

Commission of Inquiry into Certain Allegations
Respecting Business and Financial Dealings
Between Karlheinz Schreiber and
the Right Honourable Brian Mulroney



Commission d'enquête concernant les allégations
au sujet des transactions financières et
commerciales entre Karlheinz Schreiber et
le très honorable Brian Mulroney

Public Hearing

Audience publique

Commissioner

L'Honorable juge /
The Honourable Justice
Jeffrey James Oliphant

Commissaire

Held at:

Bytown Pavillion
Victoria Hall
111 Sussex Drive
Ottawa, Ontario

Tuesday, May 5, 2009

Tenue à :

pavillion Bytown
salle Victoria
111, promenade Sussex
Ottawa (Ontario)

le mardi 5 mai 2009

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1 Ottawa, Ontario / Ottawa (Ontario)
2 --- Upon resuming on Tuesday, May 5, 2009
3 at 9:30 a.m. / L'audience reprend le mardi
4 5 mai 2009 à 9 h 30
5 29159 COMMISSIONER OLIPHANT: Good morning,
6 counsel. Be seated, please.
7 29160 Senator, before you testify, sir,
8 would you prefer to swear on the Bible or to be
9 affirmed?
10 29161 SENATOR LOWELL MURRAY: The former.
11 29162 COMMISSIONER OLIPHANT: The former,
12 all right.
13 SWORN: SENATOR LOWELL MURRAY /
14 ASSERMENTÉ: SÉNATEUR LOWELL MURRAY
15 29163 COMMISSIONER OLIPHANT: Thank you.
16 29164 Mr. Roitenberg.
17 29165 MR. ROITENBERG: Thank you,
18 Mr. Commissioner.
19 EXAMINATION: SENATOR LOWELL MURRAY BY MR. ROITENBERG /
20 INTERROGATOIRE : SÉNATEUR LOWELL MURRAY PAR
21 Me ROITENBERG
22 29166 MR. ROITENBERG: Good morning,
23 Senator.
24 29167 SENATOR LOWELL MURRAY: Good morning,
25 Mr. Roitenberg.

1 29168 MR. ROITENBERG: Sir, I understand
2 that you were appointed to the Senate in 1979 during
3 the tenure of Joe Clark as our Prime Minister.

4 29169 SENATOR LOWELL MURRAY: That's true.

5 29170 MR. ROITENBERG: And during the
6 government of Mr. Mulroney you became a Minister with a
7 couple of portfolios, if I'm not mistaken.

8 29171 SENATOR LOWELL MURRAY: Yes.

9 29172 MR. ROITENBERG: You were sworn to
10 the Queen's Privy Council June 30, 1986?

11 29173 SENATOR LOWELL MURRAY: Yes.

12 29174 MR. ROITENBERG: And from that date
13 until 1993 you served as the Leader of the Government
14 in the Senate, if I'm not mistaken.

15 29175 SENATOR LOWELL MURRAY: True.

16 29176 MR. ROITENBERG: At some point, I
17 believe it was June of 1987, you were given the
18 portfolio as Minister Responsible for the Atlantic
19 Canada Opportunities Agency, otherwise known as ACOA.

20 29177 SENATOR LOWELL MURRAY: Yes.

21 29178 MR. ROITENBERG: And you held that
22 post to September of 1988.

23 29179 SENATOR LOWELL MURRAY: I think so.

24 29180 MR. ROITENBERG: It should come as no
25 surprise to you that it is as your tenure as the

1 Minister Responsible for ACOA that I have some
2 questions for you.

3 29181 SENATOR LOWELL MURRAY: Yes, of
4 course.

5 29182 MR. ROITENBERG: You were appointed,
6 as we discussed, in June of 1987 to this portfolio and
7 that was by Prime Minister Mulroney.

8 29183 Am I correct?

9 29184 SENATOR LOWELL MURRAY: Yes.

10 29185 MR. ROITENBERG: Could you perhaps
11 enlighten the Commissioner as to the circumstances,
12 where you were, who you were with, when you received
13 your first file pertaining to ACOA?

14 29186 SENATOR LOWELL MURRAY: Yes. It was
15 on a government aircraft that was taking us from Ottawa
16 to St. John's, Newfoundland, where the Prime Minister
17 would announce the creation of ACOA at a public meeting
18 and announced my appointment as its Minister and the
19 appointment of Don McPhail as its first President.

20 29187 While we were on board the aircraft
21 the three of us had a general chat about the agency and
22 its mandate and so forth, in the course of which
23 Mr. Mulroney reached over and handed us a very thin
24 file. My recollection is that there was one letter in
25 it, and he said to us here is something you may want to

1 look at.

2 29188 One or other of us, Mr. McPhail or I,
3 took the file away. I think it was probably he,
4 because I don't have it in my possession today.

5 29189 MR. ROITENBERG: I take it you became
6 quite familiar with the letter that was contained
7 within that file?

8 29190 SENATOR LOWELL MURRAY: I became
9 quite familiar with the concept. I don't recall much
10 about the letter. I think it was signed by somebody in
11 Germany.

12 29191 MR. ROITENBERG: And the concept,
13 sir, involved what?

14 29192 SENATOR LOWELL MURRAY: The concept
15 was that Thyssen thought they had, perhaps had part
16 already, of a United States Defence Department order
17 for light armoured vehicles. They thought they would
18 have a really good opportunity of getting the rest of a
19 rather large contract if they set up a plant in North
20 America.

21 29193 A plant in Canada would qualify for
22 the order because of the Canada-U.S. defence production
23 sharing agreement, an international bilateral agreement
24 that went back I think to the 1950s.

25 29194 The proposal was that they would set

1 up the plant in Cape Breton; that they would want to
2 have, I think it was a sole source from the Canadian
3 Defence Department of 250 of what was anticipated to be
4 a need for 700 or more light armoured vehicles by our
5 Defence Department. They wanted that sole sourced and
6 they wanted it brought forward two years to I think
7 1990 from 1992.

8 29195 They were seeking no special
9 financial assistance from the government. We at ACOA
10 would not have been able to provide it anyway, because
11 our orientation was to small business, not to a large
12 project like this.

13 29196 They said that they would apply for
14 whatever assistance or incentives were available,
15 including the Cape Breton Investment Tax Credit -- I
16 don't know whether that was in the letter or not, but
17 that was part of the concept -- and that they would
18 apply for whatever else was available.

19 29197 I think it may have been said in the
20 letter, or I certainly learned it in fast order, that
21 Nova Scotia, the Province of Nova Scotia was assembling
22 land for this purpose.

23 29198 MR. ROITENBERG: Now, this was the
24 first project that was on your plate as Minister
25 Responsible for ACOA?

1 29199 SENATOR LOWELL MURRAY: Yes. That's
2 just -- that's just the point really. There was
3 nothing else anywhere on the horizon. There was no
4 other proposal that offered a potential of 500 jobs in
5 Cape Breton, 500 new jobs, or 200 new jobs or 100 new
6 jobs in Cape Breton.

7 29200 So he asked me to look into it and I
8 did.

9 29201 MR. ROITENBERG: Now, from time to
10 time -- and I am going to start in October of 1987 --
11 you would report back to the Prime Minister as to the
12 status of the project or the progress that had been
13 made towards investigating what could be done in
14 relation to this Thyssen proposal; correct?

15 29202 SENATOR LOWELL MURRAY: Yes. As you
16 know, it was fairly complex and complicated involving a
17 number of departments and agencies, and the officials
18 at ACOA were trying very hard to move it forward
19 through the system.

20 29203 They would brief me from time to time
21 and whenever we felt it was timely to do so, we sent
22 off a letter to the Prime Minister. I think there were
23 several of them.

24 29204 MR. ROITENBERG: Now, in front of you
25 is a binder of documents, mercifully for you not the

1 fullest binder of documents we have had, but it has a
2 number of times.

3 29205 SENATOR LOWELL MURRAY: Yes.

4 29206 MR. ROITENBERG: You have had a
5 chance to review that binder documents?

6 29207 SENATOR LOWELL MURRAY: I have. You
7 know, I haven't read every word. I didn't want to
8 over-train.

9 29208 MR. ROITENBERG: Mr. Commissioner,
10 I'm going to ask that the binder of documents be noted
11 as Exhibit P-38, please.

12 29209 COMMISSIONER OLIPHANT: My consent?

13 29210 MR. ROITENBERG: It is, Commissioner.
14 Thank you.

15 29211 COMMISSIONER OLIPHANT: Thank you.

16 29212 The booklet of documents in support
17 of Sen. Murray's evidence, then, will be received and
18 marked as Exhibit P-38 by consent of all counsel.

19 EXHIBIT NO. P-38: Binder
20 entitled "Documents in support
21 of Senator Lowell Murray's
22 testimony"

23 29213 MR. ROITENBERG: Thank you, sir.

24 29214 I'm going to ask you, Senator Murray,
25 if you could, to turn to Tab 2.

1 29215 SENATOR LOWELL MURRAY: Yes.

2 29216 MR. ROITENBERG: There you will find
3 a draft letter to Prime Minister Mulroney.

4 29217 SENATOR LOWELL MURRAY: Right.

5 29218 MR. ROITENBERG: We do not have the
6 actual letter from this draft that was sent --

7 29219 SENATOR LOWELL MURRAY: Mr.
8 Roitenberg, I have seen the original in the last little
9 while and I am pretty sure I can confirm that this was
10 the letter that I signed.

11 29220 The second paragraph, one, two,
12 three, four lines from the bottom about advancing "by
13 several years from the current DND timetable, i.e. to
14 198- from 199-", I think it was 1992 to 1990, if it
15 matters, and I think that was what would be in the
16 letter that I signed.

17 29221 MR. ROITENBERG: I think you are
18 quite correct. At the time the anticipated date for
19 the procurement was 1992 --

20 29222 SENATOR LOWELL MURRAY: Right.

21 29223 MR. ROITENBERG: -- and the request
22 from Thyssen was that it be moved forward to 1990 in
23 its initial proposal.

24 29224 SENATOR LOWELL MURRAY: Yes.

25 29225 MR. ROITENBERG: What I'm interested

1 in primarily is if you turn to page 2 --

2 29226 SENATOR LOWELL MURRAY: Yes.

3 29227 MR. ROITENBERG: -- the final
4 paragraph in this --

5 29228 COMMISSIONER OLIPHANT: I'm sorry, is
6 that page 3 of 4 at the bottom?

7 29229 MR. ROITENBERG: I'm sorry, page 4 of
8 4 at the bottom, which is page 2 of the letter.

9 29230 COMMISSIONER OLIPHANT: 4 of 4, okay.

10 29231 MR. ROITENBERG: In this paragraph it
11 reads:

12 "In the final analysis, however,
13 neither possibility can proceed
14 without a political decision on
15 sole sourcing and earlier
16 funding. It is on these points
17 specifically that I am writing
18 to seek your direction to me and
19 our colleagues."

20 29232 My question to you, sir, is: Did you
21 receive a response from the Prime Minister to the
22 direction that you were seeking?

23 29233 SENATOR LOWELL MURRAY: I'm afraid
24 not, no.

25 29234 MR. ROITENBERG: At a number of

1 points -- and we will come to some of them along the
2 way during your examination -- you sent letters to the
3 Prime Minister advising of where the project stood,
4 asking if certain actions should be taken, suggesting
5 certain actions should be taken.

6 29235 The question -- and I may be more
7 specific along the way, but I will ask it in a general
8 fashion now: Did you ever receive a reply to any of
9 your letters, either in writing or orally from the
10 Prime Minister?

11 29236 SENATOR LOWELL MURRAY: No, I did
12 not. My assumption is that he read them and took them
13 as progress reports or put them away, filed them away
14 for information purposes. But he certainly didn't
15 reply to me in writing. We spoke very, very frequently
16 in those days about many, many other matters and the
17 subject never came up.

18 29237 I think his -- well, you will ask
19 him. I think his assumption was that we were at the
20 Agency moving ahead as best we could.

21 29238 MR. ROITENBERG: If I could ask you
22 to turn to Tab 6 in the book of documents, sir?

23 29239 SENATOR LOWELL MURRAY: Yes.

24 29240 MR. ROITENBERG: This is a letter to
25 you from Mr. Schreiber.

1 29241 SENATOR LOWELL MURRAY: Yes.

2 29242 MR. ROITENBERG: Before we go further
3 with the letter, I want to ask you as to your
4 familiarity with Mr. Schreiber.

5 29243 Did you know Mr. Schreiber before you
6 took over stewardship of ACOA?

7 29244 SENATOR LOWELL MURRAY: No.

8 29245 MR. ROITENBERG: When was it that you
9 came to be acquainted with him?

10 29246 SENATOR LOWELL MURRAY: I don't know
11 exactly, but my recollection is that I met him on two
12 occasions: one in my office and, yes, he refers to --
13 he says thank you for meeting with me on November 30,
14 1987, so I met him there.

15 29247 And I seem to think that I met him in
16 Prince Edward Island on the margins of another meeting;
17 that Mr. McPhail and I were going to another meeting, I
18 think with the ACOA Board or -- well, I don't remember
19 who it was. But in any case in the hotel lobby we
20 met -- perhaps by prearrangement, I don't know -- with
21 Mr. Schreiber and I think one or two others; Gerry
22 Doucet perhaps.

23 29248 That is my only recollection of
24 having met him.

25 29249 MR. ROITENBERG: Okay. But you did,

1 as is evidenced here, occasionally exchange
2 correspondence?

3 29250 SENATOR LOWELL MURRAY: Well, there
4 it is.

5 29251 MR. ROITENBERG: So we have the
6 letter to you from Mr. Schreiber confirming that a
7 meeting took place on November 30, 1987 to discuss the
8 Bear Head Project.

9 29252 SENATOR LOWELL MURRAY: Yes.

10 29253 MR. ROITENBERG: If you turn to page
11 2 of the letter, it is noted as page 3 of 4 at the
12 bottom, Mr. Commissioner.

13 29254 SENATOR LOWELL MURRAY: Yes.

14 29255 MR. ROITENBERG: In the second full
15 paragraph it reads:

16 "Please note that moving the LAV
17 order forward to 1990 from the
18 original DND procurement date of
19 1992 is no longer required by
20 us."

21 29256 SENATOR LOWELL MURRAY: Yes.

22 29257 MR. ROITENBERG: So we have by the
23 end of November, at least, the company resiling from
24 its need --

25 29258 SENATOR LOWELL MURRAY: Yes.

1 29259 MR. ROITENBERG: -- to have the LAV
2 order pushed forward.

3 29260 SENATOR LOWELL MURRAY: Yes.

4 29261 MR. ROITENBERG:
5 "We would proceed immediately
6 with construction of the plant
7 and undertake to load the plant
8 with civil work..."

9 29262 I take it you understood that to mean
10 as opposed to military work?

11 29263 SENATOR LOWELL MURRAY: Yes.

12 29264 MR. ROITENBERG:
13 "... as well as some work from
14 the U.S. LAV order until
15 production for the Canadian
16 order could commence."

17 29265 SENATOR LOWELL MURRAY: Yes.

18 29266 MR. ROITENBERG: There is included in
19 this letter, if you turn the page, a "Proposed draft
20 Letter from Government of Canada to Bear Head
21 Industries Ltd."

22 29267 I guess this is the terms of a
23 proposed letter of comfort that the company was
24 requesting from the Government of Canada.

25 29268 Would that be fair, sir?

1 29269 SENATOR LOWELL MURRAY: Probably,
2 yes.

3 29270 MR. ROITENBERG: So it was requesting
4 that:

5 "Based upon our policy of
6 stimulating regional economic
7 development through defence
8 procurements and, conditional
9 upon your establishment in Cape
10 Breton of a suitable
11 manufacturing facility, we
12 commit to you an order for
13 delivery in 1992 of the initial
14 250 light armoured vehicles of
15 our 1,600 unit requirement,
16 provided..."

17 29271 And then there are a number of
18 conditions.

19 29272 SENATOR LOWELL MURRAY: Yes.

20 29273 MR. ROITENBERG: But firstly
21 addressed in that opening paragraph is the whole thing
22 is conditional upon the establishment in Cape Breton of
23 a suitable manufacturing facility.

24 29274 Is that right?

25 29275 SENATOR LOWELL MURRAY: I see that.

1 29276 MR. ROITENBERG: The conditions were
2 that the company, in cooperation with the Department of
3 National Defence:

4 "... define and develop a
5 vehicle from the entire range of
6 Thyssen technology to meet DND
7 operational requirements
8 b) manufacturing of this vehicle
9 will take place at your plant in
10 Cape Breton, Nova Scotia
11 c) you transfer the necessary
12 technology to your facility in
13 Cape Breton and share jobs with
14 suitable Canadian manufacturing
15 partners
16 d) you meet our requirements in
17 terms of quality, delivery and
18 logistics support including
19 personnel training
20 e) you perform the aforesaid
21 services/tasks at
22 internationally acceptable
23 prices".

24 29277 It seems that there were a number of
25 conditions and a lot of wiggle room for the government

1 right there in those conditions.

2 29278 Would you agree, sir?

3 29279 SENATOR LOWELL MURRAY: I think so.

4 I didn't get into it. I think what I would have done
5 is turned this over to the officials of the Agency who
6 were engaged in discussions with Thyssen, probably with
7 Mr. Schreiber, and discussions obviously with their
8 counterparts in DND and the Department of Industry.

9 29280 MR. ROITENBERG: But what was being
10 sought, clearly to you in any event, was some letter of
11 comfort --

12 29281 SENATOR LOWELL MURRAY: Yes.

13 29282 MR. ROITENBERG: -- that could
14 include a number of conditions --

15 29283 SENATOR LOWELL MURRAY: Yes.

16 29284 MR. ROITENBERG: -- that would lead
17 to Thyssen building a manufacturing facility.

18 29285 SENATOR LOWELL MURRAY: Yes. I was
19 familiar with this without having read this letter. It
20 was all part of the concept that we were working on.

21 29286 This is December 1987, six months
22 after the Prime Minister had first handed me the file.
23 And I think you are familiar -- if you are not I will
24 elaborate a little -- with the response we were getting
25 in the system in Ottawa to these issues.

1 29287 The first argument -- and it was
2 clear to me fairly soon that some agencies and
3 departments in the government -- that we were alone
4 pretty much. ACOA was pretty much alone in the system
5 in trying to push this forward; that that others wanted
6 to nip it in the bud. They didn't want to hear
7 anything about it. They didn't want to explore it
8 even. They came forward with these arguments.

9 29288 Well, there has just been a White
10 Paper on national defence and so we don't know whether
11 we want LAVs or not. My response to that was that
12 others who were better informed on these matters than I
13 was, principally people in ACOA, had indicated to me
14 that LAVs had been and would be again on the shopping
15 list of the Department of National Defence. And in any
16 case, as a layman my opinion, which may not be worth
17 much, was that it would be a queer army that didn't
18 have armoured vehicles. So I didn't take that argument
19 too, too seriously at the time.

20 29289 The second argument was that we don't
21 know whether Thyssen will be able to meet our -- to
22 manufacture what we want if we want something.

23 29290 My answer to that was, well, if they
24 can't meet your specs and your specifications and your
25 are financial parameters, then there won't be a

1 contract, will there?

2 29291 In any case, I found it rather
3 implausible that an outfit as big as Thyssen would be
4 unable to meet the needs of the Department of Defence
5 of Canada for equipment.

6 29292 The third argument -- and now we get
7 really to the nitty-gritty -- was it is going to upset
8 the industrial, the so-called national industrial base.

9 29293 ACOA was created explicitly --
10 explicitly to act as a counterweight to that
11 orientation of national departments, that built-in
12 bias, if you like, towards industry writ large,
13 industry most of it located in central Canada.

14 29294 This tension had been in the
15 government system for generations, generations. I mean
16 throughout the Diefenbaker years and the Pearson years
17 and the Trudeau years, these regional agencies and
18 departments had been created, had done good work for a
19 while, and as soon as the national departments got the
20 upper hand and there was a government reorganization,
21 the regional organizations would be folded back into
22 the national departments.

23 29295 And by the time the Mulroney
24 government came to office we were hearing the same old
25 complaints from the private sector in Atlantic Canada,

1 from the provincial governments down there, from
2 Senators and Members of Parliament that regional policy
3 was being drafted in Ottawa according to Ottawa
4 standards, by Ottawa people; that in any case simple
5 applications for assistance were taking forever to get
6 through the system up here, and so on and so forth.

7 29296 Mr. Mulroney caused a study to be
8 made. Professor Donald Savoie at l'Université de
9 Moncton was the key player, brought in a report, the
10 result of which was the creation of ACOA, as I say, as
11 a counterweight to the argument that I have just put
12 forward about national industrial base and so forth.

13 29297 So I understand -- and you have heard
14 from some former distinguished public servants whose
15 mandate was the national industrial base and this sort
16 of thing, and I respect them and I respect the
17 perspective. But I wasn't going to roll over for those
18 arguments at that time, especially when they were so
19 flimsy.

20 29298 They had their mandate, these people,
21 but I had mine and we have ours at the Agency and it
22 had to do with regional development in Atlantic Canada.

23 29299 COMMISSIONER OLIPHANT: I take it --

24 29300 SENATOR LOWELL MURRAY: Excuse me the
25 speech. Excuse me, I shouldn't.

1 29301 COMMISSIONER OLIPHANT: Oh no, not at
2 all.

3 29302 I take it that ACOA would have been,
4 if I might use the term, the Maritime parallel to the
5 Western Diversification Fund?

6 29303 SENATOR LOWELL MURRAY: That's true,
7 the Atlantic parallel.

8 29304 COMMISSIONER OLIPHANT: Yes, okay.
9 Fair enough. Sorry.

10 29305 SENATOR LOWELL MURRAY: WDO,
11 Commissioner, came somewhat after ACOA was created when
12 the Westerners saw a good opportunity.

13 29306 COMMISSIONER OLIPHANT: But I take it
14 that --

15 29307 SENATOR LOWELL MURRAY: Yes, they are
16 parallel.

17 29308 COMMISSIONER OLIPHANT: I take it
18 that your contemporary in the west would have faced
19 likely the same type of arguments you were facing from
20 the industrial base in Ontario?

21 29309 SENATOR LOWELL MURRAY: I think that
22 is very true. The diversification was their aim and
23 objective and yes -- and in both cases, because we knew
24 what had been the fate of previous agencies, in both
25 cases, certainly in ACOA's case, we gave it a statutory

1 bay. We actually got legislation passed creating it
2 and legislating its mandate to the extent that unlike
3 these others, ACOA and WDO are still in existence, I'm
4 glad to say, 21 years later.

5 29310 COMMISSIONER OLIPHANT: Thank you.

6 29311 MR. ROITENBERG: Senator, to --

7 29312 SENATOR LOWELL MURRAY: I will try to
8 be more succinct.

9 29313 MR. ROITENBERG: Not at all, but to
10 perhaps sum up, as it's clear as somebody who has their
11 roots in Atlantic Canada, somebody who is charged with
12 the mandate of promoting opportunities in Atlantic
13 Canada, that you are quite passionate about what your
14 mandate was at the time and what you hoped and tried to
15 accomplish.

16 29314 Would that be fair?

17 29315 SENATOR LOWELL MURRAY: Well, I hope
18 so, yes.

19 29316 MR. ROITENBERG: Now, the Prime
20 Minister had a certain fondness for Atlantic Canada.

21 29317 SENATOR LOWELL MURRAY: Yes.

22 29318 MR. ROITENBERG: You and he met at
23 St. Francis Xavier?

24 29319 SENATOR LOWELL MURRAY: We did.

25 29320 MR. ROITENBERG: He went to school

1 there. He became a Member of Parliament in Atlantic
2 Canada for the first time.

3 29321 SENATOR LOWELL MURRAY: Yes.

4 29322 MR. ROITENBERG: Is that fair?

5 29323 SENATOR LOWELL MURRAY: Yes, yes. He
6 knew the region very, very well.

7 29324 MR. ROITENBERG: Absolutely. And
8 there had been, just prior to the creation of ACOA, a
9 substantial employer that had been shut down in Cape
10 Breton.

11 29325 SENATOR LOWELL MURRAY: Several of
12 them.

13 29326 MR. ROITENBERG: And there was a
14 commitment that was being made by the government around
15 that time to try to generate some type of employment
16 and manufacturing concerns in Atlantic Canada.

17 29327 SENATOR LOWELL MURRAY: That's true.

18 29328 MR. ROITENBERG: And you viewed that
19 mandate seriously?

20 29329 SENATOR LOWELL MURRAY: I hope so.

21 29330 MR. ROITENBERG: Now, the arguments
22 of which you have just so eloquently spoken were
23 centred around the fact that there was a supplier and
24 producer of armoured vehicles in Ontario.

25 29331 SENATOR LOWELL MURRAY: Yes.

1 29332 MR. ROITENBERG: And in the view of
2 ACOA, what was being put up were primarily roadblocks
3 to protect the interests of that already established
4 manufacturing concern in southern Ontario.

5 29333 Would that be fair?

6 29334 SENATOR LOWELL MURRAY: Yes. Yes,
7 that's true.

8 29335 MR. ROITENBERG: Now, on June the
9 14th, 1988, there was a meeting of the Committee of
10 Atlantic Ministers, and if I could direct you to Tab 9
11 in your book of documents, you will find a summary
12 record of that meeting.

13 29336 SENATOR LOWELL MURRAY: Yes.

14 29337 MR. ROITENBERG: At page 3 of 4,
15 which would be the second page of the notes --

16 29338 SENATOR LOWELL MURRAY: Right.

17 29339 MR. ROITENBERG: -- the topic turned
18 to the Thyssen proposal.

19 29340 I would direct you, if I could, to
20 the second paragraph on that page.

21 29341 SENATOR LOWELL MURRAY: Right.

22 29342 MR. ROITENBERG:
23 "Mr. McPhail informed..."

24 29343 And Mr. McPhail, as you said earlier,
25 was the President of ACOA.

1 29344 SENATOR LOWELL MURRAY: Yes.

2 29345 MR. ROITENBERG:

3 "...informed that he had asked

4 Thyssen officials to submit a

5 business plan before the

6 Chancellor's visit."

7 29346 So we are in June of 1988, and Mr.

8 Kohl, Chancellor of West Germany at the time, is coming

9 for a visit to Canada. Correct?

10 29347 SENATOR LOWELL MURRAY: Right.

11 29348 MR. ROITENBERG: And Mr. McPhail has

12 asked the Thyssen officials to submit a business plan.

13 In the plan he wanted the company to confirm its

14 intentions to move away from a firm commitment for

15 light-armoured vehicles, and instead move toward more

16 traditional regional development assistance and grants

17 for their heavy-industry facility.

18 29349 SENATOR LOWELL MURRAY: Yes.

19 29350 MR. ROITENBERG: If you go to the

20 next paragraph, Mr. MacKay -- and I take it that's

21 Elmer MacKay --

22 29351 SENATOR LOWELL MURRAY: Yes.

23 29352 MR. ROITENBERG: -- noted the

24 possibility that "sooner or later their proposal could

25 be overtaken by events."

1 29353 "Their proposal" meaning the Thyssen
2 proposal.
3 "He stressed that Thyssen was
4 prepared to put a major
5 industrial presence in the
6 region."
7 29354 I pause there. That was ACOA's
8 concern in a nutshell. Here we had a major
9 international company that was prepared to put a major
10 industrial presence in the region. It mattered not to
11 ACOA what they were going to produce, you just wanted
12 them to start building a plant and start producing.
13 29355 Would that be fair?
14 29356 SENATOR LOWELL MURRAY: Yes.
15 29357 MR. ROITENBERG:
16 "Mr. McPhail stated that he did
17 not see any alternative to this
18 course of action."
19 29358 -- that is, getting the business plan
20 together.
21 "Minister Murray requested a
22 noted on this issue be written
23 for the attention of the Prime
24 Minister."
25 29359 SENATOR LOWELL MURRAY: Yes.

1 29360 MR. ROITENBERG: If you go back a
2 tab, to Tab 8 --

3 29361 SENATOR LOWELL MURRAY: There it is,
4 yes.

5 29362 MR. ROITENBERG: June the 14th, 1988,
6 the very same date as the meeting, a note to the Prime
7 Minister penned by yourself.

8 29363 SENATOR LOWELL MURRAY: Yes.

9 29364 MR. ROITENBERG: The third paragraph:
10 "Given the still preliminary
11 nature of the Thyssen proposal
12 and bearing in mind the
13 difficulties caused when
14 Thyssen's earlier proposal was
15 misunderstood, I doubt that you
16 or Chancellor Kohl would wish to
17 proceed publicly with this issue
18 at this time."

19 29365 I want to pause there. The "earlier
20 proposal misunderstood" is a reference, I take it, to
21 earlier reports that the Thyssen proposal was based on
22 exports to certain Mideast countries, which caused
23 certain concerns among certain ministries.

24 29366 SENATOR LOWELL MURRAY: So I have
25 been told. That was a 1985 proposal, before I came

1 into the cabinet.

2 29367 MR. ROITENBERG: But that is what the
3 reference is to.

4 29368 SENATOR LOWELL MURRAY: Yes.

5 29369 MR. ROITENBERG: "Given the still
6 preliminary nature of the Thyssen proposal", I take it,
7 is in reference to the fact that, although you wished
8 to see the plans move forward, there is still no
9 business plan of any weight.

10 29370 SENATOR LOWELL MURRAY: True.

11 29371 MR. ROITENBERG: So it's a
12 recommendation to the Prime Minister that there not be
13 any announcement or any formalization of a plan,
14 notwithstanding the presence of Chancellor Kohl,
15 because it's just not ready.

16 29372 Is that right?

17 29373 SENATOR LOWELL MURRAY: True.

18 29374 MR. ROITENBERG: But over the summer
19 of 1988, negotiations continued between ACOA, certain
20 ministries within the government, and Thyssen, on
21 trying to put together some letter of comfort, as
22 alluded to in Mr. Schreiber's letter of November 30th,
23 1987, that would get the governmental agencies onside
24 in terms of "we can live with this proposal"; and two,
25 get the company to put the shovels in the ground and

1 start building this plant.

2 29375 Would that be fair?

3 29376 SENATOR LOWELL MURRAY: Yes.

4 29377 MR. ROITENBERG: Tab 10, if you

5 would, is a letter to the Prime Minister of February

6 the 1st, 1988.

7 29378 I am just stepping back from June,

8 where we were.

9 29379 This is a letter to the Prime

10 Minister from Thyssen Bear Head, signed by Messrs.

11 Massmann and Haastert.

12 29380 SENATOR LOWELL MURRAY: Yes.

13 29381 MR. ROITENBERG: You said earlier

14 that, notwithstanding your letters to the Prime

15 Minister, you received no direction from him.

16 29382 If you go to the very last page of

17 the Haastert and Massmann letter, they are requesting

18 some type of action, some type of response.

19 29383 If you turn the page, there is a

20 response from the Government of Canada, written by

21 you --

22 29384 SENATOR LOWELL MURRAY: Yes.

23 29385 MR. ROITENBERG: -- commencing with

24 the line, "The Prime Minister has asked me to reply on

25 his behalf."

1 29386 SENATOR LOWELL MURRAY: Yes.

2 29387 MR. ROITENBERG: At some point there
3 must have been some communication from the Prime
4 Minister or his office to you, forwarding this letter
5 and asking you to reply to it.

6 29388 SENATOR LOWELL MURRAY: Yes. You
7 know, this would be a fairly routine thing to do.
8 Somebody over there would have sent it -- there would
9 have been a forwarding slip on the draft saying, "Here
10 is the way you should reply, and here is the way we
11 think you should reply," and I would have read it and
12 signed it.

13 29389 I don't know where it came from. I
14 don't know who in the office would have done that, but
15 it wouldn't have been Mr. Mulroney personally.

