

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, April 21, 2009

Tenue à :

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

le mardi 21 avril 2009

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ERRATA / ADDENDA

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*SWORN: SHEILA POWELL /
ASSERMENTÉE : SHEILA POWELL*

should be / devrait être

*AFFIRMED: SHEILA POWELL /
DÉCLARATION SOLENNELLE : SHEILA POWELL*

1 Ottawa, Ontario / Ottawa (Ontario)
2 --- Upon resuming on Tuesday, April 21, 2009
3 at 9:30 a.m. / L'audience reprend le mardi
4 21 avril 2009 à 9 h 30
5 15111 COMMISSIONER OLIPHANT: Good morning,
6 counsel. Be seated, please.
7 15112 Mr. Roitenberg.
8 15113 MR. ROITENBERG: Good morning, sir.
9 15114 With us this morning is Greg Alford.
10 I would ask Mr. Brisson to either have him affirmed or
11 swear an oath.
12 AFFIRMED: GREGORY ALFORD /
13 DÉCLARATION SOLENNELLE : GREGORY ALFORD
14 15115 COMMISSIONER OLIPHANT: Good morning,
15 Mr. Alford.
16 15116 MR. ALFORD: Good morning.
17 EXAMINATION: GREGORY ALFORD BY MR. ROITENBERG /
18 INTERROGATOIRE : GREGORY ALFORD PAR Me ROITENBERG
19 15117 MR. ROITENBERG: Good morning, sir.
20 15118 MR. ALFORD: Good morning.
21 15119 MR. ROITENBERG: Thank you for being
22 with us this morning.
23 15120 Mr. Alford, I understand that at a
24 point in time commencing towards the end of 1988 you
25 found yourself as the Vice-President of Corporate

1 Affairs for Bear Head Industries.

2 15121 Am I right?

3 15122 MR. ALFORD: That's correct.

4 15123 MR. ROITENBERG: Prior to that you

5 had worked with the firm Government Consultants

6 International.

7 15124 MR. ALFORD: Yes.

8 15125 MR. ROITENBERG: That's the firm that

9 Frank Moores, Gary Ouellet and Gerry Doucet were

10 partners in.

11 15126 Am I correct?

12 15127 MR. ALFORD: Correct.

13 15128 MR. ROITENBERG: And prior to your

14 joining GCI, which I believe was in 1985, you worked

15 with Mr. Moores at Alta Nova, which was his company

16 prior to merging with Mr. Ouellet?

17 15129 MR. ALFORD: That's correct.

18 15130 MR. ROITENBERG: Who were the

19 partners at GCI?

20 15131 MR. ALFORD: Mr. Moores. Mr. Doucet

21 founded the firm. Gary Ouellet later joined and became

22 a partner.

23 15132 MR. ROITENBERG: And those were the

24 only three stakeholders?

25 15133 MR. ALFORD: Yes, I believe so.

1 15134 MR. ROITENBERG: During the course of
2 time that you were with GCI, I believe Thyssen
3 approached GCI for assistance.

4 15135 Is that right?

5 15136 MR. ALFORD: That's correct.

6 15137 MR. ROITENBERG: What is it that
7 Thyssen wanted from GCI at that time?

8 15138 MR. ALFORD: Thyssen was a large
9 industrial concern in Germany. They had been
10 approached during a trade mission -- I guess multiple
11 trade missions -- encouraging them to explore Canada as
12 a base for their North American operations.

13 15139 They found the pitch attractive.
14 They were desiring an expansion of their North American
15 operations in a number of industrial categories. So
16 with the division which was led by Thyssen Henschel,
17 which included some heavier categories of industry,
18 primarily defence industries, environmental
19 technologies for flue gas scrubbing, some
20 transportation products, they looked at the North
21 American market opportunity and found that to be quite
22 interesting.

23 15140 I believe as well in the trade
24 missions the large capital projects were described
25 which would make sense.

1 15141 So when they came to GCI their
2 question was really quite simple. As a German-based
3 manufacturer would they have an opportunity to find
4 market in Canada, given that the recent history that
5 they could observe as a manufacturer in the defence
6 category had seen contracts placed with the domestic
7 manufacturer, General Motors.

8 15142 So their question to us was would
9 they have any opportunity to participate in the
10 Canadian marketplace if they would come here as a
11 manufacturer -- sorry. First the question was would
12 they have a chance to compete in Canada and then,
13 secondly, what their chances would be competitively in
14 the defence field.

15 15143 MR. ROITENBERG: Ultimately I take it
16 the advice offered was that they would have a far more
17 likely chance of having an opportunity here if they set
18 up shop here.

19 15144 Would that be fair?

20 15145 MR. ALFORD: That's right. We
21 identified the Canada-U.S. North American defence
22 sharing agreement, all the elements of that policy, how
23 attractive it may be for them to set up here, but
24 ultimately told them their only chance to really be
25 competitive is if they would commit to the

1 establishment of manufacturing in Canada in association
2 with any contract they could win.

3 15146 MR. ROITENBERG: Eventually there
4 were negotiations that took place with the Government
5 of Canada and in 1988, following some protracted
6 negotiations, an understanding in principle was signed
7 between Bear Head Thyssen and the Government of Canada.

8 15147 Is that right?

9 15148 MR. ALFORD: That's right.

10 15149 MR. ROITENBERG: You participated to
11 some degree on GCI's behalf in those negotiations, did
12 you?

13 15150 MR. ALFORD: Yes.

14 15151 MR. ROITENBERG: And in fact it is my
15 understanding that you were with Mr. Schreiber when a
16 representative of ACOA came over on September 25th to
17 deliver that particular document.

18 15152 MR. ALFORD: I believe that's right.

19 15153 MR. ROITENBERG: You noted when you
20 reviewed the document with Mr. Schreiber upon its
21 presentation that there was now an added disclaimer, if
22 you will, that the government had put into the
23 understanding in principle.

24 15154 Is that fair?

25 15155 MR. ALFORD: I would have examined

1 it. I'm not sure which one you refer to.

2 15156 MR. ROITENBERG: Well, let me do
3 this. There is a Book of Documents in front of you, a
4 binder.

5 15157 I'm going to ask that there be a Book
6 of documents filed as the next exhibit. I believe it
7 would be Exhibit --

8 15158 THE REGISTRAR: P-18.

9 15159 MR. ROITENBERG: P-18, thank you.

10 15160 And if you were kind enough to turn
11 to Tab 3.

12 15161 COMMISSIONER OLIPHANT: Just before
13 you go further, the documents in support of
14 Mr. Alford's evidence are going in by consent,
15 gentlemen? Thank you.

16 15162 All right. The documents, then, in
17 support of Mr. Alford's evidence will be received and
18 marked as exhibit P-18 at this inquiry.

19 15163 Thank you.

20 EXHIBIT NO. P-18: Book of
21 Documents in support of Mr.
22 Gregory Alford's testimony

23 15164 MR. ROITENBERG: Thank you,
24 Mr. Commissioner.

25 15165 If you turn to Tab 3, it is a

1 memorandum from John McDowell who details his delivery
2 of the document to Mr. Schreiber, your presence there,
3 and in the third paragraph says:

4 "Mr. Schreiber read the letter
5 from Sen. Murray with
6 considerable care. Mr. Alford
7 pointed out that paragraph 3,
8 page 2 was effectively a
9 disclaimer because it indicated
10 that in offering the
11 understanding in principle for
12 signature the government was not
13 necessarily committing to
14 proceed with the LAV project."

15 (As read)

16 15166 That's accurate?

17 15167 MR. ALFORD: Yes.

18 15168 MR. ROITENBERG: So in effect even
19 when signing a letter of intent, or at least putting
20 forward the letter of intent for signature, the
21 government was making it clear at that point we are
22 still not binding ourselves to go ahead with this
23 project.

24 15169 MR. ALFORD: Yes.

25 15170 MR. ROITENBERG: Shortly after the

1 UIP was signed my understanding is the company, that is
2 Thyssen Bear Head, was able to entice you to come and
3 work for them fulltime.

4 15171 MR. ALFORD: Yes.

5 15172 MR. ROITENBERG: As their, as we
6 stated, Vice-President of Corporate Affairs.

7 15173 MR. ALFORD: Yes.

8 15174 MR. ROITENBERG: After the UIP was
9 signed and you moved over to work fulltime at Bear Head
10 things didn't move particularly rapidly in terms of
11 getting this project further off the ground, did they?

12 15175 MR. ALFORD: No. The LAV program was
13 probably the biggest impact in that at the time that
14 agreement and project -- sorry, the idea proceeding
15 with Bear Head was established at a time when we
16 thought that the Canadian procurements of light
17 armoured vehicles was also going to stay on schedule.
18 But shortly after that they started falling out of
19 schedule.

20 15176 MR. ROITENBERG: If I could direct
21 you to Tab 4, this is a memo from a Jim Burkimsher to
22 Wynne Potter at ACOA speaking in December of '88 of a
23 meeting that had just occurred between yourself and
24 Mr. Burkimsher on the 21st. It notes that there seems
25 to be some flaws in whatever business plan had been

1 provided by the company; that it lacked market
2 forecasts of any detail, any marketing strategy and, if
3 you go to the summary paragraph at the very end of page
4 2:

5 "To sum up, the Business Plan is
6 inadequate and one wonders why a
7 sophisticated, major corporation
8 like Thyssen is not applying its
9 skills and expertise to produce
10 a plan which would enable a
11 proper assessment of the project
12 to be conducted."

13 15177 And it goes on to offer a little more
14 critique.

15 15178 This seems to be a theme throughout
16 at least '88, '89, '90, '91 in terms of a critique of
17 the company's lack of an adequate business plan.

18 15179 Was there a reason that Thyssen could
19 not produce an adequate business plan?

20 15180 MR. ALFORD: Thyssen had always been
21 very clear that they were willing to establish a
22 facility in Canada against an opportunity to
23 participate in its domestic market.

24 15181 Shortly after the time the
25 understanding in principle was signed between the

1 company and the government, the defence procurements
2 which the company had always identified as if we would
3 win a participation in Canadian defence procurement,
4 then we would make this investment and bring our
5 manufacturing for North America to Canada.

6 15182 So quite simply is that the defence
7 market domestically had begun to be postponed because
8 of budget restriction and a variety of very good
9 reasons from the defence procurement side.

10 15183 So it's the separation of defence
11 procurement from -- defence procurement had no
12 obligation to make this project happen, but the
13 activity of defence procurement was slowing down,
14 delaying, and that market was being postponed.

15 15184 So the original intent was that there
16 would be procurement proceeding, Thyssen would bid and
17 compete and participate in that in some way and with
18 that work bring that as the starting activity in the
19 factory.

20 15185 MR. ROITENBERG: Put another way,
21 would it be fair to say that Thyssen was reluctant to
22 put forward a business plan until they had an
23 understanding of what they were going to build on what
24 time frame and in what quantity?

25 15186 MR. ALFORD: That's fair.

1 15187 MR. ROITENBERG: So at that juncture,
2 unaware of whether or not there was going to be the
3 procurement itself and unaware whether or not Thyssen
4 Bear Head was going to be eligible to participate, it
5 was difficult to put together any kind of coherent
6 business plan.

7 15188 MR. ALFORD: That's correct.

8 15189 MR. ROITENBERG: As we moved into
9 1989 and there was still no commitment on behalf of
10 government to go ahead with the particular procurement
11 you were interested in, I understand there started to
12 arise suspicions that there was a sole source
13 procurement about to be offered to General Motors
14 Diesel Division.

15 15190 MR. ALFORD: That's correct.

16 15191 MR. ROITENBERG: In July of 1989 --
17 this is at Tab 8, if you would like to turn your book
18 to that tab --

19 15192 COMMISSIONER OLIPHANT: What is the
20 tab?

21 15193 MR. ROITENBERG: Tab 8. A letter was
22 forward to the Hon. Bill McKnight, Minister of Defence
23 of the time, under the name of Jürgen Massmann who, if
24 I'm not mistaken, was the President of Bear Head
25 Industries.

1 15194 Is that right?

2 15195 MR. ALFORD: Correct.

3 15196 MR. ROITENBERG: You were the

4 Vice-President?

5 15197 MR. ALFORD: Yes.

6 15198 MR. ROITENBERG: What role did

7 Mr. Schreiber have at the time?

8 15199 MR. ALFORD: Mr. Schreiber was the

9 Chairman of Bear Head Industries.

10 15200 MR. ROITENBERG: If you go to the

11 last page of this letter, it's under the name of Jürgen

12 Massmann but it appears to be the signature of another.

13 15201 MR. ALFORD: That's my signature.

14 15202 MR. ROITENBERG: Can you tell --

15 that's your signature.

16 15203 MR. ALFORD: I signed on his behalf.

17 15204 MR. ROITENBERG: Now, as I understand

18 it there were some rumours that the time that a sole

19 source contract was going to be offered to General

20 Motors Diesel Division to outfit the reserves in new

21 armoured personnel carriers.

22 15205 Am I right?

23 15206 MR. ALFORD: That's correct.

24 15207 MR. ROITENBERG: So on behalf of Bear

25 Head Industries an offer was made to the government to

1 do just that, which was speed up your offer for
2 procurement to the Forces generally, which would allow
3 the armoured personnel carriers that the Forces were
4 then utilizing to be handed down to the Reserves.

5 15208 Is that fair?

6 15209 MR. ALFORD: That was the gist of the
7 proposal.

8 15210 MR. ROITENBERG: And was that met
9 with any kind of response that you are aware of?

10 15211 MR. ALFORD: It was an unsolicited
11 proposal put forward. I don't think that it went very
12 far.

13 15212 I think the next thing I remember
14 best was that a sole source order was placed with
15 General Motors.

16 15213 MR. ROITENBERG: I think if you
17 actually turn the tab you will see a reply to the
18 letter that you sign for Mr. Massmann.

19 15214 That is at Tab 9. It is a letter
20 from Ministry of Defence Bill McKnight to Mr. Massmann
21 thanking him for the letter of July 19th -- I suppose
22 indirectly thanking you -- and advising that the
23 government had recently announced the approval of a
24 project by way of a sole source to General Motors of
25 Canada.

1 15215 What was the reaction within Bear
2 Head of the fact that you had this understanding in
3 principle which had recently been negotiated, you are
4 hoping for a chance to simply participate in the
5 procurement process and now we have this sole source to
6 General Motors?

7 15216 MR. ALFORD: Thyssen felt that it was
8 a contradiction to the government policy of competitive
9 procurement that had been described to them throughout
10 the process as they considered to move forward in the
11 intention to make their investments in Canada.

12 15217 But then they look at the longer
13 picture and the explanation around the sole source and
14 saw that there was still -- I don't recall the numbers
15 precisely, but many hundreds, about 1,000 vehicles that
16 were still the main light armoured vehicle requirement.
17 That was pushed back more years, but nonetheless still
18 on the books.

19 15218 And as a manufacturer of that exact
20 category of equipment in both variants, wheeled or
21 tracked, the confidence of the company that they could
22 eventually be competitive in making a proposal and
23 winning not even all, but a share of the Canadian
24 procurement -- or the Canadian light armoured vehicle
25 requirements, with that confidence the company

1 essentially stood back and looked at whether we could
2 wait for the future procurement when it would
3 eventually come forward and then ultimately convinced
4 ourselves that in a larger project there would be
5 competitive procurement. And so we waited.

6 15219 MR. ROITENBERG: Why was it so
7 important in your view to have this competitive
8 procurement? Was there an advantage that in your view
9 Thyssen held in a competition such as that?

10 15220 MR. ALFORD: Thyssen had to make that
11 judgment as a manufacturer. Within NATO the light
12 armoured vehicle category was one where Thyssen was a
13 supplier to many countries, successful in Germany,
14 successful in many other allied countries.

15 15221 They were a prime contractor, as in
16 the owner of the technology and the design, so the
17 developer of the design. And they were that in not
18 just the two simple categories of track versus wheel,
19 but multiple sizes of those vehicles.

20 15222 So the confidence on the company side
21 was whatever the Canadian army might ask for, they
22 would have a -- Thyssen would have a capability of
23 meeting that requirement.

24 15223 And the expectation was that the
25 defence requirements would be so specific that even

1 though there was an existing domestic manufacturer,
2 Thyssen could be competitive with technology meeting
3 the specific technical requirements of the military
4 once specified.

5 15224 MR. ROITENBERG: So there was this
6 belief in your product, a belief in the superiority of
7 the product, of the quality of the product, and if you
8 got into a competition you would just stand by your
9 product and hope that it would satisfy to a greater
10 degree than the domestically produced product from
11 General Motors?

12 15225 MR. ALFORD: There was confidence in
13 our ability to win a competition, yes.

14 15226 MR. ROITENBERG: So we had gone from
15 the hope of the signing of the understanding in
16 principle in September of 1988 to the somewhat dampened
17 hope in September of '89, having seen yet another sole
18 source contract awarded?

19 15227 MR. ALFORD: Yes.

20 15228 MR. ROITENBERG: But all was not
21 lost, because there was this larger procurement
22 hopefully still to come?

23 15229 MR. ALFORD: Yes. And the hope as
24 well -- there was a small sole source procurement
25 placed after so many years of discussion around

1 competitive procurement, but the hope was, well, that
2 is out of the way now and in the larger contract they
3 will definitely have to go to competition. Specific
4 requirements will be stated and we will bid against the
5 requirements.

6 15230 So we felt that we would have a
7 chance to win. I mean, our confidence was that we
8 could have met any of the requirements, but, you know,
9 realistically we said we need a share of the Canadian
10 requirement, so a part win also would have been enough
11 to trigger our manufacturing to go forward in Canada.

12 15231 MR. ROITENBERG: Now, about four
13 months after this letter in September of 1989, in
14 January of 1990, a letter was forwarded from the
15 Ministry of National Defence to the company basically
16 extending to you that you would have an opportunity to
17 participate in future procurement, and it was offered
18 that you would have that opportunity on a continuing
19 basis for the next five years.

20 15232 That would have been the letter of
21 January 25, 1990 from the then Minister of Defence,
22 Bill McKnight.

23 15233 I have passed out a copy of that
24 letter to all parties this morning, Mr. Commissioner.
25 It is actually in Mr. McKnight's binder, which is

1 behind you, Exhibit P-1, at Tab 6.

2 15234 I believe Mr. Brisson is on his way
3 to provide it to you.

4 15235 You have the letter in front of you?

5 15236 MR. ALFORD: Yes.

6 15237 MR. ROITENBERG: And you can confirm
7 that this offered the company the hope that they would
8 be offered the opportunity to participate for the next
9 five years?

10 15238 MR. ALFORD: Yes.

11 15239 MR. ROITENBERG: Now, around this
12 time, into the early '90s, my understanding is that
13 NATO was working on a particular -- I won't call it a
14 project, but they had a particular notion that they
15 were advancing called the MBAV.

16 15240 MR. ALFORD: That's correct.

17 15241 MR. ROITENBERG: If you could please
18 enlighten the Commissioner as to what the MBAV -- first
19 of all, what it stands for and then conceptually what
20 was.

21 15242 MR. ALFORD: So there was a committee
22 within NATO, I'm sure it's a Standing Committee called
23 the NATO Industrial Advisory Group. Thyssen, as a
24 major manufacturer based in Germany, was a participant
25 in that study and invited the participation of many

1 manufacturers in our equipment category.

2 15243 The simple understanding of the
3 multipurpose base armoured vehicle was to try and
4 foster commonality amongst the equipments that are used
5 in a NATO or UN deployment. The idea of joining a
6 multination peacekeeping mission means that you have a
7 number of armies come together in a single mission, and
8 each army and their vehicles would require support,
9 support in the simplest terms of spare parts, component
10 repairs, et cetera, to keep their vehicles running.

11 15244 So these committees that were run
12 under NIAG were always working toward the concept of
13 finding a shared vehicle design. I don't think there
14 was ever the suggestion that one single country would
15 manufacture for all nations, but the idea that you
16 might have a shared design that many countries work in
17 was certainly very attractive.

18 15245 So NATO certainly fostered that. It
19 would make more economical and efficient the operations
20 of a multi-nation peacekeeping mission, for example.

21 15246 So the Multi-Purpose Base Armoured
22 Vehicle was in the light-armoured vehicle category,
23 which was Thyssen's specialty. Again, I mentioned
24 earlier that we built wheeled and tracked, so we were
25 certainly a participant in it.

1 15247 Independent of that, we had been
2 working on our own prototype developments, and we were
3 quite advanced in that, and it was in the same
4 category.

5 15248 So within the MBAV program, Thyssen
6 felt that we had our greatest strength. Plus, I guess,
7 the Canadian connection to it would be that Thyssen had
8 been following so closely the emerging requirements in
9 Canada, and Canada being a leader in peacekeeping, we
10 felt there was a very natural connection to bring our
11 vehicle technology that had been developed in Germany,
12 expand it further in Canada, and bring forward what
13 might have been the platform of the Multi-Purpose Base
14 Armoured Vehicle that all nations would eventually use.

15 15249 MR. ROITENBERG: So this, in essence,
16 was a grandiose, or a rather grandiose scheme to come
17 up with a vehicle that most or all nations that
18 participated in these multi-force engagements would
19 use, that they could then have the use of standard
20 parts, which would have been somewhat compatible, so
21 that in the field they could have been maintained
22 properly by one unit, and, as a force, plans could have
23 been undertaken knowing that all members of whatever
24 multi-force unit were out there were using the same, or
25 roughly the same product.

1 15250 MR. ALFORD: That's correct, and to a
2 certain degree there were vehicles before this design
3 that had come to be so commonly used. Multiple nations
4 used a vehicle called the M113, and I guess the
5 simplest reference point would have been the Jeep. It
6 seemed like every army had Jeeps, as well.

7 15251 This was another extension in a
8 larger category, specifically a vehicle to be used in
9 troop movement, protected troop movements -- an
10 armoured troop carrier, essentially.

11 15252 MR. ROITENBERG: Just so the
12 Commissioner can better be focused on this, you said
13 that the M113 was used by a number of nations. In
14 fact, most major armies used either the M113 or a
15 variant of that particular armoured personnel carrier.

16 15253 Is that right?

17 15254 MR. ALFORD: To my knowledge, I think
18 it was the largest, most commonly used vehicle
19 internationally, by all armies. There might have been
20 similar vehicles, but it was the M113 that was the most
21 used internationally.

22 15255 MR. ROITENBERG: But would it be fair
23 that, as it was used by a number of different armies,
24 it had been not necessarily compatible parts-wise, one
25 army to the next, such as, they could have been

1 maintained in the field by one unit?

