commons ethics committee.

PAUL SZABO (CHAIR, ETHICS COMMITTEE, LIBERAL MP):

We understand we're not a court of law, but when you get somebody, give them an opportunity to talk not only to the committee but talk directly to the people of Canada about what the facts are, then that becomes extremely important to those who can determine whether or not there are any wrongdoings.

LINDEN MACINTYRE (HOST):

Parliament has extraordinary powers, many rarely used. But opposition MPs remembered one that just might do the trick for them. The power to issue arrest warrants. And because they outnumbered government supporters on the committee, they used it. They made Karlheinz Schreiberer a prisoner of Parliament.

PAUL SZABO (CHAIR, ETHICS COMMITTEE, LIBERAL MP):

We had to fight the minister of justice to keep him here. We had to get a Speaker's warrant. We had to get the unanimous consent of the House to allow him to stay and put him into the custody of– the protective custody of the Parliament of Canada. It's extraordinary. It only happened once before in our history.

LINDEN MACINTYRE (HOST):

The ethics committee was supposed to be a stopgap measure, a way to keep a crucial witness in the country until a real inquiry before a judge could go to work. For the opposition it would provide some politically useful tidbits about the controversial Airbus deal and other **Schreiber** ventures. For the Tories it would be a chance to discredit **Schreiber**, a one-time party supporter who had become a loose cannon in their midst. But what the politicians didn't seem to count on was that Karlheinz **Schreiber** had his own agenda, and it wasn't even close to theirs. It was a made-for-television moment and Karlheinz **Schreiber** was about to make the most of it. The immediate prospect of extradition and its unappealing consequences had suddenly evaporated. But if the politicians thought that he was their grateful prisoner, they were in for a surprise.

KARLHEINZ **SCHREIBER** (RETIRED BUSINESSMAN):

The evidence I shall give...

CLERK:

On this examination...

KARLHEINZ **SCHREIBER** (RETIRED BUSINESSMAN):

On this examination....

CLERK:

Shall be the truth.

KARLHEINZ **SCHREIBER** (RETIRED BUSINESSMAN):

Shall be the truth.

CLERK:

The whole truth.

KARLHEINZ **SCHREIBER** (RETIRED BUSINESSMAN):

The whole truth.

CLERK:

And nothing but the truth.

KARLHEINZ **SCHREIBER** (RETIRED BUSINESSMAN):

And nothing but the truth.

CLERK:

So help me God.

KARLHEINZ **SCHREIBER** (RETIRED BUSINESSMAN):

So help me God.

LINDEN MACINTYRE (HOST):

What was about to unfold here would leave politicians wondering just who really was running the committee. **Schreiber** had a game plan of his own, and it started with obstruction.

RUSS HIEBERT (CONSERVATIVE MP):

Mr. **Schreiber**, did you ever offer Mr. Mulroney employment?

KARLHEINZ **SCHREIBER** (RETIRED BUSINESSMAN):

I will not answer the question.

ROBERT THIBAULT (LIBERAL MP):

Did you provide funds to any other Canadians?

KARLHEINZ **SCHREIBER** (RETIRED BUSINESSMAN):

I rest on my statement, and I will not answer this question.

PAT MARTIN (ETHICS COMMITTEE, NDP MP):

Did the cash payments that you gave to Mr. Mulroney come from the account of the secret commissions on the Airbus sale?

KARLHEINZ **SCHREIBER** (RETIRED BUSINESSMAN):

I rest on my statement.

PAT MARTIN (ETHICS COMMITTEE, NDP MP):

Well, surely that's a very straightforward question. You must remember where the money came from, Mr. **Schreiber**.

KARLHEINZ **SCHREIBER** (RETIRED BUSINESSMAN):

I am not prepared to answer that.

PAT MARTIN (ETHICS COMMITTEE, NDP MP):

Surely he has some personal memory if at some point from 1980 to now he bribed somebody, somewhere, sometime. Surely he can remember that without checking all of his notes.

LINDEN MACINTYRE (HOST):

For Karlheinz **Schreiber** it was the beginning of a long chess match. This was just the opening and he was playing with his pawns.

CAROLE LAVALL E (BLOC QUEBECOIS MP):

(Voice of translator): If I asked for $300,000 because I've trouble making ends meet, would you give it to me?

KARLHEINZ **SCHREIBER** (RETIRED BUSINESSMAN):

Under the circumstances, yes. (Laughter)

LINDEN MACINTYRE (HOST):

Day one ends, **Schreiber** leaves as he arrived, but the handcuffs are deceptive. The prisoner of Parliament has captured Parliament's agenda.

(Commercial break)

LINDEN MACINTYRE (HOST):

It would have been for most a crippling humiliation, but for Karlheinz **Schreiber** it was a moment of victory. He was free to fight another day.

MALE JOURNALIST:

Mr. **Schreiber** do you have some juicy morsels for us today?

LINDEN MACINTYRE (HOST):

Just days ago he was destined for an uncertain future in Germany where he'd face immediate imprisonment and a trial that would, regardless of the outcome, probably consume the rest of his life.

MALE JOURNALIST:

What do you have to say, sir? What are you going to say? Do you really need to do this, Mr. **Schreiber**? It's all been sort of said and done...

LINDEN MACINTYRE (HOST):

He has now captured centre stage in the nation's largest theatre, Parliament Hill. In his first appearance here, he refused to talk to the politicians. Today, he'll smother them with information. Thick binders crammed with documents and letters.

KARLHEINZ **SCHREIBER** (RETIRED BUSINESSMAN):

This is my correspondence with Mr. Mulroney. Ready for you to go. Give it to them. (Laughter) Gentlemen, I enjoy that you have some humour in that you laugh with me because the big laugh is I wanted this! So what the hell do you expect from me, what I would do today with you? Here is all the correspondence with Mr. Harper. Here you go.

LINDEN MACINTYRE (HOST):

It was like Christmas morning. He was handing out the goodies, prettily packaged and promising hours of titillating reading for opposition members who could already smell the blood of scandal. Prematurely, they'd discover. But for now, they all believed in Santa. Before the day was ended, a sense of seasonal goodwill prevailed.

PAUL SZABO (CHAIR, ETHICS COMMITTEE, LIBERAL MP):

We understand that you wanted to tell your story, and you've proved it. And that's a wonderful Christmas gift to us. And I can only give you a small Christmas gift back. I've just been advised that you have received bail.

KARLHEINZ **SCHREIBER** (RETIRED BUSINESSMAN):

Thank you so much.

PAUL SZABO (CHAIR, ETHICS COMMITTEE, LIBERAL MP):

So you'll be sleeping in your own bed, hopefully, tonight.

LINDEN MACINTYRE (HOST):

(Interview): So what did you think Mr. **Schreiber** was going to bring to the committee to be helpful?

PAUL SZABO (CHAIR, ETHICS COMMITTEE, LIBERAL MP):

Um, the question of the– initially of the cash payments made to Mr. Mulroney was new information. It had been rumoured, written about in some media and some literature but it was always just speculation. This issue is inextricably linked to the whole investigation on the Airbus purchase by Air Canada and the alleged kickbacks and some $20 million of commissions that were paid to a company that was controlled by Mr. **Schreiber**.

LINDEN MACINTYRE (HOST):

There would be simple questions about complex matters. And the committee would discover that simple questions, simply put, can yield surprising answers. And another unexpected gift, this time for the Conservatives.

DEAN DEL MASTRO (CONSERVATIVE MP):

Had you ever had any private dealings with Mr. Mulroney prior to the Airbus-- when the Airbus purchase was going on? Had you ever had any private dealings with him? Had you ever paid him any money personally?

KARLHEINZ **SCHREIBER** (RETIRED BUSINESSMAN):

No.

DEAN DEL MASTRO (CONSERVATIVE MP):

No you had not, thank you. Mr. Schreiber I want to come back to something else, because the reason why Airbus has been a big story for a long time is because opposition members have alleged that the former prime minister took bribes...

KARLHEINZ **SCHREIBER** (RETIRED BUSINESSMAN):

Yes.

DEAN DEL MASTRO (CONSERVATIVE MP):

...to aid in the purchase of Airbus jets.

KARLHEINZ **SCHREIBER** (RETIRED BUSINESSMAN):

Yes.

DEAN DEL MASTRO (CONSERVATIVE MP):

Everything that you've said today leads me to believe that Airbus jets were bought because it made sense, because there was a cost-benefit to it, because it was a good choice for Air Canada. Is that accurate?

KARLHEINZ **SCHREIBER** (RETIRED BUSINESSMAN):

Yes, sir.

DEAN DEL MASTRO (CONSERVATIVE MP):

Anything sinister about a person that represents a company receiving commissions for representing a company?

KARLHEINZ **SCHREIBER** (RETIRED BUSINESSMAN):

No.

DEAN DEL MASTRO (CONSERVATIVE MP):

I didn't think so.

KARLHEINZ **SCHREIBER** (RETIRED BUSINESSMAN):

No.

DEAN DEL MASTRO (CONSERVATIVE MP):

Thank you, Mr. Chair.

LINDEN MACINTYRE (HOST):

So there! It seems the Airbus scandal, the most politically sensitive outcome of **Schreiber**'s Canadian business dealings, was a fantasy of the media and opposition politicians. The story fizzled. So what was **Schreiber** up to? First a bit of background. Karlheinz **Schreiber** was the middleman in a flow of secret commissions from Airbus to people in a company in Ottawa called GCI. GCI was populated by political insiders with close ties to then-prime minister Mulroney. Here's the controversial part: **Schreiber** had claimed that a lobbyist named Fred Doucet, who was close to both GCI and Mulroney, had tried to divert some Airbus money indirectly to Mulroney in 1992 when he was still PM. But now, in front of the committee he was being cagey.

LINDEN MACINTYRE (HOST):

We now know **Schreiber** had a plan, a kind of tease: tease, seduce, repel, seduce.

MALE JOURNALIST:

Mr. **Schreiber**, do you have anything new to add today or is that all the documents? Is that all the documents that you provided the other day?

KARLHEINZ **SCHREIBER** (RETIRED BUSINESSMAN):

I would recommend you wait, what's going to happen. You should not--

MALE JOURNALIST:

So is there something new?

KARLHEINZ **SCHREIBER** (RETIRED BUSINESSMAN):

(Committee hearing) Mr. Doucet asked me to make sure that from the GCI money, money goes to the lawyer in Geneva for Mr. Mulroney.

LINDEN MACINTYRE (HOST):

Now he has their attention. This was the moment that committee members had been waiting for.

KARLHEINZ **SCHREIBER** (RETIRED BUSINESSMAN):

You don't have the feeling from me that I am, what can I say, that I can easily be shocked, but that day I was. I said, "What are you talking about? Why the hell would one send money to a lawyer in Geneva

for Mr. Mulroney? What for?" And now came this unbelievable answer. He said, "For Airbus." And I hear myself even today saying, "What the hell has Mulroney to do with Airbus?" And his answer was, "Are you naive?"

LINDEN MACINTYRE (HOST):

So surely, in all the bulky binders, stuffed with thousands of letters and other documents, there was something to confirm this conversation? But there wasn't. If he had the proof, he wasn't ready to share it yet. So what was he really up to? Whatever the game plan, he was keeping the next moves to himself.

JULIE VAN DUSEN (CBC REPORTER):

Mr. **Schreiber**, it was a little confusing when you were talking about the transfer of money and so on. Do you think Mr. Mulroney actually got Airbus money or not?

KARLHEINZ **SCHREIBER** (RETIRED BUSINESSMAN):

I don't know.

JULIE VAN DUSEN (CBC REPORTER):

It was very confusing. What's the answer? Did he get Airbus money or not?

KARLHEINZ **SCHREIBER** (RETIRED BUSINESSMAN):

I don't know.

JULIE VAN DUSEN (CBC REPORTER):

What did you think of the whole experience of being at the committee? Do you think it's turning into a circus or are you happy with the results?

KARLHEINZ **SCHREIBER** (RETIRED BUSINESSMAN):

I think they started something pretty important.

JULIE VAN DUSEN (CBC REPORTER):

Why is it so important? What's important about it?

KARLHEINZ **SCHREIBER** (RETIRED BUSINESSMAN):

That Canadians get to know what really happened.

LINDEN MACINTYRE (HOST):

But when and where? Did he or didn't he have evidence that Mulroney's friends attempted to steer Airbus money in the prime minister's direction? It was the question on everybody's mind. For Tories on the committee it was a defining moment; he was bluffing. Opposition members were no longer sure where this was going. But they couldn't escape the feeling that he still had something up his sleeve. What if he was holding back for another time and place? One after the other, committee members

spun their own interpretations. But for **Schreiber**, the one that really resonated came from a Conservative.

RUSS HIEBERT (CONSERVATIVE MP): -

The evidence that he has provided indicates that nobody's done anything wrong other than himself. It also became clear throughout the last four days and especially today that I believe Mr. **Schreiber** appears to be influenced by his desperate desire to avoid extradition to Germany.

MALE JOURNALIST:

So Mr. Mulroney, are you all set? Are you all set for this today?

LINDEN MACINTYRE (HOST):

That was clearly how Mulroney saw it. The former PM was predictably confident as he prepared for his appearance before the ethics committee in mid- December. He had loyalists, family and friends, but it's a safe bet that his greatest comfort came from the belief that **Schreiber** had taken his best shot and it was a blank, an undocumented allegation that could not be taken seriously.

BRIAN MULRONEY (FORMER PRIME MINISTER OF CANADA):

Twelve years and one month ago, my family and I were hit by the biggest calamity of my life. The government of Canada stated formally to a foreign government that I was a criminal from the time I took office. I was completely devastated by these totally false allegations. They had capacity to destroy my reputation and to destroy my family. Only a person who has gone through such an ordeal can fathom its impact. It was like a near death experience.

LINDEN MACINTYRE (HOST):

His denial was unambiguous, no money from anybody who had anything to do with Airbus.

BRIAN MULRONEY (FORMER PRIME MINISTER OF CANADA):

I never received a cent from anyone for services rendered to anyone in connection with the purchase by Air Canada from Airbus of 34 aircrafts in 1988.

LINDEN MACINTYRE (HOST):

By now everybody knew he'd received money from **Schreiber**, but that was different. And he was sorry for a gross mistake.

BRIAN MULRONEY (FORMER PRIME MINISTER OF CANADA):

My second-biggest mistake in life, for which I have no one to blame but myself, is having accepted payments in cash from Karlheinz **Schreiber** for a mandate he gave me after I left office. I will tell you today how that came about. My biggest mistake in life, by far, was ever agreeing to be introduced to Karlheinz **Schreiber** in the first place.

LINDEN MACINTYRE (HOST):

A frustrated Pat Martin recalled that Mulroney sued a Liberal federal government in 1995 and settled for more than two million dollars after he denied that he'd ever had any business dealings with **Schreiber**, particularly on Airbus. Did he, maybe, want to correct that now?

PAT MARTIN (ETHICS COMMITTEE, NDP MP):

Are you willing to give that $2.1 million back to the people of Canada? Now that we know that you did take money from **Schreiber**?

BRIAN MULRONEY (FORMER PRIME MINISTER OF CANADA):

No, I took compensation from **Schreiber** for serious work done on his behalf around the world. And I have also indicated...

PAT MARTIN (ETHICS COMMITTEE, NDP MP):

Then why did you deny even having any dealings with the man?

BRIAN MULRONEY (FORMER PRIME MINISTER OF CANADA):

That's completely false.

PAT MARTIN (ETHICS COMMITTEE, NDP MP):

By omission you led us to believe you had virtually no dealings with the man under sworn testimony.

BRIAN MULRONEY (FORMER PRIME MINISTER OF CANADA):

I did not omit anything! I explained to you that in the province of Quebec, the manner in which, and I think...

PAT MARTIN (ETHICS COMMITTEE, NDP MP):

Well, you're splitting hairs, sir.

BRIAN MULRONEY (FORMER PRIME MINISTER OF CANADA):

I'm not splitting hairs!

PAT MARTIN (ETHICS COMMITTEE, NDP MP):

You're splitting hairs, sir, and the country isn't buying it.

PAUL SZABO (CHAIR, ETHICS COMMITTEE, LIBERAL MP):

Answer, and a question.

PAT MARTIN (ETHICS COMMITTEE, NDP MP):

I'm not calling you a liar, Mr. Mulroney, but I don't want anybody here to think I believe you. Let's put it that way.

LINDEN MACINTYRE (HOST):

It was insulting, but he'd survived much worse. At this point it became clear that he was reconsidering that royal commission he'd promised to appear before "with bells on". After all, the committee wasn't hearing anything that hadn't been reported a hundred times before.

MIKE WALLACE (CONSERVATIVE MP):

Mr. **Schreiber** wants one, you want one, I'm not sure I want one, but what is your expectations from the public inquiry and why are you asking for it?

BRIAN MULRONEY (FORMER PRIME MINISTER OF CANADA):

Well let's put that perhaps in a different tense. I asked for a royal commission of inquiry into this. But when you look at what has happened now, the evidence that you have, I think it's now clear that we've got an entirely different situation on our hands.

MIKE WALLACE (CONSERVATIVE MP):

Okay, thank you for that.

LINDEN MACINTYRE (HOST):

And with that, Mulroney left, probably hoping he'd never again have to talk in public about Karlheinz **Schreiber** and his obviously undocumented allegations.

MALE JOURNALIST:

Mr. Mulroney, do you still believe there should be a public inquiry? You suggested that there might not be a need?

LINDEN MACINTYRE (HOST):

The committee broke for Christmas and wouldn't return until February. In the hiatus the talk was all about Mulroney, he'd been the star witness; he had the most to lose, he'd walked away unscathed. But what if the game had only just begun? What if Mulroney hadn't been the target in Karlheinz **Schreiber**'s crosshairs at that point? If this was a chess game, maybe there were lesser pieces left to topple before **Schreiber**'s final move against the king. Fred Doucet, one of Brian Mulroney's oldest friends from university days in Nova Scotia, his days in opposition and in government was, allegedly, the man who tried to funnel money from a company called GCI to the then prime minister. Doucet would tell the committee, unequivocally, that **Schreiber** was dead wrong.

FRED DOUCET (FORMER ADVISOR TO BRIAN MULRONEY):

I want to say I have no knowledge at all about anything involving Airbus.

RUSS HIEBERT (CONSERVATIVE MP):

Okay.

LINDEN MACINTYRE (HOST):

When we come back, **Schreiber** springs a trap. (Interview): You're becoming famous for producing little bits of ammunition...

KARLHEINZ **SCHREIBER** (RETIRED BUSINESSMAN):

No.

LINDEN MACINTYRE (HOST):

...when you need it. It's quite amazing, just when we think you're going down for the third and final time, you pull another rabbit out of the hat.

KARLHEINZ **SCHREIBER** (RETIRED BUSINESSMAN):

How can one be so stupid? I mean when you go to war with me, this is not the kind of stuff you should do because I'll pull the trigger. You know that I'm not fooling around.

(Commercial break)

LINDEN MACINTYRE (HOST):

By February, Stephen Harper's hasty promise to hold a formal inquiry into the Mulroney-**Schreiber** affair was starting to look like a mistake. The prime minister had gone so far as to name Dr. David Johnston, president of the University of Waterloo, to come up with terms of reference. And it was a little late for turning back, but not too late for some damage control. Ethics committee Chairman Paul Szabo found himself under pressure to end his committee hearings.

PAUL SZABO (CHAIR, ETHICS COMMITTEE, LIBERAL MP):

The prime minister shut us down. He demanded that Mr. Johnston, David Johnston who was going to set the terms of reference would not do his work and file his final report until the committee finished its work. He forced us to shut it down early so that we could get the public inquiry.

LINDEN MACINTYRE (HOST):

Harper seemed to have decided that nothing new of any political significance was going to come out before the parliamentary committee. They'd heard their major witnesses, Mulroney and **Schreiber**, and it had been a rehash of old accusations and denials. But Harper hadn't reckoned on what Karlheinz **Schreiber** knew by then that the most startling testimony before the parliamentary committee would probably come from secondary players. **Schreiber's** plan was simple: if other witnesses appearing before the ethics committee thought that he had nothing new to tell the politicians it might inspire a lapse in caution and the truth. And here's what happened.

GREG ALFORD (FORMER VP OF GCI):

The evidence I shall give on this examination...

LINDEN MACINTYRE (HOST):

February 12th, Greg Alford, a former senior officer in the lobby group at the centre of the Airbus controversy, GCI, testified in a video link with the committee.

GREG ALFORD (FORMER VP OF GCI):

...the whole truth and nothing but the truth.

COMMITTEE CLERK:

So help me God.

GREG ALFORD (FORMER VP OF GCI):

So help me God.

SUKH DHALIWAL (LIBERAL MP):

What can you tell us sir about the involvement of GCI in the Airbus purchase by the Air Canada?

GREG ALFORD (FORMER VP OF GCI):

GCI had no involvement. Airbus was not a client of GCI.

LINDEN MACINTYRE (HOST):

This was stunning news. One thing everybody took for granted was that GCI had helped to make the Airbus deal happen and got paid a lot of money for it.

CHARLES HUBBARD (LIBERAL MP):

Maybe I missed what you said, but you seemed to indicate, or at least what I heard, is that GCI was not involved with the Airbus deal. Did I hear correctly? GCI is not...

GREG ALFORD (FORMER VP OF GCI):

That's right.

CHARLES HUBBARD (LIBERAL MP):

Pardon? Is that true?

GREG ALFORD (FORMER VP OF GCI):

That's correct.

CHARLES HUBBARD (LIBERAL MP):

They were not involved?

GREG ALFORD (FORMER VP OF GCI):

That's right.

LINDEN MACINTYRE (HOST):

Even if Airbus was not, officially, "a client," GCI was deeply involved with **Schreiber** in the Airbus deal and so was Alford. This is a memorandum that Alford wrote to **Schreiber** about Airbus in June 1987. Details about how to lobby then-minister of transport John Crosbie and his staff, on behalf of Airbus.

PAUL SZABO (CHAIR, ETHICS COMMITTEE, LIBERAL MP):

Mr. Lalonde.

LINDEN MACINTYRE (HOST):

Schreiber lawyer and former Liberal cabinet minister, Marc Lalonde knew something about GCI and Airbus. But he wasn't asked about that, only about his work for **Schreiber**.

MARC LALONDE (FORMER LAWYER AND LOBBYIST FOR **SCHREIBER**):

Je n'ai eu aucun mandat de M. **Schreiber**... (Voice of translator): Neither Mr. **Schreiber** nor any of his businesses hired me to represent them regarding the Airbus affair. Nor GCI.

LINDEN MACINTYRE (HOST):

What he could have told them is apparent in this internal GCI memo. In November 1987, Lalonde met with Air Canada President Pierre Jeanniot to see where Airbus stood in the bidding for the airplane contract. And he later briefed a GCI official about that meeting. And then there was Fred Doucet, the lobbyist and long time friend and political associate of Brian Mulroney, allegedly the man who tried to funnel Airbus money to the then prime minister.

CLERK:

Shall be the truth

FRED DOUCET (FORMER ADVISOR TO BRIAN MULRONEY):

Shall be the truth.

CLERK:

The whole truth.

FRED DOUCET (FORMER ADVISOR TO BRIAN MULRONEY):

The whole truth.

CLERK:

And nothing but the truth.

FRED DOUCET (FORMER ADVISOR TO BRIAN MULRONEY):

And nothing but the truth.

CLERK:

So help me God.

FRED DOUCET (FORMER ADVISOR TO BRIAN MULRONEY):

So help me God.

ROBERT THIBAULT (LIBERAL MP):

Were you aware of any dealings that GCI would have had with Airbus through those years?

FRED DOUCET (FORMER ADVISOR TO BRIAN MULRONEY):

Not at all.

ROBERT THIBAULT (LIBERAL MP):

When we look on the CBC website and those places and we look at the distribution of funds from Karlheinz **Schreiber**, Georgio Pelossi, they were managing these funds these $20 million that came I think to 22 to 24 million total, are you aware of those?

FRED DOUCET (FORMER ADVISOR TO BRIAN MULRONEY):

Not at all.

ROBERT THIBAULT (LIBERAL MP):

Of those facts?

FRED DOUCET (FORMER ADVISOR TO BRIAN MULRONEY):

Not at all.

LINDEN MACINTYRE (HOST):

Fred Doucet had worked with **Schreiber** on a proposal to build light armoured military vehicles in Nova Scotia, at a place called Bear Head. That was all.

RUSS HIEBERT (CONSERVATIVE MP):

So my question to you is, do you have any evidence of any wrongdoing by any public official with respect to the Bear Head project, or the Airbus purchase, or the consulting agreement between Brian Mulroney and Mr. **Schreiber**?

FRED DOUCET (FORMER ADVISOR TO BRIAN MULRONEY):

None. I want to say I have no knowledge at all about anything involving Airbus.

RUSS HIEBERT (CONSERVATIVE MP):

Okay.

LINDEN MACINTYRE (HOST):

It was a startling claim. We can only assume that Fred Doucet had been fooled by **Schreiber**'s testimony and by **Schreiber**'s failure to produce proof to back his allegation that Doucet once asked for Airbus money for Mulroney. We still don't know if that was true but we have documents that seem to show Fred Doucet knew plenty about Airbus, and that he was very much involved in tracking

specific deliveries of Airbus aircraft and the distribution of secret payments to people credited with making the sale happen. March 24, 1992, Doucet writes to Karlheinz **Schreiber**. He refers to "the matter of the birds", their code for Airbus airplanes.

KARLHEINZ **SCHREIBER** (RETIRED BUSINESSMAN):

Whenever they spoke to me and wanted to know something about Airbus or whatever it was, they always spoke about "The Birds" on the phone. They never said, "What about aircrafts for Airbus?' always "The Birds". This is - 'The Bird' is the name for Airbus.

LINDEN MACINTYRE (HOST):

August 27, 1993, Fred Doucet was still preoccupied with the Airbus birds. He'd just received a fax from Air Canada's manager of investor relations, Dennis a. Biro, confirming delivery dates for 34 Airbus airplanes. The dates were important, because each delivery triggered a substantial commission payment to GCI and Fred Doucet was keeping track of the cash flow. We don't know whose interests he represented but he was clearly in the loop.

KARLHEINZ **SCHREIBER** (RETIRED BUSINESSMAN):

But the point is if people would listen they would have recalled what I said - the mess started to my surprise in '92 when there was this constant fight how much is it, how much do we get? And Fred was never satisfied.

LINDEN MACINTYRE (HOST):

And In April 1994 Doucet's pre-occupation with the Airbus commissions continued. "For me settling this matter is so very important for reasons I will tell you about in person."

KARLHEINZ **SCHREIBER** (RETIRED BUSINESSMAN):

Fred was really under pressure when you look then in the letter in '94 when he says this is so important and we got to talk about this, and blah, blah, blah. Right?

LINDEN MACINTYRE (HOST):

So what was so important that people in the know about details of the Airbus deal would years later, fudge the facts before a parliamentary committee? Well if **Schreiber** knows their secret, he isn't ready to reveal it yet. Only to insist that in his opinion they were hiding something when they showed up here and that this should be sufficient to Persuade a commission of inquiry into his financial dealings with Brian Mulroney to take his Airbus allegations seriously. (Interview): If you had given them that letter last year it would have been explosive. So why didn't you?

KARLHEINZ **SCHREIBER** (RETIRED BUSINESSMAN):

No he would not have said then anything. Imagine what these two guys did to the ethics committee? They lied...

LINDEN MACINTYRE (HOST):

Brian Mulroney and...?

KARLHEINZ **SCHREIBER** (RETIRED BUSINESSMAN):

...the two like a duo, lied - like, like a choir!

LINDEN MACINTYRE (HOST):

You're talking about...?

KARLHEINZ **SCHREIBER** (RETIRED BUSINESSMAN):

Yes! And I have-

LINDEN MACINTYRE (HOST):

...Mulroney and Doucet?

KARLHEINZ **SCHREIBER** (RETIRED BUSINESSMAN):

And Doucet. I have proven already everything dealing with Mulroney. How much he lied to the committee and the rest, we are going to get from the witnesses. Later on when the camera is not going on anymore I'm going to tell you something. I cannot say it in the camera.

LINDEN MACINTYRE (HOST):

Why not?

KARLHEINZ **SCHREIBER** (RETIRED BUSINESSMAN):

No. Under no circumstances.

LINDEN MACINTYRE (HOST):

Because we're here talking to everybody. You see here's the problem, Mr. **Schreiber**. Here's the problem, you play games with people.

KARLHEINZ **SCHREIBER** (RETIRED BUSINESSMAN):

No.

LINDEN MACINTYRE (HOST):

Yes you do and you say -

KARLHEINZ **SCHREIBER** (RETIRED BUSINESSMAN):

Why would I play games?

LINDEN MACINTYRE (HOST):

Because you keep hinting that you have - you have the atomic bomb in your basement and you're going to drop it on...

KARLHEINZ **SCHREIBER** (RETIRED BUSINESSMAN):

No. No. There are things which I want to release when I think it's right, not when you think you want to have it.

LINDEN MACINTYRE (HOST):

Well-

KARLHEINZ **SCHREIBER** (RETIRED BUSINESSMAN):

I have no obligation to-

LINDEN MACINTYRE (HOST):

But this has been going on for years!

KARLHEINZ **SCHREIBER** (RETIRED BUSINESSMAN):

Where is my obligation to give you anything?

LINDEN MACINTYRE (HOST):

Schreiber's tactics have left him with one more challenge. Soon after the ethics committee finished hearings, Dr. Johnston issued terms of reference for the much-anticipated commission of inquiry that shut down any further examination of the Airbus deal.

PAT MARTIN (ETHICS COMMITTEE, NDP MP):

Ironically Dr. Johnston recommended we hold a public inquiry to study the one thing that's not in dispute, the fact that Brian Mulroney took money from Karlheinz **Schreiber**. We know that. The only disagreement is the size of the bag of the envelope.

PAUL SZABO (CHAIR, ETHICS COMMITTEE, LIBERAL MP):

What we've done is we've basically set up the situation for the inquiry to very quickly find out that there is a lot of misinformation on the table and that people have in fact lied to Parliament.

LINDEN MACINTYRE (HOST):

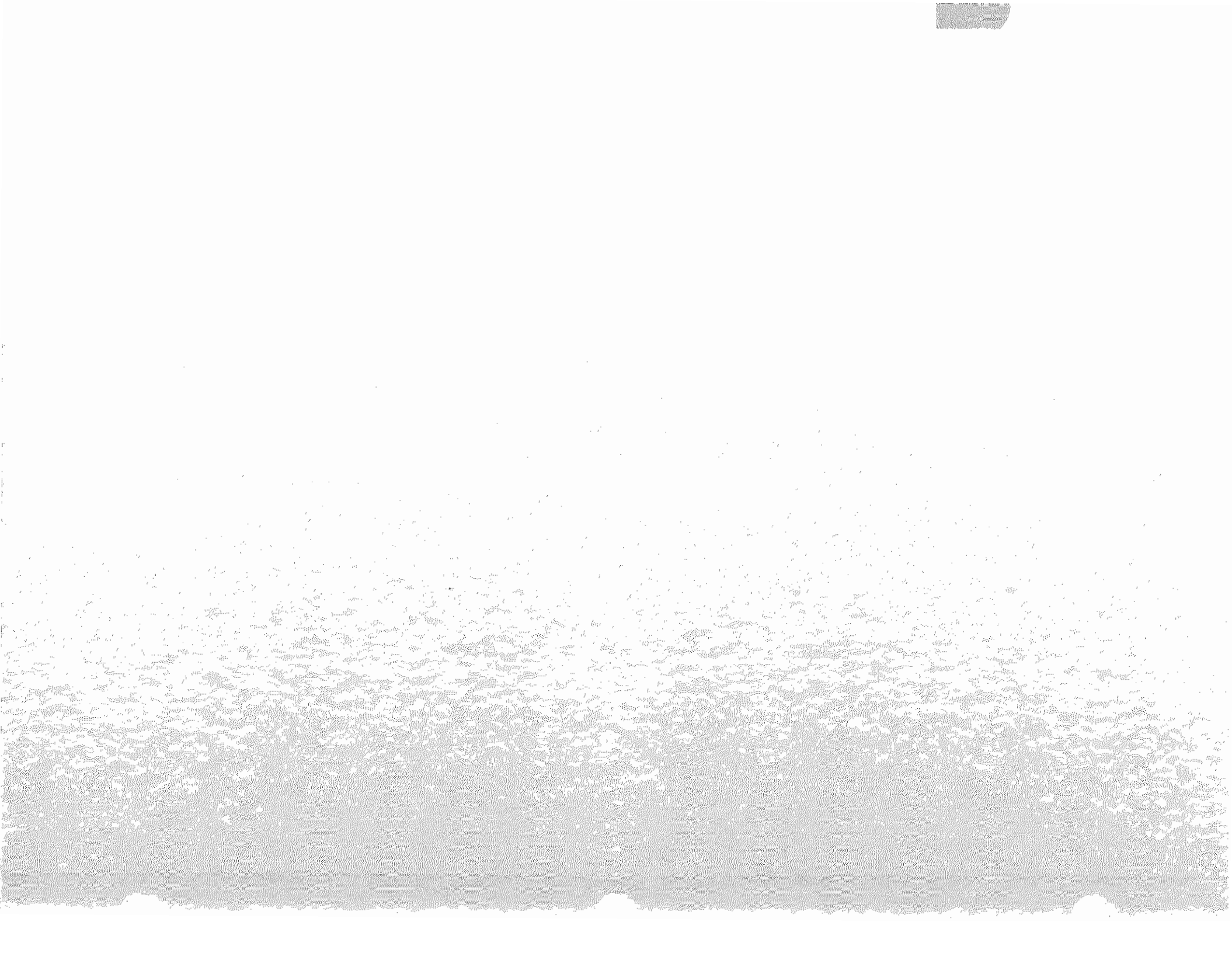
But **Schreiber** isn't finished. He even has a website now promoting safer hardware for Canadian troops in Afghanistan. But above all, trying to enlarge the limited mandate of the coming inquiry.

KARLHEINZ **SCHREIBER** (RETIRED BUSINESSMAN):

It is not the fault of the inquiry, the judge and the lawyers who are involved what their mandate is. That was done by Mr. Harper and Mr. Johnston.

LINDEN MACINTYRE (HOST):

Not surprisingly he's already executing moves to change that. He's been busy filing new documents with inquiry staff including personal day timers from the eighties and early nineties in which there are scores of tantalizing references to Airbus. Like this one, December 18, 1992, a handwritten note about the distribution of Airbus funds with this reference to "PM 460".



THYSSEN

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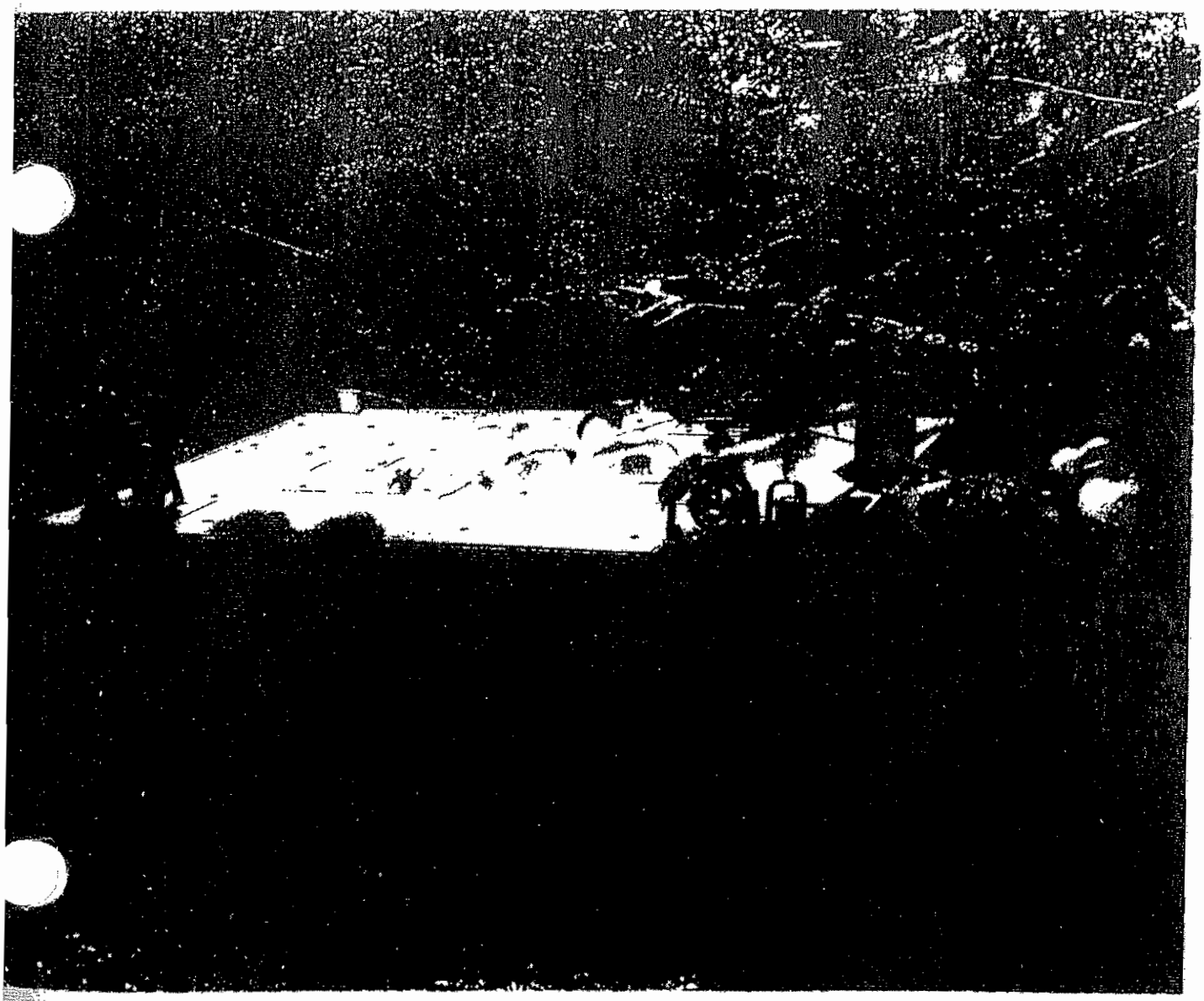
HENSCHEL Defense Technology

TH 495



Armoured Infantry Fighting Vehicle A/FV TH 495

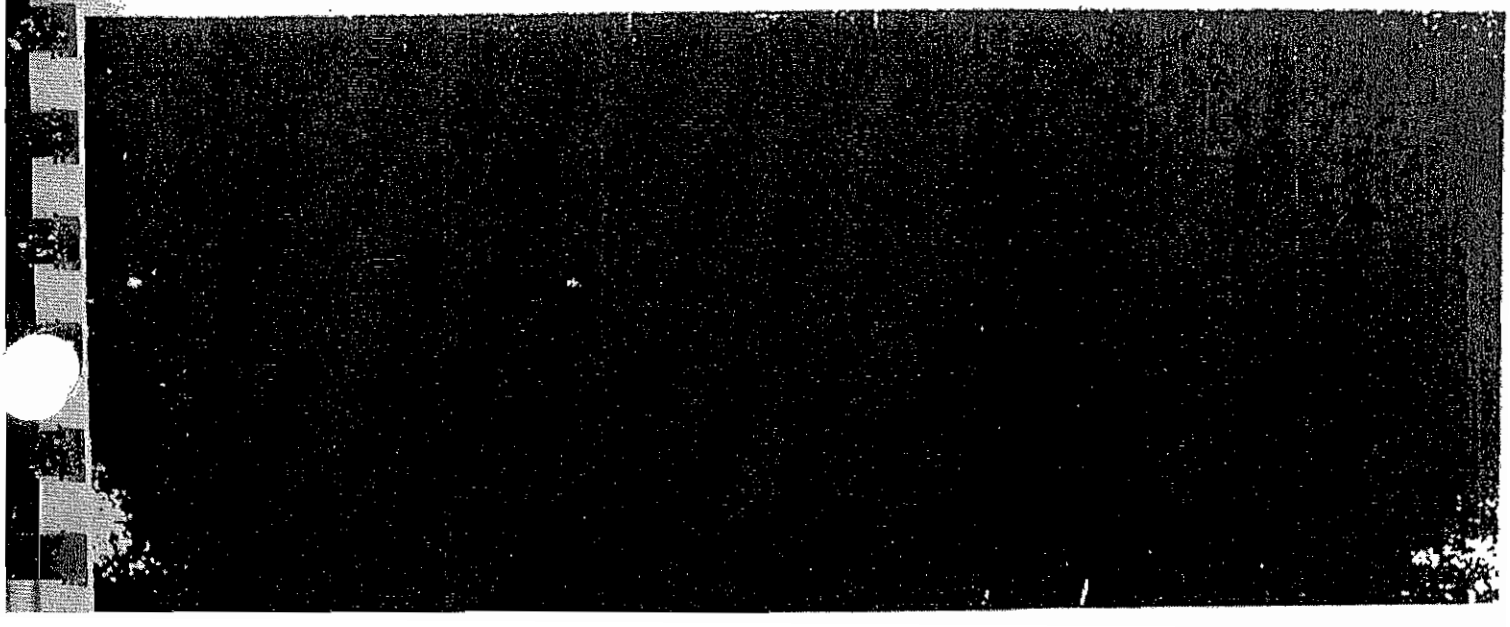
Future changes in the worldwide military situation will necessitate rapid deployment of military forces to promote stability in regional trouble spots more so than ever befor. For this purpose, military units need effective weapon systems which can be quickly transported into the operational area by aircraft. The newly developed tracked vehicle family is providing weapon systems of this kind.
Other than the first vehicle of this family – the herein introduced Armoured Infantry Fighting Vehicle – all those variants needed to be part of rapid reaction forces can be manufactured.

The special features of vehicle family TH 495 include:

- Airtransportable by C-130 Hercules aircraft upon adjustment
- Variety of configurations that meet common mission requirements
- Outstanding operational mobility
- High all-around crew protection level
- Interchangeable modular add-on armor
- Extremely low IR and radar signature
- Outstanding ergonomic handling and safety standards
- Growth potential for future systems expansions or improvements

System modularity concept

Modular design of variants and commonality of spare parts implifies training, maintenance and logistics support, therefore system cost and efficiency compares most favorably with other systems.



State-of-the-art technology for a state-of-the-art vehicle

Digital on-vehicle electronics, video monitoring for infantrymen, dual circuit brake system, integral driver station and explosion-proof fuel tanks are only a few examples of latest technology incorporated into the TH 495. The propulsion unit from MTU, the driving and steering gear from ZF and the long-life lightweight track from Diehl are further high-tech system components.

Hull, running gear, optics, NBC and fire protection

The self-contained hull housing is gas-tight and waterproof. The crew area is additionally protected against spalling and ammunition fragments. The power pack is located inside, at the front of the vehicle. The driver's seat is on the left next to the engine. Commander and gunner are located in the turret. The infantry crew compartment is in the rear of the vehicle and is accessed through a divided tailgate.

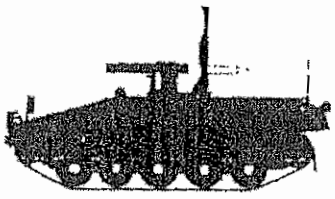
Crew hatches in the hull roof allow all-around viewing and afford partial armor protection during mounted combat operations. The balanced torsion bar suspension system incorporates shock absorbers and end-stop dampers permitting optimal road wheel travel. The driver can look out through three periscopes, the middle of which can be replaced by an image intensifying device. Video cameras enable infantrymen to observe the battlefield from inside of the vehicle with the hatches closed. The collective NBC protective ventilation system supplies the interior with clean air. A fire alarm system and fire suppression equipment provides additional crew protection.

The vehicle family

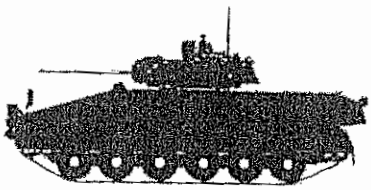
The Armoured Infantry Fighting Vehicle TH 495 provides the foundation for the new family of tracked vehicles. This AIFV chassis has six road wheels and its crew consists of the commander, gunner and a squad of seven fully equipped infantrymen. It is armed with a internal mounted stabilized 25 mm automatic cannon providing accurate day and night shoot on the move capability. Additional variants for the Rapid Deployment Forces include for instance:

- Infantry Combat Vehicle
- Armored Gun System
- Anti-Aircraft Defense System
- Light Armored Vehicle
- TOW Anti-tank Vehicle
- Command Post Radio vehicle
- Transporter
- Ambulance

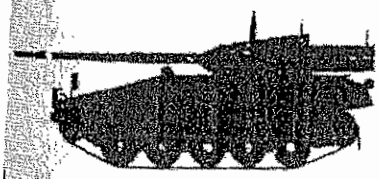
The modular add-on armor plating can be easily and quickly exchanged to adapt to the ballistic protection requirement of each vehicle variant and each enemy threat situation.



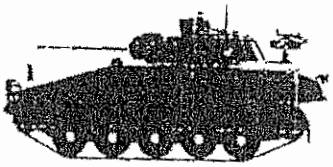
STINGER



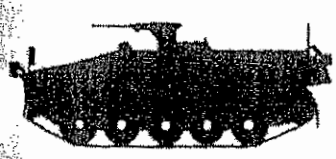
AIFV



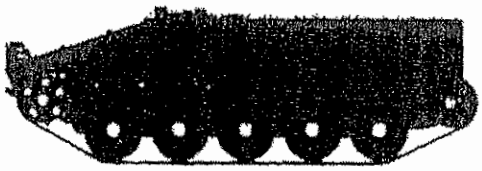
ACV/AGS



RCV

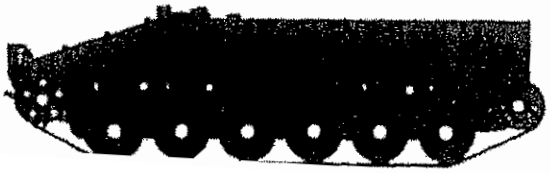


ICV

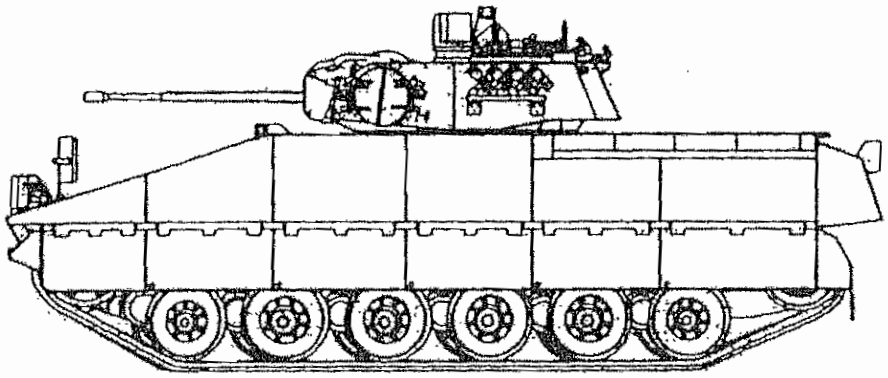


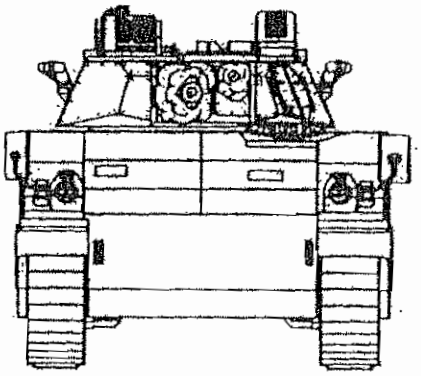
BASIC VEHICLES

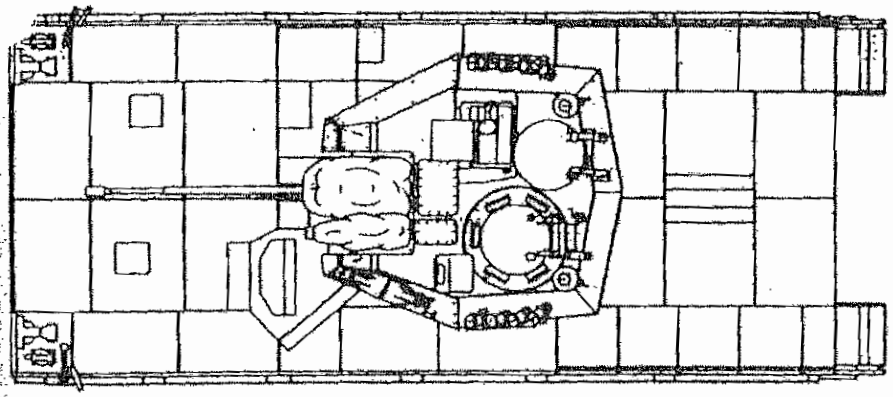
TOW

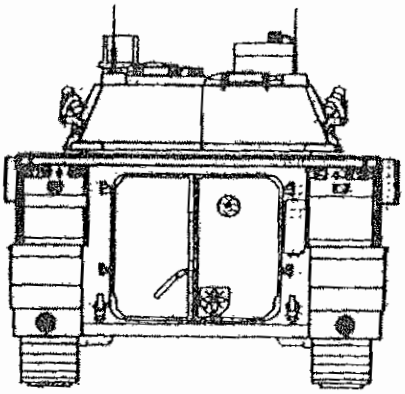


Technical Data TH 495









Crew	1 commander, 1 gunner, 1 driver, 7 infantry men
Overall length	6750 mm
Overall width	2840 mm
Overall height	2830 mm
Ground clearance	400 mm
Combat weight	26,0 t (metric)
Engine output	up to ca. 500 kW/680 HP DIN
Power-to-weight ratio	up to ca. 20,0 kW/to./27 HP/to.
Maximum speed	75 km/h
Fuel capacity	630 l
Specific ground pressure	72,7 kPa
Climbability	0,8 m
Trench crossing	2,70 m
Track width	450 mm
Main weapon	25 mm stabilized machine cannon OTO MELARA T 25

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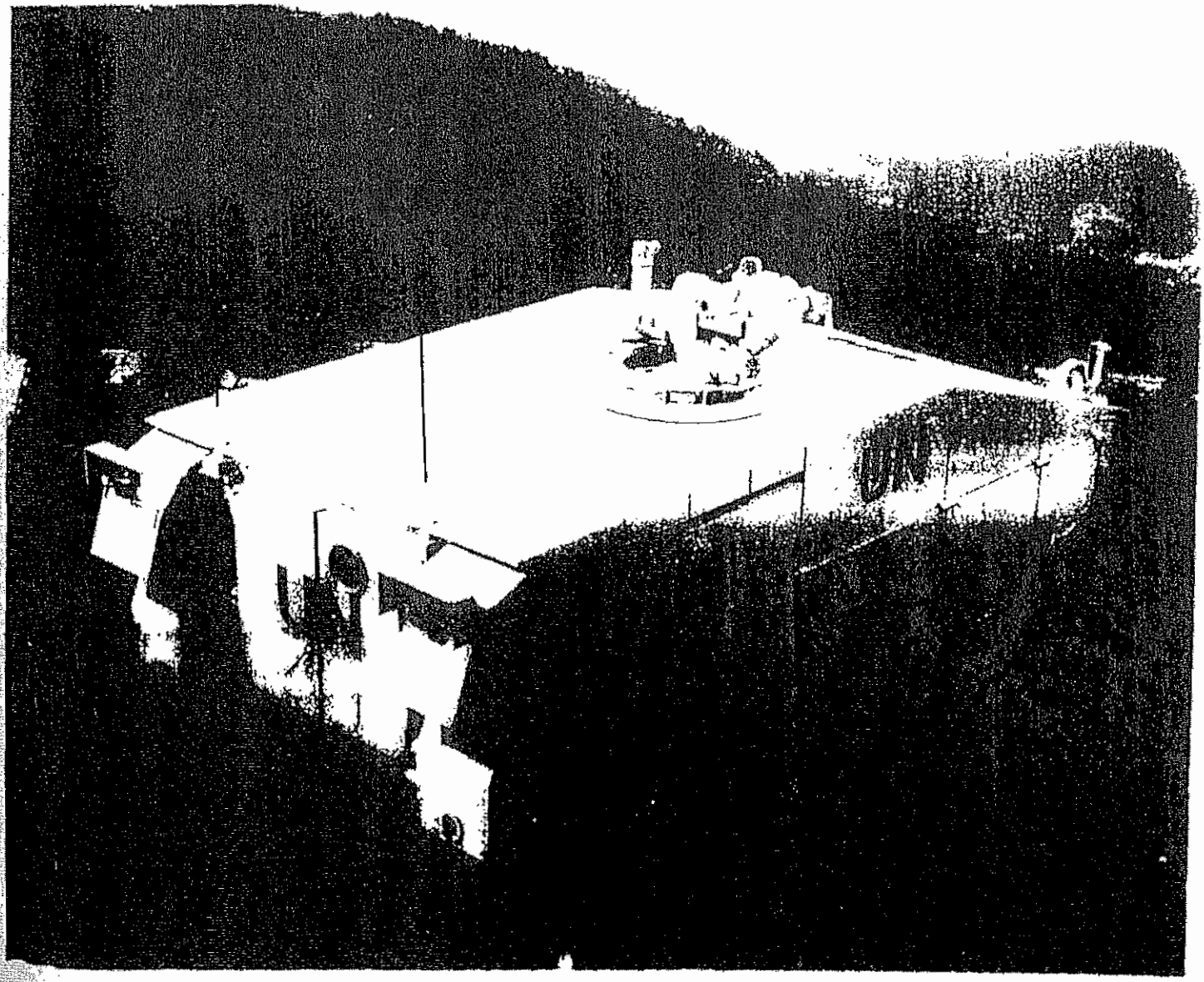
TH 495 Infantry Combat Vehicle (ICV)



TH 495
Infantry Combat Vehicle (ICV)

Future changes in the worldwide military situation will necessitate rapid deployment of military forces to consolidate stability in regional trouble spots more so than ever before. For this purpose, military units need effective weapon systems which can be quickly transported by aircraft into the operational area. The newly developed tracked vehicle family is providing weapon systems meeting those specific requirements. The ICV and all associated variants being required by Rapid Reaction Forces can be configured to a 5-Road-Wheel-Chassis.

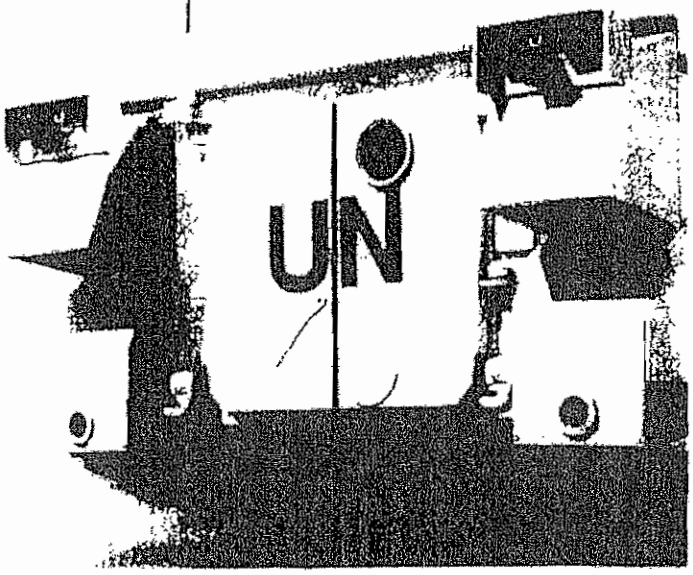
Special Features of Vehicle Family TH 495

- Air transportable by C-130 HERCULES aircraft (upon adjustment)
- Variety of configurations that meet common mission requirements
- Outstanding operational mobility
- High all-around crew protection level
- Interchangeable modular add-on armor
- Extremely low IR and radar signature
- Excellent ergonomic handling and safety standards
- Growth potential for future system expansion and improvement

System Modularity Concept

Modular design of variants and commonality of spare parts simplifies training, maintenance and logistic support, therefore, system cost and efficiency compares most favorably with other systems.