16 29390 As I say, this is the way
17 correspondence is sometimes handled between the PMO and
18 ministers.

19 29391 MR. ROITENBERG: If you look at the
20 letter --

21 29392 SENATOR LOWELL MURRAY: My letter
22 or --

23 29393 MR. ROITENBERG: Yes, your letter.

24 29394 SENATOR LOWELL MURRAY: Yes.

25 29395 MR. ROITENBERG: Is there anything in

1 there of particular note, or is it simply, "We are
2 looking at the proposal, and we will get back to you in
3 the future" kind of letter?

4 29396 SENATOR LOWELL MURRAY: The latter, I
5 would say. It is a polite acknowledgement, saying, "I
6 am unable to respond on behalf of the government at
7 this time. Please accept my thanks for your expression
8 of interest."

9 29397 MR. ROITENBERG: So I take it, then,
10 that you would say, notwithstanding the opening line of
11 this letter, that you received no particular
12 direction --

13 29398 SENATOR LOWELL MURRAY: No.

14 29399 MR. ROITENBERG: -- from the Prime
15 Minister on how to deal with this.

16 29400 SENATOR LOWELL MURRAY: No. That
17 would have come out of his office somewhere.

18 29401 MR. ROITENBERG: If you turn the tab
19 to Tab 11, we are back to the summer of 1988 --

20 29402 SENATOR LOWELL MURRAY: Yes.

21 29403 MR. ROITENBERG: -- and ongoing
22 discussions with DRIE and DND and other ministries, in
23 terms of moving along the notion of what to do with the
24 proposal.

25 29404 If I could direct you to the first

1 page, "ACOA Position", four bullets down:

2 "Senator Murray will be
3 reporting to the Prime Minister
4 on the status of the Bearhead
5 project..."

6 29405 So, again, confirmation that you were
7 reporting back directly to the Prime Minister as to how
8 matters were proceeding.

9 29406 SENATOR LOWELL MURRAY: I see that.

10 29407 This is a meeting of officials,
11 obviously, the attendees are noted from ACOA, DRIE and
12 DND, and Mr. Wynne Potter, who was then Vice-President
13 of ACOA for Nova Scotia, is reporting to Mr. McPhail
14 and Mr. Wilkens, and he says that Senator Murray will
15 be reporting, and, sure enough -- this is July 6th --
16 on July 11th I receive a draft letter to the Prime
17 Minister from Mr. McPhail.

18 29408 MR. ROITENBERG: You are referring to
19 Tab 12 now?

20 29409 SENATOR LOWELL MURRAY: Yes. I'm
21 sorry, I am getting ahead of myself.

22 29410 MR. ROITENBERG: No, that's fine, I
23 just wanted everybody --

24 29411 I knew where you were, I just wanted
25 to make sure everybody else did.

- 1 29412 If you go to Tab 12, then, there is
2 your letter to the Prime Minister --
- 3 29413 SENATOR LOWELL MURRAY: Yes.
- 4 29414 MR. ROITENBERG: -- July 12th, 1988:
5 "My Dear Prime Minister,
6 Some time ago, you requested me
7 to examine and further develop,
8 as required, the proposal by
9 Thyssen..."
- 10 29415 If I could direct you to the third
11 paragraph on that first page --
- 12 29416 SENATOR LOWELL MURRAY: Yes.
- 13 29417 MR. ROITENBERG:
14 "Although it continues to be
15 clear that the initial basis for
16 a decision by Thyssen to locate
17 in Cape Breton is production
18 aimed at North American defence
19 markets, I accept the Company's
20 assertion that the long-term
21 intention of Thyssen is to
22 establish a commercial,
23 civilian-oriented, manufacturing
24 plant."
- 25 29418 SENATOR LOWELL MURRAY: Yes.

1 29419 MR. ROITENBERG: I pause there. As
2 there was never a plant built, premised on the fact
3 that there was never any agreement as to a military
4 contract, I take it you would recognize now that your
5 belief in what their long-term intention might have
6 been may have been misplaced.

7 29420 I mean, they never got a military
8 contract.

9 29421 SENATOR LOWELL MURRAY: And they
10 never came up with a business plan.

11 29422 MR. ROITENBERG: And they never came
12 up with a business plan.

13 29423 SENATOR LOWELL MURRAY: No.

14 29424 MR. ROITENBERG: And they never built
15 a plant to establish a commercial, civilian-oriented
16 manufacturing plant.

17 29425 SENATOR LOWELL MURRAY: I think --
18 you know, I shouldn't be putting words in his mouth,
19 but I think that Mr. McPhail, and the others who were
20 dealing more directly with other departments, and in
21 particular with DND, probably came to the conclusion
22 that if it wasn't a lost cause, that it wasn't --

23 29426 You know, the idea of getting DND to
24 cooperate with an order was not -- the odds were not
25 very great in favour of that happening.

1 29427 So Mr. McPhail, in an earlier letter,
2 which I think you quoted, indicates that Thyssen Bear
3 Head may be backing away from this, and I think what
4 that is reflecting is probably -- the wish is probably
5 father to the thought. We were hoping that, as you
6 said earlier, we would get them in, and that they would
7 go into some form of civilian manufacture down there,
8 even if, as seemed likely, we couldn't make a go of a
9 Defence Department contract.

10 29428 I think that's what that is about.

11 29429 MR. ROITENBERG: Let's jump ahead for
12 a moment.

13 29430 SENATOR LOWELL MURRAY: Okay.

14 29431 MR. ROITENBERG: If I could direct
15 you to Tab 28 -- and we still have some ground to cover
16 on how we arrived at the Understanding in Principle.

17 29432 At Tab 28 is the Understanding in
18 Principle, and it is the Understanding in Principle
19 that was agreed to by all parties concerned -- by the
20 Government of Canada, as reflected by the signatures of
21 Ministers de Cotret, Beatty and yourself, and by
22 Thyssen Bear Head, as reflected by the signature of Mr.
23 Schreiber.

24 29433 So this was the hashed-out agreement.
25 Everybody put pen to paper and signed it.

1 29434 Right?

2 29435 SENATOR LOWELL MURRAY: Yes.

3 29436 MR. ROITENBERG: If I could direct
4 you to page 2 of the agreement --

5 29437 SENATOR LOWELL MURRAY: Yes.

6 29438 MR. ROITENBERG: -- the second
7 paragraph --

8 29439 Excuse me, it's paragraph 1. It's
9 the second paragraph on the page.

10 29440 SENATOR LOWELL MURRAY: Right.

11 29441 MR. ROITENBERG:
12 "In accordance with this
13 Understanding in Principle, the
14 Company shall establish a
15 diversified heavy-industry
16 manufacturing facility in the
17 Bear Head region of Cape Breton,
18 Nova Scotia, which will..."

19 29442 -- and it lists a number of things
20 that it was going to do.

21 29443 SENATOR LOWELL MURRAY: Yes.

22 29444 MR. ROITENBERG: What Mr. Schreiber
23 had alluded to in his letter of November 30th, 1987
24 was: Give us a letter of comfort; we will build the
25 plant.

1 29445 Right?

2 29446 SENATOR LOWELL MURRAY: Yes.

3 29447 MR. ROITENBERG: Here is the letter
4 of comfort, as hashed out and agreed to by all parties.
5 It says right there, "In accordance with this
6 Understanding in Principle, the Company shall
7 establish" this plant.

8 29448 Right?

9 29449 SENATOR LOWELL MURRAY: Yes.

10 29450 MR. ROITENBERG: They never did, did
11 they?

12 29451 SENATOR LOWELL MURRAY: No.

13 29452 MR. ROITENBERG: They had the
14 agreement that they sought in September of 1988, the
15 shovels never met the ground, they never started
16 construction, never completed construction, and never
17 hired Person 1 in terms of construction or
18 manufacturing.

19 29453 Is that right?

20 29454 SENATOR LOWELL MURRAY: That's true,
21 although -- and I am sure you have read this -- I
22 invite your attention to the fact that they do say
23 "civilian and defence industrial base".

24 29455 I mean, that was obviously one of the
25 conditions under which --

1 29456 MR. ROITENBERG: Absolutely.

2 29457 SENATOR LOWELL MURRAY: -- one of the
3 provisions of the Understanding in Principle.

4 29458 MR. ROITENBERG: But if you go back
5 to the November 30th, 1987 letter, it was: Give us
6 this letter of comfort regarding LAV procurements in
7 the future, and we will fill the time by doing civilian
8 work and work on a U.S. contract.

9 29459 SENATOR LOWELL MURRAY: Yes.

10 29460 MR. ROITENBERG: So it was completely
11 anticipated that there wouldn't be an immediate
12 procurement, but once we have the letter of comfort, we
13 will build the plant and start working.

14 29461 SENATOR LOWELL MURRAY: Well, yes,
15 except that the letter of comfort -- the UIP was
16 considerably less specific on LAVs and that kind of
17 thing, as the commitment --

18 29462 Well, we will get to that, but the
19 commitment that the government made was to consider, or
20 entertain, or something like that, the participation --

21 29463 MR. ROITENBERG: Absolutely, but this
22 was, because you were so involved in the negotiations,
23 the product of much negotiation, and something that was
24 agreed to as a sufficient letter of comfort by Thyssen,
25 at least --

1 29464 SENATOR LOWELL MURRAY: Yes.

2 29465 MR. ROITENBERG: -- through the
3 person of Mr. Schreiber.

4 29466 SENATOR LOWELL MURRAY: Absolutely,
5 yes.

6 29467 MR. ROITENBERG: From what you are
7 saying now, I get the impression that you recognized
8 there was so little commitment on behalf of the
9 government that you would have been surprised that
10 simply, by signing this document, it would have caused
11 Thyssen to build the plant.

12 29468 SENATOR LOWELL MURRAY: If you look,
13 as I have recently, at the development of the issue
14 over a period of time, going back to June 1987 -- from
15 June 1987, for about a year, the discussions seemed to
16 be fairly substantive, at least among the government
17 departments.

18 29469 As we got into the summer, with an
19 election looming -- and it was clear to me, and to us,
20 that we were not going to be able to conclude this --
21 the whole strategy on our part came to be to find a way
22 to put the thing on ice for a couple of months; to keep
23 it alive over the election period, so that our
24 government, or some other government, would be able to
25 come back to it when the election was over.

1 29470 Once dissolution happens, everything
2 is on hold in Ottawa, and it is on hold for the
3 election campaign, and then for the subsequent
4 reorganization of the government, and so on and so
5 forth. It takes some time to get going again.

6 29471 And we were under some -- every so
7 often you had these letters from Thyssen, or messages
8 from Thyssen's representatives, saying: We are going
9 to go to Tennessee. We are going to go here, we are
10 going to go there, if we don't get more specificity in
11 Canada, more commitment.

12 29472 So what we wanted was a glorified
13 letter of comfort that we could all sign and that would
14 put the thing on ice for several months, so that
15 somebody else could take it up at a later date.

16 29473 I don't think that either Mr. McPhail
17 or I, or anybody else who was closely involved, was
18 under any illusion that we were about to see
19 smokestacks rising at the Strait of Canso as a result
20 of this Understanding in Principle, not anytime soon.

21 29474 MR. ROITENBERG: So notwithstanding
22 the fact that Thyssen was seeking this letter, much
23 negotiation went toward producing this letter, and they
24 finally had the letter, you recognized that it really
25 wasn't much of a commitment on behalf of the Government

1 of Canada, and you were certain that Thyssen, looking
2 at it, would see the same thing, that there wasn't much
3 commitment there.

4 29475 SENATOR LOWELL MURRAY: I assumed so,
5 yes.

6 29476 MR. ROITENBERG: Which would probably
7 explain your shock and surprise upon learning that, by
8 getting this document signed, there was the release of
9 millions of dollars as a success fee to the point
10 person on behalf of Thyssen, Mr. Schreiber.

11 29477 SENATOR LOWELL MURRAY: Well, look,
12 the RCMP came to see me about this whole issue, the
13 whole Bear Head Project, 10 or 11 years ago, and spent
14 a couple of hours with me, and we went through it all,
15 and toward the end of the interview, one of the RCMP
16 inspectors said to me -- or asked me: What would you
17 say, or what would you think if we told you that this
18 Understanding in Principle had been the trigger that
19 released --

20 29478 He did not mention an amount.
21 Perhaps he said millions, I don't know.

22 29479 He did not mention an amount, and he
23 did not mention any names, he just said, "The release
24 of a lot of money -- "

25 29480 He may have mentioned Mr. Schreiber,

1 but money that would have found its way into the hands
2 of political people.

3 29481 All I could think of was -- well, I
4 said, "Look, it's here in front of us. Read it."

5 29482 I mean, Thyssen must have lawyers at
6 least as good as ours, and they can see that there is
7 no commitment here.

8 29483 The idea that it would be the trigger
9 to release a pile of money to somebody strikes me as
10 being quite ludicrous, and I told them that. I told
11 the police that.

12 29484 Much later the names were in the
13 media, in recent years, and the amounts of money
14 involved, and even then I said, perhaps incautiously,
15 because I don't know anything about the fee schedules
16 of lobbyists or how they operate, but I said again that
17 I was incredulous, and I still am.

18 29485 COMMISSIONER OLIPHANT: In terms of
19 the government's perspective, you are going into an
20 election and you now have in your back pocket an
21 Understanding in Principle whereby a major industrial
22 corporation has agreed to establish in a region that is
23 crying out for jobs. That's a pretty good thing to
24 have in your pocket, as a government going into an
25 election.

1 29486 Was it ever thought that this UIP
2 might be used in the course of the election?

3 29487 SENATOR LOWELL MURRAY: I'm glad you
4 asked that, because I think I heard -- I tuned into the
5 Commission hearings whenever I could, and I think I
6 heard Mr. Schreiber say that he had been down in Nova
7 Scotia, in that area, at the time, talking this up, and
8 so forth. I have no recollection of that.

9 29488 I campaigned down there. They
10 unleashed me briefly in, I think, the Cape Breton
11 ridings, and at least one on the mainland in eastern
12 Nova Scotia, and I went back within the past week or
13 two and looked at the notes that I had used -- one
14 never knows when one might have to recycle or reuse --
15 and there is not a mention of this in there.

16 29489 And I had already, as you know -- I
17 am perhaps getting ahead of myself again, but I had
18 already committed to Mr. Beatty that we would treat it
19 very low-key.

20 29490 In any case, if you look at it, if I
21 had gone down there, or if any of us had gone down
22 there waving this thing around, saying that it was
23 going to create great things at the Strait of Canso, it
24 would not have taken long for an alert journalist, or
25 an alert opposition candidate to stand up and say:

1 Look, there's no commitment there. This is just --

2 29491 COMMISSIONER OLIPHANT: The reason I
3 ask the question is, as a lawyer, I have looked at this
4 document over and over again, and I can't see what
5 possible value it has to either side --

6 29492 SENATOR LOWELL MURRAY: I understand
7 that, yes.

8 29493 COMMISSIONER OLIPHANT: -- except
9 that it did trigger the payment of a lot of money.

10 29494 SENATOR LOWELL MURRAY: So it seems,
11 but the value of it to me, to us, to the government, to
12 ACOA, was that it kept -- whatever flicker of flame
13 that was still existing in this project, it would keep
14 it alive for future --

15 29495 COMMISSIONER OLIPHANT: Okay. Thank
16 you.

17 29496 MR. ROITENBERG: Thank you, sir.

18 29497 If I could ask you to turn to Tab 14,
19 Senator, we are still in the July 1988 period, the deal
20 is being negotiated, and we have a note here of July
21 18th, 1988:

22 "We understand that at the Meech
23 Lake P&P meeting..."

24 29498 -- which is Priorities and Planning:

25 "...the Prime Minister asked

1 Senator Murray to look at
2 possible ways of assisting
3 Thyssen in establishing a
4 facility in Cape Breton. It is
5 likely that this item will be
6 raised at the P&P meeting on
7 Tuesday, July 19, together with
8 defence-related procurement
9 proposals."

10 29499 Do you have any recollection of Prime
11 Minister Mulroney speaking to you at the Meech Lake
12 meetings regarding this proposal at all?

13 29500 SENATOR LOWELL MURRAY: Mr.
14 Roitenberg, I have been looking at this document for
15 the past week, and reflecting on it. It's not
16 indicated on the document who debriefed whom, or what
17 department or agency this comes from. Perhaps it
18 doesn't matter.

19 29501 Second, I have to say that if it was
20 on July 18th, 1988, the agenda and minutes of those
21 meetings would now be in the public domain, so if there
22 is anything there, anybody is free to go look for it.

23 29502 Third, I said to the RCMP when they
24 came to see me, and I have said to the media, and I
25 have said to you, and I am saying again, that Mr.

1 Mulroney gave me the file on June 6th, 1987, and never
2 raised the matter with me again, and that is still my
3 recollection.

4 29503 Now, Meech Lake P&P -- two or three
5 times a year Mr. Mulroney would take us away from --
6 and usually during parliamentary recesses, which this
7 would have been, I think -- would take us away from
8 downtown Ottawa, from where we normally met as a
9 cabinet or P&P, away from our offices, away from our
10 staff, away from our telephones, and off we would go to
11 Meech Lake, or someplace like that, for what was in the
12 nature of a retreat by ministers for a day, sometimes a
13 day and a half or two days.

14 29504 And instead of the transactional
15 business that usually came before cabinet, we would
16 engage in what we liked to think was some strategizing
17 and forward planning.

18 29505 Sometimes the officials would be sent
19 out of the room for a while, while we had the party's
20 pollsters in to give us an overview of the political
21 situation in the country.

22 29506 The thing would begin, always, with
23 quite a long presentation by the Prime Minister
24 himself, a tour d'horizon of what had been going on,
25 the challenges we had faced, and the problems we had

1 faced, and how we had dealt with them.

2 29507 Then, looking ahead, what things were
3 coming up, and the political challenges, and all the
4 rest of it.

5 29508 It would be a very, very lengthy
6 presentation, with notes, I presume, provided by --
7 provided by himself, in many cases, handwritten, but
8 also from PCO and PMO, that sort of thing.

9 29509 Then there would be a long
10 presentation by the Minister of Finance, whoever he
11 happened to be, on the economic situation in the
12 country, and the financial situation of -- the state of
13 the government finances.

14 29510 Then, there would be several days of
15 general discussion.

16 29511 Now, I have no recollection of this
17 happening, but it is conceivable that the Prime
18 Minister, at some point in that meeting, either because
19 of some data that we had heard from the pollsters about
20 the salience of the unemployment issue in Atlantic
21 Canada, or because some Atlantic minister had been
22 expressing some anxiety about unemployment, or
23 something of the kind, that he, Mr. Mulroney, would
24 have looked across the table at me and said, "Well,
25 you've got this Thyssen thing going, haven't you," or

1 something of the kind.

2 29512 I don't recall that. What I would
3 recall is if he had said to me, at that meeting, "Give
4 an account of yourself. What have you been doing with
5 this file? Why aren't you moving it forward," or
6 something like that. Then I would have had to say
7 something, and I would have remembered it.

8 29513 And I certainly would have remembered
9 it if he had given me some direction, because I would
10 have run with it. The first thing I would have done
11 would have been to have pulled Perrin Beatty aside at
12 the first coffee break to say, "You heard what he said.
13 We had better move this up to the ministerial level and
14 get on with it," and I would have gone out and told the
15 officials that there had been a direction.

16 29514 Now, to be fair, this document
17 doesn't say that there was a direction, simply that he
18 asked me to look at possible ways of assisting Thyssen,
19 and I find it rather odd, because this is July 18th,
20 and if you look at the previous tab, I had written him
21 this quite lengthy letter a week previous --

22 29515 Hadn't I?

23 29516 It's there.

24 29517 MR. ROITENBERG: I believe it was
25 July 12th.

1 29518 SENATOR LOWELL MURRAY: July 12th,
2 and this was July 18th. I would hate to think that he
3 hadn't read my letter, or that it hadn't been passed on
4 to him.

5 29519 And it may be -- it is conceivable,
6 also, that he had it in mind at some point when he was
7 doing his tour d'horizon or when somebody --

8 29520 If he had brought it up, I probably
9 said something.

10 29521 And if he said something, and I said
11 something, it just might be in the minutes, which, as I
12 say, are in the public domain now.

13 29522 MR. ROITENBERG: The note suggests
14 that the Prime Minister said something to you, and as a
15 result of that you might bring the matter up at the P&P
16 on the 19th.

17 29523 If you go to Tab 15, there are the
18 conclusory notes of the July 19th P&P meeting.

19 29524 If you go to the second page of the
20 notes, page 3 of 4 of the document --

21 29525 SENATOR LOWELL MURRAY: Yes.

22 29526 MR. ROITENBERG: Under "Defence
23 Procurement":

24 "Mr. Murray raised Thyssen
25 project".

1 29527 SENATOR LOWELL MURRAY: Yes.

2 29528 MR. ROITENBERG: "- many Ministers
3 had serious concerns:
4 - uncertain of details
5 - wanted better process
6 - Senator Murray or his staff to
7 organize meeting for a full
8 review of proposal, before it
9 proceeds to the Committee".

10 29529 So it was raised by you with the PM.

11 29530 SENATOR LOWELL MURRAY: It was raised
12 for me. Look at the agenda item, Mr. Roitenberg,
13 "Defence Procurement":
14 "Mr. Beatty's proposals were
15 approved for..."

16 29531 Whatever, three of them. Then:
17 "Mr. Murray raised Thyssen..."

18 29532 I mean it would be very odd if I
19 didn't, given the agenda item.

20 29533 MR. ROITENBERG: One of the things
21 that struck me as I look at the Minutes of this meeting
22 is the comment:
23 "- many Ministers had serious
24 concerns:
25 - uncertain of details

1 - wanted better process".

2 29534 SENATOR LOWELL MURRAY: Yes. Well...

3 29535 MR. ROITENBERG: If I can direct you

4 to Tab 14A, one tab back from where you are.

5 29536 SENATOR LOWELL MURRAY: Okay.

6 29537 MR. ROITENBERG: It's a memo to then

7 Chief of Staff in the Prime Minister's office, Derek

8 Burney.

9 29538 SENATOR LOWELL MURRAY: Right.

10 29539 MR. ROITENBERG: And if you go to the

11 last paragraph on the first page -- and this is on a

12 review of the proposed Understanding in Principle,

13 dated July 19, 1988:

14 "Although it is not a strictly

15 legal point, you may also want

16 to consider the possible results

17 of a review of the document, by

18 the Auditor General. He will

19 also be concerned with the issue

20 of the authority of Ministers to

21 enter into the proposed

22 agreement. As well since there

23 is likely no 'audit trail' or an

24 unusual 'audit trial(sic)' given

25 the process this proposal has

1 followed, it may ultimately
2 become a source of friction with
3 the Auditor Generals Office."
4 29540 Do you know what is meant by unusual
5 audit trail or lack of an audit trail?
6 29541 SENATOR LOWELL MURRAY: No, I don't.
7 29542 There was a reference -- and I don't
8 know that it's in this book but I saw it somewhere in
9 my review -- at one point somebody saying that the PCO,
10 of which Mr. Alcock was the most senior legal adviser,
11 had been feeling bruised, I think they said, that they
12 thought somebody was doing an end run around them.
13 29543 MR. ROITENBERG: Tab 16.
14 29544 SENATOR LOWELL MURRAY: Oh, is it?
15 29545 MR. ROITENBERG: Yes.
16 29546 SENATOR LOWELL MURRAY: Do you want
17 me to go there?
18 29547 MR. ROITENBERG: That might be
19 helpful to you.
20 29548 SENATOR LOWELL MURRAY: I didn't know
21 about it and, in any case, my opinion is that if PCO
22 was out of the loop, at least when I was around there,
23 it would have been inadvertent and it would have been
24 momentary.
25 29549 Nobody who knows anything, including

1 the very senior people at ACOA who have been around the
2 Public Service for a long time, would for a moment
3 think that we could get anywhere by doing end runs
4 around PCO. It's just not done.

5 29550 So it may refer to that, I don't
6 know. Mr. Alcock may be referring to that. I just
7 don't know.

8 29551 MR. ROITENBERG: If you go to the
9 document at Tab 16, it's a memo to Don McPhail from
10 John McDowell.

11 29552 SENATOR LOWELL MURRAY: I see that,
12 yes.

13 29553 MR. ROITENBERG: If you look to the
14 middle of the document:

15 "PCO is feeling quite bruised on
16 Thyssen..."

17 29554 SENATOR LOWELL MURRAY: Yes. Oh,
18 there it is, yes.

19 29555 MR. ROITENBERG: And it speaks to the
20 fact:

21 "- on Monday, PCO was 'forced'
22 to rely on PMO to provide them
23 with a copy of the
24 'Understanding in Principle'.
25 (That is, ACOA officials were

1 channeling information to the
2 PM, without going through PCO or
3 even providing PCO with a
4 copy);"

5 29556 So what you have just said is there
6 were these concerns in PCO that they were being
7 bypassed --

8 29557 SENATOR LOWELL MURRAY: Yes.

9 29558 MR. ROITENBERG: -- en route to the
10 Prime Minister.

11 29559 SENATOR LOWELL MURRAY: Yes.

12 29560 MR. ROITENBERG: Now, I pause there
13 because we have now seen a number of different
14 instances where you have been reporting directly to the
15 Prime Minister.

16 29561 SENATOR LOWELL MURRAY: Yes.

17 29562 MR. ROITENBERG: Could that have led
18 to this perception that ACOA was going directly to the
19 Prime Minister --

20 29563 SENATOR LOWELL MURRAY: No, no, no.

21 29564 MR. ROITENBERG: -- as opposed to
22 through PCO?

23 29565 SENATOR LOWELL MURRAY: No, no, no.
24 I mean, a Minister has a right to communicate with the
25 Prime Minister and, in my experience, there are no

1 secrets between the Prime Minister and the Clerk of the
2 Privy Council.

3 29566 MR. ROITENBERG: Okay. But there was
4 obviously something here --

5 29567 SENATOR LOWELL MURRAY: There was a
6 problem here, and I don't know whether it was more
7 apparent than real. But I am confident that it was
8 patched up very quickly.

9 29568 I say that without having the
10 evidence for the statement, but I am confident it was.

11 29569 You see, you have had testimony from
12 Mr. Burney.

13 29570 MR. ROITENBERG: Yes.

14 29571 SENATOR LOWELL MURRAY: And I think
15 included in that testimony is the fact that he, after
16 some discussions with the principal ministers involved,
17 instructed Don McPhail to ensure that whatever document
18 we drafted and negotiated would be as noncommittal --
19 would be noncommittal.

20 29572 At that point Mr. McPhail, in
21 conformity with Mr. Burney's -- the conditions set out
22 by Mr. Burney, wrote to the Department of Justice who
23 did an analysis of the previous draft.

24 29573 I don't think you have that there,
25 but anyway.

1 29574 So it was Burney, McPhail, Department
2 of Justice at that point.

3 29575 I think Mr. Burney testified here,
4 quite accurately in my observation, on the respective
5 roles of PMO and PCO in a situation like this.

6 29576 MR. ROITENBERG: So would it be fair
7 to say that once the concerns were raised with you and
8 your department that --

9 29577 SENATOR LOWELL MURRAY: I don't think
10 they were ever raised with me at the time.

11 29578 What was raised with me was the fact
12 that in the early going, you know sometimes these
13 things develop so quickly that people are dealing with
14 information that while it is only a few hours or a few
15 days old is still no longer applicable.

16 29579 But in the early going Mr. McPhail
17 and I thought that a simple letter of comfort signed by
18 me to Bear Head Thyssen would be sufficient. Somehow
19 or other we were soon -- or he was, soon disabused of
20 that notion and it became clear that we would need
21 something more than that; that we would need two or
22 three ministers.

23 29580 The question then was whether -- I
24 think we may have considered briefly sending the letter
25 off by the two or three ministers. Remember, it was to

1 be noncommittal and all this.

2 29581 Paul Tellier, whom you will hear from
3 later today, got wind of this and somewhere in the --
4 somewhere I have seen a note from him saying Senator
5 Murray should be told to follow due process and Senator
6 Murray didn't need any further reminder. I mean, I
7 took that and we followed due process.

8 29582 You see what he was getting at.
9 There should be some formal way of discussing it and,
10 as it turns out, there we are at P&P and I think Ops
11 and various other places over the period leading up to
12 the signature of the UIP.

13 29583 COMMISSIONER OLIPHANT: Senator, the
14 conclusion to be drawn is that a totally noncommittal
15 document becomes more noncommittal by virtue of the
16 signing by a number of ministers.

17 29584 MR. ROITENBERG: The more people who
18 don't commit, the less committal it is.

19 29585 COMMISSIONER OLIPHANT: Yes.

20 29586 SENATOR LOWELL MURRAY: And its
21 endorsement by the Cabinet collectively, Ops or P&P or
22 whatever it was.

23 29587 COMMISSIONER OLIPHANT: It is
24 unbelievable to me that a noncommittal letter from you
25 wouldn't suffice, that the noncommittal letter had to

1 bear the signature of a number of Ministers.

2 29588 SENATOR LOWELL MURRAY: Well, to be
3 fair, in the event it became -- it went from a letter
4 of comfort to something that Thyssen --

5 29589 COMMISSIONER OLIPHANT: Which is
6 about as noncommittal as the letter you would have sent
7 in the first place.

8 29590 SENATOR LOWELL MURRAY: Well, so it
9 seems -- yes.

10 29591 COMMISSIONER OLIPHANT: Maybe more.

11 29592 SENATOR LOWELL MURRAY: Yes.

12 29593 COMMISSIONER OLIPHANT: Okay.

13 29594 MR. ROITENBERG: So I guess to sum
14 up, the government wanted to not commit as many
15 ministries as possible.

16 29595 I will leave that for now.

17 29596 What we have then in a chronology --

18 29597 SENATOR LOWELL MURRAY: We wanted to
19 keep the thing alive and we wanted to do what it would
20 take to keep it alive, subject to the fact that --
21 always subject to the fact that we were not in a
22 position to make firm commitments.

23 29598 Mr. Beatty has told you about that.

24 29599 MR. ROITENBERG: So we are now moving
25 through the summer of '88. We are in August of 1988.

1 And, as you said, there is direction from the Prime
2 Minister's office in the person of Derek Burney --
3 29600 SENATOR LOWELL MURRAY: Yes.
4 29601 MR. ROITENBERG: -- which basically
5 said get this thing signed as long as there is no
6 commitment on the part of the government.
7 29602 Is that fair?
8 29603 SENATOR LOWELL MURRAY: Yes. No
9 commitment to -- well, no commitment to purchase
10 anything or -- yeah.
11 29604 I mean there is a commitment to
12 consider, right.
13 29605 MR. ROITENBERG: Well, actually I
14 will direct you than to Tab 19.
15 29606 SENATOR LOWELL MURRAY: All right.
16 29607 MR. ROITENBERG: This is the memo
17 from Paul Bernier to Don McPhail.
18 29608 SENATOR LOWELL MURRAY: Oh yes.
19 29609 MR. ROITENBERG:
20 "Without knowledge of the
21 content of Justice's August 14
22 legal opinion on the
23 'Understanding in Principle',
24 Derek Burney asked Paul Tellier
25 to proceed as follows:

1 - if the Justice opinion
2 indicates that no significant
3 commitment on the part of the
4 government would arise from the
5 signing of the 'Understanding in
6 Principle' by the three
7 Ministers, arrangements for
8 signature should be made, or
9 - if the proposed Understanding
10 in Principle is determined to be
11 a legally-binding agreement
12 between the Government of Canada
13 and Thyssen, it should be
14 modified to eliminate its
15 binding nature, with a view to
16 having Ministers sign the
17 modified document."

18 29610 SENATOR LOWELL MURRAY: Yes...?