2 15256 MR. ALFORD: Anytime multiple armies
3 might have shared a mission, they would have then
4 looked for the chance to have interchangeability and
5 common components. So that was always an advantage,
6 when you would have two groups using the same vehicle,
7 and that was what was trying to be recreated, and
8 perhaps improved upon, with the MBAV concept.

9 15257 MR. ROITENBERG: Now, we jumped from
10 the timeframe around 1990, where you were provided with
11 this letter of January 25th, 1990, and we moved to a
12 discussion of the MBAV.

13 15258 Between 1990 and the early part of
14 1992, there was a continuation of the efforts on behalf
15 of Thyssen Bear Head to engage the government in some
16 form of procurement and get some sort of guarantees
17 about future procurements, such that you could commence
18 the building of the manufacturing facility.

19 15259 Is that right?

20 15260 MR. ALFORD: That's right.

21 15261 MR. ROITENBERG: And this met with
22 little or no success over that period.

23 15262 Is that correct?

24 15263 MR. ALFORD: Yes.

25 15264 MR. ROITENBERG: In the spring of

1 1992, a new proposal seems to have emerged, where
2 Thyssen proposed to the government that they would
3 engage in research and development together of a
4 particular vehicle, with the assistance of the
5 Department of National Defence, on a cost-recovery
6 basis on behalf of the government, and that the plant
7 would then be located in East Montreal.

8 15265 Is that right?

9 15266 MR. ALFORD: That's right.

10 15267 MR. ROITENBERG: And you understood
11 that, at the time, Mr. Schreiber was making, on behalf
12 of the company, overtures to the then Minister of
13 Defence, Marcel Masse, in this regard.

14 15268 MR. ALFORD: Certainly, if he was
15 Minister of Defence, we would have been trying to make
16 our proposal at every opportunity.

17 15269 MR. ROITENBERG: If you could go to
18 Tab 13 in the book of documents before you, this is a
19 letter to Mr. Schreiber on behalf of Mr. Vance, who was
20 one of your colleagues at Bear Head.

21 15270 Am I correct?

22 15271 MR. ALFORD: That's correct. He was
23 an advisor for us. He was a retired military officer.

24 15272 MR. ROITENBERG: This letter confirms
25 for Mr. Schreiber, further to his letter -- that is,

1 Mr. Schreiber's letter -- of May 13th to M. Masse,
2 Minister of National Defence -- outlining Thyssen's new
3 proposal to establish a military vehicle development
4 facility in Canada.

5 15273 The letter highlights the dealing
6 with Minister Masse that you had been invited, along
7 with Mr. Massmann and Mr. Vance, who was writing the
8 letter, to a meeting by Mr. Fowler, who was the Deputy
9 Minister of the Department of National Defence, along
10 with General de Chastelain and Mr. Gillespie, who was
11 the ADM for materiels.

12 15274 MR. ALFORD: Yes.

13 15275 MR. ROITENBERG: And this was in
14 furtherance of the discussions that had just started
15 about engaging in this research and development program
16 with DND.

17 15276 Is that correct?

18 15277 MR. ALFORD: That's correct.

19 15278 MR. ROITENBERG: And Mr. Vance, in
20 his letter to Mr. Schreiber, highlights some concerns
21 that Mr. Fowler, et al., had voiced at this meeting,
22 such that they were reluctant to have the Canadian
23 Forces being asked to become salesmen for an export
24 product that they themselves did not foresee
25 purchasing.

1 15279 Do you see that at the bottom of page
2 1? 1?
3 15280 MR. ALFORD: Yes.
4 15281 MR. ROITENBERG: And that this would
5 set a very dangerous precedent in that regard, having
6 the Forces act in this fashion.
7 15282 Now, a couple of points arise out of
8 this. Firstly, there was reluctance on the part of
9 DND, at least at the deputy ministerial level, as you
10 can see here.
11 15283 Is that correct?
12 15284 MR. ALFORD: That's correct.
13 15285 MR. ROITENBERG: Was that new to you,
14 this reluctance from the bureaucracy at the Department
15 of National Defence to engage Thyssen on this project?
16 15286 MR. ALFORD: Perhaps it wasn't new;
17 it was never so well stated as that meeting did.
18 15287 MR. ROITENBERG: Why do you say that?
19 15288 MR. ALFORD: The host of the meeting
20 and the clear statement that they wanted nothing to do
21 with it, and if the company wished to do an R&D
22 project, it should be pursued through Industry, Science
23 and Technology.
24 15289 MR. ROITENBERG: So this was, at this
25 stage, not a request for procurement; not even a

1 request to participate in future procurements. It was
2 an offer to participate jointly with DND in the
3 perfection of a vehicle that, the company was of the
4 view, met NATO MBAV specifications.

5 15290 MR. ALFORD: That's right, and it
6 also was a vehicle that met what were the preliminary
7 requirements that were being described by the Canadian
8 Army for a vehicle called a Multi-Role Combat Vehicle.

9 15291 MR. ROITENBERG: In effect, while you
10 were seeking some assistance in research and
11 development, and perhaps some assistance financially at
12 the outset, what was being offered was a cost recovery,
13 once the project was up and running and the vehicles
14 started to sell internationally.

15 15292 MR. ALFORD: That's right.

16 15293 MR. ROITENBERG: And, still, DND
17 wanted no part of it.

18 15294 MR. ALFORD: No, they wanted no part
19 of it, and I guess they took the position that they
20 wanted no part of something that was focused on export.
21 I think they feared a link that, in some way, it would
22 have brought us as an endorsed participant in the
23 Canadian procurement process.

24 15295 MR. ROITENBERG: Clearly, at this
25 point, what was being proposed by Thyssen Bear Head was

1 toward the export market.

2 15296 Is that correct?

3 15297 MR. ALFORD: That's correct, because
4 the Canadian procurements were always -- at this stage,
5 were being held as not decided yet, not announced yet.

6 15298 And Thyssen at this time -- perhaps
7 this is important -- Thyssen at this time was headed
8 into manufacturing a vehicle for a project that they
9 had won in the United States, so the desire to have
10 some of the manufacturing of that vehicle take place in
11 Canada was increasing, and there weren't many chances
12 left to still bring some of that work into Canada,
13 because it was a U.S. project. It had been won from
14 the German manufacturing base with a U.S. partner.

15 15299 This, if I have my dates correct,
16 would have been, sort of, one of the last chances to
17 have some of that manufacturing take place, but also
18 make the argument for Thyssen to expand its R&D work
19 into Canada, having already developed its own prototype
20 within Germany, and already being a participant in the
21 NATO MBAV project from its German R&D centre.

22 15300 MR. ROITENBERG: What was that
23 prototype that you had developed in Germany?

24 15301 MR. ALFORD: The Thyssen name for it
25 was called TH 495, and it was a vehicle that was very

1 similar to the MBAV requirement of the NATO committees.

2 15302 MR. ROITENBERG: Shortly after this
3 meeting with Deputy Minister Fowler and his contingent
4 in May, my understanding is that the prototype for the
5 TH 495 was unveiled in Germany, and that would have
6 been in September of 1992.

7 15303 MR. ALFORD: I think that's right.

8 15304 MR. ROITENBERG: You were there?

9 15305 MR. ALFORD: I was.

10 15306 MR. ROITENBERG: They called this the
11 rollout of the TH 495?

12 15307 MR. ALFORD: That's right, unveiled
13 from under a white curtain.

14 15308 MR. ROITENBERG: With much fanfare I
15 hear.

16 15309 MR. ALFORD: Great fanfare.

17 15310 MR. ROITENBERG: There were a number
18 of countries that were invited to come and see the
19 unveiling of this particular machine.

20 15311 MR. ALFORD: That's correct.

21 15312 MR. ROITENBERG: If you turn to Tab
22 14, you will see a document outlining the announcement
23 from Thyssen Henschel in Kassel, Germany, of the TH 495
24 rollout, and the third paragraph down states:

25 "Of particular importance to

1 this event is the vital
2 opportunity for marketing the TH
3 495 vehicle to all of the 15
4 nations which will be in
5 attendance, each representing a
6 major national market."

7 15313 So what you had was a gathering of
8 countries to see the unveiling of this particular item,
9 in the hopes that each of the representatives of these
10 countries represented potential customers.

11 15314 MR. ALFORD: That's right.

12 15315 MR. ROITENBERG: And my understanding
13 is that Canada sent a delegation?

14 15316 MR. ALFORD: That's right, we had
15 invited the Commander of the Army and, I guess, the
16 office or the staff that would have been working on
17 their vehicle requirements, called MRCV at the time,
18 and they did attend.

19 15317 MR. ROITENBERG: So the project is
20 now about exports. We now have an actual prototype of
21 the vehicle that you would like to eventually perfect
22 and export. Your role with the company in Canada, as I
23 understand it, is to get the plant built here.

24 15318 MR. ALFORD: Correct.

25 15319 MR. ROITENBERG: To do that, my

1 understanding is, you needed to garner some support
2 from the Canadian government, or else why would you
3 bother building it in Canada.

4 15320 Is that fair?

5 15321 MR. ALFORD: That's correct. Thyssen
6 was always willing to build its manufacturing facility
7 independent of government contribution, if we were
8 participating in a Canadian requirement.

9 15322 Because no Canadian procurement had
10 been competed and Thyssen had not had an opportunity to
11 win a contract, we were always faced with responding to
12 the invitation by the Canadian investment branches of
13 ACOA and FORD-Q and the Industry Department to -- you
14 know: Couldn't you go ahead and build your plant
15 without an order?

16 15323 So we were always trying to find a
17 way that we could justify that.

18 15324 And, at this time, we were being
19 asked to move the R&D work, or part of the R&D work --
20 a significant part of it -- on what we thought was a
21 major international project for the long-term -- we
22 were being asked to bring that into Canada.

23 15325 So we said: Well, we will do part of
24 it, but there has to be a reason. If we are not
25 participating in a Canadian supply contract, then you

1 will have to make a contribution to the R&D work. It
2 was a matched contribution request, but nonetheless, in
3 the absence of any Canadian work, we needed
4 justification for doing the work in Canada.

5 15326 MR. ROITENBERG: And that
6 justification, at this stage of the proposal, would
7 have been, as you said, participation by the Department
8 of National Defence in assisting with the research and
9 development.

10 15327 MR. ALFORD: That's right.

11 15328 MR. ROITENBERG: Now, as the project
12 was going to be focused, or was focused at this point
13 on exports, I take it the issue of export controls came
14 into play.

15 15329 MR. ALFORD: Export controls were
16 always a sensitive point for Thyssen. They never ever
17 wanted to influence Canadian export policy. They
18 simply would ask: What is the stated policy?

19 15330 So, as we went into a discussion with
20 the Industry Department to explore international
21 markets, we always asked the Industry Department to
22 identify the market, and we would respond to it. We
23 didn't want to be put in a position where we were
24 asking the Canadian government for export policy.

25 15331 MR. ROITENBERG: What were you told

1 was the guiding principle in terms of exports?

2 15332 MR. ALFORD: The assumed principle
3 that we operated under were NATO nations, and then the
4 traditional allies of NATO, but so much was changing --
5 with UN peacekeeping, so many more people were joining
6 NATO on a continuous basis, so it was a continually
7 changing event.

8 15333 And if there was conflict in a
9 particular part of the world, then, of course, those
10 nations would be identified as not a market to be
11 exported to.

12 15334 So since it was difficult to find
13 agreement on the potential of markets in Canada, and
14 sometimes difficult even to find agreement on the
15 potential markets in the United States, even though
16 Thyssen was in possession and working and delivering on
17 contracts into the United States, we opened up the
18 discussion on international markets.

19 15335 Typically, the markets that were
20 identified, really, by the Industry Department -- we
21 were trying to identify a gross market and then find a
22 conservative share of market that the TH 495 project
23 might forecast.

24 15336 MR. ROITENBERG: I want to take you
25 back to the export controls, and perhaps I will ask you

1 to go to Tab 15 of your binder.

2 15337 As there had been ongoing discussions
3 with Industry, Science and Technology on the issue of
4 export controls, this appears to be a letter from
5 Industry, Science and Technology to External Affairs --
6 or, excuse me, this letter is from External Affairs to
7 Industry, Science and Technology Canada, which seems to
8 be in answer to a letter from ISTC seeking
9 clarification on the export controls at the time.

10 15338 Would that be fair?

11 15339 MR. ALFORD: That's what I understand
12 it to be.

13 15340 MR. ROITENBERG: And unless I am
14 mistaken, this letter seems to indicate that, aside
15 from automatic weaponry -- putting that aside for the
16 moment, generally speaking, for armoured vehicles, it
17 would be assessed on a country-by-country basis as to
18 whether or not you could sell to a particular nation,
19 based loosely on four criteria, as set out on the first
20 page.

21 15341 MR. ALFORD: That's right.

22 15342 MR. ROITENBERG: Was that your
23 understanding at the time?

24 15343 MR. ALFORD: Yes.

25 15344 MR. ROITENBERG: There would be an

1 assumption of denial of export to countries that posed
2 a threat to Canada and its allies, that were involved
3 in or under imminent threat or hostilities, that were
4 under United Nation's Security Council sanctions at the
5 time, or countries whose governments had a persistent
6 record of serious violations of human rights of their
7 citizens.

8 15345 Those were the four guiding
9 principles from which you would garner an assumption of
10 denial in dealing with it on a case-by-case basis.

11 15346 MR. ALFORD: Correct.

12 15347 MR. ROITENBERG: Now, you had alluded
13 to the fact that the world, in the early nineties --
14 early to mid-nineties -- was changing, and more and
15 more countries were participating in UN peacekeeping.

16 15348 Is that fair?

17 15349 MR. ALFORD: That's correct.

18 15350 MR. ROITENBERG: Would I be correct
19 in saying that the application of these export controls
20 on a country-by-country basis, in your view, was
21 becoming a moving target?

22 15351 MR. ALFORD: That's right.

23 15352 MR. ROITENBERG: You had mentioned
24 something earlier about the MNAV project and the fact
25 that the desire was to have this as the primary vehicle

1 used by most and -- maybe a grandiose dream --
2 potentially all armies that were participating in
3 peacekeeping.

4 15353 Is that right?

5 15354 MR. ALFORD: That's right.

6 15355 Just to make it a little more
7 accurate, the idea was to come up with a vehicle, so
8 the initiative to have multi-nation/multi-army
9 participation in the design was to find, you know, that
10 great, internationally acclaimed and accepted design
11 that everyone would then wish to buy.

12 15356 Then, because Canada participates
13 with its allies in NATO and is a leader in
14 peacekeeping, of course -- and that was, at that time,
15 the main activity that armies were discussing, that we
16 go to peacekeeping missions as our main activity. That
17 is what the Canadian Army was discussing at the time.

18 15357 So that really became the focus. It
19 was a NATO initiative, but the main application of
20 these light vehicles was to peacekeeping.

21 15358 MR. ROITENBERG: What you said
22 earlier -- and I just want to come back to it; I let it
23 alone at the time, but I want to expand on it now, if I
24 could -- was that there wasn't the view that, if
25 successful, all of these vehicles would be produced in

1 Canada.

2 15359 That wasn't what was intended, was
3 it?

4 15360 MR. ALFORD: No, it wasn't that
5 Canada would be the manufacturer for everyone.
6 However, if you were the designer of the vehicle, your
7 opportunity to participate in some way with perhaps
8 core components, or design licensing -- you know, some
9 participation in international programs, that is very
10 realistic. That is what you can export and bring into
11 participation.

12 15361 And it would have been beneficial for
13 Thyssen, as well as for our major subcontractors in
14 Canada, had the plan been successful.

15 15362 MR. ROITENBERG: Okay. We are going
16 to come to that in a moment in a little more fuller
17 fashion. If I can, though -- Tab 17 is entitled
18 "Thyssen Project in Canada". It is a proposal. It is
19 dated August the 26th, 1993.

20 15363 This would have been a constellation
21 in this document of what the proposal boiled down to at
22 that juncture.

23 15364 Is that fair?

24 15365 MR. ALFORD: Yes.

25 15366 MR. ROITENBERG: Now, there was a

1 meeting held on August the 26th, 1993, between
2 representatives of Thyssen and representatives of the
3 government. On the government end we had Ministers
4 Corbeil and Charest, and on behalf of the company there
5 was Mr. Schreiber and Mr. Doucet.

6 15367 You weren't present at that meeting,
7 to your knowledge, were you?

8 15368 MR. ALFORD: No.

9 15369 MR. ROITENBERG: And, to your
10 knowledge, you didn't have a hand in setting up that
11 meeting?

12 15370 MR. ALFORD: No.

13 15371 MR. ROITENBERG: But shortly after
14 that meeting occurs, an interdepartmental group is
15 established within the Government of Canada to deal
16 with Bear Head on the issue of this proposal.

17 15372 Is that fair?

18 15373 MR. ALFORD: Yes.

19 15374 MR. ROITENBERG: If you go to Tab 18,
20 just to identify the parties, if you go to page 6 of 9,
21 it indicates the participants of this first meeting of
22 the interdepartmental group, and it indicates that
23 Thyssen Bear Head is represented, External Affairs, the
24 Ministry of National Defence, FORD-Q -- the Federal
25 Office of Regional Development for Quebec -- and

1 Industry and Science Canada.

2 15375 And I believe that the Department of
3 International Trade, at some point later, joined in
4 with this group.

5 15376 Is that correct?

6 15377 MR. ALFORD: Yes.

7 15378 MR. ROITENBERG: So we have this
8 meeting on September the 17th in Ottawa, and if you
9 could go to page 2 of 9, under "Discussions", toward
10 the bottom of the page, there is some discussion about
11 how the Canadian products would be marketed
12 internationally, as well as a discussion about the
13 rationale for the global demand for the TH 495 family
14 of tracked vehicles.

15 15379 Is that correct?

16 15380 MR. ALFORD: That's right. The
17 reference to "World Product Mandate" was what Thyssen
18 was vesting in the Canadian project.

19 15381 MR. ROITENBERG: And this is being
20 done in an effort to explain to the representatives of
21 the government and its various departments why there is
22 this market out there, and why Thyssen will have some
23 success in penetrating the market.

24 15382 Is that correct?

25 15383 MR. ALFORD: That's correct.

1 15384 MR. ROITENBERG: If you turn the page
2 to subcategory (a), there is some discussion as to why
3 you want to base this in Canada -- why the company
4 wishes to base this in Canada. It is because of the
5 perceived Canadian marketing advantages, including
6 Canada's special relationship with the United States,
7 The Commonwealth, Francophonie, NATO and NATO
8 countries, and Canada's unique experience and
9 reputation in peacekeeping efforts.

10 15385 Is that correct?

11 15386 MR. ALFORD: That's correct.

12 15387 MR. ROITENBERG: So by basing it in
13 Canada, the hope, on behalf of the company, is to take
14 advantage of these particular notions of Canada on the
15 international stage.

16 15388 MR. ALFORD: Yes.

17 15389 MR. ROITENBERG: At (b), it speaks of
18 the fact that, generally speaking, at this stage, the
19 marketing of the TH 495 will be a corporate function.
20 It will be done by Thyssen Henschel, as opposed to Bear
21 Head in Canada.

22 15390 Is that correct?

23 15391 MR. ALFORD: That's correct.

24 15392 MR. ROITENBERG: And that the
25 Canadian operation would assume more of the marketing

1 functions down the road, as the project got off the
2 ground and there was further development.

3 15393 MR. ALFORD: Correct.

4 15394 COMMISSIONER OLIPHANT: I'm sorry,
5 what letter are you at?

6 15395 MR. ROITENBERG: I am at (b), sir.

7 15396 COMMISSIONER OLIPHANT: Okay. Thank
8 you.

9 15397 MR. ROITENBERG: Now, at (c), to go
10 back to what we were just speaking of a moment ago,
11 Thyssen Bear Head will have the world product mandate
12 for the entire TH 495 family of tracked vehicles, and
13 it goes on to explain that this means that Canada will
14 have the only production line for the TH 495 family of
15 tracked vehicles, but the amount of production work
16 done in Canada would be dependent on procurement
17 agreements reached with customers around the world.

18 15398 Is that correct?

19 15399 MR. ALFORD: Correct.

20 15400 MR. ROITENBERG: And at (d), once in
21 production, Thyssen Bear Head would be the sole source
22 for production and distribution supplier for certain
23 parts and certain components, as agreed to by the
24 governments supporting the proposed project.

25 15401 Is that right?

1 15402 MR. ALFORD: That's correct.

2 15403 MR. ROITENBERG: It's an explanation
3 that there is going to be, hopefully, multiple
4 governments supporting this particular project, and
5 while we may be producing certain components here in
6 Canada, other components will be, hopefully, produced
7 elsewhere, in some kind of partnership arrangement with
8 other governments.

9 15404 MR. ALFORD: That's right.

10 15405 MR. ROITENBERG: Finally, any foreign
11 participation in the production of the TH 495 would be
12 undertaken on the basis of sound economics.

13 15406 So all of the cards are laid on the
14 table that, although this might be a grandiose scheme,
15 it is feasible, it is doable, here is Canada's role in
16 it, and here is what we foresee to be the long-term
17 benefits for building it in Canada.

18 15407 Is that correct?

19 15408 MR. ALFORD: That's correct.

20 15409 MR. ROITENBERG: Were you met with
21 much resistance at this meeting, as you recall it?

22 15410 MR. ALFORD: No, this meeting,
23 actually, was quite positive.

24 15411 I have to be careful, I am not
25 certain about what the government interpretation of the

1 meeting was, but there was an opportunity to table, and
2 at this point there was a response from the Industry
3 Department's senior management that there was some
4 serious merit to the market that was being identified
5 by the company, and that they should move forward in
6 their examination of it more carefully.

7 15412 MR. ROITENBERG: So at this point, at
8 least, you felt like you were being heard, at the very
9 least.

10 15413 MR. ALFORD: That's right.

11 15414 MR. ROITENBERG: If I could have you
12 turn over to the next tab, Tab 19, this is a letter to
13 Bruce Deacon, who was the Director General at Industry
14 and Science Canada, and it was written by Fred Doucet.

15 15415 MR. ALFORD: Tab 19?

16 15416 MR. ROITENBERG: Tab 19, yes.

17 15417 It's a letter of October 14, 1993
18 enclosing meeting notes for October 4, 1993.

19 15418 Do you have that, sir?

20 15419 MR. ALFORD: Yes.

21 15420 MR. ROITENBERG: Okay. Now, it's my
22 understanding -- and please correct me if I'm wrong --
23 that this MBAV project and the TH495 for which you were
24 seeking assistance in research and development was a
25 long-term project. It wasn't as if you were expecting

1 to start selling these machines in 1994 or 1995.

2 15421 Is that right?