State-Of-The-Art-Technology for a State-Of-The-Art System



Digital on-vehicle electronics, video monitoring for infantry men, dual circuit brake system, adjustable driver's station and explosion-proof fuel tanks are only a few constituents of High-Tech being incorporated into the TH 495 system. The engine from MTU, transmission from ZF and the long-life lightweight track from DIEHL are further High-Tech Components.

Hull, Suspension, Optics, NBC and Fire Protection

The self-contained hull housing is gas-tight and waterproof. The crew compartment is additionally protected against spalling and ammunition fragments. The power pack is located in the front of the vehicle, driver's station is situated left side next to the engine.
The commander is sitting behind the driver and the gunner is located in the turret. The crew compartment for infantry men is in the rear and can be entered via two outward swinging doors.

Open crew hatches are providing an all-around view and enable the crew to carry out combat operations under partial armored protection.
The weight-balanced suspension system with its support rollers guarantees improved ride conditions cross-country and on road. Vision for the driver is provided by 3 periscopes whereby the middle of them can be replaced by an image intensifier. Video cameras are enabling the soldiers to monitor the battlefield from the inside while hatches can remain closed. The NBC Protection System supplies the interior with clean air. A Fire Alarm- and Suppression System provides additional crew protection.

The Vehicle Family

The Infantry Combat Vehicle (ICV) is the first one within its family being configured with a 5-Road-Wheel Suspension. Its crew is consisting of:

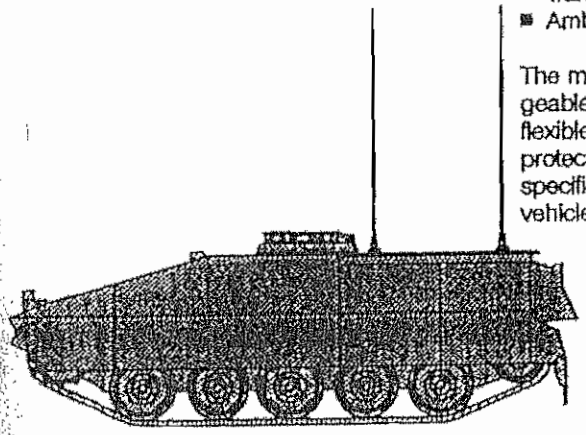
- 1 Driver
- 1 Commander
- 1 Gunner
- Squad of seven infantrymen being fully equipped

The ICV is armed with an external mounted 0.50 Machine Gun.

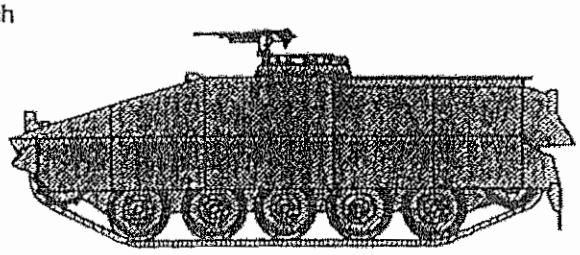
Additional system configurations also being part of Rapid Reaction Forces are:

- Short Range Anti-Aircraft Defense System
- Command Post / Radio vehicle
- Transport Vehicle
- Ambulance Vehicle

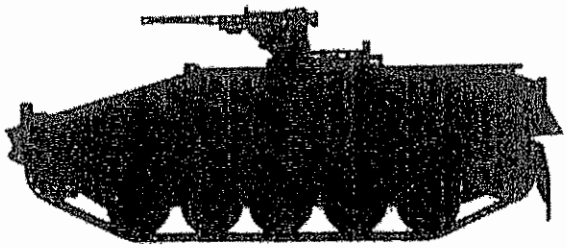
The modular easily exchangeable Add-On Armor allows flexible adaption of ballistic protection to comply with the specific missions of each vehicle.



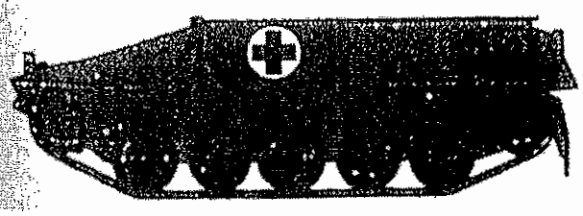
COMMAND VEHICLE

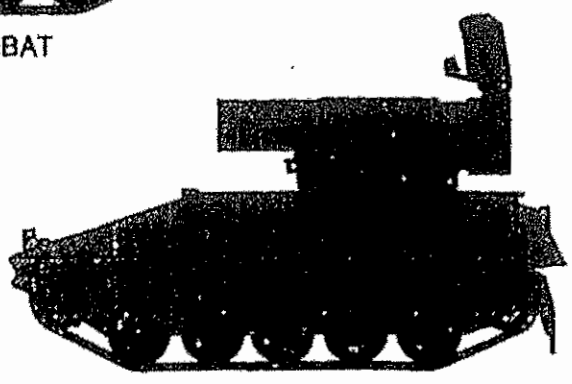


TRANSPORT VEHICLE

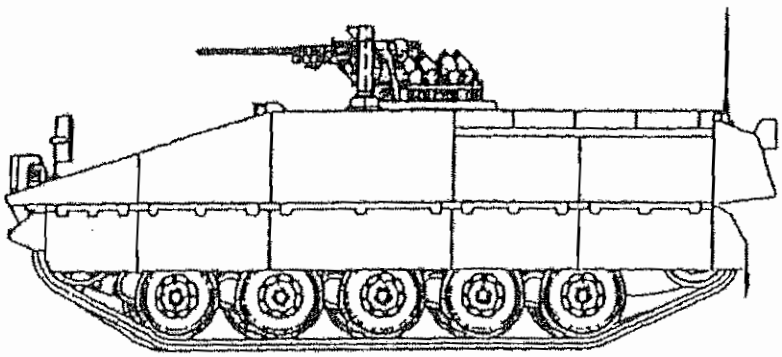


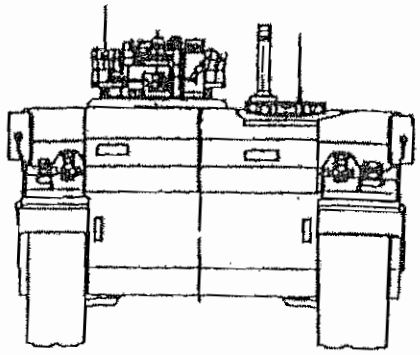
INFANTRY COMBAT VEHICLE

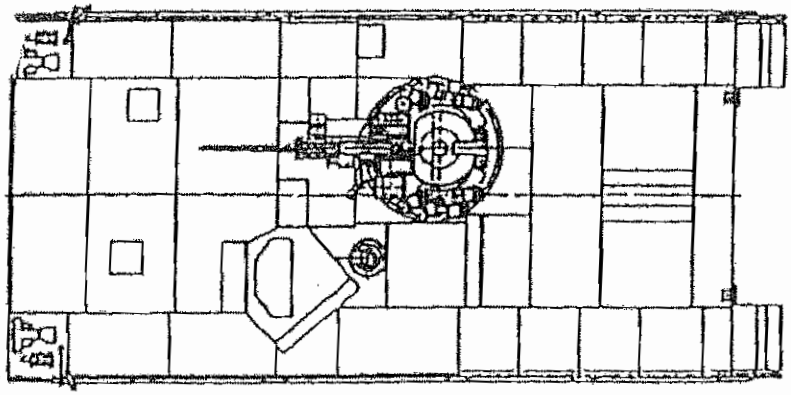


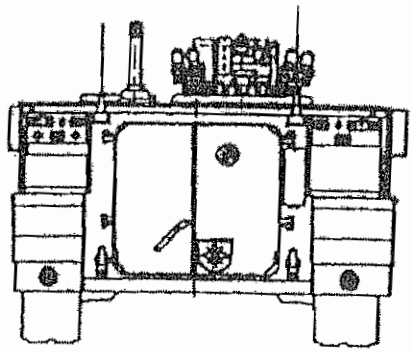


Technical Data TH 495 ICV









Crew	1 Driver, 1 Commander, 1 Gunner, 7 Infantry men
Overall length	5970 mm
Overall width	2940 mm
Overall height	2380 mm
Ground clearance	400 mm
Combat weight	21,6 t (metric)
Engine output	up to 500 kW/680 HP DIN
Power-to-weight ratio	up to 20,0 kW/to./27,0 HP/t.
Maximum speed	75 km/h / 47 mph
Fuel capacity	510 l
Specific ground pressure	75,5 kPa / 10,9 lbs/sq.inch
Climbability	0,8 m
Trench crossing	2,30 m
Main armament	MG 12,7 mm
Ammunition supply	total 800 rounds

THYSSEN HENSCHEL
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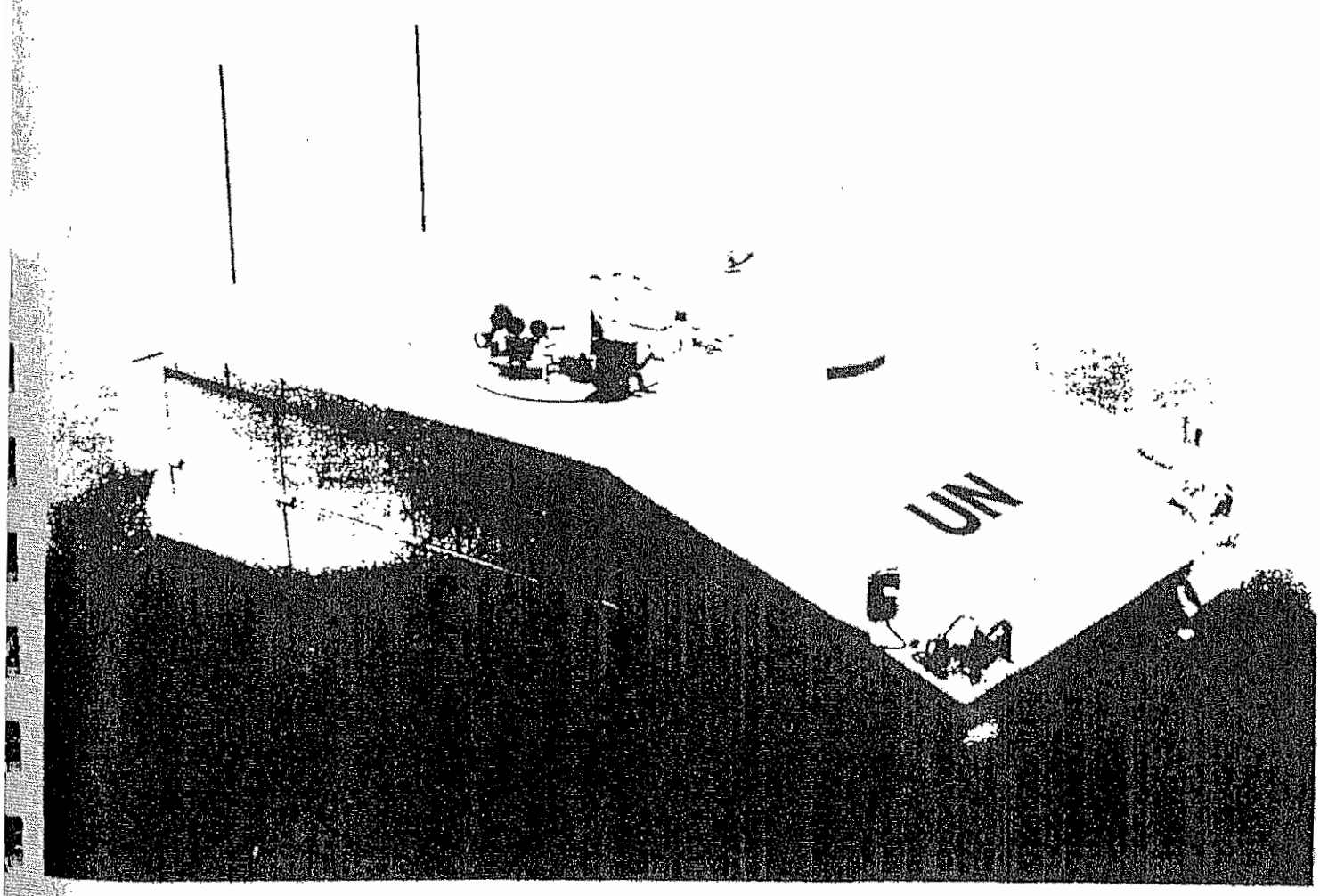
TH 495 Infantry Combat Vehicle (ICV)



TH 495 ICV 500 3/93 ZE H O Printed in Germany Thyssen Industrie AG Henschel

THYSSEN PROJECT IN CANADA

Proposal

Thyssen BHI has offered to commence activity in Canada through an initial R&D prototype activity for the TH 495 Multi-Purpose Base Armoured Vehicle (MBAV) series of vehicles.

Upon securing support of the Canadian Government for the complete R&D phase, Thyssen will establish a Canadian prototype development facility followed by the placement of the world production mandate for the TH 495 MBAV at its Canadian facility for the full range of vehicle variants which are developed with Canadian prototype development support. The resulting export sales and advanced technology jobs will be of significant benefit to Canada.

Market

The target market for the TH 495 is international exports to NATO and NATO friendly countries where there is a pending demand of some 15,000 vehicles in the MBAV category. A NATO study on the MBAV concept and requirement which is due for release this autumn, confirms the company's approach to the critical area of vehicle design requirements. The Thyssen TH 495 meets or exceeds the preferred NATO MBAV design in every important category, and is the only vehicle existing in NATO countries to do so.

Employment

Direct employment associated with MBAV production							
Year	1	2	3	4	5	6	7
Phase 1 Prototype R&D	50	50	50				
Phase 2 MBAV Production			80	180	310	470	585
Total:	50	50	130	180	310	470	585

Additional Doubling of Employment through Diversification

After commencement of production in MBAV, a diversification will commence in the field of industrial products from the vast range of Thyssen held technologies. The objective of the diversification phase is to achieve an equal level of non-defence activities in this Canadian facility which will translate into a further doubling of the above MBAV employment projection.

Canadian Situation

There is no Canadian company with a competitive technological capability to develop an original vehicle design, as has been done with the Thyssen TH 495. The only company of significance in the field of armoured vehicles is GM Diesel Division (GMDD) of London, Ontario, and they are not original vehicle developers, but rather a licensed builder of the Swiss Mowag vehicle. It would not be reasonable to expect GMDD to be able to acquire a world product mandate for a vehicle capable of competing successfully internationally in the MBAV category.

26 August 1993

CHAPTER 2

INTRODUCTION

2.1 Introduction

2.1.1 All the countries in NATO employ fleets of wheeled o: tracked light armoured vehicles (LAVs), such as th M113, VAB, TPz 1, Piranha/LAV, FV430 series, etc These aging light armoured vehicle (LAV) fleets ar still being used to perform troop carrying, combat support and logistics functions even though they lac the protection, mobility, firepower and capacity needed on the modern battlefield. Although a portio of these fleets has been replaced by modern infantry fighting vehicles (IFV) the cost of IFVs is too great for them to be employed in support roles. It will therefore be necessary for NATO countries to replace these LAVs with more capable platforms at ar affordable cost. Some countries have already started national programs to replace these vehicles after the turn of the century and others are in the planning process. An opportunity therefore presents itself for potential cooperation leading to lower procurement and ownership costs, and to the possibility of achieving a high level of LAV standardisation and inter-operability within the Alliance.

2.1.2 NATO Army Armaments Group (NAAG) Panel II consequently formed a Working Group of Experts, WGE.5, to draft an Outline NATO Staff Target (ONST) for a family of LAVs to fulfil the perceived future requirement. The resultant concept was a vehicle family founded on a common multi-purpose base armoured vehicle, MBAV.

2.1.3 A NATO Industrial Advisory Group (NIAG) was invited to meet with WGE.5 in February 1991 to explore the need, scope, and adequacy of documentation for a NIAG prefeasibility study (PFS) on the MBAV concept. At their Plenary meeting of 27 March 1991, Heads of NIAG Delegations examined the recommendation of the Exploratory Group that a NIAG PFS should be conducted as the best approach to proceed to the development of a NATO Staff Target (NST). In consideration of this recommendation, the NIAG formed an Exploratory Group on a MBAV to organize the study effort.

June 10. 1992

Thyssen Henschel's TH 495 MICV

by Wolfgang Schneider

Those responsible for weapons procurement in Germany were surprised by the rapid changes following the demise of the Soviet Union. For more than three decades, Germany's efforts concentrated on the development of high-endurance, versatile multi-purpose armoured fighting vehicles (AFVs). These became bigger and increasingly complex, optimized for the defense of a Central Europe threatened by Warsaw Pact forces superior in both general combat and anti-tank capabilities. This resulted in clumsy, heavy tanks and infantry fighting vehicles exceeding 50 and 40t respectively.

Given recent emphasis upon UN-controlled crisis management, the unified German forces realized that they lacked an effective combat vehicle suitable for strategic movement. Even the 17t, 2.98m-wide 6×6 Fuchs is not air-transportable except by Starlifter or Galaxy aircraft. Faced with the possibility of significant politically led policy changes concerning Bundeswehr involvement with European rapid reaction forces, procurement planning has been suspended until a decision is made. Thus, despite limited funding, it was logical that the major German defense manufacturers should begin development of light AFVs suitable for crisis-management roles. Examples include the Diehl/Krauss Maffei Puma (as a possible M113 replacement) and the Krupp-MAK CV-90. Another interesting approach is the Thyssen Henschel TH 495, the first prototype of which recently had its roll-out in Kassel.

The first TH 495 prototype was built in a MICV configuration and forms the nucleus of a family of tracked vehicles able to meet all the requirements of an out-of-area mission. One of the main demands was that the vehicle should be transportable by C-130 Hercules. This limited weight to less than 20t, and both width and height to 2.8m. Nevertheless, it was decided to maximize protection by incorporating modular armour panels which could readily be altered to meet a specific threat. Otherwise, the MIVC-version resembles the Marder 2, with the engine at the front, a rear troop-carrying compartment and a central cannon-armed turret to provide a favourable centre of gravity.

Good all-around (including overhead) protection is provided by spaced and/or special armour packages each of which can be removed or fitted by two crewmen within a few minutes. Spare or additional armour-modules could, for example, be transported in a second aircraft together with the crew, fuel, and ammunition to reduce vehicle weight, thereby increasing aircraft range. (In the prototype configuration seen at Kassel – mounting an OTO-Melara T 25 turret – the TH 495 has a combat weight of 28t. Thyssen Henschel pointed out that any other comparable turret can be fitted with the TH 495 according to customers choice). Without its add-on armour modules the vehicle is only 2.72m wide. An internal spall-liner, NBC system, fire-suppression system (optional), and explosion-proof fuel tanks also raise crew protection beyond the standard for light armoured fighting vehicles.

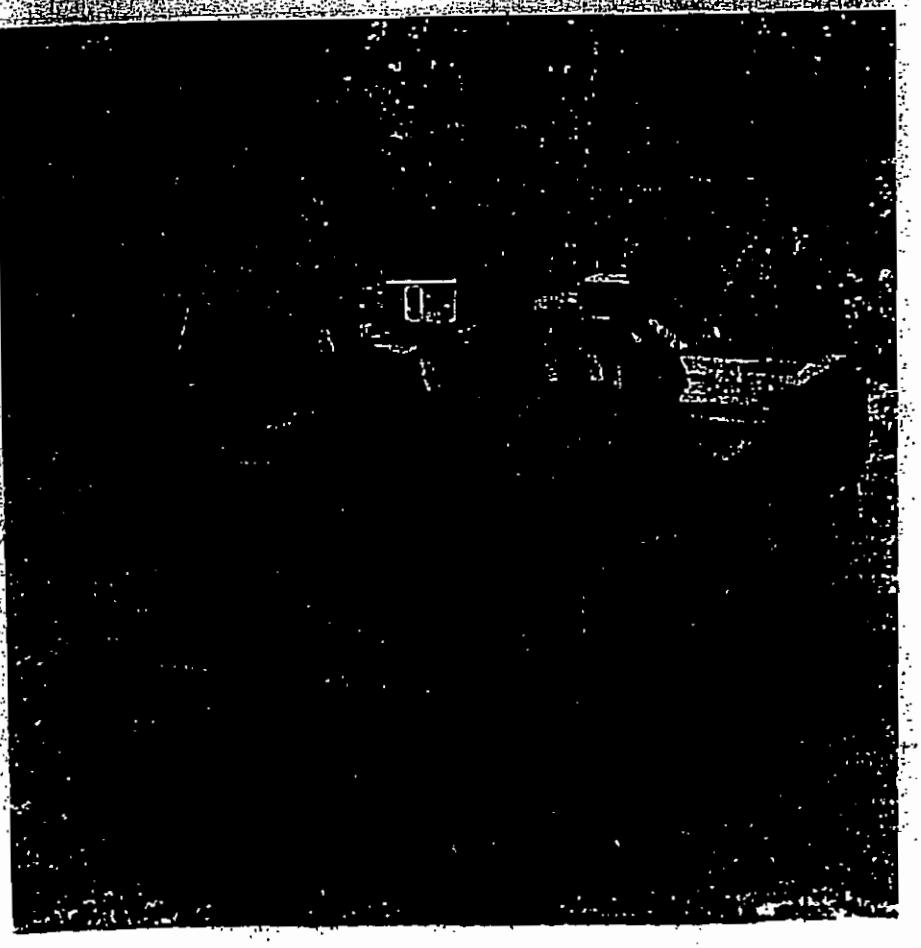
The MICV has a crew of three and carries seven in the troop compartment. The driver is on the left of the engine and is provided with three integral periscopes in the single-piece hatch, one of which can be replaced by an image-intensifier for night driving. The commander and gunner sit in the turret. In the spacious rear compartment an infantry section is seated in two rows facing inwards. Up to four soldiers can fire personal weapons from the two roof hatches; the side-hinged rear doors have two weapon-ports. When closed down, the section can view the battlefield on two monitors linked to side-mounted cameras.

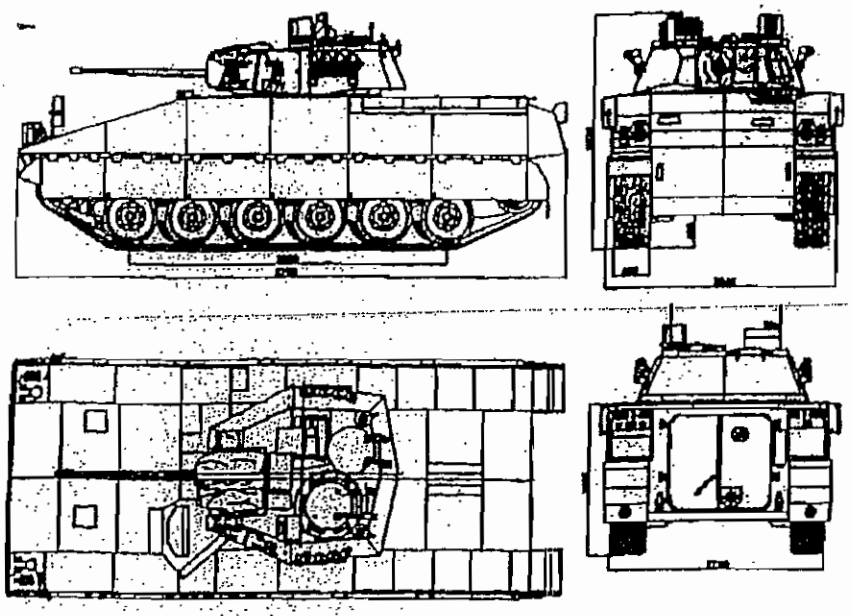
Emphasis has been placed upon a low infrared signature which has been achieved by ventilating the gap between the spaced armour and the hull, as w as by careful layout of the exhaust and engine-cooling s tems. Two cooling syste are located at the rear abo each sponson; hot gases fr the exhaust and cooling s tem are mixed with cold in an "IR grating", and th vented downwards from grill on the rear right of t vehicle. The hot spot usually easily visu through a thermal sight is not identifiat from the front. Radar reflection is reduc by a combination of the vehicle's smoo surface and an absorbent coating.

Mobility

The TH 495's mobility is also good. T prototype is powered by an MTU 183 T 22, 441kW (600hp) diesel, giving a powe to-weight ratio of more than 17kW (23HP/t). The track width of 450m makes for a ground pressure of 72.7kPa the MICV configuration and considerab less as an APC. The Th 495 is easily drive thanks to the improved ZF LSG 1500 ful automatic transmission, good ergonomic and high safety standards. The driver's st tion, together with all controls and info mation displays is vertically adjustabl When driving with the hatch open, drive information is displayed on a pan mounted between hull roof and add-on a mour. A digital power supply is fitte micro-processors control all systems cu rently fitted, as well as monitoring the

Thyssen Henschel seems to have anticipated the shift in German requirements away from heavy armoured vehicles towards more mobile modular designs with its private-venture TH 495 family.





The TH 495 MICV forms the basis of the range; the layout is conventional, and a variety of turrets can be fitted. Spaced armour and exhaust coolers reduce the thermal signature, whilst the smooth hull and special coatings do the same for its radar signature.

operation, reporting faults to a diagnosis system combined with an integrated control system. The vehicle uses subsystems and components already in series production and proven in non-military vehicles, thereby ensuring a high degree of reliability and reduced maintenance.

TH 495 armoured vehicle family

Construction is progressing on a second prototype with a hull 780mm shorter, and five instead of six road wheels. Roll-out is scheduled for February 1993. The main features of the suspension (torsion bars, three return rollers, hydraulic shock absorbers on the two front and rear wheel stations of each side, Diehl double-pin track) remain unchanged. Depending upon vehicle configuration, the weight can be reduced to under 15t. A potentially interesting variant would be an armoured cavalry vehicle fitted with a 90 to 120mm anti-tank gun. The rest of the family is more conventional, comprising:

- TOW-based tank destroyer,
- Stinger anti-aircraft vehicle,
- radar carrier,
- APC,
- armoured ambulance,
- supply carrier,
- maintenance vehicle,
- and a command and communications vehicle.

Though this Thyssen Henschel private initiative has involved considerable financial investment, the risk has been reduced by developing a promising AFV family which could be adapted to meet the needs of many potential customers. Compared with similar light AFVs, the TH 495 to some extent represents a "full-scale" fighting system with good growth potential. Nonetheless, competition is fierce and the attractions of buying alternative, cheaper, off-the-shelf vehicles such as the French VAB or the Swiss Piranha are self-evident.

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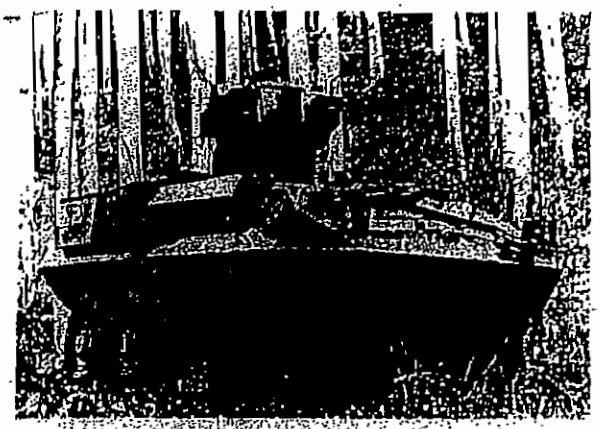


MOWAG Piranha (6 x 6) vehicle fitted with Norwegian Kvaerner Eureka turret for launching TOW ATGWs

Piranha (6 x 6) Anti-tank Vehicle

After extensive trials of three MOWAG Piranha (6 x 6) AFVs fitted with the Norwegian Kvaerner Eureka A/S (previously Thune-Eureka) Armoured Launching Turret and three vehicles fitted with a pedestal-mounted TOW launcher which retracted under armour protection when not required, the former was selected by the Swiss Army.

The Swiss 1988 Armament Programme proposed SFr941 million for the procurement of 310 MOWAG Piranha (6 x 6) anti-tank vehicles fitted with the Armoured Launching Turret (ALT) to be issued to 31 anti-tank companies at present equipped with the 106 mm 58 (US designation M40) recoilless anti-tank gun. Each company will consist of a command platoon and three anti-tank platoons. Companies operating in the mountain divisions will also be allocated a repair platoon.

In addition to the two missiles in the ready to launch position a further eight are carried internally for manual reloading. A standard TOW launcher is also carried.

The 310 vehicles will be delivered between 1989 and 1992 with MOWAG building the Piranha (6 x 6) vehicle and installing the ALT which will be manufactured under partial licence by the Ateliers Federaux, Thoune, the total Swiss share being 70 per cent.

The Federal Aircraft Factory at Emmen will build about 49 per cent of the aiming system, including day and night sights, and almost 55 per cent of the TOW-2 guided missile, and simulators.

Of the total of SFr 941 million, some 400 million will be for the vehicles, 310 million for the missiles and the remainder for spare parts and maintenance equipment. Of the grand total of SFr 941 million, the Swiss element will represent 617 million, or 66 per cent.

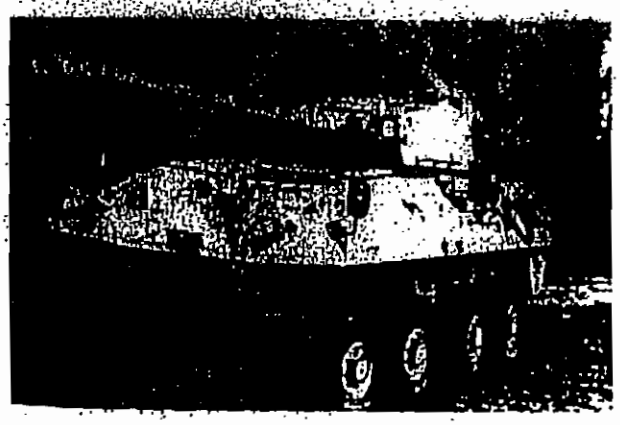
Piranha (8 x 8) Anti-tank Vehicle

MOWAG has completed the prototype of an anti-tank version of the Piranha (8 x 8) vehicle fitted with the Euromissile Mephisto system which consists of a retractable launcher with four Euromissile 4000 m range HOT ATGWs with additional missiles being carried in reserve. This system is also used by the French Army on an SMS VAB (4 x 4) APC.

This version has a combat weight of 12 600 kg and is 6.4 m long, 2.5 m wide and 2.8 m high with the Mephisto sight raised. Four HOT missiles are ready to launch and a further eight rounds are in reserve.

Piranha (8 x 8)

A variety of armament installations can be fitted including all those of the 6 x 6 model plus twin 20 or 30 mm anti-aircraft guns, multiple rocket launcher with two banks of 15.81 mm launcher tubes, and mortar tractor towing a 120 mm mortar. Late in 1988 an 8 x 8 Piranha was shown in the United States fitted with an AAI-developed turret armed with a 75 mm ARES cannon.



MOWAG Piranha (8 x 8) fitted with Giat Industries TS-90 90 mm turret

MOWAG Piranha (8 x 8) fitted with two-man turret armed with 25 mm cannon and 7.62 mm machine gun

90 mm Assault Gun Vehicle

Late in 1988 MOWAG demonstrated the AGV-90 in Switzerland and France. This is essentially an improved MOWAG 8 x 8 Piranha fitted with the Giat TS-90 Weapons Station. This is armed with the 90 mm gun with a coaxial 7.62 mm machine gun.

The 90 mm gun fires APFSDS-T, HEAT-T, HE, smoke and canister rounds with 18 ready rounds carried in the turret; a further 25 rounds are in the hull.

Optional equipment includes a Smiths land navigation system. Other improvements include a fuel tank with increased fuel capacity which increases operational range to 1000 km, a small access hatch in the left side of the hull, a winch with direct pulling capacity of 6.8 tonnes.

Combat weight of the AFV-90 is 13 000 kg, length with gun forwards 7.28 m, width 2.5 m and height 2.7 m.

SPECIFICATIONS			
Model	4 x 4	6 x 6	8 x 8
CREW (max)	10	14	15
COMBAT WEIGHT*	7800 kg	10 500 kg	12 300 kg
UNLOADED WEIGHT	6700 kg	8000 kg	8800 kg
POWER-TO-WEIGHT RATIO (diesel engine)	25 hp/tonne	28.5 hp/tonne	24.4 hp/tonne
LENGTH	5.32 m	5.97 m	6.365 m
WIDTH	2.5 m	2.5 m	2.5 m
HEIGHT (without armament)	1.85 m	1.85 m	1.85 m
GROUND CLEARANCE	0.5 m	0.5 m	0.5 m
TRACK			
front	2.18 m	2.18 m	2.18 m
rear	2.2 m	2.2 m	2.2 m
WHEELBASE	2.42 m	2.04 m + 1.04 m	1.1 m + 1.135 m + 1.04 m
ANGLE OF APPROACH/ DEPARTURE	40°/45°	40°/45°	40°/45°
MAX SPEED			
road	100 km/h	100 km/h	100 km/h
water	9.5 km/h	10.5 km/h	10.5 km/h
FUEL CAPACITY	200 l	200 l	300 l
MAX ROAD RANGE	700 km	600 km	780 km
FORDING	amphibious	amphibious	amphibious
GRADIENT	70%	70%	70%
SIDE SLOPE	35%	35%	35%
VERTICAL OBSTACLE	0.5 m	0.5 m	0.5 m
TURNING RADIUS	6.3 m	7.3 m	7.7 m
ENGINE	Cummins 6 BTA 5.9 diesel developing 195 hp at 2800 rpm	Detroit Diesel 6V-53T developing 300 hp at 2800 rpm	Detroit Diesel 8V-53T developing 300 hp at 2800 rpm
TRANSMISSION (Allison Transmission Division of General Motors)	AT-545 automatic, 4 forward/1 reverse gears	MT-653 automatic, 5 forward/1 reverse gears	MT-653 automatic, 5 forward/1 reverse gears
SUSPENSION	independent	independent	independent
TYRES	11.00 x 16	11.00 x 16	11.00 x 16
BRAKES (main)	air hydraulic	(dual circuit)	on all vehicles
ELECTRICAL SYSTEM	24 V	24 V	24 V
ARMAMENT	depends on role	depends on role	depends on role

* Dependent on role

Renault VAB Armoured Personnel Carrier

Development

In the late 1960s the French Army decided to equip its infantry units with both tracked and wheeled vehicles. The mechanised units would be issued with the tracked AMX-10P ICV, then already under development, and the remaining units with wheeled APCs as the tracked AMX-10P was considered too expensive and sophisticated for many of the roles it was expected to undertake.

In 1970 the French Army issued a requirement for a Forward Area Armoured Vehicle (VAB or Véhicule de l'Avant Blindé) which would meet the requirements of the remaining infantry units and would be capable of undertaking a wide range of roles including use as an APC, cargo carrier and mortar towing vehicle.

To meet this requirement Panhard and Saviem/Renault Group built prototypes of both 4 × 4 and 6 × 6 vehicles between 1972 and 1973. These were tested by the Section Technique de l'Armée de Terre between May 1973 and early 1974 and in May 1974 the 4 × 4 version of the Saviem/ Renault Group entry was selected for service.

No pre-production vehicles were built and first production vehicles were delivered to the French Army in 1976. The French Army has a requirement for 4050 VAB vehicles for delivery by the early 1990s. At present the French Army is ordering the 4 × 4 version only but it is expected that the 6 × 6 version, which is already in production for export, may be ordered in the future.

Prime contractor for the VAB is Renault Véhicules Industriels which supplies automotive components to Mecanique Creusot-Loire at Usine de Saint-Chamond for final assembly.

Some 50 VABs in both 4 × 4 and 6 × 6 configurations can be built every month (for the French Army and for export). The largest export order so far is for 394 units from Morocco, including APCs command vehicles.

At the Satory defence equipment exhibition held in June 1990, prototypes of the VAB New Generation (VAB NG) were shown for the first time. This has been developed and funded by Renault VI and Mecanique Creusot-Loire in co-operation with the French Army and will become the updated successor of the VAB for the next two decades and also allow the rebuilding of older first generation VABs to the VAB NG standard.

All existing VAB variants will be available on the VAB NG basic chassis.

The main improvements of the VAB NG cover the areas of armour protection, mobility and ergonomics with the full list of improvements being as follows:

(1) Driver and commander have high protection bullet-proof windscreen
(2) Front of vehicle hull now has protection against armour piercing ammunition
(3) Headlamps and direction indicators at the front of the hull are now recessed low in the hull
(4) Hydraulically powered front-mounted winch
(5) Car type driver's dashboard and steering wheel
(6) Integrated air-conditioning system with controls on driver's dashboard (option)
(7) Pinion drive down transmission
(8) Five speed automatic transmission with lock up device
(9) Integrated NBC system
(10) 250 hp twin turbocharged 6-cylinder diesel engine
(11) Reinforced suspension
(12) Remote-controlled tyre inflation/deflation system (option)
(13) 2 × 6 DREC grenade launchers mounted either side of turret firing forwards
(14) Troop compartment floor is now flat and washable
(15) Troops now have individual fold-up seats
(16) Water-jet drive system is more compact
(17) New engine cooling system
(18) Optional add-on armour to sides of troop compartment
(19) Splinter absorbent liner for crew compartment (option)
(20) Troop compartment windows are bullet-proof with armoured shutters being an option
(21) The engine compartment roof has a Molotov cocktail protection system
(22) Ballistic protection of air intake
(23) Driver's and commander's compartment has more room
(24) Driver's and commander's shutters are of composite armour (option)

In October 1988 two agreements were concluded with the Hughes Aircraft Corporation of the USA. One by Renault Véhicules Industriels for technical co-operation in TOW Under Armour systems on the VAB, and one with SMS for co-operation in the promotion and sale of these systems.

The VAB was used by France and Qatar during Operation Desert Storm, the recapture of Kuwait, early in 1991. The VAB with the HOT ATGWs successfully engaged Iraqi AFVs during this conflict.

By mid-1992, just over 5000 VAB in 4 × 4 and 6 × 6 configurations had been built for the home and export markets with production for the French Army expected to be completed in February 1992 after 4050 had been built.

Two production standard VAB New Generation have been built, one in the 4 × 4 configuration and one in the 6 × 6 configuration. It has been adopted by the French Army but as of mid-1992 no firm orders had been placed for the vehicle although it was expected that early build French Army VABs would be returned to the manufacturer to be upgraded to the new standard.

Description

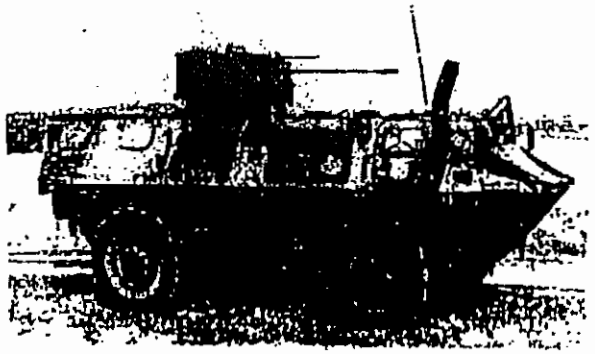
The basic model used by the French Army is the 4 × 4 VAB VTT (Véhicule Transport de Troupe) which has a crew of two (commander/machine gunner and driver) and carries 10 fully equipped infantrymen. The following description relates to this vehicle.

The all-welded steel hull of the VAB provides the crew with protection from small arms fire and shell splinters. The driver sits at the front of the vehicle on the left with the commander/machine gunner to his right. Both crew members have a side door that opens to the front, with a bullet-proof window in its upper part that is hinged at the top and opens outwards and can be covered by a shutter. In front of them is a heated bullet-proof windscreen that can be covered by a flap hinged at the top. Over the driver's position is a single piece hatch cover that opens to the front. A similar hatch is mounted over the commander's position but vehicles issued to the French Army have a Mecanique Creusot-Loire rotating gun mount type CB.52 armed with a 7.62 mm machine gun with an elevation of from −15 to +45° with the shield in the normal position and from −20 to +80° in the anti-aircraft position; in both cases traverse is a full 360°. Other armament installations available include the Mecanique Creusot-Loire TLI 52 A. Current production French Army VABs are fitted with the Mecanique Creusot-Loire CB 127 gun ring shield for a 12.7 mm M2 HB machine gun.

The engine compartment, which is fitted with a fire-extinguishing system, is immediately behind the driver with the air-inlet and air-outlet louvres in the roof and the exhaust pipe running along the top of the hull on the right side. Power is transmitted from the engine to the wheels by a hydraulic torque converter and a gearbox with five forward and one reverse gears. Gears are shifted using a small electrically operated lever which also operates the clutch. On the VAB New Generation, the transmission is fully automatic. The axles have differential reduction gears with double reduction and differential locking. The wheels are independently suspended by torsion bars and hydraulic shock absorbers. Steering is hydraulically assisted on the front wheels, or, in the case of the 6 × 6 model, on the front four wheels. The tyres are Michelin run-flat radials, the pressure of which can be adjusted to suit the type of ground being crossed. A remotely controlled tyre inflation/deflation device is now available as an option on the VAB family.

There is a passageway on the right side of the hull which connects the crew compartment at the front with the personnel compartment at the rear. The infantrymen enter and leave the VAB via a double door without a central pillar in the rear of the hull which open outwards. Each door has a window which can be opened to the outside and is covered by an armoured shutter.

VAB (6 × 6) from above without armament installed. The driver's and commander's armoured windscreen shutters are in the raised position, as are the troop compartment shutters (T J Gander)



VAB (4 × 4) of the French Army fitted with one-man turret armed with 20 mm cannon and 7.62 mm machine gun. This is used for close defence of Roland SAM units (Pierre Touzin)

NBC, USA

OFFICE OF THE UNDER SECRETARY OF DEFENSE

WASHINGTON, DC 20301-3000

ACQUISITION

GBAL
KHS
ccT. 10.5.93

MG Lehowicz
Combat Developments
TRADOC
Ft. Monroe, VA 23651

Dear General Lehowicz:

The Light Contingency Vehicle (LCV) as envisioned within Thrust 8 of the DoD Research and Development program continues to be of great personal interest to me. The overall need to enhance the survivability, mobility and combat effectiveness of our rapidly deployable forces is a widely accepted lesson learned from Desert Shield. The detailed understanding of the types of combat systems that best serve to satisfy the needs of early entry forces must be developed through the Battle Labs process that TRADOC has chartered. There is also the potential need to work closely with our NATO allies as their concepts for out-of-area rapid reaction forces begin to emerge. The need to configure rapid response forces for peacekeeping and peacemaking missions is reinforced by the rapidly expanding United Nations need for security forces.

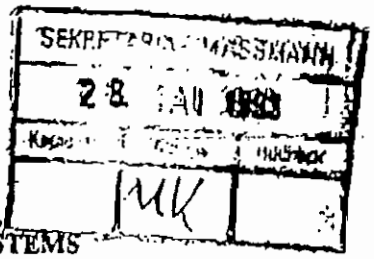
During a recent trip to Germany, I had the opportunity to observe and examine the new 495 family of vehicles at Thyssen Henchel. The design goals are: 1) air transportable by C-130 (with some removal of armor panels), 2) a reconfigurable armor suite, and 3) reduced observables. The tracked vehicle engine bay is designed to accept a Detroit Diesel engine. The contractor has tried to save time and money by using an existing turret in the infantry fighting vehicle version of the system, but there is broad flexibility for accepting other turrets. It struck me that this vehicle could be useful for "tinkering" and this may help in defining the LCV requirement. I understand the vehicle could be leased for initial trials and be made available through existing testing agreements between the U.S. and Germany. I have included a contractor brochure in order to better describe the vehicle characteristics.

Please let me know if I can be of any assistance.

Sincerely yours,

Andrus Viilu
Deputy Director
Land Systems

Ø KHS



From: Major-General A C P Stone
DIRECTOR-GENERAL LAND FIGHTING SYSTEMS
PROCUREMENT EXECUTIVE, MINISTRY OF DEFENCE
St. Christopher House, Southwark Street, London SE1 0TD
Telephone: (Direct Dialling) 071-921 1975
(Switchboard) 071-928 3666

Herr Jürgen Massman
Director
Thyssen Henschel
Henschelplatz 1
D 3500 Kassel
GERMANY

21 May 1993

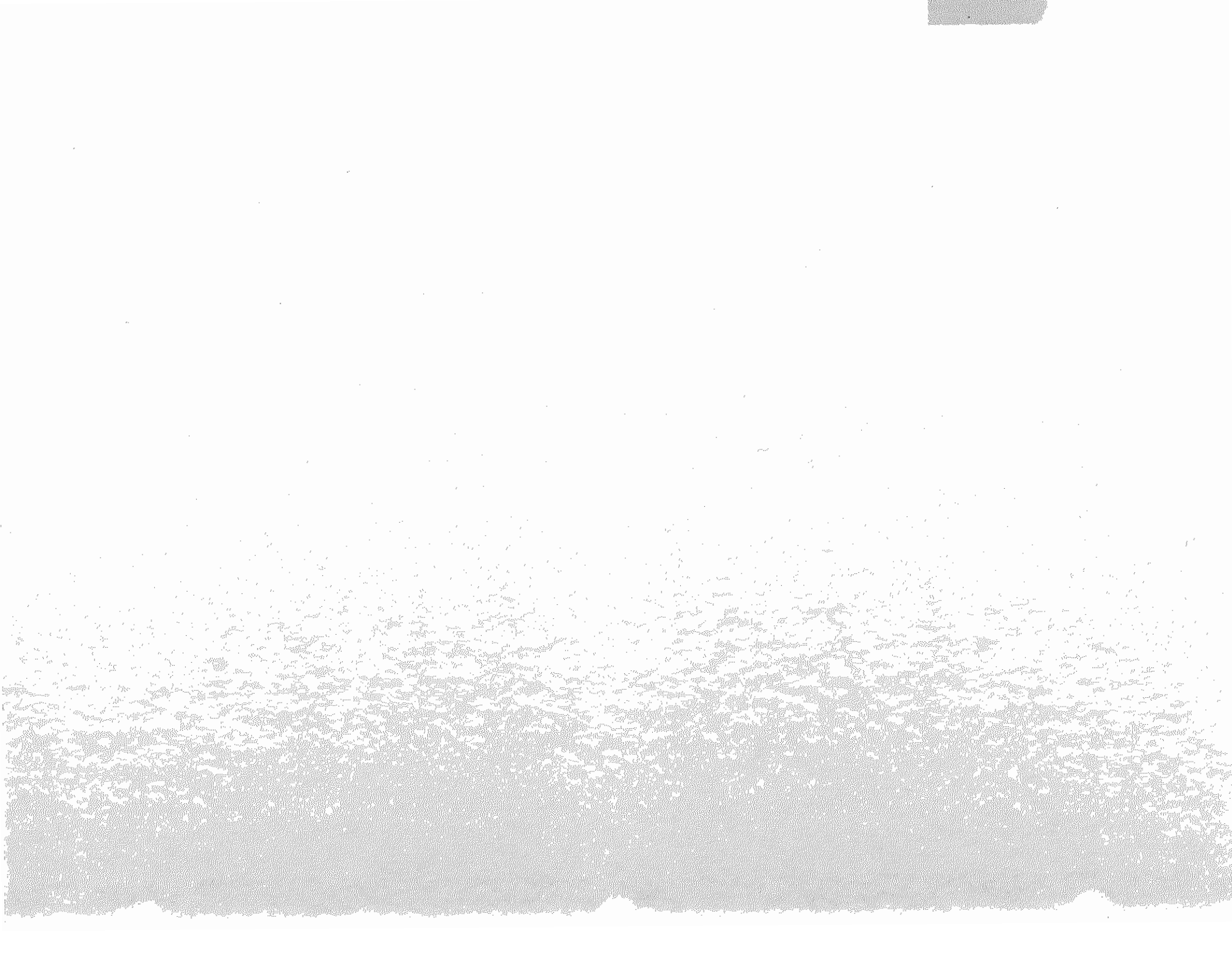
Dear Herr Massman,

Many thanks for hosting my excellent visit to your Kassel production facility on 18 May and also for an interesting discussion the evening before during dinner at the Pfeffermühle. I wish I had had more time to continue with our dialogue - perhaps another time.

Even though my programme limited the time I could spend with you, I came away with the impression of a dynamic company offering a diversified product range. Your strategy for future business development was most impressive, as was the new training wing which we were able to visit. All in all, a most positive preparation for the difficult times ahead.

Please extend my thanks to all your team for providing a very thorough briefing of your products and in particular to Dr Piasecki and his staff, who demonstrated the company's wide range of vehicles on your test track which I very much appreciated. The TH 495 ICV family was particularly interesting and such features as air portability, clip-on armour, varying road wheel numbers, fibre optic highway, power pack options and variable turret templates all showed a market orientated approach which I applaud. I hope Alvis, with whom you mentioned your connections, are fully aware of your work.

Thank you again for a most useful visit and good luck for the future with your new TH495.



Thursday, Oct.28/99
Memo to File

Having watched last night (Oct. 28/99) the fifth estate program on the CBC dealing with K.S., I decided to write down my recollection of an event that took place on Dec. 8, 1994. On that date,(Dec. 8/94) I traveled to New York to meet up with MBM for the purpose of attending a lunch at the invitation of K.S. on the occasion of Elmer MacKay's recent wedding. Elmer and his wife along with Barbell and others were in a attendance. It was understood that ahead of the lunch K.S. wanted MBM to provide a report to him on his ongoing assignment of oversight internationally on behalf of K.S.'s corporate interests. At approximately 11:00 a.m., MBM and I proceeded to K.S.'s room and for approximately 1 ½ hrs. the two of them discussed various aspects about MBM's assignment as well as a number of matters where MBM saw opportunities in the international arena. K.S. provided some materials to MBM about some projects he was pursuing. At the end of the discussions K.S. handed over an envelope indicating that a payment for services and expenses were included. I was present throughout the discussion period. At the end of the 1 ½ hrs (approx) we all went down to the restaurant together to join the other guests at the Elmer MacKay luncheon. Lunch lasted for about 1 ½ hrs and MBM and I left together.

#15

Dr. iur. Nuot P. Sa;

b) I have been put to the expense and inconvenience of retaining counsel in both Canada and Switzerland to deal with this issue; and

c) my bank account in the Swissbank Corporation, Switzerland have been frozen thereby denying me access and interfering with my banking.

14. The following facts are true to the best of my knowledge and belief and are contradictory of certain statements and assumptions made in the Letters of Request, namely:

a) The "Devon account" is not Brian Mulroney's bank account, nor does it contain $5 million as alleged;

b) The informant Giorgio Pelossi has publicly stated that he has not been interviewed by the RCMP;

c) Giorgio Pelossi has admitted publicly that he cannot say that Brian Mulroney, nor Frank Moores received bribes, kickbacks or other illegally obtained funds as alleged in the Letters of Request.

15. I am not aware of any prejudice to the Respondent that would result from the relief being sought in the Originating Notice of Motion filed herein.

16. I make this Affidavit in support of the relief set out in the Originating Notice of Motion.

SWORN before me at Montreal)
in the County of Montreal)
on the 17th day of April)
A.D. 1996.)

KARLHEINZ SCHREIBER

A NOTARY PUBLIC

Reg. A No. 527/96

Dr. iur. Nuot P. Sarat

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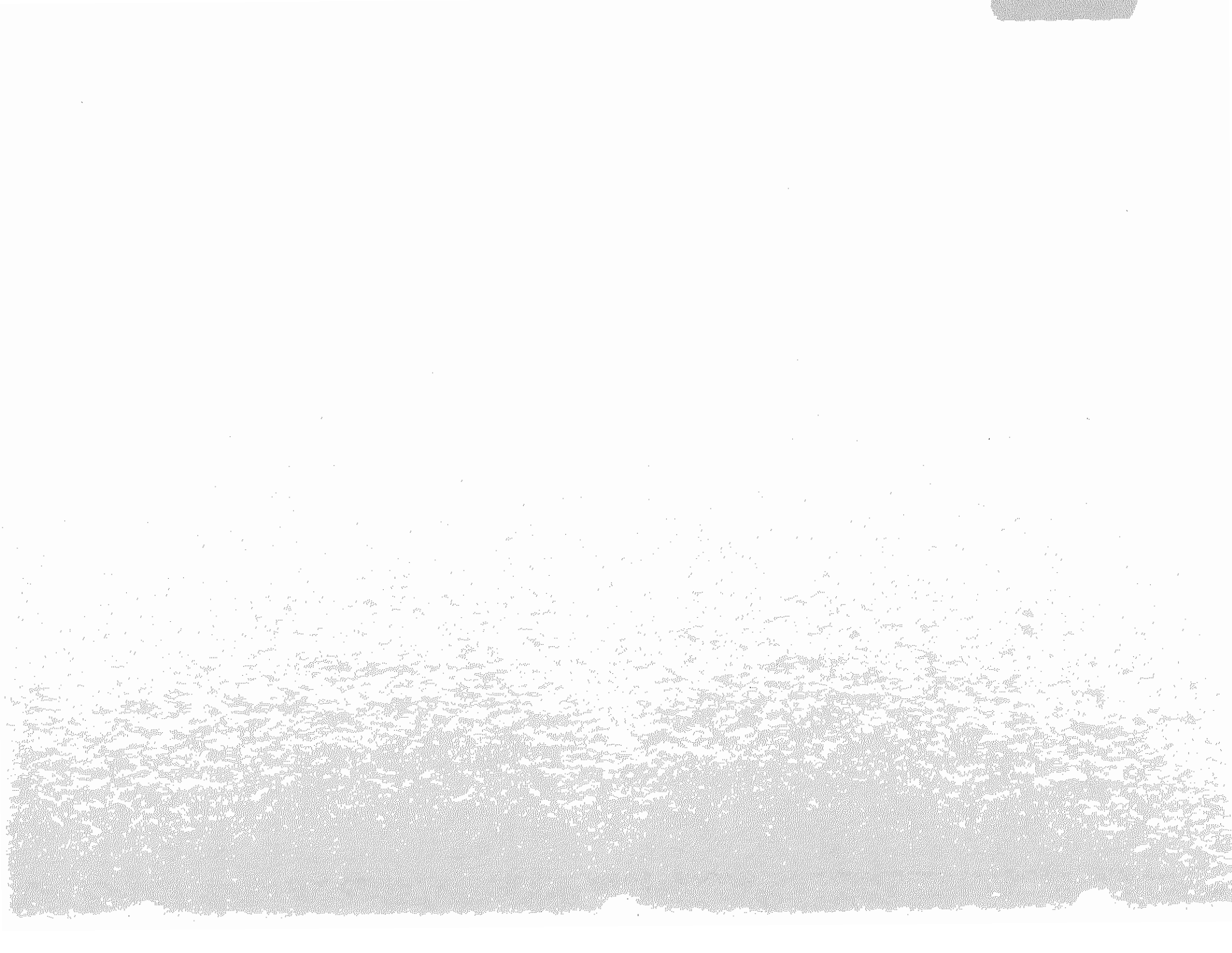


Hladun & Company
BARRISTERS & SOLICITORS
Tel. 780.423.1888

March 17, 2005

Mr. Daniel J. Henry
Senior Legal Counsel
Canadian Broadcasting Corporation
P.O. Box 500, Station "A"
Toronto, Ontario M5W 1E6

COPY

Via fax (416) 205-2723

Dear Sir:

Re: Airbus

I have learned that the CBC has referenced that they have evidence that the writer was asked to have Mr. Schreiber provide a letter to Mr. Mulroney that "at no time did Mr. Mulroney solicit or receive compensation of any kind from Mr. Karlheinz Schreiber".