19 29611 MR. ROITENBERG: I don't know if you
20 can be clearer than that. If there is a binding
21 commitment on behalf of the government, get rid of it
22 and then sign; if there is no binding commitment, you
23 are clear to sign.

24 29612 Would that be fair?

25 29613 SENATOR LOWELL MURRAY: I think so,

1 yes.

2 29614 MR. ROITENBERG: You then were
3 advised -- and I am at Tab 20 now -- that the Deputy
4 Ministers at both DRIE and DND --

5 29615 SENATOR LOWELL MURRAY: Yes.

6 29616 MR. ROITENBERG: -- were going to be
7 advising their ministers as it stood then not to sign
8 the Understanding in Principle.

9 29617 SENATOR LOWELL MURRAY: Yes.

10 29618 MR. ROITENBERG: And that was around
11 August 31, 1988, the date of that memo.

12 29619 SENATOR LOWELL MURRAY: Yes. I mean
13 it's the same old, same old, the same arguments that I
14 was hearing in June of 1987 about Defence procurement
15 and about the national industrial base, and so on and
16 so forth.

17 29620 You know, I would have thought that
18 this was not only -- I was perhaps naïve, but I thought
19 at the beginning that this concept was not only
20 attractive from a regional development point of view,
21 but might also have some advantage in introducing some
22 competition into an important area of government
23 procurement.

24 29621 I mean, I couldn't have been more
25 wrong in thinking that that assumption was widely

1 shared in the government, at least by those
2 departments.

3 29622 And then there was this complaint
4 about the fact that we would be perhaps offering
5 incentives or subsidies to a competitor of General
6 Motors.

7 29623 MR. ROITENBERG: One might opine --

8 29624 SENATOR LOWELL MURRAY: I mean,
9 General Motors -- what?

10 29625 MR. ROITENBERG: I was going to say
11 one might opine that competition is always thought of
12 as a good idea except those who may be competing.

13 29626 SENATOR LOWELL MURRAY: Well, yes.
14 You know, General Motors in its various emanations at
15 many times over-lost its virginity when it came to
16 seeking and getting government assistance from various
17 levels of government. We all knew that.

18 29627 MR. ROITENBERG: If I could ask you
19 to turn to Tab 21, sir.

20 29628 SENATOR LOWELL MURRAY: Yes.

21 29629 MR. ROITENBERG: This is a memo from
22 Mr. McPhail --

23 29630 SENATOR LOWELL MURRAY: To me, yes.

24 29631 MR. ROITENBERG: -- to you. If you
25 go to the second page of the memo --

1 29632 SENATOR LOWELL MURRAY: Yes...?

2 29633 MR. ROITENBERG:

3 "The remaining issue is to seek

4 the signatures of Mr. Beatty and

5 Mr. de Cotret."

6 29634 SENATOR LOWELL MURRAY: Right.

7 29635 MR. ROITENBERG:

8 "You should be aware that --

9 although this was not the

10 outcome of the July 27 meeting

11 on Thyssen chaired by Mr.

12 Mazankowski -- the Privy Council

13 Office..."

14 29636 And you have mentioned Mr. Tellier

15 already.

16 29637 SENATOR LOWELL MURRAY: Yes.

17 29638 MR. ROITENBERG:

18 "... for reasons of due process,

19 is urging that the Thyssen

20 initiative be discussed by

21 Cabinet, prior to the signature

22 of the document."

23 29639 So here we have a situation which

24 just supports what you had finished saying, that in the

25 effort of getting these individuals to sign the

1 document, due process should be paramount. There
2 should be the appropriate Cabinet discussions.

3 29640 But the order of business at this
4 point is to seek the signatures of these two ministers.

5 29641 SENATOR LOWELL MURRAY: Right.

6 29642 MR. ROITENBERG: Is that right?

7 29643 SENATOR LOWELL MURRAY: Yes.

8 29644 MR. ROITENBERG: I want to ask you to
9 go back to Tab 12 for a moment.

10 29645 The last page of this letter to the
11 Prime Minister -- this is your letter to the Prime
12 Minister of July 12, 1988.

13 29646 SENATOR LOWELL MURRAY: Yes.

14 29647 MR. ROITENBERG: In the final
15 paragraph in your letter to the Prime Minister you say:

16 "If the Bearhead project is to
17 be brought to fruition, you may
18 wish to share your views with
19 our colleagues, Mr. de Cotret
20 and Mr. Beatty, in order to
21 solicit their support for this
22 approach."

23 29648 SENATOR LOWELL MURRAY: Yes.

24 29649 MR. ROITENBERG: Did you ever hear a
25 response from the Prime Minister or from PMO telling

1 you message received, we will speak to these
2 individuals, we will advise them of what our wishes
3 are?

4 29650 SENATOR LOWELL MURRAY: No. And as
5 time went by of course I had discussions, as you know,
6 with both Mr. Beatty and Mr. de Cotret, and neither of
7 them ever mentioned having heard from the PM.

8 29651 MR. ROITENBERG: You met with Mr. de
9 Cotret on September 12, 1988.

10 29652 SENATOR LOWELL MURRAY: Yes.

11 29653 MR. ROITENBERG: You met with
12 Mr. Beatty on September 14, 1988 and that meeting was
13 attended by Derek Burney as well.

14 29654 SENATOR LOWELL MURRAY: That's part
15 of the record. I have to confess, I have turned it
16 over in my mind and tried to remember even what room we
17 might have met in, whether it was Mr. Burney's or mine
18 or somebody else's, and I'm afraid my mind is a blank
19 on it.

20 29655 MR. ROITENBERG: Well, you were --

21 29656 SENATOR LOWELL MURRAY: But there it
22 is.

23 29657 MR. ROITENBERG: You were kind enough
24 to forward to the Commission your diaries.

25 29658 SENATOR LOWELL MURRAY: Yes.

1 29659 MR. ROITENBERG: Let's see if I can
2 assist you through that medium.

3 29660 SENATOR LOWELL MURRAY: Yes.

4 29661 MR. ROITENBERG: Tab 23 is your
5 selections of your 1988 diary.

6 29662 SENATOR LOWELL MURRAY: Twenty-three?

7 29663 MR. ROITENBERG: Thirty-three, excuse
8 me.

9 29664 SENATOR LOWELL MURRAY: Thirty-three,
10 yes.

11 29665 MR. ROITENBERG: If I could direct
12 you to Monday, September 12, 1988.

13 29666 SENATOR LOWELL MURRAY: Yes, there it
14 is.

15 29667 MR. ROITENBERG:
16 "1h15 R. de Cotret, D. McPhail
17 re: Thyssen 333 WB".
18 29668 333 West Block.

19 29669 SENATOR LOWELL MURRAY: That would
20 be Mr. de Cotret's office I suspect, yes.

21 29670 MR. ROITENBERG: Okay. If I could
22 ask you to go one page forward to September 14, 1988:
23 "4h45 P. Beatty, D. Burney, 231
24 Lang".

25 29671 SENATOR LOWELL MURRAY: That's it,

1 yes.

2 29672 COMMISSIONER OLIPHANT: What date was
3 it?

4 29673 MR. ROITENBERG: On September the
5 14th, sir.

6 29674 Do you recall whose office that was?

7 29675 SENATOR LOWELL MURRAY: Excuse me?

8 29676 MR. ROITENBERG: Do you recall whose
9 office that was?

10 29677 SENATOR LOWELL MURRAY: Well, 231
11 Langevin, no. It's the second floor. Probably
12 Mr. Burney's, I would think.

13 29678 MR. ROITENBERG: It is certainly not
14 a trick, because I don't have a clue.

15 29679 SENATOR LOWELL MURRAY: No. I think
16 it was probably Mr. Burney's office.

17 29680 MR. ROITENBERG: Very well.

18 29681 So those meetings took place.

19 29682 SENATOR LOWELL MURRAY: Yes.

20 29683 MR. ROITENBERG: We had as an outcome
21 of your meeting with Mr. Beatty and as an outcome of
22 your meeting with Mr. de Cotret that both were willing
23 to sign the agreement as it stood then as long as
24 certain conditions applied, at least in the case of
25 Mr. Beatty.

1 29684 SENATOR LOWELL MURRAY: Yes.

2 29685 MR. ROITENBERG: If I can remind you
3 of the conditions, at Tab 22 is an Aide Memoire from
4 September 19, 1988.

5 29686 SENATOR LOWELL MURRAY: Yes.

6 29687 MR. ROITENBERG: At page 7 of the
7 Aide Memoire, which is page 4 of 8 of the document...

8 29688 SENATOR LOWELL MURRAY: Yes...?

9 29689 MR. ROITENBERG: In the middle of the
10 page it refers to your meeting with Mr. Burney and
11 Mr. Beatty --

12 29690 SENATOR LOWELL MURRAY: Ah, yes.

13 29691 MR. ROITENBERG: -- and has the three
14 conditions upon which Mr. Beatty is willing to sign:
15 "(1) the company be informed
16 clearly that in signing the UIP,
17 the Minister of National Defence
18 was not binding the Government
19 to proceed with the LAV project;
20 (2) a letter be sent from the
21 DND Minister to the ACOA
22 Minister noting that in signing
23 the Understanding in Principle,
24 the Minister of Defence was not
25 limiting his discretion to

1 determine the timing of the LAV
2 project, and to recommend a
3 preferred bidder to Cabinet; and
4 (3) communications of the
5 initiative be 'low-key'."

6 29692 Which is something you alluded to
7 about 15 minutes ago.

8 29693 SENATOR LOWELL MURRAY: Yes.

9 29694 MR. ROITENBERG: At Tab 23 is the
10 letter from Mr. Beatty to yourself which is alluded to
11 at condition 2.

12 29695 SENATOR LOWELL MURRAY: Right.

13 29696 MR. ROITENBERG: So the conditions
14 that Mr. Beatty had insisted on were either
15 incorporated in the Understanding in Principle or in
16 your discussions with Mr. Beatty, but they were agreed
17 to?

18 29697 SENATOR LOWELL MURRAY: Yes, and
19 reflected in a covering letter that I later sent to
20 Mr. Schreiber which has been part of -- which I think
21 has been --

22 29698 MR. ROITENBERG: Tab 26.

23 29699 SENATOR LOWELL MURRAY: Yes, okay.

24 29700 MR. ROITENBERG: The cover letter of
25 the Understanding in Principle when it was forwarded to

1 Mr. Schreiber had, at the third paragraph on page 2,
2 quite clearly stated for the attention of
3 Mr. Schreiber:

4 "In this regard, it is the
5 Government's view that the
6 'Understanding in Principle'
7 reflects, to the maximum extent,
8 your request, in keeping with
9 the Government's established
10 procurement policy, and
11 programming guidelines. I would
12 emphasize that the Government of
13 Canada, in so signing, can not,
14 and does not, thereby commit
15 itself to any military, or
16 other, procurement projects with
17 which you may have a present
18 interest."

19 29701 SENATOR LOWELL MURRAY: I see that.

20 29702 MR. ROITENBERG: So it was made clear
21 by yourself in a letter to Mr. Schreiber.

22 29703 SENATOR LOWELL MURRAY: Yes.

23 29704 MR. ROITENBERG: And if there was any
24 concerns about whether Mr. Schreiber had that brought
25 to his attention or understood it, I ask you to turn to

1 Tab 27, which is a memo to file from John McDowell who
2 describes his delivery of the Understanding in
3 Principle to Mr. Schreiber and Mr. Alford on the 25th
4 of September.

5 29705 If you go to the third paragraph:

6 "Mr. Schreiber read the letter
7 from Senator Murray with
8 considerable care. Mr. Alford
9 pointed out that paragraph 3,
10 page 2..."

11 29706 The paragraph I just read to you:

12 "... was effectively a
13 disclaimer because it indicated
14 that in offering the UIP for
15 signature the Government was not
16 necessarily committing to
17 proceed with the LAV project."

18 29707 So it seems to have been made clear,
19 both in your letter and in fact in the presence of
20 Mr. McDowell that this was a very noncommittal
21 letter --

22 29708 SENATOR LOWELL MURRAY: I hope so.

23 29709 MR. ROITENBERG: -- and a very
24 noncommittal agreement.

25 29710 SENATOR LOWELL MURRAY: I hope so. I

1 hope we made it clear.

2 29711 MR. ROITENBERG: One thing I need to
3 inquire, though: You had spent a good deal of time
4 negotiating this arrangement dealing with the
5 Department of National Defence --

6 29712 SENATOR LOWELL MURRAY: Well,
7 Mr. Roitenberg, my dealings were primarily with my
8 Cabinet colleagues, Mr. Beatty and Mr. de Cotret.

9 29713 MR. ROITENBERG: Okay.

10 29714 SENATOR LOWELL MURRAY: God bless
11 them, the officials dealt with their counterparts in
12 those agencies and departments.

13 29715 MR. ROITENBERG: Okay. Dealing with
14 the Minister of National Defence, you had a couple of
15 meetings with him.

16 29716 SENATOR LOWELL MURRAY: Yes,
17 telephone conversations of which you have notes, I
18 think.

19 29717 MR. ROITENBERG: But there was much
20 discussion.

21 29718 SENATOR LOWELL MURRAY: Yes.

22 29719 MR. ROITENBERG: And there was much
23 objection on behalf of the Minister of National Defence
24 to entering into a sole sourcing arrangement and having
25 their hands tied to a guaranteed purchase from Thyssen.

1 29720 Is that right?

2 29721 SENATOR LOWELL MURRAY: Well, that's
3 true. I don't think, if I may say so, that the
4 objection to sole sourcing was an objection in
5 principle. They sole source quite a lot.

6 29722 As a matter of fact, I remember --
7 this is the sort of thing one does remember -- Elmer
8 MacKay, whom you heard from yesterday -- saying to me
9 at some point when all this sole source, those
10 objections were coming up, mark my words, they will
11 sole source and they will sole source to General Motors
12 in London, Ontario.

13 29723 And I remember thinking Elmer is
14 getting a bit paranoid on this, but on that he was
15 prescient.

16 29724 MR. ROITENBERG: Without cloaking him
17 with the label of prophet, I direct you to Tab 29.

18 29725 SENATOR LOWELL MURRAY: Yes, I see
19 it.

20 29726 MR. ROITENBERG: While you were
21 negotiating with the Minister of National Defence, were
22 you aware that there were parallel negotiations going
23 on with General Motors for a sole source contract even
24 while the Understanding in Principle was being signed?

25 29727 SENATOR LOWELL MURRAY: Not

1 specifically, no. No.

2 29728 General Motors, somewhere in the
3 background they were also letting it be known that
4 perhaps they could do something in Cape Breton, or in
5 the region, and I never did get to the bottom of that
6 because nothing came of it.

7 29729 But no, I don't think I was aware of
8 this. In any case, the letter was after I had left
9 that portfolio.

10 29730 MR. ROITENBERG: I'm going to ask
11 you, if you wouldn't mind, to turn to Tab 32.

12 29731 SENATOR LOWELL MURRAY: Yes.

13 29732 MR. ROITENBERG: Tab 32 has a copy of
14 your phone log from 1987.

15 29733 SENATOR LOWELL MURRAY: Yes.

16 29734 MR. ROITENBERG: You said before that
17 you received the file from Prime Minister Mulroney
18 early in June. I believe you gave the date of June the
19 6th?

20 29735 SENATOR LOWELL MURRAY: Yes.

21 29736 MR. ROITENBERG: If you could turn to
22 June the 15th --

23 29737 SENATOR LOWELL MURRAY: Yes.

24 29738 MR. ROITENBERG: In your phone logs
25 you have a place for calls that you have placed

1 yourself and calls that you have received.

2 29739 SENATOR LOWELL MURRAY: Yes.

3 29740 MR. ROITENBERG: If I could direct
4 you to "9h35" under the heading of calls received, you
5 have a notation there of a call being received from
6 "Ambassador Doucet".

7 29741 SENATOR LOWELL MURRAY: Fred, yes.

8 29742 MR. ROITENBERG: Fred Doucet. I'm
9 going to ask you to turn to Tab 37 where I believe you
10 have notes of that phone conversation.

11 29743 SENATOR LOWELL MURRAY: Yes. Yes.

12 29744 Let me just say, I have been keeping
13 notes of this kind since my student days and more
14 details certainly since the 1960s, and they are notes
15 mostly of telephone conversations that I received.

16 29745 I kept them because there would be so
17 many conversations about so many different subjects
18 that at the end of the day I would want some reminder
19 of what I had been doing and what I might have to
20 follow up.

21 29746 I didn't have in mind that I would --
22 history or that I would be coming to a Royal Commission
23 with them.

24 29747 But the note -- some time ago, after
25 I met you and gave you the logs, I tuned in here to the

1 Commission and heard various witnesses, especially Fred
2 Doucet on the first morning, unable to recollect
3 conversations that had taken place with me on a certain
4 date, and it dawned on me at the time that I would be
5 coming here and I would be asked the same question and
6 with a few exceptions I would not be able to recollect
7 the detail of those conversations.

8 29748 I knew I had these notes, they were
9 on -- I had sent them all off to the National Archives
10 some time ago. So I sent for them for the relevant
11 months and then I let you know I had them, and you sent
12 Mr. Edgett and we sat with the log on one side of us
13 and we would look up sort of relevant conversation and
14 then I would go through the notes to see if there was
15 something, if I had a note of the conversation.

16 29749 So that's what it is.

17 29750 I will acknowledge, before anybody
18 else brings it up that it is pretty crude shorthand,
19 incomplete sentences, in some cases just a word; and,
20 second, that it is very one-sided.

21 29751 What is written in all my notes going
22 back all those years -- and they are voluminous -- is
23 what somebody was saying to me. There is nothing in
24 any of these notes about what I said to them.

25 29752 So they are what they are.

1 29753 So anyway, yes, I have Fred -- the
2 notes of the conversation with Fred Doucet, some of
3 which I had recalled anyway, but there you are.

4 29754 There is a reference to he had just
5 come back from Venice with the Prime Minister and there
6 is a reference to that, and South Africa and so forth.

7 29755 MR. ROITENBERG: Okay. So if I can
8 then direct you to --

9 29756 SENATOR LOWELL MURRAY: ACOA.

10 29757 MR. ROITENBERG: -- the "calling re
11 ACOA".

12 29758 SENATOR LOWELL MURRAY: Right.

13 29759 MR. ROITENBERG: Can you read what it
14 says underneath that?

15 29760 SENATOR LOWELL MURRAY: Well, in all
16 modesty "Reaction from brethren in Atl very good to my
17 appt".

18 29761 MR. ROITENBERG: Okay. It was
19 "brethren" that I couldn't make out.

20 29762 SENATOR LOWELL MURRAY: Brethren.

21 29763 MR. ROITENBERG: I wasn't trying to
22 put you on the spot for any lack of humility.

23 29764 SENATOR LOWELL MURRAY: From the
24 brethren, yes. It means people in Atlantic Canada.

25 29765 MR. ROITENBERG: Okay. It says:

1 "Another document coming to me."
2 29766 Meaning to you.
3 29767 SENATOR LOWELL MURRAY: Yes.
4 29768 MR. ROITENBERG:
5 "PM strongly endorses Thyssen
6 project."
7 29769 SENATOR LOWELL MURRAY: Yes, he said
8 that.
9 29770 MR. ROITENBERG: Now, again I pause.
10 The notation in your call log is Ambassador Doucet. He
11 was at the time an Ambassador at large?
12 29771 SENATOR LOWELL MURRAY: Yes.
13 29772 MR. ROITENBERG: In charge of
14 arranging -- he was the Chair of the Committee for
15 International Summits, if I recall.
16 29773 SENATOR LOWELL MURRAY: Yes.
17 29774 MR. ROITENBERG: It goes on, there
18 are two stars and it says:
19 "Key is the early order from
20 DND."
21 29775 SENATOR LOWELL MURRAY: Yes.
22 29776 MR. ROITENBERG:
23 "Maz has spoken to Beatty..."
24 29777 I take it "Maz" is Mazankowski --
25 29778 SENATOR LOWELL MURRAY: Right, yes.

1 29779 MR. ROITENBERG: -- the former Deputy
2 Prime Minister.

3 29780 SENATOR LOWELL MURRAY: Yes.

4 29781 MR. ROITENBERG:
5 "... didn't get an
6 unfavorable..."

7 29782 SENATOR LOWELL MURRAY: Something,
8 yes. Reaction, I suppose it was, or response.

9 29783 MR. ROITENBERG: Again, these are
10 notes of what was said to you by Mr. Doucet?

11 29784 SENATOR LOWELL MURRAY: Yes, yes. I
12 don't know what I said to him.

13 29785 MR. ROITENBERG: Okay.
14 "I should speak to Beatty
15 Tell him it's a must."

16 29786 SENATOR LOWELL MURRAY: Right.

17 29787 MR. ROITENBERG: We are talking about
18 sales to Canada and the U.S.

19 29788 SENATOR LOWELL MURRAY: Yes.

20 29789 MR. ROITENBERG: "Thyssen..."
21 something board.

22 29790 SENATOR LOWELL MURRAY: Probably
23 senior board, S-R, yes.

24 29791 MR. ROITENBERG: Okay:
25 "Thyssen sr. bd. appvd project

1 last Thursday
2 conditional only on DND
3 Need decision by July of this
4 year
5 Everything else is sgd sealed &
6 delivered."
7 29792 SENATOR LOWELL MURRAY: Yes.
8 29793 MR. ROITENBERG: Very informative
9 conversation. You are finding out what the board of
10 Thyssen had approved last week. You are finding out
11 that you need to speak to your colleague Mr. Beatty --
12 29794 SENATOR LOWELL MURRAY: Yes.
13 29795 MR. ROITENBERG: -- and what you
14 should convey to him, basically how to get the job done
15 that the Prime Minister strongly endorses.
16 29796 SENATOR LOWELL MURRAY: Yes.
17 29797 MR. ROITENBERG: If I could ask you
18 to turn back to Tab 33.
19 29798 SENATOR LOWELL MURRAY: Yes, 33.
20 29799 MR. ROITENBERG: Thirty-three. This
21 is your 1988 diary.
22 29800 SENATOR LOWELL MURRAY: Yes.
23 29801 MR. ROITENBERG: So this would have
24 been -- I'm asking you to go to September 6th.
25 29802 SENATOR LOWELL MURRAY: I see it.

1 29803 MR. ROITENBERG: This would have been
2 around the time that you were heavily involved in the
3 negotiations of the Understanding in Principle.

4 29804 SENATOR LOWELL MURRAY: Yes.

5 29805 MR. ROITENBERG: The last month
6 before it is eventually signed. You have at 2h30 a
7 meeting with Fred Doucet.

8 29806 SENATOR LOWELL MURRAY: In my own
9 office, yes.

10 29807 MR. ROITENBERG: In your office.

11 29808 SENATOR LOWELL MURRAY: By this time
12 he is a lobbyist, acting on -- and had declared himself
13 to me.

14 29809 MR. ROITENBERG: Declared himself to
15 you that he was a lobbyist acting for Thyssen.

16 29810 SENATOR LOWELL MURRAY: Yes. He had
17 called me about that sometime after he left the
18 government, yes.

19 29811 MR. ROITENBERG: Well, in that vein
20 I'm going to ask you to turn to Tab 34.

21 29812 SENATOR LOWELL MURRAY: Right.

22 29813 MR. ROITENBERG: Where you will have
23 at 3h30 p.m. a received phone call.

24 29814 SENATOR LOWELL MURRAY: I'm sorry,
25 what date?

1 29815 MR. ROITENBERG: I'm sorry, August
2 30th. My apologies.

3 29816 SENATOR LOWELL MURRAY: Thirty-four?

4 29817 MR. ROITENBERG: Tab 34 --

5 29818 SENATOR LOWELL MURRAY: Yes.

6 29819 MR. ROITENBERG: -- August 30th, a
7 received phone call from Fred Doucet at 3h30 p.m.

8 29820 SENATOR LOWELL MURRAY: Yes. Yes.

9 29821 MR. ROITENBERG: I'm hoping it's p.m.
10 It doesn't say, but 3:30 I would expect.

11 29822 SENATOR LOWELL MURRAY: Definitely.

12 29823 MR. ROITENBERG: All right. If you
13 go to Tab 44 --

14 29824 SENATOR LOWELL MURRAY: Yes.

15 29825 MR. ROITENBERG: -- there seems to be
16 notes of a phone call from Fred Doucet. At the top
17 it's written "August 28 '88", but that doesn't seem to
18 match with your phone log.

19 29826 SENATOR LOWELL MURRAY: Doesn't it?
20 Well, I think --

21 29827 MR. ROITENBERG: I'm sorry, Tab 44,
22 Mr. Commissioner, is where the note is.

23 29828 SENATOR LOWELL MURRAY: Well, unless
24 I was mistaken on the date, as nearly as I can tell
25 over here on the left where I marked -- that's my -- up

1 on the right, "August 28" was added the other day when
2 Mr. Edgett and I were making copies of this stuff. But
3 over here, over here on the left where obviously there
4 was a --

5 29829 MR. ROITENBERG: Where there was a
6 hole punch.

7 29830 SENATOR LOWELL MURRAY: Yes, a hole
8 punch. But as near as I can tell, that looks to me
9 like the 28th, "28-08-'88".

10 29831 MR. ROITENBERG: Okay. Well, we have
11 in your phone logs there was the call on the 30th, the
12 note says the 28th. It was in late August.

13 29832 SENATOR LOWELL MURRAY: Yes.

14 29833 MR. ROITENBERG: And the note is:

15 "Fred Doucet
16 Trying to earn his living these
17 days
18 Thyssen..."

19 29834 SENATOR LOWELL MURRAY: Yes.

20 29835 MR. ROITENBERG: Indicating to you
21 that he is working for Thyssen.

22 29836 If you go down towards the middle:

23 "Final language in Thyssen MOU
24 will be presented to Justice
25 tomorrow".

1 29837 SENATOR LOWELL MURRAY: I'm not sure
2 whether that is "Final" or "Find", but anyway.
3 29838 MR. ROITENBERG: Okay.
4 29839 SENATOR LOWELL MURRAY: It might be
5 "Final", yes.
6 "... language... and will be
7 presented to Justice tomorrow".
8 29840 Yes.
9 29841 MR. ROITENBERG: Quote:
10 "PM told me if that were done
11 next step will be to get 3
12 Mins..."
13 29842 I'm assuming "Mins" is Ministers?
14 29843 SENATOR LOWELL MURRAY: Yes, it is.
15 29844 MR. ROITENBERG:
16 "... to get 3 Mins only
17 recalcitrant is Beatty
18 The rest is for L to decide".
19 29845 SENATOR LOWELL MURRAY: Yes.
20 29846 "L" would probably be me.
21 29847 MR. ROITENBERG: That's what I
22 thought, but I didn't want to presume.
23 29848 SENATOR LOWELL MURRAY: Yes.
24 29849 MR. ROITENBERG: And then at the
25 bottom of the page:

1 "3 people need to hear from you
2 Perrin
3 Derek
4 Mac(sic)".

5 29850 SENATOR LOWELL MURRAY: "Maz", I
6 think.

7 29851 MR. ROITENBERG: Oh, "Maz", okay.

8 29852 SENATOR LOWELL MURRAY: Probably. I
9 don't know who Mac would -- well...

10 29853 MR. ROITENBERG: I thought it could
11 be Mr. MacKay.

12 29854 SENATOR LOWELL MURRAY: It could be,
13 but more likely I think Mr. Mazankowski.

14 29855 MR. ROITENBERG: All right.

15 29856 SENATOR LOWELL MURRAY: Yes.

16 29857 MR. ROITENBERG: So again, there is
17 some communication from Mr. Doucet --

18 29858 SENATOR LOWELL MURRAY: Yes.

19 29859 MR. ROITENBERG: -- that he has
20 spoken to the Prime Minister that there is this need to
21 get three ministers to sign. The only one that seems
22 to be problematic is Perrin Beatty. He is one of the
23 people that you need to speak to.

24 29860 SENATOR LOWELL MURRAY: I see that,
25 yes.

1 29861 MR. ROITENBERG: Shortly after this
2 note at Tab 34 of the phone call with Mr. Doucet there
3 is a note on September 1st of receiving a phone call
4 from Mr. Doucet.

5 29862 SENATOR LOWELL MURRAY: Yes.

6 29863 MR. ROITENBERG: We then on
7 December(sic) 2nd have you placing calls to Mr. Beatty
8 and Mr. de Cotret in furtherance of your trying to get
9 some closure on the Understanding and Principle.

10 29864 SENATOR LOWELL MURRAY: September...?

11 29865 MR. ROITENBERG: Second.

12 29866 SENATOR LOWELL MURRAY: Oh yes, de
13 Cotret and -- oh yes. Yes, I see that.

14 29867 MR. ROITENBERG: On September 12th,
15 if you keep going in this same diary, you placed a call
16 to Fred Doucet at around noon --

17 29868 SENATOR LOWELL MURRAY: Yes.

18 29869 MR. ROITENBERG: -- and received a
19 call from Mr. Doucet at 5:15.

20 29870 SENATOR LOWELL MURRAY: Yes.

21 29871 MR. ROITENBERG: If you go to Tab
22 38 --

23 29872 SENATOR LOWELL MURRAY: Yes. Fred
24 Doucet agenda?

25 29873 MR. ROITENBERG: No, Tab 38, which

1 appears to be a note of your --

2 29874 SENATOR LOWELL MURRAY: Oh, sorry.

3 Yes.

4 29875 MR. ROITENBERG: -- September 12th

5 phone call.

6 29876 SENATOR LOWELL MURRAY: Yes.

7 29877 MR. ROITENBERG: At the top it says

8 "September 12 '87".

9 29878 SENATOR LOWELL MURRAY: Right.

10 29879 MR. ROITENBERG: That was written in

11 I believe last week by your assistant?

12 29880 SENATOR LOWELL MURRAY: Yes.

13 29881 MR. ROITENBERG: You have satisfied

14 yourself it is September 12, 1988 that it is referring

15 to?

16 29882 SENATOR LOWELL MURRAY: Yes, I am,

17 especially when I read below, well, a conference call

18 with Beatty, but also this reference; but, more

19 importantly, the notes of my conversation with

20 Mr. McPhail. It is clear to me, reading it, that this

21 would be in the last few days leading up to the

22 Understanding in Principle.

23 29883 Yes, it should be '88, I'm sorry.

24 29884 MR. ROITENBERG: All right. I just

25 want to focus in on your note of your phone

1 conversation with Mr. Doucet.

2 29885 If this was in fact year 5:15 phone
3 conversation, that you received a call from Mr. Doucet,
4 you would have already, as we established by looking at
5 your diary for that date, met with Mr. de Cotret and
6 secured that he would sign the Understanding in
7 Principle.

8 29886 SENATOR LOWELL MURRAY: Well,
9 somewhere -- yes, I guess the answer to that is yes.

10 29887 Somewhere -- I don't know whether you
11 have them -- there were two fairly lengthy
12 conversations that I had with -- one with Mr. -- two
13 with Mr. Beatty and one with Mr. de Cotret as we went
14 again through the issues as to what signing the UIP
15 would involve, and so on, and Mr. Beatty had again
16 emphasized to me the need for low-key communications
17 and, well, all the arguments were brought forward by
18 both Ministers.

19 29888 MR. ROITENBERG: But the final
20 meeting with Mr. de Cotret where you received his
21 assurance that he would sign was earlier in the day on
22 September 12th and your meeting with Mr. Beatty and
23 Mr. Burney was scheduled for two days hence, on the
24 14th?

25 29889 SENATOR LOWELL MURRAY: So it seems.

1 29890 MR. ROITENBERG: And in this phone
2 conversation with Fred Doucet:
3 "Re Thyssen
4 Whether cd - do conf. call w
5 Beatty".

6 29891 SENATOR LOWELL MURRAY: Yes. I don't
7 know what that refers to or who would take part in it.
8 I don't think it ever took place, certainly not with
9 me.