3 15422 MR. ALFORD: That's right.

4 15423 MR. ROITENBERG: In fact, if you were

5 to go through to page 15 of this document to the

6 conclusions page -- again, this was a meeting with

7 Industry and Science Canada on October 4, 1993 -- it

8 spoke of the NATO groups MNAV study and the fact that

9 the TH495 so closely matches the requirements as set

10 out in that study.

11 15424 That's right at the top of the page.

12 Yes?

13 15425 MR. ALFORD: Correct.

14 15426 MR. ROITENBERG: It goes on to speak

15 of the market that may exist.

16 15427 MR. YAROSKY: Excuse me. What page?

17 15428 MR. ROITENBERG: Page 15 of 20.

18 15429 MR. YAROSKY: Thank you.

19 15430 MR. ROITENBERG: It speaks of the

20 fact that there exists to some degree a market before

21 the year 2000, but the real goal is post-2000 where

22 both the company and NATO forecast an important market

23 outside of NATO post-2000, and in this market period

24 the TH495 will carry a competitive advantage from

25 earlier sales in the pre-2000 market, qualifying it as

1 a proven system, et cetera, et cetera.

2 15431 So it is speaking long term. This is
3 1993 and you are speaking beyond seven years down the
4 road.

5 15432 MR. ALFORD: Yes.

6 15433 MR. ROITENBERG: At this juncture it
7 seems to me that there seems to be some hope on the
8 part of the company that in fact at least Industry
9 Canada is paying some attention.

10 15434 MR. ALFORD: That's right. We were
11 certainly encouraged.

12 15435 MR. ROITENBERG: Now, there were some
13 marketing analyses that needed to be done.

14 15436 Am I correct?

15 15437 MR. ALFORD: That's right.

16 15438 MR. ROITENBERG: And in fact the
17 company put forward a marketing analysis, the
18 government put forward a marketing analysis and they
19 had to be analyzed by the respective parties.

20 15439 Is that right?

21 15440 MR. ALFORD: That's right.

22 15441 MR. ROITENBERG: If I could direct
23 you to Tab 24, it's a letter that you wrote forwarding
24 minutes of an earlier meeting. The letter or the memo
25 is June 13, 1994 and it is in regard to a meeting that

1 occurred on June 3, 1994.

2 15442 What I want to direct your attention
3 to is the marketing analysis that's attached to this
4 document.

5 15443 So if you were to go about six pages
6 in, six or seven pages in, you come upon charts
7 detailing certain markets.

8 15444 Do you have the first one?

9 15445 MR. ALFORD: Specified NATO market?

10 15446 MR. ROITENBERG: Specified NATO
11 market.

12 15447 I'm really not good with any kind of
13 marketing data, but I think I figured this out.

14 15448 There is specified NATO market and
15 unspecified NATO market, and as far as I can figure the
16 distinction is the specified NATO market deals with
17 plans already in place within a NATO country, a program
18 that is already there for the re-doing of their
19 armoured vehicles.

20 15449 MR. ALFORD: That's correct.

21 15450 MR. ROITENBERG: The unspecified
22 within a NATO market is here is the NATO market, but we
23 are unaware of any particular program in place for the
24 refitting of the personnel carriers in question.

25 15451 MR. ALFORD: That's right. And this

1 was a study of a vehicle category that was dominated by
2 M113, which at this time was approaching 40 years in
3 its design life.

4 15452 MR. ROITENBERG: What was the life
5 expectancy of the M113, do you know?

6 15453 MR. ALFORD: I think 20 years. They
7 were life extensions that got them out to 40.

8 15454 MR. ROITENBERG: If we could all be
9 so lucky to have such extensions.

10 15455 It then goes on to specified non-NATO
11 market and unspecified non-NATO market. I take it the
12 distinction between specified and unspecified is the
13 same?

14 15456 MR. ALFORD: Yes.

15 15457 MR. ROITENBERG: Where there is
16 awareness as to a program that exists, that is
17 specified; and where there is no program as far as you
18 are aware, that is unspecified. Correct?

19 15458 MR. ALFORD: That's correct.

20 15459 MR. ROITENBERG: And it lists a
21 number of countries, both within NATO and outside of
22 NATO, and these were all potential markets at some
23 point in time hopefully for participation in the MBAV.

24 15460 Is that right?

25 15461 MR. ALFORD: Of course.

1 15462 MR. ROITENBERG: Now, I want to jump
2 ahead if I could to Tab 30.

3 15463 I'm doing this because if you look at
4 these marketing documents, there are a number of
5 countries that one would think would make up large
6 markets that aren't included.

7 15464 There is no mention of the Chinese,
8 there is no mention of Russia, there is no mention of
9 certain components of the French army or the U.K.
10 There is some, but not mention of their whole Force.

11 15465 If you go to Tab 30, you will see
12 notes of a meeting that took place on October 11, 1994
13 between Thyssen Bear Head and Industry Canada.

14 15466 Do you have the tab, sir?

15 15467 MR. ALFORD: Yes.

16 15468 MR. ROITENBERG: If you go to the
17 bottom of page 2 and into page 3, the very last bullet
18 at the bottom of page 2 indicates:

19 "Where nations had been
20 deliberately omitted by the
21 company, e.g. Iraq on political
22 grounds, the United States and
23 Canada due to sensitivity, this
24 should be stated." (As read)

25 15469 Because there was an awareness that's

1 identified here that certain countries had been
2 specifically omitted from the earlier market study.

3 15470 Is that right?

4 15471 MR. ALFORD: That's right.

5 15472 MR. ROITENBERG: For one reason or
6 another, either political sensitivity or concerns over
7 whether or not they were a potential partner, they were
8 omitted. Correct?

9 15473 MR. ALFORD: Yes.

10 15474 MR. ROITENBERG: If you move down to
11 the middle of page 3, it says
12 "BHI should endeavour to
13 re-examine and reflect potential
14 U.S. market, and it should
15 consider the appropriateness of
16 including all markets (US,
17 Middle East, Canada) in its
18 'gross' market for units. If
19 necessary from sources
20 independent of DOD."

21 15475 So in essence what was taken from the
22 meeting with a direction that Bear Head should provide
23 the Government of Canada with all markets, even those
24 that had been particularly and specifically omitted
25 from the earlier market study.

1 15476 MR. ALFORD: Yes.

2 15477 MR. ROITENBERG: I'm going to come
3 back to that concept in one moment, but chronologically
4 speaking, I want to go back to a very important meeting
5 that occurred on September 20, 1994, about two weeks
6 shy of this meeting that directed you to do that.

7 15478 The notes of that meeting are at Tab
8 28.

9 15479 This is a meeting between Bear Head
10 and Industry Canada with Mr. Deacon, who we have
11 already mentioned, from Industry Canada present, as
12 well as Mr. Krajewski also from Industry Canada.

13 15480 Is that right?

14 15481 MR. ALFORD: Yes.

15 15482 MR. ROITENBERG: In the second
16 paragraph of the notes it states:

17 "Mr. Deacon explained the
18 delay..."

19 15483 The delay in getting back to you on
20 the documentation from June 3rd:

21 "... by pointing out that
22 Industry Canada has shared their
23 conclusion of the TH495 market
24 analysis with all interested
25 departments and urged them to

1 acknowledge the existence of the
2 export market, their clear
3 understanding that it is
4 distinctly different from the
5 market for the GM LAV and the
6 likelihood of TH495 penetrating
7 that market."

8 15484 Do you see that?

9 15485 MR. ALFORD: Yes.

10 15486 MR. ROITENBERG: If I'm not mistaken,
11 this seems to be, other than responses from
12 organizations based on regional development, like ACOA
13 and FORD-Q, this seems to be the first positive
14 feedback that the company seems to be getting from a
15 government agency.

16 15487 MR. ALFORD: That's right. I think
17 in this particular case what was notable to the company
18 was that Mr. Deacon was -- I guess with conclusion of
19 his own department's study they were beginning to
20 recognize that perhaps an earlier desire to protect the
21 incumbent or the domestic manufacture, General Motors,
22 was misplaced; that in fact Thyssen had a market that
23 was different from that.

24 15488 I think the other thing they were
25 beginning to realize is that when Thyssen would be

1 successful in a project maybe the largest subcontractor
2 to have potential doing business with Thyssen as the
3 prime contractor would have been General Motors as a
4 subcontractor.

5 15489 So there wasn't really a threat
6 there, but for a long time it seemed like many
7 departments of the government were trying to prevent
8 the arguments in favour of Thyssen almost on a
9 protectionist intent to protect General Motors.

10 15490 MR. ROITENBERG: So there seems to be
11 a recognition that Thyssen isn't going to take business
12 away in this market from GM, but rather open the door
13 for GM.

14 15491 Is that fair?

15 15492 MR. ALFORD: That's right. While
16 General Motors might have also -- I'm sure would have
17 been pursuing categories of this market as well,
18 Thyssen was going to win in one category while General
19 Motors might have been winning in a separate, but they
20 wouldn't be taking markets from each other.

21 15493 MR. ROITENBERG: So there was a
22 market. It wasn't going to be the demise of GM, and
23 Thyssen has a good chance of penetrating this market
24 with this particular product.

25 15494 MR. ALFORD: Yes.

1 15495 MR. ROITENBERG: And a very telling
2 note on page 4 under the conclusions:
3 "The meeting was very positive
4 in that it brought to the
5 attention of Mr. Deacon and Mr.
6 Krajewski the information that
7 there may be a view formed at
8 some level of Industry Canada
9 which has not had the benefit of
10 the Industry Canada-led market
11 analysis and most current
12 conclusions. The actions
13 proposed by Mr. Deacon should
14 bring remedy to the issues and
15 concerns which had been brought
16 to the company's attention
17 suggesting an Industry Canada
18 opposition to the Thyssen Bear
19 Head proposal." (As read)
20 15496 So basically there might have been a
21 negative attitude on the file before, but now these
22 individuals, having gone through the market analysis,
23 are prepared to work to change that negative attitude.
24 15497 MR. ALFORD: Yes.
25 15498 MR. ROITENBERG: But Industry Canada,

1 although this was a positive meeting, was only one of
2 your co-participants on this interdepartmental group.
3 There were other groups that still needed to be
4 convinced. Correct?

5 15499 MR. ALFORD: Yes.

6 15500 MR. ROITENBERG: But at least at this
7 juncture Bear Head wouldn't be standing alone.

8 15501 MR. ALFORD: That's right.

9 15502 MR. ROITENBERG: So following this
10 meeting we then had the October 11th meeting where it
11 was determined that Thyssen should not exclude markets
12 but be more inclusive and put them all in.

13 15503 And at Tab 32 we have a letter that
14 you forwarded to Mr. Krajewski on October 24, 1994
15 providing additional information as appendices to the
16 letter.

17 15504 Is that correct?

18 15505 MR. ALFORD: That's correct.

19 15506 MR. ROITENBERG: The first appendix
20 was an inclusion of a letter which had been earlier
21 forwarded to Mr. Krajewski that day by Ian Reid.

22 15507 Ian Reid was one of your colleagues
23 at Bear Head?

24 15508 MR. ALFORD: That's right. He was a
25 retired armoured officer and led our sales initiatives

1 with the Canadian Army.

2 15509 MR. ROITENBERG: Now, that letter
3 specifies that:

4 "RE: M113 equivalent types,
5 your request of October 20,
6 1994, the M113 type vehicles
7 included in Bear Head's
8 supporting data for the
9 unspecified non-NATO market
10 segment reflect a variety of
11 light tracked vehicle types
12 likely to require replacement in
13 a similar timeframe. They
14 include a model from the United
15 Kingdom, models from France and
16 Czechoslovakia and models from
17 the USSR and China." (As read)

18 15510 Is that right?

19 15511 MR. ALFORD: That's right.

20 15512 MR. ROITENBERG:

21 "The above types have been sold
22 in various quantities and their
23 replacement should provide
24 market potential for the TH495."
25 (As read)

1 15513 MR. ALFORD: That's correct.

2 15514 MR. ROITENBERG: Now, if you go to
3 the page immediately prior again, the cover letter that
4 you sent, there seems to be handwriting on it and it
5 seems to indicate:
6 "Annie, for your information,
7 please check with Murata to see
8 if there are some to whom we
9 would not export and which of
10 the remaining have their own
11 firms. Thanks, Dick, October
12 24" (As read)

13 15515 It seems to be a note from
14 Mr. Krajewski to somebody within his department to do a
15 follow-up.

16 15516 MR. ALFORD: Yes.

17 15517 MR. ROITENBERG: If you will go to
18 the page following the Reid letter which specifies
19 U.K., France, USSR, Czechoslovakia and China, there is
20 a note from Annie, who I suppose might be the Annie to
21 whom Dick had written the note, to Ken Murata saying:
22 "Hello Ken: Please find
23 attached Thyssen BHI country
24 listings for potential M113
25 replacement program. Could you

1 please review the list and
2 indicate which countries we
3 would not likely be able to
4 export to (within next ten
5 years). I would appreciate it
6 if you could provide me with
7 your comment early this week, if
8 possible. Thanks, Annie".

9 15518 So there seems to be the desire to
10 follow it up and a request for a follow-up as to the
11 list provided by you as to potential customers for the
12 TH495.

13 15519 Is that right?

14 15520 MR. ALFORD: That's right.

15 15521 MR. ROITENBERG: Did you ever receive
16 notification from Industry Canada advising you that any
17 of the countries on your list were definitively
18 excluded for consideration as a potential market?

19 15522 MR. ALFORD: I can't recall. It
20 doesn't stand out. We assume some would have been
21 removed, but I don't recall the response on that.

22 15523 I think the general mood as Thyssen
23 was reluctant to bring all nations into it, but as we
24 got further into the market research project the
25 Industry department decided -- or seemed to take the

1 leadership in it and really wanted to explore it as
2 they seemed to find what we perceived to be a
3 confidence in the potential of our market forecasts.

4 15524 They then expanded it and said well,
5 everything is changing, let's look at everything. So
6 that's what led us down that road.

7 15525 I don't recall whether they gave us a
8 ruling or -- we didn't need to have an export ruling.
9 We were only identifying with the gross market
10 potential would be.

11 15526 MR. ROITENBERG: Now, at this point
12 in time again the undertaking in which you were
13 involved in is to try to get the various agencies
14 involved in this interdepartmental group to come to
15 some positive resolution that a market exists.

16 15527 Am I correct?

17 15528 MR. ALFORD: That's right.

18 15529 MR. ROITENBERG: And that Thyssen by
19 route of the TH495 has some likelihood of penetrating
20 the market so that it would be worthwhile for the
21 government to join you in research and development of
22 this particular vehicle.

23 15530 MR. ALFORD: Yes.

24 15531 MR. ROITENBERG: I note that it's
25 quarter to 11:00, Mr. Commissioner. Perhaps it's an

1 opportune time to take the morning break.

2 15532 COMMISSIONER OLIPHANT: All right.

3 Thank you very much, Mr. Roitenberg.

4 15533 We will break. I think it's 10 to

5 11:00 actually by the --

6 15534 MR. VICKERY: Mr. Commissioner, I

7 apologize for interrupting you.

8 15535 I wonder if we might extend the break

9 to 20 minutes from 15 this morning.

10 15536 COMMISSIONER OLIPHANT: All right,

11 that's fine.

12 15537 We will come back at 10 after 11:00

13 then. Okay?

14 15538 MR. VICKERY: Thank you.

15 15539 MR. ROITENBERG: Thank you, sir.

16 --- Upon recessing at 10:50 a.m. / Suspension à 10 h 50

17 --- Upon resuming at 11:15 a.m. / Reprise à 11 h 15

18 15540 COMMISSIONER OLIPHANT: Be seated

19 please.

20 15541 MR. ROITENBERG: Thank you,

21 Mr. Commissioner.

22 15542 Mr. Alford, where we were was in

23 October 24, 1994 and you had forwarded that letter to

24 Mr. Krajewski at Industry Canada. That's where we left

25 off.

1 15543 But I want to ask you a question
2 about one particular date roughly a year prior, in
3 October of 1993.

4 15544 In October of 1993 there was an
5 election campaign ongoing, and this Commission has had
6 evidence put before it that on October 12, 1993 there
7 seems to be indications of political donations being
8 made to five particular individuals.

9 15545 Are you aware of any particular
10 donations being made to particular individuals in and
11 around October of 1993 and did you have a hand in those
12 donations?

13 15546 MR. ALFORD: I'm afraid I don't know
14 it, I'm sorry.

15 15547 MR. ROITENBERG: Very well.

16 15548 After this letter was forwarded in
17 October of 1994 there was continuation of the efforts
18 being made to try to get the government departments on
19 side as it pertained to the viability and existence of
20 the export markets for the TH495.

21 15549 Am I correct?

22 15550 MR. ALFORD: Yes.

23 15551 MR. ROITENBERG: If I could direct
24 your attention to Tab 38, it is a letter that you wrote
25 on December 16, 1994 to Marc Lalonde.

1 15552 Who was Marc Lalonde in relation to
2 Thyssen Bear Head?

3 15553 MR. ALFORD: Mr. Lalonde's firm,
4 Stikeman Elliott, was retained by Thyssen for our
5 general legal counsel. Mr. Lalonde was the partner
6 representing the firm to Thyssen and we sought his
7 advice in government matters as well.

8 15554 MR. ROITENBERG: And you kept him up
9 to date as to where discussions were at between the
10 company and representatives of the Government of
11 Canada?

12 15555 MR. ALFORD: Yes.

13 15556 MR. ROITENBERG: In this letter you
14 included a number of appendices, including a document
15 of particular interest, that being an excerpt from the
16 NATO NIAG study.

17 15557 I believe it's the fourth page in of
18 the document. Do you see that?

19 15558 MR. ALFORD: Is it the one, the top
20 of the page is Introduction NATO?

21 15559 MR. ROITENBERG: Yes.

22 15560 MR. ALFORD: Or sorry, ACC/225 panel?

23 15561 MR. ROITENBERG: That's right.

24 15562 MR. ALFORD: Yeah.

25 15563 MR. ROITENBERG: It says kind of cut

1 off at the top "NATO Restricted".

2 15564 MR. ALFORD: Yes.

3 15565 MR. ROITENBERG: So at 1.1 it sets
4 out the general overview of the NATO multipurpose base
5 armoured vehicle, or the MBAV, as you have called it,
6 and its intention for the period of post-2000 as a
7 low-cost light armoured tactical vehicle.

8 15566 It speaks at 1.2 of the current
9 situation within the Alliance; that there is a
10 multiplicity of light armoured vehicles and some are
11 capable of upgrades, some are not, and speaks of the
12 benefits of going one route over the other.

13 15567 At 1.3, entitled "Commanders
14 Requirement", it speaks of NATO commanders requiring an
15 MBAV:

16 "... with a high degree of
17 standardization and accompanying
18 interoperability of basic
19 components and supply. Ideally
20 MBAV should be a single
21 universally accepted vehicle
22 family which would ease
23 acquisition, training, supply,
24 repair and sustainment. Given
25 national priorities timetables

1 and requirements, commanders
2 require that at a minimum MBAV
3 will have standard parts
4 utilized to the greatest extent
5 possible." (As read)

6 15568 It goes on again to speak of the
7 benefits of each nation having an MBAV that has limited
8 differences one nation to the next.

9 15569 MR. ALFORD: That's right.

10 15570 MR. ROITENBERG: So this in essence
11 is an excerpt which supports the brief tutorial you
12 gave earlier as to what the MBAV was?

13 15571 MR. ALFORD: Yes.

14 15572 MR. ROITENBERG: And Thyssen's goal
15 here again is all done with an eye to the global market
16 and now armed with Industry Canada coming on board in
17 terms of the existence of the market and the viability
18 of the market, you are trying to convince the rest of
19 these government agencies that the market exists, that
20 the TH495 can penetrate the market and that the market
21 will continue to grow.

22 15573 Is that fair?

23 15574 MR. ALFORD: Yes.

24 15575 MR. ROITENBERG: And the growth of
25 the market, if I'm not mistaken, is not just because

1 existing vehicles are going to have to be replaced but,
2 as you said earlier, because more and more countries
3 are joining the peacekeeping effort.

4 15576 Is that right?

5 15577 MR. ALFORD: That was an element of
6 the growth, yes.

7 15578 MR. ROITENBERG: Now, if you had had
8 a way of knowing at that time what some of these
9 foreign countries had in mind for themselves, what they
10 intended to do with their own Forces and their own
11 replacement of vehicles, that would have been important
12 knowledge for you.

13 15579 Is that fair?

14 15580 MR. ALFORD: Certainly.

15 15581 MR. ROITENBERG: Especially those
16 countries that might not have been as open in terms of
17 their policies to the rest of the world. If you had
18 had some insight into what they were looking for as
19 placement vehicles, that would have been of benefit.
20 Yes?

21 15582 MR. ALFORD: Yes, any information on
22 the market helps.

23 15583 MR. ROITENBERG: If Thyssen Bear Head
24 had had an agent with access to high-level officials in
25 these countries who could then have these discussions

1 and bring back information or feedback, that would have
2 been important information for you to have. Yes?

3 15584 If Thyssen Bear Head had had a
4 high-level individual who could champion the product in
5 an effort to start getting the message out there and
6 penetrating these markets, that would have been of
7 benefit to you. Yes?

8 15585 MR. ALFORD: Yes.

9 15586 MR. ROITENBERG: And this information
10 wouldn't have just been of benefit to the company, but
11 it would have been of benefit to you in your efforts to
12 convince the Canadian departments that this market was
13 workable for Thyssen. Correct?

14 15587 MR. ALFORD: Correct.

15 15588 MR. ROITENBERG: If, for example, a
16 foreign prime minister who could reach other heads of
17 state and further position Thyssen Bear Head in the
18 world market had been out there on Thyssen's behalf
19 doing these things, that information could only help
20 you in selling the existence of the market and
21 Thyssen's place in it to the rest of the Government of
22 Canada. Correct?

23 15589 MR. ALFORD: Well, it is certainly
24 beyond the scope of my responsibilities; but yes, we
25 certainly would have welcomed every help.

1 15590 MR. ROITENBERG: Were you ever told
2 that Prime Minister Mulroney was out there engaging
3 other nations in these discussions, speaking with other
4 heads of state or high-level officials about the
5 viability of the 495 or any Thyssen product?

6 15591 MR. ALFORD: No.

7 15592 MR. ROITENBERG: Early in December of
8 1994 you attended an Arctic Bridge conference in New
9 York -- Atlantic Bridge, excuse me. Thank you, sir.
10 Atlantic Bridge conference in New York.

11 15593 Is that correct?

12 15594 MR. ALFORD: That's right.