First off, to my mind, there is no such evidence because I never had a conversation with Brian Mulroney about compensation. The only conversations I had with anyone were in the context of and limited to the allegations of improper payments made as referenced in the September, 1995, Letter of Request delivered by the Canadian government to the Swiss authorities, in what became known as the "Airbus" case. My retainer was directed to the allegations stated in that Letter of Request.

I am forwarding this letter to hopefully clarify any misunderstanding of comments attributed to me.

Yours truly,

HLADUN & COMPANY

ROBERT W. HLADUN, Q.C.
RWH/dr

cc: Linden McIntyre, CBC
Producer, *the fifth estate*, Via fax (416) 205-6668 and mail
P.O. Box 500, Station "A", Toronto, Ontario M5W 1E6

cc: Client, Via fax

KARLHEINZ SCHREIBER

8912 KAUFERING · RAIFFEISENSTRASSE 27 · TELEFON (08191) 7884 · TELEFAX (08191) 7888

Date:
Datum: February 1, 1995 Telefax No. ~~001-416-205-6575-~~ 001-416-205-6668

To:
An: Mr. Harvey Cashore

From:
Von: Karlheinz Schreiber

Called

Total number of pages incl. cover page:
Gesamtseitenzahl, einschl. Deckblatt: -1-

Comments:
Bemerkungen:

Dear Mr. Cashore:

I regret to inform that it is impossible for me to meet with you Friday February 3, 1995 and ask you to understand that I would like to postpone this meeting for a short time out of the following reasons:

1) In the matter SPIEGEL / IAL prosecution is pending now.

2) Mr. von Blumencron informed me that his work does not include international or foreign matters but strictly internal German ones.

Both matters should be clarified before our meeting, and we should also find out if it wouldn't be better to have a meeting for just the two of us, as I cannot see that you will be interested in internal German matters.

I truly enjoyed our telephone conversation and hope to meet you personally soon. Should you have any questions in the meantime, kindly send me a fax.

Yours sincerely,

Karlheinz Schreiber

If you have any problmens with transmission, pls call 08191-7884
Bei Übermittlungsproblemen bitte anrufen: 08191-7884

KARLHEINZ SCHREIBER

86916 KAUFERING · RAIFFEISENSTRASSE 27 · TELEFON (0 81 91) 78 84 · TELEFAX (0 81 91) 78 88

Mr. Harvey Cashore

Fax no. 001-416-205-6668

March 1, 1995

Dear Mr. Cashore:

Back from my trip I found your message on my answering machine. I regret to say that at the moment I can't discuss your project with you.

As I already informed you during our last talk, the whole matter is now in the hands of a summary judge. Points of the charge are blackmailing, fraud, forgery of documents, theft, illegal passing on of informations, as well as solicitation and assistance in the aforesaid criminal acts.

According to my information charges will be preferred within reasonable time against various people. Those private persons and companies attacked and already injured will pursue the matter with great pressure, i.e. that besides court actions also considerable claims for damages and private law suits can be expected.

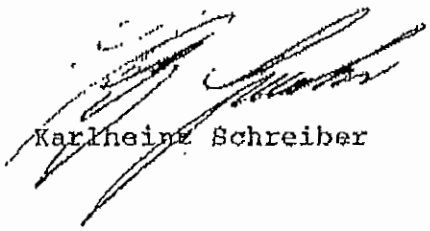
.../2

You again and again assured me that you are interested in objective and fair reporting to stop rumours. I, therefore, recommend to pursue the forthcoming law suits and to report afterwards which decisions were made by the courts dealing with these matters. I think this precedure will serve your wish for objective reporting best.

In any case you personally should be very careful to observe the fact that you only report (or otherwise inform) about things which comply with the facts and can be proven by you. This opinion is certainly just a personal piece of advice from me based on the informations I received in the meantime.

Please accept my best wishes for you and your young family for personal well being and much success for your work.

Yours sincerely,



Karlheinz Schreiber

09/09 14:41 1995 AT 514-397-3067 FROM +49 8191 7888 PAGE 6 (PRINTED PAGE 6)]
'95 20:39 ID: FAX:+49-8191-7888 SEITE 6

2

KARLHEINZ SCHREIBER

86916 KAUFERING · RAIFFEISENSTRASSE 27 · TELEFON (0 81 91) 79 84 · TELEFAX (0 81 91) 79 88

Mr. Harvey Cashore

Fax no. 001-416-205-6668

March 9, 1995
Schr / ka

Dear Mr. Cashore:

I confirm receipt of your fax dated March 6, 1995. In my opinion this fax shows an obvious lack of culture and intelligence. You seem to have a short memory or do you get carried away with your fantasy?

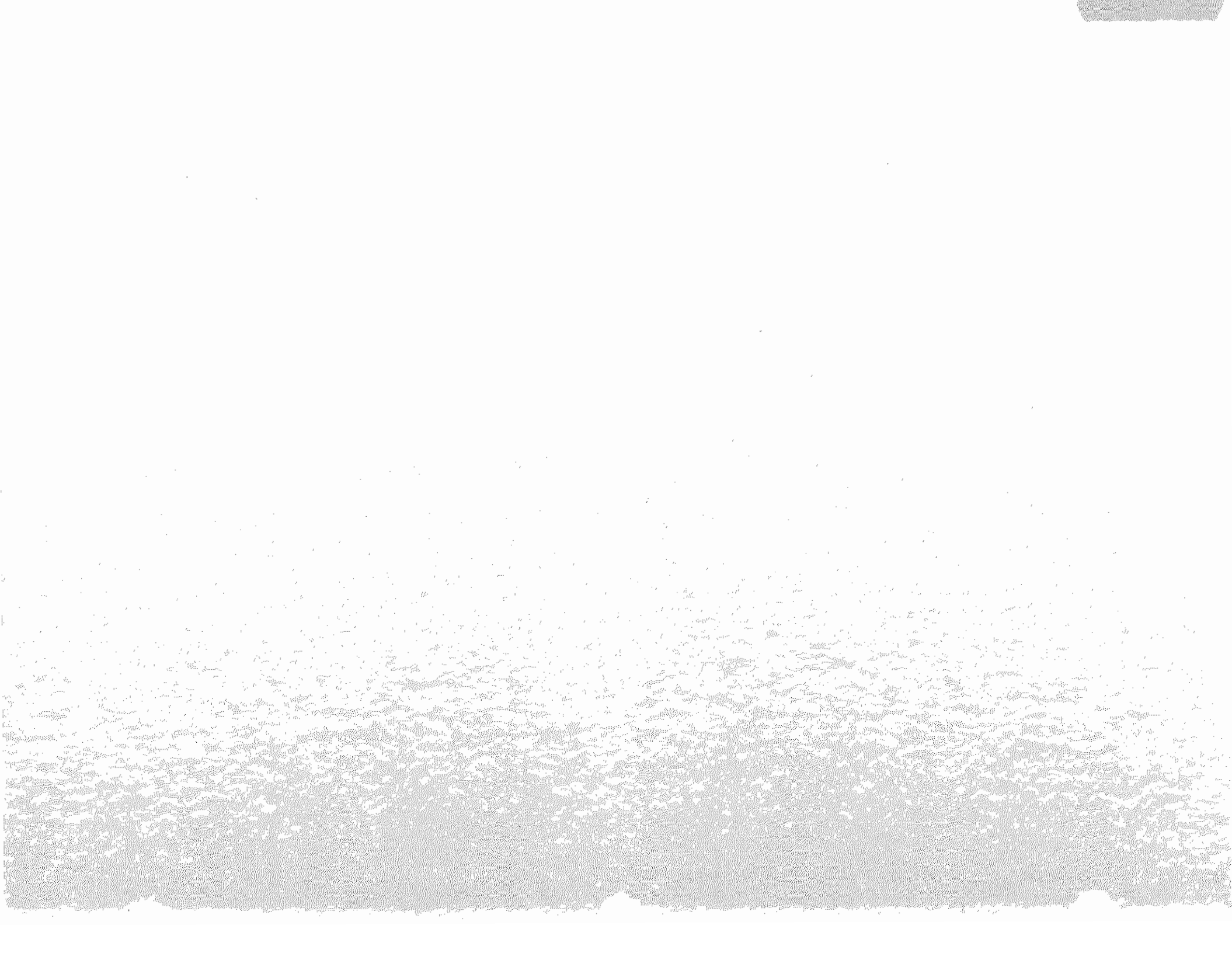
For a short while I believed in your integrity - unfortunately I failed. It looks to me that you can't stop making a fool out of yourself.

Future developments will prove the reality. I am convinced you will remember my last fax for a long time.

In closing this fax I confirm that I do not want any further contact with you.

Yours truly,

Karlheinz Schreiber



The Globe and Mail (Canada)

April 9, 2001 Monday

SECTION: NATIONAL NEWS; Pg. A5

LENGTH: 965 words

HEADLINE: Trail leads to numbered bank accounts, mysterious transactions

BYLINE: Globe and Mail staff

BODY:

More than one lawyer will be off to the bookstore this morning in search of *The Last Amigo*,a heftily documented examination of the business dealings of German-Canadian deal maker Karlheinz Schreiber, currently fighting extradition to Germany on tax evasion and bribery charges.

Along with Mr. Schreiber, former prime minister Brian Mulroney will assuredly be interested. So too will the RCMP officers in charge of the still-continuing inquiry into the Airbus imbroglio. German prosecutors in the Bavarian city of Augsburg, as well, will be anxious to learn of any revelations in Stevie Cameron and Harvey Cashore's new book, which goes on sale today.

In Canada, most of the protagonists will be either relieved or disappointed. The aroma of conspiracy wafts strongly, but if there are any seriously smoking guns here, they are hard to discern in the dense thicket of shell companies, numbered bank accounts and mysterious transactions that surround Mr. Schreiber's lobbying efforts here and elsewhere.

The authors' efforts, moreover, are undercut by having had no input from Mr. Schreiber, although in earlier years he and Mr. Cashore spoke several times.

That said, *The Last Amigo* - sequel to Ms. Cameron's bestselling *On The Take* - is not in vain, and the web of fiscal intrigue it seeks to unravel will likely be of much interest in Germany, where Mr. Schreiber's troubles have been a big story for years.

As shown in exhaustive detail, Mr. Schreiber had plenty of friends in high places, on both sides of the Atlantic, and that in seeking to expedite three big contracts between European aircraft and arms manufacturers and the Canadian government during the mid-1980s and early 1990s he had money to burn. Those millions of dollars sloshed around copiously.

How many millions, and what was its purpose? Did some go in bribes, as opposed to lobbying fees? The difference is crucial. Government agencies are forbidden by law from entering agreements that entail employees accepting

commissions. But nothing bars a paid lobbyist from schmoozing with his government pals and presenting his client's case.

Beyond denying any wrongdoing, Mr. Schreiber has thus far refused to shed any light on where the money went, although he has threatened to do so. "I could create the most horrible Watergate here in Canada if I wanted to," he once remarked to a German reporter. "But I'm keeping my bullets for the opportune time."

The gregarious middleman, now 67, may have had an eye on his extradition battle when he said that. In Germany, Mr. Schreiber is, among other things, charged with evading taxes on roughly $20-million worth of secret commissions allegedly paid out by the companies.

That money included $8-million from Airbus Industrie, the European consortium that in 1988 beat out its archrivals at Boeing Co., and sold 34 of its Airbus jets to Air Canada.

The tax charge puts Mr. Schreiber - and perhaps others - in an awkward spot. Under German law, there is nothing wrong with paying out commissions to secure business deals abroad, providing the recipients are foreigners. If he kept the money he allegedly got from his corporate clients, then he owes the tax. If he did not, then it appears to have gone into the pockets of his many Canadian friends.

Back to Airbus. The controversial deal was, and presumably still is, the chief focus of the RCMP investigation that went notoriously awry in 1995 when a leaked letter to Swiss authorities wrongly suggested Mr. Mulroney engaged in "criminal acts" (implying bribery) in connection with the acquisition of the jets. An apology from the Liberal government, and a payment of his expenses in the case, eased Mr. Mulroney's outrage at what he called "the worst thing that has ever happened to me in my life."

No criminal charges have ever been laid over Airbus, and nothing in this new book takes the trail any closer to Mr. Mulroney's door, although along with plenty of other Ottawa insiders, notably former Newfoundland premier Frank Moores, the former prime minister clearly met Mr. Schreiber several times. Nor, indeed, is there evidence of criminality by anyone else in Canada. (The story is different in Germany, where illegal donations by Mr. Schreiber and others to the Christian Democratic Party, concealed in hidden bank accounts, contributed to the resignation of then-chancellor Helmut Kohl.)

But the fees that greased Mr. Schreiber's lobbying are another matter. The authors reckon that at least $13.5-million was paid out in Canada, chunks of which ended up in numbered Swiss bank accounts. But for the most part they still don't know who the recipients were, despite what must have been a daunting effort to connect the dots.

As with the RCMP probe, *The Last Amigo* examines not just Airbus, but also Mr. Schreiber's efforts on behalf of Messerschmitt Bolkow Blohm, anxious to sell helicopters to the Canadian Coast Guard, and Thyssen Industrie, which wanted to build tanks in Nova Scotia.

As well as trying to influence Canadian government policy, Mr. Schreiber took a role in this country's political process. He has acknowledged helping pick up the tab for sending two planeloads of Quebec delegates to the Progressive Conservative Party's 1983 leadership review. Those delegates voted against leader Joe Clark, preventing him from getting the 70-per-cent vote of confidence he sought, and Mr. Clark stepped down.

He was replaced by Mr. Mulroney, who became prime minister the next year, and in 1987 the federal government purchased 12 of MBB's helicopters.

A coincidence? The authors doubt it. Evidence of wrongdoing, however, is not to be found. Which is perhaps the point. The line that separates influence-peddling from corruption is often invisible. And, as the authors found, extremely hard to prove.

GRAPHIC: Illustration

LOAD-DATE: September 21, 2006

The Gazette (Montreal)

November 14, 2007 Wednesday
Final Edition

SECTION: NEWS; Pg. A1

LENGTH: 898 words

HEADLINE: Now Mounties weigh in; Harper yields on public inquiry as RCMP determine whether German's claims warrant probe

BYLINE: JACK AUBRY, CanWest News Service

DATELINE: OTTAWA

BODY:

The RCMP will look into fresh allegations concerning Brian Mulroney and Karlheinz Schreiber as Prime Minister Stephen Harper announced a public inquiry into the controversial relationship between the former Tory prime minister and the German businessman.

Harper told the Commons yesterday that he has agreed to an inquiry into the Mulroney-Schreiber affair that resulted in a $2.1-million libel settlement from taxpayers to Mulroney.

Harper was frugal with details on the inquiry, underlining that its terms of reference would be spelled out by an independent adviser who has yet to be named.

Natalie Deschênes, a spokesperson for the RCMP, said the force is examining claims made by Schreiber in a sworn affidavit in a lawsuit against Mulroney in connection with $300,000 in cash that he paid the former prime minister in 1993 and 1994.

Schreiber's affidavit, which was filed in Ontario Superior Court last week, claimed that he discussed an agreement worth $300,000 with Mulroney at the prime minister's summer residence at Harrington Lake before he left office in 1993.

Mulroney says he was paid the money for private business dealings and was late paying income tax on the three $100,000 payments he received from Schreiber because he was traumatized by allegations made against him by the RCMP.

Last night in Toronto, a defiant Mulroney vowed to "fight and win," to clear his good name for the second time in 12 years from allegations of shady dealings.

Earning two standing ovations from fellow alumni of St. Francis Xavier University, the former Conservative prime minister said he will be there "with bells on" to testify before a public inquiry.

Mulroney said he was pleased Harper announced the inquiry, the morning after he himself called for such a probe to find out who is behind the "vendetta" that has dogged him since leaving office in 1993.

He said that for most of his term in office he was treated well by the press, but after stepping down from public life he has been the victim of smears and innuendo that are impossible to dispel. He likened it to "punching Jell-O."

Mulroney repeated his demand certain journalists be subpoenaed to testify at the inquiry "so that their conduct and their motives can be fully analyzed."

"There can be no exclusions, there can be no exceptions," he said.

"Twelve years ago, I was falsely accused. I fought and I won. Now it seems I'm going to have to fight again. I'm not pleased about it, but so be it. I'm going to fight and win again," he said to applause.

The RCMP launched an investigation in the mid-1990s, but shut it down a few years after the government apologized to Mulroney and settled with him out of court.

Deschênes said the new information that has come to light from Schreiber could lead the RCMP to open a formal investigation. She emphasized that there was nothing unusual in the preliminary examination that was confirmed yesterday.

In a statement made public after question period yesterday, Harper said the independent adviser will also review the material filed by Schreiber and if any "evidence of criminal action" is identified, advice will be given on how to handle it. The adviser is also tasked with assessing the impact such a circumstance could have on the broader public inquiry.

In an interview, Schreiber said he is confident an inquiry, which he has been seeking for years, will allow him to stay in Canada. Schreiber, now being held in a detention centre near the Toronto airport, faces extradition to Germany to face tax and fraud charges. His extradition hearing is tomorrow.

Calling the affair the biggest scandal in Canadian history, Schreiber said he expects to walk out of prison on Friday morning. But if he is to be extradited, Schreiber said, his documents to support his allegations "are in a safe place."

During question period in the Commons, opposition MPs demanded to know what the Prime Minister's Office knew about the relationship between Mulroney and the German-Canadian lobbyist.

Harper and Justice Minister Rob Nicholson, who was a parliamentary secretary in the Mulroney government, were peppered with questions about letters the Prime Minister's Office received from Schreiber in the past seven months. Those letters contain allegations about the agreement he claims he reached with Mulroney just before that prime minister left office.

Dismissing suggestions of a cover-up, Nicholson differentiated between the letters, which he says never reached senior officials, and Schreiber's affidavit, which is a sworn legal document. The affidavit, he said, got the government's attention last week.

NDP MP Pat Martin called for the Commons ethics committee to also look into the controversy, and asked Harper to hold the public inquiry before the next federal election.

"Mr. Speaker, it was the culture of secrecy that allowed corruption to flourish under the Liberal regime," Martin told the Commons. "Now the stink of corruption is hanging over the Conservative government, with allegations of a former prime minister accepting brown paper bags full of money in secret hotel room meetings."

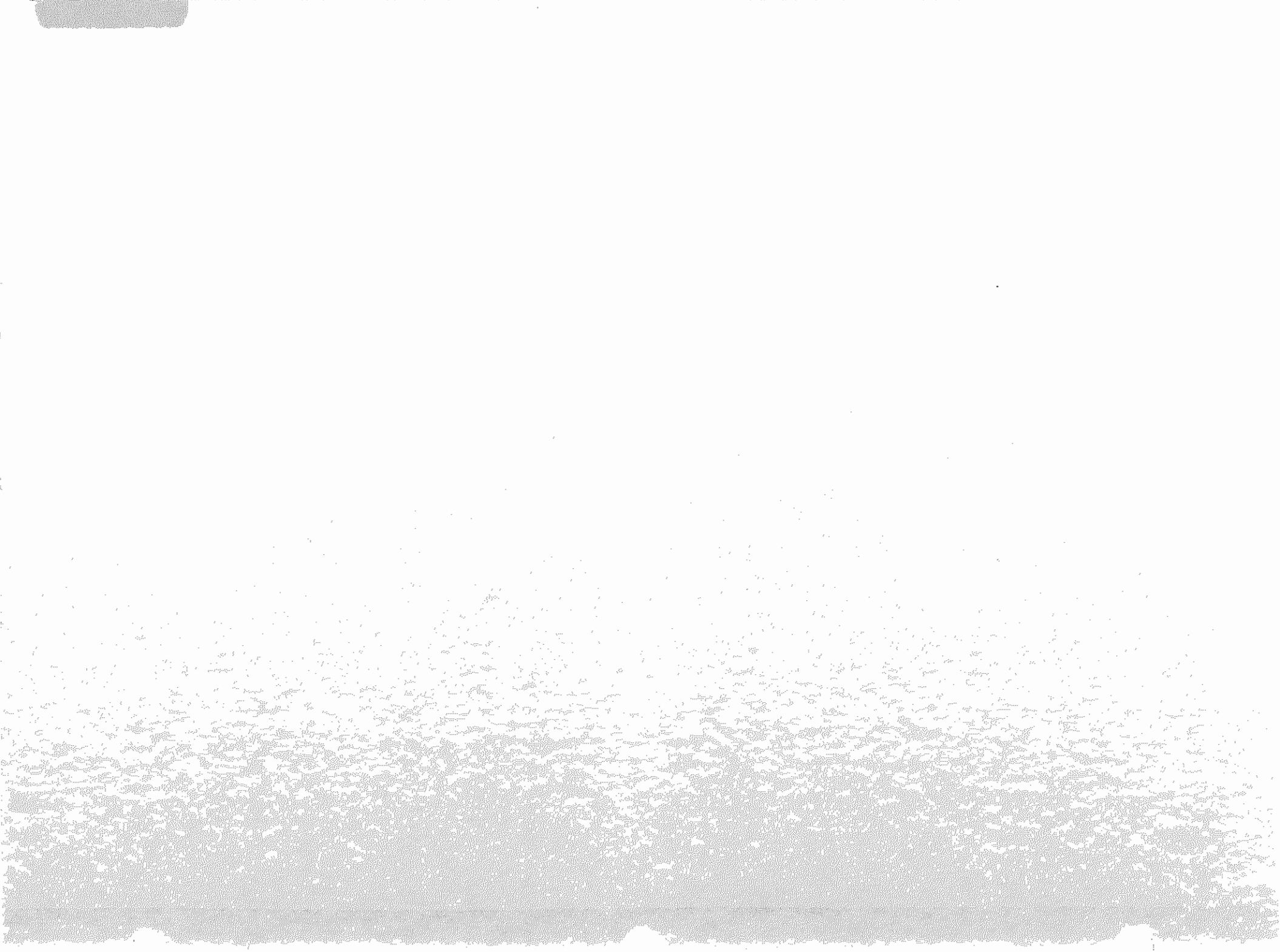
He said former justice minister Allan Rock had "folded like a cheap suit" by settling a libel lawsuit with Mulroney in 1997 for $2.1 million.

Liberal leader Stéphane Dion has said the government probably would not have settled with Mulroney if they had known about the $300,000 in "secret" payments.

Ottawa Citizen

GRAPHIC:
Colour Photo: PETER J. THOMPSON, NATIONAL POST; Brian Mulroney spoke in Toronto last night at a fundraiser for his alma mater, St. Francis Xavier University. He said that since leaving public life, he has been the victim of smears and innuendo that are impossible to dispel. ;

LOAD-DATE: December 7, 2007



STATEMENT BY MINISTER NICHOLSON FOLLOWING THE SUPREME COURT OF CANADA'S DECISION REGARDING MR. KARLHEINZ SCHREIBER

OTTAWA, March 6, 2008 - The Honourable Rob Nicholson, Minister of Justice and Attorney General of Canada made the following statement today following the Supreme Court of Canada's decision to dismiss Mr. Karlheinz Schreiber's application for leave to appeal.

"With the dismissal of the leave application by the Supreme Court of Canada, Mr. Schreiber is now eligible for immediate surrender to Germany.

As Minister of Justice, I do not have authority to delay Mr. Schreiber's surrender pursuant to section 42 of the Extradition Act. Section 42 is not designed to deal with the issue of delay. Section 69 of the Extradition Act specifies that Mr. Schreiber must be surrendered to Germany within 45 days, after which time he has the right to apply for a discharge. However, through his counsel, Mr. Schreiber has requested a delay and agreed to waive his right under section 69 to apply for a discharge if he is not surrendered to German authorities within the next 45 days.

Therefore, because Mr. Schreiber has agreed to waive his right to apply for a discharge under section 69, I am prepared to defer the execution of his surrender order until he has had the opportunity to testify before the anticipated public inquiry into matters pertaining to the Right Honourable Brian Mulroney and Mr. Karlheinz Schreiber.

In this way, the public interest is served as Canadians will have the benefit of hearing Mr. Schreiber's testimony on Canadian soil while at the same time preserving my ability to give effect to the German extradition request and fulfilling my mandate as Minister of Justice and Attorney General of Canada under the Extradition Act.

With respect to the issue of bail, this is a matter to be addressed by the courts. Should Mr. Schreiber make an application for bail, counsel for the Government of Canada will respond in the normal course."

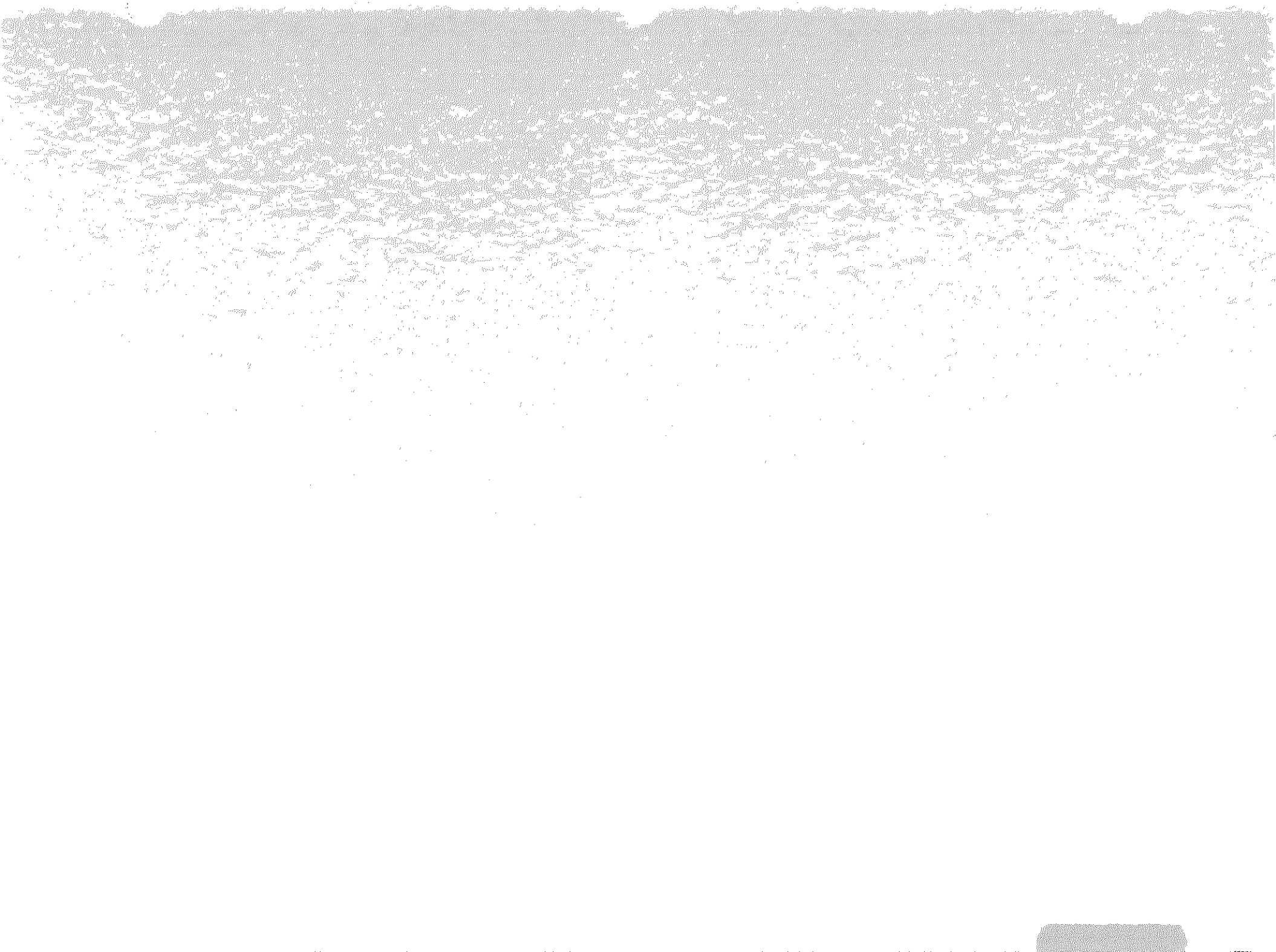
-30-

Ref.:

Darren Eke
Press Secretary
Office of the Minister of Justice
613-992-4621

Media Relations
Department of Justice
613-957-4207

Date Modified: **2008-12-12**



[2000] O.J. No. 2618

2000 CarswellOnt 5257

Germany (Federal Republic) v. Schreiber
Federal Republic of Germany, Extradition Partner and Karlheinz Schreiber, Person Sought
Ontario Superior Court of Justice
Watt J.
Judgment: July 6, 2000
Docket: None given

Counsel: Thomas Beveridge, Howard D. Piafsky, for Extradition Partner

Edward L. Greenspan, Q.C., Ms Alison J. Wheeler for Person Sought

Ms Charleen H. Brenzall, for R.C.M.P.

Subject: Criminal; Evidence

Criminal law --- Extradition proceedings -- Extradition from Canada -- Conduct of hearing -- Role of judge -- Jurisdiction

Accused was subject of extradition request for fiscal offences -- Accused had been subject of prior investigation in Canada -- Accused wanted opportunity to establish that he was sought for investigation and not prosecution -- Accused also intended to argue abuse of process -- Accused brought application for order compelling disclosure of all material in hands of requesting state, all material relating to prior Canadian investigation and all material relating to extradition proceedings -- Application dismissed -- Minister of Justice had exclusive jurisdiction at initial stage to determine if individual was sought for prosecution and matter could not be reviewed by extradition judge -- Role of extradition judge was limited to establishing identity of accused and determining sufficiency of evidence for committal -- Accused had received record of case and that was all he was entitled to -- Any concerns with Minister's conduct were to be raised after committal -- Extradition judge did not have authority to order disclosure from requesting state and such order could not be enforced in any event -- Extradition Act, S.C. 1999, c. 18, ss. 3(1), 29(1)(a), 32(1)(c).

Criminal law --- Extradition proceedings -- Extradition from Canada -- Evidence at hearing -- General

Accused was subject of extradition request for fiscal offences -- Accused had been subject of prior investigation in Canada -- Accused wanted opportunity to establish that he was sought for investigation and not prosecution -- Accused also intended to argue abuse of process -- Accused brought application for order compelling disclosure of all material in hands of requesting state, all material relating to prior Canadian investigation and all material relating to extradition proceedings -- Application dismissed -- Minister of Justice had exclusive jurisdiction at initial stage to determine if individual was sought for prosecution and matter could not be reviewed by extradi-

tion judge -- Role of extradition judge was limited to establishing identity of accused and determining sufficiency of evidence for committal -- Accused had received record of case and that was all he was entitled to -- Any concerns with Minister's conduct were to be raised after committal -- Extradition judge did not have authority to order disclosure from requesting state and such order could not be enforced in any event -- Extradition Act, S.C. 1999, c. 18, ss. 3(1), 29(1)(a), 32(1)(c).

Cases considered by Watt J.:

Argentina (Republic) v. Mellino, 52 Alta. L.R. (2d) 1, (sub nom. Argentina v. Mellino) [1987] 1 S.C.R. 536, (sub nom. Republic of Argentina v. Mellino) 40 D.L.R. (4th) 74, 76 N.R. 51, [1987] 4 W.W.R. 289, 80 A.R. 1, 33 C.C.C. (3d) 334, 28 C.R.R. 262 (S.C.C.) -- referred to

Germany (Federal Republic) v. Krapohl (1998), 110 O.A.C. 129 (Ont. C.A.) -- considered

Idziak v. Canada (Minister of Justice), 17 C.R. (4th) 161, 9 Admin. L.R. (2d) 1, 12 C.R.R. (2d) 77, [1992] 3 S.C.R. 631, 59 O.A.C. 241, 77 C.C.C. (3d) 65, 97 D.L.R. (4th) 577, 144 N.R. 327 (S.C.C.) -- considered

Kindler v. Canada (Minister of Justice), 8 C.R. (4th) 1, [1991] 2 S.C.R. 779, 67 C.C.C. (3d) 1, 84 D.L.R. (4th) 438, 129 N.R. 81, 6 C.R.R. (2d) 193, 45 F.T.R. 160 (note) (S.C.C.) -- considered

Pokidyshev, Re (1999), (sub nom. Russian Federation v. Pokidyshev) 178 D.L.R. (4th) 91, 27 C.R. (5th) 316, 124 O.A.C. 24, (sub nom. Russian Federation v. Pokidyshev) 138 C.C.C. (3d) 321 (Ont. C.A.) -- considered

R. v. Girimonte (1997), 121 C.C.C. (3d) 33, 12 C.R. (5th) 332, 48 C.R.R. (2d) 235, 105 O.A.C. 337, 37 O.R. (3d) 617 (Ont. C.A.) -- considered

R. v. Mills, (sub nom. Mills v. R.) [1986] 1 S.C.R. 863, (sub nom. Mills v. R.) 29 D.L.R. (4th) 161, (sub nom. Mills v. R.) 67 N.R. 241, 16 O.A.C. 81, (sub nom. Mills v. R.) 26 C.C.C. (3d) 481, 52 C.R. (3d) 1, (sub nom. Mills v. R.) 21 C.R.R. 76, (sub nom. Mills v. R.) 58 O.R. (2d) 544 (note) (S.C.C.) -- considered

R. v. Rahey, 75 N.R. 81, [1987] 1 S.C.R. 588, 39 D.L.R. (4th) 481, 78 N.S.R. (2d) 183, 33 C.C.C. (3d) 289, 57 C.R. (3d) 289, 33 C.R.R. 275, 193 A.P.R. 183 (S.C.C.) -- considered

R. v. Schmidt, 76 N.R. 12, (sub nom. Canada v. Schmidt) [1987] 1 S.C.R. 500, 39 D.L.R. (4th) 18, 20 O.A.C. 161, 33 C.C.C. (3d) 193, (sub nom. Schmidt v. R.) 58 C.R. (3d) 1, (sub nom. Schmidt v. Canada) 28 C.R.R. 280, 61 O.R. (2d) 530 (S.C.C.) -- considered

R. v. Stinchcombe (1991), [1992] 1 W.W.R. 97, [1991] 3 S.C.R. 326, 130 N.R. 277, 83 Alta. L.R. (2d) 193, 120 A.R. 161, 8 C.R. (4th) 277, 18 C.R.R. (2d) 210, 68 C.C.C. (3d) 1, 8 W.A.C. 161 (S.C.C.) -- considered

United States v. Cobb (1999), 125 O.A.C. 122, 139 C.C.C. (3d) 283 (Ont. C.A.) -- considered

United States v. Ding (June 3, 1996), Doc. Vancouver CA020385 (B.C. C.A.) -- considered

United States v. Dynar, (sub nom. United States of America v. Dynar) 115 C.C.C. (3d) 481, (sub nom. United States of America v. Dynar) 213 N.R. 321, (sub nom. United States of America v. Dynar) 147 D.L.R. (4th) 399, (sub nom. United States of America v. Dynar) 101 O.A.C. 321, 8 C.R. (5th) 79, (sub nom. United States of America v. Dynar) 33 O.R. (3d) 478 (headnote only), (sub nom. United States of America v. Dynar) 44 C.R.R. (2d) 189, (sub nom. United States of America v. Dynar) [1997] 2 S.C.R. 462 (S.C.C.) -- considered

United States v. Kwok (1998), 163 D.L.R. (4th) 128, 127 C.C.C. (3d) 353, 55 C.R.R. (2d) 172, 112 O.A.C. 312, 41 O.R. (3d) 131 (Ont. C.A.) -- considered

United States v. Lépine (1993), 163 N.R. 1, 69 O.A.C. 241, [1994] 1 S.C.R. 286, 87 C.C.C. (3d) 385, 111 D.L.R. (4th) 31 (S.C.C.) -- referred to

Von Einem v. Germany (Federal Republic) (1984), 14 C.C.C. (3d) 440 (B.C. C.A.) -- referred to

Statutes considered:

Canadian Charter of Rights and Freedoms, Part I of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (U.K.), 1982, c. 11

Generally -- referred to

s. 7 -- considered

s. 11(b) -- referred to

s. 24 -- considered

Constitution Act, 1982, being Schedule B to the Canada Act 1982 (U.K.), c. 11, reprinted R.S.C. 1985, App. II, No. 44

Generally -- considered

Criminal Code, R.S.C. 1985, c. C-46

Pt. XVIII -- considered

s. 121 -- referred to

s. 121(1)(a) -- referred to

s. 368(1)(b) -- referred to

s. 380(1)(a) -- referred to

s. 426(1)(a) -- referred to

s. 548(1) -- considered

Extradition Act, R.S.C. 1985, c. E-23

s. 9(3) -- considered

s. 18(1)(b) -- considered

Extradition Act, S.C. 1999, c. 18

Generally -- considered

s. 3(1) -- considered

s. 3(1)(a) -- considered

s. 3(2) -- considered

s. 3(3) -- considered

s. 7 -- considered

s. 11 -- considered

s. 11(2) -- considered

s. 12 -- considered

s. 13 -- referred to

s. 15 -- considered

s. 15(1) -- considered

s. 24(1) -- considered

s. 24(2) -- considered

s. 25 -- considered

s. 29 -- considered

s. 29(1) -- considered

s. 29(1)(a) -- considered

s. 29(1)(b) -- considered

s. 29(3) -- considered

s. 32(1)(c) -- considered

ss. 49-56 -- considered

s. 57 -- considered

Income Tax Act, R.S.C. 1985, c. 1 (5th Supp.)

s. 239(1)(a) -- referred to

s. 239(1)(d) -- referred to

Treaties considered:

Extradition Treaty Between Canada and Germany, [1979] C.T.S. 18

Generally -- considered

Article I -- referred to

Article II ¶ 5 -- considered

Article XIII -- considered

Article XVII ¶ 2 -- considered

APPLICATION by accused for order compelling disclosure in extradition proceeding.

Watt J.:

1 For the past several years, Karlheinz Schreiber has lived in Canada. He has become and remains a Canadian citizen. He is also a German citizen.

2 The Federal Republic of Germany has asked Canada to extradite Karlheinz Schreiber to Germany so that he can be prosecuted there for a variety of crimes. The Minister of Justice has authorized the Attorney General of Canada to proceed to seek an order of committal.

3 When the extradition hearing began, Karlheinz Schreiber sought disclosure of a variety of materials connected with the foreign prosecution, a previous domestic investigation with international implications and the extradition proceedings themselves.

4 Mr. Schreiber takes the position that what he seeks is relevant to several justiciable issues in the extradition proceedings, particularly to his right to make full answer and defence in those proceedings.

5 Counsel for the extradition partner, the Federal Republic of Germany, takes the opposite view: what is sought, he submits, has nothing to do with the extradition hearing. An extradition judge, quite simply, has no jurisdiction or authority to make the order sought.

6 To determine the shape of things to come, I am required to decide whether I have or lack the jurisdiction to order what is sought, assuming that the necessary evidentiary foundation has been put in place.

A. The Background Facts

I. Introduction

7 This preliminary issue does *not* require any elaborate recital of the facts that underlie the allegations con-

tained in the extradition request. At the same time, some reference to them is inescapable so that the disclosure requests may be put in their appropriate context. For similar reasons, a brief résumé of the procedural history of the matter is in order.

2. The Allegations: An Overview

8 The allegations that underlie the extradition request involve Mr. Schreiber's activities on behalf of a handful of European companies. In essence, it is said that Mr. Schreiber negotiated contracts on behalf of these corporate entities and was paid substantial commissions for his efforts. The income, the allegations are, was paid directly to corporate entities under Schreiber's direction or control, thereafter paid out to him or on his direction. Taxes were exigible on this income, but the income was *not* declared.

9 The specific allegations include

> i. the negotiation of the sale of twelve (12) helicopters by M.B.B. to the Canadian Coast Guard;
>
> ii. the negotiation of the sale of thirty-four (34) Airbus A20 aircraft by Airbus Industries G.I.E. to Air Canada and of further similar aircraft to Thai Airways International;
>
> iii. the negotiation of the sale of thirty-six (36) tanks by Thyssen Industries AG to the Kingdom of Saudi Arabia; and,
>
> iv. negotiations on behalf of Thyssen with the Canadian government for other promised purchases.

10 The allegations are contained in the Warrant of Arrest dated May 7, 1997, and the Report of the Case. A further Warrant of Arrest, said to have been issued September 2, 1999, has *not* been filed.

3. The Arrest of Karlheinz Schreiber

11 On August 27, 1999, the Federal Republic of Germany requested the provisional arrest and detention of Karlheinz Schreiber to await extradition proceedings. The request mentions offences of

> i. tax evasion, of both income and trade tax;
>
> ii. bribery; and,
>
> iii. aiding and abetting criminal breach of trust.

12 On August 30, 1999, Karlheinz Schreiber was arrested on a provisional warrant issued under s. 13 of the *Extradition Act*. He has subsequently been released from custody pending the extradition hearing that has now begun.

4. The Authority to Proceed

13 On November 12, 1999, counsel in the International Assistance Group signed an Authority to Proceed under s. 15 of the *Extradition Act* on behalf of the Minister of Justice. The *Canadian* offences that correspond to the alleged conduct described in the materials from the Federal Republic of Germany are these:

> i. income tax evasion, contrary to s. 239(1)(d) of the *Income Tax Act*;

ii. making false or deceptive statements in an income tax return, contrary to s. 239(1)(a) of the *Income Tax Act*;

iii. defrauding the government of income tax revenues, contrary to s. 380(1)(a) of the *Criminal Code*;

iv. uttering a forged document, contrary to s. 368(1)(b) of the *Criminal Code*;

v. defrauding the government of the Kingdom of Saudi Arabia, contrary to s. 380(1)(a) of the *Criminal Code*;

vi. defrauding Thyssen Industrie AG, contrary to s. 380(1)(a) of the *Criminal Code*;

vii. corruptly accepting a secret commission, contrary to s. 426(1)(a) of the *Criminal Code*; and,

viii. giving to an official a loan, reward, advantage or benefit as consideration for cooperation, assistance or exercise of influence in connection with a matter of business relating to the government, contrary to s. 121(1)(a) of the *Criminal Code*.

14 The relevant *German* offences include:

i. *income* tax evasion for taxation years 1988-1993;

ii. *trade* tax evasion for taxation years 1988-1993;

iii. bribery;

iv. aiding and abetting fraud; and,

v. aiding and abetting breach of trust.

B. The Application

1. Introduction

15 It is time to turn to the specifics of the application for disclosure and the circumstances in which the preliminary question, one of "jurisdiction" according to the Federal Republic of Germany, arises.

2. The Materials Sought

16 The materials that Karlheinz Schreiber seeks and claims are necessary to make full answer and defence at his extradition hearing cover a broad range. They are domestic and foreign, brief and voluminous. They are as unremarkable as the warrant of arrest issued on September 2, 1999, and as complex as the documentary materials and depositions relied upon by the Federal Republic, more accurately the German prosecutor, to support his case.

3. The Warrant of Arrest and Supporting Materials

17 Karlheinz Schreiber seeks disclosure of the warrant of arrest issued on September 2, 1999. He also wants production of any materials, whatever their format may be, received by the Canadian authorities from Germany in connection with *any* extradition request that the Federal Republic has made of Canada about him.

18 These materials, according to Mr. Schreiber, are *relevant* to an issue at the extradition hearing. They may assist in determining whether Karlheinz Schreiber is "a person sought for prosecution" under the *Extradition Act* and governing treaty. A person "sought for investigation" is *not* one who is "sought for prosecution". If Mr. Schreiber is *not* "sought for prosecution", the argument continues, there is *no* authority to seek or order his surrender under the *Act* or treaty.

4. The Prior Investigation Materials

19 On September 29, 1995, Kimberly Prost, senior Counsel and Director of the International Assistance Group for the Minister of Justice of Canada sent a Request for Assistance to the Competent Legal Authority of Switzerland on behalf of the Minister and Attorney General of Canada. The assistance requested included banking information relating to accounts of named individuals, including Karlheinz Schreiber, and of corporate entities, including International Aircraft Leasing and Kensington Anstalt. The offences under investigation were alleged breaches of s. 121 of the *Criminal Code of Canada*.

20 Karlheinz Schreiber seeks disclosure of *any* materials in the possession of the R.C.M.P. or Canadian government as a result of the domestic investigation described in the Request for Assistance, including any memoranda, internal briefing documents and similar materials in connection with the request.

21 Mr. Schreiber contends that these materials are also relevant to the threshold test to be applied in these extradition proceedings. They relate to Karlheinz Schreiber's relationship with corporate entities that are alleged to be essential vehicles in the tax evasion scheme for which he is sought in Germany. The other materials are relevant to the issue of whether the extradition proceedings constitute an abuse of process, another issue for the extradition hearing judge to decide.

5. The Materials from the Requesting State

22 Karlheinz Schreiber also seeks disclosure of any documents or depositions, or any other materials relied upon by the prosecutor in the Federal Republic in making the assertions contained in the Record of the Case filed in support of the extradition request.

23 According to Mr. Schreiber, these documents are relevant as well on the hearing before the extradition judge. He wants them because the (Schreiber) has a right to adduce evidence to show that the test for committal under s. 29(1)(a) of the *Act* has *not* been met. This evidence would be admissible, he submits, under s. 32(1)(c) of the *Act*. Disclosure of it is necessary for Mr. Schreiber to make full answer and defence at the hearing.

C. The Positions of the Parties

1. Introduction

24 Brief reference has already been made, to some extent, to the position of Karlheinz Schreiber in connection with the disclosure he seeks. At the risk of repetition, I endeavour a brief canvas of the positions of both parties on the jurisdictional issue.

2. The Position of Karlheinz Schreiber

25 For Karlheinz Schreiber, whom I shall describe as "the Applicant", Mr. Greenspan contends that there can be *no* order of committal to await surrender under s. 29(1)(a) of the *Act* unless the Applicant is "a person sought

for prosecution" in the requesting state. This requirement is also inherent in s. 3(1) of the *Act*, which articulates the general principles applicable to extraditable conduct.

26 Whether the person who is the subject of an extradition request is "a person sought for prosecution" is a matter of statutory interpretation or construction for the extradition hearing judge to decide. It is a condition precedent to the *jurisdiction* to order committal to await surrender, on the same footing as the requirement that there be sufficient admissible evidence to warrant committal in domestic proceedings and evidence of identity. Each of these requirements are for the extradition hearing judge to decide, *not* for the Minister to pre-determine by issuing the Authority to Proceed.

27 The argument for disclosure is that *any* materials that are relevant to a determination concerning the applicant's status as "a person sought for prosecution" should be disclosed. After all, the argument continues, s. 32(1)(c) permits the person sought for extradition to adduce evidence that is relevant to the tests set out in s. 29(1). Entitlement to adduce the evidence translates into a corresponding *duty* on the extradition partner to disclose it.

28 It is the Applicant's position, further, that the decision to issue the authority to proceed must be made by a decision-maker who is unencumbered by actual or apparent bias. The disclosure requested, in essence the materials relating to the 1995 Canadian Request for Assistance from Swiss authorities, is relevant to and demonstrative of bias, or at least a reasonable apprehension of it. In the result, what is sought is of value in determining whether the decision of domestic authorities to proceed with the request is an abuse of process, remediable as a *Charter* infringement under s. 7 of the *Charter* and s. 25 of the *Act*.

29 Mr. Greenspan contends that disclosure of what might compendiously be described as "the German materials", in other words,

> i. what was sent to Canada in support of the request for extradition; and,
>
> ii. what is relied upon by the foreign prosecutor in making the assertions contained in the Record of the Case,

is also essential. These materials, he submits, bear on at least two (2) questions that are mine to decide as the extradition hearing judge:

> i. whether the Applicant is "a person sought for prosecution" in Germany within the relevant provisions of the *Extradition Act*; and,
>
> ii. whether there is *any* admissible evidence to justify committal under domestic law.

Disclosure is essential for the Applicant to make full answer and defence to the Federal Republic's request for extradition.

3. The Position of the Respondent Extradition Partner

30 It is the position of Mr. Beveridge for the Federal Republic, the extradition partner, that the extradition hearing judge has *no* authority to make the disclosure orders requested. The issues raised, to which the sought-after material is relevant, are *not* justiciable on this hearing, even under the newly-proclaimed *Extradition Act* in which the authority of the hearing and *habeas corpus* judge is merged.

31 Mr. Beveridge submits that an extradition hearing judge has a limited or modest function. His or her authority is entirely a creature of statute. Section 29(1)(a) of the *Act* defines that jurisdiction in the circumstances of this case. The *Charter* jurisdiction for which provision is made in s. 25 of the *Act* is linked to the statutory authority otherwise conferred. It is *not* the plenary authority otherwise available to judges of the superior court of criminal jurisdiction in domestic matters under *Charter* s. 24.

32 To begin with the request for disclosure of the warrant of arrest and materials submitted to the Canadian authorities in support of this and any other extradition request, Mr. Beveridge urges that whether the Applicant is "a person sought for prosecution" is a question for the Minister, *not* the extradition hearing judge to decide. The Minister is responsible for dealing with request for extradition. It is for the Minister to say whether the requirements of s. 3(1)(a) of the *Act* have been met. These requirements include a determination whether an individual is sought for prosecution within the jurisdiction of the extradition partner. These conditions must be met before the Minister may direct the Attorney General to apply for a provisional arrest warrant under s. 12 or issue an authority to proceed under s. 15 that authorizes the Attorney General to seek, on behalf of the extradition partner, an order of committal for surrender. The authority of the extradition hearing judge, on the other hand, is bordered by s. 29(1) of the *Act*, which makes *no* mention of this issue. In essence, the argument continues, what is sought has *everything* to do with the political function, reviewable by the Court of Appeal, and *nothing* to do with the judicial function, at least so far as I am concerned.

33 The submissions of the Federal Republic about disclosure of the "Swiss materials" follow a similar path, at least in part, before turning in a somewhat different direction. Woven throughout the submissions of the extradition partner is the modest role of the extradition judge and the clear division of responsibility between the judge and the Minister. Neither reviews the other's decisions, nor steps into the other's area of responsibility.

34 According to Mr. Beveridge, there is no *nexus* between the "Swiss materials" and the request of the Federal Republic for extradition, other than by way of subject-matter or a common target. The Federal Republic places *no* reliance on these materials to support its request. The request is grounded on a *German* investigation conducted by *German* authorities in which the *Canadian* request for Swiss assistance plays *no* part. The material would *not* even be disclosable, he submits, in Canada, at least at the moment, in the absence of a charge.

35 There is a further reason for the nondisclosure of the Swiss materials, the Federal Republic urges. The request is made so that the Applicant can show that he does *not* control companies such as International Aircraft Leasing, entities that are at the core of the case against him in the Federal Republic. But this involves, at least potentially, Mr. Beveridge submits, issues of foreign law. Questions of that nature are for the Minister, *not* for the extradition hearing judge to determine.

36 Mr. Beveridge argues that a similar jurisdictional deficit exists in relation to the German materials. In essence, he contends, the Applicant wants disclosure of the prosecutor's file to an extent equivalent to what he would receive in a domestic prosecution. "No can do", contends Mr. Beveridge. The *Extradition Act* neither requires nor permits it. This degree of disclosure is contrary to the requirements of the treaty. The Applicant is entitled to, and has, the Record of the Case. His entitlement extends no further. Neither does any authority to top it up. At all events, the order requested is unenforceable, all to no avail, *not* to mention antithetical to the operation of the *Act*.

D. Analysis

1. Introduction

37 The authority of a judge on an extradition hearing is furnished as well as circumscribed by the provisions of the *Extradition Act* and any applicable agreement. In this case, the applicable agreement is the extradition treaty between Canada and Germany, which came into force on September 30, 1979. This combination of statute and treaty marks out the borders of my authority on this hearing.

2. Extraditable Conduct

38 Under s. 3(1) of the *Act*, a person may be extradited from Canada, in accordance with the *Act* and governing treaty, on the request of an extradition partner, for any of three (3) purposes,

> i. *prosecuting* the person;
>
> ii. *imposing* a sentence on the person; or,
>
> iii. *enforcing* a sentence already imposed on the person,

for conduct that amounts to an offence described in the section in both Canada and the jurisdiction of the extradition partner. The provision is in these terms:

> 3. (1) A person may be extradited from Canada in accordance with this Act and a relevant extradition agreement on the request of an extradition partner for the purpose of prosecuting the person or imposing a sentence on -- or enforcing a sentence imposed on -- the person if
>
> (a) subject to a relevant extradition agreement, the offence in respect of which the extradition is requested is punishable by the extradition partner, by imprisoning or otherwise depriving the person of their liberty for a maximum term of two years or more, or by a more severe punishment; and
>
> (b) the conduct of the person, had it occurred in Canada, would have constituted an offence that is punishable in Canada,
>
> (i) in the case of a request based on a specific agreement, by imprisonment for a maximum term of five years or more, or by a more severe punishment, and
>
> (ii) in any other case, by imprisonment for a maximum term of two years or more, or by a more severe punishment, subject to a relevant extradition agreement.

The mutual undertaking of the contracting parties, as expressed in Article I of the treaty, and subject to its provisions and conditions, is to extradite to each other any person found within the requested state who, amongst other things, is *subject* to *prosecution* by a competent authority of the requesting state.

39 It does *not* matter whether the conduct that is the basis of the extradition request is named, defined or characterized by the extradition partner in the same way as it is in Canada. This provision appears in s. 3(2) of the *Act*, as well as paragraph (5) of Article II of the Treaty. It is, of course, necessary that the conduct can be subsumed within the substance of any scheduled offence.

3. The Function of the Minister

40 The Minister of Justice is responsible for the *implementation* of extradition agreements, the *administration* of the *Act* and, of greater significance here, dealing with requests for extradition under the *Act* or an applicable

agreement. The language of this enabling authority, s. 7 of the *Act*, is unconfined, at least in terms. Specific authority is given in other sections of the *Act* and articles of the Treaty.

4. Ministerial Authority to Receive Requests

41 Section 11 takes up one of the specific authorities given to the Minister by s. 7, the power to deal with requests for extradition made by extradition partners. It requires that *any* request for the provisional arrest or extradition of a person be made to the Minister. As here, a request for provisional arrest may be made through Interpol under s. 11(2) of the *Act*.

42 Article XIII of the Treaty insists that requests for extradition and any subsequent correspondence be made through the diplomatic channel.

5. The Minister and Provisional Warrants

43 The Minister also has a role to play in the issuance of provisional warrants of arrest. The Minister initiates the procedure to obtain provisional warrants. The engaging mechanism is a *request* by an extradition partner for the provisional arrest of a person. The Minister has a discretion, *not* otherwise defined or circumscribed, to authorize the Attorney General of Canada to apply for a provisional arrest warrant provided the Minister is satisfied that

i. the *offence* for which provisional arrest is sought is *punishable* under s. 3(1)(a); and,

ii. the extradition partner will make a request for extradition of the person named in the warrant.