10 29892 MR. ROITENBERG: Mr. Beatty was the
11 only Minister left of the three, including yourself,
12 yet to agree to sign at that point the Understanding in
13 Principle.

14 29893 SENATOR LOWELL MURRAY: Well, that
15 could be. I would have to look at the dates of my
16 phone conversations with him to be sure of that.

17 29894 Yes, I think that is probably true.
18 Certainly my phone conversations with him and Mr. de
19 Cotret, the ones with him, the two I had with him were
20 a little bit, I would say, more problematic.

21 29895 MR. ROITENBERG: And then on the
22 14th, finally there was that meeting with Mr. Burney
23 and Mr. Beatty where the conditions required for
24 Mr. Beatty to sign were hashed out. Yes?

25 29896 SENATOR LOWELL MURRAY: I will say

1 yes. I will say yes.

2 29897 MR. ROITENBERG: There is one further
3 note I wanted to ask you about, sir. It is a note you
4 have October 2, 1987.

5 29898 SENATOR LOWELL MURRAY: Yes.

6 29899 MR. ROITENBERG: It's at Tab 40.

7 29900 SENATOR LOWELL MURRAY: Yes, I see
8 it.

9 29901 MR. ROITENBERG: Who is Jamie Burns?

10 29902 SENATOR LOWELL MURRAY: My
11 recollection is that he was a senior person on
12 Mr. Mazankowski's staff, political advisor, an
13 assistant.

14 29903 MR. ROITENBERG: This appears to be a
15 phone conversation that you had with Mr. Burns.

16 29904 SENATOR LOWELL MURRAY: Yes.

17 29905 MR. ROITENBERG: That says:
18 "Mtg lasted only 10 more mins".

19 29906 SENATOR LOWELL MURRAY: Yes. Just on
20 that, I don't remember the conversation and I don't
21 remember the meeting, but my guess is that what this
22 means is that there was a meeting that I attended and
23 left early, and perhaps Mr. Burns called me or I called
24 him to find out how the rest of the meeting had gone
25 and he told me that it lasted only 10 more minutes

1 after my departure.

2 29907 MR. ROITENBERG: The topic of the
3 meeting seems to have been Thyssen.

4 29908 SENATOR LOWELL MURRAY: Yes.

5 29909 MR. ROITENBERG: If you go to the
6 bottom of the page, there is talk about a tender for
7 January of 1988 rather than a sole source.

8 29910 SENATOR LOWELL MURRAY: Yes.

9 29911 MR. ROITENBERG: The condition being
10 that the product must be built in Atlantic Canada.

11 29912 SENATOR LOWELL MURRAY: Yes.

12 29913 MR. ROITENBERG: And it says at the
13 top of the page, after:
14 "Mtg lasted only 10 more mins
15 Talked w Reid..."

16 29914 SENATOR LOWELL MURRAY: That would be
17 Ross Reid who was, I think, Deputy Chief of Staff in
18 the Prime Minister's Office.

19 29915 MR. ROITENBERG: Yes.
20 "... F. Doucet..."

21 29916 SENATOR LOWELL MURRAY: Right.

22 29917 MR. ROITENBERG:
23 "... Moores for Thyssen..."

24 29918 SENATOR LOWELL MURRAY: Yes.

25 29919 MR. ROITENBERG: And "MacKay".

1 29920 SENATOR LOWELL MURRAY: Yes. I don't
2 know whether that means they were present at the
3 meeting or whether Mr. Burns got in touch with him
4 after the meeting, but there you are.

5 29921 MR. ROITENBERG: But it certainly was
6 on the subject of Thyssen?

7 29922 SENATOR LOWELL MURRAY: Oh
8 definitely, yes. Then:
9 "Bottom line - 'J's idea'..."

10 29923 And I presume "J" refers to Jamie,
11 and the rest of it I suspect, trying to reconstruct it
12 22 years later, but I expect the rest of it is
13 Mr. Burns trying to be helpful with an approach of his
14 own to the issue.

15 29924 MR. ROITENBERG: Mr. Commissioner, I
16 believe that I'm done my questioning of Senator Murray.

17 29925 It is now 11:10. Perhaps if we take
18 10 or 15 minutes, I can just confirm that I have no
19 further questions and we can turn it over to other
20 counsel if they do.

21 29926 COMMISSIONER OLIPHANT: All right.
22 That's fine, thanks, Mr. Roitenberg.

23 29927 We will take the morning recess and
24 come back out about 11:25.

25 29928 MR. ROITENBERG: Thank you, sir.

1 --- Upon recessing at 11:13 a.m. / Suspension à 11 h 13

2 --- Upon resuming at 11:25 a.m. / Reprise à 11 h 25

3 29929 COMMISSIONER OLIPHANT: Be seated,
4 please.

5 29930 Mr. Roitenberg...?

6 29931 MR. ROITENBERG: Thank you, sir.

7 29932 Senator, I thank you very much. I
8 believe other counsel may have some questions for you.
9 But before I turn over the podium to them, I want to
10 thank you for going back through your materials and
11 your archives and trying to find those notes for us.
12 That extra effort was greatly appreciated.

13 29933 SENATOR LOWELL MURRAY: Well, thank
14 you, Mr. Roitenberg. I was glad to put them forward,
15 as I said, not because I think they are so exceptional,
16 but because they are not.

17 29934 When I look back on them and all
18 these other notes that I was keeping, it was all in a
19 day's work. Nothing strikes me as being extraordinary
20 about any of it, but if it can help, well good. It
21 certainly helped jog my memory.

22 29935 COMMISSIONER OLIPHANT: All right.
23 Other counsel.

24 29936 Mr. Hughes...?

25 29937 MR. HUGHES: We have no questions for

1 the Senator, Commissioner.

2 29938 COMMISSIONER OLIPHANT: Thank you.

3 29939 Mr. Vickery...?

4 29940 MR. VICKERY: No questions, thank

5 you.

6 29941 COMMISSIONER OLIPHANT: Mr.

7 Houston...?

8 29942 MR. HOUSTON: Thank you.

9 29943 COMMISSIONER OLIPHANT: Okay.

10 29944 Mr. Houston represents Mr. Doucet,

11 Senator.

12 29945 SENATOR LOWELL MURRAY: Thank you.

13 EXAMINATION: SENATOR LOWELL MURRAY BY MR. HOUSTON /

14 INTERROGATOIRE : SÉNATEUR LOWELL MURRAY PAR Me HOUSTON

15 29946 MR. HOUSTON: Good morning, Senator.

16 29947 SENATOR LOWELL MURRAY: Good morning,

17 Mr. Houston.

18 29948 MR. HOUSTON: I just have a few

19 questions for you, sir.

20 29949 I understand that you have known

21 Mr. Fred Doucet for many years.

22 29950 SENATOR LOWELL MURRAY: Yes.

23 29951 MR. HOUSTON: You went to school

24 together?

25 29952 SENATOR LOWELL MURRAY: I knew --

1 29953 MR. HOUSTON: Or at least at St.
2 Francis Xavier?

3 29954 SENATOR LOWELL MURRAY: I knew him as
4 Gerry's brother in the first instance. Gerry was on
5 campus with me. I think Fred came the year after I
6 left.

7 29955 MR. HOUSTON: It was the year after
8 or two years after?

9 29956 SENATOR LOWELL MURRAY: He arrived a
10 year or two after I left, but I have known him since --
11 certainly since the 1960s.

12 29957 MR. HOUSTON: And you know that the
13 Doucet brothers grew up in Cape Breton?

14 29958 SENATOR LOWELL MURRAY: The place,
15 the house that they grew up in is a very short distance
16 from the house that we now own in Cape Breton, yes.

17 29959 MR. HOUSTON: Since the '60s you have
18 had occasion to speak to Fred on a regular basis, or at
19 least frequently over the past 30-40 years?

20 29960 SENATOR LOWELL MURRAY: That's true,
21 yes. I knew him in the '60s when he was Assistant to
22 the President of St. FX University, and then later, in
23 the mid-'70s when I was in New Brunswick as Deputy
24 Minister to Premier Hatfield, I commissioned or had the
25 government commission Fred to do a study of community

1 colleges in the largely Francophone northern part of
2 the province. And over the years our paths crossed in
3 various capacities, yes.

4 29961 MR. HOUSTON: In the mid-'80s you
5 obviously would have had dealings with him from time to
6 time when he was working in Mr. Mulroney's office and
7 then subsequently as ambassador?

8 29962 SENATOR LOWELL MURRAY: Yes, bit.
9 Yes.

10 29963 MR. HOUSTON: When the project that
11 we now know as Bear Head was first introduced, would I
12 be correct, sir, that it was a concept that, for want
13 of a better term, excited the people down in Cape
14 Breton? There was a chance to have this major
15 manufacturing plant established in Cape Breton?

16 29964 SENATOR LOWELL MURRAY: I don't know
17 how widely it was known among the population, but
18 anybody who knew anything about it was excited by the
19 prospect.

20 29965 As I have said, there was nothing
21 else anywhere on the horizon, that I was aware of or
22 that Mr. Mulroney was aware of or anybody else was
23 aware of.

24 29966 MR. HOUSTON: You talked about
25 employers that had shut down. I understand that the

1 heavy water plant at Port Hawkesbury had shut down in
2 the late '70s, early '80s.

3 29967 Does that sound familiar, sir?

4 29968 SENATOR LOWELL MURRAY: Yes, I think
5 it was an AEC -- Atomic Energy of Canada plant I think,
6 wasn't it? Yes. And I think it was shut down as a
7 result of government direction, our government, the
8 Mulroney government. There was no market for the heavy
9 water and they were stockpiling it in warehouses down
10 there. So we or AECL or whoever was in charge of it
11 shut it down.

12 29969 MR. HOUSTON: The Gulf refinery in
13 the Port Hawkesbury area shut down also at or about the
14 time?

15 29970 SENATOR LOWELL MURRAY: I think so.

16 29971 MR. HOUSTON: There were problems
17 obviously in the coal industry with the coal mines
18 shutting down all over the Maritimes, in particular in
19 Cape Breton?

20 29972 SENATOR LOWELL MURRAY: Yes.

21 29973 MR. HOUSTON: And there were the
22 problems obviously related to the steel plant in Sydney
23 and the problems that ultimately resulted in it
24 shutting down?

25 29974 SENATOR LOWELL MURRAY: Yes.

1 29975 MR. HOUSTON: So when you talked
2 about the fact that there were a number of employers
3 shutting down, the possibility of adding jobs was
4 something that was very important to many people in
5 Cape Breton.

6 29976 SENATOR LOWELL MURRAY: Yes, 500 of
7 them.

8 29977 MR. HOUSTON: As a consequence, sir,
9 when somebody you had known for 20-30 years, namely
10 Fred Doucet, a Cape Bretoner, called you about the Bear
11 Head Project, did you find it unusual that he would be
12 calling you?

13 29978 SENATOR LOWELL MURRAY: No. He was a
14 Cape Bretoner. He was known to me and we had a cordial
15 relationship, and he was a supporter of the Progressive
16 Conservative Party and obviously interested in the
17 standing of the government and the party there and,
18 happily, one always hopes that public policy decisions
19 and the decisions in the public interest, job creation
20 and the like, will coincide with the interests of your
21 political interests.

22 29979 So we didn't need to rehearse that
23 with one another. I think we both knew where each of
24 us was coming from in any discussion of a matter of
25 that kind.

1 29980 MR. HOUSTON: Even with the aid of
2 your notes, Senator, did you find anything untoward or
3 improper about Mr. Doucet phoning you at that time
4 about this matter?

5 29981 SENATOR LOWELL MURRAY: No, I did
6 not.

7 29982 MR. HOUSTON: Thank you, sir.
8 29983 Thank you, Mr. Commissioner.

9 29984 COMMISSIONER OLIPHANT: Thank you
10 very much, Mr. Houston.

11 29985 Mr. Auger, any questions?
12 29986 MR. AUGER: No questions, thank you.

13 29987 COMMISSIONER OLIPHANT: All right.
14 29988 Mr. Roitenberg, do you have any
15 redirect examination?

16 29989 MR. ROITENBERG: I do not,
17 Mr. Commissioner. Thank you.

18 29990 COMMISSIONER OLIPHANT: Is there any
19 reason why we can't excuse Senator Murray at this time?
20 29991 MR. ROITENBERG: I see none.

21 29992 COMMISSIONER OLIPHANT: All right.
22 29993 Senator, I want to thank you on
23 behalf of the Commission for attending to give your
24 evidence this morning and I want to endorse what
25 Mr. Roitenberg had to say in terms of the extra effort

1 to which you went to obtain your notes from the
2 archives. I think that they will prove to be of
3 valuable assistance to the Commission and I thank you
4 for that, as well as your testimony, sir.

5 29994 SENATOR LOWELL MURRAY: Thank you for
6 the opportunity.

7 29995 COMMISSIONER OLIPHANT: You are free
8 to leave, Senator. Thank you.

9 29996 SENATOR LOWELL MURRAY: Thank you for
10 the opportunity.

11 29997 COMMISSIONER OLIPHANT: Good morning.

12 29998 MR. ROITENBERG: Mr. Commissioner,
13 you had inquired yesterday regarding a request that had
14 been forwarded by counsel for Mr. Mulroney to conduct
15 an examination of Mr. Mulroney in-chief as the first
16 examination of him when he testifies next week.

17 29999 I can advise you that we have now
18 confirmed with all counsel that there is no opposition
19 to that occurring.

20 30000 I can advise that Mr. Auger, on
21 behalf of Mr. Schreiber, wished to confirm, number one,
22 that the examination of Mr. Mulroney by his own counsel
23 would be an examination in-chief pursuant to the
24 ordinary rules of court, and by that I mean that it
25 would not be through leading questions.

- 1 30001 That has been acknowledged.
- 2 30002 Secondly if it were done through the
3 ordinary rules of court, in the normal course there
4 would be a right of re-examination. My understanding
5 is that counsel for Mr. Mulroney acknowledges that in
6 this instance, having regard to the regular rules of
7 procedure in an inquiry, there would be no right of
8 re-examination, but in fact if new matters arose they
9 reserve the right to apply to you to be able to examine
10 on certain of those new matters subject to
11 circumstance.
- 12 30003 But they acknowledge that there is no
13 right of re-examination.
- 14 30004 COMMISSIONER OLIPHANT: All right.
15 Thank you.
- 16 30005 Mr. Hughes, I have heard what
17 Mr. Roitenberg has to say. I trust it is not necessary
18 for me to ask you to confirm it, but do you confirm
19 what he has said?
- 20 30006 MR. HUGHES: We do. Thank you,
21 Commissioner.
- 22 30007 COMMISSIONER OLIPHANT: I look for a
23 commitment from you, unlike other things that we have
24 heard this morning about non-commitments.
- 25 30008 All counsel are satisfied with the

1 statement just made by Mr. Roitenberg as endorsed by
2 Mr. Hughes on behalf of Mr. Mulroney?

3 30009 Mr. Vickery...?

4 30010 MR. VICKERY: Yes, I'm satisfied.
5 Thank you.

6 30011 COMMISSIONER OLIPHANT: Thank you.

7 30012 Mr. Houston...?

8 30013 MR. HOUSTON: Yes, sir.

9 30014 COMMISSIONER OLIPHANT: Mr. Auger...?

10 30015 MR. AUGER: Yes, Commissioner.

11 30016 COMMISSIONER OLIPHANT: All right,
12 thank you very much.

13 30017 Then on Tuesday of next week, at
14 9:30, we will commence with the examination of
15 Mr. Mulroney by one of his counsel. It will be an
16 examination in-chief. There will be no leading
17 questions permitted except on non-contentious matters,
18 of course, and there will be no right of re-examination
19 except that if new matters arise in the course of
20 cross-examination, application can be made.

21 30018 MR. ROITENBERG: Thank you, Mr.
22 Commissioner.

23 30019 That being said, I will turn the
24 podium over to my colleague Mr. Battista who will
25 examine Mr. Tellier.

1 30020 COMMISSIONER OLIPHANT: All right.
2 30021 I'm just wondering, Mr. Battista,
3 what do you propose to do? I notice it is 11:45.
4 30022 MR. BATTISTA: Yes. I don't know
5 what my colleagues would prefer. We can start and I
6 can certainly do a part and maybe we can go till 12:30
7 and then take the morning break and come back in the
8 afternoon, if that is agreeable with all.
9 30023 COMMISSIONER OLIPHANT: I see
10 Mr. Tellier is here.
11 30024 Would you prefer to start now,
12 Mr. Tellier?
13 30025 MR. TELLIER: I am ready.
14 30026 COMMISSIONER OLIPHANT: Okay. All
15 counsel, is that acceptable? We will go for about
16 three-quarters of an hour and then break for lunch?
17 30027 Is that okay?
18 30028 MR. ROITENBERG: Yes.
19 30029 COMMISSIONER OLIPHANT: All right.
20 30030 Mr. Tellier, could I ask you to come
21 forward please, sir. Bienvenue, welcome.
22 30031 THE HON. PAUL TELLIER: Thank you.
23 30032 COMMISSIONER OLIPHANT: Mr. Tellier,
24 would you prefer to take an oath on the Bible or to
25 affirm, sir?

1 30033 THE HON. PAUL TELLIER: The Bible is
2 fine.

3 30034 COMMISSIONER OLIPHANT: All right.
4 Just give us a moment, please.

5 SWORN: THE HON. PAUL TELLIER /
6 ASSERMENTÉ : L'HON PAUL TELLIER

7 30035 COMMISSIONER OLIPHANT: Thank you
8 very much, sir. You can be seated.

9 30036 MR. BATTISTA: Thank you,
10 Commissioner.

11 EXAMINATION: HON. PAUL TELLIER BY MR. BATTISTA /
12 INTERROGATOIRE : L'HON PAUL TELLIER PAR Me BATTISTA

13 30037 MR. BATTISTA: Good morning,
14 Mr. Tellier.

15 30038 THE HON. PAUL TELLIER: Good morning
16 to you.

17 30039 MR. BATTISTA: Just for the record,
18 we are proceeding in English. It was your request
19 because most of the documents that are here and that
20 were submitted to you for you to refresh your memory
21 were drafted in English, or most of them were anyway,
22 and it was easier for you in that context to be able to
23 testify.

24 30040 THE HON. PAUL TELLIER: Yes. This is
25 easier for everybody, so this is fine with me.

1 30041 MR. BATTISTA: Fine. Thank you.

2 30042 COMMISSIONER OLIPHANT: I thank you,
3 as well, Mr. Tellier. It is much easier for me.

4 30043 MR. BATTISTA: I thank you for the
5 colleagues and the members of the gallery behind us.

6 30044 Mr. Tellier, as we do with all
7 witnesses, I am going to briefly review your
8 background.

9 30045 I understand you practised law before
10 turning to the civil service?

11 30046 THE HON. PAUL TELLIER: No, I never
12 did. I never did.

13 30047 MR. BATTISTA: You never did?

14 30048 THE HON. PAUL TELLIER: I did my
15 articling and then I decided to go abroad to do some
16 graduate work and I never practised law. But I am a
17 member of the Québec Bar.

18 30049 MR. BATTISTA: Of the Québec Bar,
19 okay. So after you articulated, you didn't actually
20 practise in the field of law?

21 30050 THE HON. PAUL TELLIER: Right.

22 30051 MR. BATTISTA: Okay. When did you
23 join the civil service?

24 30052 THE HON. PAUL TELLIER: I joined the
25 Public Service in 1967, first of all as a Minister

1 Assistant, Minister of Energy, Mines and Resources,
2 Jean-Luc Pépin, and then I joined the Privy Council
3 Office. That was my first round of duty in 1968
4 working for Gordon Robertson who was then the Clerk of
5 the Privy Council.

6 30053 I left in 1970 to go to Québec City
7 as a Deputy Secretary to the Cabinet to Premier
8 Bourassa; came back to Ottawa in 1972 and I was in the
9 Public Service in different capacities until 1992,
10 September 1992.

11 30054 MR. BATTISTA: Okay.

12 30055 THE HON. PAUL TELLIER: I was Clerk
13 of the Privy Council from August 1985 to September
14 1992, so seven years.

15 30056 MR. BATTISTA: Since 1992 you have
16 occupied other functions?

17 30057 THE HON. PAUL TELLIER: Yes, I was
18 President and Chief Executive Officer of Canadian
19 National Railways for 10 years and I was President and
20 CEO of Bombardier for just over two years. And since
21 that I sit as a Corporate Director in a certain number
22 of Canadian, British and Australian companies.

23 30058 MR. BATTISTA: Okay. Thank you for
24 that. I understand that that is why you were
25 travelling around the world as the Commission was

1 getting under way.

2 30059 THE HON. PAUL TELLIER: Yes. And,
3 Mr. Commissioner, I was very grateful to you to
4 accommodate my schedule because I was in Australia, you
5 know, for a board meeting of Rio Tinto, so today is
6 very convenient to me and thank you very much.

7 30060 COMMISSIONER OLIPHANT: You are more
8 than welcome, sir.

9 30061 MR. BATTISTA: I am going to start,
10 Mr. Tellier, by asking you simply if you can -- other
11 witnesses have done so, but from other perspectives.
12 I'm going to ask you to explain the role and function
13 of the Privy Council Office and explain what
14 distinguishes it from the Prime Minister's Office.

15 30062 THE HON. PAUL TELLIER: Well, the
16 Privy Council Office is the Department of the Prime
17 Minister and it is there to provide policy advice as
18 opposed to political advice to the Prime Minister. The
19 office is divided to cover the whole sphere of
20 government activities.

21 30063 So foreign policy and defence is a
22 secretariat, which was led, you know, for quite a while
23 by Mr. Fowler, you know, which is referred to in some
24 of the documents; economic policy; social policy;
25 government operations, which is a bit of a grab bag;

1 and then a certain number of staff functions like
2 intelligence and security, legal affairs, Parliamentary
3 affairs, and so on and so forth.

4 30064 As Clerk of the Privy Council,
5 basically the incumbent wears three hats.

6 30065 First of all, he is a Deputy Minister
7 to the Prime Minister and like any Deputy Minister is
8 serving his Minister.

9 30066 Two, he is the head of the Public
10 Service and in this capacity is responsible for
11 advising the Prime Minister on senior appointments and
12 for doing performance reviews of deputy ministers and
13 government consul appointees, including our
14 ambassadors.

15 30067 And third, as Cabinet Secretary he is
16 there to assist Ministers. So therefore from time to
17 time when there is a conflict between a Minister and
18 his deputy, his or her deputy, or when there is a
19 conflict between two Ministers and so on in relation to
20 a mandate, who should be responsible for what, it would
21 be very legitimate practice for a Minister or some
22 Ministers to turn to the Clerk seeking his or her
23 advice.

24 30068 MR. BATTISTA: You described it as
25 sort of Deputy Minister of the Prime Minister.

1 30069 What kind of relationship existed
2 between the Clerk of the Privy Council and the Prime
3 Minister and maybe in particular when you were there?

4 30070 THE HON. PAUL TELLIER: Well, I
5 always start answering that question by saying that it
6 depends very much on the personality of the Prime
7 Minister and the personality of the Clerk.

8 30071 In the case of Prime Minister
9 Mulroney that I did serve for seven years, it was a
10 very close relationship in the sense that we would talk
11 almost on a daily basis and we would meet as often as
12 required. So therefore the Prime Minister was in touch
13 basically seven days a week.

14 30072 MR. BATTISTA: With you?

15 30073 THE HON. PAUL TELLIER: Yes.

16 30074 MR. BATTISTA: Okay. How would those
17 meetings take place generally?

18 30075 THE HON. PAUL TELLIER: There were
19 two or three kinds of meetings. There were meetings
20 with other individuals where, you know, the Prime
21 Minister was being briefed on a subject matter, you
22 know, for either a meeting or a conference or what have
23 you.

24 30076 There were meetings one-on-one. For
25 instance, the meetings that I had with him on senior

1 appointments, this would be meetings one-on-one. And
2 there would be meetings with the Chief of Staff.

3 30077 I would say that in a great many,
4 probably the majority of the meetings that we had, you
5 know, it was a joint meeting, the Chief of Staff, you
6 know, responsible for leading the Prime Minister's
7 Office and the Clerk leading the Privy Council Office.

8 30078 It became a practice with
9 Mr. Mulroney that we would go to 24 Sussex for lunch,
10 and the Chief of Staff and I would ride together in the
11 car. We would compare our agenda and so on, and the
12 Chief of Staff would have his agenda, the items that he
13 wanted to raise with the Prime Minister and the items
14 that I wanted to raise with the Prime Minister, and so
15 on and so forth.

16 30079 So a very close relationship, you
17 know, a tripartite relationship.

18 30080 MR. BATTISTA: Okay. So what you are
19 describing is the relationship with the Chief of Staff
20 of the Prime Minister's Office was also very close
21 during your --

22 30081 THE HON. PAUL TELLIER: Yes. Again,
23 it did vary, as Mr. Bernie has said when you heard him
24 direct, you know, was a colleague of mine in the public
25 service and a kind of a usual practice, he became, you

1 know, for a couple of years the Chief of Staff of the
2 Prime Minister. So he was a former public servant, a
3 former Deputy Minister. He was a former colleague of
4 mine, and so on and so forth.

5 30082 The same thing, you know, with
6 Stanley Hartt. Stanley, you know, was the former
7 Deputy Minister of Finance and therefore we had a
8 fairly close relationship before and during his tenure,
9 and so on.

10 30083 With Mr. Segal, which was the last
11 Deputy Minister that -- the last Chief of Staff that I
12 worked with, you know, he was more on the political
13 side, and so on and so forth, but again, a very close
14 relationship.

15 30084 Of course one that I did not mention
16 in all those years, the very first one, at that time,
17 Mr. Doucet, was Bernard Roy, a lawyer from Montréal.
18 When Mr. Mulroney came his first Chief of Staff was
19 Bernard Roy and Bernard and I -- you know, he was not
20 from the public service but we have also a very close
21 relationship.

22 30085 Mr. Spector had been a colleague of
23 mine in the Public Service. He used to run the
24 Federal-Provincial Relations Office, and so on and so
25 forth. So throughout the years that relationship would

1 change but it would be, you know, more or less always
2 the same in the sense that, you know, we would talk to
3 one another, you know, and it would be always a very
4 cordial relationship.

5 30086 MR. BATTISTA: Thank you for that.

6 30087 I am going to take you now to the
7 Bear Head Project which has been a matter of concern
8 for us.

9 30088 Which elected officials were you most
10 often in contact with, or who to your knowledge were
11 actively involved in promoting the project throughout
12 the years that you were there?

13 30089 THE HON. PAUL TELLIER: Well, I think
14 to the best of my knowledge I for one and my colleagues
15 had very limited contacts with ACOA, which was under
16 the champion or the sponsor of the project.

17 30090 The rule of the Privy Council Office,
18 as it has been referred to, is to make sure that on any
19 given file all the dimensions of the file are brought
20 forward so that if a decision is taken either on the
21 policy or the program, in this case on a project, that
22 it is an enlightened decision.

23 30091 Therefore we see ourselves, we, the
24 public servants in the Privy Council Office, a bit like
25 the guardian of due process. So therefore we were

1 never deeply involved, to the best of my knowledge, in
2 the project itself, but we wanted to make sure that all
3 the policies issues would be addressed. And they were
4 numerous.

5 30092 Very quickly, to mention them, there
6 was a foreign policy dimension to that project. There
7 was a defence policy dimension to that project. There
8 was a procurement process dimension to that project.
9 There was an export control dimension. There was an
10 economic policy dimension.

11 30093 Creating jobs is very nice, but at
12 what price when you are faced with -- when the
13 Government of Canada and taxpayers are faced with tax
14 expenditures or, you know, program expenditures, and so
15 on and so forth.

16 30094 And a review of the file demonstrates
17 that throughout, you know, from the beginning I think
18 my first involvement, quote/unquote, was 1986 until I
19 left, we never -- I don't think that we ever objected
20 to the project.

21 30095 It was not a question of being
22 against, but we always objected very strongly that the
23 process -- there was an attempt not to follow due
24 process.

25 30096 We brought this, you know, to the

1 attention of the decision-makers, and so on, and again
2 we were always urging, making sure that instead of
3 following a political parallel process, you know, let's
4 do it through the normal procurement process of the
5 Department of National Defence, and so on.

6 30097 I said this, you know, to
7 Mr. Schreiber. I said this to Mr. Doucet, and so on
8 and so forth. And I think that we succeeded, we in the
9 Privy Council Office, in discharging our mandate
10 because that project using the political channels never
11 got anywhere.

12 30098 MR. BATTISTA: Okay. I am going to
13 take you through the documents that we provided to you.

14 30099 THE HON. PAUL TELLIER: Yes.

15 30100 MR. BATTISTA: So before I continue,
16 Mr. Commissioner, we are now at I would imagine Exhibit
17 P-38, sorry. Are we at P-38 or 39? Thirty-nine?

18 30101 So I would like to produce the book
19 documents in support of Mr. Tellier's testimony as
20 Exhibit P-39.

21 30102 I believe, Commissioner, you have a
22 copy of the book? No. You will get one.

23 30103 COMMISSIONER OLIPHANT: Not just at
24 the moment, but I expect to get one in a minute.

25 30104 I take it that all counsel have a

1 copy of the book of documents in support of
2 Mr. Tellier's evidence.

3 30105 And you have a copy before you, do
4 you, sir?

5 30106 THE HON. PAUL TELLIER: I do,
6 Mr. Commissioner.

7 30107 COMMISSIONER OLIPHANT: Any objection
8 to the book of documents going in as Exhibit P-39?
9 30108 Mr. Hughes...?

10 30109 MR. HUGHES: No objections,
11 Commissioner.

12 30110 COMMISSIONER OLIPHANT: Mr.
13 Vickery...?

14 30111 MR. VICKERY: No objections.

15 30112 COMMISSIONER OLIPHANT: Mr.
16 Houston...?

17 30113 MR. HOUSTON: No, sir. Thank you.

18 30114 COMMISSIONER OLIPHANT: Mr. Auger...?
19 30115 MR. AUGER: No objection.

20 30116 COMMISSIONER OLIPHANT: All right.

21 The documents, then, in support of Mr. Tellier's
22 testimony will be received and marked as Exhibit P-39.

23 EXHIBIT NO. P-39: Binder
24 entitled "Documents in support
25 of Mr. Paul Tellier's testimony"

1 30117 MR. BATTISTA: Okay.

2 30118 So I am going to direct you to Tab 2,
3 but before we go there, do you have a recollection as
4 to the genesis of this project, how the initial idea of
5 having a plant opened here in Canada or built here in
6 Canada by German interests?

7 30119 Are you aware of that?

8 30120 THE HON. PAUL TELLIER: To the best
9 of my recollection, it was initiated by ACOA. It was
10 very much within their mandate.

11 30121 You know, the whole purpose of ACOA
12 was to create employment and economic activities in the
13 east, in the four Atlantic provinces, and so on and so
14 forth. And to the best of my knowledge, this is where
15 it originated.

16 30122 MR. BATTISTA: Okay.

17 30123 I am going to take you to Tab 2 at
18 page 3. This is the minutes of a Cabinet meeting that
19 occurred on 31 January '86.

20 30124 At page 3 we read:

21 "ISSUE

22 To determine, taking into
23 account likely foreign and
24 domestic reactions, whether the
25 economic benefits to be derived

1 from a proposal by Thyssen AG, a
2 West German firm, to establish a
3 manufacturing facility in Cape
4 Breton for the production and
5 export of armoured military
6 vehicles, including tanks, are
7 sufficient to justify the
8 issuance of long-term (five
9 year) export permits for their
10 shipment to Saudi Arabia,
11 Bahrain, Kuwait, United Arab
12 Emirates, Algeria and Pakistan."