13 15595 MR. ROITENBERG: And there was a
14 contingent from Thyssen Bear Head who attended the
15 conference?

16 15596 MR. ALFORD: That's right. We were
17 amongst I guess the corporate table sponsors.

18 15597 MR. ROITENBERG: Mr. Schreiber was
19 there?

20 15598 MR. ALFORD: Yes.

21 15599 MR. ROITENBERG: You yourself were
22 there?

23 15600 MR. ALFORD: Yes.

24 15601 MR. ROITENBERG: Prior to your
25 attendance at the conference, in the weeks prior we

1 will say, you had been advised that the government was
2 producing a white paper on defence policy.

3 15602 Is that correct?

4 15603 MR. ALFORD: Yes.

5 15604 MR. ROITENBERG: And you had in fact
6 been provided with a copy of the white paper?

7 15605 MR. ALFORD: When it was released, it
8 would have -- like everyone in the defence industry,
9 you would have -- in those days you couldn't get it
10 online, so you would stand out for the document release
11 at the headquarters. And so we and all of our
12 competitors would have collected the first copies.

13 15606 MR. ROITENBERG: It seems like a
14 different world when you couldn't get something like
15 that online.

16 15607 MR. ALFORD: It was more walking.

17 15608 MR. ROITENBERG: Now, at the time, in
18 1993 and 1994, Thyssen Bear Head had not engaged the
19 services of a lobbying firm. Am I correct?

20 15609 You were doing it on your own?

21 15610 MR. ALFORD: Primarily. From time to
22 time, you know, we might have had like a project
23 consulting on a specific event or a period, but we
24 didn't do anything on a continuous basis.

25 15611 MR. ROITENBERG: You had nobody, no

1 lobbying firm on retainer at that time?

2 15612 MR. ALFORD: No. We were running our
3 own office.

4 15613 MR. ROITENBERG: In the documentation
5 I have taken you through and those that I have referred
6 to and the rest in the book, there seems to be no
7 mention of any involvement by Fred Doucet after
8 September of 1993.

9 15614 Have you found any documents to
10 suggest otherwise?

11 15615 MR. ALFORD: To be honest, I haven't
12 studied dates specifically. But if there is something
13 you want me to refer to, I will.

14 15616 MR. ROITENBERG: Well, if there was
15 something to refer you to I would. Unfortunately, my
16 point is that there seems to be nothing in the
17 documents that suggests any involvement by Mr. Doucet
18 after that date.

19 15617 Do you have any recollection of
20 Mr. Doucet being actively involved in the project in
21 any way after that date?

22 15618 MR. ALFORD: I can't -- I'm sorry, I
23 can't accurately nail down dates.

24 15619 Certainly Fred Doucet was a friend
25 and we welcomed his advice, whether he was involved,

1 engaged on an assignment or otherwise.

2 15620 COMMISSIONER OLIPHANT: Would it help
3 you, Mr. Alford, if I gave you as a point of reference
4 an election in October of 1993 where the government
5 changed? Would that help you, in terms of Mr. Doucet's
6 involvement on behalf of Thyssen Bear Head?

7 15621 MR. ALFORD: That wouldn't
8 necessarily remove the benefit of his advice, the
9 change of government. Mr. Doucet had partners who were
10 perceived as without political affiliation, career
11 government officials in retirement, and advisors that
12 were equally able to assist us because our work was in
13 many cases beyond the political realm -- in most cases.

14 15622 MR. ROITENBERG: Okay. I have taken
15 you to this before, but at Tab 19 is a letter written
16 by Mr. Doucet back in October of 1993. That seems to
17 be the last involvement, at least from any documents
18 that we have seen pertaining to him or his involvement
19 in the project.

20 15623 Do you have any information to the
21 contrary on that?

22 15624 MR. ALFORD: No.

23 15625 MR. ROITENBERG: I can tell you that
24 I'm going through Mr. Doucet's diary for 1994 and there
25 is no entry pertaining to you or involvement, and the

1 last documentary evidence that we have of his
2 involvement is back at Tab 19 in October of '93. Fair?

3 15626 MR. ALFORD: Yes.

4 15627 MR. ROITENBERG: Upon receipt of the
5 White paper you familiarize yourself with it?

6 15628 MR. ALFORD: Yes.

7 15629 MR. ROITENBERG: You noted that there
8 were some parts that were directly relevant to work in
9 which you were engaged in at the time.

10 15630 Is that fair?

11 15631 MR. ALFORD: Yes.

12 15632 MR. ROITENBERG: There was mention in
13 the white paper of the need on behalf of the Forces to
14 purchase new armoured personnel carriers.

15 15633 MR. ALFORD: Yes.

16 15634 MR. ROITENBERG: And that this was to
17 be done in the changing landscape of the Forces, which
18 included a decreased need to protect the continent and
19 an increased focus on UN and other multinational
20 missions.

21 15635 Is that correct?

22 15636 MR. ALFORD: Yes.

23 15637 MR. ROITENBERG: And you viewed this,
24 I take it, with some measure of optimism because this
25 was exactly in line with the product that you were

1 trying to get the government to agree was a viable
2 vehicle towards the future for both the government to
3 purchase and to participate in the further development
4 of, this peacekeeping vehicle.

5 15638 MR. ALFORD: That's right, until we
6 had reached the point of the white paper being released
7 and seeing that the government confirmed that it had
8 vehicle programs in the category. We had always agreed
9 not to discuss the Canadian requirement and let the
10 government procurement be scheduled and then address it
11 as a competitor.

12 15639 MR. ROITENBERG: So now we actually
13 had some hope, at least on behalf of the company, that
14 not only were we moving forward with an eye to the
15 international market, but here we had some evidence
16 that the government might be on the precipice of
17 considering a procurement for Canada itself?

18 15640 MR. ALFORD: Yes.

19 15641 MR. ROITENBERG: And you then
20 forwarded a copy of the excerpts of the white paper to
21 Mr. Massmann, who was the President of the company?

22 15642 MR. ALFORD: Yes.

23 15643 MR. ROITENBERG: Mr. Schreiber, who
24 was the Chairman?

25 15644 MR. ALFORD: Yes.

1 15645 MR. ROITENBERG: Mr. Vance, who was,
2 like yourself, employed in trying to further the goal
3 of getting this plant built in Canada?

4 15646 MR. ALFORD: Yes.

5 15647 MR. ROITENBERG: And Mr. Lalonde, who
6 was legal counsel and an advisor?

7 15648 MR. ALFORD: Yes.

8 15649 MR. ROITENBERG: And you forwarded
9 the document to them by way of a fax of December 1,
10 1994 at 4:34 p.m.

11 15650 MR. ALFORD: Yes.

12 15651 MR. ROITENBERG: I will direct you to
13 Tab 35 so you can confirm that.

14 15652 MR. ALFORD: Yes.

15 15653 MR. ROITENBERG: Had you been asked
16 in advance by the parties to forward it to them or were
17 you just of the view that they would want to see this
18 and be aware of it?

19 15654 MR. ALFORD: Everyone that was
20 involved in our project, I naturally want to -- this
21 was a piece of positive opportunity I wanted to
22 communicate as quickly as I could.

23 15655 MR. ROITENBERG: Now, I take it on
24 December 1, 1994 you are unaware that the Rt. Hon.
25 Brian Mulroney and Fred Doucet were going to be meeting

1 with Mr. Schreiber in New York seven days later, on
2 December 8, 1994.

3 15656 Is that correct?

4 15657 MR. ALFORD: Yes.

5 15658 MR. ROITENBERG: When you forwarded
6 this document to Mr. Schreiber, I'm going to suggest to
7 you that Mr. Schreiber contacted you and asked you to
8 forward the document to Fred Doucet, and you did so
9 some 18 minutes later.

10 15659 Would that be fair, sir?

11 15660 MR. ALFORD: It's a reasonable
12 suggestion. It could have been.

13 15661 Equally, though, I mean I would have
14 been happy -- when a white paper would come out we
15 would have lots of phone calls: how's your project
16 going, from consultants/advisors who would like to work
17 with us.

18 15662 I could have easily shared it with
19 Fred of his request or my offering. All of these are
20 possibilities.

21 15663 MR. ROITENBERG: Do you recall
22 receiving a phone call from Fred Doucet asking for a
23 copy of the white paper or commenting on the white
24 paper?

25 15664 MR. ALFORD: I'm sorry, I can't

1 recall that precisely.

2 15665 MR. ROITENBERG: Okay.

3 15666 If you go to Tab 36, the second page
4 in is a cover of the fax sheet to Fred Doucet, December
5 1, 1994, 4:52 p.m., or 1652 hours, approximately 18
6 minutes after the fax was sent to Mr. Massmann,
7 Mr. Schreiber, Mr. Vance and Mr. Lalonde.

8 15667 Do you see that?

9 15668 MR. ALFORD: Yes.

10 15669 MR. ROITENBERG: From what we have
11 established, there had been no ongoing involvement by
12 Mr. Doucet in the project since the fall of 1993.

13 15670 I'm assuming you are not suggesting
14 that Mr. Doucet just would have happened to have
15 contacted you in those 18 minutes suggesting you send
16 him the white paper.

17 15671 You are not suggesting that?

18 15672 MR. ALFORD: Sorry. You know, I
19 might have been replying to a call. When a white paper
20 would come out, I would traditionally or always hear
21 from anybody who was working with us and would hope to
22 work with us or had worked with us in the past.

23 15673 The possibility that you have
24 suggested, I acknowledge is a possibility, but I don't
25 have a precise recollection.

1 15674 MR. ROITENBERG: In and around that
2 time, that is December of 1994, following the October
3 1994 letters to Mr. Krajewski, had you until that time
4 been advised that Russia, China, Czechoslovakia, that
5 these were not places to which Bear Head could
6 potentially export TH495 or its components?

7 15675 MR. ALFORD: I'm sorry, could you ask
8 your question again?

9 15676 MR. ROITENBERG: You sent a letter to
10 Mr. Krajewski --

11 15677 MR. ALFORD: M'hm.

12 15678 MR. ROITENBERG: -- on October 24,
13 1994.

14 15679 MR. ALFORD: Yes.

15 15680 MR. ROITENBERG: In it were the
16 additions to the potential markets that included
17 Russia, China, Czechoslovakia, aspects of the British
18 Force and aspects of the French Force.

19 15681 MR. ALFORD: M'hm.

20 15682 MR. ROITENBERG: Had you between your
21 forwarding of that letter up to and including December
22 1, 1994 when you forwarded these copies of the white
23 paper, had you been advised that Russia, China,
24 Czechoslovakia were places that the MBAV or the TH495
25 could not be exported?

1 15683 MR. ALFORD: Not in that specific,
2 but in the exercise of the market survey, as it started
3 to take on strength and I suppose the research, the
4 industry department started to confirm that some of our
5 projections were true. Then, as you see, they came
6 back and said well, let's expand it and identify the
7 entire gross international market without concern for
8 what are accessible markets and then work back from
9 that.

10 15684 So it was at that stage and that
11 correspondence that we looked at earlier from
12 Mr. Deacon that his analysts started opening up and
13 said let's start looking at everything.

14 15685 And as I mentioned to you earlier,
15 Thyssen was always cautious. We didn't want to be the
16 ones setting export policy but in the exercise and what
17 was going on in the background, and we were being told
18 at every turn and you would see it publicly as so much
19 was changing, nations were joining NATO that had
20 previously been perceived opponents to NATO and now
21 were joining.

22 15686 So it was in that spirit of
23 everything is changing, look at the whole market that I
24 suppose the industry department came back to us and
25 invited us to identify the equipment placements that we

1 knew in those markets.

2 15687 MR. ROITENBERG: So put another way,
3 then, you had not been told you can't export to these
4 countries?

5 15688 MR. ALFORD: That's right. We
6 specifically avoided asking those questions. We let
7 the industry department identify it in the market
8 study.

9 15689 MR. ROITENBERG: Were you under the
10 impression that potentially in the changing landscape
11 that you have described Russia and China were
12 potentially available for export within the ten-year
13 timeframe that was discussed?

14 15690 MR. ALFORD: My focus was on the
15 narrower market and the forecasting element of it that
16 would have been led out of the Canadian initiatives.
17 On the international level, as you saw earlier, the
18 marketing initiatives of the company were really led
19 out of our international headquarters in Germany.

20 15691 But in the examination of a total
21 international market, I guess we didn't apply the
22 assumptions of what was the situation now. We just
23 observed the changing trend of the markets getting
24 bigger. And the activities of NATO were really falling
25 inside of UN initiatives. So you had a lot of

1 participants in a UN initiative that weren't
2 necessarily traditional markets for a NATO
3 manufacturer.

4 15692 So everything was changing, and we
5 did look at it all.

6 15693 MR. ROITENBERG: So put another way,
7 as nobody had told you no and with the changing
8 landscape, you weren't excluding them as potentially
9 available markets?

10 15694 MR. ALFORD: No.

11 15695 MR. ROITENBERG: Is that fair?

12 15696 MR. ALFORD: Not in the long-term
13 facilities. Everything is a possibility. You wait and
14 see what the permissions are when the market
15 solidifies.

16 15697 MR. ROITENBERG: And as you said
17 earlier, the marketing on the global scale was not
18 being done by Thyssen Bear Head but was being
19 undertaken by Thyssen Henschel?

20 15698 MR. ALFORD: Yes, Thyssen Henschel
21 had probably a 20-year market establishment of projects
22 internationally and a team of international
23 salespeople. So as an entity and a part of that
24 company, it was only natural that the market lead at
25 this stage in the project would come from Germany.

1 15699 MR. ROITENBERG: Now, if I'm not
2 mistaken, as we moved into the latter part of '93 and
3 into '94, the efforts that were being undertaken with
4 the Canadian government were being undertaken primarily
5 by yourself, Mr. Vance and, to some degree,
6 Mr. Lalonde.

7 15700 Is that fair?

8 15701 MR. ALFORD: And my colleague Ian
9 Reid.

10 15702 MR. ROITENBERG: And Ian Reid. And
11 the international aspects were more in the hands of
12 Mr. Massmann and Mr. Schreiber.

13 15703 Is that fair?

14 15704 MR. ALFORD: That would be fair.

15 15705 MR. ROITENBERG: Now, you told us
16 before that you had never been given any information
17 whatsoever as to the involvement of the right Hon.
18 Brian Mulroney in any way shape or form promoting
19 Thyssen internationally. Correct?

20 15706 MR. ALFORD: Yes.

21 15707 MR. ROITENBERG: Had you been advised
22 that Mr. Mulroney's services had been retained to
23 assist in the lobbying efforts domestically?

24 15708 MR. ALFORD: No.

25 15709 MR. ROITENBERG: If someone had been

1 hired to promote the company and its efforts through
2 the international market, is that something that would
3 have been handled by either or both of Mr. Massmann and
4 Mr. Schreiber or Thyssen Germany?

5 15710 MR. ALFORD: Mr. Massmann ran the
6 division in Germany. It would have certainly been
7 through him.

8 15711 MR. ROITENBERG: So if somebody had
9 been hired to do marketing on the international scale,
10 that's not something that you necessarily would have
11 been made aware of.

12 15712 Is that correct?

13 15713 MR. ALFORD: That's right.

14 15714 MR. ROITENBERG: Even though it might
15 have been very helpful to you to have had that
16 knowledge in your dealings with the Canadian government
17 to show them how much progress had been made in the
18 international markets?

19 15715 MR. ALFORD: I'm not certain in the
20 market study exercise that we were going through that
21 it would have been relevant. I think they were
22 satisfied and understood the company's international
23 market was led from our headquarters in Thyssen
24 Henschel, and that was probably an adequate
25 qualification of our marketing ability.

1 15716 MR. ROITENBERG: Very good. Thank
2 you very much, sir.

3 15717 I believe other counsel may have
4 questions for you.

5 15718 MR. ALFORD: Thank you.

6 15719 COMMISSIONER OLIPHANT: Thank you,
7 Mr. Roitenberg.

8 15720 Yes...? Mr. Grondin.

9 15721 MR. GRONDIN: Yes. Actually,
10 considering the thoroughness of Mr. Roitenberg's
11 questions, I won't have any, but I would like to file
12 additional documents.

13 15722 I know my parents will be
14 disappointed, but anyways.

15 15723 COMMISSIONER OLIPHANT: Well, take
16 your time filing the documents, then.

17 --- Laughter / Rires

18 15724 MR. GRONDIN: So I believe now it is
19 P-19 and the document has been distributed to all the
20 parties.

21 15725 COMMISSIONER OLIPHANT: Mr. Grondin,
22 I take it that other counsel have seen the documents in
23 this booklet?

24 15726 MR. GRONDIN: Yes.

25 15727 COMMISSIONER OLIPHANT: And they are

1 going in, as have the other exhibits, by consent?

2 15728 MR. GRONDIN: That's my assumption.

3 15729 COMMISSIONER OLIPHANT: Yes,

4 Mr. Auger?

5 15730 MR. AUGER: Yes.

6 15731 COMMISSIONER OLIPHANT: All right.

7 15732 The additional documents, then,

8 tendered by Monsieur Grondin will be received and

9 marked as Exhibit P-19 at the inquiry.

10 15733 MR. GRONDIN: Great.

11 EXHIBIT NO. P-19: Book of

12 documents in support of

13 cross-examination of Mr. Alford

14 15734 COMMISSIONER OLIPHANT: Thank you.

15 15735 MR. GRONDIN: Thank you.

16 15736 COMMISSIONER OLIPHANT: Mr. Vickery,

17 do you have any questions, sir?

18 15737 MR. VICKERY: I do have questions for

19 this witness. However, I would appreciate it if I

20 might be permitted the luncheon break prior to

21 beginning my questioning.

22 15738 COMMISSIONER OLIPHANT: All right,

23 thank you.

24 15739 Mr. Houston, are you going to have

25 questions for Mr. Alford? You are?

1 15740 MR. HOUSTON: And I'm prepared to do
2 it now, sir, if you wish.

3 15741 COMMISSIONER OLIPHANT: Okay, that's
4 fine.

5 15742 Mr. Auger, will you have questions
6 for Mr. Alford?

7 15743 MR. AUGER: Little or none,
8 Commissioner, although I too would appreciate a brief
9 moment to speak to Mr. Schreiber about that before I
10 finalize that commitment.

11 15744 COMMISSIONER OLIPHANT: All right.
12 15745 Does anybody have a problem if we
13 proceed to have Mr. Houston -- how are we going to be,
14 Mr. Houston?

15 15746 MR. HOUSTON: I would think perhaps
16 10 or 15 minutes, sir.

17 15747 COMMISSIONER OLIPHANT: Okay. Does
18 anybody have a problem?

19 15748 My proposal would be to have
20 Mr. Houston ask his questions and then break for lunch,
21 and after lunch I will let Mr. Vickery and Mr. Auger
22 talk to see who will go first after lunch.

23 15749 Is that satisfactory? Okay?

24 15750 All right, Mr. Houston, thank you.
25 Come forward, please.

1 15751 Mr. Alford, Mr. Houston represents
2 Fred Doucet at this inquiry. Okay?

3 15752 MR. ALFORD: Thank you.

4 EXAMINATION: GREGORY ALFORD BY MR. HOUSTON/
5 INTERROGATOIRE : GREGORY ALFORD PAR Me HOUSTON

6 15753 MR. HOUSTON: Mr. Alford, you began
7 work on this project in 1985 while with GCI?

8 15754 MR. ALFORD: That's right.

9 15755 MR. HOUSTON: And you were with GCI
10 from 1985 to 1988?

11 15756 MR. ALFORD: That's right.

12 15757 MR. HOUSTON: In the period of time
13 in question, were you working on the Bear Head Project?

14 15758 MR. ALFORD: Yes.

15 15759 MR. HOUSTON: And I assume, based on
16 the fact that you were "hired away", it was due to the
17 performance, your performance while working on this
18 project for Bear Head?

19 15760 MR. ALFORD: Yes.

20 15761 MR. HOUSTON: Do you recall in your
21 statement that you gave to Mr. Roitenberg you indicated
22 that the company was marketing on its own; it did not
23 have an individual lobby firm?

24 15762 MR. ALFORD: That's right.

25 15763 MR. HOUSTON: What was GCI, then,

1 doing between 1985 and 1988?

2 15764 MR. ALFORD: When Bear Head committed
3 and established their office and engaged my involvement
4 in it, it was understood that -- I mean, certain --
5 Thyssen hoped to go forward and win their project.

6 15765 Success with the project would have
7 allowed us then the ability to move forward and base
8 all of our operations around the manufacturing, at
9 which time the advice of a government relations firm
10 would have been considerably valuable and we would have
11 probably engaged -- the intention was we would have
12 engaged GCI on a retainer basis at the time.

13 15766 MR. HOUSTON: In your statement there
14 is a comment that certainly caught my attention, sir.
15 You stated, and I quote:

16 "As they..."

17 15767 Talking about Bear Head:

18 "... had no one company on
19 retainer, Bear Head garnered
20 free advice from a number of
21 different companies." (As read)

22 15768 You are suggesting that lobbying
23 firms in Ottawa were giving free advice to Bear Head?

24 15769 MR. ALFORD: That might be an
25 overstatement. I don't think I said it exactly

1 garnered free advice, but here's what happened.

2 15770 As you run a project and people see
3 something that's an opportunity, maybe an emerging
4 mandate for the creation of something like ACOA or
5 FORD-Q or all of these things, it wasn't uncommon to
6 receive a call from someone and they say listen, you
7 know, I think you have a good strategy and this would
8 be a path you would explore. And if you need any
9 service and advice and counsel as you go down that
10 road, it's a good place to go.

11 15771 So when people -- it's sort of like
12 we always see the idea of advertising firms. People
13 show a little bit of what their knowledge is and their
14 suggestion as to where they would go. They might draw
15 an interesting policy article -- policy announcement to
16 your attention. All of that is beneficial and
17 certainly welcome.

18 15772 And I think truly there were a large
19 number of people that were hopeful for this project's
20 success. It promised employment in regions of the
21 country that needed it, and truly they wished for its
22 success. So we welcomed every suggestion that came our
23 way.

24 15773 MR. HOUSTON: Was GCI ever retained
25 to act as government consultant lobbyist for Bear Head?

1 15774 MR. ALFORD: They were as Thyssen
2 created the project and decided to go forward with it,
3 yes.

4 15775 MR. HOUSTON: What was the
5 relationship between Mr. Fred Doucet and Bear Head?

6 15776 MR. ALFORD: I think at some time
7 Fred did some consulting work -- some work for us. I
8 can't recall whether we were billed on a project basis
9 or it was just something that he did to assist us.