44 A provisional arrest warrant is issued by a judge of the superior court of criminal jurisdiction in accordance with the requirements of s. 13 of the *Act*. One of the conditions precedent to the issuance of the warrant is a finding by the issuing judge that a warrant for the person's arrest or an order of a similar nature has been issued.

45 Under Article XVII, paragraph (2) of the Treaty, any request for provisional arrest must include, amongst other things, a *statement* that there is a warrant of arrest in existence in the requesting state for the arrest of the person claimed in the extradition request.

6. The Authority to Proceed

46 As part of his or her statutory authority to administer the *Act* and deal with requests for extradition, the Minister is authorized to issue an authority to proceed under s. 15(1) of the *Act*. To engage this statutory discretion, the Minister must receive a request for extradition and be satisfied that the requirements of ss. 3(1)(a) and 3(3) of the *Act* have been met in relation to at least one of the offences mentioned in the request.

47 An authority to proceed authorizes the Attorney General to seek, on behalf of the extradition partner, an order for the committal of the person sought under s. 29 of the *Act*.

7. The Hearing

48 Under s. 24(1) of the *Act*, a judge of the superior court who receives an authority to proceed from the Attorney General is required to hold an extradition hearing.

49 The powers of the judge who conducts the extradition hearing are described in s. 24(2) of the *Act*. It

provides:

> 24. (2) For the purposes of the hearing, the judge has, subject to this Act, the powers of a justice under Part XVIII of the *Criminal Code*, with any modifications that the circumstances require.

29

Part XVIII of the *Criminal Code* provides the procedure to be followed at preliminary inquiry.

50 An extradition hearing judge also has some authority under the *Constitution Act, 1982*, on an extradition hearing. The authority is linked, however, to the judicial functions that the judge has to perform under the *Act*. Section 25 provides it in these terms:

> 25. For the purposes of the *Constitution Act, 1982*, a judge has, with respect to the functions that the judge is required to perform in applying this Act, the same competence that that judge possesses by virtue of being a superior court judge.

8. The Adjudicative Authority of the Extradition Judge

51 In a case like this, the authority to order committal is provided by s. 29(1)(a) of the *Act*. It provides:

> 29. (1) A judge shall order the committal of the person into custody to await surrender if (*a*) in the case of a person sought for prosecution, there is evidence admissible under this Act of conduct that, had it occurred in Canada, would justify committal for trial in Canada on the offence set out in the authority to proceed and the judge is satisfied that the person is the person sought by the extradition partner.

If committal is *not* ordered, the person sought must be discharged under s. 29(3) of the *Act*.

9. The Nature and Purpose of the Extradition Hearing

52 The jurisdictional question posed for reply as we began this hearing invites an examination of fundamental principle:

> i. the *nature* and *purpose* of an extradition hearing;
>
> ii. the *authority* of the *Minister* and extradition hearing *judge* respectively in extradition proceedings; and,
>
> iii. the *availability* of *Charter*-based relief, especially disclosure, at or for the purposes of an extradition hearing.

53 The new *Extradition Act*, S.C. 1999, c. E-18, which came into force on June 17, 1999, as well as the Treaty between Canada and Germany govern these proceedings. There is much to be learned, however, from existing jurisprudence. No one suggests that its precedential value ceased or was significantly diminished upon the proclamation of the new *Act*.

54 Extradition occupies a unique and important position in the structure of law enforcement. It is necessary, however, to keep it separate from our own criminal trial process. In *Kindler v. Canada (Minister of Justice)*, [1991] 2 S.C.R. 779 (S.C.C.), McLachlin, J. (as she then was) made this observation at p. 844:

> While the extradition process is an important part of our system of criminal justice, it would be wrong

to equate it to the criminal trial process. It differs from the criminal process in purpose and procedure and, most importantly, in the factors which render it fair. Extradition procedure, unlike the criminal procedure, is founded on the concepts of reciprocity, comity and respect for differences in other jurisdictions.

This unique foundation means that the law of extradition must accommodate many factors foreign to our internal criminal law. While our conceptions of what constitutes a fair criminal law are important to the process of extradition, they are necessarily tempered by other considerations.

55 In the earlier case of *R. v. Schmidt*, [1987] 1 S.C.R. 500 (S.C.C.), La Forest J. noted at p. 514:

Extradition is the surrender by one state to another, on request, of persons accused or convicted of committing a crime in the state seeking the surrender. This is ordinarily done pursuant to a treaty or other arrangement between these states acting in their sovereign capacity and obviously engages their honour and good faith. A surrender under these treaties is primarily an executive act. *Charter* considerations and international implications apart, it is under domestic law in the discretion of the executive to surrender or not to surrender a fugitive requested by another state.

56 More recently, in *United States v. Dynar* (1997), 115 C.C.C. (3d) 481 (S.C.C.), Cory and Iacobucci JJ. described the nature of an extradition hearing in these terms at p. 522:

A judge hearing an application for extradition has an important role to fulfil. Yet it cannot be forgotten that the hearing is intended to be an expedited process, designed to keep expenses to a minimum and ensure prompt compliance with Canada's international obligations.

57 These authorities make it clear that extradition is to be and remain an expedited process to ensure prompt compliance with Canada's international obligations that our statute and treaties reflect. These authorities, and others like them, remind extradition hearing judges that the hearing is *not* a trial, nor should it be allowed to become a trial, as though it were a domestic criminal proceeding. It is *not* simply a matter of *degree*. There is a difference in *kind* between an extradition hearing and the trial of a domestic criminal case.

10. The Division of Labour: The Judge and the Minister

58 One theme underscored in the existing jurisprudence is that the extradition process has two (2) discrete phases:

i. the *judicial* phase; and,

ii. the *ministerial* or political phase.

59 In *Idziak v. Canada (Minister of Justice)* (1992), 77 C.C.C. (3d) 65 (S.C.C.), Cory J. described the distinct phases in these terms at pp. 86-7:

It has been seen that the extradition process has two distinct phases. The first, the judicial phase, encompasses the court proceedings which determine whether a factual and legal basis for extradition exists. If that process results in the issuance of a warrant of committal, then the second phase is activated. There, the Minister of Justice exercises his or her discretion in determining whether to issue a warrant of surrender. The first decision-making phase is certainly judicial in its nature and warrants the applica-

tion of the full panoply of procedural safeguards. By contrast, the second decision-making process is political in its nature. The Minister must weigh the representations of the fugitive against Canada's international treaty obligations. The differences in the procedures were considered in *Kindler v. Canada (Minister of Justice)* (1991), 67 C.C.C. (3d) 1 at pp. 22-3, 84 D.L.R. (4th) 438 at pp. 459-60, [1991] 2 S.C.R. 779:

> In this two-step process any issues of credibility or claims of innocence must be addressed by the extradition judge. Kindler had ample opportunity before Pinard J. to challenge the credibility of the evidence led against him at his trial. This he did not do. It was therefore not open to him to seek to adduce fresh evidence before the Minister of Justice as to the credibility of witnesses or his innocence of the offence. The Minister was obliged neither to consider such issues, nor to hear *viva voce* evidence.
>
> The Minister was not required to provide detailed reasons for his decision. None the less he expressly stated in his letter to counsel for Kindler that he had "examined this case thoroughly and with care" and that the decision was "based on a review of the evidence presented at trial, the extradition proceedings and the materials and representations [which had been] submitted". Among those representations were the written and oral submissions of counsel which dealt with various aspects of the case, including the method of execution used in Pennsylvania. The material presented included a letter from Kindler. The Minister's letter indicates that he considered the submissions and material and found them insufficient to overcome the countervailing policy concerns.
>
> The Minister, both in determining what evidence he should consider on the application and in reaching his decision, complied with all the requirements of natural justice. It follows that the appellant's submissions cannot be accepted.
>
> Parliament chose to give discretionary authority to the Minister of Justice. It is the Minister who must consider the good faith and honour of this country in its relations with other states. It is the Minister who has the expert knowledge of the political ramifications of an extradition decision. In administrative law terms, the Minister's review should be characterized as being at the extreme legislative end of the *continuum* of administrative decision-making.

60 In a temporal sense, the involvement of the Minister brackets that of the superior court judge. The Minister *receives* the request from the extradition partner. It is the Minister's statutory responsibility under s. 7 of the *Act* to *deal* with the request. It is for the Minister to decide whether she or he will authorize the Attorney General to apply for a provisional arrest warrant. Further, it is for the Minister to say whether she or he will issue an authority to proceed that authorizes the Attorney General to seek, on behalf of the extradition partner, a judicial order of committal under s. 29 of the *Act*.

61 To decide whether to seek a provisional arrest warrant or issue an authority to proceed, the Minister is required to consider whether the provisions of s. 3(1)(a) of the *Act* have been met. Section 3(1)(a) deals with extraditable conduct. It does so by making reference to the punishment provided for the offence in the jurisdiction of the extradition partner. But the section also mentions the *purpose* of the request of the extradition partner. It may be for *any* of three (3) purposes:

i. *prosecuting* the person;

ii. *imposing a sentence* on the person; or,

iii. *enforcing a sentence* earlier imposed on the person in the requesting state

for an offence described in paragraph 3(1)(a).

62 It is inevitable, as it seems to me, that the minister will be obliged to consider the *purpose* of the extradition request in determining whether the requirements of s. 3(1)(a) of the *Act* have been met. It is an integral part of administering the *Act* and dealing with requests for extradition made under it and any applicable treaty. This element of *purpose* is central to our extradition scheme: we do *not* extradite without reason. We extradite in order for the extradition partner.

i. to *prosecute*;

ii. to *sentence*; or,

iii. to *enforce* an existing *sentence*.

Unless the materials submitted by the extradition partner reveal one of these purposes, the Minister is *not* entitled to authorize the Attorney General to apply for a provisional arrest warrant under s. 12 of the *Act*, because the person is *not* arrestable. Nor could the Minister issue an authority to the Attorney General to proceed under s. 15 of the *Act* with an application for committal. The necessary foundation would *not* have been put in place.

63 More to the point, however, is that the decision-maker on this issue is the *Minister, not* the extradition hearing *judge*. This authority follows not only from the responsibilities assigned to the Minister *generally* under s. 7 of the *Act*, but also from the *specific* obligations imposed in connection with provisional arrest warrants and the authority to proceed.

64 To decide that this responsibility resides with the Minister is also consistent with previous authority. In *United States v. Ding* (June 3, 1996), Doc. Vancouver CA020385 (B.C. C.A.), for example, a question was raised whether the Minister had received the documentation required by the treaty in appropriate form to initiate the request for extradition on behalf of the requesting state. The British Columbia Court of Appeal concluded that this issue was for the Minister, *not* the Court to decide. See also, *Von Einem v. Germany (Federal Republic)* (1984), 14 C.C.C. (3d) 440 (B.C. C.A.) .

65 The Minister of Justice is the guardian of Canadian sovereignty interests. At the front end of the process, it is his or her function to ensure that the request of the extradition partner is compliant with the *Act* and the applicable treaty. Her decision, albeit of a political nature, may well involve considerations of foreign law that are beyond the scope of the extradition hearing judge's authority. See, by analogy, *Pokidyshev, Re* (1999), 138 C.C.C. (3d) 321 (Ont. C.A.), 328, per Doherty J.A. See also, *Argentina (Republic) v. Mellino* (1987), 33 C.C.C. (3d) 334 (S.C.C.), 349 per La Forest J.; and, *United States v. Lépine* (1993), 163 N.R. 1 (S.C.C.), 14-15 , per La Forest J.

66 Putting to one side the responsibility of the Minister under the *Act*, as already discussed, I am unable to locate any authority, express or implied, which assigns jurisdiction to determine whether someone is a person sought "for the purpose of prosecution" to the extradition hearing judge.

67 The jurisdiction of the extradition hearing judge is entirely statutory. It resides in the *Extradition Act* and

the applicable treaty. In *United States v. Dynar* (1997), 115 C.C.C. (3d) 481 (S.C.C.), 521 , Cory and Iacobucci JJ. described it in these terms:

> The jurisdiction of the extradition judge is derived entirely from the statute and the relevant treaty. Pursuant to s. 3 of the Act, the statute must be interpreted as giving effect to the terms of the applicable treaty. La Forest J., writing for the majority in *McVey*, *supra*, at p. 519, stated that courts must find a statutory source for attributing a particular function to the extradition judge, and that 'courts should not reach out to bring within their jurisdictional ambit matters that the Act has not assigned them'. In particular, it was held in *Republic of Argentina v. Mellino*, [1987] 1 S.C.R. 536 at p. 553, 33 C.C.C. (3d) 334, 40 D.L.R. (4th) 74, that:
>
> > ...absent express statutory or treaty authorization, the sole purpose of an extradition hearing is to ensure that the evidence establishes a *prima facie* case that the extradition crime has been committed. [Emphasis added.]
>
> As a result, the role of the extradition judge has been held to be a 'modest one', limited to the determination of whether or not the evidence is sufficient to justify committing the fugitive for surrender: see, for example, *United States of America v. Lépine*, [1994] 1 S.C.R. 286 at p. 296, 87 C.C.C. (3d) 385, 111 D.L.R. (4th) 31; *Mellino*, *supra*, at p. 553; *McVey*, *supra*, at p. 526.

68 It is s. 29(1)(a) of the *Extradition Act* that frames the jurisdiction of the extradition hearing judge to order committal of a person sought for prosecution. The section is in these terms:

> 29. (1) A judge shall order the committal of the person into custody to await surrender if (*a*) in the case of a person sought for prosecution, there is evidence admissible under this Act of conduct that, had it occurred in Canada, would justify committal for trial in Canada on the offence set out in the authority to proceed and the judge is satisfied that the person is the person sought by the extradition partner.

69 Under this provision, which corresponds to s. 18(1)(b) of the former *Act*, the task of the extradition hearing judge is to determine whether there is evidence admissible under the *Extradition Act* of conduct that, had it occurred in Canada, would justify committal for trial in Canada for the offence set out in the Authority to Proceed. The test for committal in domestic proceedings is contained in s. 548(1) of the *Criminal Code*. The presiding justice must decide whether there is *any* admissible evidence on the basis of which a *reasonable* jury, properly instructed, *could* convict. An affirmative answer requires committal; a negative, discharge.

70 The adjudicative authority contained in s. 29(1)(a) provides *no* express warrant for the extradition hearing judge to inquire into, much less decide, whether the person against whom proceedings are taken is "sought for prosecution" in the jurisdiction of the extradition partner. Nor can it be said that any such authority emerges by necessary implication from s. 29(1)(a). The introductory references,

> i. "in the case of a person sought for prosecution", in s. 29(1)(a); and,
>
> ii. "in the case of a person sought for the imposition or enforcement of a sentence", in s.29(1)(b) are inserted as *descriptive* of the *category* of fugitive to which each statutory test applies. Neither is there for the purpose of conferring jurisdiction to decide whether membership in the group has been established.

71 It has been said, and said repeatedly by courts of the highest authority, that the role of an extradition hear-

ing judge is a narrow one, confined to what is specified in the enabling statute. That role is to determine whether there is a *prima facie* case that an extradition crime has been committed by the person sought for extradition. See, *United States v. Cobb* [(1999), 125 O.A.C. 122 (Ont. C.A.)], September 13, 1999 (Ont. C.A. C28534) at pp. 3-4, per Brooke J.A.

72 Under the *Act*, the Minister and extradition judge occupy two (2) different solitudes. The Minister has a role at the beginning and the end of the extradition process. The judge discharges his or her function in the middle. Each operates independently of the other, except to the extent that the Minister's final involvement is contingent on a judicial order for committal. Neither intrudes into the other's area of responsibility. Neither reviews the other's determination or decision. The reviewing tribunal is the provincial court of appeal. Sections 49-56 govern appeals from committal or discharge and s. 57, review of the Minister's surrender decision.

73 In the result, at least as it seems to me, the authority to determine whether a person whose extradition is sought is "a person sought for prosecution" is given to the Minister. It is *not* awarded to the extradition judge, either at first instance, *de novo* or by way of review.

11. The Charter Jurisdiction of the Extradition Hearing Judge

74 Section 25 of the *Extradition Act* provides as follows:

> 25. For the purposes of the *Constitution Act, 1982*, a judge has, with respect to the functions that the judge is required to perform in applying this Act, the same competence that that judge possesses by virtue of being a superior court judge.

Former s. 9(3) was in similar terms.

75 The *Act* does *not* affirm or otherwise incorporate the plenary *Charter* authority otherwise enjoyed by the superior court. See, for example, *R. v. Mills* (1986), 26 C.C.C. (3d) 481 (S.C.C.), 494, per McIntyre J., and 517-8, per Lamer J.; and, *R. v. Rahey* (1987), 33 C.C.C. (3d) 289 (S.C.C.), 299, per Lamer J. Section 25, like its predecessor, s. 9(3), links the *Charter* jurisdiction of the extradition hearing judge to the functions that the judge is required to perform under the *Act*.

76 In *Argentina (Republic) v. Mellino* (1987), 33 C.C.C. (3d) 334 (S.C.C.), the extradition judge held that he had powers in addition to those of a magistrate sitting at a preliminary inquiry. In particular, he held that he had all the jurisdiction and powers of the superior court of which he was a member. As a result, the extradition judge found a breach of *Charter* s. 11(b), dismissed the application for extradition and discharged Mellino.

77 The Supreme Court of Canada rejected the notion that the extradition judge, as a member of the superior court of criminal jurisdiction, had *plenary* authority under the *Charter* at the extradition hearing. La Forest J. put the matter in these terms at pp. 349-50:

> I cannot accept this proposition. It seems to me, to ignore the modest function of an extradition hearing which (barring minimal statutory and treaty exceptions) is merely to determine whether the relevant crime falls within the appropriate treaty and whether the evidence presented is sufficient to justify the executive surrendering the fugitive to the requesting country for trial there. Responsibility for the conduct of our foreign relations, including the performance of Canada's obligations under extradition treaties, is, of course, vested in the executive. I repeat: the role of the extradition judge is a modest one; ab-

> sent express statutory or treaty authorization, the sole purpose of an extradition hearing is to ensure that the evidence establishes a *prima facie* case that the extradition crime has been committed. The procedure bears a considerable affinity to a preliminary hearing, and the judge's powers have some similarity to those of a magistrate presiding at such a hearing, who, as this court held in *R. v. Mills* (1986), 26 C.C.C. (3d) 481, 29 D.L.R. (4th) 161, [1986] 1 S.C.R. 863, has no power to administer Charter remedies. Indeed, the reasoning in *Mills* appears to me to be even more applicable to an extradition judge.
>
> The fact that an extradition judge is often a superior court judge does not alter the matter.

See also, *United States v. Dynar* (1997), 115 C.C.C. (3d) 481 (S.C.C.), 521 , per Cory and Iacobucci JJ.; and, *United States v. Cobb*, September 13, 1999 (Ont. C.A. C28534) p. 4, per Brooke J.A.

78 Under domestic law, it is well-established that a judge conducting a preliminary inquiry is *not* "a court of competent jurisdiction" for the purpose of excluding evidence or granting other just and appropriate remedies under s. 24 of the *Charter* upon proof of constitutional infringement. See, *R. v. Mills*, *supra*; and, *R. v. Rahey*, *supra*.

12. The Authority to Order Disclosure

79 There is *no* specific provision in the *Extradition Act* or the governing treaty that *requires* disclosure to a fugitive in extradition proceedings to an equivalent extent demanded in domestic proceedings under *R. v. Stinchcombe* (1991), 68 C.C.C. (3d) 1 (S.C.C.), and subsequent authorities.

80 In one sense, the absence of statutory and treaty authority is hardly worthy of note. Even in domestic proceedings, the right to disclosure is *not* statutory in its origin. It emerges rather from the common law right to make full answer and defence, a right that has acquired new vigour because of its inclusion in s. 7 of the *Charter*. See, *R. v. Stinchcombe*, *supra*, at p. 9, per Sopinka J. On the other hand, the absence of specific authority may be considered significant since the authority of the extradition hearing judge is entirely statute-based and the *Charter* lacks the same sweep it has in domestic proceedings.

81 In *United States v. Dynar* (1997), 115 C.C.C. (3d) 481 (S.C.C.), the fugitive argued that he was entitled to a significant level of disclosure in the extradition proceedings so that he could make full answer and defence to them in accordance with his s. 7 *Charter* rights. The Court made it clear that *domestic* disclosure requirements could *not* simply be transplanted into extradition proceedings. Cory and Iacobucci JJ. observed at pp. 523-4:

> Even though the extradition hearing must be conducted in accordance with the principles of fundamental justice, this does not automatically entitle the fugitive to the highest possible level of disclosure. The principles of fundamental justice guaranteed under s. 7 of the *Charter* vary according to the context of the proceedings in which they are raised. It is clear that there is no entitlement to the most favourable procedures imaginable: *R. v. Lyons* [1987] 2 S.C.R. 309 at pp. 361-62, 37 C.C.C. (3d) 1, 44 D.L.R. (4th) 193. For example, more attenuated levels of procedural safeguards have been held to be appropriate at immigration hearings than would apply in criminal trials. See *Chiarelli v. Canada (Minister of Employment and Immigration)*, [1992] 1 S.C.R. 711, 72 C.C.C. (3d) 214, 90 D.L.R. (4th) 289. The same approach is equally applicable to an extradition proceeding. While it was stated in *Idziak v. Canada (Minister of Justice)*, [1992] 3 S.C.R. 631 at p. 658, 77 C.C.C. (3d) 65, 97 D.L.R. (4th) 577, that the committal hearing in the extradition process is 'clearly judicial in its nature and warrants the application of the full panoply of procedural safeguards', it was held that the extent and nature of proced-

ural protection guaranteed by s. 7 of the *Charter* in an extradition proceeding will depend on the context in which it is claimed.

The context and purpose of the extradition hearing shapes the level of procedural protection available to a fugitive. The joint judgment continues at pp. 524-5: 29

> It follows that it is neither necessary nor appropriate to simply transplant into the extradition process all the disclosure requirements referred to in *Stinchcombe*, *supra*, *Chaplin*, *supra*, and *O'Connor*, *supra*. Those concepts apply to domestic criminal proceedings, where onerous duties are properly imposed on the Crown to disclose to the defence all relevant material in its possession or control. This is a function of an accused's right to full answer and defence in a Canadian trial. However, the extradition proceeding is governed by treaty and by statute. The role of the extradition judge is limited and the level of procedural safeguards required, including disclosure, must be considered within this framework.
>
> Procedures at the extradition hearing are of necessity less complex and extensive than those in domestic preliminary inquiries or trials. Earlier decisions have wisely avoided imposing procedural requirements on the committal hearing that would render it very difficult for Canada to honour its international obligations. Thus, in *Mellino*, *supra*, at p. 548, reservations were expressed about procedures that would permit an extradition hearing to become the forum for lengthy examinations of the reasons for delay in either seeking or undertaking extradition proceedings. La Forest J., for the majority, held that this would be 'wholly out of keeping with extradition proceedings'.
>
> The statutory powers of an extradition judge are limited. The hearing judge may receive sworn evidence offered to show the truth of the charge or conviction (s. 14), receive evidence to show that the particular crime is not an extradition crime (s. 15), and take into account sworn, duly authenticated depositions or statements taken in a foreign state (s. 16). The obligation on the Requesting State is simply to establish a *prima facie* case for the surrender of the fugitive and it is not required to go further than this. The committal hearing is neither intended nor designed to provide the discovery function of a domestic preliminary inquiry. See *Philippines (Republic of) v. Pacificador* (1993), 14 O.R. (3d) 321 (C.A.), at pp.328-39, 83 C.C.C. (3d) 210, leave to appeal refused, [1994] 1 S.C.R. x, 87 C.C.C. (3d) vi. Specifically, disclosure of the relationship between United States and Canadian authorities in an investigation is not a requirement imposed on the Requesting State under either the Act or the treaty.

82 The *Dynar* court emphasized the constraint imposed on the disclosure requirement by the limited statutory function of the extradition judge. Cory and Iacobucci JJ. concluded on this issue at page 525:

> Any requirement for disclosure that is read into the Act as a matter of fundamental justice under s. 7 of the *Charter* will therefore necessarily be constrained by the limited function of the extradition judge under the Act, and by the need to avoid imposing Canadian notions of procedural fairness on foreign authorities.

The Court decided that the fugitive was entitled to disclosure of those materials on which the requesting state relies to establish its *prima facie* case, but no more.

83 In *United States v. Kwok* (1998), 127 C.C.C. (3d) 353 (Ont. C.A.), the fugitive sought but was denied disclosure of a contemporaneous Canadian investigation information from which was shared with, but not apparently relied upon by authorities in the requesting state. The request was rejected. Its rejection was upheld by the

Ontario Court of Appeal. In giving the judgment of the Court, Charron J.A. said at pp. 366-7:

> Kwok was entitled to know the case against him at the extradition hearing. This entitled him to disclosure of the material on which the requesting state is relying to establish its *prima facie* case. The requesting state was not and is not relying on any of the material sought on the application for disclosure. There was therefore no obligation on the requesting state to provide further disclosure.
>
> Further, there was no justiciable issue raised at the extradition hearing. Section 6(1) mobility rights are not engaged at the committal stage of the extradition proceedings. They are only engaged in the Minister's decision to surrender. The requested disclosure was only relevant to s. 6(1) issues. Given the limited purpose of the extradition hearing as confirmed in *Dynar*, the extradition judge was correct in dismissing Kwok's application for disclosure and in refusing to embark upon a discovery process into mobility rights.

An appeal from this decision has been argued and is currently under reserve in the Supreme Court of Canada. Another panel of the Ontario Court of Appeal came to the same conclusion about the extent of disclosure required in *Germany (Federal Republic) v. Krapohl*[(1998), 110 O.A.C. 129 (Ont. C.A.)], April 29, 1998 (Ont.C.A. C26842) at pp. 8-9, per Goudge, J.A.

84 A further observation about disclosure is in order. Section 24(2) of the *Act* assimilates the powers of the extradition hearing judge to those of a justice conducting a preliminary inquiry in domestic proceedings under Part XVIII of the *Criminal Code*. It is settled law, in this province at least, that a justice at preliminary inquiry has *no* authority to review Crown disclosure decisions, including the extent and timing of this disclosure. See, for example, *R. v. Girimonte* (1997), 121 C.C.C. (3d) 33 (Ont. C.A.), 44-5, per Doherty J.A.

85 No useful purpose would be served by a further parade of the governing authorities. They yield a common result. An extradition hearing judge has a modest function to perform. The boundaries are marked out by the enabling statute and applicable treaty. Neither grants to the judge the authority she or he has over prosecutorial disclosure decisions in domestic trial proceedings. The incorporation by s. 24(2) of the *Act* of the powers of a justice at preliminary inquiry does *not* advance the case for disclosure. Nor does the enactment of s. 25. The *Charter* jurisdiction that it confers is firmly tethered to the functions that the superior court judge is empowered to perform under the *Act*.

13. Conclusion

86 To return to where I began. The governing authorities, in my respectful view, permit of no conclusion other than that the disclosure sought is beyond my authority to provide.

87 To begin with the warrant of arrest and other materials, not already disclosed, provided to the Minister in support of the request by the Federal Republic. It is the responsibility of the Minister to implement extradition agreements, administer the *Act* and deal with the requests for extradition made under either or both of them. The requests for provisional arrest or extradition are made to the Minister. It is for the Minister to review the materials offered by the extradition partner in support of the request to determine whether it is in order. This determination involves, amongst other things, a consideration of foreign law. It is the Minister who must be satisfied that the requirements of s. 3(1)(a) of the *Act* have been met before she or he is entitled to instruct the Attorney General to apply for a provisional warrant of arrest under s. 12 or issue an authority to the Attorney General to proceed under s. 15(1) of the *Act*. Section 3(1)(a) of the *Act* defines extraditable conduct. It also makes it clear that

the *purpose* of the extradition partner in requesting extradition must be any of

i. *prosecuting* the fugitive;

ii. *imposing a sentence*; or,

iii. *enforcing a sentence* already imposed in the foreign jurisdiction.

There is nothing in the *Act* or treaty that entitles the extradition hearing judge to review the Minister's decision or decide, *de novo* as it were, whether the fugitive is a person sought for prosecution. I lack the authority to make any such order.

88 The same result follows in connection with the request for the materials associated with the earlier Canadian investigation and request of Swiss authorities for assistance. These materials form *no* part of the case in the Federal Republic. They are *not* relied upon by the extradition partner. To the extent that abuse of process is relied upon to establish their relevance, the application is at best premature. All that the Minister has done so far is

i. *receive* the request;

ii. *review* it; and,

iii. *decide* that the statutory requirements to instruct the Attorney General to seek a provisional warrant of arrest and to issue an authority to proceed have been met. The Minister has *not* yet decided to order surrender. The disclosure sought has no relevance to any of the tests of s. 29(1) of the *Act*. Reviews of an alleged abuse of process are for the Court of Appeal, *not* the extradition hearing judge.

89 The Record of the Case has been disclosed to the Applicant. It is quite detailed and identifies the source of the material on which its numerous statements of fact are said to be based. There is *no* warrant in the *Act* or treaty to require disclosure of the primary materials in the custody of authorities in the Federal Republic. At all events, such an order would *not* be enforceable. Domestic disclosure commands do *not* extend to foreign jurisdictions.

90 The application for disclosure is dismissed.

Application dismissed.

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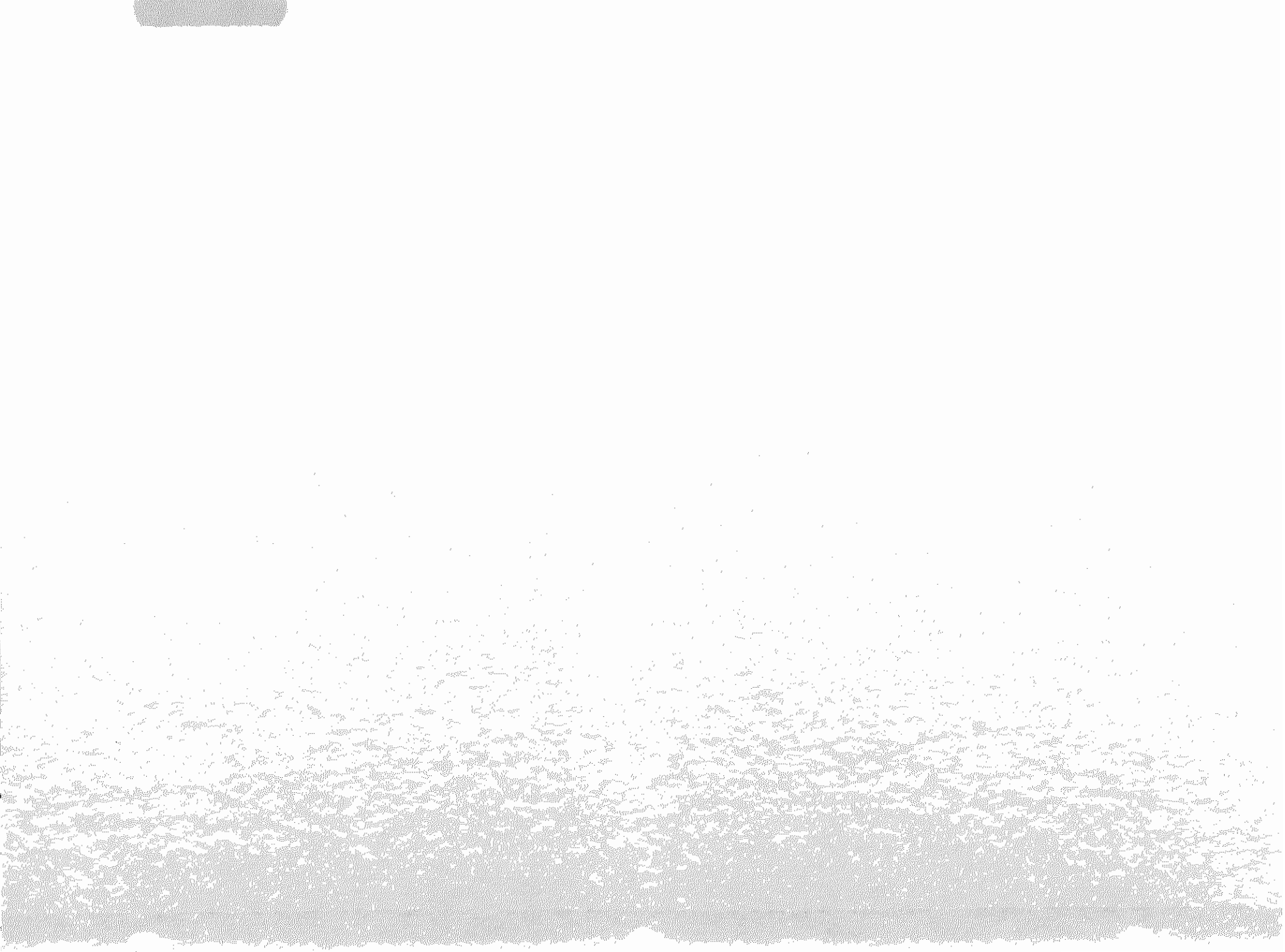

207 O.A.C. 306, 206 C.C.C. (3d) 339, 264 D.L.R. (4th) 211, 68 W.C.B. (2d) 686

2006 CarswellOnt 1184

Germany (Federal Republic) v. Schreiber
FEDERAL REPUBLIC OF GERMANY, THE MINISTER OF JUSTICE and THE ATTORNEY GENERAL OF CANADA (Respondents) and KARLHEINZ SCHREIBER (Appellant)
Ontario Court of Appeal
Doherty J.A., Lang J.A., and Sharpe J.A.
Heard: December 5-6, 2005
Judgment: March 1, 2006
Docket: CA C41853, C42701

Proceedings: affirming *Germany v. Schreiber* (2004), 2004 CarswellOnt 3673, 184 C.C.C. (3d) 367 (Ont. S.C.J.)

Counsel: Edward Greenspan, Q.C., Marie Henein, Vanessa Christie for Appellant

Robert Hubbard, Nancy Dennison for Respondents

Subject: Criminal; Constitutional

Criminal law --- Extradition proceedings -- Extradition from Canada -- Evidence at hearing -- General

S, citizen of both Canada and Germany, was charged in Germany with tax evasion, fraud, forgery and bribery -- S was arrested in Canada for extradition to Germany and Minister of Justice issued authority to proceed pursuant to Extradition Act -- Extradition judge determined there was sufficient evidence to commit S for extradition on all offences except on one count of fraud -- S appealed his committal -- Appeal dismissed -- There was sufficient evidence to support inference that S was beneficial owner of "letter box" companies, which were shams he used to conceal income -- There was also extensive evidence from which it could be inferred that commissions were cycled through these companies on S's instructions and used by him for his own personal benefit -- Evidence provided adequate basis for extradition judge to conclude that it would be possible to infer that S knew Saudi Arabia was being deceived and was therefore party to that fraud -- Deprivation of Saudi Arabia's contractual right to recover commission was sufficient to constitute imperilment of economic interest necessary to justify committal for fraud -- Evidence was sufficient to satisfy domestic committal standard for bribery -- There was evidence that secret commissions constituted breach of trust and that, as donor of those secret commissions, S appellant aided and abetted breach of trust.

Criminal law --- Extradition proceedings -- Extradition from Canada -- Remedies following disposition -- Appeals -- Of committal by accused

S, citizen of both Canada and Germany, was charged in Germany with tax evasion, fraud, forgery and bribery -- S was arrested in Canada for extradition to Germany and Minister of Justice issued authority to proceed pursuant to Extradition Act -- Extradition judge determined there was sufficient evidence to commit S for extradition on

all offences except on one count of fraud -- S appealed his committal -- Appeal dismissed -- There was sufficient evidence to support inference that S was beneficial owner of "letter box" companies, which were shams he used to conceal income -- There was also extensive evidence from which it could be inferred that commissions were cycled through these companies on S's instructions and used by him for his own personal benefit -- Evidence provided adequate basis for extradition judge to conclude that it would be possible to infer that S knew Saudi Arabia was being deceived and was therefore party to that fraud -- Deprivation of Saudi Arabia's contractual right to recover commission was sufficient to constitute imperilment of economic interest necessary to justify committal for fraud -- Evidence was sufficient to satisfy domestic committal standard for bribery -- There was evidence that secret commissions constituted breach of trust and that, as donor of those secret commissions, S appellant aided and abetted breach of trust.

Criminal law --- Extradition proceedings -- Extradition from Canada -- Character of offence -- Nature of act committed -- Under law of both countries

S, citizen of both Canada and Germany, was charged in Germany with tax evasion, fraud, forgery and bribery -- S was arrested in Canada for extradition to Germany and Minister of Justice issued authority to proceed pursuant to Extradition Act -- Extradition judge determined there was sufficient evidence to commit S for extradition on all offences except on one count of fraud -- S appealed his committal on basis that extradition on income tax related charges violated principle of double criminality because it had not been shown that what German law considered income was also income in Canada -- Appeal dismissed -- Extradition judge did not err in ruling that double criminality rule was satisfied with respect to income tax offences -- Focus of double criminality rule is on nature of "conduct" of person sought by requesting state and on "standards" of requested state -- Legal definitions of crimes under law of requesting state and law of Canada need not be equivalent -- Canadian law does, in some circumstances, pierce corporate veil and treat income in hands of corporation as that of its beneficial owner -- Evidence regarding use of "letter box" companies and transfers of funds to S was sufficient to bring Germany's allegations within "sham doctrine" -- Applying sham doctrine to extradition judge's findings, committal was justified under any view of double criminality rule.

Criminal law --- Extradition proceedings -- Extradition from Canada -- Order of committal

S, citizen of both Canada and Germany, was charged in Germany with tax evasion, fraud, forgery and bribery -- S was arrested in Canada for extradition to Germany and Minister of Justice issued authority to proceed pursuant to Extradition Act -- Extradition judge determined there was sufficient evidence to commit S for extradition on all offences except on one count of fraud -- S appealed his committal -- Appeal dismissed -- There was sufficient evidence to support inference that S was beneficial owner of "letter box" companies, which were shams he used to conceal income -- There was also extensive evidence from which it could be inferred that commissions were cycled through these companies on S's instructions and used by him for his own personal benefit -- Evidence provided adequate basis for extradition judge to conclude that it would be possible to infer that S knew Saudi Arabia was being deceived and was therefore party to that fraud -- Deprivation of Saudi Arabia's contractual right to recover commission was sufficient to constitute imperilment of economic interest necessary to justify committal for fraud -- Evidence was sufficient to satisfy domestic committal standard for bribery -- There was evidence that secret commissions constituted breach of trust and that, as donor of those secret commissions, S appellant aided and abetted breach of trust.

Criminal law --- Extradition proceedings -- Extradition from Canada -- Statutory interpretation of treaties and statutes

S, citizen of both Canada and Germany, was charged in Germany with tax evasion, fraud, forgery and bribery -- S was arrested in Canada for extradition to Germany and Minister of Justice issued authority to proceed pursuant to Extradition Act -- Extradition judge determined there was sufficient evidence to commit S for extradition on all offences except on one count of fraud -- S applied for judicial review of Minister of Justice's decision to surrender him for extradition, claiming that extradition treaty between Canada and Germany precludes extradition for "fiscal offences" and that surrender order violated s. 7 of Canadian Charter of Rights and Freedoms -- Application dismissed -- Extradition judge ruled that issue of treaty interpretation was matter for Minister, who found that S could be extradited for income tax related offences -- Extradition judge properly concluded that he did not have jurisdiction to consider whether inclusion of fiscal offence in treaty would violate S's s. 7 Charter rights -- Extradition judge found there was evidence upon which it could be concluded that S committed offences contrary to Income Tax Act -- As there was evidence of conduct embraced by offences listed in treaty, there was no basis to interfere with Minister's decision to surrender S, notwithstanding absence of any mention of specific offence of tax evasion in treaty .

Criminal law --- Extradition proceedings -- Extradition from Canada -- Order for surrender

S, citizen of both Canada and Germany, was charged in Germany with tax evasion, fraud, forgery and bribery -- S was arrested in Canada for extradition to Germany and Minister of Justice issued authority to proceed pursuant to Extradition Act, rejecting S's submission that he should suspend his decision because two civil actions for damages against Attorney General of Canada arising from extradition proceedings gave rise to reasonable apprehension of bias on part of Minister -- Extradition judge determined there was sufficient evidence to commit S for extradition on all offences except on one count of fraud -- S applied for judicial review of Minister of Justice's decision to surrender him for extradition, claiming reasonable apprehension of bias -- Application dismissed -- There was no merit to submission that Minister erred in refusing to suspend his decision in view of civil actions -- Minister's reasons rejecting allegation of bias demonstrated no error -- Existence of civil claim brought by S as to extradition proceedings themselves could not, in mind of fully informed person, give rise to reasonable apprehension of bias.

Criminal law --- Charter of Rights and Freedoms -- Life, liberty and security of person -- General

S, citizen of both Canada and Germany, was charged in Germany with tax evasion, fraud, forgery and bribery -- S was arrested in Canada for extradition to Germany and Minister of Justice issued authority to proceed pursuant to Extradition Act -- Extradition judge determined there was sufficient evidence to commit S for extradition on all offences except on one count of fraud -- S applied for judicial review of Minister of Justice's decision to surrender him for extradition, claiming that surrender order violated his rights under s. 7 of Canadian Charter of Rights and Freedoms -- Application dismissed -- Minister properly understood his role and there was no basis to interfere with his decision not to assume role of trier of fact and assess reliability or accuracy of evidence submitted by S establishing that evidence relied upon by extradition partner was unreliable, inaccurate and misleading -- There was no basis to interfere with Minister's decision that matter should be left to be dealt with by German authorities according to German law -- Minister found that s. 13 of Charter was not applicable in this case, since applying it would give Charter extraterritorial effect -- Minister refused to impose any condition on German prosecuting authorities -- Amount of alleged fraud was matter for trial in Germany and there is no basis for interference with Minister's decision in that regard.

Cases considered by *Sharpe J.A.*:

Cie pétrolière Impériale c. Québec (Tribunal administratif) (2003), 2003 SCC 58, 2003 CarswellQue 2315, 2003 CarswellQue 2316, (sub nom. *Imperial Oil Ltd. v. Quebec (Minister of the Environment)*) 231 D.L.R. (4th) 577, 5 Admin. L.R. (4th) 1, 310 N.R. 343, (sub nom. *Imperial Oil Ltd. v. Quebec (Minister of the Environment)* [2003] 2 S.C.R. 624, 5 C.E.L.R. (3d) 38 (S.C.C.) -- referred to

Collins, Re (No. 3) (1905), 10 C.C.C. 80, 11 B.C.R. 436 at 443, 2 W.L.R. 164, 1905 CarswellBC 103 (B.C. S.C.) -- considered

Cotroni c. Centre de Prévention de Montréal (1989), (sub nom. *El Zein c. Centre de Prévention de Montréal)* [1989] 1 S.C.R. 1469, (sub nom. *United States v. El Zein)* 96 N.R. 321, (sub nom. *El Zein c. Centre de Prévention de Montréal)* 23 Q.A.C. 182, (sub nom. *United States v. Cotroni)* 48 C.C.C. (3d) 193, (sub nom. *El Zein c. Centre de Prévention de Montréal)* 42 C.R.R. 101, 1989 CarswellQue 129, 96 N.S.R. 321, 1988 CarswellQue 149 (S.C.C.) -- referred to

D'Agostino, Re (2000), 2000 CarswellOnt 465, (sub nom. *United States of America v. Commisso)* 47 O.R. (3d) 257, (sub nom. *United States of America v. Commisso)* 143 C.C.C. (3d) 158, (sub nom. *United States of America v. Commisso)* 129 O.A.C. 166, (sub nom. *United States of America v. Commisso)* 72 C.R.R. (2d) 198 (Ont. C.A.) -- considered

D'Agostino, Re (2000), 2000 CarswellOnt 3012, 2000 CarswellOnt 3013, (sub nom. *United States of America v. Commisso)* 261 N.R. 197 (note), (sub nom. *United States of America v. Commisso)* 141 O.A.C. 197 (note) (S.C.C.) -- referred to

Germany (Federal Republic) v. Schreiber (1999), 1999 CarswellOnt 4613 (Ont. S.C.J.) -- considered

Germany (Federal Republic) v. Schreiber (2000), 2000 CarswellOnt 5257 (Ont. S.C.J.) -- considered

Germany (Federal Republic) v. Schreiber (2000), 2000 CarswellOnt 4973 (Ont. S.C.J.) -- considered

Germany (Federal Republic) v. Schreiber (2002), 2002 CarswellOnt 4900 (Ont. S.C.J.) -- considered

Germany (Federal Republic) v. Schreiber (2002), 170 C.C.C. (3d) 184, 2002 CarswellOnt 4901 (Ont. S.C.J.) -- considered

Idziak v. Canada (Minister of Justice) (1992), 17 C.R. (4th) 161, 9 Admin. L.R. (2d) 1, 12 C.R.R. (2d) 77, [1992] 3 S.C.R. 631, 59 O.A.C. 241, 77 C.C.C. (3d) 65, 97 D.L.R. (4th) 577, 144 N.R. 327, 1992 CarswellOnt 113, 1992 CarswellOnt 1000 (S.C.C.) -- considered

Minister of National Revenue v. Cameron (1972), [1974] S.C.R. 1062, 28 D.L.R. (3d) 477, [1972] C.T.C. 380, 72 D.T.C. 6325, 1972 CarswellNat 143 (S.C.C.) -- referred to

R. v. Arcuri (2001), 2001 SCC 54, 2001 CarswellOnt 3083, 2001 CarswellOnt 3084, 157 C.C.C. (3d) 21, 44 C.R. (5th) 213, 203 D.L.R. (4th) 20, 274 N.R. 274, 150 O.A.C. 126, [2001] 2 S.C.R. 828 (S.C.C.) -- followed

R. v. Cancor Software Corp. (1990), 74 O.R. (2d) 65, 58 C.C.C. (3d) 53, 79 C.R. (3d) 22, 90 D.T.C. 6457, 40 O.A.C. 122, (sub nom. *Canada v. Cancor Software Corp.)* [1990] 2 C.T.C. 479, 1990 CarswellOnt 804 (Ont. C.A.) -- referred to

R. v. Cancor Software Corp. (1991), 3 C.R. (4th) 194 (note), 1 O.R. (3d) xi (note), 61 C.C.C. (3d) vi (note), 48 O.A.C. 416 (note), 130 N.R. 394 (note) (S.C.C.) -- referred to

R. v. Terry (1996), 197 N.R. 105, 106 C.C.C. (3d) 508, 48 C.R. (4th) 137, 135 D.L.R. (4th) 214, 76 B.C.A.C. 25, 125 W.A.C. 25, 36 C.R.R. (2d) 21, [1996] 2 S.C.R. 207, 1996 CarswellBC 2299, 1996 CarswellBC 2300 (S.C.C.) -- referred to

R. v. Théroux (1993), 19 C.R. (4th) 194, 79 C.C.C. (3d) 449, 151 N.R. 104, 54 Q.A.C. 184, 100 D.L.R. (4th) 624, [1993] 2 S.C.R. 5, 1993 CarswellQue 5, 1993 CarswellQue 156 (S.C.C.) -- considered

Schreiber v. R. (2004), (sub nom. *R. v. Eurocopter Canada Ltd.)* 185 C.C.C. (3d) 233, 2004 CarswellOnt 2069 (Ont. S.C.J.) -- referred to

Snook v. London & West Riding Investments Ltd. (1967), [1967] 2 Q.B. 786, [1967] 1 All E.R. 518 (Eng. C.A.) -- considered

Stubart Investments Ltd. v. R. (1984), [1984] C.T.C. 294, 84 D.T.C. 6305, [1984] 1 S.C.R. 536, 10 D.L.R. (4th) 1, (sub nom. *Stubart Investments Ltd. v. Minister of National Revenue)* 53 N.R. 241, 1984 CarswellNat 222, 1984 CarswellNat 690, 15 A.T.R. 942 (S.C.C.) -- considered

United States v. Burns (2001), 2001 SCC 7, 2001 CarswellBC 272, 2001 CarswellBC 273, 85 B.C.L.R. (3d) 1, 151 C.C.C. (3d) 97, 195 D.L.R. (4th) 1, 39 C.R. (5th) 205, [2001] 3 W.W.R. 193, 265 N.R. 212, 148 B.C.A.C. 1, 243 W.A.C. 1, 81 C.R.R. (2d) 1, [2001] 1 S.C.R. 283 (S.C.C.) -- followed

United States v. Ferras (2004), (sub nom. *United States of America v. Ferras)* 117 C.R.R. (2d) 183, 184 O.A.C. 306, 183 C.C.C. (3d) 119, 237 D.L.R. (4th) 645, 2004 CarswellOnt 1032 (Ont. C.A.) -- followed

United States v. Ferras (2004), 333 N.R. 197 (note), 118 C.R.R. (2d) 376 (note), 2004 CarswellOnt 4088, 2004 CarswellOnt 4089 (S.C.C.) -- referred to

United States v. Latty (2004), (sub nom. *United States of America v. Latty)* 116 C.R.R. (2d) 368, 185 O.A.C. 1, 183 C.C.C. (3d) 126, 237 D.L.R. (4th) 652, 2004 CarswellOnt 981 (Ont. C.A.) -- followed

United States v. Latty (2004), 333 N.R. 197 (note), 118 C.R.R. (2d) 376 (note), 2004 CarswellOnt 4090, 2004 CarswellOnt 4091 (S.C.C.) -- referred to

United States v. McVey (1992), [1993] 1 W.W.R. 289, 16 B.C.A.C. 241, 28 W.A.C. 241, (sub nom. *McVey, Re)* 77 C.C.C. (3d) 1, (sub nom. *McVey, Re)* [1992] 3 S.C.R. 475, 73 B.C.L.R. (2d) 145, 144 N.R. 81, (sub nom. *McVey, Re)* 97 D.L.R. (4th) 193, 1992 CarswellBC 318, 1992 CarswellBC 914 (S.C.C.) -- considered

United States v. Scott (2003), 2003 CarswellOnt 5323 (Ont. C.A.) -- referred to

United States v. Scott (2004), (sub nom. *Scott v. United States of America)* 333 N.R. 394 (note), 2004 CarswellOnt 4384, 2004 CarswellOnt 4385 (S.C.C.) -- referred to

United States v. Smith (1984), 1984 CarswellOnt 1402, 15 C.C.C. (3d) 16 (Ont. Co. Ct.) -- referred to

United States v. Smith (1984), 1984 CarswellOnt 1408, 16 C.C.C. (3d) 10 (Ont. H.C.) -- referred to

United States v. Yang (2001), 2001 CarswellOnt 3141, 203 D.L.R. (4th) 337, 157 C.C.C. (3d) 225, 45 C.R. (5th) 205, 149 O.A.C. 364, 56 O.R. (3d) 52, 87 C.R.R. (2d) 300 (Ont. C.A.) -- referred to

Statutes considered:

Canadian Charter of Rights and Freedoms, Part I of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (U.K.), 1982, c. 11

Generally -- referred to

s. 7 -- referred to

s. 13 -- referred to

Criminal Code, R.S.C. 1985, c. C-46

Generally -- referred to

s. 121 -- considered

s. 121(1)(a) -- referred to

s. 368(1)(b) -- referred to

s. 380(1)(a) -- referred to

s. 426(1)(a) -- referred to

Extradition Act, S.C. 1999, c. 18

Generally -- referred to

s. 3 -- referred to

s. 3(1) -- considered

s. 3(2) -- considered

s. 15 -- referred to

s. 15(1) -- considered

s. 15(2) -- considered

s. 15(3) -- considered

s. 29 -- referred to

s. 29(1)(a) -- considered

s. 32 -- considered

s. 32(1)(a) -- considered

s. 32(1)(c) -- considered

s. 33 -- considered

s. 44(1)(a) -- considered

s. 84 -- referred to

Income Tax Act, R.S.C. 1985, c. 1 (5th Supp.)

s. 239(1) -- considered

s. 239(1)(a) -- referred to

s. 239(1)(d) -- referred to

Treaties considered:

Canada-Germany (Federal Republic) Extradition Treaty, 1977, C.T.S. 1979/18

Generally -- referred to

Article II -- considered

Words and phrases considered

sham doctrine

[Per Sharpe J.A. (Doherty and Lang JJ.A. concurring):] The "sham doctrine" applies where an individual deceitfully misleads the government away from his or her true taxable income through the creation of arrangements that, while facially valid, are in reality devoid of substance.

income tax evasion

[Per Sharpe J.A. (Doherty and Lang JJ.A. concurring):] Income tax evasion is a form of fraud on the public purse.

APPEAL by fugitive from judgment reported at *Germany v. Schreiber* (2004), 2004 CarswellOnt 3673, 184 C.C.C. (3d) 367 (Ont. S.C.J.), committing him for extradition; APPLICATION by fugitive for judicial review of Minister of Justice's decision to surrender him for extradition.

Sharpe J.A.:

1 Karlheinz Schreiber ("the appellant") appeals his committal for extradition and applies for judicial review of the Minister of Justice's decision to surrender him for extradition.

Facts

2 These protracted extradition proceedings arise from charges brought against the appellant in Germany for tax evasion, fraud, forgery and bribery. The appellant is a citizen of both Canada and Germany and operated at the highest levels of international finance and government as a lobbyist, consultant and dealmaker in relation to the sale of helicopters, Airbus aircraft and armaments. He was arrested in Canada on August 31, 1999 for extradition to Germany. The appellant has been on bail since shortly after his arrest. He faces charges in Germany that are alleged by the respondents to correspond to the following Canadian offences:

- income tax evasion (*Income Tax Act*, R.S.C. 1985, c.1, s. 239(1)(d));
- making false statements in a tax return (*Income Tax Act*, s. 239(1)(a));
- defrauding the government of tax revenue (*Criminal Code*, R.S.C. 1985, c. C-46, s. 380(1)(a));
- uttering a forged document (*Criminal Code*, s. 368(1)(b));
- fraud (*Criminal Code*, s. 380(1(a));
- accepting a secret commission (*Criminal Code*, s. 426(1)(a)); and
- bribing a public official (*Criminal Code*, s. 121(1)(a));

3 The facts giving rise to these charges may be grouped into four broad categories:

> (i) Income tax evasion -- Germany alleges that the appellant evaded income tax on 64,676,202 DM ($CDN 45,630,785) by hiding the commission income he earned for negotiating the sale of helicopters, aircraft and armaments. Germany alleges that he hid the income in a number of shell or "letter box" companies and then funnelled the funds to his personal accounts. Germany alleges that the appellant failed to report this income and made false and fraudulent statements in order to evade payment of taxes he owed on account of these commissions.
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> (ii) Fraud -- The fraud charges arise from a deal for the sale of 36 German Army tanks from German arms manufacturer Thyssen Industrie AG ("Thyssen") to Saudi Arabia. The contract between Thyssen and Saudi Arabia forbade the use of brokers or agents and gave Saudi Arabia the right to recoup as a penalty any commission to a broker or agent. Germany alleges that the appellant and confederates at Thyssen (Jurgen Ma[beta]mann xx and Winfried Haastert) created a subsidiary commission contract that was concealed from the Saudis and thereby defrauded Saudi Arabia of the amount of the 24.4 million DM commission that was paid to the appellant and added to the Saudi Arabia contract price.
>
> (iii) Bribery -- Germany further alleges in relation to the tank deal that the appellant bribed Dr. Ludwig Holger Pfahls, then the German Deputy Minister of Defence, to help secure the tank deal.
>
> (iv) Breach of Trust -- Germany alleges that the appellant paid secret commissions to Ma[beta]man xx and Haastert in relation to the contract with Saudi Arabia.