13 30125 That was at the time the initial
14 idea: set up a plant in Cape Breton and the objective
15 of Thyssen was to produce armoured vehicles for sale to
16 those countries.

17 30126 THE HON. PAUL TELLIER: That's my
18 understanding.

19 30127 MR. BATTISTA: Okay.

20 30128 COMMISSIONER OLIPHANT: Sorry,
21 whereabouts are you?

22 30129 MR. BATTISTA: Page 3, Commissioner.

23 30130 COMMISSIONER OLIPHANT: Page 3, and
24 it is Tab 2.

25 30131 MR. BATTISTA: Yes. I'm sorry,

1 Commissioner, I said a memo to the Cabinet. Actually
2 it is Cabinet meeting minutes.

3 30132 COMMISSIONER OLIPHANT: Yes. Where
4 is it on that page?

5 30133 MR. BATTISTA: Page 3, top paragraph.

6 30134 COMMISSIONER OLIPHANT: Under
7 "ISSUE"?

8 30135 MR. BATTISTA: Yes.

9 30136 I'm sorry, I'm going to correct
10 myself again. It is a Memorandum to Cabinet, sorry.

11 30137 So the memorandum to Cabinet
12 identifies the issues and portrays the project as it
13 was at the time.

14 30138 Is that correct?

15 30139 THE HON. PAUL TELLIER: Yes.

16 30140 MR. BATTISTA: Now, we see in here a
17 couple of things.

18 30141 First is at the time there was
19 production of armoured vehicles including tanks. That
20 was an element that was present in the proposal.

21 30142 Is that correct?

22 30143 THE HON. PAUL TELLIER: Yes.

23 30144 MR. BATTISTA: And we are talking
24 here about a long-term five-year export permits for
25 shipment to Saudi Arabia. What can you tell us about

1 that, the long-term export permits?

2 30145 THE HON. PAUL TELLIER: Well, this
3 memorandum was signed and submitted to cabinet by Mr.
4 Clark, who was the Minister responsible for Foreign
5 Affairs, and Mr. Clark was opposed to the project
6 because he felt that it raised significant policy
7 issues for Canada, for a German company, with a
8 subsidiary based in Canada, to export to a Middle East
9 country, and it was giving rise to some serious
10 concerns.

11 30146 Therefore, Mr. Clark, as it is
12 reflected in this Memorandum to Cabinet, was opposed to
13 the project at that point in time.

14 30147 MR. BATTISTA: If I take you to Tab
15 3, there is a memo for you, prepared by "RRF". I take
16 it that was Mr. Fowler.

17 30148 THE HON. PAUL TELLIER: Yes.

18 30149 MR. BATTISTA: And there is a memo
19 that was prepared for you -- a memorandum by you to the
20 Prime Minister, prepared for you, which sort of reviews
21 and raises all of the concerns, some of which you
22 highlighted here.

23 30150 Is that correct?

24 30151 THE HON. PAUL TELLIER: This is
25 correct.

- 1 30152 MR. BATTISTA: We have heard other
2 testimony on this matter, so I will take you through
3 them quickly.
- 4 30153 If we briefly resume, the important
5 initial concerns were: the project could affect
6 Canada's international relations --
- 7 30154 That was one of the concerns. Is
8 that correct?
- 9 30155 THE HON. PAUL TELLIER: Yes.
- 10 30156 MR. BATTISTA: Thyssen insisted on a
11 guaranteed export licence for the sale of military
12 vehicles --
- 13 30157 THE HON. PAUL TELLIER: Yes, export
14 controls.
- 15 30158 MR. BATTISTA: Now, as I understand,
16 it was rather exceptional for the government to grant
17 such long-term export permits.
- 18 30159 Is that correct?
- 19 30160 THE HON. PAUL TELLIER: That is my
20 understanding.
- 21 30161 MR. BATTISTA: What was the practice
22 at the time?
- 23 30162 THE HON. PAUL TELLIER: I think it
24 varied, depending on -- I think that every case would
25 be considered, depending on what was being exported and

1 where it was being exported.

2 30163 MR. BATTISTA: Third, the appearance
3 that Thyssen was trying to bypass German legislation.

4 30164 I believe, in your memo you referred
5 to the fact that there was knowledge that Germany had
6 prevented another German company from selling in that
7 area, and the concern was that Thyssen may be bypassing
8 those regulatory provisions in Germany, if they were
9 allowed to do so in Canada.

10 30165 THE HON. PAUL TELLIER: Correct.

11 30166 MR. BATTISTA: Fourth, the cost of
12 the project at the time.

13 30167 THE HON. PAUL TELLIER: Yes.

14 30168 MR. BATTISTA: What can you tell us
15 about that?

16 30169 THE HON. PAUL TELLIER: Throughout,
17 one of the things that was lacking in this project was
18 a hard, precise, concrete business plan. As a result,
19 without this, it is very difficult to know exactly how
20 much it is going to cost.

21 30170 And there was a distinction between
22 subsidies, or money, or grants that would be provided,
23 as compared to tax relief. But, in both cases, the
24 money is coming from the taxpayers, and so on and so
25 forth.

1 30171 And, as it is well documented in the
2 files, how much -- you know, you have to assess these
3 investments in light of the number of jobs that would
4 be created, and so on, and how much per job would it
5 cost the Canadian taxpayers to proceed, and so on and
6 so forth.

7 30172 That was one of the issues that was
8 being raised from time to time, where is the business
9 plan, and what is the feasibility, and how much would
10 it cost.

11 30173 MR. BATTISTA: What you are telling
12 us is that this concern, or some of the concerns that
13 are raised here, as of 1986, are going to be raised,
14 sort of methodically, throughout the years of this
15 project, by the advisors -- PCO, DND, or other
16 government departments.

17 30174 THE HON. PAUL TELLIER: Yes, I think
18 that the file established very clearly that,
19 throughout, my advice and the advice of my colleagues,
20 who were the originators of most of these notes that I
21 would initial or sign -- that, throughout, it was very
22 consistent.

23 30175 Again, I make a distinction, we were
24 not opposed to the project, but we wanted to make sure
25 that all of these issues would be addressed.

1 30176 MR. BATTISTA: The last was the idea
2 of the plant being in direct competition with another
3 manufacturer, General Motors.

4 30177 THE HON. PAUL TELLIER: Yes, GM was
5 already established in London, Ontario.

6 30178 MR. BATTISTA: I would refer you to
7 Tab 4, and I am going to go over it very briefly with
8 you.

9 30179 What we see in this tab is a memo
10 that you prepared for the Prime Minister, and it's in
11 relation to a newspaper article that appeared, where it
12 had been rendered public that there was a serious
13 division within cabinet.

14 30180 Correct?

15 30181 THE HON. PAUL TELLIER: Yes.

16 30182 MR. BATTISTA: So the project was
17 controversial at that time. Correct?

18 30183 THE HON. PAUL TELLIER: Well, I don't
19 know if I would use the word "controversial", but there
20 were divergent views within the Public Service, surely,
21 and among ministers about the project, and this was
22 reflected, to some extent, in the Globe and Mail
23 article.

24 30184 MR. BATTISTA: Yes, the Globe and
25 Mail simply highlighted the differences among cabinet

1 members on this issue.

2 30185 THE HON. PAUL TELLIER: Yes.

3 30186 MR. BATTISTA: I am going to take you
4 to Tab 6, which is a memo for the Prime Minister, and
5 it refers to a letter that was sent by Mr. Billy Joe
6 MacLean, who was Nova Scotia's Minister of Culture,
7 Recreation and Fitness, concerning the Thyssen
8 proposal.

9 30187 Your memo is dated March 6th, 1986,
10 and you are responding to a letter that he sent
11 recently, and that was, I take it, after there had been
12 a controversy that was raised within the media.

13 30188 Is that correct?

14 30189 THE HON. PAUL TELLIER: Yes.

15 30190 MR. BATTISTA: At that point there
16 was still important support in the Nova Scotia
17 government for the project to go forward.

18 30191 THE HON. PAUL TELLIER: Yes, for the
19 reasons that were explained this morning by Senator
20 Murray.

21 30192 MR. BATTISTA: And he explained them
22 quite eloquently, in terms of job creation.

23 30193 THE HON. PAUL TELLIER: Yes.

24 30194 MR. BATTISTA: So there was support
25 from the Nova Scotia government on this matter.

1 30195 THE HON. PAUL TELLIER: Yes.

2 30196 MR. BATTISTA: And I take it that the
3 letter you prepared for the Prime Minister -- and you
4 outline it in this -- you say:
5 "In your response, which is
6 extremely general given the
7 state of Government
8 deliberations at this time..."

9 30197 You thank him for his views and note
10 that they, along with those of others, will be
11 considered in the government's decision on this issue.

12 30198 You also note Mr. Stevens' efforts to
13 encourage a broad range of industrial initiatives for
14 Cape Breton.

15 30199 Correct?

16 30200 THE HON. PAUL TELLIER: Yes.

17 30201 MR. BATTISTA: So this would be an
18 example of what you were telling us, that you don't say
19 no to the project, but you don't necessarily say yes to
20 it either.

21 30202 Is that correct?

22 30203 THE HON. PAUL TELLIER: Exactly.

23 30204 MR. BATTISTA: And we have your
24 letter at Tab 7, which you prepared, signed by Mr.
25 Mulroney.

1 30205 Is that correct?

2 30206 THE HON. PAUL TELLIER: Yes.

3 30207 MR. BATTISTA: I am now going to take
4 you to Tab 11, which is a memorandum to you from Mr.
5 Bilodeau.

6 30208 THE HON. PAUL TELLIER: Yes.

7 30209 MR. BATTISTA: It is dated January
8 8th, 1988.

9 30210 This refers to the Thyssen proposal.
10 So we had the initial cabinet meeting proposal in 1986,
11 we saw that there was a controversy, the project sort
12 of went into a dormant state at that point, and in 1988
13 we see that there is a reactivation of the file.

14 30211 Would that be a fair statement?

15 30212 THE HON. PAUL TELLIER: Yes.

16 30213 MR. BATTISTA: I would direct your
17 attention to paragraph 3 of the memo:
18 "Before it will proceed, Thyssen
19 requires a 'letter of intent'
20 from the Government of Canada to
21 direct a DND contract for 250
22 light armoured vehicles
23 (contract value of about \$425
24 million)."

25 30214 Correct?

- 1 30215 THE HON. PAUL TELLIER: Yes.
- 2 30216 MR. BATTISTA: Then, I would take you
3 to page 2, the second paragraph:
4 "The major new development since
5 the autumn is an agreement
6 between Thyssen and Lavalin
7 that, if Thyssen secures the
8 contract for armoured vehicles
9 and if Lavalin takes over the
10 Trenton Works now owned by
11 Hawker Siddeley, Thyssen will
12 direct half of the work
13 generated by the armoured
14 vehicle contract to Trenton
15 Works."
- 16 30217 THE HON. PAUL TELLIER: Yes.
- 17 30218 MR. BATTISTA: So that is part of the
18 proposal.
- 19 30219 THE HON. PAUL TELLIER: Yes.
- 20 30220 MR. BATTISTA: What we see here is
21 that, in the autumn of `87 -- so we were in `86, it was
22 quiet, and then, in the autumn of `87, something was
23 reactivated, and now the proposal is being enhanced, by
24 January 1988. Correct?
- 25 30221 THE HON. PAUL TELLIER: This is

1 correct.

2 30222 MR. BATTISTA: I would take you down
3 to the fourth paragraph:

4 "While the proposed
5 multi-purpose plant may have
6 some surface appeal, there are
7 some important drawbacks. The
8 concept requires forcing DND to
9 choose particular suppliers and
10 could result in a backlash from
11 competing firms and regions."

12 30223 That is the concern that you talked
13 about earlier, which was raised in `86, the concern of
14 creating competition for a supplier.

15 30224 Correct?

16 30225 THE HON. PAUL TELLIER: Yes.

17 30226 MR. BATTISTA: The last paragraph on
18 page 3:

19 "It seems likely that Thyssen
20 will shortly present Canada with
21 a deadline and that the major
22 issues for Cabinet will still be
23 the long-term viability of the
24 project, whether it can be
25 expanded into a multi-purpose

1 facility, and whether DND needs
2 or can afford the light armoured
3 vehicles. We do not know Mr.
4 Beatty's views on the matter."
5 30227 That was the state of the situation
6 at the time, as you understood it?
7 30228 THE HON. PAUL TELLIER: Yes.
8 30229 MR. BATTISTA: We heard Senator
9 Murray this morning talk about the idea of this project
10 turning into something more, and he also talked about
11 what you had mentioned, that there was a lack of
12 concrete proposals and concrete initiatives to get it
13 started.
14 30230 Would you agree with that?
15 30231 THE HON. PAUL TELLIER: Yes, very
16 much so.
17 30232 MR. BATTISTA: I will take you now to
18 Tab 12, which is a memo to you from Mr. Bilodeau, with
19 an attachment, a memo to the Prime Minister.
20 30233 Just for the record, when all of
21 these memos are going back and forth, when you get a
22 memo and there is an attachment of a memo to the Prime
23 Minister, I take it that that was normally for your
24 signature -- comment, obviously, before, but for your
25 signature.

1 30234 THE HON. PAUL TELLIER: Yes, it has
2 been the practice in the Privy Council Office since
3 1867 that most of the notes are signed by the Clerk,
4 and usually the initials of the initiator are written
5 at the bottom. Therefore, the Prime Minister, after a
6 while, would know that "RRF" would be Bob Fowler, and
7 so on and so forth.

8 30235 MR. BATTISTA: Very good.

9 30236 In this memo of February 3rd, we see
10 handwritten notes. Whose handwritten notes are they?

11 30237 THE HON. PAUL TELLIER: These are
12 mine. These are my handwritten notes.

13 30238 MR. BATTISTA: Can you read them,
14 please?

15 30239 THE HON. PAUL TELLIER: Basically
16 what I am saying is -- having received the note, I
17 would return it to Bilodeau, so Ron is the initiator of
18 that note, as you can see on the following page, page
19 2, at the bottom.

20 30240 MR. BATTISTA: Yes.

21 30241 THE HON. PAUL TELLIER: Bilodeau was
22 an assistant secretary to the cabinet, therefore, he
23 was directly reporting to me for economic policy, and
24 basically what I was saying to Bilodeau was that I have
25 noted his views, I am in agreement with the approach

1 that he is suggesting, and I am thanking him.

2 30242 Basically, what he is suggesting
3 is -- you have it at the bottom, what the approach
4 would suggest, but I have not raised any information
5 for the Prime Minister -- it would be to inform Thyssen
6 that, although the government is interested in its
7 investment proposal, it will not consider a directed
8 contract, and so on.

9 30243 What I am saying is that I am in
10 agreement with Bilodeau's suggestion, and so on.

11 30244 Then, the handwritten comments at the
12 bottom of that page are from Bilodeau, and basically he
13 is saying that this file is not very encouraging.
14 Basically he said that, very likely, the project
15 wouldn't see the light of day.

16 30245 That was, at that point in time, his
17 personal assessment of the file.

18 30246 MR. BATTISTA: And what you said
19 earlier was that you shared his view, what is expressed
20 in that paragraph, and I take it that the note at the
21 bottom -- would that have come with the memo to you?

22 30247 THE HON. PAUL TELLIER: Yes.

23 30248 MR. BATTISTA: So when the document
24 was signed, he would have handwritten this note on it
25 himself.

1 30249 THE HON. PAUL TELLIER: Yes.

2 30250 MR. BATTISTA: Now, simply, so that
3 we understand this, I would take it that Mr. Bilodeau's
4 memo to you was also written by someone else.

5 30251 Is that correct?

6 30252 THE HON. PAUL TELLIER: Yes, and you
7 have their names at the bottom. It's Mr. Wernick and
8 Madam Hurtubise.

9 30253 MR. BATTISTA: So what we are seeing
10 here is that Mr. Bilodeau read the memo that was sent
11 to you --

12 30254 THE HON. PAUL TELLIER: Yes.

13 30255 MR. BATTISTA: -- agreed with it,
14 obviously, and then put a little handnote at the
15 bottom, indicating that the file seems to be not too
16 encouraging, and it says :

17 "Mais nous le suivons de près"?

18 30256 THE HON. PAUL TELLIER: Exactly.

19 30257 MR. BATTISTA: So they are following
20 the process, nonetheless.

21 30258 THE HON. PAUL TELLIER: Yes.

22 30259 MR. BATTISTA: There is your memo to
23 the Prime Minister that accompanies this document, and
24 I would direct your attention to the last page of the
25 document, which is page 2, at the last paragraph:

1 "A number of Ministers have a
2 keen interest in the Thyssen
3 proposal: Senator Murray..."
4 30260 -- we heard this morning:
5 "Mr. Beatty, Mr. Clark, and Mr.
6 de Cotret. The key issue
7 remains the requirement for
8 directed defence procurement.
9 Potential suppliers in other
10 regions could object strongly if
11 they feel excluded from these
12 projects."
13 30261 That was the opinion you expressed
14 then.
15 30262 THE HON. PAUL TELLIER: Yes.
16 30263 MR. BATTISTA: I will take you now to
17 Tab 13. This is a July 19th, 1988 memorandum for the
18 Prime Minister. In it you provide an analysis of the
19 Understanding in Principle.
20 30264 Now, you heard the testimony of
21 Senator Murray this morning. What can you tell us
22 about the UIP signing which occurred in September?
23 30265 We are now in July, we know this is
24 being prepared, we know this is something that is a
25 commitment. We saw in the letter of January 1988 that

1 Thyssen was looking for such a commitment in order to
2 go forward. The PCO civil servants are raising serious
3 concerns about this. There is pressure from the
4 company to get something done. The government seems to
5 be interested in promoting jobs. You are saying: We
6 have to be careful.

7 30266 Explain to us what is going on with
8 the UIP.

9 30267 THE HON. PAUL TELLIER: My
10 recollection is that we were very much concerned about
11 the degree, or lack thereof, of enforceability of the
12 document, and the views being expressed were that, if
13 this was going to bind the Crown -- the Government of
14 Canada -- then it had to go to cabinet.

15 30268 There is on the file an exchange
16 between the then Chief of Staff, my colleague, Mr.
17 Burney, and Ward Elcock, who was the Chief Legal
18 Officer in the Privy Council Office. Mr. Burney was
19 keen to find out what was the degree of enforceability,
20 if any, in what was being proposed, and it was a
21 question of toning down the wording to make sure that
22 this would not create a commitment on the part of the
23 Crown.

24 30269 MR. BATTISTA: The Commissioner asked
25 questions this morning. Can you help us understand why

1 it would be important to sign a document which
2 indicates that there is an intention, but you want to
3 make sure that that intention cannot be enforced?

4 30270 THE HON. PAUL TELLIER: It's a very
5 good question, and I suppose that the best answer is
6 the one that was expressed earlier by Senator Murray,
7 that it was a way to keep a glimpse of hope alive that
8 this project could see the light of day one day.

9 30271 But you understand that there was a
10 divergence of views between those who wanted to keep
11 the project alive and those of us who were insisting
12 that due process be followed. Therefore, if this was
13 not going to cabinet, if an Understanding in
14 Principle -- just the phrase, Understanding in
15 Principle -- usually it's an Agreement in Principle.
16 Why an Understanding in Principle?

17 30272 So every word in it was coined in
18 such a way that it would reduce the degree of
19 commitment.

20 30273 The promoters of the project felt
21 that a UIP, an Understanding in Principle, was
22 required, and we in the Public Service who felt that
23 the exposure of the Crown should be limited were
24 insisting that -- to dilute or water down whatever was
25 put forward, if something was required to be put

1 forward.

2 30274 Therefore, we were trying, basically,
3 to limit the potential liabilities of the Government of
4 Canada.

5 30275 MR. BATTISTA: I would refer you to
6 the last paragraph in the memo at Tab 13. Your
7 conclusion is:

8 "While an investment of this
9 magnitude with an important
10 employment potential would be of
11 significant benefit to the Cape
12 Breton economy, I urge you
13 personally to request that due
14 process be followed in this
15 case."

16 30276 You are speaking to the Prime
17 Minister at this point. Correct?

18 30277 THE HON. PAUL TELLIER: Yes.

19 30278 MR. BATTISTA:
20 "This would allow the major
21 concerns of key departments to
22 be addressed. I would recommend
23 that Senator Murray be asked to
24 prepare a Memorandum for
25 consideration in the normal

1 manner by Cabinet and Treasury
2 Board. The PCO will ensure that
3 proper Ministerial consideration
4 is arranged on high priority
5 basis."

6 30279 You are urging the Prime Minister,
7 personally, to intervene on this matter?

8 30280 THE HON. PAUL TELLIER: To make
9 sure -- not necessarily to intervene, but to make sure
10 that he would support us in ensuring that due process
11 was being followed.

12 30281 We were not opposing the project, but
13 we had the capacity to slow down the project a lot.
14 Therefore, it was to be expected that the proponents of
15 the project would complain about the fact that we were
16 insisting on a process to be followed, and so on, so we
17 were saying to the Prime Minister: Let's make sure
18 that if some ministers complain that we are stalling
19 this, you will give us your full support.

20 30282 MR. BATTISTA: Mr. Tellier, you may
21 have explained it in between the lines, but when you
22 talk about the process, that the process be followed,
23 what process are you referring to?

24 30283 THE HON. PAUL TELLIER: The process
25 for a project like this -- due process is that the

1 proponents, either in an unsolicited way or as part of
2 a bidding process, come forward and they go to the
3 authorities who have the mandate to procure, to
4 purchase whatever is being offered.

5 30284 In something like this, all of the
6 dimensions that have been mentioned have to be
7 addressed, and that is usually done in an
8 interdepartmental fashion, to use the jargon, where you
9 have -- in this case, ACOA -- a senior official, not
10 necessarily a deputy head the first time around,
11 basically bringing his colleagues together, with or
12 without the input of the proponents -- in this case,
13 Thyssen-Bear Head Industries -- and basically reviewing
14 the project.

15 30285 At a meeting like this you would have
16 somebody from the Department of Finance, you would have
17 somebody from the Treasury Board, in this case you
18 would have somebody, very likely, from the Export
19 Development Corporation, you would have somebody from
20 External Affairs, from National Defence, and so on and
21 so forth.

22 30286 This would be the way -- and then it
23 would move up one level.

24 30287 We used to have committees of deputy
25 ministers, one on social policy and one on economic

1 policy. We were meeting once a week.

2 30288 Therefore, when a project like this
3 was ready, then the deputy minister of the sponsoring
4 department -- in this case, very likely, National
5 Defence -- would bring it to that level, and then it
6 would be blessed and it would be ready to go to
7 cabinet, and then, in a briefing note to the Prime
8 Minister -- because we would, before every cabinet
9 meeting and every cabinet committee meeting that the PM
10 would chair -- and the Prime Minister would chair the
11 cabinet committee on Priorities and Planning -- we
12 would give a briefing note to the Prime Minister, and
13 in that briefing note we would report the process that
14 I have just described: This memorandum to cabinet,
15 from Mr. So-and-so, has been reviewed, and a source of
16 funds has been identified. The Department of Finance
17 has given its blessing, External Affairs, and so on.

18 30289 And we would, in those cases -- and
19 it's not in every case that there is consensus -- we
20 would say to the Prime Minister in the briefing note:
21 You should know that So-and-so is very much in support,
22 and you should know that So-and-so is very much
23 against, and what have you.

24 30290 So that when the Prime Minister
25 chairs the meeting, he knows exactly what are the

1 forces at play, and he can steer the discussion, and so
2 on and so forth, by drawing people out and what have
3 you.

4 30291 That is what is due process. It's
5 not a question of stalling for the sake of stalling, it
6 is just to make sure that when ministers take a
7 decision, especially if taxpayers' money is being used,
8 it is a decision that makes sense, and that everything
9 has been considered.

10 30292 Very often the objections being
11 raised by officials in one department or one agency,
12 and so on, are overruled, because, in the final
13 analysis, the Public Service is there to assist in
14 defining problems and working out options, but it is
15 for the decision-makers, i.e., the elected officials,
16 to call the shots and to decide.

17 30293 Throughout this process, for five
18 years, we were just saying: Somebody has to focus on
19 the relationship with Israel. We are talking about
20 Thyssen.

21 30294 Therefore, when you have a letter
22 here, when Mr. Clark comes back from Israel, you know
23 that he is being told by the Prime Minister of Israel
24 that this would create a serious problem.

25 30295 We are not saying that this is

1 necessarily a serious problem, but somebody, somewhere,
2 has to focus on the issue, and if the decision is taken
3 to proceed, in spite of the objections, and so on and
4 so forth, it is done in an enlightened fashion.

5 30296 That is what we call due process.

6 30297 This is what we had been arguing
7 throughout on that file.

8 30298 COMMISSIONER OLIPHANT: Just let me
9 ask you something, because you have raised the issue --
10 and I have read the documents. It seems to me that the
11 majority of people within the Public Service, and
12 perhaps some ministers, were really against this
13 project ever going ahead.

14 30299 Is that correct?

15 30300 For reasons that you have
16 articulated.

17 30301 THE HON. PAUL TELLIER: Yes. Were
18 they against? As far as the Privy Council Office is
19 concerned, I think that all of these notes were not
20 necessarily against the project, but, again, I am
21 making the distinction, there are issues here, and they
22 need to be addressed.

23 30302 COMMISSIONER OLIPHANT: And you
24 raised an issue -- and I want to ask you this, if you
25 can answer it. You raised the issue about Mr. Clark

1 having been in Israel and having heard about this and
2 coming back. I notice in one of the notes that there
3 is a reference to the background of the founder of
4 Thyssen being a Nazi.

5 30303 Why was that necessary?

6 30304 THE HON. PAUL TELLIER: Rightly or
7 wrongly, in doing the research on the file, some of the
8 people working on the file felt, again rightly or
9 wrongly, that it was relevant, in order of sensitivity,
10 especially in the Middle East, to draw attention to the
11 fact that Thyssen was, or is alleged to have been, the
12 major arms supplier of the German government before and
13 during the Second World War.

14 30305 I am not debating the point, Mr.
15 Commissioner, of whether that point was relevant, and
16 so on and so forth, but obviously the individuals
17 working on the file came to the conclusion that that
18 was a fact that had to be brought to the attention of
19 ministers.

20 30306 COMMISSIONER OLIPHANT: Would you
21 agree or disagree, sir, with the proposition that that
22 kind of statement might be the very kind of thing that
23 would scare politicians away from a project like this?

24 30307 THE HON. PAUL TELLIER: Yes. As you
25 know, the Middle East situation is a very complex one.

1 People have divergent views on it, and so on and so
2 forth, so yes.

3 30308 If it had been -- I don't know --
4 Opel, the GM sub in Germany, as opposed to Thyssen,
5 would it have been different? I don't know, but --

6 30309 COMMISSIONER OLIPHANT: You
7 indicated, Mr. Tellier, that policies from various
8 departments had to be considered. This was a Foreign
9 Affairs policy that had to be considered.

10 30310 THE HON. PAUL TELLIER: Very much so.

11 30311 COMMISSIONER OLIPHANT: Okay, thanks.

12 30312 MR. BATTISTA: Commissioner, thank
13 you for those follow-up questions. We are at 12:30, it
14 might be a good time to break, and we can resume this
15 afternoon.

16 30313 COMMISSIONER OLIPHANT: All right,
17 thank you very much.

18 30314 We will recess for lunch and come
19 back at 2 o'clock this afternoon.

20 --- Upon recessing at 12:30 p.m. / Suspension à 12 h 30

21 --- Upon resuming at 2:00 p.m. / Reprise à 14 h 00

22 30315 COMMISSIONER OLIPHANT: Good
23 afternoon. Be seated, please.

24 30316 Mr. Battista...?

25 30317 MR. BATTISTA: Yes. Thank you,

1 Commissioner.

2 30318 So good afternoon, everyone.

3 30319 Mr. Tellier, just before we move on,
4 we are still on Tab 14, the memorandum to the Prime
5 Minister. We have seen many memorandums to the Prime
6 Minister. You have signed most of the ones we have had
7 to deal with here at the Commission.

8 30320 To your knowledge, does the Prime
9 Minister get these memorandums personally? Does he
10 read them? Do they go to the Chief of Staff only?
11 What is your experience?

12 30321 THE HON. PAUL TELLIER: Well, I can
13 speak only for this Prime Minister that I was closely
14 associated with, but they would go directly to the
15 Prime Minister.

16 30322 The practice is one where it doesn't
17 go through the Prime Minister's office. The practice
18 is one where unless it is extremely urgent, towards the
19 end of the day they are all put together in a special
20 briefcase and they are hand-delivered to wherever the
21 Prime Minister is, whether at his office on Parliament
22 Hill or at 24 Sussex, and so on.

23 30323 I know that Mr. Mulroney was reading.
24 He was an avid reader, and he would read most if not
25 all of the stuff that we would send him. And from time

1 to time, as it is shown in some of the files, you know,
2 he would return the memo with a brief comment or a
3 paragraph underlined in the margin.

4 30324 So this Prime Minister that I was
5 associated with was reading a lot of documents.

6 30325 MR. BATTISTA: Okay. Would it occur
7 sometimes also that you would discuss the documents
8 during your meetings or your telephone calls?

9 30326 THE HON. PAUL TELLIER: Yes. Yes,
10 indeed. So very often his feedback on something would
11 be over the telephone.

12 30327 MR. BATTISTA: So that is how you
13 have personal direct knowledge that these memos would
14 get to him and he would read them?

15 30328 THE HON. PAUL TELLIER: Yes. Yes.

16 30329 MR. BATTISTA: I'm going to take you
17 to Tab 17. We discussed earlier the signing of the UIP
18 and I indicated -- if I can ask the Registrar,
19 Ms Chalifoux, if we can give the witness P-37.

20 30330 I mentioned yesterday to Mr. Landry
21 for my colleagues, because there was a document that
22 was not in the binders but that was referred to
23 yesterday, P-37, Tab 14 for my colleagues.

24 30331 The reason I bring this up is because
25 they are complementary documents to Tab 17. So for my

1 colleagues.

2 30332 You have had an opportunity to look
3 at these documents, Mr. Tellier, the ones that I am
4 referring to now?

5 30333 THE HON. PAUL TELLIER: Yes.

6 30334 MR. BATTISTA: The additional
7 documents?

8 30335 THE HON. PAUL TELLIER: Yes.

9 30336 MR. BATTISTA: So we see here on Tab
10 17 there is a note indicating that:

11 "We understand that Mr. MacKay
12 and Mr. McKnight, with the
13 agreement of PMO, agreed last
14 night that Mr. McKnight would
15 send an anodyne letter of
16 comfort to Thyssen Industrie AG.
17 The letter (draft attached)
18 would note the Government's
19 long-term intent to acquire a
20 fleet of military trucks, and
21 offers Thyssen the opportunity
22 to participate in tendering on
23 the contract, subject to its
24 ability to meet technical
25 specifications.

1 After consulting with Ward
2 Elcock, we have provided
3 comments back to PMO, with the
4 intent of ensuring that no legal
5 obligation on the part of the
6 Government is engendered by this
7 letter to Thyssen."

8 30337 Now, this morning in his testimony
9 Senator Murray also referred to this point.

10 30338 Can you comment on that?

11 30339 I think you had no specific
12 recollection of this memorandum episode in 1990. Am I
13 correct?

14 30340 THE HON. PAUL TELLIER: This is
15 correct. Until this was brought to my attention this
16 morning --

17 30341 MR. BATTISTA: Yes. Yes.

18 30342 THE HON. PAUL TELLIER: -- I had no
19 recollection whatsoever of that other communications
20 that had been signed by these two Ministers.