10 15777 MR. HOUSTON: Mr. Schreiber tells the
11 Commissioner that Mr. Doucet worked for the company
12 from 1988, and he put it right through and inclusive of
13 1995, a seven-year period.

14 15778 Do you have any comment on that?

15 15779 That is Mr. Schreiber's testimony, as
16 I understand it.

17 15780 MR. ALFORD: Referring to --

18 15781 MR. HOUSTON: Fred Doucet --

19 15782 MR. ALFORD: Gerald Doucet?

20 15783 MR. HOUSTON: -- working for Bear
21 Head.

22 15784 MR. ALFORD: No.

23 15785 MR. HOUSTON: Were you aware that
24 Mr. Doucet was a registered lobbyist for Bear Head,
25 registered pursuant to the legislation in 1989?

1 15786 MR. ALFORD: Yes. And you will see
2 that Fred participated in some of our meetings around
3 the industry department. There was some documents in
4 this package that referred to Fred's participation.

5 15787 MR. HOUSTON: Well, he registered as
6 a lobbyist for Bear Head. Did you know he was also
7 registered as a lobbyist for Bitucan?

8 15788 MR. ALFORD: No.

9 15789 MR. HOUSTON: Did you have any
10 relationship with Bitucan?

11 15790 MR. ALFORD: Did I? No.

12 15791 MR. HOUSTON: Yes, sir.

13 15792 MR. ALFORD: No.

14 15793 MR. HOUSTON: And from 1988 up to at
15 least 1993, did you meet with Mr. Doucet from time to
16 time, talking about Bear Head?

17 15794 MR. ALFORD: The dates again?

18 15795 MR. HOUSTON: Eighty-eight to '93.

19 15796 MR. ALFORD: Perhaps around '93, if
20 you want me to -- I'm sorry, I don't -- I don't know
21 the exact dates.

22 15797 MR. HOUSTON: Well, Mr. Roitenberg
23 referred you to at least three meetings that took place
24 in 1993, just a short while ago. Do you remember that?

25 15798 MR. ALFORD: 1993.

1 15799 MR. HOUSTON: Yes.

2 15800 MR. ALFORD: Yes, it's a possibility.

3 15801 MR. HOUSTON: And is it impossible,
4 sir, that Mr. Doucet was meeting on a regular basis
5 with Mr. Schreiber and you didn't know anything about
6 it?

7 15802 MR. ALFORD: Certainly that could be.

8 15803 MR. HOUSTON: His diaries, that is
9 the diaries of Mr. Schreiber, have been produced to us
10 and they are replete with entries for Fred, Fred
11 Doucet, calls, lunches, meetings.

12 15804 Are you familiar with that?

13 15805 MR. ALFORD: With his diary --

14 15806 MR. HOUSTON: Yes, sir.

15 15807 MR. ALFORD: -- or that he would have
16 met with Fred?

17 15808 I am not familiar with
18 Mr. Schreiber's diary.

19 15809 MR. HOUSTON: So Mr. Doucet could be
20 meeting on a regular basis with Mr. Schreiber, talking
21 about Bear Head, and you would know nothing about it?

22 15810 MR. ALFORD: Yes.

23 15811 MR. HOUSTON: Just as an example,
24 sir, in 1992 -- we talked about '93 just a moment
25 ago -- there are some 40 to 42 entries for Fred Doucet

1 in Mr. Schreiber's diary.

2 15812 Do you know anything about that?

3 15813 MR. ALFORD: No.

4 15814 MR. HOUSTON: So what was, then, the
5 relationship? He is registered as a lobbyist. So what
6 was the relationship again from your perspective
7 between Mr. Doucet and Bear Head?

8 15815 MR. ALFORD: Mr. Doucet provided some
9 legal -- some government relations advice to us, helped
10 us in our strategy in terms of bringing our project
11 forward.

12 15816 As you can see from this morning's
13 examination, we were searching for the opportunity
14 where we could make our case within the various
15 branches of government and particularly the industry
16 department.

17 15817 MR. HOUSTON: But at the same time
18 it's fair to say, sir, you weren't familiar with
19 precisely what the relationship was between Mr. Doucet
20 and Mr. Schreiber over that period of time, were you?

21 15818 MR. ALFORD: No. Certainly when
22 meetings would take place that I participated in with
23 Mr. Doucet present and Mr. Schreiber present, there was
24 a discussion around Thyssen Bear Head Industries.

25 15819 MR. HOUSTON: But the full extent of

1 the relationship you didn't know?

2 15820 MR. ALFORD: No, it wouldn't be my
3 responsibility.

4 15821 MR. HOUSTON: Mr. Roitenberg asked
5 you about the memo that you sent along to the four
6 individuals named in your memo in early December 1994.

7 15822 MR. ALFORD: Yes.

8 15823 MR. HOUSTON: Do you remember, sir,
9 when you were giving the statement to Mr. Roitenberg --
10 and I will just quote it, sir:

11 "It is also possible that one of
12 the four recipients in the first
13 transmission had instructed him
14 to share the document with Mr.
15 Doucet. In Mr. Alford's view of
16 the four initial recipients, the
17 one most likely to have
18 instructed him to do so was Mr.
19 Schreiber." (As read)

20 15824 Do you remember telling
21 Mr. Roitenberg that?

22 15825 MR. ALFORD: Yes.

23 15826 MR. HOUSTON: Isn't that precisely
24 what happened, sir?

25 15827 MR. ALFORD: No. Listen, everybody

1 seems to be very focused on this event. I'm sorry,
2 when a white paper would have been released our office
3 would have been amongst all of our competitors to
4 obtain that, read it and distribute it from anyone who
5 was interested -- to anyone who was interested in
6 support of our project. And we welcomed every support
7 we could find.

8 15828 So in an 18-minute gap on a public
9 document that for convenience was being distributed, I
10 have no precise recollection of how the document got
11 sent to Fred.

12 15829 Fred could have phoned me, I could
13 have been returning a message to him. Any of these
14 things are possible. And that certainly is a
15 possibility. Someone out of the group, perhaps
16 Mr. Schreiber, could have asked me to send it. Yes,
17 that's a possibility.

18 15830 MR. HOUSTON: But you don't remember
19 any phone call from Mr. Doucet. You are just
20 speculating that that may have occurred?

21 15831 MR. ALFORD: Equally as I'm
22 speculating the other possibility.

23 15832 MR. HOUSTON: Did you send it to
24 anyone else?

25 15833 MR. ALFORD: I wouldn't have been

1 able to remember at this distribution if the documents
2 had not been shared with me. I'm sure I would have
3 sent it to many people who were following our project.

4 15834 MR. HOUSTON: Did you send it to
5 anyone else within 18 minutes of sending the document
6 off to Mr. Schreiber and the other three?

7 15835 MR. ALFORD: I can't recall.

8 15836 MR. HOUSTON: All right, sir, thank
9 you.

10 15837 Thank you, Mr. Commissioner.

11 15838 COMMISSIONER OLIPHANT: Those are
12 your questions then, Mr. Houston?

13 15839 MR. HOUSTON: They are, sir. Thank
14 you.

15 15840 COMMISSIONER OLIPHANT: All right.
16 15841 Well, it is coming up on 12 noon so
17 we will take a recess for lunch.

18 15842 Mr. Alford, I'm going to have to
19 require you to come back this afternoon because both
20 Mr. Vickery on behalf of the Government of Canada and
21 Mr. Auger on behalf of Mr. Schreiber may or will have
22 some questions for you.

23 15843 Counsel, I am going to ask for your
24 assistance here. What would you like to do about the
25 luncheon break?

1 15844 MR. VICKERY: Perhaps 2 o'clock, sir.

2 15845 COMMISSIONER OLIPHANT: All right.

3 That's fine.

4 15846 Are we going to be okay in terms of

5 the other witnesses for this afternoon?

6 15847 MR. ROITENBERG: We have, following

7 Mr. Alford's testimony, one witness who will be

8 relatively brief and another witness who we will

9 commence and if we do not complete we have scheduled

10 time for him tomorrow morning as well.

11 15848 COMMISSIONER OLIPHANT: All right.

12 So we are right on schedule them.

13 15849 Well, out of respect to the fact that

14 you have some questions to ask and want time to

15 prepare, I have no problem in recessing for two hours.

16 15850 We will do that, coming back at

17 2 o'clock this afternoon.

18 15851 MR. VICKERY: Thank you.

19 15852 COMMISSIONER OLIPHANT: Thank you.

20 Good morning, counsel.

21 15853 Mr. Alford, good morning.

22 --- Upon recessing at 12:00 p.m. / Suspension à 12 h 00

23 --- Upon resuming at 2:02 p.m. / Reprise à 14 h 02

24 15854 COMMISSIONER OLIPHANT: Good

25 afternoon.

1 15855 Counsel, be seated please.

2 15856 Mr. Auger...

3 EXAMINATION: GREGORY ALFORD BY MR. AUGER /

4 INTERROGATOIRE: GREGORY ALFORD PAR Me AUGER

5 15857 MR. AUGER: Good afternoon,

6 Commissioner. Thank you very much. I just have a

7 couple of brief areas for this witness.

8 15858 Mr. Alford, am I right that you

9 assisted Mr. Schreiber with some personal banking and

10 financial matters throughout your relationship with

11 him?

12 15859 MR. ALFORD: Yes.

13 15860 MR. AUGER: Just roughly, that would

14 have been the period 1989 to 2001?

15 15861 MR. ALFORD: That sounds reasonable.

16 15862 MR. AUGER: And that would have

17 included various administrative tasks. Am I right

18 about that?

19 15863 MR. ALFORD: Yeah, I helped him keep

20 track of his property and stuff like that.

21 15864 MR. AUGER: Right, property issues,

22 insurance issues, contract issues -- that type of

23 thing?

24 15865 MR. ALFORD: Yes.

25 15866 MR. AUGER: Banking, dealing with his

1 vehicles, telephones -- certain personal matters like
2 that?

3 15867 MR. ALFORD: Yes.

4 15868 MR. AUGER: Therefore, I take it that
5 there was nothing exceptional about the fact that you
6 assisted him in finding an apartment in Toronto in
7 1999, as well.

8 15869 MR. ALFORD: No.

9 15870 MR. AUGER: And you were involved in
10 locating the apartment and, I think, even setting up
11 the lease.

12 15871 Is that right?

13 15872 MR. ALFORD: Probably, yeah.

14 15873 MR. AUGER: Is it fair to say that,
15 from your perspective, that, again, was just another
16 administrative task that fit under the categories of
17 items you had done before?

18 15874 MR. ALFORD: It was something that I
19 did for Mr. Schreiber, really, as a friend.

20 15875 MR. AUGER: I want to take you back
21 to Tab 35, and it is really in conjunction, to be fair
22 to you, with Tab 36, which is the fax that we heard
23 about earlier today.

24 15876 Mr. Roitenberg asked you about this
25 18-minute period that could have occurred between the

1 transmission of the two faxes.

2 15877 Do you remember that area of your
3 testimony?

4 15878 MR. ALFORD: I remember the
5 testimony, yes.

6 15879 MR. AUGER: To break that down a
7 little bit, at Tab 35, you will see at the top of the
8 first page that there seems to be a date, December 1st,
9 1994, 1634.

10 15880 Do you see that?

11 15881 MR. ALFORD: Yes.

12 15882 MR. AUGER: Then, if we go to Tab 36,
13 the second page, indeed, we see another time of 1652.

14 15883 Do you see that?

15 15884 MR. ALFORD: Yes.

16 15885 MR. AUGER: So, obviously, there
17 appears to be an 18-minute gap in that timeframe, and I
18 take it that you would agree -- and I suppose it is
19 obvious, but I am going to ask you anyway. You would
20 agree that if Mr. Schreiber was in Germany on December
21 1st, 1994, his fax machine wouldn't receive the
22 document until approximately 11 o'clock in the evening.

23 15886 Is that a fair suggestion?

24 15887 MR. ALFORD: Probably.

25 15888 MR. AUGER: At Tab 36 there is a

1 cover page, and you will see "Message: Dear Francine."
2 15889 Do you see that?
3 15890 MR. ALFORD: Yes.
4 15891 MR. AUGER:
5 "Could you kindly put this into
6 Mr. Mulroney's file for our New
7 York meeting. Thanks."
8 15892 I appreciate that that is from Fred
9 Doucet to Francine Collins.
10 15893 Do you see that?
11 15894 MR. ALFORD: I see that.
12 15895 MR. AUGER: And the date is December
13 5th, 1994.
14 15896 MR. ALFORD: Yes.
15 15897 MR. AUGER: Did Mr. Doucet at any
16 time tell you that he wanted this document for a New
17 York meeting with Mr. Mulroney?
18 15898 MR. ALFORD: No.
19 15899 MR. AUGER: Did Mr. Doucet tell you
20 at any time that he was travelling to New York in
21 December of 1994?
22 15900 MR. ALFORD: I have no recollection,
23 I'm sorry.
24 15901 MR. AUGER: Thank you, Commissioner,
25 those are my questions.

1 15902 COMMISSIONER OLIPHANT: Mr. Vickery,
2 I think you indicated that you had some questions you
3 wished to ask.

4 15903 MR. VICKERY: Yes, I do. Thank you,
5 Commissioner.

6 EXAMINATION: GREGORY ALFORD BY MR. VICKERY /
7 INTERROGATOIRE: GREGORY ALFORD PAR Me VICKERY

8 15904 MR. VICKERY: Mr. Alford, you don't
9 have before you a binder which is marked as Exhibit
10 P-7. I would ask the Registrar to hand it over to you.

11 15905 It is P-7, Binder 1 of the Schreiber
12 documents.

13 --- Pause

14 15906 MR. VICKERY: Do you have that now,
15 sir?

16 15907 MR. ALFORD: I do now.

17 15908 MR. VICKERY: I would ask you to look
18 at Tab 10 of the binder. What you should see there is
19 a draft -- or, rather, an English translation of a
20 letter from Dr. Klenk to Mr. Hastert at Thyssen
21 Industries Ltd., and it should be dated October 14th,
22 1987.

23 15909 Do you see that?

24 15910 MR. ALFORD: Yes.

25 15911 MR. VICKERY: Are you aware as to who

1 Mr. Hastert is?

2 15912 MR. ALFORD: Yes, he was a Board
3 member on Thyssen Industries.

4 15913 MR. VICKERY: And was he someone with
5 whom you had business dealings on behalf of Thyssen
6 Bear Head?

7 15914 MR. ALFORD: Yes, he was one of the
8 directors in the parent company.

9 15915 MR. VICKERY: Could I ask you to turn
10 to the next page of Tab 10. What you should see there
11 is a draft agreement between I.A.L. -- International
12 Aircraft Leasing Ltd. -- and Thyssen Industries Ltd.
13 15916 Do you have that?

14 15917 MR. ALFORD: I see it, yes.

15 15918 MR. VICKERY: This document appears
16 to be an agreement -- a draft agreement, of course --
17 with regard to undertakings referable to the setting up
18 of an industrial plant at Bear Head.

19 15919 Have you seen this draft document
20 before, sir?

21 15920 MR. ALFORD: No.

22 15921 MR. VICKERY: I would ask you to turn
23 to page 9 of 14 of the document, which has "Page 2" at
24 the top.

25 15922 I will read paragraph 2 to you, and I

1 would ask you to follow along and, if you could, let me
2 know whether the terms that are referred to are terms
3 that you were familiar with, with regard to the Bear
4 Head Project.

5 15923 It begins:

6 "It is expected that, with
7 regard to setting up an
8 industrial plant as indicated in
9 para. 2 of the Preamble,
10 Canadian public authorities will
11 make a binding commitment to the
12 Company..."

13 15924 That would be Thyssen, I take it:

14 "...to provide the following
15 services:
16 2.1.1 Provide land that is
17 ready for construction and
18 covers an area of approximately
19 300 acres or about 1.2 million
20 square metres."

21 15925 Can you tell me, sir, when you first
22 became involved in the project, and in 1987
23 specifically, was the proposal that was being put
24 forward by Thyssen with regard to the Bear Head Project
25 one that required that the Canadian authorities provide

1 land ready for construction?

2 15926 MR. ALFORD: I believe it was, yes.

3 15927 MR. VICKERY: Moving forward to

4 2.1.2: The Canadian public authorities will make a
5 binding commitment:

6 "Grant an option to purchase at
7 the normal local price, upon
8 procuring property for expansion
9 which covers an area of
10 approximately 700 acres..."

11 15928 Was that also one of the terms in
12 1987 of the proposal?

13 15929 MR. ALFORD: I'm sorry, I don't
14 remember the absolute detail of it, but it sounds like
15 a logical term.

16 15930 MR. VICKERY: And at paragraph 2.2:
17 The Canadian government will commit to:

18 "Provide the following
19 facilities in such a way that
20 they meet the needs of the
21 Company, taking into account its
22 planned level of production,
23 namely:

24 2.2.1 Links to public roads and
25 railways for transporting goods

1 in and out of the area."
2 15931 Was that something that Canada was to
3 undertake to do?
4 15932 MR. ALFORD: Yes.
5 15933 MR. VICKERY:
6 "Construction of port
7 facilities, together with
8 connections to the factory
9 premises."
10 15934 Was that something that Canada was
11 supposed to do?
12 15935 MR. ALFORD: Unless they existed
13 already, yes. They were not asked for -- I recall this
14 point -- they were never asked for an exclusive wharf,
15 but a common wharf.
16 15936 MR. VICKERY: So they were to pay for
17 the construction of such a facility.
18 15937 MR. ALFORD: Or cause it to be there
19 to allow ship-based shipping from the area.
20 15938 It was on the Strait of Canso.
21 15939 MR. VICKERY: Yes.
22 15940 And at paragraph 2.2.3, the Canadian
23 government would undertake to provide connections to
24 supply and waste management facilities at the worksite,
25 in terms of electricity, water, telephone and sewers.

1 15941 The Canadian government would do
2 that?

3 15942 MR. ALFORD: Yes.

4 15943 MR. VICKERY: And 2.3: The Canadian
5 government would:

6 "Assume the costs for training
7 skilled staff needed by the
8 Company."

9 15944 That was to be a commitment on the
10 part of Canada?

11 15945 MR. ALFORD: There were training
12 programs that the company wished to avail itself of. I
13 don't recall the company asking for the government to
14 train its workers entirely, but to give it access to
15 established training programs.

16 15946 MR. VICKERY: All right.

17 15947 And at 2.4: The Canadian government
18 would:

19 "Provide the required buildings
20 for operating the Company, and
21 release the funds required for
22 this. In this respect, it is
23 currently anticipated that costs
24 will amount to about Can. \$ 30
25 million."

1 15948 MR. ALFORD: I don't remember the
2 company ever asking that.

3 15949 MR. VICKERY: And in the following
4 paragraph:
5 "Furthermore, it is assumed that
6 the Company can be operated in a
7 free trade zone."
8 15950 Was that also one of the terms?
9 15951 MR. ALFORD: There was a discussion
10 around what the applicability of a free trade zone
11 condition would be.

12 15952 MR. VICKERY: And at paragraph 3:
13 "It is further expected that the
14 Company will receive a binding
15 contract to deliver 250 30-ton
16 tracked vehicles."
17 15953 Was that one of the terms?
18 15954 MR. ALFORD: Could I go back to your
19 definition of "term"?
20 15955 I mean, the company didn't put
21 forward terms like this. They certainly would have
22 welcomed it, but there was a balance between what the
23 company would ask for, would like to have, and could
24 reasonably expect.

25 15956 You are asking me to comment on a

1 document that I haven't seen. There was a negotiation
2 with government that asked -- the company would make
3 certain investment, and proceed in manufacturing, and
4 some of these things were the product of success within
5 a competition of procurement.

6 15957 MR. VICKERY: Do you contest the fact
7 that in 1987, in terms of its potential agreement with
8 I.A.L. or Mr. Schreiber, the company's expectation was
9 that it would receive a binding contract for 250 30-ton
10 tracked vehicles?

11 15958 Do you say that's wrong?

12 15959 MR. ALFORD: In 1987 --

13 15960 MR. VICKERY: Yes.

14 15961 MR. ALFORD: -- I would have had no
15 participation in this discussion. This would have
16 been -- this appears to have been a discussion between
17 I.A.L. -- and you said that is Mr. Schreiber -- and
18 Thyssen.

19 15962 I did not work for Thyssen in 1987.

20 15963 MR. VICKERY: When did you begin
21 working for GCI?

22 15964 MR. ALFORD: In 1985.

23 15965 MR. VICKERY: And was GCI involved in
24 the Bear Head Project in 1987?

25 15966 MR. ALFORD: Yes.

1 15967 MR. VICKERY: And were you involved
2 in the activities of GCI with regard to the Bear Head
3 Project in 1987?

4 15968 MR. ALFORD: Yes, and that -- if I
5 could say, that would be why these points, and
6 variations on them, are what I recall being some of the
7 conditions that the company asked for.

8 15969 MR. VICKERY: Fair enough.
9 15970 Could I ask you to turn to Tab 23 of
10 the binder that you have before you. Tab 23, sir, is a
11 memo from Wynne Potter to D.S. McPhail.

12 15971 Are you familiar with those
13 gentlemen?

14 15972 MR. ALFORD: Yes.

15 15973 MR. VICKERY: And Wynne Potter was
16 Vice-President of ACOA.

17 15974 Is that correct?

18 15975 MR. ALFORD: That's right.

19 15976 MR. VICKERY: And Mr. McPhail was
20 President-designate, at this point, of ACOA.

21 15977 MR. ALFORD: Yes.

22 15978 MR. VICKERY: The memo is dated March
23 22nd, 1988, and it appears to refer to the Thyssen
24 Industrial Investment Proposal of March 1988.

25 15979 Do you see that?

1 15980 MR. ALFORD: Yes.

2 15981 MR. VICKERY: Under the Heading
3 "Conditions", we read:

4 "Thyssen is prepared to proceed
5 under the following conditions:

6 1. An agreement with the
7 Province of Nova Scotia for
8 land."

9 15982 Do you recall that being a term under
10 which Thyssen was prepared to proceed in March of `88?

11 15983 MR. ALFORD: Yes.

12 15984 MR. VICKERY:

13 "2. A similar and
14 specific agreement for
15 infrastructure establishment,
16 e.g., water, power, sewage, road
17 and rail, etc."

18 15985 Was that a term that Thyssen was
19 prepared to proceed under?

20 15986 MR. ALFORD: Yes.