Legislation

4 The *Extradition Act*, S.C. 1999, c. 18 (the "Act") came into force on June 17, 1999, after the request for extradition was made. However, by virtue of s. 84, the Act applies to the appellant's case as the extradition hearing was commenced after the new Act came into force.

General principle

3. (1) A person may be extradited from Canada in accordance with this Act and a relevant extradition agreement on the request of an extradition partner for the purpose of prosecuting the person or imposing a sentence on -- or enforcing a sentence imposed on -- the person if

(a) subject to a relevant extradition agreement, the offence in respect of which the extradition is requested is punishable by the extradition partner, by imprisoning or otherwise depriving the person of their liberty for a maximum term of two years or more, or by a more severe punishment; and

(b) the conduct of the person, had it occurred in Canada, would have constituted an offence that is punishable in Canada,

(i) in the case of a request based on a specific agreement, by imprisonment for a maximum term of five years or more, or by a more severe punishment, and

(ii) in any other case, by imprisonment for a maximum term of two years or more, or by a more severe punishment, subject to a relevant extradition agreement.

Conduct determinative

3. (2) For greater certainty, it is not relevant whether the conduct referred to in subsection (1) is named, defined or characterized by the extradition partner in the same way as it is in Canada.

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Authority to Proceed

15. (1) The Minister may, after receiving a request for extradition and being satisfied that the conditions set out in paragraph 3(1)(a) and subsection 3(3) are met in respect of one or more offences mentioned in the request, issue an authority to proceed that authorizes the Attorney General to seek, on behalf of the extradition partner, an order of a court for the committal of the person under section 29.

(2) If requests from two or more extradition partners are received by the Minister for the extradition of a person, the Minister shall determine the order in which the requests will be authorized to proceed.

(3) The authority to proceed must contain

(a) the name or description of the person whose extradition is sought;

(b) the name of the extradition partner; and

(c) the name of the offence or offences under Canadian law that correspond to the alleged conduct of the person or the conduct in respect of which the person was convicted, as long as one of the offences would be punishable in accordance with paragraph 3(1)(b).

Order of committal

29. (1) A judge shall order the committal of the person into custody to await surrender if

(a) in the case of a person sought for prosecution, there is evidence admissible under this Act of conduct that, had it occurred in Canada, would justify committal for trial in Canada on the offence set out in the authority to proceed and the judge is satisfied that the person is the person sought by the extradition partner

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Evidence

32. (1) Subject to subsection (2), evidence that would otherwise be admissible under Canadian law shall be admitted as evidence at an extradition hearing. The following shall also be admitted as evidence, even if it would not otherwise be admissible under Canadian law:

(a) the contents of the documents contained in the record of the case certified under subsection 33(3);

(b) the contents of the documents that are submitted in conformity with the terms of an extradition agreement; and

(c) evidence adduced by the person sought for extradition that is relevant to the tests set out in subsection 29(1) if the judge considers it reliable.

Exception -- Canadian evidence

(2) Evidence gathered in Canada must satisfy the rules of evidence under Canadian law in order to be admitted.

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Record of the case

33. (1) The record of the case must include

(a) in the case of a person sought for the purpose of prosecution, a document summarizing the evidence available to the extradition partner for use in the prosecution; and

(b) in the case of a person sought for the imposition or enforcement of a sentence,

(i) a copy of the document that records the conviction of the person, and

(ii) a document describing the conduct for which the person was convicted.

Other documents -- record of the case

(2) A record of the case may include other relevant documents, including documents respecting the identification of the person sought for extradition.

Certification of record of the case

(3) A record of the case may not be admitted unless

(a) in the case of a person sought for the purpose of prosecution, a judicial or prosecuting authority of the extradition partner certifies that the evidence summarized or contained in the record of the case is available for trial and

(i) is sufficient under the law of the extradition partner to justify prosecution, or

(ii) was gathered according to the law of the extradition partner; or

(b) in the case of a person sought for the imposition or enforcement of a sentence, a judicial, prosecuting or correctional authority of the extradition partner certifies that the documents in the record of the case are accurate.

Authentication not required

(4) No authentication of documents is required unless a relevant extradition agreement provides otherwise.

Record of the case and supplements

(5) For the purposes of this section, a record of the case includes any supplement added to it.

. . . . .

When order not to be made

44. (1) The Minister shall refuse to make a surrender order if the Minister is satisfied that

(a) the surrender would be unjust or oppressive having regard to all the relevant circumstances

Proceedings in the Superior Court

5 The appellant brought a series of preliminary motions, all of which were rejected. Hamilton J. rejected the submission that the proceedings were time barred: *Germany (Federal Republic) v. Schreiber*, [1999] O.J. No. 5297 (Ont. S.C.J.). Watt J., the extradition judge, dismissed a motion for disclosure: *Germany (Federal Republic) v. Schreiber*, [2000] O.J. No. 2618 (Ont. S.C.J.) The extradition judge also dismissed a motion for commission evidence: *Germany (Federal Republic) v. Schreiber*, [2000] O.J. No. 5813 (Ont. S.C.J.); a declaration that the proceedings violated the appellant's *Charter* rights: *Germany (Federal Republic) v. Schreiber*, [2002] O.J. No. 3170 (Ont. S.C.J.); and a motion that certain evidence should be excluded on the basis that it is unreliable: *Germany (Federal Republic) v. Schreiber*, [2002] O.J. No. 5845 (Ont. S.C.J.).

6 After a lengthy hearing on the committal application itself, the extradition judge gave detailed reasons, finding that there was sufficient evidence to commit the appellant on all offences except for one count of fraud on Thyssen. In his assessment of the evidence, the extradition judge stated several times that the companies the appellant interposed between himself and his clients were mere shells or "letter box" companies. These companies had no employees, no business function and no purpose other than to receive income from the appellant's clients. According to the extradition judge, there was evidence on which one could conclude that the income was earned

by the appellant, but paid to the shell corporations in order to evade the income tax consequences that would follow from payments made directly to the appellant.

7 Of particular importance to this appeal, the extradition judge rejected the appellant's submission that extradition on the income tax related charges violated the principle of double criminality. He ruled that the essence of the appellant's conduct amounted to tax evasion in both countries. He also ruled that in assessing the double criminality argument, the appellant's conduct, not its foreign legal characterization, is transposed to Canada and assessed against Canadian criminal law. Accordingly, it was irrelevant that income for the purposes of tax law is defined differently under German law.

Minister's Surrender Decision

8 The Minister of Justice ordered the appellant's surrender on October 31, 2004, rejecting the voluminous submissions made by the appellant. In particular, the Minister rejected the contention that he should defer his decision on the ground that the appellant's two civil actions for damages against the Attorney General of Canada arising from the extradition proceedings gave rise to a reasonable apprehension of bias on the part of the Minister. The Minister also rejected the submission that the extradition treaty between Canada and Germany did not provide for extradition for the income tax related offences. The Minister declined to engage in a review of the reliability of the evidence and concluded that surrender of the appellant would not, in the circumstances of the case, be unjust or oppressive.

Issues

I. Appeal from the Extradition Committal

9 At the oral hearing of this appeal, counsel for the appellant abandoned the following grounds of appeal in relation to the committal for extradition:

> (a) that the extradition judge erred in refusing to order further disclosure of the case against the appellant;
>
> that certain actions of the Minister amounted to an impermissible delegation of authority; and,
>
> that the request for extradition was out of time.

10 The remaining grounds of appeal from the extradition committal are:

> 1. Did the extradition judge err in finding that there was sufficient evidence upon which to commit the appellant for:
>
> (i) income tax offences;
>
> (ii) fraud on Saudi Arabia;
>
> (iii) bribery; and,
>
> (iv) breach of trust?
>
> 2. Did the extradition judge err in ruling that the double criminality rule was satisfied with respect to

the income tax related offences?

3. Do ss. 32(1)(a) and (c) and 33 of the *Extradition Act* violate the appellant's s. 7 *Charter* rights?

II. Judicial Review of the Minister's Decision

11 At the oral hearing of this appeal, counsel for the appellant abandoned the following grounds for judicial review of the Minister's decision to surrender the appellant for extradition:

> (a) that the Minister erred in finding that there was no misconduct by the extradition partner notwithstanding that the appellant was a mere suspect at the time that the request for extradition was made and the appellant's arrest was effected.
>
> (b) that the Minister erred in concluding that the appellant's surrender to the extradition partner was not unjust and oppressive notwithstanding that the appellant was denied critical disclosure which was capable of establishing that he was not a person "sought for prosecution" as required by the *Extradition Act*.

12 The remaining grounds for judicial review of the Minister's decision are:

> 1. Does the *Treaty between Canada and Germany Concerning Extradition* preclude extradition for "fiscal offences"?
>
> 2. Was there a reasonable apprehension of bias on the part of the Minister?
>
> 3. Did the Minister err by refusing to assess the reliability of the evidence?
>
> 4. Would surrender of the appellant without assurances be unjust and oppressive and contrary to s. 7 of the *Charter*?

Analysis

I. Appeal from the Extradition Committal

1. Did the extradition judge err in finding that there was sufficient evidence upon which to commit the appellant for

> (i) income tax offences;
>
> (ii) fraud on Saudi Arabia;
>
> (iii) bribery; and,
>
> (iv) breach of trust?

(i) Income Tax Offences

13 The extradition judge summarized his key findings with respect to the income tax related offences as follows at para. 163:

The admissible evidence adduced at the hearing would permit a properly instructed trier of fact to reasonably conclude:

(i) that Karlheinz Schreiber was the *only* person who provided any negotiation or consultancy services for which the various suppliers contracted and agreed to pay commissions;

(ii) that the companies, Kensington, IAL, ATG, and Interleiten S.A. [a subsidiary of Kensington] had no employees, only trustees or directors, were managed by Pelossi from Switzerland at least until 1991, and engaged in *no* other business actively beyond the services Schreiber performed;

(iii) that the companies, which facially appeared to enter into contracts with suppliers, were interposed on Schreiber's instructions;

(iv) that the movement of the funds due under the contracts from one account to another was directed by Schreiber;

(v) that the transfer of funds amongst the accounts of the letter box companies was for the purpose of obscuring the connection between their source and their ultimate destination, Schreiber;

(vi) that the transfers described above were designed to distort the true character of the commissions as income that would be subject to tax; and

(vii) that the failure to report this income was for the express purpose of evading, *not* avoiding, the payment of exigible tax.

14 The appellant submits that the extradition judge erred in concluding that there was any evidence that the appellant was the owner or beneficial owner of the alleged letter box companies Kensington Anstalt ("Kensington"), International Aircraft Ltd. ("IAL") and ATG Investment Ltd. ("ATG"), such that any income earned by these corporate entities could properly be attributed to the appellant. The appellant submits that the evidence of Giorgio Pelossi, the principal prosecution witness, is the essential underpinning of Germany's case. According to the appellant, the evidence amounts to nothing more than Pelossi's "personal assumptions and conclusory statements", and therefore it is insufficient to support the inference that the appellant was the beneficial owner of the letter box companies. The appellant further submits that the extradition judge failed to consider or place appropriate weight on certain evidence led by the appellant to indicate that he was not the owner or beneficial owner of these companies

15 I do not accept these submissions. There was evidence that under the appellant's instructions, and as the appellant's confidant, Pelossi set up IAL and conducted the day-to-day business of that entity and ATG. Pelossi says that these companies had no real business function. Pelossi may or may not be believed at trial, but his evidence as to the establishment and operation of the letter box companies cannot be dismissed as being merely "personal assumptions and conclusory statements". It is evidence which, if believed, could support the inference that the appellant is the beneficial owner of the letter box companies and that those entities were shams used by the appellant to conceal income. As the extradition judge correctly observed, an extradition committal hearing is not a trial. It was not his task to assess Pelossi's credibility.

16 There was also extensive evidence, analyzed in considerable detail by the extradition judge, from which it could be inferred that the commissions at issue were cycled through these companies on the appellant's instruc-

tions and used by the appellant for his own personal benefit. While the appellant also advanced evidence to support his contention that he was not the beneficial owner of these companies, that evidence was far from overwhelming and, in any event, it was explicitly considered by the extradition judge at paras 157-160. The extradition judge cited and, in my view, properly applied the test in *R. v. Arcuri* (2001), 157 C.C.C. (3d) 21 (S.C.C.) at paras. 29-30 and I see no error on his part that would justify the intervention of this court.

(ii) Fraud on Saudi Arabia

17 The appellant submits that there is no evidence from which it could be inferred that the appellant had knowledge of the contract between Thyssen and Saudi Arabia and that, without such knowledge, the appellant would lack the necessary *mens rea* for fraud. The appellant further submits that Saudi Arabia's only loss was the contractual right to claim the secret commission as a penalty as against Thyssen, and that this is not sufficient to amount to a loss of property for the purpose of establishing the offence of fraud.

18 I am not persuaded that there are grounds for appellate intervention on these points. The extradition judge noted at para 176: "[t]he allegations are that Saudi Arabia was defrauded of the amount of commissions paid, which was simply added to the contact price but *not* disclosed to the purchaser." At paras. 216-19, the extradition judge concluded as follows:

> There is evidence upon the basis of which a trier of fact could find that Thyssen increased the original contract price by an amount that was sufficient to cover what the company had agreed to pay Schreiber for his efforts in ensuring the availability of Fuchs tanks to fulfill Thyssen's obligations to Saudi Arabia. A trier of fact could also find that the so-called subsidiary or side agreement with Schreiber...was concluded in advance of the main contract. Without the release of tanks from German army stocks, Thyssen could not fulfill its supply obligations. And it was Schreiber's job to ensure their release.
>
> There is evidence on the basis of which a trier of fact could conclude that Saudi Arabia was deceived by Thyssen about what it paid for under the contract. Saudi Arabia contracted for three dozen tanks. It paid for tanks and a commission prohibited by the agreement. This deception put Saudi Arabia's economic interests at risk, or at the very least deprived Saudi Arabia of its contractual right to deduct the commission amount from the contract price. Under domestic law, it is at least arguable that the loss of the contractual right of reduction in the contract price amounts to a deprivation of "property" as the term is defined in s. 2 of the Criminal Code.
>
> The evidence, taken as a whole, is reasonably capable of supporting the inference that Schreiber had the state of mind required of a person who aids or abets a principal to commit fraud. The commission agreement preceded the main contract, but was contingent on payment under the main contract. Elaborate steps were taken to ensure the secrecy of the fact and nature of the subsidiary contract. It is a reasonable inference that the parties, including Schreiber, knew of the prohibition on agency contained in the main contract.
>
> The parties to both contracts were closely connected, with the Thyssen representatives constituting the common link. It surpasses belief that Schreiber wouldn't and didn't know the terms of the main contract. He had every reason to help or encourage Thyssen to deceive Saudi Arabia to pay the new contract price. After all, the price included Schreiber's commission [emphasis added].

19 In my view, the evidence of

the appellant's very close involvement with the negotiation of the contract between Thyssen and Saudi Arabia;

the steps taken to conceal the subsidiary contract for the commission; and

the steps taken by the appellant to conceal that he was receiving any commissions on account of this sale

provided an adequate basis for the extradition judge to conclude that it would be possible to infer that the appellant knew that Saudi Arabia was being deceived and was therefore a party to that fraud. Again, in the end, this is an issue for trial, but the extradition judge was entitled to conclude that there was sufficient evidence to warrant committal and I would not interfere with this conclusion.

20 I see no merit in the submission that the loss of the contractual right to claim the secret commission is not sufficient to amount to a loss of property for the purpose of establishing the offence of fraud. In *R. v. Théroux* (1993), 79 C.C.C. (3d) 449 (S.C.C.) at p. 457, McLachlin J. confirmed that economic loss is not essential in order to make out the offence of fraud: "the imperilling of an economic interest is sufficient even though no actual loss has been suffered". I agree with the respondents' submission that deprivation of Saudi Arabia's contractual right to recover the commission is sufficient to constitute an imperilment of an economic interest necessary to justify committal for fraud.

(iii) Bribery

21 The appellant submits that the extradition judge erred in concluding that there was any evidence upon which to commit the appellant on the offence of bribing a public official (a) because there was no direct evidence that Pfahls received the alleged bribe and (b) because the decision to allow the sale to proceed was not made by Pfahls but at the political level by Chancellor Helmut Kohl.

22 With respect to the first point, there was, *inter alia*, evidence led as to extensive notations in the appellant's personal organizer of his contacts with "Pfahls" and "Holger" during the crucial period when the bribe is alleged to have been paid. There was also evidence of a substantial payment to the "Holgart" sub-account shortly after the appellant received the first commission payment for negotiating the tank deal. In my view, this evidence provided a sufficient basis for the extradition judge to conclude that a trier of fact could infer that Pfahls received a bribe.

23 With respect to the second point, the offence under s. 121 of the *Criminal Code* is made out, in the words of the section "whether or not, in fact, the official is able to cooperate, render assistance, exercise influence or do or omit to do what is proposed". I agree with the extradition judge's conclusion at para. 272 that "[i]t is of no moment to liability under s. 121(1)(a) that the recipient lacks the actual authority or ability to provide the sought-after co-operation, assistance or influence."

24 Accordingly, I would not interfere with the extradition judge's conclusion that the evidence was sufficient to satisfy the domestic committal standard for bribery.

(iv) Breach of Trust

25 The appellant's arguments with respect to breach of trust were subsumed in the arguments already reviewed and as I have rejected them in relation to the other counts, I would also reject them here. I see no reason

to interfere with the extradition judge's finding that there was evidence that in relation to the Saudi Arabia contract, secret commissions were paid to two Thyssen agents, from the commissions paid to Schreiber, for their assistance in concluding the main contract, that those secret commissions constituted a breach of trust and, that as the donor of those secret commissions, the appellant aided and abetted the breach of trust.

2. Did the extradition judge err in ruling that the double criminality rule was satisfied with respect to the income tax related offences?

26 The *Extradition Act*, ss. 3, 15 and 29,sets out the double criminality rule requiring as a prerequisite for committal that: (a) the offence is punishable in the requesting state, and (b) the alleged conduct of the party sought, had it occurred in Canada, would justify committal for trial on the Canadian offence set out in the authority to proceed.

27 The appellant submits that Germany failed to satisfy the double criminality rule, as it has not been shown that what German law considers income is also considered income in Canada. In particular, the appellant submits that the German law attributing corporate income to the principals of a corporation is an essential element of the German income tax evasion charges. As corporate income is not attributed in this manner under Canadian law, it is submitted that the extradition judge erred in ruling that the double criminality rule was satisfied.

28 In *United States v. McVey*, [1992] 3 S.C.R. 475 (S.C.C.) at p. 536, La Forest J. described the underlying purpose of the double criminality rule as being:

> that no person shall be surrendered for an act (or conduct) in another country unless that act or conduct is considered a crime here...[quoting Shearer, Ivan Anthony. *Extradition in International Law*. Manchester: University Press, 1971] 'the double criminality rule serves the most important function of ensuring that a person's liberty is not restricted as a consequence of offences not recognized as criminal by the requested State. The social conscience of a State is also not embarrassed by an obligation to extradite a person who would not, according to its own standards, be guilty of acts deserving punishment.' (emphasis added by La Forest J.)

29 The focus of the double criminality rule is on the nature of the "conduct" of the person sought and on the "standards" of the requested state, and not the precise legal definition of the crime. It is not necessary that the legal definitions of the crimes under the law of the requesting state and the law of Canada be equivalent. See *D'Agostino, Re* (2000), 143 C.C.C. (3d) 158 (Ont. C.A.) at para. 44, application for leave to appeal dismissed, (S.C.C.):

> It is not necessary that the Canadian offence established by the conduct be described by the same name or that it have the same legal elements as the offence charged in the requesting state. The protection afforded by the double criminality rule is ensured if the conduct that underlies the foreign charge constitutes any extradition crime under the laws of Canada.

30 It follows that "the task of the extradition court to fit a set of facts constituting the conduct of the alleged fugitive, not into the legal framework set up by the applicant government, but into Canadian legislation to determine if the alleged conduct constitutes an offence pursuant to that legislation": *McVey* at p. 512-13, quoting Borins Co. Ct.J. in *United States v. Smith* (1984), 15 C.C.C. (3d) 16 (Ont. Co. Ct.), at 27, affd. (1984), 16 C.C.C. (3d) 10 (Ont. H.C.).

31 The issue, then, is to determine whether the conduct alleged against the appellant would constitute an offence under the laws of Canada. I will assume for the moment that the appellant is correct in his submission that the respondents must show that the moneys at issue would be treated as the appellant's income and taxable in Canada as well as in Germany. In my view, even on that standard, the evidence satisfies the double criminality rule.

32 Canadian law does, in some circumstances, pierce the corporate veil and treat income in the hands of a corporation as that of the beneficial owner of the corporation. The "sham doctrine" applies where an individual deceitfully misleads the government away from his or her true taxable income through the creation of arrangements that, while facially valid, are in reality devoid of substance. The sham doctrine was defined by the Supreme Court of Canada in *Minister of National Revenue v. Cameron* (1972), [1974] S.C.R. 1062 (S.C.C.), at 1068, citing *Snook v. London & West Riding Investments Ltd.*, [1967] 1 All E.R. 518 (Eng. C.A.), at 528, as:

> acts done or documents executed by the parties to the "sham" which are intended by them to give to third parties or to the court the appearance of creating between the parties legal rights and obligations different from the actual legal rights and obligations (if any) which the parties intend to create.

33 An element of deceit must be present in order for the sham doctrine to apply: see *Stubart Investments Ltd. v. R.*, [1984] 1 S.C.R. 536 (S.C.C.), at 545-46 defining a "sham transaction" as

> a transaction conducted with an element of deceit so as to create an illusion calculated to lead the tax collector away from the taxpayer or the true nature of the transaction; or, simple deception whereby the taxpayer creates a facade of reality quite different from the disguised reality.

34 I have already set out the extradition judge's key findings in relation to the nature of these transactions. The extradition judge concluded that there was evidence from which it could be inferred that Kensington, IAL and ATG are artificial entities having no legitimate business function and that the transfers of funds described were designed to "distort the true character of the commissions as income that would be subject to tax" (para. 163). The extradition judge found that there was evidence that the appellant had made false or deceptive statements and uttered forged documents in relation to reporting his income and that his conduct amounted to defrauding the Germany of income tax revenue.

35 These factual conclusions are entitled to deference on appeal and, in any event, are well supported by the evidence. The evidence regarding the use of the letter box companies and the transfers of funds to their ultimate destination, the appellant, is sufficient to bring Germany's allegations within the "sham doctrine".

36 Accordingly, I agree with the submission of the respondents that, applying the sham doctrine to the extradition judge's findings, committal would be justified under any view of the double criminality rule as, even under Canadian law, the commissions received by Kensington, IAL and ATG would be considered as the income of the appellant.

37 As this conclusion is sufficient to uphold the committal, it is not strictly necessary for me to consider the correctness of the extradition judge's finding that the double criminality requirement could be met on the basis of importing the definition of taxable income from German law. However, for the sake of completeness, I offer the following.

38 The extradition judge ruled that for purposes of the double criminality rule, it is appropriate to import the

German definition of income and to focus on the conduct of evading tax on income so defined. He ruled that it is not necessary to show that Canadian law would deem the moneys at issue to be income in the hands of the person sought. He ruled that the double criminality rule is satisfied if the appellant's conduct can be characterized more generally as a failure to pay tax on taxable income as defined by the applicable law, assuming that the other elements of the conduct amounting to tax fraud under Canadian law (such as *mens rea*) are made out.

39 I do not accept the appellant's submission that the extradition judge erred in this regard. As I have already stated, the focus of the double criminality inquiry is on the nature of the alleged conduct and on the standards of the requested state. A precise coincidence between the definition of the offence under domestic and foreign law is not required: *McVey* ; *Commisso*, *supra*.

40 Income tax evasion is a form of fraud on the public purse. The essence of the prohibited conduct, in the words of the Income Tax Act, s. 239 (1), using "deceptive statements", destroying or secreting records or books of account, "making...false or deceptive entries" in record of books of account, or otherwise "wilfully" evading "compliance with this Act or payment of taxes imposed by this Act." Non-payment of taxes does not constitute income tax evasion. The definition of income defines the extent of the individual's obligation to pay tax but it does not define the essential nature of the wrongful conduct of income tax evasion.

41 The extradition judge concluded at paras 128-130:

> It is necessary to transpose the essence of the conduct alleged to have occurred in the foreign country to Canada. Once the essence of the conduct has been transposed, we apply domestic law to determine whether that conduct is a crime here. Exact correspondence is not required.
>
> The essence of Schreiber's alleged conduct involves several elements. He earned commissions by negotiating contracts on behalf of several suppliers or sellers. He failed to report these commissions as part of his income. He hid the receipt of these commissions by having them paid to letter box companies, then obtained the funds himself through a series of financial transactions amongst companies with no legitimate business other than concealment of income.
>
> According to German authorities, what Schreiber is alleged to have done in Germany amounts to the crime of tax evasion. He earned income that was subject to tax, deliberately omitted it from his tax return, denied its existence, used companies with no legitimate commercial purpose to conceal it, and deliberately evaded the payment of tax. A person who did the same things in Canada would also be intentionally evading or attempting to evade the payment of tax under the Income Tax Act.

42 I agree with this analysis. I do not accept the submission that it is necessary to advert to the German definition of income to satisfy the double criminality. I agree with the extradition judge (at para 37) that when "transposing the facts from the requesting jurisdiction to the requested jurisdiction, the institutions and laws of the foreign jurisdiction of necessity must be brought along to provide context for the committal decision." As Anne Warner La Forest, *La Forest's Extradition To and From Canada*, 3rd ed. (Aurora, Ontario: Canada Law Book, 1991) states at pp. 69-70. "...The institutions, and laws of the foreign country must necessarily form the background against which to examine events occurring in that country. It is after all, the essence of the offence that is important in extradition." The point was well expressed by Duff J. in *Collins, Re (No. 3)* (1905), 10 C.C.C. 80 (B.C. S.C.) at p. 103:

> ...if you are to conceive the accused as pursuing the conduct in question in this country, then along with

> him you are to transplant his environment; and that environment must, I apprehend, include, so far as relevant, the local institutions of the demanding country, the laws effecting the legal powers and rights, and fixing the legal character of the acts of the persons concerned, always exception, of course, the law supplying the definition of the crime which is charged.

43 There is little authority on precisely what may be included in the imported legal environment and what must be considered to be an element of the conduct alleged against the person sought. It is probably impossible to provide a precise bright line distinction that will cleanly define the boundary in all cases. However, I am satisfied that the legal definition of income falls within the category of the foreign legal environment that is properly considered as the context or background within which the alleged wrongful conduct occurred. One must look to the definition of income to identify the nature and extent of the obligation to pay taxes but the essence of the alleged wrong is the use of deceitful and dishonest means to avoid that legal obligation, however it is determined.

44 As the extradition judge observed, tax laws are notoriously complex. Taxes are imposed and deductions are allowed to achieve a wide variety of economic and social policies. These policies and the intricacies of the resulting tax regime do not describe or define the wrong of evading payment of tax.

45 For example, Canadian tax law accords various forms of special relief to fishers, farmers, small businesses, those who save for their retirement, and those who give to charity. Presumably, German law imposes a very different set of rules to achieve different policies. I fail to see how these differences in the legal rules to determine liability to pay tax have any direct bearing on the wrong of evading tax. If the appellant were a farmer, could he resist extradition on the ground that if his German farm were in Canada, his farm income would not have been taxable? In my view, the way Canadian tax law would treat certain forms of income does not assist us when assessing the nature of the wrong of an individual who evades the payment of taxes to a foreign country that does not accord similar treatment. The definition creating the legal obligation to pay tax does not define the wrong of income tax evasion. The test for extradition is double criminality, not double taxability.

46 In oral argument, it was suggested that a foreign state may imposes a tax that is so offensive to Canadian standards of justice that Canadian law should refuse to extradite an individual who evades such a tax. In my view, such an exceptional case may be appropriately dealt with by the Minister in the exercise of his discretion under s. 44 to refuse surrender where it "would be unjust or oppressive having regard to all the relevant circumstances."

3. Do ss. 32(1)(a) and (c) and 33 of the Extradition Act violate the appellants s. 7 Charter rights?

47 The appellant argues that ss. 32(1)(a) and (c) and 33 of the *Extradition Act* violate his s. 7 *Charter* rights on the following grounds:

> 1. Sections 32(1)(a) and 33 of the *Extradition Act* violate section 7 of the *Charter*, in that the evidentiary standard for the admissibility of evidence adduced by the requesting state allows for the admission of evidence that would otherwise be inadmissible in a Canadian court.
>
> 2. Section 32(1)(c) of the *Extradition Act* violates section 7 of the *Charter* in that the evidentiary standard for the admissibility of evidence adduced by the person sought for prosecution requires an assessment of reliability that is not required in relation to evidence adduced by the requesting state.

48 These arguments have been rejected by prior decisions of this court: *United States v. Yang* (2001), 157

C.C.C. (3d) 225 (Ont. C.A.); *United States v. Scott*, [2003] O.J. No. 5377 (Ont. C.A.), leave to appeal to S.C.C. dismissed, (S.C.C.); *United States v. Ferras* (2004), 183 C.C.C. (3d) 119 (Ont. C.A.), leave to appeal granted Oct 7, 2004, S.C.C. Bulletin, 2004 [2004 CarswellOnt 4088 (S.C.C.)], p. 1484; *United States v. Latty* (2004), 183 C.C.C. (3d) 126 (Ont. C.A.), leave to appeal granted October 7, 2004 [2004 CarswellOnt 4090 (S.C.C.)], S.C.C. Bulletin, 2004, p. 1485. The appellant did not ask for a five judge panel to review the correctness of these decisions nor did counsel suggest that those decisions could be distinguished from the case at bar. In keeping with our practice of following our own decisions, I decline the invitation to reconsider the constitutionality of ss. 32(1)(a) and (c) and 33 of the *Extradition Act* and accordingly, would not give effect to this ground of appeal.

49 The Supreme Court of Canada heard argument in *Ferras* and *Latty* in October 2005. Judgment was reserved. The appellant asked us to reserve our decision pending the release of the Supreme Court's decisions. There is, of course, no indication as to when the Supreme Court may render its decisions. In my view, we should decide the case according to the law as it exists at the time this case was argued and not speculate as to when or how the Supreme Court might decide the cases now before it. Extradition is meant to be expeditious. This case has proceeded at a snail's pace. I can see no reason to delay it further. If so advised, the appellant can protect his rights by seeking leave to appeal to the Supreme Court.

II. Judicial Review of the Minister's Decision

1. Does the Treaty between Canada and Germany Concerning Extradition preclude extradition for "fiscal offences"?

50 The appellant submits that the extradition treaty between Canada and Germany precludes extradition for "fiscal offences" and that the Minister's surrender order constitutes a violation of the appellant's s. 7 *Charter* rights. Article 2 of the treaty defines an extraditable offence as an offence set out in the Schedule to the treaty. At the time these proceedings were commenced, the Schedule listed 31 offences, including forgery and fraud, but did not include income tax offences or "fiscal offences".

51 The appellant initially made these arguments to the extradition judge and led extensive expert evidence to the effect that under German law, the treaty would not be interpreted to include "fiscal offences". The extradition judge ruled that the issue of treaty interpretation was a matter for the Minister. The Minister rejected the appellant's arguments and found that he could be extradited for the income tax related offences. In the course of his reasons, the Minister referred to the Supplementary Treaty between Germany and Canada that came into force after the request for extradition was made. The Supplementary Treaty removed the listed-offence approach for extradition between Canada and Germany.

52 The appellant submits that the extradition judge erred in deferring interpretation of the treaty to the Minister. I disagree. The extradition judge properly concluded that he did not have jurisdiction to consider whether the inclusion of a fiscal offence in the treaty would violate the appellant's s. 7 *Charter* right, as the issue of treaty interpretation is reserved to the Minister: see *McVey* at para. 53.

53 The appellant argues that fiscal offences are not subject to extradition for the following reasons:

> 1. Historically, fiscal offences have not been captured by extradition because they are based purely on domestic law. Tax laws are largely idiosyncratic and accordingly, a conduct based approach to tax offences is unworkable. Because the essential elements of fiscal offences vary from country to country, absent any internationally uniform tax laws, fiscal offences can only be extraditable by a specific

amendment to the treaty.

2. Fiscal offences are not listed in the schedule to the German-Canada treaty.

3. The law of Germany is that the German-Canadian treaty precludes the extradition of anyone, citizen or non-citizen, to Canada for fiscal offences.

4. For Canada to interpret the German-Canadian treaty as allowing Canadian citizens to be extradited to Germany for fiscal offences, when Germany prohibits extradition to Canada for fiscal offences, violates s. 7 of the *Charter* and would shock the conscience of the community.

54 The Minister's decision attracts a high standard of deference: see *Idziak v. Canada (Minister of Justice)* (1992), 77 C.C.C. (3d) 65 (S.C.C.). The appellant has failed to persuade me that we should interfere with the Minister's conclusion that the appellant should be extradited pursuant to the treaty.

55 I agree with the respondents that it is the appellant's conduct that must be considered when determining whether the offence with which he is charged is included in the offences listed in the treaty. In *McVey* at para. 105, LaForest J. stated:

> [I]t must be remembered that the crimes listed in the treaty are not to be interpreted according to the niceties of the applicable legislation of either country. Rather they are described in compendious terms to catch broad categories of conduct...In other words, extradition crimes are described in a comprehensive and generic sense.

56 The offences listed in the treaty include:

> 12. Offences against the laws relating to fraud and criminal breach of trust; fraudulent conversion; obtaining property, money or securities by fraud or false pretences.
>
> 13. Offences against the laws relating to forgery, including uttering what is forged.
>
> . . . . .
>
> 16. Offences against the laws relating to perjury, including subornation of perjury; making a false affidavit, statutory declaration or oral statement under oath or on affirmation; false statements, either written or oral, whether or not under oath, made to a judicial authority or to a government agency or office.

57 The extradition judge found that there was evidence upon which it could be concluded that the appellant hid the receipt of commissions, arranged transactions in order to conceal income, and deliberately evaded the payment of taxes. The extradition judge further found that the evidence of fraud, deception and falsification was sufficient to support domestic committal not only on the offence of income tax evasion contrary to s. 239 (1)(d) of the *Income Tax Act* but also on the offences of making false or deceptive statements in an income tax return contrary to s. 239(1)(a) of the *Income Tax Act*, defrauding the government of income tax revenues contrary to s. 380(1)(a) of the *Criminal Code*, and uttering a forged document contrary to s. 368(1)(b) of the *Criminal Code*. It has been held that the offence of income tax evasion may also constitute fraud contrary to the *Criminal Code*: see *R. v. Cancor Software Corp.* (1990), 58 C.C.C. (3d) 53 (Ont. C.A.), leave to appeal to S.C.C. refused (1991), 61 C.C.C. (3d) vi (note) (S.C.C.).

58 As there is evidence of conduct embraced by the offences that are listed in the treaty, I see no basis to in-

terfere with the Minister's decision to surrender the appellant notwithstanding the absence of any mention of the specific offence of tax evasion in the treaty.

59 In light of this conclusion, I need not consider whether extradition for offences that the appellant labels (but does not define) as "fiscal offences" is precluded under the treaty as it existed at the time the request was made or whether the Minister erred by taking into consideration the amendment to the treaty that removed the "listed offence" approach.

2. Was there a reasonable apprehension of bias on the part of the Minister?

60 The appellant commenced a civil action in Alberta against the Attorney General of Canada in relation to a Letter of Request that had been sent by the Director of the International Assistance Group to the Swiss government authorities. The statement of claim alleged negligence, defamation, and breach of statutory and professional duty, including abuse of process and abuse of public office. In another action, the appellant sued Germany and the Attorney General of Canada claiming damages for negligence and abuse of power as a result of his arrest and detention pursuant to Germany's treaty request for extradition. The appellant asked the Minister to suspend his decision as to surrender pending resolution of these actions. The Minister rejected the submission that these pending civil actions give rise to a reasonable apprehension of bias and refused to suspend his decision as to surrender:

> The Supreme Court of Canada has described my role in deciding the issue of surrender as being at the extreme legislative end of the continuum of administrative decision-making: [See *Idziak v. Canada (Minister of Justice)* (1992), 77 C.C.C. (3d) 65 (S.C.C.)]
>
> The applicable test for whether my decision on surrender would give rise to a reasonable apprehension of bias is whether a reasonable apprehension of bias exists "in the mind of a fully informed person in a substantial number of cases". [See *Cotroni c. Centre de Prévention de Montréal*, [1989] 1 S.C.R. 1469 (S.C.C.) and *Idziak , supra*]
>
> Allegations of bias against political decision-makers are reviewed in the context of the functions and powers assigned to them, and only when they have acted outside the framework delineated by the applicable law will judicial intervention be warranted. [See *Cie pétrolière Impériale c. Québec (Tribunal administratif)*, [2003] 2 S.C.R. 624 (S.C.C.)]
>
> Applying this analysis in the extradition context, the Supreme Court of Canada found that my dual roles as Minister of Justice and Attorney General of Canada do not create a reasonable apprehension of bias, since my functions at the judicial and ministerial phases of the extradition process involve separate and distinct considerations.

61 The appellant made no oral submissions on this point and relied entirely on the argument advanced in his factum.

62 I see no merit to the submission that the Minister erred in refusing to suspend his decision in view of the civil actions. The Minister's reasons rejecting the allegation of bias demonstrate no error. The existence of a civil claim brought by the appellant as to the extradition proceedings themselves could not, in the mind of a fully informed person, give rise to a reasonable apprehension of bias.

69 I see no merit in these submissions. The Minister stated that seeking an assurance regarding pre-trial custody "would amount to an improper interference with the sovereignty of Germany as regards the conduct of their criminal process". There is nothing in the record that would bring the risk of pre-trial detention within the "shock the conscience" test articulated in *United States v. Burns*, [2001] 1 S.C.R. 283 (S.C.C.), and I agree with the respondents that there is no basis for us to interfere with the Minister's decision that this matter should be left to be dealt with by the German authorities according to German law.

70 The Minister found that s. 13 of the *Charter* was not applicable in this case, since applying it would give the *Charter* extraterritorial effect: *R. v. Terry* (1996), 106 C.C.C. (3d) 508 (S.C.C.) at paras. 14-20 and *Burns* at paras. 50-57. As the respondents point out, this issue was resolved against the appellant in *Schreiber v. R.* (2004), 185 C.C.C. (3d) 233 (Ont. S.C.J.). The appellant brought an application to quash a subpoena to testify in the preliminary hearing, arguing that forcing him to testify in the absence of use and derivative use immunity of his testimony in criminal proceedings in Germany would violate his s. 7 and 13 *Charter* rights. Morin J. dismissed the application, holding that the appellant had not made out a *Charter* violation. At para. 64, Morin J. stated that there was a high degree of probability that, if the appellant had to testify at the preliminary inquiry, "German law will afford him ample protection against the use of that evidence in the proceedings in Germany."

71 As for the amount of the alleged tax fraud, the Minister refused to impose any condition on the German prosecuting authorities. I agree with the respondents that the amount of the alleged fraud is a matter for trial in Germany and that there is no basis for us to interfere with the Minister's decision in that regard.

Conclusion

72 For these reasons, I would dismiss the appeal from the extradition committal and dismiss the application for judicial review of the Minister's surrender decision.

Doherty J.A.:

I agree.

Lang J.A.:

I agree.

Appeal dismissed; application for judicial review dismissed.

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Westlaw Delivery Summary Report for HENDERIN,CHRISTI

Date/Time of Request:	Wednesday, March 11, 2009 10:29 Central
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Documents:	1
Images:	0

364 N.R. 396 (note), 229 O.A.C. 395 (note)

H

2007 CarswellOnt 571

Germany (Federal Republic) v. Schreiber
Karlheinz Schreiber v. Federal Republic of Germany, Minister of Justice and Attorney General of Canada
Supreme Court of Canada
Abella J., Binnie J., Deschamps J.
Judgment: February 1, 2007
Docket: 31340

Proceedings: Leave to appeal refused, (sub nom. Germany (Federal Republic) v. Schreiber) 206 C.C.C. (3d) 339, 68 W.C.B. (2d) 686, (sub nom. Germany (Federal Republic) v. Schreiber) 264 D.L.R. (4th) 211, 2006 CarswellOnt 1184, (sub nom. Germany (Federal Republic) v. Schreiber) 207 O.A.C. 306 (Ont. C.A.); Affirmed, 2004 CarswellOnt 3673, [2004] O.J. No. 2310, 184 C.C.C. (3d) 367 (Ont. S.C.J.)

Counsel: None given

Subject: Criminal; Constitutional

Criminal law.

Per Curiam:

1 The application for leave to appeal from the judgment of the Court of Appeal for Ontario, Numbers C41853 and C42701, dated March 1, 2006, is dismissed.

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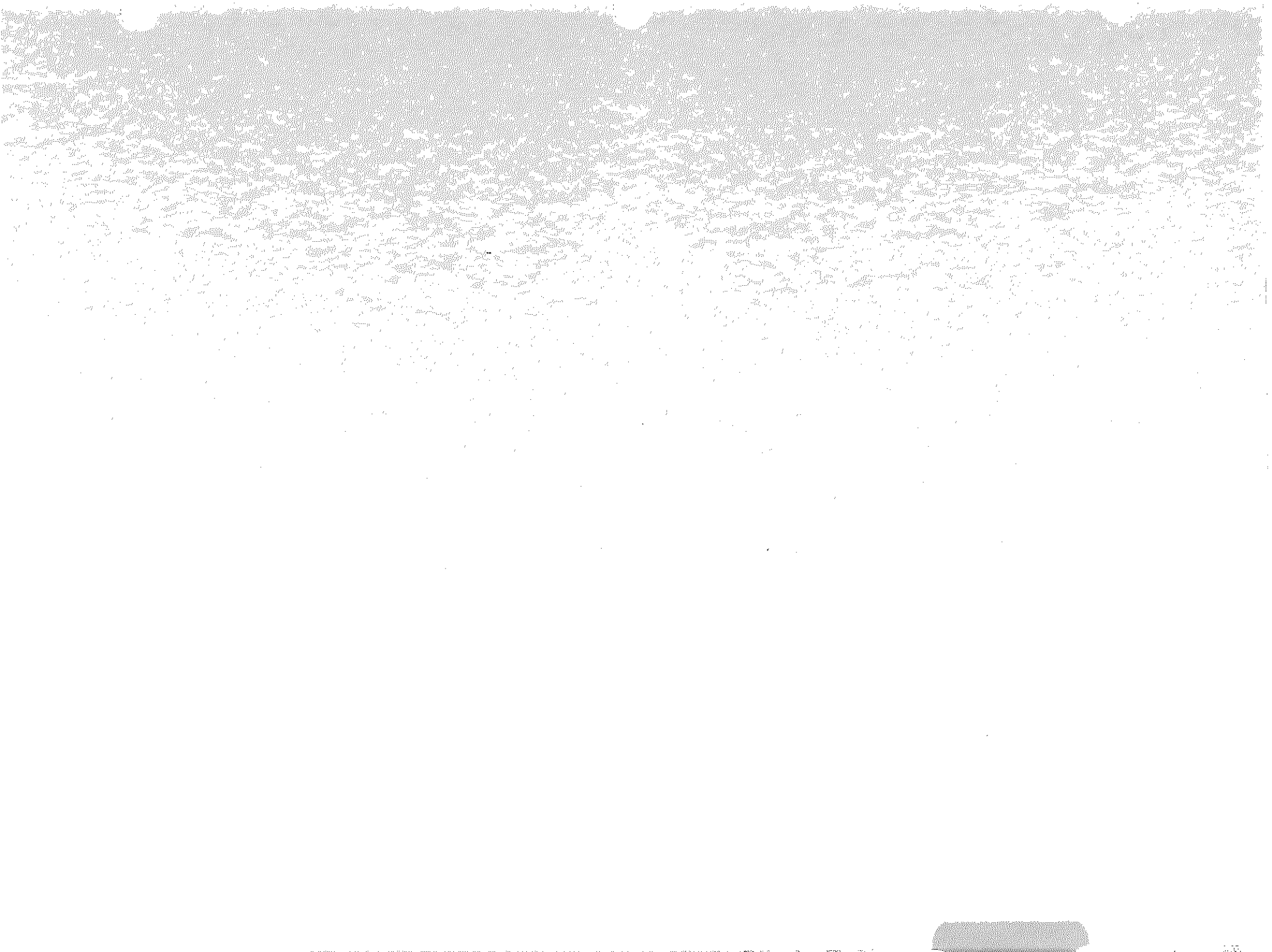

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VIA COURIER AND FAX 1-613-990-7255

May 17, 2006

The Honourable Vic Toews
Minister of Justice and Attorney General of Canada
Department of Justice
284 Wellington Street, Room 2274
Ottawa, Ontario

Dear Mr. Minister:

Re: Federal Republic of Germany v. Schreiber

I represent Karlheinz Schreiber, a Canadian citizen, in relation to his extradition to Germany on charges of tax evasion, fraud, breach of trust, and bribery. I am writing to you pursuant to section 43(2) of the *Extradition Act* which permits submissions to be made to you on any ground relevant to the decision with respect to the surrender of Mr. Schreiber even after the expiry of the 30 days in circumstances that the Minister considers relevant. As I am sure you are aware, this process of making further submissions has been approved of and judicially reviewed by the Court of Appeal for Ontario in the case of *Waldman v. Minister of Justice.* I have attached the brief endorsement from the Court of Appeal at tab 8 of the Submission Record.

It is respectfully submitted that as a result of recent developments in the case, specifically comments made publicly by the Chief Prosecutor and by the Judicial Spokesperson for the Court in Augsburg directly about Mr. Schreiber's case, you should refuse to surrender Mr. Schreiber to Germany. The comments are not innocuous and reveal that pre-judgments have been made not only by the Chief Prosecutor but more importantly by the German court before which Mr. Schreiber is to be tried.

Background

The request for the extradition of Mr. Schreiber began in 1999. On May 27, 2004, Mr. Schreiber was committed for extradition on all charges, except one count of fraud. On June 3, 2004, he appealed to the Court of Appeal for Ontario and was granted bail that day.

Between July 15, 2004 and October 20, 2004, Mr. Schreiber made submissions to the Minister of Justice with respect to his surrender decision, including submissions related to a reasonable apprehension of bias on the part of the Minister of Justice due to the fact that the former Justice Minister is named in two legal actions initiated by Mr. Schreiber and submissions related to the reliability of the central prosecution witness, Giorgio Pelossi. I have attached the submissions made on August 12, 2004 and October 20, 2004 at tabs 1 and 2 of the Submission Record.

On October 31, 2004, the Minister ordered Mr. Schreiber's surrender. A Notice of Application for Judicial Review of the Minister's decision was filed on November 29, 2004.

On December 5 and 6th, 2005, the Court of Appeal for Ontario heard the appeal and judicial review. On March 1, 2006, the Court of Appeal for Ontario dismissed both the appeal and the judicial review. I have attached the Reasons for Judgment of the Court of Appeal for Ontario at tab 3 of the Submission Record.

On March 3, 2006 a Notice of Application for Leave to Appeal to the Supreme Court of Canada was filed. I have attached the Notice of Application at tab 4 of the Submission Record. On March 10, 2006, Mr. Schreiber was Ordered released pending the Application for Leave to Appeal to the Supreme Court of Canada.

On April 28, 2006, the Memorandum of Argument for Leave to Appeal to the Supreme Court of Canada was filed. I have attached the Memorandum at tab 5 of the Submission Record.

Media Articles

Following the release of the decision of the Court of Appeal for Ontario, several articles were written about Mr. Schreiber in foreign magazines. Due to the comments made in two of these articles, it is imperative, in my respectful submission, that you reconsider the decision to surrender Mr. Schreiber to Germany.

On March 8, 2006, the following article was available on the *Spiegel Online* website (a German website for Der Spiegel, the most widely read weekly magazine in Germany). The article reported the following comments by the Chief Prosecutor:

Schreiber Arrested in Canada, Released on Bail

In that article, the following comments were made:

> ...Even though Schreiber's extradition is nowhere near imminent after the recent decision, the investigators are pleased with the Canadian decision. "The court has confirmed that an extradition is justifiable," said public prosecutor Nemetz, "now the higher instance simply has to follow through." Nemetz banks on the Supreme Court handling the case quickly, since this is generally common with extradition cases: "So far, things have been progressing at snail pace. The case could use a little speeding up."
>
> The life awaiting Schreiber in Germany is nowhere near as pleasant as in Canada. **According to Nemetz, he would definitely be imprisoned on remand, due to the severity of the charges**, and the public prosecutor would "vehemently" protest against releasing him on bail. A decision would not be made quickly in Germany, however. [translated] (underlining mine)

Reinhard Nemetz is the chief prosecutor heading the investigation in the Bavarian town of Augsburg. Mr. Nemetz is the head prosecutor in Augsburg and is responsible for the organization of the prosecutions office and its representation in the public. The comments clearly reflect a prejudgment of the availability of bail for Mr. Schreiber.

I have attached this article from Spiegel Online at tab 6 of the Submissions Record.

On March 9, 2006, the following article was available on the *Deutsche Presse-Agentur* website (DPA is one of the world's leading international news agencies supplying news on a global basis):

Schreiber Requests that Supreme Court of Canada Refuse Extradition

In that article, the following comments were made:

> ....Judge Karl-Heinz Haeusler, spokesman for the Regional Court of Augsburg, told dpa that after his extradition, Schreiber would have to reckon with the "full force of the law". **"He is the trigger of the entire affair and has caused damage to Germany."**
>
> **...Until the Schreiber case, Germany had been considered a country immune to bribery** [he stated] – **the arms dealer's "unconcealed exertion of influence" on politicians and managers made the "unspeakable" reality. Schreiber had done Germany a "disservice", said the court spokesman**.... [translated] (underlining mine)

Judge Karl-Heinz Haeusler is a judge and the spokesperson for the Regional Court of Augsburg. As the spokesperson, Mr. Haeusler informs the public about important pending cases at the court. He comments on the current developments in certain cases and explains legal aspects of the cases as well as the decisions of the court. Mr. Haeusler speaks on behalf of the Regional Court of Augsburg.

The conclusion that Mr. Schreiber "**is the trigger of the entire affair and has caused damage to Germany**" can only lead to the conclusion that the court has prejudged Mr. Schreiber's guilt and that he will not have an objective and fair trial in Germany.

Further, it must be recognized that the CDU (Christian Democratic Union) contributions scandal is one of the largest political scandals in German history, in which it was discovered that the German CDU political party had accepted millions of marks in illegal donations from 1982 to 1998 while under the control of Chancellor Helmut Kohl. This scandal brought down Chancellor Kohl, one of the most widely respected politicians in the history of Germany, and left him and his CDU party in disgrace. It is respectfully

submitted that according to the comments of Judge Haeusler, it would appear that Karlheinz Schreiber is being held responsible for this entire scandal. Judge Karl-Heinz Haeusler, a judge and spokesperson for the court who will try Mr. Schreiber, publicly stated that **"until the Schreiber case, Germany had been considered a country immune to bribery...the arms dealer's unconcealed exertion of influence on politicians and managers made the unspeakable reality"**, and further that **"Schreiber had done Germany a disservice"**. These comments made on behalf of the court that will try Mr. Schreiber are extremely alarming. These comments are political statements. What is a judge doing saying this? It is not a legal analysis and it is dangerous.

I have attached this article from the *Deutsche Presse-Agentur* website at tab 7 of the Submission Record.

It is respectfully submitted that these comments amount to an abuse of process and that this is one of the clearest cases where to proceed further with the extradition would violate those fundamental principles of justice which underlie the community's sense of fair play and decency.

Legal Analysis

Section 7 of the Charter permeates the entire extradition process and is engaged, although for different purposes, at both stages of the proceedings. If a committal order is issued, the Minister must examine the desirability of surrendering the fugitive in light of many considerations, such as Canada's international obligations under the applicable treaty and principles of comity, but also including the need to respect the fugitive's constitutional rights.

United States of America v. Cobb (2001), 152 C.C.C. (3d) 270 (S.C.C.)

In *United States of America v. Cobb*, the argument was made that extradition would violate s. 7 of the *Charter* in light of statements made by the American judge and prosecuting attorney with carriage of the matter in the United States.

In *Cobb*, the impugned comments were that, first, while sentencing one of the co-accused, the assigned trial judge made the following statement:

> Mr. Kay, I'm sure that you might have some appreciation for the difficulty I have in trying to keep the participants in this matter in the proper level of accountability, the proper range of accountability. It's not really possible to do that, but I am attempting to treat everyone who comes in here, especially those who cooperated, in an evenhanded fashion.
>
> ...
>
> [T]he sentence that I'm imposing I think takes into account your cooperation and certainly you're entitled to have that recognized. I want you to believe me that as to those people who don't come in and cooperate and if we get them extradited and they're found guilty, as far as I'm concerned they're going to get the absolute maximum jail sentence that law permits me to give.

Cobb, supra at p. 276

Second, the prosecuting attorney suggested during a television interview that uncooperative fugitives would be subject to homosexual rape in prison. Specifically he said:

> MacIntyre: ...For those accused who choose to fight extradition, Gordon Zubrod warns they're only making matters worse for themselves in the long run.
>
> Zubrod: I have told some of these individuals, "Look, you can come down and you can put this behind you by serving your time in prison and making restitution to the victims, or you can wind up serving a great deal longer sentence under much more stringent conditions" and describe those conditions to them.
>
> MacIntyre: How would you describe those conditions?
>
> Zubrod: You're going to be the boyfriend of a very bad man if you wait out your extradition.
>
> MacIntyre: And does that have much of an impact on these people?
>
> Zubrod: Well, out of the 89 people we've indicted so far, approximately 55 of them have said, "We give up".

Cobb, supra at p. 277

The Supreme Court of Canada held that a stay of proceedings was justified and a committal order obtained in the circumstances would clearly not be consistent with the principles of fundamental justice.

United States of America v. Cobb, supra
United States of America v. Tsioubris (2001), 152 C.C.C. (3d) 292 (S.C.C.)

It is respectfully submitted that the comments made in *Cobb* are strikingly similar to the comments made in the case at bar. Indeed, the comments made by the Court in Mr. Schreiber's case are far more disconcerting as they relate directly to a pre-judgment of the case by a judge and spokesperson for the very Court that will try Mr. Schreiber. As the Minister of Justice, you have an obligation to refuse to surrender Mr. Schreiber in these circumstances.

The authority granted to the Minister of Justice to make a surrender order is dictated by sections 40 to 48 of the *Extradition Act*. While it has been recognized that the Minister of Justice has a broad discretion to effect surrender, the jurisprudence has established that the discretion must be exercised in accordance with the *Charter*, specifically in accordance with the principles of fundamental justice as provided by section 7 of the *Charter*. This principle has been clearly established by the Supreme Court of Canada in *United States of America v. Burns*.