21 30343 MR. BATTISTA: Now that you have
22 taken cognizance of the memo, the memo to Mr. Protti
23 from Maureen Smith and the contents where she indicates
24 that there was a desire to have this memorandum signed,
25 the reason being that Thyssen was going to hold a Board

1 of Governors or Board of Directors meeting and that
2 they needed some kind of indication, otherwise they
3 might decide to move this project to the United States.

4 30344 Does this refresh your memory in any
5 way when I am bringing this up to you?

6 30345 THE HON. PAUL TELLIER: I must say
7 that no, not really.

8 30346 MR. BATTISTA: Okay.

9 30347 THE HON. PAUL TELLIER: Not really.

10 30348 MR. BATTISTA: Fine. All right. So
11 we will move on.

12 30349 THE HON. PAUL TELLIER: But again,
13 when I look at the memo that you have under Tab 17 --

14 30350 MR. BATTISTA: Yes...? The memo to
15 you?

16 30351 THE HON. PAUL TELLIER: And I am
17 referring to the draft letter which is contained there.

18 30352 MR. BATTISTA: Yes. Yes.

19 30353 THE HON. PAUL TELLIER: It is the
20 kind of comments that would come from people in the
21 Privy Council Office trying to reduce to the bare
22 minimum any negative exposure for the government. So
23 if you look at these suggested changes, they are all,
24 you know, going in the same direction.

25 30354 MR. BATTISTA: A little bit like the

1 UIP.

2 30355 THE HON. PAUL TELLIER: Yes.

3 30356 MR. BATTISTA: The same principle.

4 30357 THE HON. PAUL TELLIER: Yes.

5 30358 MR. BATTISTA: In other words, not to

6 make the idea die, but at the same time no undertaking

7 to make it go forward.

8 30359 THE HON. PAUL TELLIER: Yes.

9 30360 MR. BATTISTA: I would refer you to

10 Tab 18. This is a "Memorandum for the Prime Minister".

11 It is dated February 5, 1990, reference to a meeting

12 between Mr. Stanley -- I would imagine Stanley Hartt,

13 Chief of Staff of the PMO at the time and Mr. Schreiber

14 that is to take place in the next few days.

15 30361 Do you recall the purpose of the

16 meeting and the outcome of that meeting? Can you talk

17 to us about that?

18 30362 THE HON. PAUL TELLIER: Yes.

19 30363 MR. BATTISTA: Do you recall the

20 meeting?

21 30364 THE HON. PAUL TELLIER: No, I don't.

22 30365 MR. BATTISTA: You don't recall?

23 30366 THE HON. PAUL TELLIER: No, I don't

24 remember. I don't remember Stanley Hartt basically

25 meeting with these two Ministers, and so on. Obviously

1 Ron Bilodeau was there, you know, as it is said in the
2 first paragraph, representing --

3 30367 MR. BATTISTA: Yourself.

4 30368 THE HON. PAUL TELLIER: -- me,
5 myself, and so on and so forth. But no, I don't
6 disagree that the meeting took place obviously. But do
7 I have a personal recollection of this? My answer is
8 no.

9 30369 MR. BATTISTA: Okay. In your
10 conclusion you state:

11 "Stanley will be meeting Mr.
12 Schreiber on Friday. We will
13 keep you informed of the outcome
14 of the DND/Thyssen discussions,
15 but it appears clear that a
16 major military procurement from
17 Thyssen is not a likely option
18 for the foreseeable future,
19 unless DND priorities and
20 requirements change
21 unpredictably."

22 30370 This is in keeping with your sort of
23 constant comment on this matter.

24 30371 THE HON. PAUL TELLIER: Being very
25 consistent.

1 30372 MR. BATTISTA: And if we follow this
2 through, this is February '90, this is shortly after
3 that sort of letter of comfort was issued to Thyssen.
4 30373 Is that correct?
5 30374 THE HON. PAUL TELLIER: Correct.
6 30375 MR. BATTISTA: We have now Tab 19.
7 The first part is a French copy of the letter. I will
8 refer you to the second half of the tab. This is a
9 letter from Mr. Fowler to Mr. Lesaux.
10 30376 THE HON. PAUL TELLIER: If I'm not
11 mistaken, the letter addressed to Lesaux and the letter
12 addressed to me is the same, isn't it?
13 30377 MR. BATTISTA: Yes.
14 30378 THE HON. PAUL TELLIER: And basically
15 one is in French and one is in English.
16 30379 MR. BATTISTA: Exactly.
17 30380 THE HON. PAUL TELLIER: But it is as
18 a result of the meeting that Mr. Fowler had convened, I
19 think it was on February 5, you know, basically
20 bringing all the parties together to really take stock
21 of where it was.
22 30381 And what Mr. Fowler is saying to me
23 here or to Mr. Lesaux is basically these are the points
24 that we have covered and the parties by now should know
25 where they stand.

1 30382 MR. BATTISTA: Okay. Is it fair to
2 say that at this meeting maybe something important
3 occurred in the sense that both sides agreed that there
4 may have been some fundamental misunderstandings or
5 misperceptions from the government side looking at the
6 Thyssen proposals and from Thyssen their perspective on
7 what the government was doing here?

8 30383 THE HON. PAUL TELLIER: Very much so.
9 It was an attempt, you know, to clear the air because
10 Mr. Schreiber had argued all the time throughout that
11 process, these whatever three years or four years, that
12 misrepresentations were being made; that he was not --
13 that Thyssen was not getting their day in court, and so
14 on and so forth.

15 30384 And if you look at the list of
16 attendees of that meeting held by the Deputy Minister
17 of National Defence, it was very extensive. Everybody
18 was invited.

19 30385 MR. BATTISTA: In this letter we will
20 look at the last page, second-to-last paragraph:

21 "With regard to the need for
22 military vehicles, you will note
23 from the enclosed record of
24 discussion that the company was
25 given an overview of the

1 Canadian Forces' future
2 requirements."
3 30386 Skip a sentence.
4 "Specifically, no decisions on
5 future armoured vehicle
6 procurement could be anticipated
7 within the next three to four
8 years and no production
9 envisaged within the next five
10 to six years."
11 30387 Those were things that were discussed
12 at that meeting as was reported to you?
13 30388 THE HON. PAUL TELLIER: Yes.
14 30389 MR. BATTISTA: And in the conclusion,
15 I will draw your attention to the last sentence:
16 "Officials concluded that the
17 Government would no doubt
18 welcome a decision by Thyssen to
19 set up a manufacturing plant in
20 Canada on the basis of a full
21 understanding of these
22 realities."
23 30390 So an image was given to them in
24 terms of what may be needs, what may not probably be
25 foreseeable in terms of needs, and if Thyssen is

1 capable of adjusting to that they can still hold on to
2 the dream, if we can use that expression.

3 30391 THE HON. PAUL TELLIER: Well, their
4 investment would have been -- you know, would be
5 welcome, but it was an attempt to clarify the
6 situation, saying if you are doing the investment on
7 the basis that there is a commitment, you know, there
8 is no commitment at this point in time, and it may take
9 a significant amount of time before, you know, we
10 procure that kind of equipment.

11 30392 MR. BATTISTA: Okay. I am going to
12 take you now to Tab 22.

13 30393 So after February 5th there is a
14 meeting with several officials, government officials
15 and Thyssen representatives, and we now have the July
16 1990.

17 30394 There is a letter to you from
18 Mr. Schreiber. Do you recall this letter? Do you
19 recall receiving this letter?

20 30395 THE HON. PAUL TELLIER: Well, yes in
21 reviewing the file over the last 10 days, you know, I
22 saw this letter. I must say that I have a clear
23 recollection of two meetings that I had with
24 Mr. Schreiber, but no recollection of that meeting.

25 30396 Therefore obviously there is a record

1 here so I am not arguing that this meeting did not take
2 place, but unlike the other two where I met with
3 Mr. Schreiber, this one between Mr. Schreiber, myself
4 and Mr. MacKay, this one I have no recollection
5 whatsoever.

6 30397 So it is only in reviewing the file
7 over the last 10 days that, you know, I was aware that
8 that meeting had taken place because I had no
9 recollection of it.

10 30398 MR. BATTISTA: Okay. In the letter,
11 the second paragraph, Mr. Schreiber says:

12 "I am very encouraged by the
13 Prime Minister's support in this
14 project."

15 30399 What can you tell us about that at
16 that time, July 1990?

17 30400 THE HON. PAUL TELLIER: Well, I can
18 only speak about myself. The Prime Minister has never
19 in any way, shape or form, on this project or any other
20 project, exercised any pressure on me.

21 30401 Let me expand a bit, if I may,
22 Mr. Commissioner.

23 30402 When I was invited by the Prime
24 Minister to serve as his Clerk of the Privy Council,
25 the Prime Minister and I, we had a conversation and I

1 said to the Prime Minister: Prime Minister, you know,
2 if I accept this job, you have to understand I'm not
3 going to tell you what you want to hear. I am going to
4 give you my views and tell you the story the way it is.
5 And the Prime Minister said that is exactly what I
6 want.

7 30403 And throughout our association we
8 would argue from time to time a given point of view.
9 But the Prime Minister on this file or any other file
10 during my seven years never tried to exercise pressure
11 on me.

12 30404 And on some occasions, some of the
13 people around him at meetings would say well, Paul,
14 what about this and what about that, and the Prime
15 Minister would intervene and say let's drop it. We
16 know that Paul is not going to change his mind.

17 30405 So therefore the Prime Minister, you
18 know, was reading the notes that I was signing
19 originated by my colleagues, colleagues that I had
20 selected, in whom I have total confidence. So the
21 Prime Minister would not try to exercise pressure on me
22 when he knew that if Bob Fowler, Harry Swain and Ron
23 Bilodeau had convinced me that due process should be
24 followed.

25 30406 So therefore at any point in time

1 there was never any pressure on this file or any other
2 file during my association with Mr. Mulroney, because
3 that was very much the modus operandi that we had
4 together.

5 30407 MR. BATTISTA: Okay. I am going to
6 refer you to Tab 23. It is a memorandum from you to
7 the Prime Minister. It is dated July 12, 1990 and it
8 obviously refers to the meeting.

9 30408 You start by:
10 "As you had requested, I met
11 recently with Elmer MacKay and
12 Karlheinz Schreiber, Chairman of
13 Bear Head Industries Ltd., to
14 discuss the Thyssen initiative."

15 30409 And you go on.

16 30410 Do you recall that the Prime Minister
17 had asked you to meet them? You don't recall that?

18 30411 THE HON. PAUL TELLIER: No.

19 30412 MR. BATTISTA: Okay.

20 30413 THE HON. PAUL TELLIER: And what I
21 suspect, you know, reflecting on this and seeing the
22 concrete evidence that that meeting took place, I
23 suspect that, you know, I would attend all Cabinet
24 meetings. I would attend all the meetings of the
25 Cabinet Committee on Priorities. Ministers would come

1 and go. They would come and talk to me, and so on and
2 so forth, and my construction is that at one point in
3 time Mr. MacKay said to me, Paul, would you mind to
4 meet with Mr. Schreiber and I would have said, as it
5 was perfectly legitimate on my part to say, sure,
6 Minister, and so on.

7 30414 So whether it was right then and
8 there or whether it was later, I don't know.

9 30415 But do I remember that specific
10 meeting per se? I don't.

11 30416 MR. BATTISTA: But in this case it
12 would be the Prime Minister who would have asked you to
13 meet Mr. MacKay.

14 30417 THE HON. PAUL TELLIER: No, I have no
15 recollection of that.

16 30418 MR. BATTISTA: Okay. In the third
17 paragraph of that letter it says:

18 "As the discussions have been
19 going on for almost 6 years, Mr.
20 Schreiber feels that the
21 Government should now come to a
22 decision so the project can
23 either be pursued or dropped by
24 the company. I agreed that we
25 were fast reaching decision time

1 and, although a number of major
2 and difficult issues are raised
3 by the project, the Government
4 should come to a decision
5 sooner, rather than later, if it
6 is the case that there is
7 political will to pursue the
8 project."

9 30419 What would you be referring to when
10 you say if there is political will to pursue the
11 project?

12 30420 THE HON. PAUL TELLIER: Well, the
13 public servants or the Public Service, especially you
14 know are represented by the people in the Privy Council
15 office but elsewhere in other departments, were
16 expressing strong not objections but concerns about
17 that project.

18 30421 But you know, recognition here that,
19 you know, it's not for Deputy Ministers or their
20 advisers to decide. It is very much for the Ministers.
21 So therefore, you know, if Ministers having considered
22 these various -- addressed these various concerns were
23 going to decide to proceed, now was the time to
24 proceed.

25 30422 I think Mr. Schreiber had a point and

1 Thyssen had a point. It took a long time, you know, to
2 bring this to decision point. One could debate whose
3 fault this is and so on, but you know that project was
4 in the hopper for a long time.

5 30423 So therefore the note says, you know,
6 there is a complaint and it is a legitimate complaint
7 that it is taking a long time to bring this to a
8 decision.

9 30424 To go back, Mr. Battista, to one of
10 your previous questions, I think that our expectations
11 of the February 5th meeting called by the Deputy
12 Minister of National Defence, you know, in the presence
13 of the Chief of the Defence Staff and the ADM
14 responsible for procurement and so on, we had hoped
15 that this would bring this thing to an end, and so on,
16 one way or the other.

17 30425 I mean, Thyssen could have said well,
18 in light of this, you know, we are backing off; or no,
19 we are still interested to proceed but under different
20 circumstances, and so on.

21 30426 And obviously here we are six months
22 later and the issue is still alive.

23 30427 MR. BATTISTA: We have at Tab 24 a
24 letter that you write to Mr. Schreiber following the
25 meeting, and I draw your attention to the

1 second-to-last sentence in the second paragraph.

2 30428 You say:

3 "However, an investment of this
4 size in one of Canada's regions
5 of slower economic growth would
6 certainly have positive
7 benefits. The Government will
8 therefore have to weigh all
9 these types of considerations
10 carefully in coming to a
11 conclusion about the project."

12 30429 So you raise major issues of concern
13 and a legitimate growth and development of the region
14 and you are aware of those concerns.

15 30430 THE HON. PAUL TELLIER: Exactly.

16 30431 MR. BATTISTA: We now go to August
17 10, 1990, so we are progressing along in the same
18 months. There is a memorandum from you to the Prime
19 Minister. This seems to be a follow-up to the memo you
20 sent him in July of that same year and you have a
21 handwritten note:

22 "PM Vos directives s.v.p."

23 30432 What would that mean?

24 30433 THE HON. PAUL TELLIER: Well, again,
25 it was an attempt to get an expression on the part of

1 the Prime Minister of the way he wanted to proceed on
2 this, because again this note starts by raising again
3 the same policy issues, defence, the needs, you know,
4 of the Department of National Defence, the defence
5 policy per se, the budget issues, industrial impact,
6 you know, the impact on GM, the process and what have
7 you; the fact that some ministers, you know, like
8 Mr. McKnight were opposed, and so on and so forth.

9 30434 And again, in an attempt to bring
10 closure here, you know, you have a direction.

11 30435 Of course your next question is going
12 to be: Did you get any direction? No, I haven't, I
13 didn't. And as a result, the file went on. You know,
14 the saga continued.

15 30436 MR. BATTISTA: So you did not get
16 direction after this memo.

17 30437 And in your conclusions, I will
18 direct you to the second-to-last paragraph on page 4,
19 the second sentence:

20 "As suggested in my July 11th
21 note, if you are not ready to
22 call a decision, you could ask
23 Messrs. Mazankowski, Bouchard,
24 McKnight, Wilson and MacKay to
25 examine whether the Government

1 should proceed with the Thyssen
2 procurement on a sole-source
3 basis, essentially for regional
4 development reasons, given the
5 major impact the project would
6 have on defence policy and
7 operations."

8 30438 So you are putting the option there
9 to him: either we close this down or, if you're not
10 ready to close it down, then let's get something going
11 here in terms of Ministers' involvement.

12 30439 THE HON. PAUL TELLIER: Yes. And the
13 role of this Deputy Prime Minister, Mr. Mazankowski,
14 who had the full confidence of the Prime Minister, was
15 very much in many cases serving as a go-between, as a
16 conciliator, as an arbitrator between various Ministers
17 and so on and so forth.

18 30440 So, you know, a suggestion like this
19 would fall squarely within the kind of mandate that the
20 Prime Minister would have given to Mr. Mazankowski as
21 his Deputy Prime Minister.

22 30441 MR. BATTISTA: At this point, to your
23 knowledge, was there any suggestion that the Thyssen
24 proposal was a tax-free no-cost proposal to the
25 Canadian government, to the Canadian taxpayer?

1 30442 THE HON. PAUL TELLIER: That was one
2 of the concerns or issues that we felt needed to be
3 addressed. There was a school of thought that, you
4 know, it was free to the taxpayers of Canada and there
5 was another point of view where, you know, one way or
6 the other it was going to cost the Canadian taxpayer
7 some money, and so on and so forth.

8 30443 So that was one of the points, you
9 know, in contention.

10 30444 MR. BATTISTA: Okay. That was a
11 point of contention?

12 30445 THE HON. PAUL TELLIER: Yeah.

13 30446 MR. BATTISTA: There was an idea at
14 that time floating that this could be no cost, even
15 though all of the memos that you referred to always
16 refer to costs

17 30447 THE HON. PAUL TELLIER: Yes, but
18 there was also -- there is also an indication at one
19 point in time in the file, I don't remember exactly
20 where in the sequence, where maybe it could be possible
21 to do it with very minimal if any federal money, and so
22 on and so forth.

23 30448 Then that number, you know, became a
24 subject of discussion, you know, how much it was, and
25 so on and so forth.

1 30449 For instance, later on when
2 Mr. Spector comes into the scene, you know, there was a
3 debate about the amount of public monies that would be
4 required.

5 30450 MR. BATTISTA: Okay. So that was an
6 idea that was floating somewhere out in the air; that
7 there could be a no cost to this project.

8 30451 THE HON. PAUL TELLIER: Yes.

9 30452 MR. BATTISTA: Even when it was in
10 Nova Scotia, when the plan was to have this project
11 developed in Nova Scotia?

12 30453 THE HON. PAUL TELLIER: Well, as you
13 know, the nature of the project did change over these
14 years. Whether it was going to include tanks or not is
15 one thing that did change. Where the products would be
16 exported is another thing that did change. The
17 duration I think of the export licence is another thing
18 that did change.

19 30454 The location of the plant. At one
20 point in time the file shows that it became a Québec
21 project as opposed to a Maritimes project.

22 30455 Then the nature of the vehicle
23 changed and we started to talk about a peacekeeping
24 vehicle as opposed to a multipurpose more fancy
25 vehicle, and so on and so forth.

1 30456 MR. BATTISTA: I understand,
2 Mr. Tellier, and I know that this goes back, but that
3 was my question: In 1990 the proposal that was being
4 made then required the government to buy a certain
5 number of tanks at the time.

6 30457 At that point my question to you was:
7 Was there any idea that that would not cost anything?

8 30458 I know that later on there was a
9 proposal on a no-cost basis that the government would
10 acquire a certain amount and it would be a cost
11 recovery program.

12 30459 Maybe you're thinking of that later
13 on, but in 1990 --

14 30460 THE HON. PAUL TELLIER: The
15 prevailing view is that it would imply government
16 money.

17 30461 MR. BATTISTA: Okay. I refer you now
18 to Tab 26, and it is a memo. The first page is a cover
19 memo to Mr. Spector from Mr. Bilodeau and that is
20 accompanied by a memo from you to Mr. Spector.

21 30462 In this memo you attach to him your
22 July and August memos to the Prime Minister, I would
23 imagine as background on this. And you at this point
24 stress the opposition that Mr. McKnight has to the
25 project:

1 "- a non-competitive process;
2 - being forced to move on this
3 project..."

4 30463 Where Defence doesn't feel they have
5 the need, the financial burden that is involved and the
6 technical and operational difficulties.

7 30464 You then state, on the second page:
8 "Any pressure to move on this
9 project comes from the company
10 and from ACOA."

11 30465 That was your understanding at the
12 time?

13 30466 THE HON. PAUL TELLIER: Yes.

14 30467 MR. BATTISTA: Was there any
15 indication to you at the time that the Prime Minister
16 had a specific interest?

17 30468 He had asked you to meet with
18 Mr. McKnight and Mr. Schreiber. You don't recall the
19 meeting, but we have the letters.

20 30469 Was that something that you were
21 aware of?

22 30470 THE HON. PAUL TELLIER: No. No.

23 30471 MR. BATTISTA: Mr. Spector's
24 involvement in this, what did that indicate to you?

25 30472 THE HON. PAUL TELLIER: That there

1 was -- as it is clearly reflected in the file, there
2 were conflicts with some Ministers between -- divergent
3 views, let me put it this way, between some Ministers.
4 And it would be perfectly appropriate for the Prime
5 Minister's Chief of Staff on his own initiative or at
6 the request of the Prime Minister to sit down with
7 these Ministers and try to see who was right and who
8 was wrong and whether it was possible to reach a
9 consensus or to agree to disagree.

10 30473 My review of the file -- I must say
11 that I had forgotten about this, but my review of the
12 file is clear that this is what Norman Spector was
13 trying to do.

14 30474 And given the close relationship
15 between his office and my office, you know, instead of
16 flying blind on this, he turned to us and he said, you
17 know, give me an update of the project so he would know
18 what he would be talking about when meeting, you know,
19 with these Ministers or meeting, you know, with
20 Mr. Schreiber.

21 30475 MR. BATTISTA: Tab 27, it is a
22 December 10th memo, December 10, 1990 memo from
23 Mr. Spector. There is a handwritten note that is
24 yours?

25 30476 THE HON. PAUL TELLIER: Yes.

1 30477 MR. BATTISTA: Can you read it? Is
2 it --

3 30478 THE HON. PAUL TELLIER: Well, I just
4 put this note, you know, it came my way through Ron
5 Bilodeau. And basically at the top of the page, you
6 know, I say to Bilodeau let's discuss. I want to know
7 where we stand.

8 30479 And then in that note to Spector I
9 suppose that it was the first time, the bottom
10 paragraph on page one:

11 "DND notes that going ahead with
12 this proposal would involve:
13 additional cost of \$765 million
14 over and above the \$290
15 million..."

16 30480 So again, you know, there were so
17 many numbers and so on, so I suppose it was the first
18 time that I would see the \$765 million and therefore I
19 just put a "Why?", you know, in the margin.

20 30481 So that is very much my comments.

21 30482 MR. BATTISTA: Okay. Those are your
22 comments to -- on the memo --

23 30483 THE HON. PAUL TELLIER: Received from
24 Bilodeau going to Spector, yes.

25 30484 MR. BATTISTA: We see a signature.

1 Whose signature would that be on this document?

2 30485 THE HON. PAUL TELLIER: I think this
3 is the signature of Ian Clark, if I'm not mistaken, and
4 Ian was the deputy secretary planning.

5 30486 So the Clerk had at that point in
6 time to 2 I/Cs, two deputy secretaries, both at Deputy
7 Minister rank. And at that point in time I think that
8 one was Mr. Shortliffe. His name appears elsewhere as
9 Deputy Secretary Operations, and the other one was
10 Deputy Secretary Plans.

11 30487 Plans included, among other things,
12 the functioning of the Cabinet Committee on Priorities
13 and Planning.

14 30488 MR. BATTISTA: So I take it then this
15 memo was signed for you?

16 30489 THE HON. PAUL TELLIER: Yes.

17 30490 MR. BATTISTA: You read it afterwards
18 and you put annotations on it?

19 30491 THE HON. PAUL TELLIER: Yes. A copy
20 would have come my way and when I saw it, you know --
21 and you see that I saw at the very next day.

22 30492 MR. BATTISTA: And here it says:

23 "à discoute svp. Je veux savoi
24 où on en est".

25 30493 This would be a memo to who?

1 30494 THE HON. PAUL TELLIER: Basically
2 back to Bilodeau, the initiator of the memo.

3 30495 MR. BATTISTA: Okay. When this memo
4 was sent to Mr. Spector, did you have any discussion
5 with him?

6 30496 Do you recall any specific
7 discussion?

8 30497 THE HON. PAUL TELLIER: Not unlikely,
9 but I don't recall. I don't recall.

10 30498 MR. BATTISTA: You indicate in this
11 memo that there is a concern that Mr. MacKay -- how
12 Mr. MacKay will be proceeding on this project. The
13 last paragraph:

14 "I understand that you will be
15 discussing with Mr. MacKay how
16 to proceed on this project. He
17 is very anxious to have this
18 matter scheduled for Operations
19 Committee in the near future,
20 possibly on December 13. If
21 this is the case, we will
22 prepare a more detailed briefing
23 material for that meeting."

24 30499 By reading this note, does it refresh
25 your memory on what was going on at the time?

1 30500

THE HON. PAUL TELLIER: No.

2 Obviously again it was an attempt, you know, to make
3 some progress on this. And to bring it, you know, to
4 the Committee on Operations which was chaired by
5 Mr. Mazankowski would be a good way, you know, to try
6 to address various aspects of this.

7 30501

MR. BATTISTA: Okay. So you don't

8 recall, following this memo in December 1990, any
9 specific discussion with Mr. Spector concerning this
10 project?

11 30502

THE HON. PAUL TELLIER: No.

12 30503

MR. BATTISTA: Okay. I will take you

13 to Tab 28, January 16, 1991.

14 30504

What we see here is a memo to

15 Mr. Spector, again from yourself but signed by --
16 original signed by you. So this is a copy.

17 30505

The first paragraph:

18 "You will find attached, for
19 information, a revised copy of
20 the joint ACOA/DND Aide Memoire
21 on the Thyssen proposal."

22 30506

So there was one sent in December.

23 "It now reflects DND's primary
24 analysis of the costs of Thyssen
25 supplying DND with the TH 495

1 vehicle rather than the TPZ
2 Fox."

3 30507 So there was already a modification
4 from the last memo that you had sent; correct?

5 30508 THE HON. PAUL TELLIER: Yes.

6 30509 MR. BATTISTA: And there was a new
7 evaluation on costs.

8 30510 THE HON. PAUL TELLIER: Yes.

9 30511 MR. BATTISTA: In the third
10 paragraph:

11 "On December 11, 1990, Thyssen
12 submitted to ACOA a more
13 specific proposal to allow DND
14 at some later date to substitute
15 a lower number, possibly 207, of
16 the TH 495 vehicle (still on the
17 drawing board) for the original
18 proposal for 250 of the TPZ Fox
19 vehicle..."

20 30512 So this is referring to that initial
21 proposal which has now been amended; correct?

22 30513 In the last paragraph of this letter,
23 page 2:

24 "The bottom line from our
25 perspective continues to be that

1 this project is undesirable
2 since it would involve DND
3 acquiring a product that does
4 not meet its requirements; in
5 quantities larger than it
6 requires; at a price higher than
7 it can afford; in a time frame
8 in advance of its needs, and for
9 which a source of funds has not
10 been identified."

11 30514 If I get this right, you're not
12 really in agreement with this project.

13 30515 THE HON. PAUL TELLIER: Exactly.

14 30516 MR. BATTISTA: Now, between December
15 and January were you told by Mr. Spector as far as the
16 Prime Minister is concerned this project is dead?

17 30517 THE HON. PAUL TELLIER: Well, I know
18 that this is what seems to be indicated, you know, on
19 the file.

20 30518 MR. BATTISTA: But if we read your
21 letter, you are indicating to him in January 1991 that
22 you are not in agreement with it.

23 30519 THE HON. PAUL TELLIER: Yes.

24 30520 MR. BATTISTA: Correct?

25 30521 THE HON. PAUL TELLIER: Yes.

1 30522 MR. BATTISTA: And if you had been
2 told this project is dead or there is no need to do
3 this, you would not be writing this memo.

4 30523 Is that a fair assumption?

5 30524 THE HON. PAUL TELLIER: It's a fair
6 assumption.

7 30525 MR. BATTISTA: Okay.

8 30526 I will refer you to Tab 29. This is
9 a memo for Mr. Spector from you again and I will direct
10 your attention to the first paragraph:

11 "We understand the Karlheinz
12 Schreiber of Thyssen/Bear Head
13 Industries will be in Ottawa
14 next week and may try to contact
15 you."

16 30527 Question to you: How would you know
17 this? Why would you be informing the Chief of Staff of
18 the PMO of this?

19 30528 Can you maybe shed some light?

20 30529 THE HON. PAUL TELLIER: Well, as I
21 have said, you know, the personnel of the Privy Council
22 office, most of it, and the personnel of the Prime
23 Minister's office are located in the same building.
24 You know, they go to the same washrooms, and so on and
25 so forth. So therefore, you know, the people, the

1 analysts, for instance, in the Privy Council Office,
2 for instance in economic policy, and so on and so
3 forth, would run all the time into their colleagues in
4 the Prime Minister's Office, and so on and so forth.

5 30530 So, you know, they would say, you
6 know, so-and-so -- for instance, Norman Spector has
7 been asked, you know, to see and so on, and the request
8 would come for a note, you know. He needs a briefing
9 note for this and what have you and so on.

10 30531 So I suppose that's the way it came
11 about.

12 30532 MR. BATTISTA: That's what would
13 explain such a memo from your part?

14 30533 THE HON. PAUL TELLIER: Yes. Yes.

15 30534 MR. BATTISTA: Again I draw --

16 30535 THE HON. PAUL TELLIER: And the
17 intent again would be always to make sure that when the
18 meeting takes place, the person having the meeting on
19 behalf of the government is as fully briefed as
20 possible in terms of the facts and the status of the
21 file, and so on and so forth.

22 30536 MR. BATTISTA: Okay. I draw again
23 your attention to the last paragraph, your comment.

24 30537 You indicate:

25 "As our previous note

1 indicates..."

2 30538 So you are referring to your January
3 note:

4 "... we have strong reservations
5 about the Thyssen project
6 because of the cost, the absence
7 of a source of funds, the
8 potential incompatibility with
9 DND's operational requirements
10 and the overall financial
11 viability of the project."

12 30539 So again you are voicing your concern
13 and objections to this; correct, at that point?

14 30540 THE HON. PAUL TELLIER: Very
15 consistently.

16 30541 MR. BATTISTA: Do you know if
17 Mr. Schreiber met with Mr. Spector?

18 30542 THE HON. PAUL TELLIER: No, I don't
19 know.

20 30543 MR. BATTISTA: Okay.
21 30544 I'm going to take you now to Tab 30
22 and there are excerpts of agendas.

23 30545 THE HON. PAUL TELLIER: Yes.

24 30546 MR. BATTISTA: There is an excerpt of
25 your agenda.

- 1 30547 THE HON. PAUL TELLIER: Yes.
- 2 30548 MR. BATTISTA: Just as a preliminary
3 note, who made the inscriptions in your daily agenda or
4 your daily daytimer?
- 5 30549 THE HON. PAUL TELLIER: I did.
6 Basically my assistant was keeping a more formal
7 schedule, much more a scheduled than an agenda.
- 8 30550 But I had the practice at the end of
9 every week or at least every month to do an analysis of
10 the utilization of my time; how much time I would spend
11 internally, how much time I would spend externally, how
12 much time I would spend with the Prime Minister, and so
13 on and so forth.
- 14 30551 So these bars that I would make was
15 an attempt on my part to try to assess, you know, how I
16 was spending my time.
- 17 30552 And when I was first questioned on
18 this, either at the time I was questioned by the RCMP
19 in 1999 I did check, or maybe it was at a later date
20 when I was questioned by the Parliamentary Committee in
21 writing, I went to check the diary and I saw this. And
22 it happened to be the right date, because there is, you
23 know, other documents that demonstrate, for instance a
24 letter from Mr. Schreiber, and so on, which refers to a
25 specific date.

1 30553 So therefore, as I have said before,
2 it seems that I had three meetings with Mr. Schreiber.

3 30554 I remember two and this one is the
4 first one. This one was involving the Prime Minister,
5 Mr. Schreiber, Mr. Doucet and myself.