21 15987 MR. VICKERY: Moving to page 2,
22 paragraph 3:

23 "A firm agreement that the
24 proposed facility qualifies and
25 will be assisted under the

1 Investment Incentive Programs of
2 ACOA, DIST, DRIE and other
3 relevant federal and provincial
4 investment programs."
5 15988 That was also a term?
6 15989 MR. ALFORD: Yes.
7 15990 MR. VICKERY: And in paragraph 4:
8 "Duty remission on the
9 importation of machinery, parts
10 and components for the
11 manufacturing of vehicles,
12 conditional on an agreed level
13 of Canadian content in the
14 finished product."
15 15991 Was that a term?
16 15992 MR. ALFORD: Yes.
17 15993 MR. VICKERY: Paragraph 5:
18 "Qualification and facilitation
19 of the process to grant Cape
20 Breton Investment Tax Credits as
21 they apply to the Bear Head
22 Project."
23 15994 That was another term?
24 15995 MR. ALFORD: Yes.
25 15996 MR. VICKERY: And 6:

1 "Government participation in
2 funding for initial employee
3 training."
4 15997 That was, again, a term?
5 15998 MR. ALFORD: Yes.
6 15999 MR. VICKERY: And 7:
7 "A commitment in the form of a
8 firm letter of intent, or like
9 communique, by Canada to Bear
10 Head Industries for a minimum
11 start-up order for 250
12 light-armoured vehicles for
13 production in 1991-92."
14 16000 That was a term of the agreement
15 being proposed?
16 16001 MR. ALFORD: Yes, it was requested.
17 16002 MR. VICKERY: And, finally, paragraph
18 8, an understanding that future significant plant and
19 activity expansion could qualify for regional incentive
20 programs, subject to separate negotiations.
21 16003 That was also a term.
22 16004 MR. ALFORD: Yes.
23 16005 MR. VICKERY: If I could take you
24 over to the third page of this document, we come to the
25 heading "Comments", and these are comments that are

1 being made, it appears, by Mr. Potter to Mr. McPhail
2 with regard to the Thyssen proposal.

3 16006 Under that heading we see "Comments":
4 "The proposal is very thin on
5 detail. The annexes containing
6 arrangements with the province,
7 Lavalin and Krass-Maffay were
8 not included.

9 The proposal is very vague on
10 the specific commercial products
11 to be manufactured. No market
12 analysis has been included. The
13 sole-source contract for 250
14 light-armoured vehicles still
15 appears to be the key reason for
16 the establishment of a plant in
17 Cape Breton. The other defence
18 markets and products are
19 unsecured."

20 16007 And, lastly:
21 "The proposal is incomplete as a
22 business plan. More detailed
23 information on markets, phasing,
24 finances, plant size, et cetera,
25 is needed."

1 16008 Were you aware of these being
2 concerns put forward by ACOA at this time, sir, in
3 March of 1988?

4 16009 MR. ALFORD: Yes, we had discussions
5 with ACOA.

6 16010 MR. VICKERY: I would ask you to turn
7 to Tab 2 of your document book. That is the book that
8 you had before you this morning.

9 16011 Do you have that before you, sir?

10 16012 MR. ALFORD: Yes.

11 16013 MR. VICKERY: Thank you.

12 16014 At Tab 2 we see what I take to be a
13 fax cover sheet of GCI, Government Consultants
14 International.

15 16015 Is that correct?

16 16016 MR. ALFORD: That's right.

17 16017 MR. VICKERY: And it appears to bear
18 your signature at the bottom of the page, I believe.

19 16018 MR. ALFORD: It does.

20 16019 MR. VICKERY: And it appears to be
21 dated May 20th, 1988.

22 16020 MR. ALFORD: Yes.

23 16021 MR. VICKERY: The fax appears to be
24 directed to Wynne Potter at ACOA.

25 16022 MR. ALFORD: That's right.

1 16023 MR. VICKERY: It reads:
2 "Dear Wynne:
3 While we are proceeding with our
4 thoughts internally only -- I am
5 sending this proposed MOU which
6 is intended to accompany the
7 draft letter you received
8 yesterday."
9 16024 Do you see that?
10 16025 MR. ALFORD: Yes.
11 16026 MR. VICKERY: Moving to the second
12 page of the fax, sir, we see what appears to be a
13 document headed "ACOA/BHI MOU".
14 16027 Correct?
15 16028 MR. ALFORD: Yes.
16 16029 MR. VICKERY: And that is a document
17 that you dispatched to Mr. Potter on May 20th, 1988?
18 16030 MR. ALFORD: Yes.
19 16031 MR. VICKERY: Under the heading of
20 "Background", sir, we see in the first paragraph a
21 reference to the original industrial investment
22 proposal, and it reads:
23 "The original industrial
24 investment proposal put forward
25 by BHI was conditional on the

1 combined levels of government
2 providing the following major
3 items: land, infrastructure,
4 shared training, and a start-up
5 order of 250 units from pending
6 LAV requirements; BHI provided:
7 Building for LAV manufacturing,
8 manufacturing machinery to
9 produce LAV's, other fixtures
10 and training equipment, shared
11 training, commitments to
12 diversify in civilian and
13 non-DND related work, and work
14 sharing with Lavalin/Trenton on
15 DND LAV order."

16 16032 Is that a description, in general
17 terms, of what was being sought under the original
18 proposal, sir?

19 16033 MR. ALFORD: To the best of my
20 recall.

21 16034 MR. VICKERY: Moving down to the
22 third paragraph on the page, we see that a somewhat
23 amended proposition is now being put forward by you,
24 and the paragraph reads:

25 "The essential difference in

1 approach would be to propose the
2 addition of a grant component to
3 the ACOA package in lieu of the
4 DND start-up order, while
5 Thyssen would be requested to
6 let their initial production
7 activity be from their US Army
8 LAV order."

9 16035 That was a proposal that you put
10 forward in March of 1988?

11 16036 MR. ALFORD: Yes.

12 16037 MR. VICKERY: And under the heading
13 "Proposed Framework of a New ACOA/BHI Understanding",
14 there are two headings. The first is:

15 "Infrastructure investment, that
16 will provide general services to
17 the site. It is recognized that
18 these costs are not incurred to
19 the sole and exclusive benefit
20 of BHI; they also support other
21 facilities which may exist now
22 or in the future in the Strait
23 of Canso region. The single
24 largest item of expense is the
25 common user wharf, which,

1 because of its non-exclusive
2 status, should be considered as
3 a separate item independent of
4 the BHI infrastructure package."

5 16038 As I understand that, sir, in
6 addition to the infrastructure package, you expected to
7 be provided with a shared wharf facility, at no cost to
8 BHI.

9 16039 MR. ALFORD: Yes.

10 16040 MR. VICKERY: And under the second
11 heading, "Capital Contributions", it is indicated:
12 "...this category of
13 contribution would be limited to
14 a Phase 1 grant attributed to
15 the establishment of the
16 building for the start-up
17 manufacturing on the US Army
18 order. These capital
19 contributions would be limited
20 to a ceiling of \$20 million in
21 Phase 1. Further capital
22 contributions would be based on
23 progress to future Phases 2 and
24 3, requiring expansion of
25 facilities and creating

1 associated increased
2 employment."
3 16041 As I understand it, the grant that
4 you were seeking in March of `88 from the government,
5 in Phase 1, amounted to some \$20 million.
6 16042 Is that correct?
7 16043 MR. ALFORD: As it is described here,
8 it would appear to be.
9 16044 MR. VICKERY: And moving to the final
10 page of the fax, sir, there is the heading "Summary of
11 Estimated Costs".
12 16045 MR. ALFORD: Did you intend to
13 overlook the contributions from BHI, because in each
14 case --
15 16046 MR. VICKERY: If you would just
16 respond to my questions, please, sir.
17 16047 The Summary of Estimated Costs has
18 two sides: ACOA on the left; BHI on the right.
19 16048 Is that correct?
20 16049 MR. ALFORD: Yes.
21 16050 MR. VICKERY: And under the ACOA side
22 for capital contribution we see: "Phase 1 - building
23 only - \$20 million."
24 16051 Correct?
25 16052 MR. ALFORD: Yes.

1 16053 MR. VICKERY: Then, under the heading
2 "Infrastructure":
3 "Services and utilities, water,
4 sewage, electrical, road and
5 rail."
6 16054 That's for the account of ACOA, or
7 Canada. Correct?
8 16055 MR. ALFORD: Yes.
9 16056 MR. VICKERY: And the next heading
10 is: "Heavy Civil Construction (all above, as is
11 exclusive to BHI) - \$18 million, approximate."
12 16057 So you were anticipating that
13 government would expend an additional \$18 million under
14 that heading, which would be for the exclusive use of
15 BHI.
16 16058 Is that correct?
17 16059 MR. ALFORD: That related to the
18 facility and site that they asked us to build on, yes.
19 16060 MR. VICKERY: Finally, "Common User
20 Wharf: Estimated cost is not applicable due to its
21 non-exclusive status."
22 16061 On the BHI side we have "Capital
23 Contribution: manufacturing machinery, other fixtures,
24 training equipment, shared training, engineering
25 development, design and testing to Production Unit 1 -

1 \$35 million, approximate."

2 16062 Then, the proposal that you were
3 putting forward at this point involved some \$38 million
4 of expenditure on the part of the Government of Canada,
5 in addition to the provision of services and utilities,
6 and a common user wharf.

7 16063 And on the BHI side, there was a
8 total commitment of \$35 million.

9 16064 Is that correct?

10 16065 MR. ALFORD: I think that when you
11 totalled your numbers, you have added twice. There was
12 a \$20 million investment that was the building.

13 16066 MR. VICKERY: Yes.

14 16067 MR. ALFORD: The services and
15 utilities and infrastructure, these related to the
16 building, connecting the building to the communal roads
17 in the neighbourhood.

18 16068 MR. VICKERY: Yes.

19 16069 MR. ALFORD: That was \$20 million.

20 16070 The \$18 million, which related to the
21 civil construction -- and, I am sorry, I don't remember
22 the detail of this -- I think that, also, was
23 considered non-exclusive, because it was services and
24 utilities -- creating infrastructure for the plant.

25 16071 I guess what it comes down to is that

1 Thyssen was willing to operate in a location that the
2 government preferred. They chose a greenfield site.
3 This was the cost of turning it into an industrial
4 site.

5 16072 MR. VICKERY: This is what BHI was
6 proposing that the government undertake?

7 16073 MR. ALFORD: It was the product of
8 exchange with the government's representatives.
9 Remember, this whole discussion started from a trade
10 mission and the Government in Canada invited Thyssen to
11 invest here.

12 16074 MR. VICKERY: Could you please, sir,
13 just answer my question. My question is: Is this what
14 BHI proposed?

15 16075 MR. ALFORD: This is a document from
16 BHI. I would take it as a proposal.

17 16076 MR. VICKERY: And in fact it's a
18 document you authored.

19 16077 MR. ALFORD: I think I put it
20 together with the company, sir. I do not claim to be
21 the sole author.

22 16078 MR. VICKERY: Fair enough.

23 16079 Could I ask you to move to Tab 25,
24 sir. What we have at Tab 25 -- do you have that, sir?

25 16080 MR. ALFORD: Yes.

1 16081 MR. VICKERY: What we have at Tab 25
2 is a memo from Wynne Potter to Mr. McPhail and it's
3 dated July 6, 1988.

4 16082 MR. ALFORD: I don't have that.

5 16083 COMMISSIONER OLIPHANT: I have a
6 document that says "Status of TH495" --

7 16084 MR. VICKERY: I'm sorry, I have left
8 you in the wrong binder.

9 16085 Could you move back to the Schreiber
10 binder, please. My mistake. I apologize,
11 Commissioner.

12 16086 So Tab 25, sir, in the Schreiber
13 materials. Do you have that?

14 16087 MR. ALFORD: I have now.

15 16088 MR. VICKERY: That should be, as I
16 have said, a memo from Wynne Potter to Mr. McPhail of
17 ACOA, dated July 6, 1988?

18 16089 MR. ALFORD: It is.

19 16090 MR. VICKERY: We see under the
20 heading "ACOA Position":
21 "Thyssen file has been ongoing
22 for over a year;"

23 16091 That's as at July 1988, so that would
24 be correct, I take it.

25 16092 MR. ALFORD: Yes.

1 16093

MR. VICKERY:

2

"Thyssen anxious to conclude negotiations regarding:

3

4

a) its participation in the U.S. Project; and

5

6

b) approval from their Board of Directors to proceed with a North American facility;"

7

8

9 16094

I take it that was correct?

10 16095

MR. ALFORD: Yes.

11 16096

MR. VICKERY: The "statement of

12

intent", which is referred to in the first sentence:

13

"... is nothing more than we would normally do;

14

15

- Senator Murray will be

16

reporting to the Prime Minister

17

on the status of the Bearhead

18

project; and

19

- feel the SOI should be

20

supported."

21 16097

Then:

22

"The general positions of both

23

DND and DRIE were the following:

24

- not supportive of putting

25

forward SOI as written to

1 respective Ministers for
2 signature, because SOI appears
3 to imply a degree of contractual
4 obligation;
5 - will respond formally to ACOA
6 by the end of this week with
7 particular concerns; and
8 - as a compromise -- and
9 delaying factor -- suggest that
10 Senator Murray exchange letters
11 with each of Messrs. Beatty and
12 de Cotret on respective
13 undertakings -- letters which
14 presumably could be shared with
15 Thyssen."

16 16098 Now, was it the case, sir, that in
17 July of 1988 Thyssen was seeking a statement of intent
18 between it and the Government of Canada?

19 16099 MR. ALFORD: I'm sorry, I don't
20 recall that offhand, but this document would suggest we
21 must have been.

22 16100 MR. VICKERY: Thank you.

23 16101 Could I ask you to move to Tab 26,
24 sir, in the Schreiber materials.

25 16102 At that Tab 26 we see initially a

1 memo from Mr. McPhail to the Honourable Lowell Murray.
2 Approximately 5 pages in, sir, we see a document headed
3 "Understanding in Principle", "DRAFT July 15, 1988".

4 16103 MR. ALFORD: Yes.

5 16104 MR. VICKERY: Do you have that?

6 16105 MR. ALFORD: M'hm.

7 16106 MR. VICKERY: Could you tell me, sir,
8 are you familiar with this draft document?

9 16107 MR. ALFORD: I probably would have
10 participated in its drafting from the company's side.

11 16108 MR. VICKERY: Does this draft
12 represent the position which was put forward by Bear
13 Head Industries in July 1988 to the government?

14 16109 MR. ALFORD: If it is the document
15 that ultimately became an understanding in principle
16 that was signed by the company, then it would be.

17 16110 MR. VICKERY: And if we go to the
18 terms of this document, sir, we see that at paragraph
19 2 -- paragraph 1 deals with commitments on the part of
20 the company. Paragraph 2 deals with commitments on the
21 part of the Government of Canada that are being sought
22 by the company in exchange for its undertaking, I take
23 it.

24 16111 MR. ALFORD: Which page is this at
25 the tab?

1 16112 MR. VICKERY: Page 2 of the document.

2 16113 MR. ALFORD: Paragraph 2?

3 16114 MR. VICKERY: Yes.

4 16115 MR. ALFORD: Yes.

5 16116 MR. VICKERY: And the document,
6 without getting into the deepest detail with regard to
7 the document, the document sets out a Phase I with
8 commitments on both sides and then I Phase II with
9 commitments on both sides.

10 16117 Do you see that?

11 16118 MR. ALFORD: Yes.

12 16119 MR. VICKERY: So that document then
13 is put forward in draft form in mid July of 1988.

14 16120 Could I then ask you to turn to Tab
15 28 of the Schreiber materials.

16 16121 At Tab 28 you should have a
17 memorandum again from Wynne Potter to Mr. McPhail,
18 dated August 31, 1988.

19 16122 Do you see that?

20 16123 MR. ALFORD: Yes.

21 16124 MR. VICKERY: And the document is
22 headed "THYSSEN: DEPARTMENTAL CONCERNS" and it begins:
23 "As you know, we met with
24 representatives of DRIE, DND,
25 Finance and Justice this

1 16128 Third:
2 "- excess capacity (GM);"
3 16129 And fourth:
4 "- further details (business
5 plan) required on civilian
6 diversification."
7 16130 Were you aware that those were
8 concerns of the Department of Regional Industrial
9 Expansion in August of 1988?
10 16131 MR. ALFORD: No.
11 16132 MR. VICKERY: Do you have any reason
12 to expect that they were not concerns being raised by
13 DRIE at that time?
14 16133 MR. ALFORD: Some of the points I
15 would have anticipated; the concern for existing
16 capacity. The rest of the elements, though, I mean I
17 wasn't privy to these internal documents. I am seeing
18 it for the first time.
19 16134 MR. VICKERY: And under "DND", the
20 "Position":
21 "Will recommend to Minister
22 Beatty that he not sign."
23 16135 And under the "Concerns":
24 "- Thyssen proposal only one of
25 several unsolicited proposals,

1 each of which DND would like to
2 reject because they involve some
3 degree of sole-sourcing or
4 lowered competition;
5 - source of funds, operational
6 requirements for LAV project so
7 far undefined;"

8 16136 Third:
9 "- uncertain regarding Thyssen's
10 ability to meet DND's
11 operational requirements."

12 16137 Fourth:
13 "NTV sole sourcing in Calgary
14 may have caused Ministers to be
15 'gun shy' on directing military
16 contracts..."

17 16138 Were you aware, sir, that these were
18 concerns being put forward by DND, Department of
19 National Defence, in August 1988?

20 16139 MR. ALFORD: Again, I understand that
21 there may have been concerns. Some of them were shared
22 with me, but again not in this detail and not in this
23 memo.

24 16140 The point of sole sourcing and
25 competition became a policy that the government stated

1 over and over, but we observed the practice of sole
2 sourcing continued.

3 16141 MR. VICKERY: And in early September
4 of 1988, sir, were you aware that both Industry and
5 National Defence were proposing to recommend to their
6 ministers that their ministers not sign the undertaking
7 in principle being proposed by Thyssen?

8 16142 MR. ALFORD: No, I wasn't.

9 16143 MR. VICKERY: Could I ask you to move
10 to Tab 33, sir, of the Schreiber materials.

11 16144 At Tab 33 you should have the final
12 signed version of the understanding in principle.

13 16145 Do you have that, sir?

14 16146 MR. ALFORD: I do.

15 16147 MR. VICKERY: I believe you indicated
16 this morning to my friend Mr. Roitenberg that you were
17 present when this document was delivered to
18 Mr. Schreiber.

19 16148 Is that correct?

20 16149 MR. ALFORD: I think I was.

21 16150 MR. VICKERY: Were you present when
22 Mr. Schreiber in fact signed the document?

23 16151 MR. ALFORD: I don't recall that
24 exactly.

25 16152 MR. VICKERY: And looking at the

1 signature page of the document, sir, paragraph 7 reads:

2 "The understandings in principle
3 set out in this Understanding in
4 Principle do not create any
5 enforceable, legal or equitable
6 rights, nor obligations, but
7 merely serve to document the:
8 (a) parameters that have been
9 set; and
10 (b) areas on which discussions
11 have been held, and
12 understandings in principle
13 reached."

14 16153 Were you aware of that provision
15 being included in the agreement, sir?

16 16154 MR. ALFORD: Yes.

17 16155 MR. VICKERY: Was it your
18 understanding, sir, that in September of 1988 the
19 Government of Canada was not prepared to contractually
20 bind itself to Thyssen for the construction of the Bear
21 Head Project as proposed?

22 16156 MR. ALFORD: I'm sorry, I took this
23 document as the government's offer of good faith for
24 negotiations. So to the effect that item 7 says this
25 is a document for negotiation to keep both parties at

1 the table and both parties to meet obligations, that is
2 what the company proceeded with.

3 16157 MR. VICKERY: Were you of the view,
4 sir, that this agreement was intended to create a legal
5 binding relationship between the parties?

6 16158 MR. ALFORD: I'm sorry, it wasn't a
7 legal binding agreement. By definition, it was an
8 understanding.

9 16159 MR. VICKERY: All right. Thank you,
10 sir.

11 16160 Could I ask you to move back to your
12 binder, sir, to Tab 4 of that binder. What you should
13 have that Tab 4, sir, is a memorandum from a Jim
14 Burkimsher to Wynne Potter, dated December 22, 1988.

15 16161 Do you have that?

16 16162 MR. ALFORD: Yes.

17 16163 MR. VICKERY: The memo is apparently
18 with regard to Bear Head Industries December 1988
19 business plan.

20 16164 Do you recall, did Bear Head
21 Industries provide a business plan to the government in
22 late 1988?

23 16165 MR. ALFORD: I think there was a
24 preliminary document that was titled business plan, but
25 it was by no means a complete document.

1 16166 MR. VICKERY: And this memo then
2 refers to various deficiencies in that business plan
3 that was provided. I believe my friend Mr. Roitenberg
4 took you to this document this morning, in fact.

5 16167 Moving to the third paragraph of the
6 first page, sir, we see that there are comments or
7 concerns in relation to market projections, products,
8 financial data, capital costs, infrastructure and level
9 of government contribution.

10 16168 Were you made aware, sir, in late
11 1988 that government, and specifically ACOA, had those
12 concerns with regard to your business proposal?

13 16169 MR. ALFORD: The business proposal
14 was a preliminary and a draft proposal shared with
15 ACOA.

16 16170 MR. VICKERY: Yes.

17 16171 MR. ALFORD: It was intended to have
18 a second phase.

19 16172 Yes, there was an exchange with
20 ACOA --

21 16173 MR. VICKERY: And were you --

22 16174 MR. ALFORD: -- that detailed the
23 areas of additional information they wished.

24 16175 MR. VICKERY: Right. And were the
25 areas that I have just referred you to, sir, areas in

1 which ACOA indicated concerns?

2 16176 MR. ALFORD: To the best of my
3 recall, yes.

4 16177 MR. VICKERY: Moving forward into the
5 more detailed paragraphs, then, we see under the
6 heading of "Market Projections" the proposal had no
7 detailed market forecasts, no marketing strategy or
8 analysis and environmental products were not specified.

9 16178 Were you aware of those concerns
10 being put forward, sir?

11 16179 MR. ALFORD: I think eventually there
12 was a communication provided from ACOA on the elements
13 they would like addressed and we responded to that.

14 16180 MR. VICKERY: Could you please answer
15 my question, sir. Were you aware --

16 16181 MR. ALFORD: Well, you are asking --
17 you are asking me to comment on this --

18 16182 MR. ROITENBERG: With due respect,
19 Mr. Commissioner --

20 16183 MR. ALFORD: -- as an internal memo.

21 16184 MR. ROITENBERG: Excuse me,
22 Mr. Alford.

23 16185 Mr. Commissioner, I appreciate that
24 Mr. Vickery has some very important questions to ask,
25 but Mr. Alford has some answers to give and should be

1 afforded the courtesy of answering as he sees fit.