United States of America v. Burns (2001), 151 C.C.C. (3d) 97 (SCC)

The courts have given a great deal of deference to the Minister with respect to making a decision on the general question of surrender. However, this deference is not without limits and the Minister must still act in accordance with the *Charter*. While the review of the Minister's decision on *Charter* issues should be on a standard of correctness, there is much less deference accorded to the Minister's decision with respect to constitutional issues.

United States of America v. Whitley (1994), 94 C.C.C. (3d) 99 (Ont. C.A.) aff'd (1996), 104 C.C.C. (3d) 447 (S.C.C.) at 109-110 and 112
Stewart v. Canada (Minister of Justice) (1998), 131 C.C.C. (3d) 423 (BCCA)
United States of America v. Kwok (2001), 152 C.C.C. (3d) 225 (SCC)
United States of America v. Johnson [2002] O.J. No. 4759 (Ont.C.A.)
Pacificador v. Canada (Minister of Justice) (2002), 166 C.C.C. (3d) 321 (Ont. C.A.) at 337

Conclusion

It is respectfully submitted that the comments made in the above quoted media articles amount to conduct by the Requesting State which interferes, or attempts to interfere, with the conduct of the extradition proceedings here in Canada. The Requesting State is a party to judicial proceedings before a Canadian court and is subject to the application of rules and remedies that serve to control the conduct of parties who turn to the courts for assistance. Both pursuant to the Charter and to common law, litigants must be protected from unfair, abusive proceedings.

It is clear that Mr. Schreiber will be the subject of a process in the Requesting State which has been prejudged and this raises serious concerns of fairness and due process. This is an apparent attempt to interfere with Canada's discharge of its obligations. A surrender order requiring Mr. Schreiber to return to face such a biased climate – created by those who play a large, if not decisive role in determining his ultimate fate – would not be consistent with the principles of fundamental justice.

Mr. Schreiber should not be encouraged or intimidated into giving up his legal rights in Canada as the statements in these articles are attempting to do. Given the fact that a reasonable apprehension of bias on the part of the Minister of Justice has already been raised in previous correspondence, I will not delve into this at any length at this juncture. Suffice it to say that given this potential for a reasonable apprehension of bias, it is even more critical that you as the Minister of Justice are not perceived to have played a part in encouraging or intimidating Mr. Schreiber to give up his legal rights in Canada.

It is respectfully submitted that in light of the fact that Germany does not extradite its own nationals, Canada should be loath to extradite its nationals into such a poisoned environment provided by the Court and the Prosecutor.

I am requesting, therefore, that you reconsider the order to surrender Karlheinz Schreiber made on October 31, 2004 in light of this new and critically important information. To surrender Mr. Schreiber in these circumstances would amount to a violation of the principles of fundamental justice.

Yours sincerely,

GREENSPAN, WHITE

Edward L. Greenspan, Q.C.

KARLHEINZ SCHREIBER

The Right Hon. Stephen Joseph Harper P.C., B. A., M. A.
Prime Minister
80 Wellington Street
Ottawa, Ontario
K1A 0A2

June, 16 2006

Subject: The Liberal legacy of scandal

Dear Prime Minister,

The insidious, destructive poison which your government inherited from its predecessors may very well prove to be, in terms of its international repercussions and its impact on Canada's reputation, by far the greatest, most fateful and most damaging scandal in Canadian political history.

The evidence under oath by RCMP Staff Sergeant Fraser Fiegenwald in an Examination for Discovery on March 8, 2006 in a civil action between myself and the Attorney General of Canada and Her Majesty the Queen and at the preliminary hearing in the "Eurocopter" case have finally shed light on the beginning of the fictitious "Airbus Affair"and confirmed the existence of a far more pernicious "Political Justice Scandal".

Staff Sergeant Fiegenwald, the RCMP officer in charge of the investigation, confirmed that the RCMP had no evidence of any criminal behavior involving Prime Minister Mulroney , Frank D. Moores or myself. What he did confirm, in fact, was that the stories came from a convicted Swiss criminal, Giorgio Pelossi, and since 1988 from Stevie Cameron,a journalist, writer and later a confidential RCMP informant and complainant.

As we know, the involvement of the Hon. Allan Rock, then the Minister of Justice, in the "Political Justice Scandal" was not the beginning, but merely one further element in the Liberals consistent strategy of undermining the Mulroney government and thereby seriously damaging the Progressive Conservative Party, with the willing assistance of the Liberal bureaucracy, support from the media, the RCMP and through the Canadian Embassy in Germany the involvement of the district attorney in Augsburg, Germany.

MacKAY LAKE ESTATES
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The players that were responsible for the "Political Justice Scandal " are the individuals who stage-managed it and those who failed to discharge their political responsibilities by remaining silent or tolerating what went on in Canada, Germany, France, Saudi Arabia, Thailand, Costa Rica, Austria, Liechtenstein and Switzerland damaging conservative politicians including suicides and changing the political situation in Europe.

The initiators: Hon. Allan Rock, Stevie Cameron, CBC The fifth estate, Giorgio Pelossi.

Responsible yet silent: The Right. Hon. Jean Chretien, The Right. Hon. Paul Martin, Hon. Anne McLellan, Hon. Martin Cauchon, Hon. Irwin Cottler.

Dereliction of duty:
Solicitors General: Hon. Herb Gray, Hon. Andy Scott. Hon. Lawrence MacAulay, Hon. Wayne Easter, Hon. Anne McLellan.

The abused: The RCMP with Commissioners J.P.R. Murray and Giuliano Zaccardelli, who rejected the initial allegations by Hon. Allan Rock Minister of Justice as unsubstantiated, but apparently yielded subsequently to political pressure or opportunism.

This strategy, which we can say, based on what I now know, is ongoing and the persecution and the cover-up of the "Political Justice Scandal "continue, both here in Canada and in the international arena. The Hon. Elmer MacKay was correct in his letter August 27, 1997 to Commissioner J. P. R. Murray when he named the matter to be a long term "ass-covering and face-saving" operation simultaneously.

On Jan 9, 1997 Allan Rock, Minister of Justice & Attorney General of Canada and Philip Murray, Commissioner of RCMP sent a letter of apology to me and informed me about the settlement agreement with the Right Hon. Brian Mulroney. My answer in a letter Jan 20, 1997 was: "I recognize your apology but this matter will only be properly clarified in a courtroom".
On October 24, 1997 my lawyer filed the Statement of Claim in the Court of Queen's Bench of Alberta in Edmonton.

On March 1, 2001 RCMP Supt. Mathews learned from Jim Shaw, an Edmonton counsel representing the Federal Government of Canada, about the problems with a confidential RCMP Informant. Supt. Mathews tried to fix the problem and coded Stevie Cameron seven years backwards "code 2948" in order to protect the Crown and not to jeopardize the Alberta case with Karlheinz Schreiber.

My lawyer Edward L Greenspan Q. C. stated in an interview with the Globe & Mail 26/02/04:"We are at the front end of what will prove to be an incredible scandal."
Mr. Greenspan said it will eventually emerge that top figures in the Liberal government approved the investigation of Mr. Mulroney, knowing full well it was being launched on information from an anonymous journalist.

There are still unresolved matters in the Eurocopter case, as Ontario Superior Court judge Edward Then has yet to rule on whether he was misled by the RCMP or the Crown when he issued orders in 2001 sealing court documents.

The RCMP abandoned the Airbus investigation in 2003, but the baton was passed to the fraud case involving Eurocopter Canada (MBB Helicopters). Once again, the ultimate target of this case was Brian Mulroney. I then found myself, after a two-year RCMP sting operation, once more in the position of the victim of an unsuccessful attempt to designate me as a hostile witness.

In November 2005, Justice Bélanger dismissed the Eurocopter case for lack of evidence and thereby finally laid the "Airbus Affair" to rest.

On December 30, 2005 the Crown appealed this judgment, thereby resurrecting the "Airbus Affair" and with it, implicitly, the allegations against Brian Mulroney.

The situation leaves my claim for damages against the Attorney General as the only avenue that can lead to disclosure in a courtroom of the truly unbelievable extent of the vendetta waged by the former government against Brian Mulroney, Frank D. Moores, myself and ultimately the Conservative Party and a number of highly respected international companies, including Thyssen (now ThyssenKrupp), MBB (now Eurocopter) and Airbus Industries with EADS and DaimlerChrysler.

In order to avoid my demolishing this vendetta once and for all in a Canadian courtroom, through my lawsuit, the justice system has until now sought to have me extradited to Germany, based on an Extradition Treaty without Reciprocity, downgrading the value of my Canadian Citizenship or to neutralize me by having me put in jail in Canada with the help of undercover agents and misleading statements to the court regarding my bail conditions.

Since 1996, many Members of the House of Commons, including your self, Mr. Gilles Duceppe, Mr.Peter MacKay, Mrs. Pierrette Venne, Mr.Jack Ramsay, Mr. Michel Bellehumeur, Mr.Chuck Strahl, Mr.Kevin Sorenson, and members of the Senate have asked from time to time in vain for an official investigation. I submit time has finally come for Canadian taxpayers to be able to find out what the "Political Justice Scandal" has cost so far and what will be the estimated costs for the ongoing saga and the upcoming lawsuits for damages.
Brian Mulroney, the international Industrial Companies, many conservative politicians and I have borne the brunt of the case for the past twelve years and at this point there is still no closure in sight.

The result of the recent federal election changed the situation and all pending actions of the "Political Justice Scandal" in Canada and other countries are now under the jurisdiction of your government.

Will the Attorney General in your government continue with the delay tactics of the Liberal Attorneys General in my Alberta court action who hope that I lose my extradition case at the Supreme Court of Canada and be extradited to Germany?
This would prevent me from pushing forward the legal case and bury the "Airbus Affair" and the "Political Justice Scandal" at the same time. Would this be in the interest of Canada? I think not.

Will the Minister of Justice & Attorney General like his predecessor ignore the false German statements and political blackmail in my extradition case?
My lawyer Mr. Edward L. Greenspan Q. C .informed the Hon. Vic Toews Minister of Justice & Attorney General about the comments recently made publicly by the Chief Prosecutor and by the Judicial Spokesperson for the Court in Augsburg, Germany.

No cleanup in government can take place in Canada without an intensive parliamentary investigation of what is, in terms of its international implications, the largest scandal in Canadian history. This is entirely consistent with your announced intention to appoint an independent Director of Public Prosecutions, the Federal Accountability Act and Action Plan.
In1985, I became the Chairman of Thyssen-Bearhead Industries and came to Ottawa on the request of the Canadian Government and the Right Hon. Prime Minister Brian Mulroney to create jobs in the Province of Nova Scotia. For eight years I worked on the project. I had to learn that the Liberal bureaucracy with Paul Tellier and Bob Fowler in Ottawa undermined the policies of the strong majority Government of Brian Mulroney at every opportunity. What I did find? Lies, fraud, attempt of manslaughter, conspiracy, greed, ignorance, arrogance, disappointment, breach of agreements and great sadness for Canada and Canadians. Thyssen, the Canadian soldiers, the people of Nova Scotia and I have been misused and betrayed after Thyssen spent more than $ 60 million on the project for peacekeeping and environment-protection.

I am sure you will appreciate that under the circumstances I can only turn to you, since all the other government agencies responsible are still involved and as a result are not interested in clarification. I have taken the liberty of attaching a number of documents for your information.

Prime Minister this is your opportunity to bring this insanity to an end and the truth coming out in the greatest political cleanup in Canadian History.
The "Political Justice Scandal" began in the year 1994, is still moving ahead and will not disappear on its own.

Yours sincerely,

Karlheinz Schreiber

KARLHEINZ SCHREIBER

The Right Hon. Stephen Joseph Harper, P. C., M. P.
Prime Minister

House of Commons
Ottawa, Ontario
K1A 0A6

Ottawa, July 31, 2006

Dear Prime Minister,

I am taking the liberty of sending you copies of my letters to

The Hon. Peter MacKay, P.C., M.P. July 25, 2006

Mr. Kevin Sorenson, M.P. July 25, 2006

for your personal information.

Yours sincerely,

MacKAY LAKE ESTATES
7 BITTERN COURT, ROCKCLIFFE PARK
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KARLHEINZ SCHREIBER

The Hon.Peter Gordon MacKay, P.C.,M.P.
Minister of Foreign Affairs and Minister of the Atlantic Opportunities Agency

House of Commons
Ottawa, Ontario
K1A 0A6

Ottawa, July 25, 2006

Dear Minister

I read with great interest the statements you gave in the House of Commons on May 27,1998 and February 17,1998. I attach six pages of your statements to this letter to refresh your memory and I am sure that you still endorse the same principles as you did at that time. I have underlined relevant portions of your statements.

You stated: "The government is faced with a very important issue, which relates directly to integrity and accountability.
Will the government do the right thing and call a public inquiry into the Airbus scandal?
If the Prime Minister and the present Minister of Health had no roles in this affair, surely there is nothing to hide.
When this happens, Canadians will be allowed to finally see the truth".

Dear Minister unfortunately Canadians are still waiting for that moment to come. Nothing has changed. The biggest "Political Justice Scandal" in Canadian History with the most serious international implications is still moving ahead on several different places.

It looks like fate that both of your Ministries may have to deal with the "Political Justice Scandal".
Foreign Affairs:
The people who initiated the vendetta in Canada are the same in Germany and other countries. The German Conservatives lost two Federal Election and where forced into a great coalition with the Social Democrats after the last election. The Minister for Foreign Affairs and the one for Justice are Social Democrats. I am sure that Chancellor Angela Merkel will loose the next election, if the scandal continuous the way it is now.

ACOA:
The people behind the "Political Justice Scandal" are the same, which are responsible for the tremendous fraud on the Thyssen Krupp Bear Head Project in Nova Scotia. You are very familiar with the company, the project, (an ACOA Project) and the victims, which are the Canadian people in Nova Scotia, the Canadian Peacekeeping soldiers, ThyssenKrupp and myself.

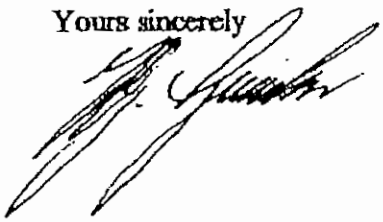
MacKAY LAKE ESTATES
7 BITTERN COURT, ROCKCLIFFE PARK
OTTAWA, CANADA K1L 8K9
Tel: 613-748-7330 Fax: 613-748-9697

On June 16,2006 I wrote to the Right Hon. Stephen Harper and sent a number of relevant documents, which I enclose for your information.

On May 17,2006 my Lawyer Edward L. Greenspan Q. C., LL. D., D. C. L. sent a letter to the Hon. Vic Toes Minister of Justice and Attorney General of Canada, which I provide for your attention. (See tap 18 in the folder "Political Justice Scandal" International Case.)

I wish you good luck and success with your difficult and important job.

Yours sincerely



Attachments:

Letter to The Right Hon. Stephen Joseph Harper, Prime Minister June 16, 2006
Letter to The Hon. Allan Rock, Minister of Justice January 20, 1997
Letter from Department of Justice to Mr. Robert W. Hladun, Q. C. June 5,.2006
Letter to Department of Justice from Mr. Robert W. Hladun, Q. C., June 22, 2006
Letter to Department of Justice from Mr. Robert W. Hladun, Q. C., July 25, 2006
Letter from Augsburg City Tax Office to Office of the Public Prosecutor Augsburg State Court August 2, 1995 (regarding Canadian Embassy)
Letter from Edward L. Greenspan, Q. C., LL. D. ,C. L.

KARLHEINZ SCHREIBER

Mr. Kevin Sorenson M.P.
4945 – 50 Street

Camrose. AB
T4V 1P9

Ottawa July 25,2006

Dear Mr.Sorenson

I read with great interest the speech you gave in the House of Commons on October 22, 2001. I attach three pages of your speech to this letter to refresh your memory and I am sure that you still endorse the same principles as you did at that time. I have underlined relevant portions of your speech.

Your assumption that the "Airbus affair" could turn out to be a very big political scandal was correct, as it in my view combines the biggest "political justice scandal" in Canadian history with the most serious international implications.

The vendetta began in the early 1980s and has continued unabated. The main victims are the Canadian people, The Right Hon. Brian Mulroney und myself, Karlheinz Schreiber.

On June 16, 2006 I wrote to the Right Hon. Stephen Harper and sent a number of relevant documents, which I enclose for your information.

I wish you a pleasant stay in Alberta and remain,

Yours sincerely

MacKAY LAKE ESTATES
7 BITTERN COURT, ROCKCLIFFE PARK
OTTAWA, CANADA K1L 8K9
Tel: 613-748-7330 Fax 613-748-9697

KARLHEINZ SCHREIBER

The Right Hon. Stephen Joseph Harper, P.C., M.P.
Prime Minister

House of Commons
Ottawa, Ontario
K1A 0A6

Ottawa, August 4, 2006

Dear Prime Minister,

I am taking the liberty of sending you copies of

The letter from the Department of Justice to Robert Hladun Q.C., July 31, 2006 regarding discovery of Mr. Allan Rock

The letter from Robert Hladun Q.C. to the Department of Justice, July 25, 2006

The letter from Robert Hladun Q.C. to the Department of Justice, July 22, 2006

The letter from the Department of Justice to Robert Hladun Q.C., June 5, 2006

The affidavit from Melissa Smith, sworn June 2, 2006

The letter from Robert Hladun Q.C. to the Department of Justice, March 1, 2006

for your personal information.

The documents confirm the content of my letter to you from June 16, 2006 and the reason why I can only turn to you.

Yours sincerely,

MacKAY LAKE ESTATES
7 BITTERN COURT, ROCKCLIFFE PARK
OTTAWA, CANADA K1L 8K9
Tel: 613-748-7330 Fax: 613-748-9697

KARLHEINZ SCHREIBER

7 BITTERN COURT, ROCKCLIFFE PARK
OTTAWA, CANADA K 1 L 8 K 9

THELEPHON: 613 748 7330
FACSIMILE: 613 748 9697
schreiberbarbel@aol.com

The Right Hon. Stephen Joseph Harper
Prime Minister

House of Commons
Ottawa, Ontario
K1A 0A6

Ottawa, August 23, 2006

Subject: "Political Justice Scandal"

Dear Prime Minister,

I am taking the liberty to send you a copy of the Case Report on the

"Political Justice Scandal" International Case and the "Airbus" Affair,
August 20, 2006 for your convenience.

The Case Books I send to you on June 17, 2006 contain the evidence and substantiate the Case Report.

The document confirms the content of my letter to you from June 16, 2006 and the reason why I can only turn to you.

I wish you success in the interest of all Canadians.

Yours sincerely,

KARLHEINZ SCHREIBER

7 BITTERN COURT, ROCKCLIFFE PARK
OTTAWA, CANADA K 1L 8K 9

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schreiberbarbel@aol.com

The Right Hon. Stephen Joseph Harper
Prime Minister

House of Commons
Ottawa, Ontario
K1A 0A6

Ottawa August 30, 2006

Subject: "Political Justice Scandal"

Dear Prime Minister,

As an oversight I forgot to include the attachment to my letter August 23, 2006. I include it herewith.

Document 1: Standing Committee on Justice and Human Rights December 3, 1997

The motion before the Committee: That the Standing Committee on Justice and Human Rights conduct hearings with witnesses into what was commonly called the "Airbus Scandal," to determine whether a Publicly Commissioned Inquiry should be convened.

Recorded vote: Motion negatived : Nays 8; yeas 7.

Today, 8 years and 9 months later, most of the important questions remain unanswered and Canadians still do not know what happened and what terrible vendetta took place on their tax account.

The case proves again how right you were when you announced on November 30, 2005 the creation of a Director of Public Prosecutions and made reference to the Mulroney-Airbus affair as a bad example.

Document 2: Statement by the Hon. Allan Rock and the Hon. Herb Gray Regarding the Case of Brian Mulroney v. The Attorney General of Canada et al – Monday, January 6, 1997.

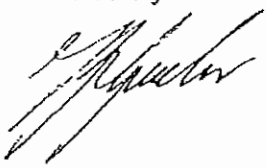
Document 3: Edited Hansard * 1420 * Number 031

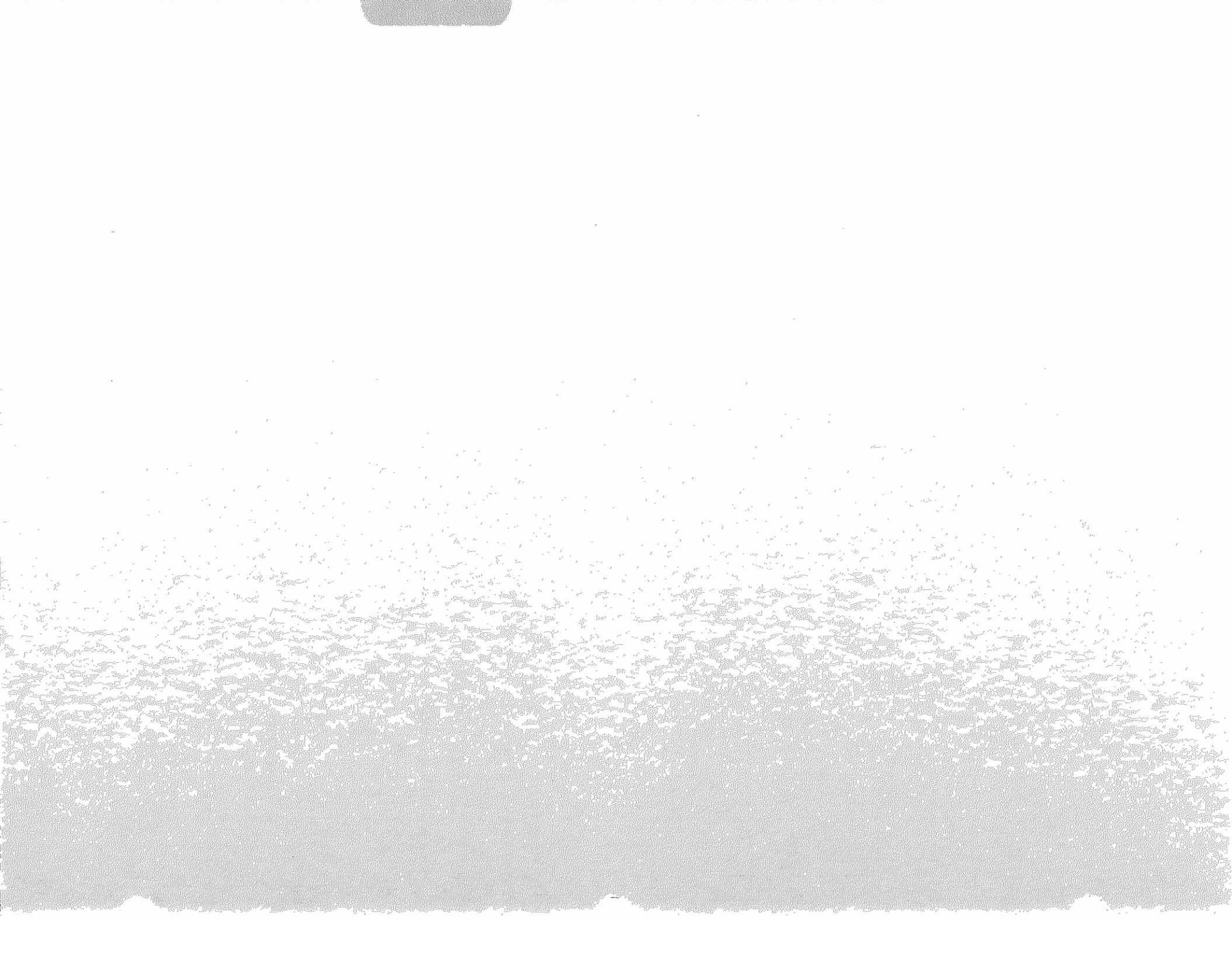
Document 4: Oral Question Period Airbus Aircraft 3817, 3818 96-06-1

(Some of the documents are also in the "Political Justice Scandal" Case Books)

I apologize for any inconvenience.

Yours sincerely





KARLHEINZ SCHREIBER

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TELEFAX 613 748 9697
schreiberbarbel@aol.com

The Honourable Vic Toews, P.C., M.P.
Minister of Justice and Attorney General of Canada

House of Commons
Ottawa, Ontario
K1A 0A6

Ottawa, October 25, 2006

Subject: "Political Justice Scandal" and the "Airbus" Affair
From Allan Rock to Irwin Cotler

Dear Mr. Minister,

I am taking the liberty to sending you copies of the

"Political Justice Scandal" Canadian Case (Binder),
"Political Justice Scandal" International Case (Binder),
"Political Justice Scandal" International Case and the "Airbus" Affair, Case Report (attachment tab18),
"Political Justice Scandal" International Case the "Airbus" Affair – Allan Rock & William Corbett (attachment tab19)
for your personal political information.

On May 17, 2006 and on August 10, 2006 my lawyer Edward Greenspan Q.C., LL. D. sent letters and submissions to you concerning the political aspects of my extradition case, including his submissions to the then Minister of Justice and Attorney General of Canada, Irwin Cotler together with the Minister's decision for surrender.

Since your decision in my case is of highly important political nature in Canada and Germany, I feel strongly that I have an obligation and a right to give to you my views of the story and the scandal. Let me tell you why:

All my life I was and I am a Conservative on an international level.
The conservative Governments of the Province of Bavaria, Germany with Premier Franz Josef Strauss (Chairman of the CSU) and the conservative Government of the Province of Alberta, Canada with Premier Peter Lougheed made me come to Canada in 1974.

On September 2, 1978 I became a Canadian landed immigrant.
On February 23, 1982 I became a Canadian Citizen.

As requested I brought jobs and substantial amounts of money to Canada.
I felt very comfortable with my new Canadian conservative friends and was happy to provide support and financial help to them when required and became a member of the Conservative 500.

I don't want to drop names to impress you, but it might be that we share some friends or there are also people you may want to speak to.

The Hon. Dr. Hugh Horner's son, The Hon. Doug Horner, M.L.A.
The Hon. Ken Kowalski, M.L.A.
Rowland McFarlaness's widow Jan
William (Bill) Skoreyko M.P.'s widow Helen and his son Alan Skoreyko
The Hon. Dr. Horst A. Schmid
Norman Wagner professor and University president's widow Cathy
Rod Sykes (Major of Calgary)
Dr. Eric Waldmann professor
Robert Hladun, Q.C.
The Hon. Jack Major, Q.C., LL.D.
Lee Richardson, M.P.

The Right Hon. Brian Mulroney
The Hon. Don Mazankowski
The Hon. Elmer MacKay
The Hon. Frank Oberle
The Hon. Charles Mayer
The Hon. Robert Coates
The Hon. Frank D. Moores's widow Beth
The Hon. Bill McKnight
The Hon. Paul Dick
The Hon. Sinclair Stevens
The Hon. John M. Buchanan
The Hon. Don W. Cameron
The Hon. Peter MacKay, M. P.

The Hon. Jean Charest
The Hon. Benoit Bouchard
The Hon. Marcell Masse
The Hon. Monique Vezina
The Hon. Jean Corbeil
The Hon. Michel Cogger
Mr. Fred Doucet
Mr. Gerry Doucet
Mr. Garry Ouelett's widow Renee

Lieutenant – General J.E. Vance CMM, CD. RT and Army Major Ian Read
Major – General G.M. Reay, Commander MBE, CD's widow Lesley
Lieutenant- General J. A. Fox, Commander RT

The older we become the more friends we loose.

1997 LEGAL PROCEEDINGS AGAINST THE ATTORNEY GENERAL OF CANADA

Allan Rock, then the Minister of Justice and Attorney General of Canada initiated the "Airbus" affair based on talks with journalists (for all the details see the reports and the Binder Canadian Case).

On August 24, 2006 my Lawyer, Robert Hladun, Q.C. filed an appointment for Examination for Discovery concerning Allan Rock in the Court of Queen's Bench of Alberta in Edmonton.

On October 2, 2006 John H. Sims, Deputy Attorney General of Canada filed a Notice of Motion with the Court in Edmonton that he will bring an application for an order setting aside the Appointment for Examination of Allan Rock, which will start another battle all the way up to the Supreme Court of Canada. This is another chapter of the 9 year-delay tactics of the Liberal Underground Government of Canada – the Liberal bureaucracy (attachment tab 1).

The aim is still the same: make sure that Canadians will never find out about the secrets of the "Airbus" Mulroney Vendetta and the biggest "Political Justice Scandal" in Canadian history with international political implications.

When the legal battle begun the Attorney General was with a Liberal Government, responsible for the scandal and trying everything to stop the lawsuit.

Since February 6, 2006 the situation has changed and the Attorney General of Canada is a member of the Conservative Government, but the bureaucrats are still the same.

I will send all this material and information to you in order to bring the situation to your attention. I will ask The Right Honourable Stephen Harper M.P., Prime Minister of Canada for help to make sure that it gets to you because you are shielded by those who are the target of my legal proceedings.

CANADIAN GREAT LIARS: ALLAN ROCK, HERB GRAY, STEVIE CAMERON!

CBC Watch, Thursday, June 3, 2004
RCMP launched fraud investigation after hearing journalist Stevie Cameron on CBC Radio. The Cameron interview spurred police on.

Supt. Mathews said that two senior officers contacted her after the 1995 broadcast. They persuaded her to supply potential evidence in return for anonymity and insider information, an arrangement that recently erupted into a major legal and journalistic controversy (attachment tab 2).

The arrangement paid well for Steve Cameron, not for the RCMP, not for the Minister of Justice and Attorney General of Canada, not for the Solicitor General of Canada, not for the Government of Canada, not for several governments abroad, not for Canadian international reputation, not for important international industrial companies and not for Brian Mulroney, Frank Moores, Garry Ouelett and Karlheinz Schreiber.

Stevie Cameron provided stories with the support of Giorgio Pelossi (a convicted Swiss criminal) and helped the Mounties and other Canadian officials to find reasons to travel the world for 11 years on Canadian taxpayer's money. This started the longest RCMP criminal investigation in Canadian history. It cost millions of dollars without any result.

With the insider information from the RCMP Stevie Cameron (a.k.a. "Stevie Wonderful") published her second book *On the Take: Crime, Corruption and Greed in the Mulroney Years* in October 1995 DRAMATIC NEW MATERIAL ADDED and her book *The Last Amigo: Karlheinz Schreiber and the Anatomy of a Scandal* in 2001. (See the Case Report September 27, 2006 page 3.)

The books created public support for the RCMP and the Liberal Government concerning the political vendetta against Brian Mulroney and Karlheinz Schreiber.

On January 6, 1997 in a Statement by Allan Rock and Herb Gray regarding the case with Brian Mulroney and the Settlement Agreement, Herb Gray, the then-Solicitor General of Canada pointed out:

Finally, we learned three days ago that, during the investigation, there may have been a disclosure by a member of the RCMP investigative team to an unauthorized third party outside government, about who was named in the Letter of Request.

While the Privacy Act prevents disclosure of the names of either individual involved, I can tell you that the Commissioner has already initiated a Code of Conduct investigation and he will be available to you following this press conference to discuss the details of this process (attachment tab 3).

Stevie Cameron writes in her book *The Last Amigo* on page 289:

The Privacy Act *notwithstanding, within hours of the press conference's conclusion, Rock's senior staff and counsel, as well as public relations specialists hired to give him advice on how to handle the affair, were telling reporters openly that the Mountie in question was Staff Sergeant Fraser Fiegenwald and the "third party" was Stevie Cameron* (attachment tab 4).

Mike Niebudek, President, Mounted Police Association of Ontario, reported: *Southam wanted to cover the disciplinary hearing of S/SGT. Fraser Fiegenwald, who was charged with two offenses under the Code of Conduct following the Airbus Affair. Judge Rutherford ruled that the section of the* RCMP Act *which allowed hearing in private was unconstitutional. Following this ruling, the RCMP decided to negotiate a deal with good old Fraser instead of carrying on with the disciplinary hearing. And I could go on....*

Considering all these legal battles, which cost hundreds of thousands of dollars to Canadian taxpayers, maybe we should send a copy of the Constitutional Act of 1982 to the Commissioner and to the Attorney General of Canada.

You have to agree that it is inconceivable that the leaders of our country and of a national police force ignore this Act which takes precedence over any other legislation in our land. After all, our main mandate is to maintain the law, as says our motto. ***Before insuring that the Canadian people respect the laws of our country, maybe the RCMP should set the example in its own back yard*** (attachment tab 5).

Dear Mr. Minister, do you understand what is going on with this case?

Why was Fraser Fiegenwald fired because he spoke to Stevie Cameron (the confidential RCMP informant Code A 2948) when she was entitled to insider information?

Why did Fraser Fiegenwald get a nice deal after Judge Rutherford's ruling?

Why did Herb Gray, then the Solicitor General of Canada, lie about Fraser Fiegenwald unethically speaking to Stevie Cameron when he ought to know that she was entitled to receive RCMP insider information?

Why did Allan Rock, then the Minister of Justice and Attorney General, who initiated the whole affair send people out to broadcast the untrue story on Fraser Fiegenwald and Stevie Cameron?

Why did all the individuals - from the Department of Justice, the International Assistance Group (IAG) and the RCMP - who are involved in the case, try to stop me with my lawsuit through delay, detention or extradition?

There is an explanation as long as it concerns individuals of the previous Liberal Governments, or the Canadian Underground Government - of the Liberal bureaucracy:

PLAIN FEAR!

Imagine the truth about the biggest "Political Justice Scandal" in Canadian History with all the international implications comes to light in a Canadian court.

Imagine Canadians will learn that the "Airbus" affair was nothing more than a political vendetta against Brian Mulroney and Karlheinz Schreiber is the innocent victim.

The case of **Maher Arar** shows what can happen to an innocent victim of the RCMP and the Canadian Department of Justice.

What would happen if a Judge, like Mr. Justice Dennis O'Connor, conducted an inquiry into the "Airbus" affair and the "Political Justice Scandal"? Both affairs tortured for 11 years the families of Brian Mulroney and Karlheinz Schreiber. They damaged their reputation with confidential RCMP informant Stevie Cameron's books and their skillful manipulation of the media.

On June 5, 2006 Christine Ashcroft, a lawyer of the Department of Justice, acting for the Attorney General of Canada in the lawsuit with Karlheinz Schreiber is asking in her letter for a better Affidavit of records, regarding the business of Mr. Schreiber and payments to Brian Mulroney (attachment tab 6).

On July 31, 2006 Christine Ashcroft writes in her letter: We can advise that we object to any examination of Mr. Rock (attachment tab 7).

Since this situation is not in accordance with the announcement of the Prime Minister to clean up the Government in Ottawa, it seems to be obvious that you have no knowledge about the legal proceedings in Edmonton. I hope this information is of some help to you.

THE LIBERAL GOVERNMENT AND THE EXTRADITION OF KARLHEINZ SCHREIBER

In 1985, I became the Chairman of Thyssen – Bearhead Industries and came to Ottawa on the request of the Canadian Government and The Right Hon. Prime Minister Brian Mulroney to create jobs in the Province of Nova Scotia and to bring success to the USA–Canadian Defense Production Sharing Agreement.

For eight years I worked on the project. I learned, through bitter experience, that the Liberal bureaucracy in Ottawa with Paul Tellier, Bob Fowler and the support of Joe Clark undermined the policies of the Government of Brian Mulroney everywhere. What I did find were lies, frauds, conspiracy, greed, ignorance, arrogance, disappointment and great sadness for Canada and Canadians. The failure to use the superior military products developed by Thyssen – Bearhead (especially their armoured personnel carriers) cost the lives of Canadian soldiers and for what. The only gain was to achieve the Liberal Underground Government's goal to frustrate the policies of the legitimately-elected Conservative government of Canada.

Thyssen, the Canadian soldiers, the people of Nova Scotia, Quebec and I have been misused and betrayed after Thyssen spent more than $60 Million on the project for peacekeeping and environment – protection.

In other words, it was easy for me to make enemies with the second Canadian Government (the Liberal bureaucracy).

If Canadians will ever get to know what really happened they will be shocked from coast to coast. I am still in contact with the witnesses including four Generals of the Canadian Armed Forces and several Ministers of previous Canadian Governments.

Having this situation in mind it is easy to understand why my enemies in the spring of 1995 teamed up with the German prosecutors, Stevie Cameron the RCMP informant and Giorgio Pelossi, the Swiss convicted criminal (see the Case Report).

On April 1, 1998 R. Brettschneider, RCMP Liaison Officer at the Canadian Embassy in Bonn, Germany send a letter to the German authorities and wrote: *"Canadian investigators are equally interested in having Schreiber arrested. You will be contacted immediately in the event of any information which would assist you."*

Why and on what legal basis did the RCMP want Schreiber arrested? There was never a charge or an arrest warrant issued against Mr. Schreiber (the document is in the International Case binder tab 5).

From the 11th to the 15th of September 1999 and from the 4th to the 9th of October 1999 some lawyers of the Canadian Department of Justice (IAG) were in Augsburg, Germany and assisted the German prosecutors to prepare the record of the case for Mr. Schreiber's extradition from Canada (read the whole story in the Case Report). The cooperation is still working.

My lawsuit against the Liberal Attorney General of Canada is the only legal route besides a public inquiry to bring the "Political Justice Scandal" in a Canadian court to light. This is why my enemies try everything to stop my actions. Their greatest wish is to have me extradited to Germany, hoping that I will disclose matters of interest to them during a trial in court and at the same time bring the lawsuit to an end in Edmonton. (Read all the details in the Case Report, in the report on Allan Rock & William Corbett and in the binder of the Canadian Case and the International Case of the "Political Justice Scandal".)

IRWIN COTLER'S LIBERAL RESCUE ACTION

When The Hon. Irwin Cotler, then the Minister of Justice and Attorney General of Canada, signed the warrants ordering Mr. Schreiber's surrender to the Federal Republic of Germany on October 31, 2004 he wrote to my Lawyer Edward Greenspan Q.C., LL.D

VI. Conclusion

*It is my opinion that none of the circumstances which you raise, either individually or cumulatively, lead to a finding that Mr. Schreiber's surrender to Germany would be "shocking or fundamentally unacceptable to our society", or that his circumstances are such that they "constitutionally vitiate an order of surrender". I have also determined that there are no other considerations that would justify ignoring Canada's obligations under the **Treaty between Canada and Germany Concerning Extradition.***

On page 13 of the same letter Mr. Cotler wrote: ***My decision on surrender is a political one which involves balancing the interests of the person sought with Canada's international obligation.***

With his conclusion and decision he presents the evidence that he is either fully integrated in the cover up of the "Political Justice Scandal" initiated by Allan Rock, Stevie Cameron RCMP informant, Herb Gray and other Liberal companions or he was totally under the control of the IAG and ignorant.

It looks to me that Mr. Cotler ascribed to the same credo, as do all the other people who are involved in the "Airbus" vendetta and the "Political Justice Scandal": maintain at all costs the principle of the "Constant Lie"

There is no Canadian obligation to extradite its Nationals to Germany.

Mr. Cotler knows that Germany will never extradite one of its Nationals to Canada. The German Constitution, Article 16 (2) will not allow the extradition of its Nationals.

ARTICLE V OF THE TREATY: EXTRADITION OF NATIONALS

(1) NEITHER OF THE CONTRACTING PARTIES SHALL BE BOUND TO EXTRADITE ITS OWN NATIONALS.

The truth is: Te TREATY BETWEEN CANADA AND THE FEDERAL REPUBLIC OF GERMANY CONCERNING EXTRADITION applies only to individuals, who are not German Nationals.

Canada has 49 not 50 Bilateral Extradition Treaties (attachment tab 8).
15 of the Treaties entered into force during the last Centuries.
22 countries, with the highest standards of civilization and culture do not extradite their Nationals.
21 countries have reserved the rights to decide on the extradition of their Nationals. Only 7 countries extradite their Nationals. See the Treaties and the publication of the RCMP, Interpol, the Canadian Central Authority and the IAG (attachment tab 9).

I reviewed every single Extradition Treaty which is on the list and found another huge lie: imagine the government of Canada signed 42 out of 49 Extradition Treaties without reciprocity, which is the most elementary common basis of each Treaty, and the misled members of the Canadian House of Commons ratified the Treaties (Treaty attachments tabs 15 – Germany, 16 – Finland, 17 – Korea as examples).

RCMP Interpol Ottawa published an Interpol History Report (attachment tab10).
On page 3 you will read: Assistance to the Canadian Law Community and Interpol Member Countries - point 5:

CANADA EXTRADITES ITS NATIONALS

Dear Minister, people from around the world followed the invitation of the Canadian government and came to Canada like myself and helped to grow the country. I saw quite a few of them with tears in their eyes at the day, when they became Canadian Citizens. Don't you think that all of them expected to receive a Canadian Citizenship with quality standards other civilized countries provide for their Nationals?

I have never seen a Government advertising the extradition of its Nationals. I wonder what you may think when you read this.

On May 5, 1995 the Department of Justice announced:
EXTRADITION REFORMS TABLED. The signature of Kimberly Prost (IAG) was on the document.
On June 17, 1999 the Department of Justice announced:
NEW EXTRADITION ACT COMES INTO FORCE. The signature of William Corbett (IAG) was on the document. (See the report attached "Political Justice Scandal" International Case).

The new Extradition Act reduced the jurisdiction of the Extradition Judge and increased substantially the Jurisdiction of the Minister of Justice and Attorney General.

In my case the Extradition Judge had to believe in the statements made by a German prosecutor and ignore the rulings of Liechtenstein Courts, the decisions of Liechtenstein Investigative Judges and prosecutors, the sworn affidavit of a lawyer (a previous Swiss prosecutor), the decision of the Minister of Justice in Switzerland who refused to grant legal assistance related to my case and the only statement from the so called Crown witness Giorgio Pelossi even given under oath in the Court of Augsburg: ***"None of the Liechtenstein companies mentioned in the accusations was incorporated for the purpose of tax evasion."***

Irwin Cotler then the Minister of Justice and Attorney General of Canada had the duty to examine my case and to make a personal decision.
RCMP Interpol I - The Canadian Central Authority publication page 14:

"While the Minister relies upon advise from the IAG, he or she decides each case personally."

The Minister relies upon advice from the IAG, the officials who drafted and sent the Letter of Request to Switzerland, who are responsible for the "Political Justice Scandal," the "Airbus" affair and my lawsuit against the Attorney General of Canada.

The RCMP and the IAG officials conspire with the German prosecutors to cover up the huge problems they have with the threat of disclosure and exposure through my legal proceedings in Edmonton, knowing that they lost the lawsuit at the moment when the RCMP finally closed the files on the Brian Mulroney "Airbus" vendetta.

Let me show to you a perfect example: On Mai 17, 2006 and on August 10, 2006 my Lawyer Edward Greenspan, Q.C. sent letters to you concerning the political prejudgment of the German authorities in my case. There is no law or extradition request or charges for the introduction of political corruption in Germany. The statements of Judge Häeusler brought the truth about the political reasons of my case to light.

On March 9, 2006 the following article was available on the Deutsche Presse – Agentur website (DPA is one of the world's leading international news agencies supplying news on a global basis):

Schreiber Requests that Supreme Court of Canada Refuse Extradition.

In that article the following comments were made:

....Judge Karl Heinz Haeusler, spokesman for the Regional Court of Augsburg, told dpa that after his extradition, Schreiber would have to reckon with the "full force of the law". **"He is the trigger of the entire affair and has caused damage to Germany."**

...Until the Schreiber case, Germany had been considered a country immune to bribery [he stated] – **the arms dealer's "unconcealed exertion of influence" on politicians and managers made the "unspeakable" reality. Schreiber had done Germany a "disservice", said the Court spokesman...**
(Mr. Greenspans letters, attachments tabs 11 and 13).

The IAG officials know that the German authorities ruined my extradition case by themselves and therefore it is in their own interest to try to rescue it.

On July 28, 2006 Barbara Kothe, Senior Counsel, International Assistance Group sent a memorandum to you regarding the case, which speaks for it self (attachment 12).

On October14, 2004 Jacqueline Palumbo, Counsel, International Assistance Group, Barbara Kothe, A/Director, International Assistance Group and William Corbett, Senior General Counsel, Criminal Law Section sent a memorandum to Irwin Cotler, then the Minister of Justice and Attorney General for Canada.

The memorandum was the basic document for the Minister's decision to surrender Mr. Schreiber. The memorandum speaks for itself (see the report "Political Justice Scandal" International Case, The "Airbus" Affair – Allan Rock & William Corbett).

The IAG, the Department of Justice and the office of the Attorney General of Canada seek to delay the legal proceedings for many more years. Their aim is to help the Liberals to cover the Brian Mulroney "Airbus" affair and the biggest "Political Justice Scandal" in Canadian history with great international political implications (see the Case Report and the "Political Justice Scandal" binders attached).

The continuation of the already lost lawsuit will just increase the amount of the already wasted Canadian taxpayer's money under your responsibility, you inherited from Allan Rock and Irwin Cotler.

How will you ever get to know what is going on if you have to relay on the advice of the IAG who are the enemies of the Canadian Conservatives in this case since 1995?

How is the continuation of this case in accord with the Conservative's federal election promise to Canadian voters to clean up government in Ottawa?

I am an expert on the tactics of the Liberal Underground Government and the often-used arguments to prevent the ministers responsible to do the right thing:

Mr. Minister, don't do this, the matter is before the court (and there it will be dragged along for the next five to ten years). Who cares about the citizens involved and the tax payer's money?

Mr. Minister, don't do this, the matter is a RCMP investigation, which we cannot jeopardize. They know what they are doing. They are our friends. Who cares when they travel for ten years to Germany, Liechtenstein, Switzerland, Italy, France, United Kingdom, United States and Mexico enjoying life in nice hotels on the account of Canadian taxpayers' money as long as they hunt Brian Mulroney and Karlheinz Schreiber and keep the Conservatives busy?

Mr. Minister, don't do this, we had already calls from the Ottawa Citizen, the CBC Fifth Estate Harvey Cashore and Stevie Cameron, you better get prepared for question hour today and tomorrow.

Dear Minister, I am certain that you have heard similar stories many times since you began your career in politics.
None of the stories applies to my case, because you have nothing to hide, you can only be interested in the clean up in the "Airbus" affair and the "Political Justice Scandal".
You are the central authority; you have the jurisdiction for the final political decision concerning my extradition.
You are the responsible Attorney General of Canada, representing the government in my legal proceedings against the previous Attorney General of Canada.

Dear Minister, all the decisions on the cases have to be made by you and nobody else. The Canadian Courts play no role concerning the political decisions. Only you have the jurisdictions and the responsibilities related to these cases.

On January 20, 1997 I sent a letter to Allan Rock, then the Minister of Justice and Attorney General of Canada and responded to his Letter of Apology to me.
I wrote:
I recognize your apology but this matter will only be properly clarified in a court room (attachment tab 14).

Today, nine years and nine months later, I take the liberty to ask you respectfully for your support and help by reviewing my case and let me bring to light to Canadians the biggest "Political Justice Scandal" in Canadian history and to bring to an end the nightmare of this case for my family and me.

The new Extradition Act grants you the jurisdiction and the political mandate to inform the Supreme Court of Canada about your review of my case and ask the Supreme Court of Canada to put the extradition request on hold.

I believe that my request is in accordance with the Prime Minister Stephen Harper's announcement to clean up the Government in Ottawa and the need for a Director of Public Prosecutions when he referred to the Mulroney – Airbus affair.

The history of Canada proves that the Conservative governments were always interim solutions. The Liberals governed Canada most of the time. This is the success of the Liberal bureaucracy, the underground Government of Canada, which brought down the Conservative government of The Right Honourable Brian Mulroney from 211 seats in 1984 to two seats in 1993.

Dear Minister, please stop the support from the Department of Justice and the IAG in favor of the Liberal Underground Government concerning the "Airbus" Vendetta.

There is no Conservative future in Canada without a real clean up!

Yours sincerely

Karlheinz Schreiber

Copy to The Right Honourable Stephen J. Harper, P.C., M.P.
Prime Minister

KARLHEINZ SCHREIBER

7 BITTERN COURT, ROCKCLIFFE PARK
OTTAWA, CANADA K 1 L 8 K 9

TELEPHONE 613 748 7330
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schreiberbarbel@aol.com

The Right Hon. Stephen Joseph Harper P.C., M.P.
Prime Minister

House of Commons
Ottawa, Ontario
K1A 0A6

Ottawa, October 27, 2006

Subject: "Political Justice Scandal" and the "Airbus" affair
From Allan Rock to Irwin Cotler

Dear Prime Minister,

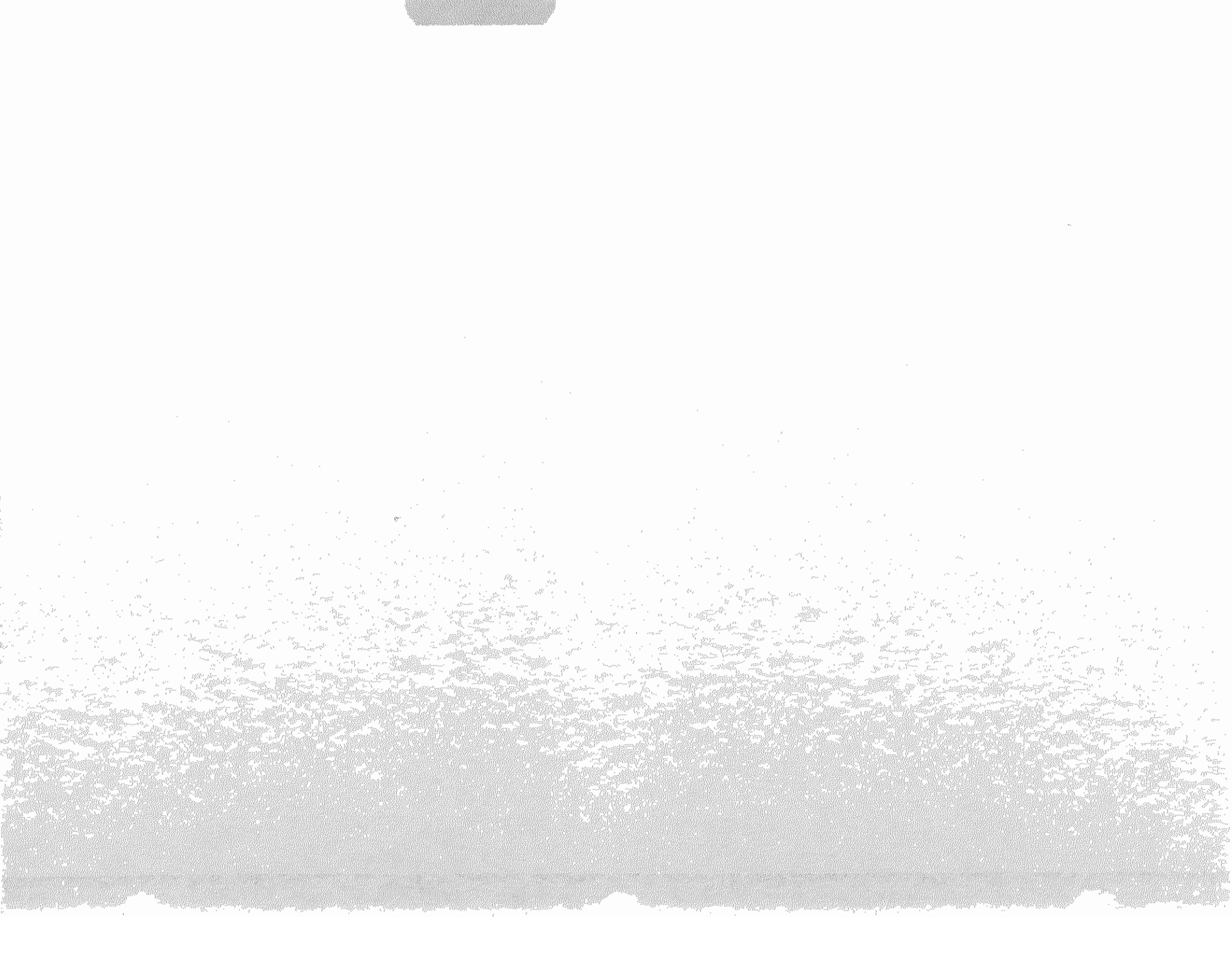
I am taking the liberty to send you a copy of my letter October 25, 2006 to the Hon. Vic Toews, P.C., M.P. Minister of Justice and Attorney General of Canada for your personal information.

Could one of your officials be so kind and check with the Minister whether he received my letter, because I believe that he is shielded by the political enemy.

Dear Prime Minister, I am sorry to bother you. You know the reason why I can only turn to you.

I thank you and wish you success in the interest of all Canadians.

Yours sincerely,



Citation: Judgments in Appeal and Leave Applications
Date: February 1, 2007
Other formats: PDF WPD
Printer Friendly

SUPREME COURT OF CANADA -- JUDGMENTS IN APPEAL AND LEAVE APPLICATIONS

OTTAWA, 2007-02-01. THE SUPREME COURT OF CANADA HAS TODAY DEPOSITED WITH THE REGISTRAR JUDGMENTS IN THE FOLLOWING APPEAL AND APPLICATIONS FOR LEAVE TO APPEAL.
FROM: SUPREME COURT OF CANADA (613) 995-4330

COUR SUPRÊME DU CANADA -- JUGEMENTS SUR APPEL ET DEMANDES D'AUTORISATION

OTTAWA, 2007-02-01. LA COUR SUPRÊME DU CANADA A DÉPOSÉ AUJOURD'HUI AUPRÈS DE LA REGISTRAIRE LES JUGEMENTS DANS L'APPEL ET LES DEMANDES D'AUTORISATION D'APPEL SUIVANTS.
SOURCE: COUR SUPRÊME DU CANADA (613) 995-4330

COMMENTS/COMMENTAIRES: comments@scc-csc.gc.ca

APPEAL / APPEL:

(Reasons for judgment will be available shortly at: / Motifs de jugement disponibles sous peu à:
http://scc.lexum.umontreal.ca/en/2007/2007scc6/2007scc6.html
http://scc.lexum.umontreal.ca/fr/2007/2007csc6/2007csc6.html

Stephen John Trochym v. Her Majesty the Queen (Ont.) **2007 SCC 6 / 2007 CSC 6**

McLachlin C.J. and Bastarache, Binnie, LeBel, Deschamps, Fish, Abella, Charron and Rothstein JJ.

The appeal from the judgment of the Court of Appeal for Ontario, Number C23653, dated July 5, 2004, heard on May 9, 2006, is allowed, the conviction is set aside and a new trial is ordered. Bastarache, Abella and Rothstein JJ. are dissenting.

L'appel interjeté contre l'arrêt de la Cour d'appel de l'Ontario, numéro C23653, en date du 5 juillet 2004, entendu le 9 mai 2006, est accueilli, la déclaration de culpabilité est annulée et la tenue d'un nouveau procès est ordonnée. Les juges Bastarache, Abella et Rothstein sont dissidents.

APPLICATIONS FOR LEAVE / DEMANDES D'AUTORISATION:

Note for subscribers:
The summaries of the cases are available at http://www.scc-csc.gc.ca :
Click on Cases and on SCC Case Information, type in the Case Number and press Search. Click on the Case Number on the Search Result screen, and when the docket screen appears, click on "Summary" which will appear in the left column.