6 30555 MR. BATTISTA: Okay. So what you
7 indicate is the diagonal lines would indicate the time
8 you spent on something?

9 30556 THE HON. PAUL TELLIER: Yes. And my
10 assumption here is that, given the fact that it took
11 four lines to indicate, you know, who I met with, that
12 basically that meeting ended at 1630, which is
13 basically why the line is there.

14 30557 Therefore, you know, I see this. I
15 know that there is another interpretation of that
16 meeting, or another description of that meeting that
17 you have heard, Mr. Commissioner, but my recollection
18 is that that was a very short meeting.

19 30558 My recollection is that the Prime
20 Minister was in our building. As you are aware, the
21 Prime Minister has two offices, one on Parliament Hill
22 and one across the street in the Langevin Block. Very
23 seldom did the Prime Minister -- at least Mr. Mulroney,
24 and I know it was the same with Mr. Trudeau. Very
25 seldom the Prime Minister comes to the Langevin Block

1 across the street. He usually operates from the Centre
2 Block, House of Commons.

3 30559 My recollection is that one day, in a
4 totally unscheduled fashion, my assistant said the
5 Prime Minister is downstairs -- his office was right
6 below mine -- and he is wondering whether you can come
7 for a few minutes.

8 30560 I remember going downstairs, walking
9 into the office. I remember my recollection is that
10 Mr. Schreiber and Mr. Doucet were seated in front of
11 the Prime Minister, in front of the desk of the Prime
12 Minister. The Prime Minister was seated at his desk.

13 30561 I walked in. I didn't know what the
14 meeting was all about. I didn't know it was a meeting
15 with Mr. Doucet and Mr. Schreiber.

16 30562 And the Prime Minister asked me
17 something like: Paul, where are we on Thyssen?

18 30563 Basically I said Prime Minister, you
19 know, the file is still being considered, and so on and
20 so forth. I tried to give him as best as possible the
21 status of the file.

22 30564 Before looking at this, I was left
23 with the impression that the meeting had lasted about
24 10 minutes. I don't remember having sat in a chair or
25 at the table in the Prime Minister's office. And then

1 the Prime Minister said fine and I left, and so on.

2 30565 So this is my recollection of that
3 meeting.

4 30566 I know that Mr. Schreiber has a
5 different memory. I know that some are saying that,
6 you know, the Prime Minister was there for only part of
7 the meeting and that I was left alone with the other
8 two. This is not my recollection.

9 30567 COMMISSIONER OLIPHANT: I'm sorry,
10 just so it's clear to me, Mr. Tellier, you are
11 referring to the entry on Wednesday, April 10th, are
12 you?

13 30568 THE HON. PAUL TELLIER: That's it.

14 30569 COMMISSIONER OLIPHANT: Are you
15 saying, sir -- and believe me, I sympathize with what
16 you do. I do exactly the same thing to try to keep
17 track of where I am and how I am wasting my time -- not
18 to suggest that this was a waste of time.

19 30570 But looking at this it indicates it
20 took four lines to write out what you wanted to note,
21 the people that were at the meeting. But are you
22 suggesting that, despite the fact that according to
23 your daybook the meeting ended at 5:00, in fact it
24 ended at 4:30?

25 30571 THE HON. PAUL TELLIER: Yes.

1 30572 COMMISSIONER OLIPHANT: Okay.

2 30573 THE HON. PAUL TELLIER: That is my
3 explanation of the "16.30" --

4 30574 COMMISSIONER OLIPHANT: Yes. It's
5 just that it took four lines to write that out. That's
6 just a coincidence.

7 30575 THE HON. PAUL TELLIER: Exactly.
8 Exactly.

9 30576 COMMISSIONER OLIPHANT: Okay. So
10 you're recollection --

11 30577 THE HON. PAUL TELLIER: That's my
12 recollection.

13 30578 COMMISSIONER OLIPHANT: Well, you
14 know what, good for you. That's a long time ago. But
15 your recollection is that the meeting lasted half an
16 hour?

17 30579 THE HON. PAUL TELLIER: Yes.

18 30580 COMMISSIONER OLIPHANT: Okay. Go
19 ahead. Thank you.

20 30581 MR. BATTISTA: Simply to go back to
21 your agenda, what we see is we see at 4 o'clock Prime
22 Minister, and it seems to be written in square block
23 letters. And then we see the handwriting differently.

24 30582 Are you the author of both those
25 lines --

1 30583 THE HON. PAUL TELLIER: Yes.

2 30584 MR. BATTISTA: -- or was that filled
3 in by you afterwards?

4 30585 THE HON. PAUL TELLIER: Yes. Yes. I
5 think so, yes.

6 30586 MR. BATTISTA: You think so. You're
7 not certain?

8 30587 THE HON. PAUL TELLIER: Well, you
9 know, it's --

10 30588 MR. BATTISTA: Could it have been
11 your assistant?

12 30589 THE HON. PAUL TELLIER: No, I don't
13 think so. You know, my handwriting differs from time
14 to time.

15 30590 If you look at that page, for
16 instance, "PCO Staff" on the same page, and so on and
17 so forth. So it does not raise any question in my mind
18 when I see this.

19 30591 MR. BATTISTA: Okay.

20 30592 I will direct you now to Mr. Doucet's
21 agenda. We included it also.

22 30593 You see that his inscription on April
23 10th he indicates "K.S. with P.M." So we can assume
24 that that is Karlheinz Schreiber with Prime Minister.

25 30594 And if we keep going, we find

1 Mr. Schreiber's agenda, two pages away, and the
2 indication there is 4 o'clock "PM/Tellier Fred".
3 30595 Your recollection is that this
4 meeting was not scheduled. It was the Prime Minister's
5 assistant who called your assistant and had you come
6 down to the Prime Minister's office?
7 30596 THE HON. PAUL TELLIER: That's my
8 recollection.
9 30597 MR. BATTISTA: Okay.
10 30598 And you would have added these names
11 in afterwards to sort of account for your time and to
12 sort of evaluate how you were spending your time in
13 office?
14 30599 THE HON. PAUL TELLIER: Yes.
15 30600 MR. BATTISTA: Okay. I will refer
16 you to Tab 31. You have a letter from Mr. Doucet to
17 yourself.
18 30601 Mr. Doucet is obviously referring to
19 the meeting they had with you at that point.
20 30602 You had an opportunity of reading
21 this letter?
22 30603 THE HON. PAUL TELLIER: Yes.
23 30604 MR. BATTISTA: Did it refresh your
24 memory in any way as to the contents of the meeting?
25 30605 THE HON. PAUL TELLIER: Yes, it did.

1 30606 MR. BATTISTA: And what can you tell
2 us?

3 30607 THE HON. PAUL TELLIER: Well,
4 basically that that meeting had taken place on the
5 10th. I did not remember before reading this that
6 there had been an updated MOU, and so on, which is
7 attached.

8 30608 That is basically, you know, my
9 recollection.

10 30609 MR. BATTISTA: Okay. I will take you
11 to Tab 35.

12 30610 This is a May 7th letter from
13 Mr. Schreiber. It is May 7th, but actually it refers
14 to -- he talks about:

15 "This letter follows from my
16 meeting of April 10 with the
17 Prime Minister, yourself and
18 Fred Doucet."

19 30611 So we are talking about the same
20 meeting?

21 30612 THE HON. PAUL TELLIER: Yes.

22 30613 MR. BATTISTA: And he indicates:
23 "At the conclusion of that
24 meeting, it was understood that
25 you would bring your personal

1 leadership to the file and chair
2 a meeting between Government and
3 company officials as early as
4 possible within one week's
5 time."
6 30614 There is a note there that says "Not
7 accurate".
8 30615 THE HON. PAUL TELLIER: Yes.
9 30616 MR. BATTISTA: Who put the note in?
10 30617 THE HON. PAUL TELLIER: Well, all
11 these notes, you know, these handwritten comments are
12 very much mine on the front page.
13 30618 MR. BATTISTA: Okay. So you at that
14 moment when this was sent to you and that it came to
15 your attention, you made that comment next to that
16 entry?
17 30619 THE HON. PAUL TELLIER: Yes. And I
18 am assuming that the reason it was noted like this "Not
19 accurate", and so on and so forth, is that my reply of
20 I think May 17th, or whatever is the date, reflects the
21 fact that there was a disagreement on what had been
22 said and what had been agreed to, and so on and so
23 forth.
24 30620 So therefore I did not personally
25 draft the reply. Somebody did and these were part of

1 my instructions, you know, to the people who were
2 drafting the letter.

3 30621 So I got the letter, and so on. The
4 letter was assigned to the appropriate secretariat for
5 reply and I gave them my input by basically indicating
6 in the margin these comments.

7 30622 MR. BATTISTA: Okay. I will take you
8 back to Tab 32 now.

9 30623 There is an April 17th memo for you
10 or for your attention by Mr. William Rowat.

11 30624 The first paragraph says:

12 "On April 12, Mr. J.A. Doucet
13 sent you a new proposal on
14 behalf of Thyssen/Bearhead
15 Industries. The purpose of this
16 note is to give you an
17 assessment of this new
18 proposal."

19 30625 So you had asked that this proposal
20 be evaluated after having received it from Mr. Doucet?

21 30626 THE HON. PAUL TELLIER: Yes.

22 30627 MR. BATTISTA: Do you recall that?

23 30628 THE HON. PAUL TELLIER: Yes.

24 30629 MR. BATTISTA: And the comment is on
25 the second page and it's underlined:

1 "Nothing in the revised proposal
2 alleviates any of our
3 fundamental concerns about this
4 project."

5 30630 So your position is unchanged. That
6 is correct?

7 30631 THE HON. PAUL TELLIER: Yes.

8 30632 MR. BATTISTA: I will take you to Tab
9 34.

10 30633 It is a May 3rd memo and it is a memo
11 that I guess is more of a memo to file or note. It is
12 by Major General Reay and it relates to a meeting you
13 had with him.

14 30634 Do you recall that meeting?

15 30635 THE HON. PAUL TELLIER: Yes, very
16 much so. Very much so.

17 30636 I don't remember what -- first of
18 all, Gordon Reay was -- is a General and he was
19 assigned by DND at one point in time to work in the
20 Foreign Affairs and Defence Secretariat of the Privy
21 Council Office. So therefore at one point in time he
22 had worked, you know, with me in the privy Council
23 Office so he was not a general among many. You know, I
24 knew him, and so on and so forth.

25 30637 Basically he came to see me and we

1 discussed the file and, as it is clearly indicated
2 here, we are discussing out loud what would be the best
3 way to close the file.

4 30638 MR. BATTISTA: Okay.

5 30639 THE HON. PAUL TELLIER: You know, to
6 bring it to an end.

7 30640 MR. BATTISTA: So if we get this from
8 the chronological point of view, on April the 10th the
9 Prime Minister called you into his office to sort of
10 find out where things were at. Your recollection was
11 that you indicated to him that the file was proceeding,
12 was following its due course?

13 30641 Is that fair?

14 30642 THE HON. PAUL TELLIER: Fair.

15 30643 MR. BATTISTA: You left that meeting
16 and you asked for an assessment to be made of the new
17 proposal that Thyssen was making at that point.

18 30644 THE HON. PAUL TELLIER: Yes.

19 30645 MR. BATTISTA: And you met with
20 General Reay on the 3rd of May to sort of discuss the
21 possible options in terms of closing this down.

22 30646 Is that --

23 30647 THE HON. PAUL TELLIER: Right.

24 Right.

25 30648 MR. BATTISTA: So what you are told,

1 then, is that there is no support among the certain
2 Generals that you had been told were supporting this
3 project.

4 30649 THE HON. PAUL TELLIER: Yes.

5 30650 MR. BATTISTA: Is that correct?

6 30651 THE HON. PAUL TELLIER: Yes.

7 30652 MR. BATTISTA: I will lead you to

8 point 2:

9 "Mr. Tellier then turned to the
10 issue of attempting, finally, to
11 close the file. He outlined his
12 thoughts on what a letter to the
13 company might contain..."

14 30653 And then he summarizes.

15 30654 I will take you to point 4:

16 "Mr. Tellier asked my advice as
17 to who should sign the letter.
18 I indicated that it should not
19 emanate from MND or the
20 Department. Given the apparent
21 access of the Thyssen CEO to the
22 PM, I felt the signature should
23 be that of Tellier, Spector or
24 the PM, with the leaning toward
25 Spector."

1 30655 Could you explain that a little, how
2 that would be rationalized?

3 30656 THE HON. PAUL TELLIER: Well, the
4 line of reasoning was National Defence, rightly or
5 wrongly, were perceived as being biased in favour of
6 GM. Therefore, when I was discussing this, you know,
7 in a very open fashion with General Reay, basically he
8 said that I don't think that, you know, we should be
9 the one closing the file because, you know, given the
10 fact that there has been many attempts to use the
11 political channels to make some progress on that file,
12 you know, it is going to continue.

13 30657 So therefore it would be better if
14 that letter was signed either by me or by Spector.

15 30658 MR. BATTISTA: Okay. Paragraph --

16 30659 THE HON. PAUL TELLIER: So that is
17 basically, you know, the context of that.

18 30660 MR. BATTISTA: Paragraph 5:

19 "Mr. Tellier will use the draft
20 letter as the basis of
21 consultation with PCO/PMO and I
22 indicated our willingness to
23 redraft it once he had finalized
24 his thoughts. We left it at
25 that."

- 1 30661 Who would you be discussing this with
2 at the PMO?
- 3 30662 THE HON. PAUL TELLIER: Basically, it
4 would be me turning it to, most likely, Bilodeau, or
5 Rowat, who succeeded Bilodeau -- Bilodeau had changed
6 jobs within the Privy Council Office -- and for
7 Bilodeau to go and discuss it, maybe, with Spector, but
8 very likely with one of the 2I/Cs to Spector.
- 9 30663 MR. BATTISTA: And eventually it
10 would get to Mr. Spector?
- 11 30664 THE HON. PAUL TELLIER: Yes.
- 12 30665 MR. BATTISTA: That is how it would
13 get to the Prime Minister, as well?
- 14 30666 THE HON. PAUL TELLIER: Yes.
- 15 30667 MR. BATTISTA: Mr. Spector was, at
16 the time, still Chief of Staff when this was being
17 discussed.
- 18 30668 THE HON. PAUL TELLIER: Yes.
- 19 30669 MR. BATTISTA: I would now direct you
20 to Tab 33. These are excerpts from the May 1991
21 agenda. We see here Wednesday, May 8th, at 4 p.m.:
22 "Fred Doucet re Thyssen."
- 23 30670 You had a meeting with Mr. Doucet?
24 30671 Do you recall that?
- 25 30672 THE HON. PAUL TELLIER: I recall it

1 very well.

2 30673 COMMISSIONER OLIPHANT: What was the
3 date of that meeting again?

4 30674 MR. BATTISTA: The 8th of May,
5 Commissioner. It is the second page of the notes, in
6 the right-hand column.

7 30675 COMMISSIONER OLIPHANT: I have it,
8 thank you.

9 30676 MR. BATTISTA: Do you recall who was
10 present at the meeting?

11 30677 THE HON. PAUL TELLIER: Yes, very
12 much so. To the best of my recollection, Mr. Doucet --
13 with whom I had a very limited relationship, but a very
14 cordial relationship, because, as I explained before,
15 when I came, he was the Deputy Chief of Staff. The
16 Chief of Staff when I came to the Privy Council Office
17 was Bernard Roy.

18 30678 So my major interface in the Prime
19 Minister's Office was Bernard Roy.

20 30679 Mr. Doucet was the Deputy Chief of
21 Staff, and by the time I came in, he was working almost
22 exclusively on Foreign Affairs.

23 30680 Bob Fowler, on my behalf, was working
24 on the Foreign Affairs files, and so on.

25 30681 I was involved in a few international

1 meetings, like the Commonwealth heads of government
2 meetings, but apart from that, it was basically Fowler.

3 30682 Therefore, I had limited contact with
4 Mr. Doucet, but he and I always had a very cordial
5 relationship, and Mr. Doucet asked whether I could sit
6 down with him and Mr. Schreiber, and we did.

7 30683 And, again, Mr. Schreiber -- and with
8 some justification -- complained that it was taking an
9 awful long time to progress the file, and that there
10 were a lot of misunderstandings, and so on, as
11 reflected in the correspondence, and so on and so
12 forth.

13 30684 Basically, he was asking me to
14 intervene, and I repeated that I felt that it was for
15 the Department of National Defence to be in the lead on
16 this file, and something like -- and I don't remember
17 whether it was said by Mr. Doucet or Mr. Schreiber, but
18 one of them said: Well, obviously, you don't
19 understand the instructions of your boss, and therefore
20 the Prime Minister is going to hear about this.

21 30685 I found the comment offensive,
22 because it was basically implying that I was ignoring
23 the Prime Minister's directives, or instructions, which
24 was not the case, because I had never been instructed
25 by the Prime Minister on this file; and offensive

1 because, you know, not trusting that I would report our
2 conversation, and they said: Well, you know, the Prime
3 Minister is going to hear about this.

4 30686 And my reply was: You had better
5 believe it, because he is going to hear it from me
6 directly.

7 30687 And, basically, I got up and, you
8 know, there was no fight, there was no big debate, and
9 so on and so forth. As far as I was concerned, the
10 meeting had served its purpose. Mr. Schreiber and Mr.
11 Doucet had expressed their grievances, and so on, about
12 the slowness of the process, about the opposition
13 perceived within the bureaucracy, especially within the
14 Privy Council Office, and so on and so forth, and,
15 basically, I walked to the door, and I escorted them to
16 the door.

17 30688 Following this, because I wanted the
18 Prime Minister to hear it directly from me, because it
19 was not unlikely that, as soon as Mr. Doucet would get
20 back to his office, he would try to reach the Prime
21 Minister, I closed the door, I went around my desk and
22 I asked the Prime Minister's switchboard if the Prime
23 Minister would be available to take my call, and it
24 happened that he was available.

25 30689 Therefore, I said: Prime Minister, I

1 want to tell you that Mr. Schreiber and Mr. Doucet are
2 just leaving my office. They are not very pleased with
3 the outcome. They feel that I am not following your
4 instructions, and so on and so forth. It was a short
5 meeting. It surely did not meet their expectations,
6 and I wanted to inform you about this before you got a
7 call from Fred.

8 30690 And the Prime Minister said: Thank
9 you very much for calling. Have you got anything else
10 to discuss?

11 30691 And, you know, given the fact that
12 the Prime Minister's time is the rarest commodity in
13 town, I always kept a list of things to discuss with
14 the Prime Minister next to my phone, and I said yes,
15 and we spent the next -- I don't know -- 20 minutes,
16 half an hour discussing my list of items that I had,
17 and I obviously don't remember what they were.

18 30692 So that is my recollection of that
19 meeting. I did not throw anybody out of my office, and
20 so on and so forth. I know that Mr. Kaplan has written
21 about this, and I know that Mr. Schreiber commented on
22 this, but that is basically my recollection.

23 30693 I didn't want two guys in my office
24 to tell me that, one, I was not following the Prime
25 Minister's instructions; and two, that they were going

1 to report that to the Prime Minister. I didn't need
2 that.

3 30694 MR. BATTISTA: That's why you took
4 the initiative of calling the Prime Minister?

5 30695 THE HON. PAUL TELLIER: Exactly.

6 30696 Exactly, because, otherwise, it would
7 have been reported to him, mostly likely by Mr. Doucet,
8 in his own way, and so on and so forth.

9 30697 So I said it to the Prime Minister
10 exactly the way it happened, and that was it. The
11 Prime Minister said: Thank you very much. Have you
12 got something else to discuss?

13 30698 MR. BATTISTA: Were you concerned
14 about how Mr. Doucet might characterize the meeting?

15 30699 THE HON. PAUL TELLIER: Was I
16 concerned? Not at all. I couldn't care less. But I
17 felt that I owed it to the Prime Minister to report to
18 him exactly what had transpired in my office.

19 30700 COMMISSIONER OLIPHANT: May I ask a
20 question? You are talking now about the meeting on
21 Wednesday, May the 8th, are you, Mr. Tellier?

22 30701 THE HON. PAUL TELLIER: I am talking
23 about, yes, the meeting alone between myself, Mr.
24 Schreiber and Mr. Doucet.

25 30702 COMMISSIONER OLIPHANT: The reason I

1 ask that, sir, is that your daybook indicates "Mr.
2 Doucet re Thyssen" and I don't see Mr. Schreiber's name
3 there.

4 30703 THE HON. PAUL TELLIER: Well, it was
5 Mr. Doucet and Mr. Schreiber.

6 30704 COMMISSIONER OLIPHANT: All right.

7 30705 THE HON. PAUL TELLIER: Yes.

8 30706 MR. BATTISTA: Thank you,
9 Commissioner.

10 30707 I would direct you to Tab 36, where
11 we have a letter to Mr. Mazankowski from Mr. Schreiber.

12 30708 I would direct you to paragraph 3:
13 "The Clerk of the Privy Council,
14 I understand, is ensuring that a
15 meeting of the appropriate
16 Ministers...be convened."

17 30709 This is what Mr. Schreiber was saying
18 to Mr. Mazankowski.

19 30710 I would direct you to Tab 37, as
20 well. Mr. Doucet writes to you on May 9th, 1991, and
21 he says:

22 "Further to our meeting of
23 yesterday I have debriefed
24 myself to my client as I had
25 indicated to you I would.

1 We look forward to the
2 meeting which you agreed to
3 arrange but not chair to review
4 our proposal with the key
5 Ministers of ISTC, Defence,
6 ACOA, Finance, and DND at the
7 table."

8 30711 Do you see that note?

9 30712 THE HON. PAUL TELLIER: Yes.

10 30713 MR. BATTISTA: At Tab 38 we have a
11 note to Jane Billings from Peter Smith, and it says:

12 "Further to our discussion,
13 attached is a letter BHI sent to
14 Minister Crosbie. I suspect, as
15 is indicated, that the Ministers
16 listed in para 3 all received
17 similar letters. I will be
18 briefing Minister Crosbie on May
19 24, in anticipation of a meeting
20 to be called. My understanding
21 is Mr. Tellier has had meetings
22 with the company and is expected
23 to call a meeting in June, as
24 indicated."

25 30714 If we read the second-to-last

1 paragraph of the attached letter, which was another
2 memo:

3 "Following the Cabinet shuffle,
4 however, you and a number of
5 your colleagues were in receipt
6 of letters signed by Karlheinz
7 Schreiber, Chairman of Bear Head
8 Industries Limited indicating
9 that the file is still alive,
10 that the Company is still
11 interested, that a revised
12 proposal was being tabled and
13 that the Clerk of the Privy
14 Council is expected to call a
15 meeting of the Ministers of DND,
16 ISTC, Finance and ACOA in early
17 June."

18 30715 Did you undertake to call such a
19 meeting after the meeting with Mr. Doucet and Mr.
20 Schreiber?

21 30716 THE HON. PAUL TELLIER: To the best
22 of my knowledge, such a meeting was never called. I
23 stand to be corrected, but I am not aware of any
24 meeting of that nature being called, the reason being
25 that it is obvious that what the proponent of this

1 project wanted was, basically, either through the Prime
2 Minister's Office or the Privy Council Office, to shift
3 the process away from the lead department.

4 30717 Therefore, I felt throughout that it
5 was not for me to call a meeting, for the simple reason
6 that due process required that the Department of
7 National Defence should be in the driver's seat on a
8 procurement project like this.

9 30718 So, unless I am mistaken, I never
10 called a meeting of the parties, and the Prime Minister
11 never asked me to call a meeting of the parties.
12 Basically, I felt that it was for the normal process to
13 unfold, and for the normal process to unfold, it was
14 for Mr. Fowler to do what he did on February 5, 1990,
15 to bring the people together and to give them the right
16 time of day.

17 30719 MR. BATTISTA: I would bring you to
18 Tab 39. This is your response to Mr. Schreiber's May
19 17th letter, where you indicated to us that you had
20 made annotations of "Not accurate" and annotations of
21 another nature.

22 30720 We see here the result. The person
23 who drafted the letter indicates at paragraph 2:

24 "There are many statements in
25 your letter which are either

1 inaccurate, untrue or with which
2 I do not agree. I do not think
3 any useful purpose would be
4 served at this point in getting
5 involved in a lengthy exchange
6 of correspondence. However, I
7 do want to confirm with you that
8 senior officials from the
9 Department of National Defence
10 will arrange a meeting, at your
11 mutual convenience, the purpose
12 of which will be to review your
13 proposal and formally reply to
14 it."

15 30721 So you did undertake to organize a
16 meeting with representatives of National Defence.

17 30722 THE HON. PAUL TELLIER: But you see
18 the nuance there. I didn't feel that it was proper for
19 me to convene a meeting, because this would have
20 shifted the focus of the decision-making process to the
21 Langevin Block, to the Privy Council Office, and as a
22 result, basically, putting the Prime Minister's
23 staff -- in my case, myself -- in the driver's seat.

24 30723 Therefore, I resisted this. However,
25 I do want to confirm with you that senior officials

1 from the Department of National Defence would arrange a
2 meeting; it is not that I would arrange a meeting, and
3 so on.

4 30724 Therefore, it is consistent with what
5 I was telling you, Mr. Battista, a few minutes ago.

6 30725 Therefore, either Mr. Doucet or Mr.
7 Schreiber, throughout, would have liked me, basically,
8 to be in the driver's seat, at least to create the
9 impression that I was cracking the whip, on behalf of
10 the Prime Minister, that this project should get off
11 the ground, and I was not ready to do this.

12 30726 MR. BATTISTA: I would direct your
13 attention to Tab 42. We are now at July 18th, 1991,
14 and there is a memorandum to you from Mr. Rowat, and it
15 refers to Mr. Wilson.

16 30727 I will refer to paragraph 1:
17 "Mr. Wilson during his
18 introductory briefings for his
19 new portfolios, was advised on
20 the Thyssen proposal. He
21 indicated he would like
22 Operations to consider the
23 proposal at some point in the
24 future, in order to 'kill it'
25 once and for all."

- 1 30728 This was from Mr. Wilson. What was
2 Mr. Wilson's title at the time?
- 3 30729 THE HON. PAUL TELLIER: I think that
4 was at the time that Mr. Wilson ceased to be the
5 Minister of Finance and became the Minister of -- I
6 think Industry.
- 7 30730 So, basically, he became the
8 replacement in the portfolio that Mr. de Cotret used to
9 have, I think, subject to confirmation.
- 10 30731 MR. BATTISTA: It goes on to say:
11 "ISTC, in consultation with DND
12 and Finance, has prepared an
13 aide-mémoire..."
- 14 30732 Then we go to the bottom, the last
15 paragraph:
16 "Ron Bilodeau and I are of the
17 view that pressure for the
18 proposal seems to be in
19 remission and accordingly, there
20 is no need to add it to any of
21 our summer committee agendas."
- 22 30733 What would this be referring to, that
23 pressure seems to have subsided?
- 24 30734 THE HON. PAUL TELLIER: As compared
25 to the previous months, obviously, the project was less

1 alive. I mean, it was no longer a question of bringing
2 it to cabinet, and so on and so forth.

3 30735 In the summer months there is a
4 reduced schedule of cabinet meetings -- cabinet
5 committee meetings. Ministers are trying to be in
6 their ridings, their constituencies, and so on and so
7 forth.

8 30736 Therefore, that note is, at this
9 point in time, we don't see any kind of urgency to have
10 this on the agenda of a cabinet committee meeting, or a
11 cabinet meeting in the summer months, where the
12 attendance of ministers is lower, and usually meetings
13 are shorter.

14 30737 MR. BATTISTA: At this point, if we
15 go back to April and May -- in April we saw that the
16 Prime Minister had asked you to come to his office to
17 meet with Mr. Doucet and Mr. Schreiber.

18 30738 There was a meeting in May with you
19 and Mr. Doucet.

20 30739 There was a meeting that you
21 organized with Mr. Fowler, at least with Mr. Doucet and
22 Mr. Schreiber, or you announced that that's what you
23 would be doing.

24 30740 We see from this note here that there
25 has been a meeting of several ministers, at least, or

1 departments -- ministries, rather -- and the note
2 indicates that the pressure seems to have subsided.

3 30741 You are indicating that the summer
4 session has come about, but could it also be referring
5 to the amount of activity that has gone on, which has
6 provoked all of these meetings with departmental
7 individuals, following the invitation to the Prime
8 Minister's Office in April?

9 30742 THE HON. PAUL TELLIER: Possibly.

10 30743 MR. BATTISTA: I would take you now
11 to Tab 43.

12 30744 Before we go on, do you recall what
13 happened to the project in 1991?

14 30745 The project, at that time, was still
15 a Nova Scotia project. Do you recall if a decision had
16 been made to kill it, as the expression went?

17 30746 Do you recall that?

18 30747 THE HON. PAUL TELLIER: Just as a
19 result of reviewing the file.

20 30748 MR. BATTISTA: You don't have an
21 independent recollection of that?

22 30749 THE HON. PAUL TELLIER: No.

23 30750 MR. BATTISTA: I would refer you to
24 Tab 43, which is a memorandum to the Prime Minister.
25 Here we have in the second paragraph:

1 "Representatives from Thyssen
2 have suggested that the purchase
3 of the light armoured vehicles
4 be tendered competitively and
5 they have indicated they would
6 enter the competition with a
7 proposal to build a
8 manufacturing plant in East-end
9 Montreal. We do not believe the
10 Thyssen proposal merits serious
11 consideration for the following
12 reasons..."

13 30751 -- and you outline them again.

14 Correct?

15 30752 This time, though, the proposal is to
16 do this in Montreal, not in Nova Scotia.

17 30753 You conclude by saying:

18 "We are thus of the view that
19 defence should be permitted to
20 proceed at this time with sole
21 source contracts for the
22 helicopters and the light
23 armoured vehicles. The
24 Government should not entertain
25 the proposal by Thyssen to build

1 a plant in Montreal as part of a
2 competitive bid to provide the
3 light armoured vehicles."

4 30754 Was not one of the concerns initially
5 that what Thyssen wanted was a sole-sourced contract,
6 and that that was a concern in terms of process, and
7 that by avoiding the sole sourcing of Army vehicles,
8 for example, the government could get the best price
9 for product?

10 30755 Here you seem to be suggesting that
11 the Thyssen proposal should be rejected, and a
12 sole-sourced contract should be issued.

13 30756 THE HON. PAUL TELLIER: Yes, but each
14 and every one of these procurement contracts has to be
15 treated on its own. I don't recall the details of the
16 helicopter contract, and, as you know, this became a
17 very controversial contract. If I am not mistaken, it
18 was cancelled by a subsequent government, a successive
19 government, with very, very significant consequences.

20 30757 Therefore, I don't remember why, in
21 one case, it would be justified, and in the other case
22 it wouldn't be justified.

23 30758 You are perfectly right that,
24 throughout, we had been consistent that sole sourcing
25 was one of the issues, but, you know, there was the

1 fact that GM was there, and so on and so forth.

2 30759 I cannot address why, in this case,
3 it would be more justified than it would have been
4 otherwise.

5 30760 MR. BATTISTA: Okay. Tab 44 --

6 30761 COMMISSIONER OLIPHANT: Just before
7 you move on, I have a question, Mr. Tellier -- and I
8 recognize that you signed that memorandum, but the
9 author is either Gentles or Heinbecker.

10 30762 Is that correct?

11 30763 THE HON. PAUL TELLIER: Yes.

12 30764 COMMISSIONER OLIPHANT: Would it be
13 fair to say that that kind of recommendation about a
14 sole-sourced contract would only have been made on
15 recommendations received by people in PCO from the
16 Department of National Defence?