2 16186 COMMISSIONER OLIPHANT: Okay.

3 16187 MR. VICKERY: I'm subject to your
4 direction of course, Commissioner. I simply wish to
5 have a response to the question I had put to the
6 witness.

7 16188 COMMISSIONER OLIPHANT: Well,
8 candidly, I thought he was answering the question.

9 16189 MR. VICKERY: All right.

10 16190 COMMISSIONER OLIPHANT: Just go
11 ahead, ask your question again and maybe you will get
12 the answer you want.

13 16191 MR. VICKERY: All right.

14 16192 Mr. Alford, then, were you aware that
15 ACOA had concerns in December of 1988 with regard to
16 the lack of a detailed market forecast, the lack of
17 marketing strategy or analysis and the fact that
18 environmental products had not been specified in your
19 business plan?

20 16193 MR. ALFORD: The company was
21 officially aware when it received a communication from
22 ACOA detailing the areas they wished additional comment
23 on.

24 16194 MR. VICKERY: My question to you of
25 course was --

1 16195 MR. ALFORD: That was January 31st.

2 16196 MR. VICKERY: -- were you aware?

3 16197 MR. ALFORD: Not that I recall.

4 16198 MR. VICKERY: The next paragraph,
5 sir, deals with products and it is indicated:
6 "Other than light armoured
7 vehicles and other military
8 products, it is not clear what
9 BHI will produce. A wide range
10 of possible environmental
11 products are listed, but the
12 plant equipment would likely
13 vary significantly, depending on
14 which subset of products are
15 produced. The split between
16 military and environmental
17 products is not identified."
18 (As read)

19 16199 Were you aware that those were
20 concerns being raised by ACOA?

21 16200 MR. ALFORD: When they addressed it
22 as areas of additional information they wished, yes,
23 and that was in January.

24 16201 MR. VICKERY: And under the heading
25 of "Financial Data" at paragraph 3, sir, it is

1 indicated:

2 "There are no detailed financial
3 projections, pro forma operating
4 statements, no demonstration of
5 financial viability and not even
6 basic financial data is
7 provided." (As read)

8 16202 Were you aware that those were
9 concerns expressed by ACOA?

10 16203 MR. ALFORD: They were not expressed
11 by ACOA until January.

12 16204 MR. VICKERY: And were they expressed
13 in January, sir?

14 16205 MR. ALFORD: In the letter that
15 follows, I believe from Mr. Potter, I think they were.

16 16206 MR. VICKERY: All right. And under
17 the heading of "Capital Costs":

18 "Only ballpark estimates of
19 costs are provided. Costs could
20 vary significantly depending on
21 specific products,
22 environmental, and thus specific
23 equipment and machinery required
24 and there is no equipment list
25 provided." (As read)

1 16207 Were you aware or did you become
2 aware that those were concerns of ACOA?

3 16208 MR. ALFORD: Yes. They led to an
4 engineering study to identify those costs specifically.

5 16209 MR. VICKERY: And under the heading
6 of "Infrastructure":
7 "Off-site infrastructure needs
8 are not specified nor costed \$27
9 million figure was a
10 guesstimate." (As read)

11 16210 Were you aware or did you become
12 aware that those were concerns of ACOA?

13 16211 MR. ALFORD: The infrastructure costs
14 were not the responsibility of Thyssen, so I believe
15 that would refer to responsibility of the combined
16 government parties to detail that cost.

17 16212 MR. VICKERY: Do you recall whether
18 Thyssen had put forward a guesstimate or an estimate of
19 \$27 million in that regard?

20 16213 MR. ALFORD: I don't.

21 16214 MR. VICKERY: And finally under the
22 heading of "Government Assistance":
23 "No analysis of project
24 viability nor government
25 assistance required to make the

1 project feasible. Implied
2 assumption that government
3 assistance will be provided at
4 maximum levels for both military
5 and commercial products."

6 (As read)

7 16215 Were you aware or did you become
8 aware that those were concerns of ACOA?

9 16216 MR. ALFORD: I'm not sure if I
10 understand how it is, yes. I mean, Thyssen put forward
11 its position asking to qualify to the point that it was
12 eligible in any category of training assistance,
13 et cetera.

14 16217 MR. VICKERY: Now then, sir, you have
15 been referring to the next document, which is Tab 5 of
16 the materials, and that is a letter dated January 31,
17 1989 forwarded to you from Wynne Potter.

18 16218 Is that correct?

19 16219 MR. ALFORD: That's right.

20 16220 MR. VICKERY: And in the third
21 paragraph of that letter, sir, it is indicated:

22 "As we indicated to you on
23 December 21st, in general the
24 business plan as submitted is
25 underdeveloped, inadequate in

1 key information areas and does
2 not yet meet established
3 standards." (As read)

4 16221 That was the position ACOA was taking
5 with you on January 31, 1989?

6 16222 MR. ALFORD: Yes.

7 16223 MR. VICKERY: And attached to the
8 letter is an annex, and I suggest to you, sir, that the
9 annex covers more or less exactly the concerns
10 expressed in the earlier memo to which I was referring.

11 16224 Is that fair?

12 16225 MR. ALFORD: Yes.

13 16226 MR. VICKERY: Going back to the
14 second page of the letter itself, the letter concludes,
15 in the penultimate paragraph:
16 "In order to begin further
17 development of the BHI
18 initiatives, I suggest that a
19 revised business plan be
20 submitted by March 1, 1989 if at
21 all possible." (As read)

22 16227 Can you tell me, sir, was a revised
23 business plan submitted by the date?

24 16228 MR. ALFORD: A revised business plan
25 was submitted. I do not recall the exact date.

1 16229 MR. VICKERY: Could I ask you to turn
2 to Tab 6 of your document book, sir.

3 16230 At Tab 6 we see a letter from you on
4 behalf of Bear Head Industries Limited to Mr. Wynne
5 Potter at ACOA?

6 16231 MR. ALFORD: Yes.

7 16232 MR. VICKERY: And it's dated March 1,
8 1989. Correct?

9 16233 MR. ALFORD: Yes.

10 16234 MR. VICKERY: And in the second
11 paragraph you say:
12 "In response to the areas where
13 you have requested additional
14 information be assembled to
15 complete the business plan, we
16 have proceeded to broaden our
17 activities to collect the
18 details necessary." (As read)

19 16235 Do you see that, sir?

20 16236 MR. ALFORD: Yes.

21 16237 MR. VICKERY: Did you in fact then
22 undertake to collect the details necessary to complete
23 the business plan as requested by ACOA?

24 16238 MR. ALFORD: Yes.

25 16239 MR. VICKERY: Can I take you back to

1 the Schreiber binder, sir, and to Tab 51 of the binder.

2 16240 At Tab 51 of the binder is the minute
3 of a meeting that took place at the premises of the
4 Department of National Defence on February 5, 1990.

5 It's indicated you were in attendance at that meeting.

6 16241 Do you recall that meeting, sir?

7 16242 MR. ALFORD: I think I do.

8 16243 MR. VICKERY: And at that meeting --
9 well, could you tell me, sir, what was the purpose of
10 the meeting from Thyssen's point of view?

11 --- Pause

12 16244 MR. ALFORD: I would need to read the
13 minutes to give you an accurate report.

14 16245 MR. VICKERY: You don't recall?

15 16246 MR. ALFORD: I think the intention --
16 I mean, the parties that were there were all the
17 parties that we hoped to do business with: naturally
18 the customer; the Department of National Defence,
19 should they eventually have a program we could
20 participate in; the Industry department, management of
21 that department; External Affairs; Supply and Services.

22 16247 So it looks like everybody was there.

23 16248 MR. VICKERY: Sir, if I could ask you
24 to turn to page 5 of the minute, there is a reference
25 to "DND REMARKS", paragraph number 8.

1 16249 Do you see that?

2 16250 And it's indicated:

3 "The Deputy Chief of the Defence
4 Staff introduced the Chief
5 Operational Planning and Force
6 Development..."

7 16251 MR. ALFORD: I'm sorry, excuse me.

8 16252 MR. VICKERY: I'm sorry.

9 16253 MR. ALFORD: Help me find the page,
10 please.

11 16254 MR. VICKERY: Page 5 of the document,
12 5 of 9 at the bottom.

13 16255 MR. ALFORD: Yes.

14 16256 MR. VICKERY: Paragraph IV, "DND
15 REMARKS".

16 16257 MR. ALFORD: Okay.

17 16258 MR. VICKERY:

18 "The Deputy Chief of the Defence
19 Staff introduced the Chief
20 Operational Planning and Force
21 Development who provided a short
22 briefing on operational
23 requirements in general. His
24 briefing is attached to these
25 minutes. The CLDO then provided

1 a briefing on specific Army
2 requirements in which he
3 emphasized that while some
4 equipment requirements are
5 foreseen in the medium and long
6 term, none are planned within
7 the next few years."

8 16259 Do you recall that information being
9 given to you at this meeting, sir?

10 16260 MR. ALFORD: Yes.

11 16261 MR. VICKERY: And if I move to the
12 last page of the document "The DM", that would be
13 Deputy Minister:

14 "... stressed that at the
15 present time no firm commitments
16 can be made. Commitments cannot
17 be made within the next few
18 years; commitments after that
19 will depend on the level of
20 DND's budget."

21 16262 Do you recall that being said at this
22 meeting, sir?

23 16263 MR. ALFORD: Do I recall it now?

24 16264 MR. VICKERY: Yes.

25 16265 MR. ALFORD: No. To read these

1 minutes, it sounds like a reasonable report.

2 16266 MR. VICKERY: Thank you, sir.

3 16267 Turning back to your binder, sir --
4 actually, I'm sorry, first I would take you to Tab 52
5 of the Schreiber documents. There is one more item, as
6 I say, that I wanted to refer you to.

7 16268 And at Tab 52 you should find a
8 letter, dated February 13, 1990, from Mr. Schreiber as
9 Chairman of Bear Head to Mr. Robert Fowler, Deputy
10 Minister, Department of National Defence.

11 16269 Do you see that, sir?

12 16270 MR. ALFORD: Yes, I do.

13 16271 MR. VICKERY: And that letter refers
14 in the opening paragraph to the meeting of February 5,
15 1990.

16 16272 Do you see that?

17 16273 MR. ALFORD: Yes.

18 16274 MR. VICKERY: Moving to the second
19 page and looking down the second page, it appears that
20 Mr. Schreiber was in fact responding to the
21 propositions put at the meeting and we see that:

22 "Geo-political events are having
23 impacts on the DND budget".

24 16275 Mr. Schreiber understands that.

25 "- A new budget is due soon (now

1 announced for Feb. 20th), and
2 there is speculation that DND
3 will be affected by further cuts
4 to capital spending;
5 - It is not yet possible to
6 commit to an Army need within
7 your DND planning framework
8 which is now under review;
9 - The Canadian Army has a need
10 to replace its current fleet of
11 armored vehicles with a vehicle
12 described as a Multi Role Combat
13 Vehicle (MRCV)".

14 16276 Then, in the second-last paragraph:
15 "- While the need for the MRCV
16 was described by the Army, it
17 was pointed out that this need
18 is not automatically a
19 'requirement' of DND until the
20 conclusion of the formal
21 planning process for DND".

22 16277 And then finally:
23 "- An estimate of timing for
24 conclusion of DND planning is
25 difficult, particularly before

1 the next budget".

2 16278 It appears then that what

3 Mr. Schreiber is doing in this letter, sir, is

4 confirming to Mr. Fowler the points that Mr. Fowler had

5 conveyed in a meeting of February 5th.

6 16279 Does that appear correct to you?

7 16280 MR. ALFORD: It does.

8 16281 MR. VICKERY: And those were all,

9 then, I take it, concerns that were at that point being

10 expressed by the Department of National Defence with

11 regard to the potential of the Bear Head project to

12 proceed?

13 16282 MR. ALFORD: Yes.

14 16283 MR. VICKERY: Now I would ask you to

15 turn to your book, sir. I apologize for taking you

16 back and forth.

17 16284 Tab 11 of the Alford documents.

18 16285 At Tab 11 you should have a letter

19 from yourself to Mr. Peter Smith, Vice-President of

20 ACOA, dated November 16, 1990.

21 16286 Do you have that, sir?

22 16287 MR. ALFORD: I do.

23 16288 MR. VICKERY: It appears, according

24 to the first sentence of that letter, that you are

25 enclosing the financial, technical and marketing detail

1 which Mr. Smith requested.

2 16289 Do you recall, sir -- and if you look
3 at the second page you will see the document that is
4 enclosed with the letter.

5 16290 Is this in fact the more detailed
6 business plan that had been requested approximately 18
7 months before?

8 16291 MR. ALFORD: It's 19 years. I don't
9 recall precisely but it looks like a reasonable
10 assumption.

11 16292 MR. VICKERY: Thank you, sir.

12 16293 And are you aware as to whether the
13 government continued to express concerns, having
14 reviewed this financial document, this more detailed
15 business plan?

16 16294 MR. ALFORD: Pardon me?

17 16295 MR. VICKERY: Are you aware whether
18 the government had continuing concerns with regard to
19 the business plan that you produced in December --
20 November, rather, of 1990?

21 16296 MR. ALFORD: Typically there was an
22 exchange. It would be submitted, reviewed, and then
23 you would get a comment exchange and work on the areas
24 of concern.

25 16297 MR. VICKERY: And I take it you don't

1 at this point recall specifically whether such concerns
2 were expressed to you following your delivering the
3 document in November of 1990?

4 16298 MR. ALFORD: I don't recall
5 specifically.

6 16299 MR. VICKERY: I would ask you to turn
7 once again to the Schreiber material, sir, Tab 63.

8 16300 At Tab 63 we see a memorandum from
9 Norman Spector, dated December 10, 1990, approximately
10 a month after your delivery of the business plan, and
11 it is indicated:

12 "Attached is an aide-memoir on
13 Thyssen's Bear Head Industry's
14 proposal, prepared by the
15 Atlantic Canada Opportunities
16 Agency (ACOA) with input from
17 National Defence, External
18 Affairs and ISTC."

19 16301 At the bottom of the first page, sir,
20 the last paragraph reads:

21 "DND notes that going ahead with
22 this proposal would involve:
23 additional costs of \$765 million
24 over and above the \$290 million
25 already budgeted; the need to

1 fit the Fox..."

2 16302 The Fox is the Thyssen light armoured
3 vehicle, I take it, at that point, sir?

4 16303 MR. ALFORD: It was one of several
5 that Thyssen manufactured.

6 16304 MR. VICKERY: All right.
7 "... the need to fit the Fox
8 into the not-yet-completed
9 defence policy, and the loss of
10 the potential for fleet
11 rationalization. On operational
12 grounds, among other concerns
13 DND has indicated that the Fox
14 is not air transportable. The
15 Thyssen proposal does include an
16 option for DND to purchase its
17 next generation TH495 vehicle;
18 however, this vehicle is still
19 on the drawing board and has
20 been neither tested nor costed."

21 16305 Did you become aware, sir, that DND
22 had the concerns indicated in this paragraph?

23 16306 MR. ALFORD: No, I wasn't aware of
24 the DND concern.

25 16307 MR. VICKERY: And on the second page

1 of the document, sir, in the penultimate paragraph
2 dealing with the business plan, the second half of that
3 paragraph reads:

4 "... DND feels that there is not
5 enough information within the
6 Thyssen business plan to justify
7 this conclusion. (No other
8 departments have seen the plan.)
9 At approximately \$2 million per
10 job, the Government would want
11 to be very sure the plan would
12 succeed."

13 16308 Do you recall DND expressing that
14 concern, sir?

15 16309 MR. ALFORD: No, not from DND.

16 16310 MR. VICKERY: Just one more document
17 that I would refer you to, sir.

18 16311 Commissioner, the document to which I
19 wish to refer the witness is in the document book
20 prepared by Commission counsel with regard to Mr. Harry
21 Swain, who is this afternoon's witness.

22 16312 At this point I would be content to
23 simply have Tab 9 marked for identification, and my
24 friend can put the book into evidence as he wishes.

25 16313 COMMISSIONER OLIPHANT: Tab --

1 16314 MR. VICKERY: Tab 9.

2 16315 COMMISSIONER OLIPHANT: Tab 9 of the
3 document book for the witness Harry Swain, who I hope
4 to be able to get to this afternoon, is a memorandum
5 from Mr. Swain to the Hon. Michael Wilson with copies
6 to the Hon. Tom Hockin and the Hon William C. Winegard.

7 16316 The memorandum doesn't appear to have
8 a date.

9 16317 MR. VICKERY: I believe there is a
10 date at the top right of the page, sir, December 4,
11 1992.

12 16318 COMMISSIONER OLIPHANT: That's the
13 date of the memorandum, is it?

14 16319 MR. VICKERY: That's my
15 understanding.

16 16320 COMMISSIONER OLIPHANT: I just see a
17 name there, James Slattery, with a phone number in the
18 same type as December 4, 1992.

19 16321 You are satisfied that that's the
20 date of the memorandum?

21 16322 MR. VICKERY: That is my
22 understanding and I will confirm that with you, sir.

23 16323 COMMISSIONER OLIPHANT: Okay.

24 16324 That memo, then, to Michael Wilson
25 will be received and marked as -- do we have any other

1 exhibits marked for identification?

2 16325 MR. VICKERY: I believe there are
3 two.

4 16326 COMMISSIONER OLIPHANT: This would be
5 Exhibit C then?

6 16327 What exhibit for identification is
7 this? Is it Exhibit "C" for identification?

8 16328 MR. VICKERY: "D" I believe.

9 16329 COMMISSIONER OLIPHANT: Okay.
10 16330 Exhibit "D" for identification.

11 Thank you.

12 EXHIBIT NO. "D" (for
13 identification): Memorandum
14 from Mr. Swain to the Hon.
15 Michael Wilson with copies to
16 the Hon. Tom Hockin and the Hon.
17 William C. Winegard

18 16331 MR. VICKERY: Thank you.

19 16332 Can I ask you to turn to the second
20 page of the document, sir, which begins "In the spring
21 of this year"?

22 16333 Do you see that?

23 16334 MR. ALFORD: Yes.

24 16335 MR. VICKERY: Beginning with the
25 second paragraph -- and my understanding is this is a

1 document created in late 1992, December -- we read:

2 "In the late summer the
3 proposal..."

4 16336 That's the Bear Head proposal:

5 "... resurfaced address to the
6 Minister Responsible for the
7 Federal Office of Regional
8 Development for Québec (FORD-Q).
9 This proposal is not
10 significantly different from
11 those which have been rejected
12 previously. The proposal has
13 two phases. In phase 1 four
14 variant prototypes of the
15 Thyssen TH495 multipurpose base
16 armored vehicle would be
17 developed. " (As read)

18 16337 Do you recall that being part of the
19 proposal in 1992, sir?

20 16338 MR. ALFORD: Yes.

21 16339 MR. VICKERY: It goes on:

22 "Thyssen would provide \$13
23 million in cash and existing
24 technology to be transferred
25 from Germany valued by them at

1 16351 MR. VICKERY: And at the bottom of
2 the page, the second last paragraph:

3 "Phase II
4 Establishment of a manufacturing
5 facility would require a further
6 interest-free forgivable loan
7 from the federal government of
8 \$56 million." (As read)

9 16352 Is that correctly a part of the
10 proposal being made in 1992, sir?

11 16353 MR. ALFORD: I'm sorry, I don't
12 recall that, but it could have been.

13 16354 MR. VICKERY: And then continuing:
14 "The province would provide a
15 production facility at no cost
16 to the company and the company
17 would provide an additional \$12
18 million cash. D&D has been
19 asked to consider support
20 through testing programs and
21 assignment of engineering
22 resources." (As read)

23 16355 Again, those were terms of the
24 proposal being put forward at that time?

25 16356 MR. ALFORD: Yes. If you recall the

1 discussion this morning, that related to the
2 multipurpose base armored vehicle that was the NATO
3 initiative. Thyssen was already a participant in that
4 program from our head office in Germany, and the
5 government was asking us to transfer our R&D activity
6 and the world product mandate to Canada.

7 16357 MR. VICKERY: And among other terms
8 that Thyssen required in order to do that was the
9 provision of an interest-free forgivable loan in the
10 first phase of \$170 million?

11 16358 Is that correct, sir?

12 16359 MR. ALFORD: Yes, a loan.

13 16360 MR. VICKERY: Thank you.

14 16361 Those are my questions of this
15 witness.

16 16362 COMMISSIONER OLIPHANT: Thank you.

17 16363 MR. VICKERY: Thank you.

18 16364 COMMISSIONER OLIPHANT: Mr.
19 Roitenberg...?

20 16365 MR. ROITENBERG: No re-examination,
21 Mr. Commissioner.

22 16366 COMMISSIONER OLIPHANT: No
23 re-examination. All right.

24 16367 I have one question I want to ask
25 you, Mr. Alford. I think it's one question.

1 16368 Mr. Vickery referred you to the
2 agreement between IAL and Thyssen.
3 16369 Do you remember that?
4 16370 It's at Tab 23 of the Schreiber book.
5 --- Pause
6 16371 COMMISSIONER OLIPHANT: I'm sorry,
7 just a minute.
8 16372 MR. HOUSTON: I believe it's Tab 10,
9 Commissioner.
10 16373 COMMISSIONER OLIPHANT: Tab 10, yes.
11 Tab 10 of the Schreiber book.
12 16374 It starts out with a memorandum from
13 Dr. Klenk to Mr. Haastert and then on the second page
14 there is an agreement --
15 16375 Are you with me?
16 16376 MR. ALFORD: I am now.
17 16377 COMMISSIONER OLIPHANT: -- an
18 agreement between IAL International Aircraft Leasing
19 and Thyssen.
20 16378 MR. ALFORD: Yes.
21 16379 COMMISSIONER OLIPHANT: Do you recall
22 in your evidence when you referred to IAL, you referred
23 to that as being Mr. Schreiber's company?
24 16380 MR. ALFORD: I think that's what
25 Mr. Vickery described it as.

1 16381 COMMISSIONER OLIPHANT: Well, is that
2 your knowledge?

3 16382 MR. ALFORD: No.

4 16383 COMMISSIONER OLIPHANT: Okay. What
5 knowledge do you have?

6 16384 MR. ALFORD: I think in this document
7 there is a reference to Mr. Haastert. He was on the
8 Board of Thyssen Industry and he was one of the senior
9 directors involved.

10 16385 COMMISSIONER OLIPHANT: But I thought
11 you said in your evidence that IAL was Mr. Schreiber's
12 company.

13 16386 MR. ALFORD: No. Mr. Vickery called
14 it that and I referred to it as that.