Alternatively, click on
http://scc.lexum.umontreal.ca/en/news_release/2007/07-01-29.2a/07-01-29.2a.html

Note pour les abonnés :
Les sommaires des causes sont affichés à l'adresse http://www.scc-csc.gc.ca :
Cliquez sur « Dossiers », puis sur « Renseignements sur les dossiers ». Tapez le n° de dossier et appuyez sur « Recherche ». Cliquez sur le n° du dossier dans les Résultats de la recherche pour accéder au Registre. Cliquez enfin sur le lien menant au « Sommaire » qui figure dans la colonne de gauche.

Autre façon de procéder : Cliquer sur
http://scc.lexum.umontreal.ca/fr/news_release/2007/07-01-29.2a/07-01-29.2a.html

GRANTED / ACCORDÉES

WIC Radio Ltd., et al. v. Kari Simpson (B.C.) (31608)
Coram: McLachlin / Charron / Rothstein

Talib Steven Lake v. United States of America, et al. (Ont.) (Crim.) (31631)
Coram: McLachlin / Charron / Rothstein

Tele-Mobile Company (a.k.a. Telus Mobility) v. Her Majesty the Queen (Ont.) (Crim.) (31644)
(The application for an extension of time is granted and the application for leave to appeal is granted. / La demande de prorogation de délai est accordée et la demande d'autorisation d'appel est accordée.)
Coram: McLachlin / Charron / Rothstein

Michael Esty Ferguson v. Her Majesty the Queen (Alta.) (Crim.) (31692)
Coram: McLachlin / Charron / Rothstein

GRANTED WITH COSTS / ACCORDÉES AVEC DÉPENS

Transportaction Lease Systems Inc. v. Jennifer Yeung, by her litigation guardian Heidi Yeung, et al. (B.C.) (31549)
(The application for leave to appeal is granted with costs to the applicant in any event of the cause. / La demande d'autorisation d'appel est accordée avec dépens en faveur de la demanderesse quelle que soit l'issue de l'appel.)
Coram: McLachlin / Charron / Rothstein

620 Connaught Ltd., operating as Downstream Bar, et al. v. Attorney General of Canada, et al. (F.C.) (31661)

(The application for leave to appeal is granted with costs to the applicants in any event of the cause. / La demande d'autorisation d'appel est accordée avec dépens en faveur des demanderesses quelle que soit l'issue de l'appel.)
Coram: McLachlin / Charron / Rothstein

DISMISSED / REJETÉES

Lloyd Prudenza, et al. v. United States of America, et al. (Ont.) (Crim.) (31696)
Coram: McLachlin / Charron / Rothstein

Karlheinz Schreiber v. Federal Republic of Germany, et al. (Ont.) (Crim.) (31340)
Coram: Binnie / Deschamps / Abella

Edwina Ruth Trick v. John Anthony Trick (Ont.) (31653)
Coram: Binnie / Deschamps / Abella

DISMISSED WITH COSTS / REJETÉES AVEC DÉPENS

Kimberly Nixon v. Vancouver Rape Relief Society (B.C.) (31633)
(The application for an extension of time is granted and the application for leave to appeal is dismissed with costs. / La demande de prorogation de délai est accordée et la demande d'autorisation d'appel est rejetée avec dépens.)
Coram: McLachlin / Charron / Rothstein

Ratiopharm Inc. v. Pfizer Canada Inc., et al. (F.C.) (31607)
Coram: Binnie / Deschamps / Abella

Antony Tsai v. Theodore Pochwalowski (Ont.) (31619)
Coram: Binnie / Deschamps / Abella

Janie Louise Ryan, et al. v. Parmjit Singh Purba, et al. (Alta.) (31655)
Coram: Binnie / Deschamps / Abella

Andy Harabulya v. Ontario Ministry of Labour, et al. (Ont.) (31665)
Coram: Binnie / Deschamps / Abella

Joseph Lallman, et al. v. Jerald Lallman, et al.- AND - *Joseph Lallman v. Edmund Lallman (also known as Edmund Lalman) Estate Trustee for the Estate of Samuel Lalman* (Ont.) (31671)
Coram: Binnie / Deschamps / Abella

Alberta Capital Region Wastewater Commission v. NAC Constructors Ltd. (Alta.) (31270)
(The application for an extension of time is granted and the application for leave to appeal is dismissed with costs. / La demande de prorogation de délai est accordée et la demande d'autorisation d'appel est rejetée avec dépens.)
Coram: LeBel / Fish / Abella

DISMISSED WITHOUT COSTS / REJETÉES SANS DÉPENS

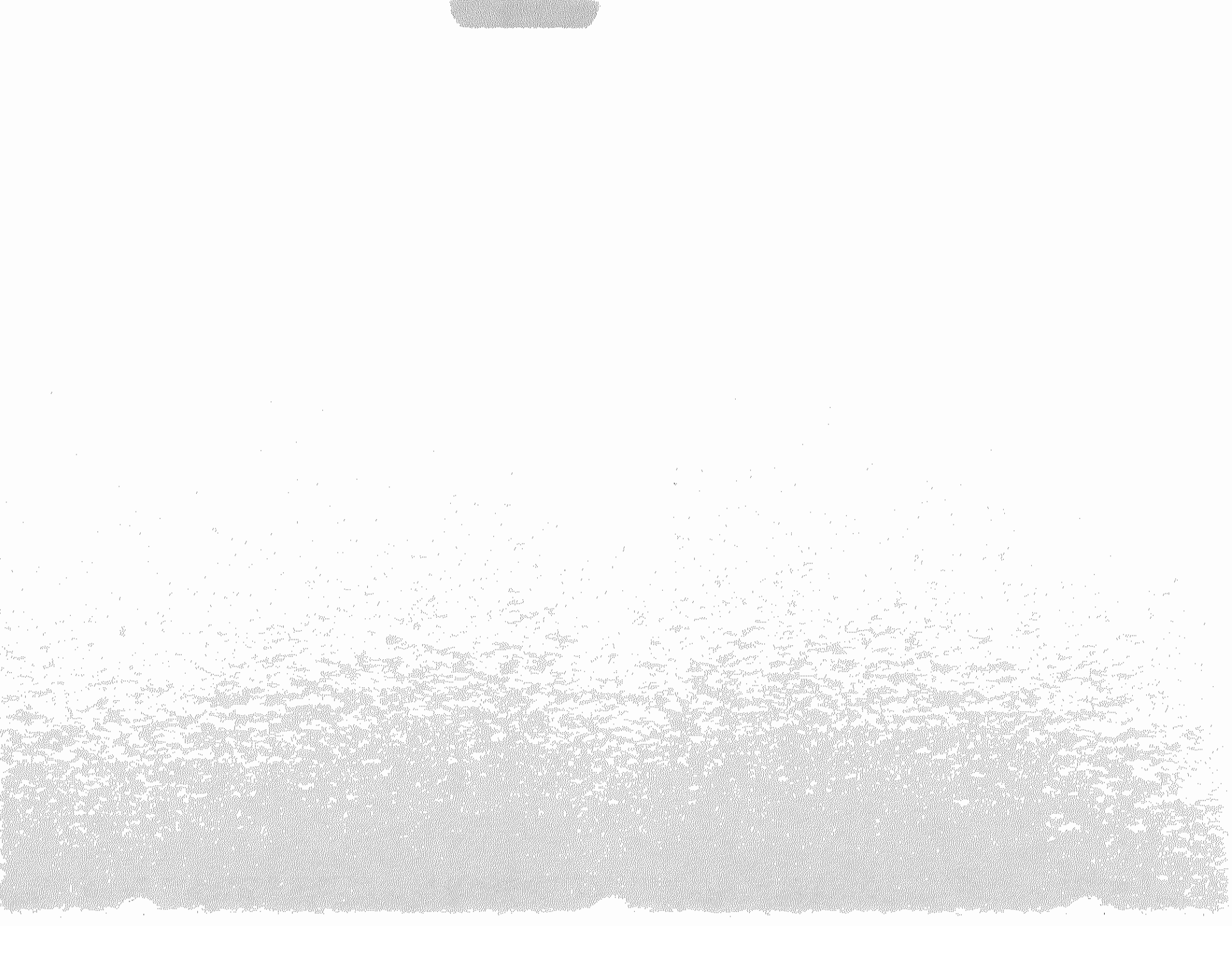
Myra M.D. Simanek v. Her Majesty the Queen in Right of Ontario (The Crown), et al. (Ont.) (31707)
Coram: Binnie / Deschamps / Abella

Dawit Tuquabo v. United Steel Workers of America Local 9597, et al. (Ont.) (31723)

Coram: Binnie / Deschamps / Abella

REMANDED / RENVOYÉE

Her Majesty the Queen in Right of Alberta represented by the Minister of Alberta Infrastructure v. Chandos Construction Ltd. (Alta.) (31378)
(Upon considering the application for leave to appeal the Court orders pursuant to s. 43 (1.1) of the *Supreme Court Act* that the case be and it is hereby remanded to the Court of Appeal to be dealt with in accordance with the decision of this Court in *Double N Earthmovers Ltd. v. Edmonton (City)*, 2007 SCC 3. / Après examen de la demande d'autorisation d'appel la Cour ordonne, en vertu du par. 43(1.1) de la *Loi sur la Cour suprême*, que l'affaire soit renvoyée à la Cour d'appel pour qu'elle statue en fonction de l'arrêt de la Cour *Double N Earthmovers Ltd. c. Edmonton (Ville)*, 2007 CSC 3.)
Coram: Binnie / Deschamps / Abella



2007 ONCA 354, 220 C.C.C. (3d) 48, 224 O.A.C. 93, 155 C.R.R. (2d) 200, 63 Admin. L.R. (4th) 155

H

2007 CarswellOnt 2941

Schreiber v. Germany
Karlheinz Schreiber (Applicant) and Federal Republic of Germany and Minister of Justice and Attorney General of Canada (Respondents)
Ontario Court of Appeal
R.R. McMurtry C.J.O., R. Juriansz, P. Rouleau JJ.A.
Heard: May 4, 2007
Judgment: May 9, 2007[FN*] [FN**]
Docket: CA C46387

Counsel: Brian H. Greenspan, Vanessa Christie for Applicant

Nancy Dennison for Respondents

Subject: Criminal; Constitutional

Criminal law — Extradition proceedings -- Extradition from Canada -- Warrant of committal and surrender -- General

Applicant was Canadian and German citizen who was being charged with tax evasion, fraud, forgery and bribery -- Germany requested that applicant be extradited -- Minister signed order allowing extradition -- Applicant appealed -- Supreme Court refused to hear appeal -- Judicial authorities in Germany made comments in press about case against applicant -- Applicant brought application for judicial review -- Application dismissed -- Minister did not err in his application of s. 7 and his assessment of statements by German authorities -- Minister did not base his decision on whether or not those statements were appropriate -- Extradition of applicant would not offend Canadian sense of what is fair right an just -- Comments made by judicial authorities to press in Germany were not sufficient evidence that applicant would face unfair trial -- Prosecutor who made comments was not involved in case against applicant -- Canada had valid extradition treaty with Germany.

Criminal law — Extradition proceedings -- Extradition from Canada -- Remedies following disposition -- Judicial review

Applicant was Canadian and German citizen who was being charged with tax evasion, fraud, forgery, and bribery -- Germany requested that applicant be extradited -- Minister signed order allowing extradition -- Applicant appealed -- Supreme Court refused to hear appeal -- Applicant brought application for judicial review -- Applicant brought application to admit fresh evidence -- Application to admit fresh evidence granted; application for judicial review dismissed -- It was in interest of justice to admit fresh evidence.

Cases considered by P. Rouleau J.A.:

Kindler v. Canada (Minister of Justice) (1991), 8 C.R. (4th) 1, [1991] 2 S.C.R. 779, 67 C.C.C. (3d) 1, 84 D.L.R. (4th) 438, 129 N.R. 81, 6 C.R.R. (2d) 193, 1991 CarswellNat 3, 45 F.T.R. 160 (note), 1991 CarswellNat 831 (S.C.C.) -- considered

Pacificador v. Canada (Minister of Justice) (2002), 2002 CarswellOnt 2538, 6 C.R. (6th) 161, (sub nom. Canada (Minister of Justice) v. Pacificador) 97 C.R.R. (2d) 20, 60 O.R. (3d) 685, 162 O.A.C. 299, 166 C.C.C. (3d) 321, 216 D.L.R. (4th) 47 (Ont. C.A.) -- considered

R. v. Schmidt (1987), 61 O.R. (2d) 530, 76 N.R. 12, 39 D.L.R. (4th) 18, 20 O.A.C. 161, 33 C.C.C. (3d) 193, (sub nom. Schmidt v. Canada) 28 C.R.R. 280, (sub nom. Canada v. Schmidt) [1987] 1 S.C.R. 500, (sub nom. Schmidt v. R.) 58 C.R. (3d) 1, 1987 CarswellOnt 95, 1987 CarswellOnt 961 (S.C.C.) -- considered

United States v. Cobb (2001), 152 C.C.C. (3d) 270, 197 D.L.R. (4th) 46, 145 O.A.C. 3, 267 N.R. 203, [2001] 1 S.C.R. 587, 81 C.R.R. (2d) 226, 2001 SCC 19, 2001 CarswellOnt 964, 2001 CarswellOnt 965, 41 C.R. (5th) 81 (S.C.C.) -- considered

Statutes considered:

Canadian Charter of Rights and Freedoms, Part I of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (U.K.), 1982, c. 11

s. 7 -- considered

APPLICATION for judicial review to quash extradition order made by Minister on request of German authorities; APPLICATION to admit fresh evidence.

P. Rouleau J.A.:

1 The applicant brings this judicial review application to quash the decision of the Minister of Justice refusing to rescind an earlier order by the former Minister of Justice that he be surrendered to Germany to face trial on charges of tax evasion, fraud, forgery, and bribery.

Background

2 The applicant, a Canadian and German citizen, was arrested in Canada on August 31, 1999 on a provisional warrant of arrest in respect of a request for extradition by Germany. Bail was granted several days later. Motions, evidence, and submissions were made to the extradition judge over the course of the next five years.

3 On May 27, 2004, the applicant was committed for extradition on all but one of the offences listed in the Authority to Proceed. The formal order was signed on June 3, 2004. On that same day, a notice of appeal was filed in this court and the applicant applied for bail pending appeal which was granted.

4 Between July 15, 2004 and October 20, 2004, submissions were made to the Minister of Justice regarding his surrender decision. The Minister rejected those submissions on October 31, 2004 and ordered the applicant's surrender. A notice of application for judicial review was filed with this court on November 29, 2004. On March 1, 2006, this court dismissed the appeal and the judicial review. A notice of application was made to the Supreme Court of Canada which was dismissed on February 1, 2007.

5 On May 17, 2006 and August 10, 2006, the applicant wrote to the Minister of Justice urging the Minister to reconsider and rescind the earlier surrender decision because of press reports of comments made by the Chief Prosecutor and the judicial spokesperson for the court in Augsburg, Germany about the case. On December 14, 2006, the Minister refused to rescind the earlier surrender decision.

6 On December 18, 2006, an application for judicial review of the Minister's decision was filed with this court. On February 8, 2007, the applicant was granted release pending the determination of this judicial review of the Minister's decision.

Analysis

a) Fresh evidence application

7 At the outset of the hearing, the applicant brought a fresh evidence application consisting of two documents. The first is a letter from Justus Demmer, the head of media and communications of the press agency that filed the press reports at issue in this application. It confirms that the reporter who wrote the article observed the common journalistic standards. The second is an affidavit of Eberhard Kempf, a respected member of the criminal bar of Frankfurt. It describes the guidelines that apply to judicial spokespersons and opines on the inappropriate nature of the comments reported as having been made by the judicial spokesperson.

8 In my view, it is in the interests of justice that the court receive and consider the fresh evidence on this application.

b) Applicable standard

9 Both counsel agree that when s. 7 of the *Canadian Charter of Rights and Freedoms* is the basis of a challenge to the Minister's decision to surrender, the applicant must establish on a balance of probabilities that the decision in question violates his *Charter* rights in that his surrender would be "simply unacceptable" or "sufficiently shocks the conscience" of Canadians: *Pacificador v. Canada (Minister of Justice)* (2002), 166 C.C.C. (3d) 321 (Ont. C.A.) at para. 44.

10 As stated by McLachlin J. in *Kindler v. Canada (Minister of Justice)* (1991), 67 C.C.C. (3d) 1 (S.C.C.) at paras. 67-69:

> The test for whether an extradition law or action offends s. 7 of the Charter on account of the penalty which may be imposed in the requesting state, is whether the imposition of the penalty by the foreign state "sufficiently shocks" the Canadian conscience: Schmidt, per La Forest J. at p. 214. The fugitive must establish that he or she faces "a situation that is simply unacceptable": Allard, supra, at p. 508. Thus, the reviewing court must consider the offence for which the penalty may be prescribed, as well as the nature of the justice system in the requesting jurisdiction and the safeguards and guarantees it affords the fugitive. Other considerations such as comity and security within Canada may also be relevant to the decision to extradite and if so, on what conditions. At the end of the day the question is whether the provision or action in question offends the Canadian sense of what is fair, right and just, bearing in mind the nature of the offence and the penalty, the foreign justice system and considerations of comity and security, and according due latitude to the Minister to balance the conflicting considerations. [Emphasis added.]

c) Concerns raised by the comments of the senior prosecutor and the judge spokesperson for the Regional Court of Augsburg

11 The applicant points to comments in the German media attributed to a senior prosecutor and to the judge who is the spokesperson for the Regional Court of Augsburg, the region in which the applicant is to be tried. He says these comments show that he will not get a fair trial in Germany because the case against him has been prejudged. Consequently, he argues that surrendering him to undergo trial in Germany would violate his right to fundamental justice guaranteed by s. 7 of the *Charter*.

12 I agree with the applicant that if the press reports accurately quoted the judicial spokesperson and these quotes are not taken out of context they are of concern. However, assuming that the quotes are accurate and not taken out of context, I do not accept the applicant's submission that they show that the applicant will not receive a fair trial.

13 Canada has an extradition treaty with Germany which, as stated by La Forest J. in *R. v. Schmidt* (1987), 33 C.C.C. (3d) 193 (S.C.C.) at 215, means that, when determining whether the surrender of a fugitive offends the basic demands of justice:

> [T]he courts must begin with the notion that the executive must first have determined that the general system for the administration of justice in the foreign country sufficiently corresponds to our concepts of justice to warrant entering into the treaty in the first place, and must have recognized that it too has a duty to ensure that its actions comply with constitutional standards.

In addition, while there should not be blind judicial deference, "the courts must be extremely circumspect so as to avoid interfering unduly in decisions that involve the good faith and honour of this country in its relations with other states. In a word, judicial intervention must be limited to cases of real substance."

14 Further, as appears from the Minister's decision, the comments led him to ask his officials to follow up with German authorities. From these inquires, it is apparent that the prosecutor whose comments are at issue, will not be involved in prosecuting against the applicant. The judicial spokesperson, whose comments are impugned, will not be on the panel of three judges who tries the applicant's case in Germany. In Germany, the applicant's right to be presumed innocent until proven guilty and his right to a fair trial are guaranteed by the German constitution.

15 I do not, therefore, regard the reported comments as providing a basis for a reasonable belief that the applicant will not be accorded his rights to fairness and due process in the German trial.

d) The Minister's decision

16 The applicant further submits that given the comments made and the obvious political undertones of this case fairness demands that the Minister not accept general assurances concerning the fairness of the German legal system and that he fully investigate the concern that this particular applicant receive a fair trial in Germany. The applicant submits that the present case is similar in nature to *United States v. Cobb* (2001), 152 C.C.C. (3d) 270 (S.C.C.).

17 The applicant argues that the responses received by the Minister to his inquiries were not full and frank. The applicant points to the fresh evidence which states that the reported comments of the judicial spokesperson

represent a remarkable violation of the recognized standards applicable to such spokespersons. The fresh evidence also postulates that the factual information about the case that the spokesperson may have used as a basis for his comments would logically have come from the chamber of the judges who are responsible for the trial of the applicant's case in Germany.

18 The applicant maintains that this fresh evidence demonstrates that the Minister's understanding of the role of a judicial spokesperson under the German system and of the appropriateness of the reported comments was wrong and that this misunderstanding has tainted his decision. The applicant submits that the Minister's misunderstanding is apparent from the comment contained in his December 14, 2006 letter that "in the German system, it must be that there is no necessary conflict between a judicial spokesperson commenting on a prosecution and the state's ability to guarantee a fair trial."

19 It is not clear to me that the statement should be interpreted as suggested by the applicant. However, in light of the fresh evidence, I agree that, at the time of writing his letter, the Minister may not have appreciated that the reported comments of the judicial spokesperson could be seen by German criminal lawyers as being significantly at variance with appropriate conduct. That said, however, the Minister correctly noted that the reported comments cannot be understood as an attempt to interfere with the exercise by the applicant of his rights within the Canadian extradition process as was found to be the case in *United States v. Cobb*.

20 Further, I do not understand the Minister to have based his decision on whether the comments were or were not appropriate. The Minister's decision was based on his conclusion that the German courts could be trusted to deal with issues such as the apprehension of prejudgment and the potential prejudice that these comments may have caused. This is apparent from the sentence in the Minister's letter that followed the sentence that concerned the applicant and which is quoted above. The Minister went on to state as follows:

> In my view, even if it could be concluded that Judge Haeusler's comments could potentially give rise to prejudice for Mr. Schreiber, this is a matter where the German court, should be trusted to deal with the issue and fashion a remedy, if necessary.

21 In a sense, the fresh evidence supports the Minister's conclusion. Mr. Kempf refers to decisions made by German courts, including the Higher Regional Court of Düsseldorf, to the effect that any comments by prosecutors and spokespersons of a court should be objective and restricted to what is absolutely necessary to inform the public. According to Mr. Kempf, the German courts he refers to have underlined the importance of fairness and respect for the presumption of the innocence of the accused. In my view, this serves to confirm the Minister's conclusion that there is no systemic problem in Germany that would operate to prevent the applicant from receiving due process and a fair trial.

22 In the circumstances of this case, I consider that it is for the German's courts to deal with the applicant's apprehension of prejudgment and to fashion the appropriate remedy, if one is warranted.

Disposition

23 I am satisfied that the Minister did not err in his interpretation and application of s. 7 of the *Charter*. The extradition of the applicant will not offend the Canadian sense of what is fair, right, and just bearing in mind the factors set out in *Kindler*. For these reasons I would dismiss the application.

R.R. McMurtry C.J.O.:

I agree.

R. Juriansz J.A.:

I agree.

Application for judicial review dismissed; Application to admit fresh evidence allowed.

FN*. Leave to appeal denied.

FN**. A corrigendum issued by the Court on May 11, 2007 has been incorporated herein.

END OF DOCUMENT

KARLHEINZ SCHREIBER

7 BITTERN COURT, ROCKCLIFFE PARK
OTTAWA, CANADA K 1 L 8 K 9

THELEPHON: 613 748 7330
FACSIMILE: 613 748 9697
schreiberbarbel@aol.com

Personal

The Right Hon. Stephen Joseph Harper P.C., M.P.
Prime Minister

House of Commons
Ottawa, Ontario
K1A 0A6

Ottawa, September 26, 2007

Subject: "Political Justice Scandal"
The "Airbus Affair"& Brian Mulroney
Abuse of Public Trust

Dear Prime Minister,

I take the liberty to lead your attention to an article of The Canadian Press, September 7, 2007: (article attached)

Mulroney slams Liberals over Airbus, but won't explain dealings with Schreiber

" Mulroney says he was the victim of a smear campaign orchestrated by his liberal opponents in the Airbus scandal – but he's not yet ready to offer an explanation of his own for his personal dealings with businessman Karlheinz Schreiber, a key figure in the affair.

In a television interview, on the eve of the official publication of his memoirs, Mulroney blamed the government of Jean Chretien – thought he didn't name him personally – for an RCMP investigation that called his reputation into question."

"The matter was indeed organized by the government, acting on flimsy and false information," Mulroney declared.

On the subject of the RCMP investigation during the Liberal years in power, he maintained that all Canadians should draw a lesson from his difficulties.

"I think that any time the force of the government is used against any citizens, unfairly and inappropriately, it represents a fundamental threat to our most basic rights," he said.

"It happened that, in my case I was able to fight back...(but) if the government comes after you and uses the resources, financial and otherwise, of the state, they can crush any Canadian. This is the greatest threat to the individual liberties of the ordinary Canadian citizen that can exist anywhere, and we have to fight this."

Dear Prime Minister,

how do you feel when you look at this statement of your advisor the Right Hon. Brian Mulroney and your announcements on November 30, 2005 in Quebec City concerning the same subject:

Stand up for Canada. 30 November 2005, Quebec City:

Harper calls for office of public prosecutions.

"A Conservative government would institute an independent office of public prosecutions responsible for investigating criminal activity on Parliament Hill," party Leader Stephen Harper said Wednesday.

"There's going to be a new code on Parliament Hill: bend the rules, you will be punished; break the law, you will be charged; abuse the public trust, you will go to prison," warned Harper.

It appears to me that The Right Hon. Stephen Harper, Prime Minister of Canada, The Right. Hon. Brian Mulroney and Karlheinz Schreiber, a victim of criminal activity on Parliament Hill, want the same: A clean up on Parliament Hill.

Until now only Karlheinz Schreiber is fighting for a clean up asking Prime Minister Stephen Harper without success since June 16, 2006 to call an inquiry.

The Issue: (Stephen Harper, November 5, 2005 Quebec City)

"The Liberal party's 12 years in power have been 12 years of consecutive scandal. Despite Paul Martin's promises to clean up Ottawa, nothing has changed. Worse, the Liberals have made no attempt to ensure that those responsible for these scandals pay the price – and they still pretend they are victims in the sponsorship scandal !" (The Right Hon. Paul Martin called the Gomery Inquiry. Not you.)

Additional examples of the need for prosecutorial independence:

"The Mulroney – Airbus affair: Officials in the federal Department of Justice advised the RCMP during its investigation and it was the Justice Department that signed and sent the letter asking the Swiss authorities to cooperate. The Department's letter wrongly indicated that the RCMP had reached conclusions about criminal activity and then – Attorney General Allan Rock subsequently apologized in writing.

(The apology was sent to the Right. Hon. Brian Mulroney, the Hon. Frank D. Moores and Karlheinz Schreiber)

To avoid any possibility of interference, this is precisely the sort of issue that should have been handled by an independent Director of Public Prosecutions."

The choice:

"The Liberals have failed to move swiftly and decisively to find justice in the sponsorship scandal. They continue to be distracted by their scandals and have been trying to micro-manage the response to the scandal. Only the Conservatives recreate an independent body to make binding and final decisions to prosecute those responsible for breaking the public trust. Only a Conservative government can get on with the job of governing, to deliver accountable government that Canadians deserve" (documents attached).

Since June 16, 2006 I provided information and evidence to you that officials of the Department of Justice and the RCMP, you mentioned with the "Airbus" affair, are still involved in my lawsuit against the Attorney General of Canada and in my extradition case with Germany. I explained the circumstances why I can only turn to you.

The same officials of the Department of Justice including Brian Saunders, your acting Director of Public Prosecution and the RCMP are involved in the "Political Justice Scandal", the "Airbus" affair, illegal activities with German officials against me, a Minister who lies to the courts and a huge cover up action.

The same officials of the Department of Justice, who sent the letter of request to Switzerland and initiated the "Airbus" affair, fabricated the new Canadian Extradition Act 1999 after the Airbus settlement - disaster with Brian Mulroney and the commencement of my lawsuit against the Attorney General of Canada in 1996/1997.

The new Extradition Act neutralized the power of the Canadian qualified judges and made it become a nearly uncontrolled political tool in the hands of the Minister of Justice, which means in reality the IAG, International Assistance Group, who initiated the "Airbus" affair and costs millions of Canadian taxpayer's dollars so far in an ongoing crime.

Dear Prime Minister,

Your own statements provide the evidence that you are fully aware of the situation concerning the Department of Justice and the RCMP but you do nothing. I ask you for a long time, like the Conservatives asked the Liberal Government for many years, to call an inquiry to assure that the truth comes to light and fundamental Justice will be brought back to the Department of Justice and the RCMP.

The Department of Justice and the RCMP became political weapons to hunt political opponents and help to win political elections.

National Post, June 15, 2007 Craig Offman: ***"Mandate unwieldy say RCMP critics"*** (Article attached)

Reading the article with the comments of Mr. David Brown, Ms. Shirley Heafey, the former chair of the force's commission of public complaints, author Mr. Paul Palango, Professor Ms. Linda Duxbury, Mr. Borys Wrzesnewskyj M.P. adding my own experience with the RCMP, the Department of Justice and the Commission for Public Complaints against the RCMP, it seems to me that I find the same practices which are used in countries with totalitarian Governments.

May I remind you what the Attorney General Allan Rock, the Solicitor General Herb Gray and the RCMP did to Sgt. Fraser Fiegenwald related to the "Airbus" affair and Stevie Cameron?

Since November 28, 2006 I receive reports from the RCMP concerning my complaints through the Commission for Public Complaints against the Royal Canadian Mounted Police, in the cases of Commissioner Zaccardelli and 7 RCMP officers.

Please find attached 9 copies of the reports as an example for you. I hope you will enjoy the farce!

Please find attached a copy of the letter September 6, 2007 from the Department of Justice Canada to my lawyer Robert Hladun Q.C. It is an additional piece of evidence of the abuse of power, the fear and the delay tactics of the Attorney General of Canada.

Please find also attached copies of the letter July 9, 2007 from the Department of Justice of Switzerland to the Department of Justice of Germany and my lawyer Dr. Heinz Raschein. The letters will tell you how the German Prosecutors in Augsburg mislead the officials of the Swiss Department of Justice, the German Federal Court (Supreme Court) and consequently the Canadian Courts with the knowledge and the support of the IAG of the Canadian Department of Justice.

Without qualified highly respected independent Judges and the Media, Canada would be in danger to loose it's international reputation and attraction for people which come to Canada, hoping to find shelter and fundamental Justice.

My suspicion is that for personal and political reasons you became part of the illegal activities against me and the cover up action of the Department of Justice (IAG) and the RCMP.

Based on your own new code on Parliament Hill, in my opinion you face a classical example of abuse of public trust, by ignoring this case any longer.

You know: Canada has no treaty obligations to extradite its Nationals to Germany.
You know: Germany will never extradite its Nationals to Canada.

For all the reasons of my case, known to you, I ask you in the interest of all Canadians to stop the political motivated vendetta against me immediately and to assure the return of fundamental Justice to the Department of Justice of Canada and to the RCMP.

As a reminder I attaché my letter of March 29, 2007 to you, a copy of my letter January 29, 2007 to The Right Hon. Brian Mulroney and a copy of his photo.

The Right Hon. Brian Mulroney stated:

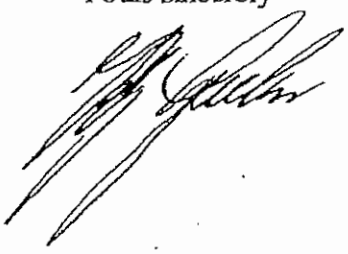
"I think that any time the force of the government is used against any citizens, unfairly and inappropriately, it represents a fundamental threat to our most basic rights!"

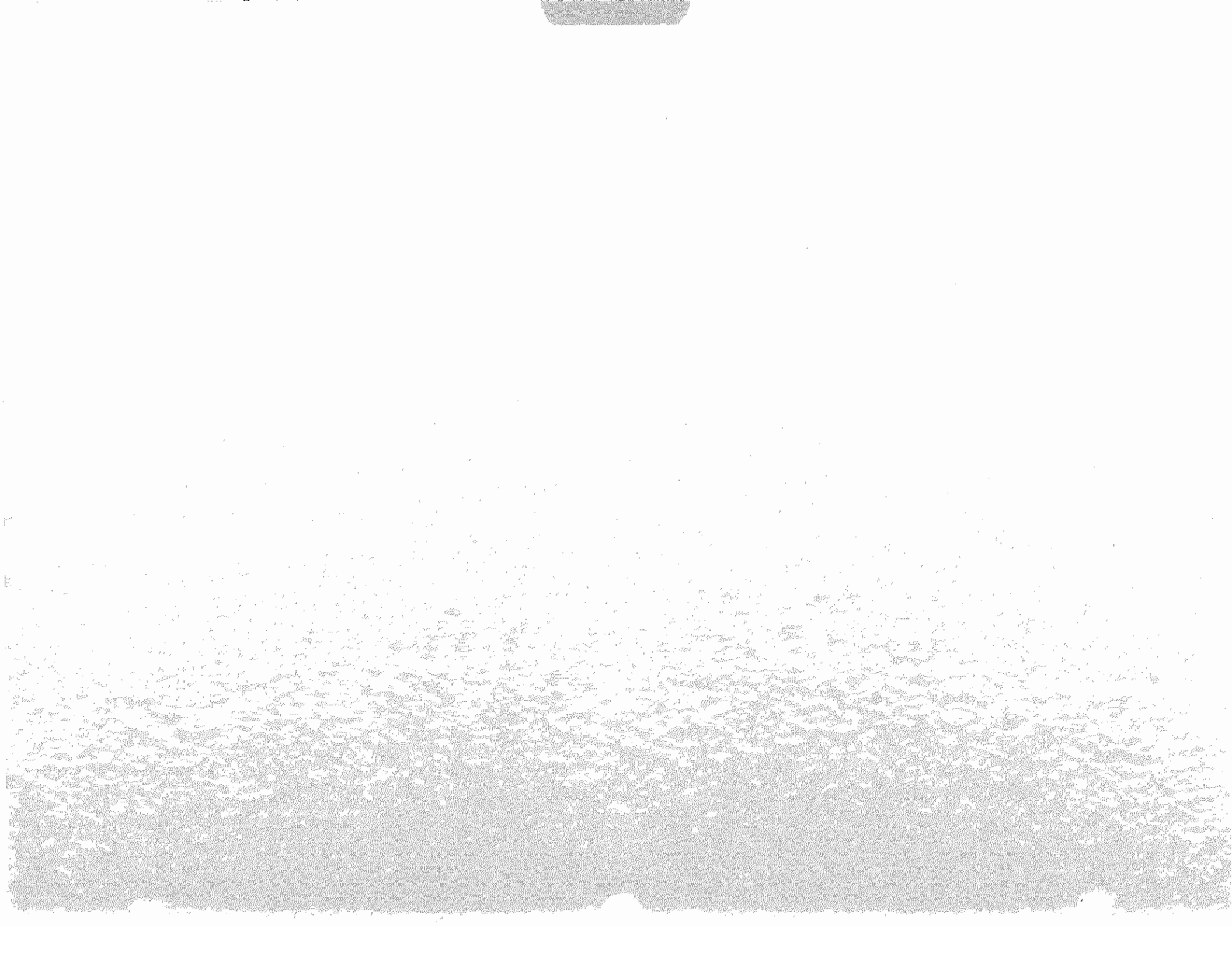
"It happened that, in my case I was able to fight back... (but) if the government comes after you and uses the resources, financial and otherwise, of the state, they can crush any Canadian. This is the greatest threat to the individual liberties of the ordinary Canadian citizen that can exist anywhere, and we have to fight this."

I urge you to fulfill your election promises to clean up Parliament Hill in Ottawa and start to fight for the protection of the individual liberties of the ordinary Canadian citizen.

Assure that the Canadian Citizenship provides the same values citizens in most of the civilized countries around the world are privileged to enjoy.

Yours sincerely





CITATION: Schreiber v. Canada (Attorney General), 2007 ONCA 791
DATE: 20071120
DOCKET: M35610-C47799

COURT OF APPEAL FOR ONTARIO

DOHERTY, FELDMAN and ARMSTRONG JJ.A.

BETWEEN:

KARLHEINZ SCHREIBER

Applicant

and

THE MINISTER OF JUSTICE

Respondent

Edward L. Greenspan, Q.C. and Brian H. Greenspan for the applicant

Nancy Dennison and Richard Kramer for the respondent

Heard and orally released: November 15, 2007

On application for judicial review from the decision of the Honourable Robert Nicholson, Minister of Justice and Attorney General of Canada, on an application brought pursuant to s. 43(2) of the *Extradition Act*.

ENDORSEMENT

[1] We are in a position to address the ultimate merits of the judicial review application brought by Mr. Schreiber. We do not regard the bringing of this application as an abuse of process. The applicant was entitled under the *Extradition Act* to seek

judicial review of the decision of the Minister. We do not propose to address the submissions made by the respondent in support of the abuse of process claim any further.

[2] The Minister's decision was made under s. 43(2) of the *Extradition Act*. He, in effect, declined to reconsider the surrender decision made by a previous Minister of Justice and confirmed by another Minister of Justice.

[3] The ultimate decision to surrender for extradition following judicial committal for extradition is essentially a political decision. Any judicial review of that decision must give significant deference to the decision made by the Minister. A subsequent decision by the Minister to refuse to reconsider a surrender order is subject to at least the same level of deference. The statutory language in s. 43(2) of the *Extradition Act* further demonstrates the discretionary nature of the Minister's decision.

[4] The Minister declined to reconsider the surrender order for two reasons. First, he concluded that there was nothing new in the submissions made to him by counsel for Mr. Schreiber that would merit reconsideration of the decision. Second, the Minister stressed the need for finality, particularly in the extradition context.

[5] In our view, it was a reasonable assessment of the issues raised in the material put before the Minister to describe that material as not raising anything new in substance that had not been raised previously before the Minister or the courts in the previous proceedings. We are also satisfied that the Minister was entitled to give significant weight to finality concerns given the history of this matter.

[6] Mr. Greenspan also submitted that the Minister did not address the request for reassessment on its merits, but had predetermined the matter before examining any of the material forwarded to the Minister on Mr. Schreiber's behalf. The record before us does not support that submission and we cannot accept it.

[7] The applicant placed before this court an opinion from Professor Byers concerning Canada's international law obligations as they relate to the issue raised before the Minister. That opinion was not before the Minister. Therefore, it does not assist us in our review of the reasonableness of the Minister's exercise of his discretion.

[8] The application for judicial review is dismissed.

"Doherty J.A."
"K. Feldman J.A."
"Robert P. Armstrong J.A."

KARLHEINZ SCHREIBER

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Mr. Paul Szabo, M.P.
Chair, Standing Committee on Access to Information, Privacy and Ethics
Confederation Building
House of Commons
Room 175
Ottawa, Ontario K1A 0A6

Ottawa, March 3, 2008

Subject: **Testimony, Dec. 13, 2007 of the Right Honourable Brian Mulroney**
Success - Fee related to the Bear Head Project

Dear Mr. Szabo:

Please accept the following as part of my testimony in front of the Standing Committee on Access to Information and Ethics.

I believed that the Right Honourable Brian Mulroney would accept the invitation of the Ethics Committee to appear for a second testimony and tell the truth, after he had heard my testimony.

Unfortunately he preferred cowardly not to make himself available and send spokespeople to do his talking and to announce that he is now against a public inquiry.

This leaves me now with the responsibility to clear the air for Canadians and the Ethics Committee regarding the Thyssen Bear Head project as follows:

On September 17, 1984 Brian Mulroney became the Prime Minister of Canada.

On January 8, 1985, immediately after Mr. Mulroney was elected as Prime Minister, GCI Government Consultants International was incorporated.

During the year 1985 GCI obtained through IAL International Aircraft Leasing Liechtenstein consulting agreements with:

MBB Messerschmitt - Boelkow - Blohm GmbH, Munich, Germany
ABI Airbus Industries Toulouse, France
THI Thyssen Industrie AG Essen, Germany

On February 3, 1986 the Hon. Frank D. Moores opened the bank accounts concerning the GCI business at the bank Schweizerischer Bankverein Zuerich, Switzerland.

The business activities between the Canadian governments MBB, ABI, THI took place during the years 1986, 1987, 1988.

On September 27, 1988 Thyssen Bear Head Industries LTD signed an UNDERSTANDING IN PRINCIPLE with the Government of Canada.

On October 20, 1988 Thyssen Industrie AG paid $ 2 Million success fee concerning the UNDERSTANDING IN PRINCIPLE to IAL, in trust for GCI (see corroborating document attached).

This $2 million was divided amongst Mr. Mulroney and his friends as follows:

On November 2, 1988 GCI (Frank Moores) deposited $ 500 000.00 to the Swiss bank account, Codename "Frankfurt" concerning the Thyssen Bear Head project and the Right Honourable Brian Mulroney. Mr. Mulroney would know that this money was marked for him (corroborating bank document attached).

On November 15, 1988:

-GCI received $ 250 000.00 (corroborating document attached)

-FDCI, Fred Doucet received $ 90 000.00 (corroborating document attached)

-Doucet & Associates, Gerald Doucet $ 90 000.00 (corroborating document attached)

-Frank D. Moores received $ 90 000.00 (corroborating document attached)

-LEMOINE CONSULTANTS INC, Gary Ouellet received $ 90 000.00 (corroborating document attached)

On November 21, 1988 Brian Mulroney was re-elected as Prime Minister. It is notable how the money was distributed only days before the election.

Five years later, on June 23, 1993 during the meeting at Harrington Lake the Right Honourable Brian Mulroney, then the Prime Minister of Canada told me that he would be of great help to me in relation to the Thyssen Bear Head project especially with Kim Campbell as the next Prime Minister of Canada in office.

On July 12, 1993 (after the meeting with the Right Honourable Brian Mulroney, Prime Minister of Canada, at Harrington Lake) I advised the Swiss Bank in Zurich to open a new account with the codename BRITAN (Thyssen Bear Head project / Brian Mulroney) and to transfer $ 500 000.00 from the Frankfurt account to the Britan account (corroborating bank document attached)

On July 26, 1993 the "Britan" account received $ 500 000.00 (corroborating bank document attached).

On July 27, 1993 I withdraw $ 100 000.00 in cash (corroborating bank document attached). On August 27, 1993 I paid $ 100 000.00 in cash to Brian Mulroney at the Mirabel Airport Hotel concerning future services with respect to the Thyssen Bear Head project and the establishment of production facilities in Montreal. I provided similar payments to Brian Mulroney on December 18, 1993 at the Hotel Queen Elisabeth, Montreal and at the Hotel Pierre in New York on December 8, 1994.

<u>During the testimony of Norman Spector in front of the Ethics Committee on February 5, 2008 I learnt for the first time that Brian Mulroney, than the Prime Minister of Canada "killed" the Thyssen Bear Head Project "*on December 16, 1990.*"</u>

During the testimony of the Hon. Elmer MacKay and Fred Doucet I had to recognize that Brian Mulroney had not even told them that he "killed" the Bear Head project.

Brian Mulroney, then the Prime Minister of Canada made all the people which were working on the project and the companies involved believes during the years from 1990 to the end of 1993 that the project was still alive and even attended meetings with government officials concerning the Thyssen Bear Head project.

The reason for this unbelievable betrayal, fraud and lies is Mr. Mulroney's enormous greed for money. Brian Mulroney knew that he would lose the $ 500 000.00 if it would be known that he "killed" the project. This is why he continued to perpetrate the lies that he would work on the project. This also shows how his testimony that he did "international lobbying" for Thyssen is a complete fabrication.

The point to be learned from this chronology is $500 000.00 sat dormant in a bank account for five years from November 1988 until July 1993. In July 1993, Mr. Mulroney concocted a way to have the money dispersed to him. The only reason that such a large

amount of money would sit dormant in the account is because it was for Mr. Mulroney. He knew it, his close GCI friends, Frank Moores and Gary Ouellet knew it and I knew it.

Since Brian Mulroney never provided any service for Thyssen Bear Head Industries or me I demanded the repayment of the funds.

The AIRBUS business and the meeting with Brian Mulroney on Monday February 2, 1998 at the Hotel Savoy in Zuerich , Switzerland is a similar story with complexities only a Public Inquiry will uncover.

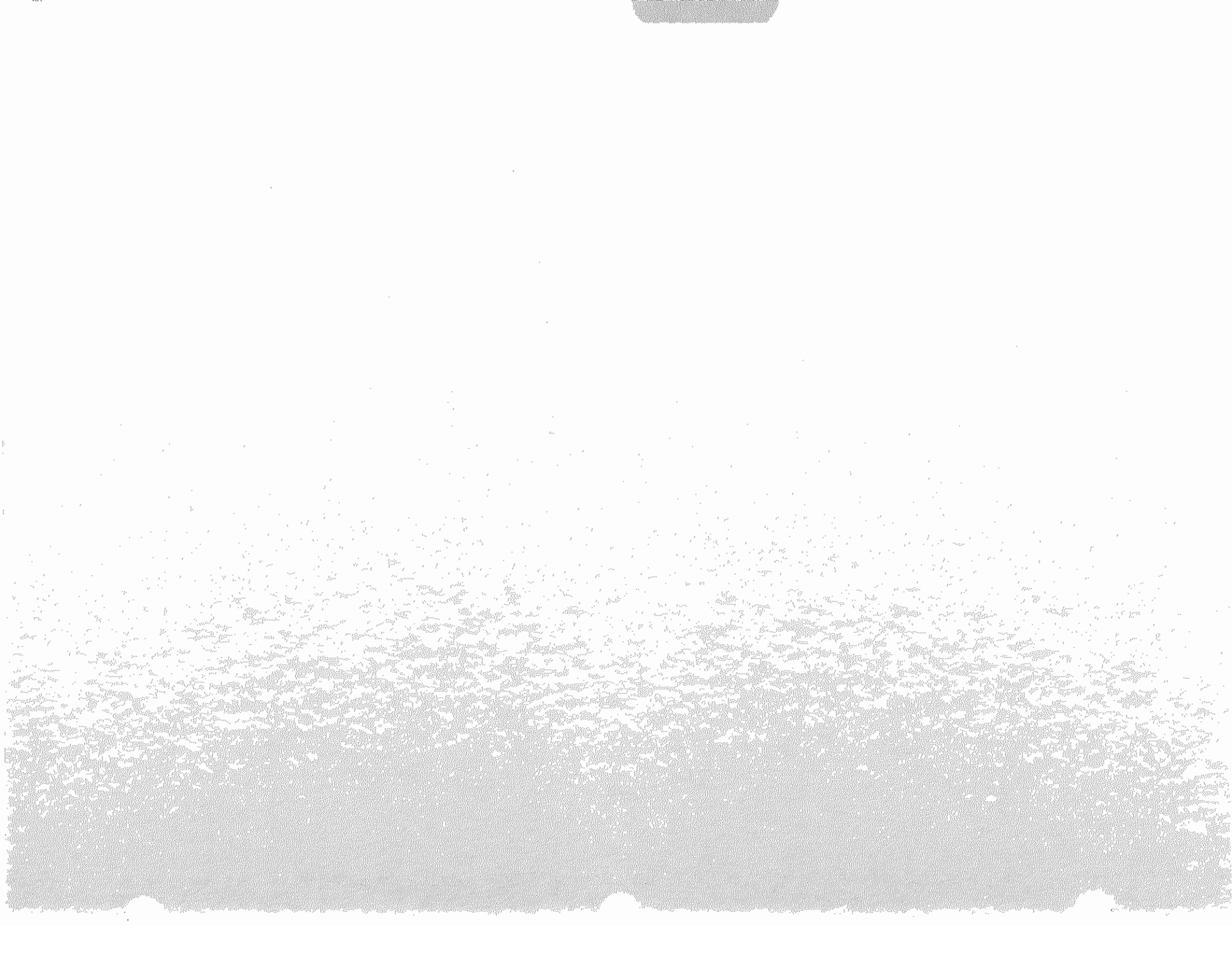
It is no surprise that Brian Mulroney and his friends, who are responsible for all my legal problems, do not want a Public Inquiry. They want to shut me up and get me out of Canada with the assistance of the RCMP and the Department of Justice of Canada.

Canadians have all the reasons to be shocked when they hear more about this scandal. Canadians will understand why I am asking for years to call a Public Inquiry.

My family and I had a wonderful life until I responded to the demands of the Right Honourable Brian Mulroney, his government and his friends.

Sincerely

Karlheinz Schreiber



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2008 CarswellOnt 1224

Schreiber v. Canada (Minister of Justice)
Karlheinz Schreiber v. Minister of Justice
Supreme Court of Canada
Binnie J., Deschamps J., LeBel J.
Judgment: March 6, 2008
Docket: 32365

Proceedings: Leave to appeal refused, 2007 ONCA 791, 87 O.R. (3d) 641, 2007 CarswellOnt 7483 (Ont. C.A.)

Counsel: None given

Subject: Criminal

Criminal law.

Per Curiam:

1 The application for leave to appeal from the judgment of the Court of Appeal for Ontario, Numbers M35610 and C47799, 2007 ONCA 791, dated November 15, 2007, is dismissed.

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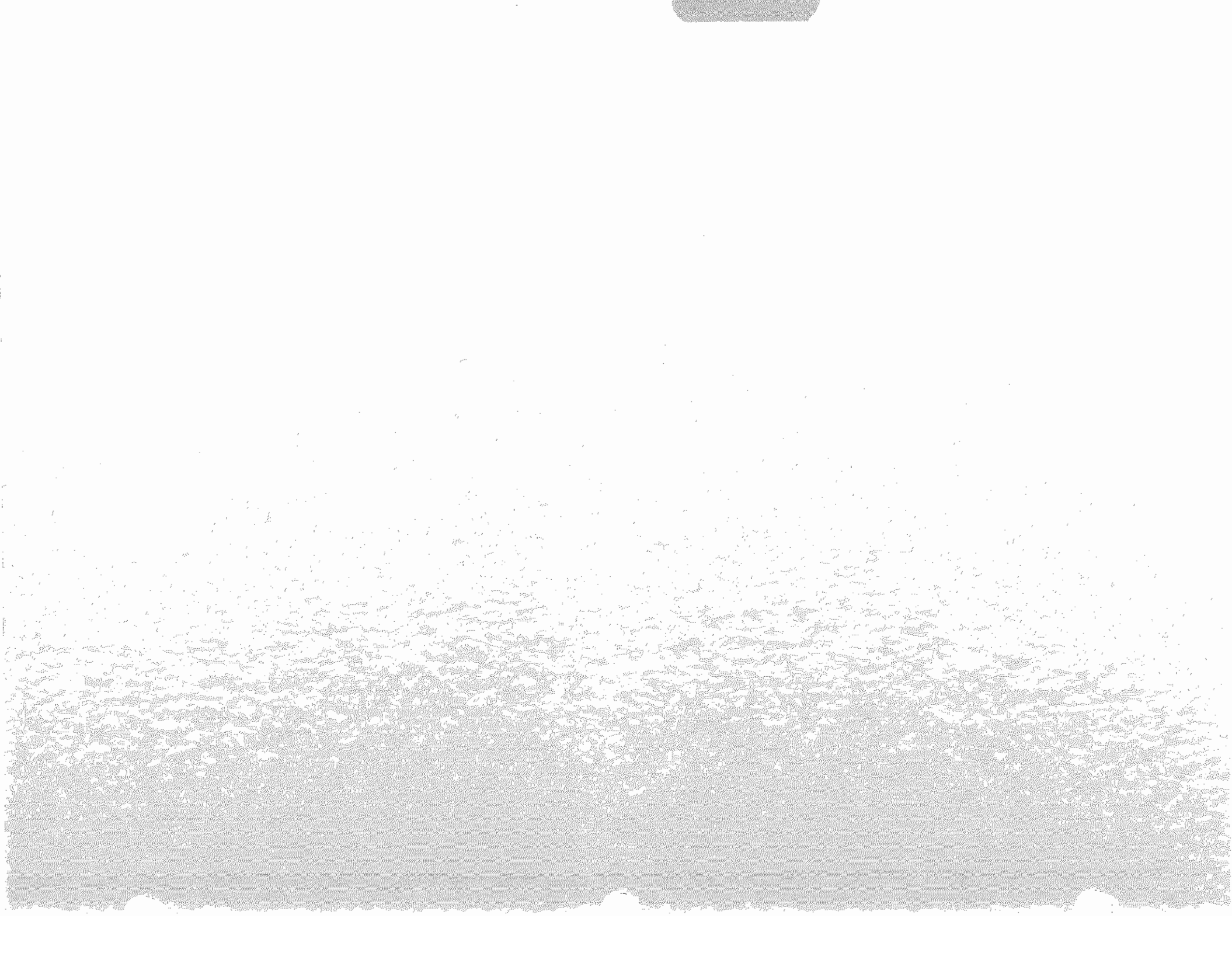

CITATION: Canada (Attorney General) v. Schreiber, 2008 ONCA 575
DATE: 20080806
DOCKET: C48552

COURT OF APPEAL FOR ONTARIO

LASKIN, SIMMONS and EPSTEIN JJ.A.

BETWEEN:

THE MINISTER OF JUSTICE

Respondent

And

KARLHEINZ SCHREIBER

Applicant

Edward L. Greenspan Q.C. and Vanessa Christie for the Applicant

Richard Kramer and Howard Piafsky for the Respondent

Heard: July 11, 2008

On application for judicial review from the decision of the Honourable Robert Nicholson, Minister of Justice and Attorney General of Canada, concerning an application brought pursuant to s. 43(2) of the *Extradition Act*.

BY THE COURT:

[1] The applicant seeks judicial review of the Minister of Justice's decision not to accept the applicant's further submissions filed on February 19, 2008 concerning a 2004 surrender order made in an extradition proceeding.

I. Background

[2] The surrender order arose from an extradition proceeding commenced in 1999. On October 31, 2004, then Minister of Justice Irwin Cotler ordered that the applicant be surrendered to Germany to face trial on charges corresponding to the Canadian offences of tax evasion, fraud, uttering a forged document, obtaining a secret commission, and bribery of a public official. Among other things, Germany alleges that the applicant:

- hid commission income and made false and fraudulent statements to avoid paying tax on the commission income;
- bribed the German Deputy Minister of Defence to help arrange the sale of 36 German army tanks to Saudi Arabia; and
- assisted two directors of a German company in defrauding Saudi Arabia through a secret commission contract relating to the sale of the 36 tanks.

[3] On March 1, 2006, this court dismissed the applicant's request for judicial review of the surrender order and the Supreme Court of Canada subsequently denied his request for leave to appeal this court's decision. The February 19, 2008 submissions are the applicant's third set of further submissions requesting that the 2004 surrender order be reconsidered; this application is the applicant's fourth request for judicial review.

[4] On March 3, 2008, the Minister of Justice agreed to the applicant's request that his surrender be delayed so that the applicant may testify at the Mulroney-Schreiber public inquiry.

II. The Decision under Review

[5] The Minister of Justice declined to accept the applicant's February 19, 2008 further submissions by letter dated March 17, 2008. In brief reasons explaining this exercise of his discretion under s. 43(2) of the *Extradition Act*, the Minister stated that he had carefully reviewed the 2008 further submissions and was satisfied that they "raise[d] no new issues of substance that justif[ied] reconsideration of the order of surrender." Further, relying on this court's November 15, 2007 decision dismissing the applicant's third request for judicial review, the Minister said he was "entitled to give significant weight to finality concerns given the history of this matter."

III. Analysis

[6] The applicant raises three issues on his request for judicial review of the Minister's March 17, 2008 decision.

i) Failure to Address his Discretion to Refuse to Extradite Nationals

[7] First, the applicant submits that the Minister erred by failing to recognize and address his absolute discretion under Article V of the *Treaty between Canada and the Federal Republic of Germany Concerning Extradition* to refuse to extradite Canadian nationals.