17 30765 THE HON. PAUL TELLIER: Yes, very
18 likely. I don't remember --

19 30766 COMMISSIONER OLIPHANT: They don't go
20 and make this kind of recommendation on their own.
21 Surely they get advice from people in the know.

22 30767 THE HON. PAUL TELLIER: Oh, yes.

23 30768 COMMISSIONER OLIPHANT: Here is what
24 we need, and this is when we need it.

25 30769 THE HON. PAUL TELLIER: Very much so.

1 30770 COMMISSIONER OLIPHANT: And that
2 would be the reason for a recommendation for a
3 sole-sourced contract.

4 30771 THE HON. PAUL TELLIER: Yes.

5 30772 COMMISSIONER OLIPHANT: Thyssen
6 couldn't deliver, at the moment. They didn't have a
7 plant there. Right?

8 30773 THE HON. PAUL TELLIER: Correct.

9 30774 COMMISSIONER OLIPHANT: I am not
10 looking to justify what was done here, but would that
11 explain the reason for a sole-sourced contract, when,
12 earlier on, there had been recommendations against a
13 sole-sourced contract --

14 30775 THE HON. PAUL TELLIER: Very much so.

15 30776 COMMISSIONER OLIPHANT: -- in favour
16 of competition?

17 30777 THE HON. PAUL TELLIER: Very much so,
18 Mr. Commissioner. This is why I said that every case
19 has to be judged on its own merits.

20 30778 COMMISSIONER OLIPHANT: That's what
21 prompted my question.

22 30779 THE HON. PAUL TELLIER: Exactly.

23 30780 For instance, Gentles, if I am not
24 mistaken, was coming from the Department of National
25 Defence. Heinbecker became, afterwards, our Ambassador

1 to the UN, and in Bonn --

2 30781 COMMISSIONER OLIPHANT: That's Paul
3 Heinbecker, is it?

4 30782 THE HON. PAUL TELLIER: Yes, it's
5 Paul Heinbecker, who was the successor to Fowler.

6 30783 So there was Fowler, and after that
7 Hébert, I think there was somebody else, and then
8 Heinbecker, and so on and so forth.

9 30784 And these people in these
10 secretariats would work day in and day out with their
11 counterparts.

12 30785 For instance, Heinbecker would be as
13 much on the premises of the Department of Foreign
14 Affairs as he would be on the premises of the Privy
15 Council Office, because that is exactly the way they
16 worked.

17 30786 The PCO is the channel to convey
18 information to the Prime Minister, and so on and so
19 forth, but that information does not come from the blue
20 sky, it comes from the input they get from their
21 colleagues in the department, and that is why the Privy
22 Council Office is staffed in that fashion.

23 30787 So Heinbecker comes -- Gordon Reay
24 comes from DND, and Heinbecker comes from External
25 Affairs, and he returns to External Affairs once the

1 assignment in the Privy Council Office is complete.

2 30788 COMMISSIONER OLIPHANT: Okay, thanks.

3 30789 MR. BATTISTA: Thank you for your
4 questions, Commissioner, and thank you for your
5 answers.

6 30790 And I don't want to be taken to have
7 cut corners short, the memo extends over two pages, and
8 there are a series of concerns that are outlined.

9 30791 If we go to the bottom of page 2:
10 "The purchase of the GM
11 product...will provide Defence
12 with a proven product that meets
13 the operation requirement from
14 an existing Canadian production
15 line with minimal cost risks."

16 30792 So there are rationalizations, but my
17 point to you was that one of the concerns that had been
18 voiced was that sole sourcing was, in and of itself, a
19 problem. It was something that was troubling to the
20 ACOA people, who were trying to push this politically.
21 It was something that was troubling to the Thyssen
22 people, who were saying, "You always sole source
23 anyway," and, in the end, there was a sole source in
24 this case, as well.

25 30793 That would be fair?

- 1 30794 THE HON. PAUL TELLIER: Yes.
- 2 30795 MR. BATTISTA: At Tab 44 is a June
3 24th memo to the Prime Minister. This time it
4 addresses specifically the Thyssen proposal to develop
5 a peacekeeping vehicle. So this was another stage of
6 the proposal.
- 7 30796 You begin by saying:
8 "I understand that in early May
9 you met with Mr. Karlheinz
10 Schreiber of Thyssen BHI to
11 discuss his proposal to build
12 eight prototype 'peace-keeping'
13 vehicles based on the TH 495,
14 currently under development."
- 15 30797 It was to your knowledge that the
16 Prime Minister had met with Mr. Schreiber in the month
17 of May?
- 18 30798 THE HON. PAUL TELLIER: It was
19 obviously -- I bring to your attention the fact that
20 the note was signed by Mr. Shortliffe --
- 21 30799 MR. BATTISTA: Yes.
- 22 30800 THE HON. PAUL TELLIER: -- who was my
23 Deputy Secretary of Operations. So, obviously, he was
24 very much aware that -- I am assuming that he was told,
25 or he was made aware himself that Mr. Schreiber and the

1 Prime Minister had met in early May.

2 30801 MR. BATTISTA: There is also
3 reference to letters:

4 "Since your meeting, Mr.
5 Schreiber has written to you
6 twice, May 13 and May 22,
7 outlining the progress he is
8 making in gaining support for
9 his project."

10 30802 What we can draw from this is that,
11 in May of 1992, Mr. Schreiber met with the Prime
12 Minister this time. The year before he had met with
13 you.

14 30803 THE HON. PAUL TELLIER: That seems to
15 be the case.

16 30804 MR. BATTISTA: He has met with the
17 Prime Minister, and he has corresponded with the Prime
18 Minister on this matter.

19 30805 I will read the last paragraph on
20 page 1:

21 "The most recent proposal
22 submitted to DND seeks a
23 directed contract from the
24 Government to build eight
25 prototype 'peace-keeping'

1 vehicles. Thyssen would
2 construct an R&D facility in
3 Quebec, presumably the east end
4 of Montreal, to carry out the
5 work. Although the proposal
6 does not seek financing by DND,
7 it does assume that some other
8 government department would
9 provide DND with \$132 million
10 for the contract. The position
11 of the Quebec Government is not
12 yet known. Thyssen claims
13 Quebec's support; our officials
14 will be in touch with the
15 Province about this."

16 30806 We go on to the PCO comment at the
17 end:

18 "There is no defence rationale
19 for the Thyssen proposal."

20 30807 It goes to the middle:

21 "We have met with officials of
22 ISTC and FORD-Q..."

23 30808 FORD-Q is the Department of Regional
24 Development for Quebec.

25 30809 Is that correct, Mr. Tellier?

1 30810 THE HON. PAUL TELLIER: Yes.

2 30811 MR. BATTISTA: The last sentence of

3 that paragraph:

4 "In any case, there would likely

5 be extreme political sensitivity

6 if a Thyssen project were to

7 proceed in Quebec, when, an

8 earlier related Thyssen proposal

9 did not proceed in the

10 Maritimes."

11 30812 In 1991 it was cancelled in the

12 maritimes, or it didn't go through, and now, in 1992,

13 it is returning with a Quebec life.

14 "Under the circumstances we

15 suggest that you refer Mr.

16 Schreiber to the Minister of

17 Industry, Science and Technology

18 and suggest that he explore the

19 suitability of various

20 industrial development programs.

21 Attached for your consideration

22 are two letters..."

23 30813 -- and there is one to Schreiber

24 suggesting this step, and one to Minister Wilson,

25 advising him of your response to Schreiber.

- 1 30814 So, again, Mr. Schreiber is not being
2 told "No", but the recommendation is that there is no
3 need for this, again, to the Prime Minister.
- 4 30815 Is that correct?
- 5 30816 THE HON. PAUL TELLIER: Correct.
- 6 30817 MR. BATTISTA: We know of two
7 meetings that the Prime Minister asked you to attend,
8 the one with Mr. MacKay in 1990, and the one in 1991
9 with Mr. Doucet and Mr. Schreiber.
- 10 30818 We know that the Prime Minister is
11 meeting with Mr. Schreiber on this project, and that
12 Mr. Schreiber is writing to him on this project.
- 13 30819 The question is, was this level of
14 involvement by the Prime Minister in a particular file
15 business as usual, or was it rather unusual, in your
16 experience?
- 17 30820 THE HON. PAUL TELLIER: It is a
18 difficult question to answer, because there are many
19 factors that come into play. One, the Prime Minister,
20 at one point in time --
- 21 30821 First of all, the Prime Minister had
22 roots in the maritimes, in Nova Scotia, where he
23 received some of his education.
- 24 30822 Two, the Prime Minister was a Member
25 of Parliament for Central Nova at one point in time.

1 30823 Three, as Prime Minister and as
2 leader of the party, to try to do something for eastern
3 Canada was, obviously, a priority.

4 30824 So therefore can I point to any
5 projects where the Prime Minister has had the same kind
6 of involvement? There is none that comes to my mind,
7 but it's not unusual when there is either a complex
8 project or a difficult issue for the Prime Minister to
9 be drawn into it.

10 30825 MR. BATTISTA: You anticipated one of
11 my questions.

12 30826 THE HON. PAUL TELLIER: I will give
13 you an example.

14 30827 MR. BATTISTA: Yes...?

15 30828 THE HON. PAUL TELLIER: Montréal East
16 used to have many oil and gas refineries. There is no
17 one left. When one refinery closed just before
18 Christmas some years ago, Mr. Mulroney had a Minister,
19 you know, resign over this or directly as a result of
20 that. So there are files where the Prime Minister does
21 get involved for one reason or another.

22 30829 So therefore it is difficult to
23 answer your question by saying yes, this is unusual, or
24 yes, this is usual. It depends on the factors that may
25 or may not affect the file.

1 30830 That's the best I can answer your
2 question.

3 30831 MR. BATTISTA: Okay. But you
4 anticipated one of my questions, which was: Could you
5 think of another file where there was this much
6 involvement over so many years with so many
7 protagonists?

8 30832 THE HON. PAUL TELLIER: Well, we are
9 all aware that the allocation -- the Commissioner would
10 be very much aware of this as a Manitoban.

11 30833 Therefore, here is a file where there
12 was a great many debates and the Prime Minister was
13 involved, and so on and so forth, on the granting of
14 the maintenance contract for the CF-18 and the
15 selection of Bombardier out of Montréal, you know, and
16 not Bristol out of Manitoba.

17 30834 It became a very controversial
18 decision politically across the country, and so on and
19 so forth.

20 30835 So I'm not saying the Prime Minister
21 was following the file, but that decision obviously met
22 with his blessing.

23 30836 So that is another example that would
24 come to my mind.

25 30837 MR. BATTISTA: Correct me if I'm

1 wrong, that would be an example of the Prime Minister
2 assuming ultimate responsibility for a decision of such
3 a nature, a decision that has serious political
4 consequences or impact, and saying the buck stops here.

5 30838 THE HON. PAUL TELLIER: Yes.

6 30839 MR. BATTISTA: Is that fair?

7 30840 THE HON. PAUL TELLIER: Yes.

8 30841 MR. BATTISTA: Whereas what I am
9 suggesting to you here, and my question is: We know
10 that he is having meetings over several years and
11 receiving letters from Mr. Schreiber, meeting with
12 Mr. Doucet. Simply on those facts, are there other
13 examples in your experience where you were witness to
14 this?

15 30842 THE HON. PAUL TELLIER: There is none
16 that comes to my mind, but I think that -- and this is,
17 you know, pure speculation on my part.

18 30843 But the Prime Minister, you know, he
19 is a smart guy, you know. He didn't have to read every
20 single line of my memos coming from the PCO to
21 understand that there were some deep concerns being
22 expressed, you know, in the Privy Council Office about
23 this project, more specifically about the process, that
24 the process -- that the budget -- that the project was
25 following.

1 30844 And therefore for him to turn to his
2 political people and say could you look into this
3 because, let's face it, you know, with the bureaucracy
4 I am getting nowhere. And therefore it explains, you
5 know, no pressure on me, no pressure on Fowler, no
6 pressure on Bilodeau, no pressure on Shortliffe, and so
7 on and so forth, or Swain that you heard, and so on and
8 so forth, because, you know, we felt that this project
9 was badly engaged.

10 30845 And this is not unusual. You know,
11 over the years -- I have said this this morning. Over
12 the years I have repeated this to business people.
13 Very often business people believe that by picking up
14 the phone, by gaining access to the political
15 personnel, they will get results. And most of the time
16 it is very counterproductive.

17 30846 You've got the best example here.

18 30847 MR. BATTISTA: The last issue I want
19 to cover with you, actually maybe it is the last
20 question: The fact that the Prime Minister personally
21 showed interest for this or that his Chief of Staff at
22 various -- or Chiefs of Staff showed interest, could
23 that explain why sometimes the language was more
24 veneered, to use Mr. Swain's expression, or, as you
25 have also indicated in your memos and notes, that

1 sometimes you weigh both sides. You don't come clearly
2 and say no, but you never say yes, and if they read
3 them correctly they will understand that you are not in
4 favour of it.

5 30848 But could that be an indication that
6 because the Prime Minister seems to think this is
7 important that the bureaucracy will say well, the Prime
8 Minister seems to want this. We have to give it more
9 consideration.

10 30849 Is that a fair assessment?

11 30850 THE HON. PAUL TELLIER: Well, as I
12 have said before, there are a great many people in this
13 town who use the Prime Minister's name in vain, and
14 every time that somebody has told me the Prime Minister
15 wants you to do this, I would say if he wants me to do
16 this, he is going to tell me. So I don't need you to
17 tell me what the Prime Minister wants.

18 30851 So there are a number of people who
19 use the Prime Minister's name in vain. And obviously,
20 you know, if a middle rank or even a senior government
21 official is being told the Prime Minister wants this to
22 be done, you know, it is an attention grabber.

23 30852 But again, his name is being used in
24 vain very often.

25 30853 MR. BATTISTA: Thank you. Those are

1 my questions, Commissioner.

2 30854 Maybe you will want to take the break
3 now. Yes.

4 30855 COMMISSIONER OLIPHANT: Let's just
5 wait and see what the position of other counsel is.

6 30856 Those are your questions,
7 Mr. Battista?

8 30857 MR. BATTISTA: Yes.

9 30858 COMMISSIONER OLIPHANT: Mr.
10 Hughes...?

11 30859 MR. HUGHES: Commissioner, I expect
12 to have about five minutes worth of questions.

13 30860 COMMISSIONER OLIPHANT: Okay.

14 30861 Mr. Vickery...?

15 30862 MR. VICKERY: Mr. Commissioner, we
16 act for Mr. Tellier so that I would reserve my right to
17 ask until later.

18 30863 Thank you.

19 30864 COMMISSIONER OLIPHANT: Okay. Fair
20 enough.

21 30865 Mr. Houston...?

22 30866 MR. HOUSTON: I have no questions.
23 Thank you, sir.

24 30867 COMMISSIONER OLIPHANT: Mr. Auger...?
25 30868 MR. AUGER: Very briefly,

1 Commissioner.

2 30869 COMMISSIONER OLIPHANT: All right.

3 30870 We will take a 15-minute break at

4 this point.

5 --- Upon recessing at 3:37 p.m. / Suspension à 15 h 37

6 --- Upon resuming at 4:02 p.m. / Reprise à 16 h 02

7 30871 COMMISSIONER OLIPHANT: Be seated,

8 please.

9 30872 Mr. Hughes...?

10 30873 MR. HUGHES: Thank you.

11 EXAMINATION: HON. PAUL TELLIER BY MR. HUGHES /

12 INTERROGATOIRE : HON. PAUL TELLIER PAR Me HUGHES

13 30874 MR. HUGHES: Good afternoon,

14 Mr. Tellier.

15 30875 THE HON. PAUL TELLIER: Good

16 afternoon.

17 30876 MR. HUGHES: My friend Mr. Battista

18 asked you whether you recalled a conversation or any

19 conversations with Mr. Spector in December 1990 about

20 the project.

21 30877 Do you remember Mr. Battista asking

22 you that?

23 30878 I believe your answer, sir, was that

24 you did not recall any meetings. Is that correct?

25 30879 THE HON. PAUL TELLIER: This is

1 correct.

2 30880 MR. HUGHES: You also said that you
3 had heard about that possibly through the media or
4 following these hearings.

5 30881 Is that your understanding?

6 30882 THE HON. PAUL TELLIER: This is
7 correct.

8 30883 MR. HUGHES: Commissioner, I just
9 want to refer briefly to the transcript of
10 Mr. Spector's evidence last Thursday.

11 30884 For my colleagues, it is page 2617.

12 30885 Mr. Spector said that he had a
13 conversation with the Prime Minister on December 16,
14 1990. It was a Sunday. And then he says, starting at
15 line 21:

16 "... and Monday morning, the
17 first thing in coming to the
18 office, I called Mr. Fowler and
19 I called Mr. Tellier to relate
20 the nature of the conversation
21 that I had with the Prime
22 Minister, and I then also told
23 my Deputy Chief of Staff, Mr.
24 Grauer(ph), about the substance
25 of the conversation."

1 30886 A little further down a line, on page
2 2618:
3 "... I think what I said to
4 them -- I think I related
5 verbatim the conversation that I
6 had with the Prime Minister, and
7 his phrase that, if that's the
8 case, this project is dead."
9 30887 Does that help your recollection at
10 all, sir? Does that --
11 30888 THE HON. PAUL TELLIER: It doesn't,
12 but it is on the record and therefore I don't
13 challenge, you know, what Mr. Spector has said. I just
14 don't have any recollection.
15 30889 MR. HUGHES: Okay.
16 30890 Commissioner, with your permission, I
17 would like to have the witness take a look at Exhibit
18 P-33, which is the binder for Mr. Spector.
19 30891 COMMISSIONER OLIPHANT: I believe
20 that that has already been given to Mr. Tellier.
21 30892 THE HON. PAUL TELLIER: Yes, I have
22 it here. This one here?
23 30893 MR. HUGHES: Yes, sir. At Tab 44,
24 the last tab of the binder.
25 30894 THE HON. PAUL TELLIER: Forty-four.

1 30895 MR. HUGHES: It appears to be a memo,
2 sir, to you dated December 12, 1990, and I am
3 interested in the handwritten notes at the top
4 left-hand corner of the page.

5 30896 Is that your handwriting, sir?

6 30897 THE HON. PAUL TELLIER: It is.

7 30898 MR. HUGHES: Could you read me the
8 note, please, sir?

9 30899 THE HON. PAUL TELLIER: Yes.
10 Basically it is Norm is telling me that the file is now
11 under control.

12 30900 MR. HUGHES: And the date of that,
13 sir?

14 30901 THE HON. PAUL TELLIER: Is the 17th
15 of December 1990.

16 30902 MR. HUGHES: So the date that
17 Mr. Spector recalled.

18 30903 THE HON. PAUL TELLIER: Yes.

19 30904 MR. HUGHES: Excellent.

20 30905 Just turning back to your binder,
21 sir, your document, and Tab 35, sir.

22 30906 My friend Mr. Battista had shown you
23 this letter before and I believe your testimony was
24 that the handwritten notes were all yours on this
25 document?

1 30907 THE HON. PAUL TELLIER: This is
2 correct.

3 30908 MR. HUGHES: The date of that letter
4 is May 7, 1991.

5 30909 THE HON. PAUL TELLIER: Yes.

6 30910 MR. HUGHES: I would like to turn to
7 page 3, if I could, sir. About halfway down the page
8 you will see the words "The Prime Minister" underlined.

9 30911 THE HON. PAUL TELLIER: Yes.

10 30912 MR. HUGHES: And the second half of
11 that paragraph reads:
12 "Furthermore, the Prime Minister
13 made his personal position on
14 the subject clear on April 10
15 during our meeting."
16 30913 That was what Mr. Schreiber wrote
17 according to the letter, sir?

18 30914 THE HON. PAUL TELLIER: Yes.

19 30915 MR. HUGHES: And what is the
20 handwritten comment you have written beside that?

21 30916 THE HON. PAUL TELLIER: "Not
22 accurate".

23 30917 MR. HUGHES: Because the Prime
24 Minister had not made his views clear at that meeting?

25 30918 I'm sorry, sir, you are nodding but

1 the answer is yes for the record?

2 30919 THE HON. PAUL TELLIER: I agree with
3 you.

4 30920 MR. HUGHES: Yes. So that was May
5 7th and it was May 8th that you had the second meeting
6 that you recall with Mr. Schreiber and Mr. Doucet?

7 30921 THE HON. PAUL TELLIER: Yes.

8 30922 MR. HUGHES: At that meeting one of
9 either Mr. Schreiber or Doucet said to you that the
10 Prime Minister had wanted something done and implied
11 that you were not following his instructions?

12 30923 THE HON. PAUL TELLIER: Exactly.

13 30924 MR. HUGHES: And you said you found
14 that offensive because you had not received
15 instructions from the Prime Minister.

16 30925 THE HON. PAUL TELLIER: Exactly.

17 30926 MR. HUGHES: So again, as in this
18 letter on December 7th, which you say is not accurate,
19 the suggestion at that meeting that the Prime Minister
20 had given you any directions was also inaccurate?

21 30927 THE HON. PAUL TELLIER: This is
22 correct.

23 30928 MR. HUGHES: Again, just turning to
24 Tab 39, your letter of May 17th, as Mr. Battista said,
25 you wrote back to Mr. Schreiber in reference to that

1 letter saying that:
2 "... many statements in your
3 letter which are either
4 inaccurate, untrue or with which
5 I do not agree."
6 30929 One of which being that the Prime
7 Minister had given you directions or instructions?
8 30930 THE HON. PAUL TELLIER: This is
9 correct.
10 30931 MR. HUGHES: Thank you, Commissioner,
11 those are my questions.
12 30932 COMMISSIONER OLIPHANT: Questions,
13 Mr. Houston?
14 30933 MR. HOUSTON: No, thank you, sir.
15 30934 COMMISSIONER OLIPHANT: Mr. Auger...?
16 30935 MR. AUGER: Very briefly.
17 30936 COMMISSIONER OLIPHANT: Okay.
18 EXAMINATION: HON. PAUL TELLIER BY MR. AUGER /
19 INTERROGATOIRE : HON. PAUL TELLIER PAR Me AUGER
20 30937 MR. AUGER: Good afternoon, sir. My
21 name is Richard Auger and I just have a couple of areas
22 on behalf of Mr. Schreiber.
23 30938 I want to ask you to turn up Tab 30,
24 please, in your book of documents.
25 30939 And just so you have the context,

1 this is back to the issue of the April 10th meeting.
2 You have testified about it already, but I just want to
3 note under April 10th at 4:00 p.m. you have an
4 indication of Prime Minister, Fred Doucet and
5 Mr. Schreiber; correct?

6 30940 THE HON. PAUL TELLIER: Yes.

7 30941 MR. AUGER: You have already
8 testified that that was a note to you that allows you
9 to testify that those are the individuals that were at
10 the meeting.

11 30942 THE HON. PAUL TELLIER: This is
12 correct.

13 30943 MR. AUGER: In addition to yourself.

14 30944 THE HON. PAUL TELLIER: Yes.

15 30945 MR. AUGER: Can I ask you to turn to
16 Tab 33, please.

17 30946 The second page of the tab is the May
18 8th entry that you have also already commented on, and
19 I think indeed the Commissioner pointed out that your
20 note is limited to Fred Doucet and there is no note of
21 Mr. Schreiber; correct?

22 30947 THE HON. PAUL TELLIER: Correct.

23 30948 MR. AUGER: I want to also -- there
24 is two other pieces of evidence that we have.

25 30949 In the same tab, Tab 33, it's dated

1 May 8th. It's about halfway through the tab.

2 Unfortunately the pages aren't numbered, but it is May
3 8th and it is Mr. Schreiber's diary entry.

4 30950 THE HON. PAUL TELLIER: I have it.

5 30951 MR. AUGER: You will see May 8th
6 1600, it says "Fred meeting Tellier". Do you see that?

7 30952 THE HON. PAUL TELLIER: Yes.

8 30953 MR. AUGER: Tab 37 is the letter from
9 Mr. Doucet, dated May 9, 1991, to yourself and it is
10 the first sentence that I want to try to use to refresh
11 your memory.

12 30954 Mr. Doucet writes as follows:

13 "Further to our meeting of
14 yesterday I have debriefed
15 myself to my client as I had
16 indicated to you I would."

17 30955 That is the letter that you received
18 obviously on May 9th or around that time after the
19 meeting on May 8th; correct?

20 30956 And I take it that when you receive
21 that letter, you interpret it that Mr. Doucet was going
22 to report to Mr. Schreiber on the meeting.

23 30957 Is that a fair interpretation that
24 you would have had at the time?

25 30958 THE HON. PAUL TELLIER: I didn't know

1 who he was referring to when he said "I have
2 debriefed... my client".

3 30959 I don't know. It could have been
4 Mr. Schreiber, you know.

5 30960 In my recollection, Mr. Schreiber was
6 there at the meeting so therefore it must have been the
7 associates of Mr. Schreiber.

8 30961 You know, I cannot speculate. I
9 don't know.

10 30962 MR. AUGER: And with the benefit of
11 that letter and with Mr. Schreiber's diary entry, I
12 want to take you back to the April meeting that you
13 talked about where Mr. Mulroney had, I think through
14 his assistant, called you into his office.

15 30963 THE HON. PAUL TELLIER: That's my
16 recollection.

17 30964 MR. AUGER: Right. And to be fair to
18 you, I think you told Mr. Battista that your evidence
19 was based on, as you just said, the best of your
20 recollection in relation to these dates; correct?

21 30965 THE HON. PAUL TELLIER: Yes.

22 30966 MR. AUGER: And I think you would
23 also concede that in terms of the May 8th date, you
24 don't have a note of Mr. Schreiber being present.

25 30967 THE HON. PAUL TELLIER: This is

1 correct.

2 30968 MR. AUGER: So again, in fairness to
3 you, you are relying on your recollection?

4 30969 THE HON. PAUL TELLIER: Yes.

5 30970 MR. AUGER: I want to try to assist
6 your recollection in terms of the April meeting.

7 30971 You do remember Mr. Mulroney being
8 there?

9 30972 THE HON. PAUL TELLIER: Yes.

10 30973 MR. AUGER: Do you recall
11 Mr. Mulroney at some point early on in that meeting
12 saying something to the effect that I have to take my
13 wife to the airport. I'm going to have to excuse
14 myself.

15 30974 THE HON. PAUL TELLIER: No, I don't.

16 30975 MR. AUGER: Or anything to the effect
17 of: Mr. Tellier and Mr. Schreiber and Mr. Doucet, I
18 would ask that the three of you try to sort this out?

19 30976 Does that in any way refresh your
20 memory?

21 30977 THE HON. PAUL TELLIER: It doesn't.

22 30978 MR. AUGER: And with the material
23 that I have taken you to and with your concession that
24 you are relying on your memory, would you be prepared
25 to concede that the events you described and associated

1 with May 8th may have occurred in April?

2 30979 THE HON. PAUL TELLIER: Well, my
3 understanding by reviewing the file and by the letter
4 thanking me for the meeting, that are you suggesting
5 that the meeting of April 10th did not take place with
6 the four players, or are you suggesting that the May
7 8th meeting -- I'm confused here.

8 30980 MR. AUGER: Fair enough.

9 30981 THE HON. PAUL TELLIER: What is your
10 point?

11 30982 MR. AUGER: Fair enough. You have
12 conceded to the Commissioner that you have no notes and
13 nothing to assist you, other than your memory, to
14 confirm the May 8th meeting date; correct?

15 30983 THE HON. PAUL TELLIER: No. In my
16 agenda there is the word Fred Doucet.

17 30984 MR. AUGER: Fair enough.

18 30985 THE HON. PAUL TELLIER: In my diary,
19 I should have said.

20 30986 MR. AUGER: But nothing to assist you
21 to confirm in any recording that Mr. Schreiber was
22 present?

23 30987 THE HON. PAUL TELLIER: You are
24 perfectly right. I am relying on my recollection.

25 30988 MR. AUGER: And are you prepared to

1 consider the possibility that Mr. Schreiber was not
2 present at the May 8th date?

3 30989 THE HON. PAUL TELLIER: Well, you
4 know, it's always possible to forget. But my
5 recollection of the meeting -- and I am proceeding on
6 my recollection of the meeting -- is that the two of
7 them, you know, were there.

8 30990 So you know if you can establish that
9 Mr. Schreiber, you know, was not there, I am ready to
10 look at the evidence obviously. But I am proceeding on
11 my recollection and my recollection the two of them
12 were together in my office.

13 30991 MR. AUGER: Thank you, sir. Those
14 are my questions.

15 30992 Thank you, Commissioner.

16 30993 COMMISSIONER OLIPHANT: Thanks very
17 much, Mr. Auger.

18 30994 Mr. Vickery...?

19 30995 MR. VICKERY: No questions, thank
20 you.

21 30996 COMMISSIONER OLIPHANT: Thank you,
22 sir.

23 30997 Mr. Battista, any redirect
24 examination?

25 30998 MR. BATTISTA: No redirect,

1 Mr. Commissioner.

2 30999 COMMISSIONER OLIPHANT: Is there any
3 reason why, then, we ought not to excuse Mr. Tellier at
4 this time?

5 31000 MR. BATTISTA: None at all. None at
6 all.

7 31001 COMMISSIONER OLIPHANT: All right.

8 31002 Mr. Tellier, on behalf -- I'm sorry,
9 did you want to say something first?

10 31003 THE HON. PAUL TELLIER: Yes.
11 Obviously when one is being asked a question, one
12 doesn't like to say I don't remember.

13 31004 The point I want to make that I want
14 to leave with you, Mr. Commissioner, is that one has to
15 keep in mind that year in, year out thousands of
16 memoranda are being sent to the Prime Minister. And
17 when I say thousands, I don't mean a thousand, I don't
18 mean several thousand, I mean many thousands of
19 memoranda.

20 31005 Therefore, I think that this has to
21 be taken into account when I say I don't remember.

22 31006 This was not, you know, one of the
23 most important files that we had to deal with. This
24 was not the GST, this was not the Free Trade Agreement,
25 this was not Meech Lake, this was not the invasion of

1 Iraq, this is not the Oka crisis that I managed
2 personally, and so on and so forth.

3 31007 Therefore, I apologize for every time
4 I said to you, Mr. Commissioner, I don't remember, but,
5 you know, my I don't remember has to be put into
6 context.

7 31008 COMMISSIONER OLIPHANT: Let me assure
8 you that I am the last person in the world to whom you
9 have to apologize for not remembering the details of a
10 meeting that occurred 18 to 20 years ago. Okay?

11 31009 That doesn't surprise me at all.

12 31010 When we charge juries, we talk to
13 them about people not being able to remember. And so
14 far as I am concerned, sir, you have nothing to
15 apologize for in terms of your memory. All right?

16 31011 THE HON. PAUL TELLIER: Thank you,
17 Mr. Commissioner.

18 31012 COMMISSIONER OLIPHANT: Mr. Tellier,
19 let me thank you, sir, for giving of your time to come
20 to assist the Commission. I want you to know how much
21 I appreciate what you have done to help. Thank you.

22 31013 THE HON. PAUL TELLIER: Thank you
23 very much and good luck to you.

24 31014 COMMISSIONER OLIPHANT: Thank you. I
25 am not the one who needs the good luck.

1 31015 You are free to leave, sir.

2 31016 THE HON. PAUL TELLIER: Thank you.

3 31017 MR. BATTISTA: That's all for today,
4 Commissioner.

5 31018 COMMISSIONER OLIPHANT: We will
6 adjourn, than, today until tomorrow and we will deal
7 with the heady topic of forensic accounting. 9:30.

8 --- Whereupon the hearing adjourned at 4:17 p.m.

9 to resume on Wednesday, May 6, 2009 at 9:30 a.m. /

10 L'audience est ajournée à 16 h 17, pour reprendre

11 le mercredi 6 mai 2009 à 9 h 30

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