[8] Article V of the Treaty provides that neither contracting party is required to extradite its own nationals. Further, where extradition is refused solely on the ground that the person sought is one of the requested state's own nationals, subsection 3 of Article V requires that, if asked, the requested state shall "take all possible measures in accordance with its own law to prosecute the person claimed".[1]

[9] The applicant is a citizen of both Canada and Germany. In his February 19, 2008 further submissions, the applicant claimed that Minister Cotler's statement in the 2004 surrender decision that he had "determined that there are no other considerations that would justify ignoring Canada's obligations under the [Treaty]" demonstrates that Minister Cotler did not appreciate that he had a discretion under the Treaty to refuse to surrender Canadian nationals.

[10] The applicant submitted that because Germany does not surrender its nationals, surrendering him for extradition would violate the principle of reciprocity. He claimed that subsection 3 of Article V of the Treaty provides a solution to this problem and asked that the Minister refuse to surrender him for extradition and consider prosecuting him in Canada if requested by Germany.

[11] In this Court, the applicant submits that the Minister's failure to at least provide reasons for declining to exercise his discretion under Article V is a violation of the applicant's s. 6 *Charter* right to remain in Canada that cannot be justified under s. 1 of

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[1] The relevant portions of Article V provide:

> Article V
>
> Extradition of Nationals
>
> (1) Neither of the Contracting Parties shall be bound to extradite its own nationals.
>
> ...
>
> (3) If a request for extradition is refused only on the ground that the person claimed is a national of the requested state, that state shall, if asked to do so by the requesting state, take all possible measure in accordance with its own law to prosecute the person claimed. For this purpose, the files, documents and exhibits relating to the offence shall be transmitted to that state. All expenses incurred in connection with such prosecution shall be borne by the requested state. The requesting state shall be informed of the result of the prosecution.

the *Charter*. Relying on a provision in Germany's constitution that disallows the extradition of nationals, he contends that the Minister has a duty under the Treaty, as an incident of procedural fairness and reciprocity, to protect the interest of Canadian nationals.

[12] The applicant notes that 31 out of 49 bilateral extradition treaties signed by Canada contain language permitting either signatory to refuse extradition purely because the person sought is a national. Further, seven of the 49 treaties provide that nationals will not be extradited. If the Minister never considers his discretion under such provisions, there is no purpose in including them in extradition treaties. The applicant submits that, at a minimum, the Minister was required to give reasons for failing to exercise his Article V discretion not to extradite.

[13] We do not accept these submissions.

[14] In our view, it is at least implicit in Minister Cotler's 2004 surrender decision that he was aware of, but declined to exercise, his discretion under Article V to refuse to extradite the applicant because the applicant is a Canadian national. Although it may have been preferable had the current Minister provided a more specific response to this aspect of the applicant's February 19, 2008 further submissions, we conclude that it was open to the Minister to find that this further submission did not raise a new issue that required a response.

[15] Minister Cotler wrote a 27-page letter responding to the applicant's original submissions on surrender. On page 1 of that letter he referred to Mr. Schreiber's dual citizenship. On page 7, he referred in general terms to his discretion under the Treaty to refuse surrender. He said:

> As a general rule, my discretion to refuse surrender is justifiable only on compelling grounds related to specific provisions set out in the *Extradition Act*, the *Treaty between Canada and Germany Concerning Extradition* or when surrender would be contrary to the rights guaranteed by the *Canadian Charter of Rights and Freedoms*. [Emphasis added.]

[16] Although Minister Cotler does not refer specifically in his letter to Article V, viewed in the context of his reference to the applicant's citizenship and the detailed nature of his review of this matter, we consider it unrealistic to suggest that Minister Cotler was not aware of, or did not consider, his discretion under Article V.

[17] Further, in his letter, Minister Cotler addressed, in some detail, a submission by the applicant that interpreting the *Treaty* as permitting Canada to extradite Canadian

citizens for fiscal offences when Germany would not extradite for fiscal offences at all violates the principle of reciprocity and would shock the conscience of Canadians. Although Minister Cotler said that Germany had confirmed that it was able and willing to extradite "a person" to Canada for fiscal offences, he addressed the applicant's reciprocity concerns on the merits.[2]

[18] Relying in part on *Federal Republic of Germany v. Rauca* (1983), 41 O.R. (2d) 225 (Ont. C.A.), Minister Cotler said, "[r]eciprocity is not a precondition to ... extradition." He noted that "Canadian law allows Canada to extradite both nationals and non-nationals to countries with which there is no treaty." After emphasizing the important objective of extradition of bringing persons who are wanted for prosecution or sentence to justice, he concluded:

> Therefore, in my view, whether or not Germany would ultimately extradite a person to Canada for fiscal offences does not affect whether it would be just to surrender Mr. Schreiber to Germany. It is in Canada's broader interest to ensure that persons who are alleged to have committed crimes outside our territory are not sheltered from the proper course of justice.

[19] It is apparent that Minister Cotler concluded that the important and compelling objectives of extradition trumped the reciprocity concerns raised by the applicant. Moreover, the applicant's reciprocity concerns did not prompt Minister Cotler to exercise his discretion not to extradite under Article V.

[20] In the circumstances, we see no error in Minister Cotler's statement in one of the concluding paragraphs of his 2004 surrender decision that "there are no other considerations that would justify ignoring Canada's obligations under the *Treaty*". Article I of the *Treaty* is an undertaking to extradite, "subject to the provisions and conditions prescribed in this treaty". Having declined to exercise his discretion not to surrender, the Minister made no error by referring to "Canada's obligations".

[21] Since the assumption that Germany would refuse to extradite any person to Canada for prosecution for fiscal offences did not lead Minister Cotler to exercise his discretion to decline to extradite a Canadian national because of reciprocity concerns, in our view, it was open to the current Minister to conclude that what might be viewed as the more narrow reciprocity concerns raised in the applicant's February 19, 2008 submissions do not raise a new issue.

[2] In oral argument, the applicant acknowledged that Germany will now extradite non-nationals for fiscal offences.

[22] If extradition objectives outweigh a general absence of reciprocity such that Germany's refusal to extradite any person for fiscal offences did not mandate a refusal to extradite a Canadian national for such offences, those same extradition objectives would necessarily outweigh a more limited absence of reciprocity. In other words, Germany's more limited refusal to extradite its own citizens would not mandate a refusal to extradite Canadian nationals.

[23] In addition, we observe that Minister Cotler's conclusions about reciprocity issues appear to be consistent with existing jurisprudence. In *R. v. Rauca*, *supra*, this court noted that reciprocity in substance is provided through German laws providing for prosecution of extraterritorial crimes:

> Counsel for the respondents also pointed out that while the Constitution of the Federal Republic of Germany expressly prohibits the extradition of its nationals, its criminal law expressly provides for the prosecution of extraterritorial crimes committed by its nationals. Hitherto, the *Criminal Code* of Canada has not provided for the prosecution of extraterritorial crimes committed by nationals except in limited instances and consequently the extradition of nationals has been permitted for extraterritorial crimes committed by them (ss. 5(2) and 6). In the instant case, when considering "reciprocity", it can be said that there is an equivalence in substance if not in the formal equality of facilities.

[24] Further, in *United States of America v. Cotroni*, [1989] 1 S.C.R. 1469, La Forest J. outlined certain systemic reasons why common law countries have not adopted the practice of refusing to extradite their nationals:

> The foregoing considerations are relevant to the respondent El Zein's submission that there was a readily available substitute for extradition that would not infringe on the right of a citizen to remain in Canada. Canada, he maintained, could adopt the practice followed by some European countries of refusing extradition and prosecuting their own nationals for crimes wherever committed. In a recent article, J.G. Castel and Sharon A. Williams ... recount the widespread criticism of this practice. "This attitude of lack of faith and actual distrust" they observe, "is not in keeping with the spirit behind extradition treaties." They further observe

> that prosecution by the requested state does not constitute an acceptable substitute for extradition...
>
> As I noted earlier, extradition is now part of the fabric of our law. The countries where the system we are invited to adopt exists have a completely different criminal justice system, the inquisitorial system, which includes quite different rules and practices for obtaining and presenting evidence. To apply the concept in relation to those countries would require a substantial revamping of our system...

[25] Finally, in our view, the applicant has failed entirely to explain how subsection 3 of Article V would have any practical application in the circumstances of this case. In particular, he has not explained how Canada would have territorial jurisdiction to prosecute him in relation to any of the charges he is facing in Germany.

[26] Further, at his committal hearing, the applicant submitted that this proceeding does not meet even the double criminality standard in relation to the income tax evasion offences because of differing definitions of income in the two countries. He maintained that position, albeit unsuccessfully, in our court. Given the differing definitions, even if the applicant could be prosecuted for these offences under Canadian law, we fail to see how Canada would have any prospect of success comparable to that of Germany.

ii) Bias

[27] The applicant also raises the issue of purported bias or conflict of interest. That argument is premised on the assertion that the Minister of Justice has a motive to have the applicant removed from Canada at all costs rather than permit him to remain in order to testify at the Mulroney-Schreiber public inquiry.

[28] The Minister's recent actions belie this argument as he has acceded to the applicant's request to stay in Canada for the purpose of his participation in the inquiry.

[29] The record fails to establish any other foundation for the applicant's arguments relating to bias or conflict of interest and accordingly we do not accept the bias/conflict of interest argument.

iii) Failure to Give Reasons

[30] The applicant further contends that he was denied natural justice as the Minister's reasons failed to explain the basis upon which his further submissions were being rejected.

[31] Once again, we disagree. Although it may have been preferable had the current Minister provided a more specific response to the applicant's February 19, 2008 submissions concerning the Article V issue, these submissions can be viewed as simply a refinement of the applicant's previous submissions concerning reciprocity and therefore as not requiring a further response. Further, in our view, the record provides a complete answer to the applicant's further submissions concerning bias.

[32] In all of the circumstances, we conclude that the Minister's response to the applicant's February 19, 2008 submissions was adequate. See *Lake v. (Minister of Justice)*, [2008] S.C.J. No. 23 at para. 46.

IV. Disposition

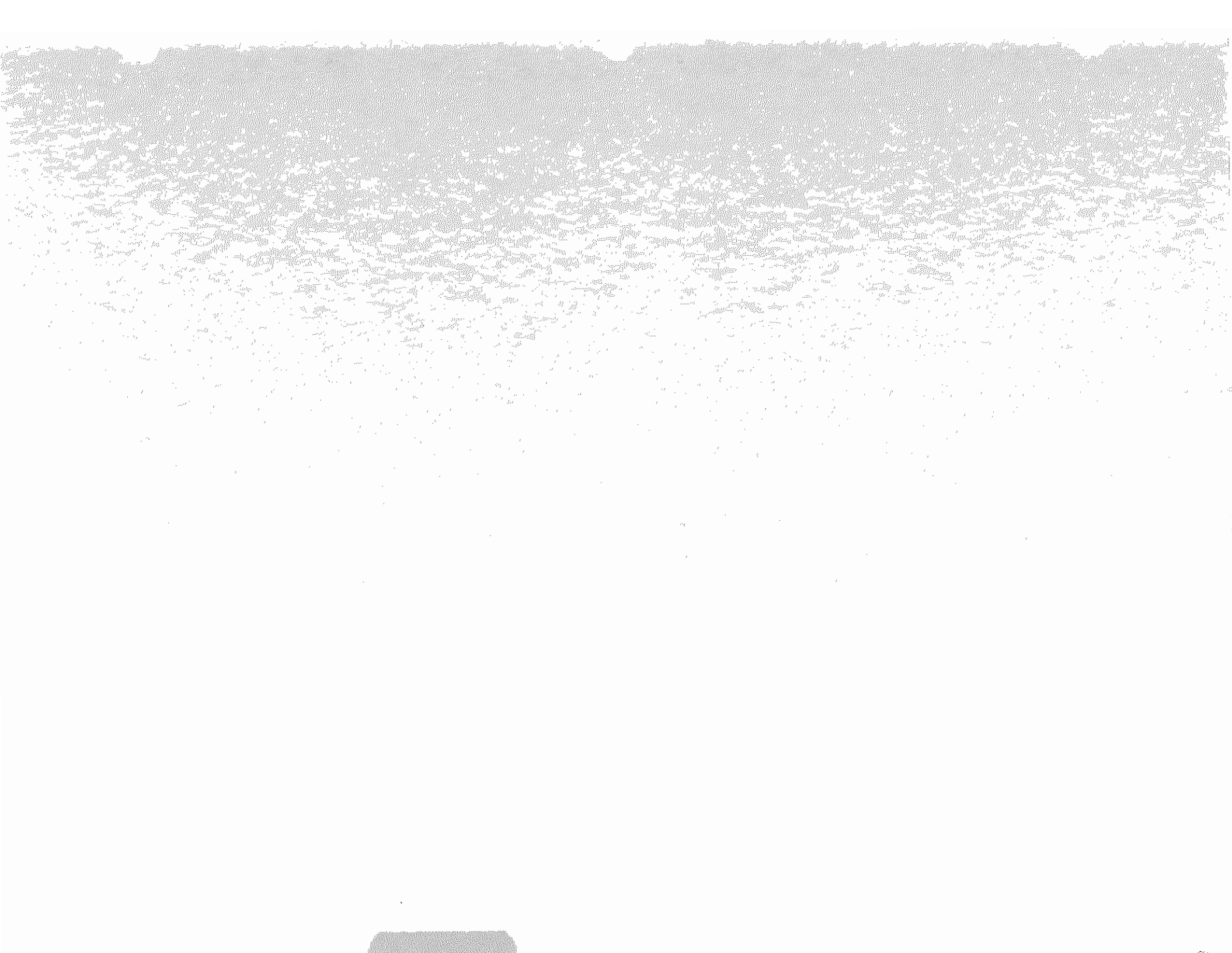
[33] For these reasons, the application is dismissed

Signature: "John Laskin J.A."

"Janet Simmons J.A."

"G. Epstein J.A.

RELEASED: "JL" August 6, 2008



Court File No. 07-CV-329949PD3

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

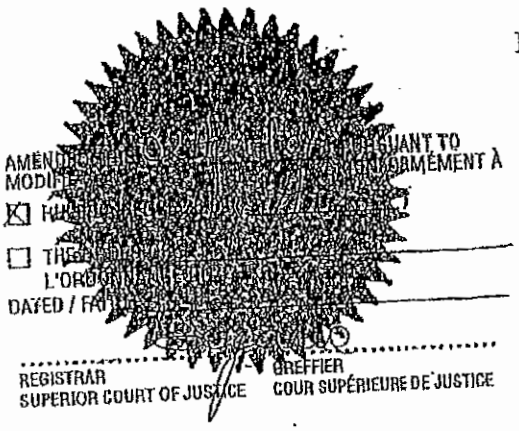
KARLHEINZ SCHREIBER

Plaintiff

- and -

BRIAN MULRONEY

Defendant



AMENDED STATEMENT OF CLAIM

TO THE DEFENDANT:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a Statement of Defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on Plaintiff's lawyer, or where the Plaintiff does not have a lawyer, serve it on the Plaintiff and file it, with proof of service, in this court office WITHIN TWENTY DAYS after this Statement of Claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada, or in the United States of America, the period for serving and filing your Statement of Defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a Statement of Defence, you may serve and file a Notice of Intent to Defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your Statement of Defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. If you wish to defend this proceeding but are unable to pay legal fees, legal aid may be available to you by contacting a local legal aid office.

IF YOU PAY THE PLAINTIFF'S CLAIM, and $1000.00 for costs, within the time for serving and filing your statement of defence you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the Plaintiff's claim and $400.00 for costs and have the costs assessed by the court.

DATE: 22 March 2007 Issued by _____
Local Registrar

Address of
court office: 393 University Avenue
10th Floor
Toronto, Ontario
M5G 1E6

TO: **The Right Hon. Brian Mulroney**
47 Forden Crescent
Westmount, Quebec
H3Y 2Y5

CLAIM

1. The Plaintiff claims:

   (a) $300,000.00 on account of the principal amount of an advance for services to be rendered made in cash on July 27th, 1993 in the amount of $100,000.00, on November 11th, 1993 in the amount of $100,000.00 and on December 8th, 1994 in the amount of $100,000.00 (the "Advance");

   (b) Pre-judgment interest on the said $300,000.00 calculated from the date of the Advance in accordance with the terms of the *Courts of Justice Act*, R.S.O. 1990, c. C.43;

   (c) Post-judgment interest in accordance with the *Courts of Justice Act*, R.S.O. 1990, c. C.43;

   (d) The costs of this action on a complete or substantial indemnity basis; and

   (e) such further and other relief as this Honourable Court deems just.

2. The Plaintiff is a resident of the province of Ontario, in the Dominion of Canada.

3. The Defendant, Brian Mulroney, is a former Prime Minister of Canada and worked as a lawyer at the law firm Ogilvy Renault in Montreal before becoming Prime Minister and after he stepped down as Prime Minister on June 25, 1993.

4. The Plaintiff, Karlheinz Schreiber, is a business person who represented German based companies in Canada, including Thyssen AG.

5. The Plaintiff provided the Advance to the Defendant between July 1993 and December, 1994. At the time of the making of the agreement between the parties, the Defendant was resident in the Province of Ontario, specifically, 24 Sussex Drive, Ottawa, Ontario. The parties verbally agreed that the Advance was a prepayment for certain services which the Defendant undertook and promised to perform on behalf of the Plaintiff in Ontario and elsewhere.

6. The initial services to be performed were in relation to the possibility of establishing a production facility for light armoured vehicles and environment protection systems in Quebec known as the Bear Head project. The head office of Thyssen Bear Head Industries was in Ottawa, Ontario.

7. The Defendant defaulted on the delivery of said initial services by failing to advance the establishment of the Bear Head project in Quebec.

8. Subsequently, on numerous occasions, demands were made by the Plaintiff to the Defendant outlining the amount owing to the Plaintiff and demanding the services to be performed by the Defendant in Ontario.

9. The Defendant has further defaulted on his promise and undertaking to perform the services in Ontario and elsewhere by failing to attend to the promotion of the Reto Restaurant pasta business in Ontario and securing private or government commitments towards the expansion of the Reto Pasta franchise in Ontario and the fight against obesity. The Reto Restaurant pasta business is carried on by the Plaintiff and others in the Greater Toronto Area and elsewhere. Its head office is located in Ottawa, Ontario.

10. Notwithstanding the foregoing, the Defendant insisted that he would meet his obligations to the Plaintiff and, in reliance upon the Defendant's assurances and representations as aforesaid, the Plaintiff extended the period of time for the performance of the services to be rendered by the Defendant.

11. The Plaintiff has on numerous occasions permitted the Defendant an extension of time for the performance of said services promised and undertaken. However, to date, the Defendant has failed to provide any services.

12. Although the Plaintiff has made various attempts to collect the Advance to date the Defendant has refused to repay the Advance and he has refused to answer the Plaintiff's

demands. Consequently the Plaintiff has suffered damages in Ontario as a result of the Defendant's failure or refusal to repay the Advance.

13. Interest has accrued, is continuing to accrue and is owed on the principal amount of the Advance.

14. The Plaintiff is therefore seeking recovery from the Defendant in the amount of $300,000.00 being the principal amount of the Advance, together with interest thereon in accordance with the terms of the *Courts of Justice Act*, R.S.O. 1990, c. C.43.

15. The Defendant has already attorned to the jurisdiction of this Honourable Court in that he has instructed his counsel to agree with the Plaintiff's counsel to accept service of the Statement of Claim on his behalf. The Defendant or his counsel subsequently purported to resile from this agreement.

16. The Plaintiff pleads that this proceeding consists of, *inter alia*, claims in respect of (1) a contract where the contract was made in Ontario; (2) a breach of contract committed in Ontario; and (3) damages sustained in Ontario, and accordingly, the Plaintiff relies on subrules 17.02(f)(i), 17.02(f)(iv), and 17.02(h) of the *Rules of Civil Procedure* in support of service of this Statement of Claim upon the Defendant outside Ontario without leave.

The Plaintiff proposes that this action be tried at Toronto.

DATE: 22 March 2007

BRANS, LEHUN, BALDWIN
Barristers and Solicitors
120 Adelaide Street West, Suite 2401
Toronto, Ontario
M5H 1T1

Richard E. Anka, Q.C.

(416) 601-1030
Fax (416) 601-0655

Solicitors for the Plaintiff

Court File No. 07-CV-329949PD3

BETWEEN:

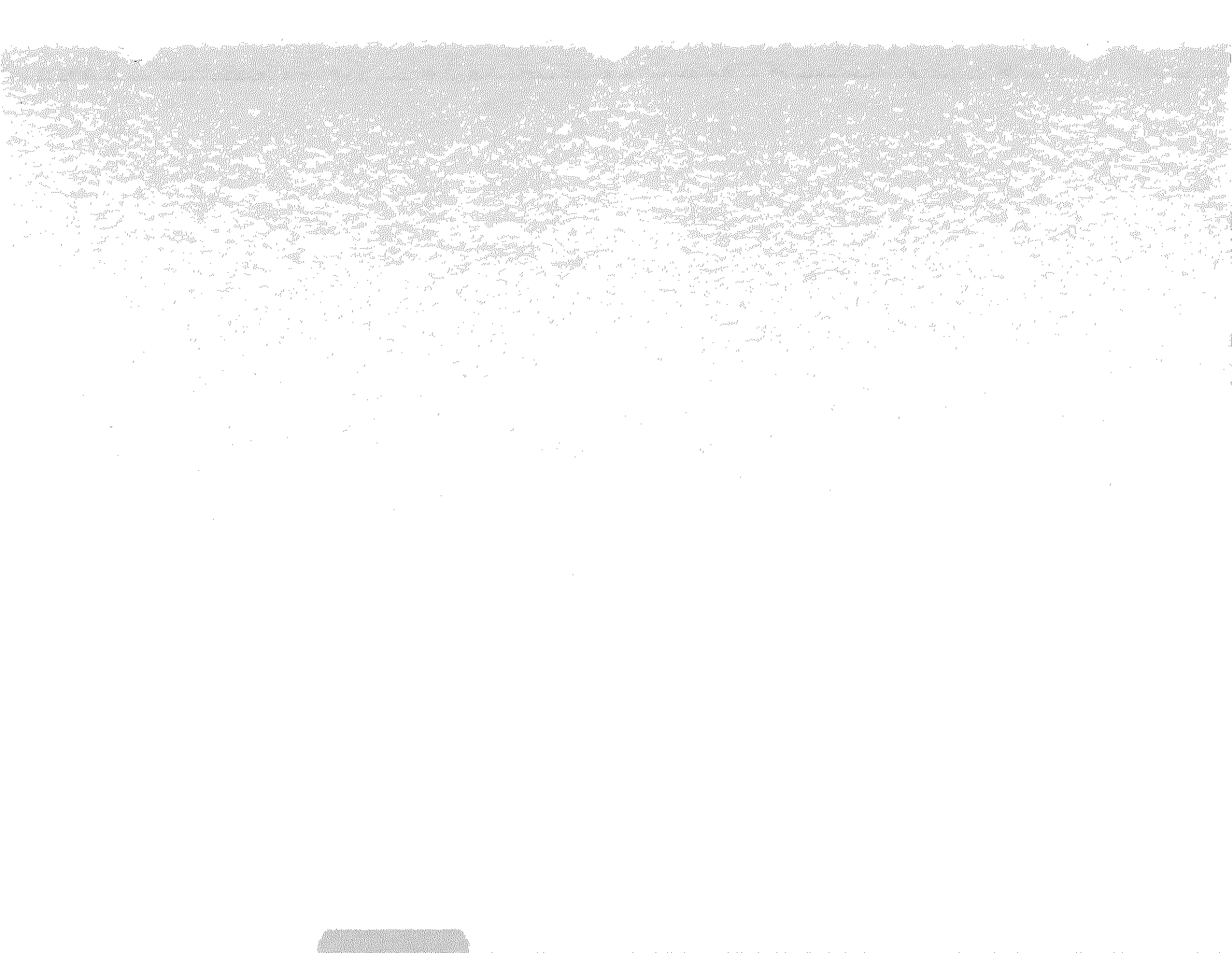
KARLHEINZ SCHREIBER - and - BRIAN MULRONEY

ONTARIO
SUPERIOR COURT OF JUSTICE
(Proceedings Commenced at Toronto)

Amended Statement of Claim

BRANS, LEHUN, BALDWIN
Barristers, Solicitors and Attorneys
Suite 2401
Richmond Adelaide Centre
120 Adelaide Street West
Toronto, Ontario
M5H 1T1

Richard E. Anka, Q.C.
LSUC No. 10995E
(416) 601-1030
Fax (416) 601-0655
Solicitors for the Plaintiff



Court File No. 07-CV-329949PD3

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N:

KARLHEINZ SCHREIBER

Plaintiff

- and -

BRIAN MULRONEY

Defendant

NOTICE OF MOTION

The Defendant, Brian Mulroney, will make a motion to a Judge on Tuesday 11 December 2007 at 10:00 a.m., or as soon after that time as the motion can be heard, at Toronto, Ontario.

PROPOSED METHOD OF HEARING: The motion is to be heard

[*] in writing under sub-rule 37.12.1(1) because it is [*on consent/*unopposed/*made without notice];

[*] in writing as an opposed motion under sub-rule 37.12.1(4);

[X] orally.

THE MOTION IS FOR:

1. An order setting aside service of the Statement of Claim outside of Ontario;

2. An order dismissing or staying these proceedings; and

3. Such further and other relief as to this Honourable Court may seem just.

THE GROUNDS FOR THE MOTION ARE:

1. The Defendant, the Right Honourable Brian Mulroney resides in Montreal, Quebec. The Plaintiff, Karlheinz Schreiber, served Mr. Mulroney with the Amended Statement of Claim in Montreal Quebec. Mr. Schreiber did not obtain leave of this Honourable Court to do so.

2. A Plaintiff must secure leave of this Honourable Court prior to serving an originating process outside Ontario, except in specific circumstances. This case does not fit within any of these exceptions.

3. There is no real and substantial connection between the subject matter of this dispute and Ontario.

4. In the alternative, if there is a real and substantial connection with Ontario, this Honourable Court should decline to exercise its jurisdiction over this matter as Quebec is a more appropriate forum.

5. Section 106 of the *Courts of Justice Act*, R.S.O. c.C.43.

6. Rules 17.02(f)(i) and (iv),(h) and 17.03, 17.06, 21.01(3)(a) and 57 of the *Rules of Civil Procedure*.

7. Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

1. The Affidavit of Vanessa Olley sworn 28 May 2007 and the exhibits thereto.

2. The pleadings and proceedings herein.

3. The Reasons for Decision of the Ontario Court of Appeal dated 9 May 2007 in *Schreiber v. Germany*.

4. The certified transcripts of the evidence of Karlheinz Schreiber heard 10 September 2004 and 24 November 2004.

5. Such further and other material as counsel may advise and this Honourable Court permit.

Date: September 17, 2007

WEIRFOULDS LLP
Barristers & Solicitors
Suite 1600, The Exchange Tower
130 King Street West
P.O. Box 480
Toronto, Ontario M5X 1J5

Kenneth Prehogan
LSUC #20035W

Nicholas D. C. Holland
LSUC #: 43856T

Tel: 416-365-1110
Fax: 416-365-1876

Solicitors for the Defendant

TO: BRANS, LEHUN, BALDWIN
Barristers, Solicitors and Attorneys
Suite 2401
Richmond Adelaide Centre
120 Adelaide Street West
Toronto, ON M5H 1T1

Richard E. Anka, Q.C.
LSUC #: 10995E

Tel: 416-601-1030
Fax: 416-601-0655

Solicitors for the Plaintiff

KARLHEINZ SCHREIBER
Plaintiff

- and -

BRIAN MULRONEY
Defendant

Court File No.: 07-CV-329949PD3

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at **Toronto, Ontario**

NOTICE OF MOTION

WeirFoulds LLP
Barristers and Solicitors
The Exchange Tower, Suite 1600
P.O. Box 480
130 King Street West
Toronto, Ontario M5X 1J5

Kenneth Prehogan (LSUC #20035W)

Nicholas D.C. Holland (LSUC #43856T)

Tel: 416-365-1110
Fax: 416-365-1876

Solicitors for the Defendant, Brian Mulroney

4

CANADA
PROVINCE OF QUEBEC
DISTRICT OF HULL

NO: 550 17-003869-086

SUPERIOR COURT

KARLHEINZ SCHREIBER, domiciled and residing at 7, Bittern Court, Rockcliffe Park, City of Ottawa, Province of Ontario, K1L 8K9;

Plaintiff

vs.

BRIAN MULRONEY, domiciled and residing at 47, Forden Crescent, Westmount, Province of Quebec, H3Y 2Y5;

Defendant

MOTION TO INSTITUTE PROCEEDINGS

IN SUPPORT OF ITS MOTION, THE PLAINTIFF ALLEGES THE FOLLOWING:

1. The Defendant is a former Prime Minister of Canada;

THE FORMATION OF THE CONTRACT

2. On June 23, 1993, the Plaintiff and the Defendant met at the official summer residence of the Prime Minister of Canada at Harrington Lake in Quebec (the "Harrington Lake meeting");

3. Harrington Lake is located in the judicial district of Hull;

4. At the time of the Harrington Lake meeting, the Defendant was still in office as Prime Minister of Canada;

5. During the Harrington Lake meeting, the parties agreed that the Defendant would perform services in exchange for payment (the "Agreement");

Greffes de Gouvernement du Québec
Palais Justice Hull
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339,00

6. Under the terms of the said Agreement, the Defendant would assist the Plaintiff in obtaining approval of the establishment of a production facility for light armoured vehicles by Bear Head Industries Limited in either Nova Scotia or Quebec (the "Bear Head Project");

7. It was also agreed that all services would be performed within Canada and the parties did not discuss or agree that the Defendant would perform any services outside of Canada or engage in the solicitation of any sales of light armoured vehicles internationally;

8. At the Harrington Lake meeting, the Defendant told the Plaintiff that he believed that The Right Honourable Kim Campbell would win a majority government in the next election and that this would assist the Defendant in fulfilling his mandate;

9. However, on October 25, 1993, the Progressive Party of Canada lost the federal elections;

10. Even though it was more difficult for the Defendant to complete the given mandate, it was still possible for him to do so, as he later confirmed to the Plaintiff;

11. At no time after these elections did the Defendant inform the Plaintiff that he would be unable to complete the mandate;

THE DELIVERY OF CASH TO THE DEFENDANT

12. Pursuant to the Agreement, on August 27, 1993, the Plaintiff delivered to the Defendant, at the Mirabel Airport, the sum of $100,000.00 in cash pursuant to the Agreement, the whole as evidence will be shown at the hearing of the present motion;

13. Pursuant to the Agreement, on December 18, 1993, the Plaintiff delivered to the Defendant, at the Queen Elizabeth Hotel in Montreal, an additional sum of $100,000.00 in cash pursuant to the Agreement, the whole as evidence will be shown at the hearing of the present motion;

14. Pursuant to the Agreement, on December 8, 1994, the Plaintiff delivered to the Defendant, at the Pierre Hotel in New York, an additional sum of $100,000.00 in cash pursuant to the Agreement, the whole as evidence will be shown at the hearing of the present motion;

15. The Defendant was a Member of Parliament when he received the cash payment of $100,000.00 on August 27, 1993;

16. All monies provided to the Defendant were delivered as a retainer for services within the scope of the Agreement to be performed;

THE DEFENDANT'S FRAUDULENT MISREPRESENTATIONS, CIVIL FRAUD AND PARTICIPATION IN AN ILLEGAL CONTRACT

17. At the moment of the formation of the Agreement, the Plaintiff was induced in error by the Defendant for the following reasons;

18. The Defendant never commenced the mandate that had been given to him by the Plaintiff on June 23, 1993;

19. During the period December 2007 to February 2008, the Plaintiff learned for the first time that the Defendant made fraudulent misrepresentations when he entered the Agreement;

20. The Defendant's misrepresentations included that although he agreed to support the establishment of the Bear Head Project in 1993, he had previously, in 1990, terminated the Government of Canada's involvement in the Bear Head Project;

21. Consequently, from the moment when the Agreement was reached by the parties, the Defendant's obligations under said Agreement could not be fulfilled;

22. The Defendant never informed the Plaintiff of this fact prior to the Agreement being reached as well as at no time after its conclusion;

23. The Defendant's fraudulent misrepresentations were made to the Plaintiff in order to secure payments from the Plaintiff;

24. The Defendant defaulted under the terms of the Agreement by failing to perform any services as agreed, including his failure to advance the establishment of the Bear Head project in Quebec;

25. Despite the parties' repeated discussions regarding the Agreement, the Defendant failed to fulfill any of his undertakings under the Agreement and failed to provide any report of his undertakings;

26. The Defendant always represented to the Plaintiff that he would fulfill his obligations to the Plaintiff and, in reliance upon those representations and assurances, the Plaintiff extended the period of time for the performance of all services to be rendered pursuant to the Agreement;

27. However, to date, the Defendant has failed to provide any services whatsoever;

28. On March 20, 2007, although no services have ever been provided, the Defendant advised the Plaintiff, for the first time, that he denied owing any money to the Plaintiff the whole as it appears from a copy of the letter dated March 20, 2007 communicated to the Defendant as **Exhibit P-1** by remittance of a copy thereof with the service of the present motion;

29. After that date, the Plaintiff learned for the first time that the Defendant formally declared to the Canadian tax authorities that the sum of $225,000.00 was given to the Defendant as "income", the whole as evidence will be shown at the hearing of the present motion;

30. Moreover, during the period December 2007 to February 2008, the Plaintiff learned for the first time that the Defendant attempted to or did perform illegal services under the Agreement;

31. In particular, the Plaintiff learned that the sums he paid had been used by the Defendant to travel to Russia, China and other foreign jurisdictions to solicit the sale of light armoured vehicles to those jurisdictions;

32. This was in contravention of the Agreement;

33. The Defendant's alleged international activities were contrary to Canadian criminal law, export control laws and Government of Canada policy on foreign affairs and international peace and security which, at the time, prohibited the sale of military equipment without authorization from the Government of Canada;

34. The Plaintiff never authorized or requested the Defendant to obtain authorization from the Government of Canada which would permit the Defendant to solicit the sale of military equipment internationally;

35. The Plaintiff never agreed to the Defendant's illegal international activities and he was never aware of such illegal conduct by the Defendant until the period December 2007 to February 2008;

36. Had the Plaintiff been aware of the Defendant's international activities, he would have immediately terminated the Agreement and demanded the return of all monies paid;

37. For the above mentioned reasons, the Plaintiff is well founded to demand the annulment of the Agreement for the Defendant's false representations as well as the repayment of the sums paid to the Defendant;

38. The Plaintiff was induced by the Defendant's fraudulent misrepresentations to enter the Agreement, relied on those representations, and that but for those fraudulent misrepresentations, the Plaintiff would not have contracted with the Defendant and he would not have any delivered monies to the Defendant;

39. The Plaintiff pleads that he was induced by the Defendant's fraudulent misrepresentations to enter the Agreement and/or was induced by the Defendant's fraudulent misrepresentations to enter another illegal contract without his knowledge;

40. The whole cause of action has arisen in the judicial district of Hull;

41. The present motion to institute proceedings is well founded in fact and in law;

FOR THESE REASONS, MAY IT PLEASE THE COURT TO:

GRANT	the present motion;
ANNUL	the contract concluded on June 23, 1993;
REPLACE	the parties in the state they were prior to the conclusion of the contract;
CONDEMN	the Defendant to pay to the Plaintiff the amount of $300,000.00 with interest at the legal rate, plus the additional indemnity provided by law, to accrue from the following dates: i) From August 27, 1993, for the first payment of $100,000.00; ii) From December 18, 1993, for the second payment of $100,000.00; iii) From December 8, 1994, for the third and final payment of $100,000.00;
THE WHOLE	with costs;

Gatineau, June 11th, 2008

NOËL & ASSOCIÉS, g.p.
Attorneys for the Plaintiff

Gatineau, June 11th, 2008

AUGER HOLLINGSWORTH
Attorneys for the Plaintiff

NOTICE TO THE DEFENDANT

TO: **BRIAN MULRONEY**
47, Forden Crescent
Westmount (Quebec)
H3Y 2Y5
Defendant

PLEASE TAKE NOTICE that the plaintiff has filed this action or application in the office of the Superior Court of the judicial district of Hull.

To file an answer to this action or application, you must first file an appearance, personally or by advocate, at the Gatineau Courthouse, located at 17 Laurier Street, in Gatineau, Province of Quebec, J8X 4C1, **within 10 days of service of this motion.**

If you fail to file an appearance within the time limit indicated, a judgment by default may be rendered against you without further notice upon the expiry of the 10 day period.

If you file an appearance, the action or application will be presented before the Court on **July 21st, at 9h15 am, in room # 1** of the Courthouse. On that date, the Court may exercise such powers as are necessary to ensure the orderly progress of the proceedings or the Court may hear the case, unless you make a written agreement with the Plaintiff or the Plaintiff's advocate on a timetable for the orderly progress of the proceedings. The timetable must be filed in the office of the Court.

In support of the motion to institute proceedings, the Plaintiff discloses the following exhibits:

Exhibit P-1: Letter dated March 20, 2007

Request for transfer of a small claim

If the amount claimed by the Plaintiff does not exceed $7,000 and if you could have filed such an action as a plaintiff in Small Claims Court, you may make a request to the clerk for the action to be disposed of pursuant to the rules of Book VIII of the Code of Civil Procedure (R.S.Q., c. C-25). If you do not make such a request, you could be liable for costs higher than those provided for in Book VIII of the Code.

DO ACT ACCORDINGLY.

Gatineau, June 11th, 2008

NOËL & ASSOCIÉS, g.p.
Attorneys for the Plaintiff

Gatineau, June 11th, 2008

AUGER HOLLINGSWORTH
Attorneys for the Plaintiff

BORDEREAU DE TRANSMISSION PAR TÉLÉCOPIEUR

(Signification.)

(Art. 140.1 et 146.0.2 C.p.c. et règle 3.1)

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF HULL

SUPÉRIOR COURT

No : 550-17-003869-086

KARLHEINZ SCHREIBER,

Plaintiff

-VS-

BRIAN MULRONEY,

Defendant

DATE:	le 17 juin 2008	Heure: 13h50
EXPÉDITEUR:	NOËL & ASSOCIÉS, S.E.N.C. 111, rue Champlain Gatineau (Québec) J8X 3R1 Téléphone: (819) 771-7393 Télécopieur: (819) 771-5397	Me Jean Faullem
DESTINATAIRE:	Me Guy Pratte Borden, Ladner, Gervais LLP 1000, de la Gauchetière Ouest Suite 900 Montréal (Québec) H3B 5H4	
TÉLÉCOPIEUR:	514-954-1905	10 page(s) au total.
NATURE DU DOCUMENT SIGNIFIÉ:	MOTION TO INSTITUTE PROCEEDINGS, NOTICE TO DEFENDANT AND EXHIBIT P-1.	
OPÉRATEUR:	Diane Dubeau	

NOËL & ASSOCIÉS, s.e.n.c. Avocats - Attorneys

550
17-003869-086

No:
Court: SUPERIOR
District: HULL

KARLHEINZ SCHREIBER,

Plaintiff

-vs-

BRIAN MULRONEY,

Defendant

MOTION TO INSTITUTE PROCEEDINGS, NOTICE TO THE DEFENDANT AND EXHIBIT P-1

BN-0159 N/D: 20491-001

Originale

Me Jean Faullem
NOËL & ASSOCIÉS, g.p.
111, Champlain St.
Gatineau (Québec) J8X 3R1
Tel.: (819) 771-7393 Fax : (819) 771-5397
Attorneys for the Plaintiff

COUR D'APPEL

CANADA
PROVINCE DE QUÉBEC
GREFFE DE MONTRÉAL

No : 500-09-019139-088
(500-17-044954-082)

PROCÈS-VERBAL D'AUDIENCE

DATE : 22 janvier 2009

CORAM : LES HONORABLES ANDRÉ BROSSARD, J.C.A.
PAUL VÉZINA, J.C.A.
LISE CÔTÉ, J.C.A.

PARTIE(S) APPELANTE(S)	AVOCAT(S)
BRIAN MULRONEY	M[e] François Grondin BORDEN LADNER GERVAIS

PARTIE(S) INTIMÉE(S)	AVOCAT(S)
KARLHEINZ SCHREIBER	M[e] Matthieu Verner NOËL ET ASSOCIÉS

En appel d'un jugement rendu le 4 novembre 2008 par l'honorable Richard Nadeau de la Cour supérieure, district de Montréal.

NATURE DE L'APPEL : **Suspension des procédures**

Greffier : Marcelle Desmarais	Salle : Antonio-Lamer

AUDITION

10 h 56 Argumentation par Me François Grondin.
10 h 58 Suspension de la séance pour la pause.
11 h 23 Reprise de la séance.
11 h 23 Argumentation par Me Matthieu Verner.
11 h 47 Fin de l'argumentation de part et d'autre.
11 h 47 Suspension de la séance.
12 h 02 Reprise de la séance.
PAR LA COUR:
Arrêt – voir page 3.

Marcelle Desmarais

Greffier audiencier

PAR LA COUR

ARRÊT

[1] Ce pourvoi vise à décider si le juge de première instance a erré en considérant qu'un certain recoupement factuel entre les travaux de la Commission d'enquête Oliphant et le recours civil intenté par l'intimé constituait un motif valable de suspension de son recours et que l'interrogatoire avant défense de l'intimé, devant avoir lieu avant la tenue des audiences devant la Commission, pouvait lui créer un préjudice, alors qu'il n'en résultait aucun pour l'appelant.

[2] L'appelant a obtenu la permission de se pourvoir contre le jugement interlocutoire rendu le 4 novembre 2008 par la Cour supérieure (l'honorable Richard Nadeau) qui accueillait la demande de suspension du recours civil de l'intimé.

[3] Selon l'appelant, le juge a mal appliqué les principes reconnus en matière de suspension des procédures et n'a pas pris en compte l'intérêt de l'appelant à mettre fin au recours intenté contre lui, et ce, le plus rapidement possible, d'autant que les faits allégués au soutien du recours de l'intimé remontent à 1993-1994.

[4] Selon l'intimé, comme le recours devant la Cour supérieure et les travaux de la Commission d'enquête visent la même situation factuelle, le juge d'instance a bien exercé sa discrétion judiciaire en suspendant les procédures. À son avis, si l'intimé devait être interrogé avant défense, il en résulterait un avantage pour l'appelant qui pourrait utiliser les informations obtenues lors de cet interrogatoire au cours de son témoignage devant la Commission.

[5] Il est bien connu que la Cour supérieure possède le pouvoir de suspendre les procédures si elle conclut qu'il est dans l'intérêt de la justice de le faire. L'étendue de ce pouvoir discrétionnaire a été analysée dans la décision *Manioli Investments Inc. c. Les Investissements M.L.C. et 9041-7775 Québec inc.*, 2008 QCCS 3637 par la juge Langlois. Elle écrit :

> [29] Les tribunaux ont accepté de suspendre une instance lorsqu'il existe un lien indéniable entre un débat devant une instance d'appel et un recours pendant devant la Cour supérieure, lorsque le sort ultime d'un recours dans une instance dépend dans une large mesure du sort d'un recours dans une autre instance, lorsque la suspension d'un recours permet d'assurer le respect de la règle de proportionnalité imposée à l'article 4.2 du *Code de procédure civile*, lorsqu'il y a un risque de jugements contradictoires relativement à certaines questions dont sont saisies deux instances et lorsque l'absence de suspension aurait pour effet de multiplier inutilement les procédures et les coûts pour les parties.
>
> [30] Toutefois les tribunaux ont refusé de suspendre un recours lorsqu'il n'apparaît pas qu'un jugement rendu dans l'autre instance puisse solutionner totalement ou en partie le sort du recours dont on demande la suspension ou lorsque le lien entre les débats devant les instances concernées n'apparaît pas

clairement.

[Références omises.]

[6] En l'espèce, le juge de première instance laisse voir par ses commentaires que le mandat de la Commission rejoint le recours civil en ce qu'il vise à examiner les relations d'affaires entre les parties alors que l'appelant était encore membre du Parlement. Ainsi, par la continuation des procédures, l'appelant aurait un avantage sur l'intimé. Il mentionne :

> Non, je comprends, mais en faisant la démonstration de ces faits-là devant une enceinte qui s'appelle une commission, qui n'a pas les mêmes pouvoirs que la Cour supérieure ou l'équivalent, ça, je vous le concède, est-ce qu'on ne risque pas, d'un côté, de placer le demandeur dans une situation de défaveur parce que monsieur Mulroney, votre client, ne sera pas interrogé, lui, avant le début des travaux en février? Et, à ce moment-là, est-ce que ça n'enlève pas à Schreiber quelque chose ou des éléments de défense ou des éléments factuels, s'il est interrogé hors cour dans ce dossier-ci et, par la suite, interrogé par la Commission. Je comprends qu'il y a une seule vérité, ça devrait être le principe dirigeant.

[7] D'une part, il faut distinguer les travaux d'une commission d'enquête, dont les déterminations n'influent pas sur un recours civil, du recours intenté. Une commission d'enquête ne sert pas à établir la responsabilité civile pas plus que des dommages : *Canada (Procureur général) c. Canada (Commission d'enquête sur le système d'approvisionnement en sang au Canada)*, [1997] 3 R.C.S. 440.

[8] D'autre part, les commissions d'enquête évoluent de manière indépendante aux recours judiciaires, l'une n'empêchant pas l'autre : *Phillips c. Nouvelle-Écosse (Commission d' enquête sur la tragédie de la mine Westray)*, [1995] 2 R.C.S. 97.

[9] Bien qu'il y ait un lien évident entre les travaux de la Commission et le recours civil en cause, il s'agit de deux procédures distinctes, le sort de la première ne dépendant pas du sort réservé à l'autre. De plus, il n'y a pas ici de risques de jugements contradictoires, car les conclusions rendues par une commission d'enquête ne lient pas les tribunaux appelés à décider de la responsabilité civile.

[10] Quant au préjudice auquel réfère le juge de première instance, selon lequel l'appelant pourrait utiliser les informations obtenues dans le cadre de l'interrogatoire au préalable avant défense de l'intimé, il s'agit tout au plus de la perte d'un avantage stratégique pour ce dernier, s'il en est, à ce que l'appelant n'ait pas accès à sa version avant qu'il ne témoigne devant la Commission dont l'effet potentiellement préjudiciable est purement théorique, qui ne saurait en aucun cas constituer un motif valable de suspension de l'instance.

[11] Même si les juges de première instance disposent d'un large pouvoir discrétionnaire à l'égard d'une telle demande, encore faut-il qu'il soit judicieusement exercé. Or, les motifs étayant la conclusion du premier juge ne sont pas conformes aux principes applicables énoncés par la Cour suprême et ne pouvaient fonder le jugement prononcé.

POUR CES MOTIFS, LA COUR:

[12] **ACCUEILLE** l'appel avec dépens;

[13] **INFIRME** le jugement de la Cour supérieure;

[14] **REJETTE** la requête en suspension des procédures présentée par l'intimé et,

[15] **RETOURNE** le dossier à la Cour supérieure pour la continuation des procédures conformément aux dispositions de la Loi.

ANDRÉ BROSSARD, J.C.A.

PAUL VÉZINA, J.C.A.

LISE CÔTÉ, J.C.A.

BORDEREAU DE TRANSMISSION PAR TÉLÉCOPIEUR

(Signification.)

(Art. 140.1 et 146.0.2 C.p.c. et règle 3.1)

CANADA
PROVINCE DE QUÉBEC
DISTRICT DE MONTRÉAL

COUR SUPÉRIEURE

No : 500-17-044954-082

KARLHEINZ SCHREIBER,

Requérant

-vs-

BRIAN MULRONEY,

Intimé

DATE:	Le 25 février 2009	Heure:
EXPÉDITEUR:	NOËL & ASSOCIÉS, S.E.N.C.R.L. 111, rue Champlain Gatineau (Québec) J8X 3R1 Téléphone: (819) 771-7393 Télécopieur: (819) 771-5397	Me Jean Faullem
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Avocats – Attorneys

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTREAL

No: 500-17-044954-082

SUPERIOR COURT

KARLHEINZ SCHREIBER

Plaintiff

vs.

BRIAN MULRONEY

Defendant

DISCONTINUANCE

The Plaintiff, by way of his undersigned attorneys, discontinues his action, with costs, against the Defendant and advises Mes Borden Ladner Gervais, attorneys for the Defendant.

Gatineau, February 25, 2009

NOËL & ASSOCIÉS LLP
Attorneys for the Plaintiff

No: 500-17-044954-082
Court: SUPERIOR
District: MONTRÉAL

KARLHEINZ SCHREIBER,

Plaintiff

-vs-

BRIAN MULRONEY,

Defendant

DISCONTINUANCE

BN-0159 N/D: 20491-001

Me Jean Faullem
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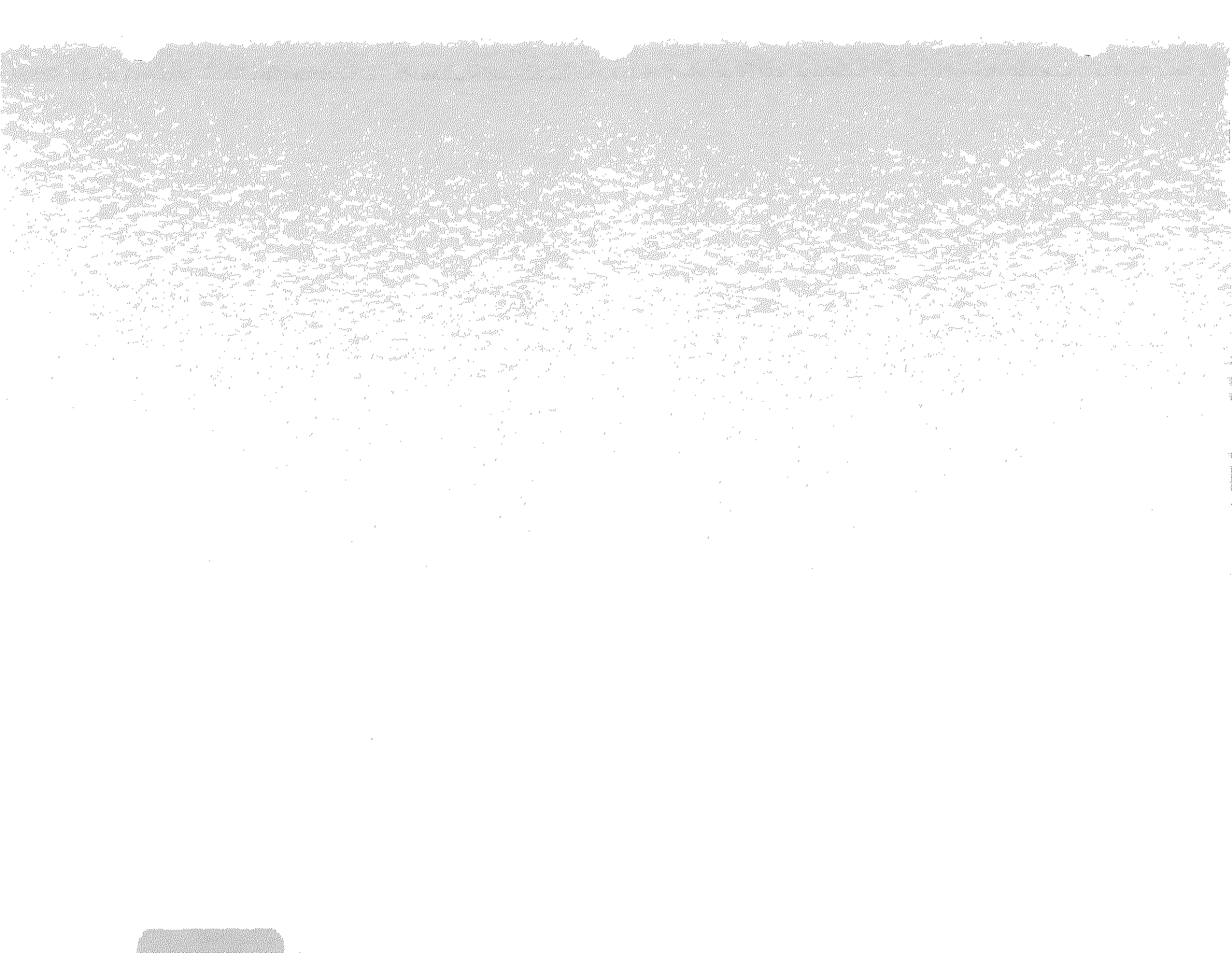

NOËL ET ASSOCIÉS
AVOCATS

Gatineau, February 24th, 2009

-By fax-

Mtre François Grondin
BORDEN, LADNER, GERVAIS, S.R.L., S.E.N.C.R.L.
1000, de la Gauchetière Street West, Suite 900
Montreal (Quebec) H3B 5H4

Subject: Brian Mulroney vs. Karlheinz Schreiber
Your file: 292182-000002
Our file: 20 491-001

Dear Colleague:

The present letter is sent to inform you of our client's intention to file a discontinuance in the abovementioned file as well as to explain the reasons for his decision.

The following sets out Mr. Schreiber's position in that regard:

a) Mr. Schreiber believes that Mr. Mulroney's only motive is to undermine the work of the Oliphant Inquiry scheduled to start on March 30, 2009. Accordingly, Mr. Schreiber refuses Mr. Mulroney's demand that Mr. Schreiber testify in the civil lawsuit on February 26, 2009 on the very same subject matter to be heard by the Oliphant Inquiry, one month later;

b) Although this dispute between Mr. Schreiber and Mr. Mulroney has been ongoing for years, Mr. Mulroney has never asked once to examine Mr. Schreiber. As you know, Mr. Schreiber asked that Mr. Mulroney simply wait for a couple of months until after the Oliphant Inquiry before examining Mr. Schreiber. Mr. Mulroney refused that request and fought the issue all the way to the Quebec Court of Appeal. Mr. Schreiber's only conclusion is that Mr. Mulroney wishes to use this lawsuit to advance his own private interests, to gather information to help himself at the Oliphant Inquiry and therefore undermine the work of the Oliphant Inquiry. Mr. Schreiber refuses to allow Mr. Mulroney to use his lawsuit for an ulterior purpose;

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c) Mr. Schreiber will answer all relevant questions about this subject matter publicly before the Oliphant Inquiry in order to assist the Oliphant Inquiry. Mr. Schreiber will not testify beforehand in order to assist Mr. Mulroney in undermining the Oliphant Inquiry;

d) Mr. Schreiber maintains his allegations in his lawsuit against Mr. Mulroney, he maintains that Mr. Mulroney breached the agreement and he maintains that Mr. Mulroney still owes him at least $300,000 (now over $500,000 with interest). However, Mr. Schreiber is prepared to forego these monies so that the public interest may be properly served and the Oliphant Inquiry is not undermined by Mr. Mulroney; and

e) When Mr. Schreiber commenced this lawsuit against Mr. Mulroney, the Oliphant Inquiry had not been established and its mandate had not been determined. Now that the Oliphant Inquiry is established, Mr. Schreiber believes that the Oliphant Inquiry is the preferred forum for having this subject matter heard.

For these reasons, our client will discontinue the present legal proceedings to ensure that the Oliphant Commission can fulfill its mandate.

To this end, with the present correspondence, we will be serving you with a discontinuance of suit of the present action.

Yours truly,

NOËL & ASSOCIÉS LLP

Jean Faullem
MV/ct

c.c. Mr. Karlheinz Schreiber