15 16387 COMMISSIONER OLIPHANT: And you can't
16 confirm that?

17 16388 MR. ALFORD: I did not know that.

18 16389 COMMISSIONER OLIPHANT: Okay.
19 Thanks. That's all I wanted to know.

20 16390 Is there any reason why Mr. Alford
21 ought not to be excused at this point, counsel?

22 16391 Mr. Alford, thank you very much for
23 coming to assist us. I do appreciate your help. I
24 mean that. You are free to leave, sir.

25 16392 MR. ALFORD: You are welcome, thank

1 you.

2 16393 COMMISSIONER OLIPHANT: Thank you.

3 16394 MR. BATTISTA: Mr. Commissioner,

4 maybe if you want to take the afternoon break now, it's

5 3:15, and we can maybe come back -- maybe take a

6 shorter break and be back for 3:30.

7 16395 COMMISSIONER OLIPHANT: All right.

8 16396 MR. BATTISTA: If that is all right

9 with everyone else.

10 16397 COMMISSIONER OLIPHANT: That's fine.

11 We will break until 3:30 then. Thank you.

12 --- Upon recessing at 3:15 p.m. / Suspension à 15 h 15

13 --- Upon resuming at 3:35 p.m. / Reprise à 15 h 35

14 16398 COMMISSIONER OLIPHANT: Be seated,

15 please.

16 16399 Mr. Battista...?

17 16400 MR. BATTISTA: Good afternoon,

18 Mr. Commissioner. I will call Mr. Smith, Paul Smith,

19 if he could come forward.

20 16401 He is represented by Mr. Paul Lepsoe

21 who is accompanying him.

22 16402 COMMISSIONER OLIPHANT: Good

23 afternoon, Mr. Smith. Welcome.

24 SWORN: PAUL SMITH /

25 ASSERMENTÉ : PAUL SMITH

1 16403 MR. BATTISTA: Good afternoon,
2 Mr. Smith.
3 16404 Maybe before starting,
4 Mr. Commissioner, we will file as Exhibit -- I think we
5 are up to P-19 -- the agenda of June 1993, the agenda
6 of the Prime Minister, Right Hon. Brian Mulroney.
7 16405 COMMISSIONER OLIPHANT: I think this
8 is P-20.
9 16406 MR. BATTISTA: P-20?
10 16407 COMMISSIONER OLIPHANT: You forget
11 the cameo appearance by Mr. Grondin this morning?
12 16408 MR. BATTISTA: Oh yes. I'm sorry.
13 16409 MR. GRONDIN: I took P-19.
14 16410 COMMISSIONER OLIPHANT: Yes.
15 16411 MR. BATTISTA: Yes, it's taken.
16 Sorry. So that is P-20.
17 EXHIBIT NO. P-20: June 1993
18 agenda of Prime Minister Brian
19 Mulroney
20 EXAMINATION: PAUL SMITH BY MR. BATTISTA /
21 INTERROGATOIRE : PAUL SMITH PAR Me BATTISTA
22 16412 MR. BATTISTA: We will start.
23 16413 Mr. Smith, you worked as
24 Mr. Mulroney's Executive Assistant from April '91 to
25 October 1993.

1 16414 Is that correct?

2 16415 MR. P. SMITH: Correct.

3 16416 MR. BATTISTA: Could you maybe just
4 give us a bit of background. What is your education?
5 What employment did you have before you worked as
6 Assistant Executive?

7 16417 MR. P. SMITH: Prior to my joining
8 Mr. Mulroney's office?

9 16418 MR. BATTISTA: Yes.

10 16419 MR. P. SMITH: I had a Bachelor of
11 Commerce in accounting and a Bachelor in Political
12 Science, and I was halfway through an M.A. in Public
13 Administration.

14 16420 My work experience prior to then was
15 an Assistant to the Member of Parliament for St.
16 Boniface, whereupon I graduated to be a Special
17 Assistant in the office Mr. Clark at Foreign Affairs
18 and then briefly with Madame Landry at CIDA prior to
19 being asked to join the Prime Minister's office.

20 16421 MR. BATTISTA: Okay. And since then
21 you are in the private sector now, I understand?

22 16422 MR. P. SMITH: I certainly am.

23 16423 MR. BATTISTA: So we will go back
24 to -- so the Executive Assistant to the Prime Minister,
25 I understand there is no formal description of that

1 job, but can you tell us what it is, what it is you did
2 during those years?

3 16424 MR. P. SMITH: On a day-to-day basis
4 my job was to be with the Prime Minister some 10 to 16
5 hours a day, ensuring that his life and his day unfold
6 flawlessly, to the extent that it can, given the
7 burdens of his office.

8 16425 So principally it was a logistical
9 role to ensure that all events were coordinated,
10 whether it be movements with the Mounties, whether it
11 be meetings occurring and people being at the right
12 places at the right time, whether it be meetings
13 finishing on time, whether it be binders and briefs
14 being prepared on time.

15 16426 MR. BATTISTA: Okay. Day-to-day, did
16 that involve you in the planning or organizing of the
17 days?

18 16427 MR. P. SMITH: Yes and no. The
19 agenda, there was one large funnel, which was the
20 scheduling unit in the Prime Minister's office.
21 Long-range schedules were arranged via that unit. And
22 then daily schedules were arranged by the Prime
23 Minister's Executive Secretary.

24 16428 I was there to take the schedule and
25 ensure that it unfolded, again without flaw.

- 1 16429 MR. BATTISTA: So when the Prime
2 Minister had scheduled appointments, who was it that
3 would schedule those agreements?
- 4 16430 MR. P. SMITH: Again, any one of
5 those two groups. On occasion, I suppose in the rare
6 instance I might be involved, but rare as to be
7 inconsequential.
- 8 16431 The work was principally done by the
9 scheduling unit, first and foremost, and then a daily
10 agenda was prepared by the Executive Secretary.
- 11 16432 MR. BATTISTA: You were not involved
12 in that in any way?
- 13 16433 MR. P. SMITH: No. I mean, I would
14 oversee it and I had a word in it and I would ensure
15 that it met with the Prime Minister's approval, but
16 these things were put together by other people.
- 17 16434 MR. BATTISTA: Okay. When the Prime
18 Minister had meetings in Ottawa, where would they be?
19 Where would they take place normally?
- 20 16435 MR. P. SMITH: The large majority of
21 the meetings occurred in his office on Parliament Hill.
- 22 16436 MR. BATTISTA: On Parliament Hill?
- 23 16437 MR. P. SMITH: The vast majority.
- 24 16438 MR. BATTISTA: Okay.
- 25 16439 MR. P. SMITH: On occasion in the PMO

1 across the street.

2 16440 MR. BATTISTA: Okay. That is the
3 Langevin Building?

4 16441 MR. P. SMITH: Yes, sir.

5 16442 MR. BATTISTA: Okay. 24 Sussex, did
6 meetings occur there?

7 16443 MR. P. SMITH: On occasion.

8 16444 MR. BATTISTA: On occasion.
9 16445 Harrington Lake, did they occur
10 there?

11 16446 MR. P. SMITH: Yes, sir.

12 16447 MR. BATTISTA: On occasion --

13 16448 MR. P. SMITH: Absolutely.

14 16449 MR. BATTISTA: -- or regularly?

15 16450 MR. P. SMITH: On occasion.

16 16451 MR. BATTISTA: Okay. When you say
17 the Parliament buildings, is that his office at
18 Parliament?

19 16452 MR. P. SMITH: Yes, sir, Centre
20 Block, third floor.

21 16453 MR. BATTISTA: Okay, the Centre
22 Block, third floor.

23 16454 And we have heard evidence about
24 meetings, for example, during Question Period, or the
25 break during Question Period, during parliamentary

1 hearings between three and four o'clock, meetings
2 behind the curtain as sometimes they are called because
3 it is behind a curtain of Parliament.

4 16455 You are familiar with that?

5 16456 MR. P. SMITH: I'm not, but perhaps I
6 can offer my own view as to what you may be referring
7 to?

8 16457 MR. BATTISTA: Yes, please go ahead.

9 16458 MR. P. SMITH: There would be --
10 after Question Period it was an opportunity to have
11 what's called pictures and handshakes and so Members of
12 Parliament, Ministers of the Crown and other people
13 would bring in constituents to have a picture and a
14 handshake with Mr. Mulroney after Question Period.

15 16459 Meetings lasted anywhere from 30
16 seconds to 5-1/2 minutes and then we would bring in the
17 other group and we would do that anywhere from half an
18 hour to 45 minutes.

19 16460 MR. BATTISTA: Okay. Would you be
20 present during those meetings?

21 16461 MR. P. SMITH: Absolutely.

22 16462 MR. BATTISTA: What about private
23 meetings?

24 16463 MR. P. SMITH: Yes.

25 16464 MR. BATTISTA: We see, for example,

1 if we look at P-20 -- I will ask you to look at the
2 document.

3 16465 MR. P. SMITH: P-20, sir, is the
4 agenda?

5 16466 MR. BATTISTA: Yes, the agenda.
6 16467 If we look, for example, I will refer
7 you to Thursday, 3 June.

8 16468 MR. P. SMITH: Yes.

9 16469 MR. BATTISTA: So we see "3:30
10 private meeting".

11 16470 MR. P. SMITH: Yes.

12 16471 MR. BATTISTA: Who would schedule
13 that? Who would write that in, "private meeting"?

14 16472 MR. P. SMITH: The Executive
15 Secretary, I believe, sir.

16 16473 MR. BATTISTA: And how do we
17 distinguish what's a private meeting from another type
18 of meeting?

19 16474 MR. P. SMITH: That's a good
20 question. I think that the distribution of the monthly
21 agenda was far wider than the daily agenda, and so this
22 was also a record to keep track of events that had
23 occurred and so it can be retrospective in view.

24 16475 So the monthly agenda would have --
25 you see here the revision date was June 24th.

1 16476 MR. BATTISTA: Yes.

2 16477 MR. P. SMITH: And sometimes the
3 scheduling unit would go back and fill in the time
4 simply for there to be a record.

5 16478 Have I explained myself properly?

6 16479 MR. BATTISTA: Yes, you have. So
7 what you are saying is that if we had actually looked
8 at maybe the daytimer, we would know who that meeting
9 was with or whose those meetings were with, if there
10 are private meetings --

11 16480 MR. P. SMITH: Correct.

12 16481 MR. BATTISTA: But when the agenda is
13 being reviewed, we note that that is a private meeting
14 so it's just classified as a private meeting.

15 16482 MR. P. SMITH: Correct.

16 16483 MR. BATTISTA: Okay. So you are
17 saying that this is probably retrospect and not
18 indicated that way on a daily basis?

19 16484 MR. P. SMITH: Absolutely, sir. I
20 don't claim to be absolutely certain, but that
21 certainly is my view.

22 16485 MR. BATTISTA: When you were working
23 as Executive Assistant, would you know if on that day
24 the Prime Minister had a private meeting?

25 16486 MR. P. SMITH: Absolutely.

1 16487 MR. BATTISTA: And what would the
2 protocol be for you when the Prime Minister had --

3 16488 MR. P. SMITH: As I said, there was a
4 daily schedule prepared by the principal secretary and
5 that would have all the details on it.

6 16489 MR. BATTISTA: And what would you do?
7 For example, if there was a private meeting at 3:30,
8 what would happen? What would your role be? What
9 would your function be?

10 16490 MR. P. SMITH: My function would
11 simply be to ensure that it occurred according to the
12 Prime Minister's wish and that the people who were
13 scheduled to be there were there and the people who
14 were scheduled to attend with the Prime Minister on the
15 government side be there as well.

16 16491 MR. BATTISTA: Okay. So you would
17 meet these people necessarily before the meeting took
18 place because you would be with the Prime Minister?

19 16492 MR. P. SMITH: I would meet them.
20 That's a rather large word. I would ensure that they
21 were there.

22 16493 MR. BATTISTA: Okay. So we can go
23 on.

24 16494 As for the Centre Block private
25 meetings, the ones between three and four o'clock --

1 16495 MR. P. SMITH: Yes...?

2 16496 MR. BATTISTA: -- were these meetings
3 scheduled in the same way as all the other meetings or
4 was there a different procedure for this?

5 16497 MR. P. SMITH: I would say the same
6 as all the other meetings. There was a daily agenda,
7 as I say, so we knew what was going on.

8 16498 My sense of it is that this is a
9 retrospective view at times to fill in the time.

10 16499 MR. BATTISTA: So if we go back to
11 your memory of the time into your experience, how would
12 the daily agenda be organized?

13 16500 For example, 3 o'clock or 3:30 Centre
14 Block meeting, how would that be organized?

15 16501 MR. P. SMITH: If you are referring
16 to pictures and handshakes, that was a staple of the
17 agenda and we expected it to occur every chance that
18 the House sat.

19 16502 If it was a taping for a person, a
20 personage such as Mr. Mazankowski, that would simply
21 appear.

22 16503 If it was a so-called private
23 meeting, then that would be funnelled through the
24 principal secretary, Mr. Mulroney's principal
25 secretary.

1 16504 MR. BATTISTA: Okay. So you would,
2 for example, know by the morning that today there is
3 going to be a private meeting?

4 16505 MR. P. SMITH: Absolutely.

5 16506 MR. BATTISTA: Okay. And when we are
6 speaking about the Centre Block, in particular, could
7 anyone have access to the Centre Block?

8 16507 I mean, there is picture-taking you
9 are saying. It's a photo op with the Prime Minister
10 from three to four o'clock --

11 16508 MR. P. SMITH: Could anyone have
12 access? There is security -- much security in Centre
13 Block. You are given credentials to walk around there,
14 and if you don't have credentials, you are escorted.

15 16509 MR. BATTISTA: So this would require
16 planning ahead of time, to your knowledge?

17 16510 MR. P. SMITH: Not as much as you
18 would expect.

19 16511 MR. BATTISTA: Okay.

20 16512 MR. P. SMITH: Not as much as you
21 would expect. I believe -- and I don't want to speak
22 for the commissionaires, but I believe that they are
23 used to having many people file through.

24 16513 As long as they go through that
25 process, my sense was that security had been addressed.

1 16514 MR. BATTISTA: So what you are
2 saying -- and correct me if I am wrong -- is that
3 between three and four o'clock, when Parliament was
4 sitting -- Question Period -- that break period, the
5 Prime Minister, then Brian Mulroney, would regularly
6 take that time to meet people.

7 16515 MR. P. SMITH: Absolutely. Question
8 Period, as it were -- QP -- was from two to three, and
9 after that there would be a time to receive these
10 people, who were brought to us by ministers and Members
11 of Parliament.

12 16516 COMMISSIONER OLIPHANT: Would it be
13 the case in almost every instance for the
14 meet-and-greet, or the photo-and-handshake as you have
15 referred to it, Mr. Smith, that a constituent coming to
16 meet the Prime Minister would be there accompanied by
17 his or her Member of Parliament?

18 16517 MR. P. SMITH: Yes, sir.

19 16518 COMMISSIONER OLIPHANT: Citizens just
20 don't wander around by themselves back there, do they?

21 16519 MR. P. SMITH: You are absolutely
22 right, Mr. Commissioner. I didn't mean to intimate the
23 contrary --

24 16520 COMMISSIONER OLIPHANT: No, no, I am
25 not suggesting that you did, but based on my knowledge,

1 to get back behind the curtains, you are usually in the
2 company of an MP.

3 16521 MR. P. SMITH: Yes, sir, a Member of
4 Parliament, a Minister of the Crown --

5 16522 COMMISSIONER OLIPHANT: Exactly.

6 16523 MR. BATTISTA: With regard to the
7 daily agendas, they were prepared, you explained, by
8 the executive secretary.

9 16524 MR. P. SMITH: Yes, sir.

10 16525 MR. BATTISTA: Where were they kept
11 at the time?

12 16526 MR. P. SMITH: Where were they kept?

13 16527 MR. BATTISTA: Yes.

14 16528 Who was responsible for that daily
15 agenda?

16 16529 MR. P. SMITH: Counsel, those days
17 were fast and furious for a 26-year-old, but --

18 16530 I have no idea where they were -- to
19 me, getting through the day was already a victory.

20 16531 MR. BATTISTA: So you weren't
21 responsible for planning the days, and you weren't
22 responsible for planning ahead the weeks, you were
23 responsible for making sure that what was planned got
24 done.

25 16532 MR. P. SMITH: Absolutely.

1 16533 MR. BATTISTA: And the people who
2 were responsible were the executive secretary --

3 16534 MR. P. SMITH: Yes.

4 16535 MR. BATTISTA: -- and who else?

5 16536 MR. P. SMITH: As I say, the
6 Scheduling Unit, the executive secretary, the tour
7 people, depending on the events that occur.

8 16537 I suppose the chief of staff, as
9 well. Some of those requests would come through the
10 chief of staff to the executive secretary.

11 16538 These things are all fluid,
12 counsellor. You do have a say in things, but,
13 principally, that was not, as I say, my main
14 occupation.

15 16539 MR. BATTISTA: In your experience,
16 someone like Fred Doucet, was he regularly in contact
17 with the Prime Minister? Did he regularly have access
18 to the Prime Minister in those days?

19 16540 MR. P. SMITH: Not to my knowledge,
20 sir.

21 16541 MR. BATTISTA: Not to your knowledge.
22 16542 Did you have an office?

23 16543 MR. P. SMITH: I did have an office,
24 yes.

25 16544 MR. BATTISTA: Where was it located?

1 16545 MR. P. SMITH: The third floor of
2 Centre Block, about 15 paces -- or 12 paces from his.
3 16546 MR. BATTISTA: From the Prime
4 Minister's Office.
5 16547 MR. P. SMITH: Yes, sir.
6 16548 MR. BATTISTA: Where did you
7 typically spend your time on a working day?
8 16549 You were physically with the Prime
9 Minister?
10 16550 MR. P. SMITH: I was with Mr.
11 Mulroney, or in his vicinity, as I say, 10 to 16 hours
12 a day. Wherever he went, I was either a step ahead or
13 a step behind -- and, hopefully, out of the way.
14 16551 MR. BATTISTA: When you say "out of
15 the way", would you sit in at meetings?
16 16552 MR. P. SMITH: Rarely.
17 16553 MR. BATTISTA: Rarely.
18 16554 MR. P. SMITH: I would be planning
19 the next meeting.
20 16555 Can I register --
21 16556 MR. BATTISTA: Yes, please, go ahead.
22 16557 MR. P. SMITH: I did have the honour
23 of sitting in the last cabinet meeting. That was a
24 rare honour, and I appreciated it very much.
25 16558 MR. BATTISTA: Did you work or

1 interact with Mr. Mulroney's chiefs of staff at the
2 time?

3 16559 MR. P. SMITH: Absolutely.

4 16560 MR. BATTISTA: Who did you work with
5 when you were there, do you remember?

6 16561 MR. P. SMITH: When I arrived it was
7 Mr. Spector, and then Mr. Segal -- Hugh Segal -- and
8 then David McLaughlin toward the end.

9 16562 MR. BATTISTA: And what type of
10 relationship did you have with them? What type of
11 working relationship did you have with them?

12 16563 MR. P. SMITH: A very fruitful one,
13 an excellent working relationship.

14 16564 But, as I say, my boss was the Prime
15 Minister. I respected their role, and I think they
16 respected mine, and I think they respected that I
17 reported to him.

18 16565 MR. BATTISTA: You basically
19 interacted with them, but you were working for Mr.
20 Mulroney.

21 16566 MR. P. SMITH: Absolutely. That's
22 the way I see it.

23 16567 MR. BATTISTA: Now, did your
24 functions change drastically when Mr. Mulroney was no
25 longer Prime Minister?

1 16568 MR. P. SMITH: I didn't carry the
2 title of Executive Assistant to the Prime Minister --
3 16569 MR. BATTISTA: No, but in terms of
4 your role --
5 16570 MR. P. SMITH: -- but I stayed with
6 him, yes.
7 16571 Yes, sir, I stayed with him,
8 principally in the same role, in his Parliament Hill
9 office, until his no longer being a Member of
10 Parliament in October of `93.
11 16572 MR. BATTISTA: So from June to
12 October were you in contact with him regularly?
13 16573 MR. P. SMITH: Regularly, but not as
14 much as before. He had started to move on into his
15 private life.
16 16574 MR. BATTISTA: He wasn't around
17 Ottawa as much as he was before?
18 16575 MR. P. SMITH: No, I believe that
19 they left Harrington Lake on or around June 27th and
20 made their way into the sunset.
21 16576 MR. BATTISTA: So your contact with
22 him was by which means?
23 16577 MR. P. SMITH: By telephone.
24 Principally by telephone.
25 16578 MR. BATTISTA: So you weren't

1 necessarily organizing or assisting him at meetings, or
2 making sure that the meetings were taking place the way
3 you were before.

4 16579 MR. P. SMITH: No, sir. No, I
5 believe that transition had occurred with Madam Collins
6 in his Montreal office.

7 16580 MR. BATTISTA: I am going to take you
8 to the Harrington Lake meeting of June 23rd.

9 16581 MR. P. SMITH: Sure.

10 16582 MR. BATTISTA: You had a copy of the
11 agenda -- of the sort of monthly daytimer that we
12 introduced into evidence as P-20. Can you tell us why
13 you had this document, and under what circumstances?

14 16583 MR. P. SMITH: Why did I have this
15 document?

16 16584 MR. BATTISTA: Yes.

17 16585 MR. P. SMITH: I simply wanted to
18 keep a record for myself of those heady days. As I
19 say, one day came after another, and they were all long
20 and very fast, and I wanted to be able to reflect on
21 this into my old age.

22 16586 MR. BATTISTA: So is it fair to say
23 that you would have a copy of your daytimers for the
24 period that you were -- not the daytimers, but the
25 monthly agendas for the period that you worked for the

1 Prime Minister?

2 16587 MR. P. SMITH: I believe so.

3 16588 MR. BATTISTA: On June 23rd, 1993,
4 why were you at Harrington Lake?

5 16589 MR. P. SMITH: Because -- you see
6 that Mrs. Campbell won the leadership on June 13th.
7 She becomes leader of the party, and is getting
8 prepared to assume the prime ministership, which occurs
9 on the 25th. We had, I believe, by then vacated.

10 16590 "We" -- I don't mean to be
11 presumptuous -- Mr. Mulroney's family had vacated 24
12 Sussex and they were living at Harrington Lake.

13 16591 MR. BATTISTA: Was there a specific
14 reason that you were there?

15 16592 MR. P. SMITH: Oh, I'm sorry.
16 Wherever the Prime Minister went, I went. So, if there
17 are events of the day that occur at Harrington Lake,
18 I'm there, a few hours ahead of time and a few hours
19 after we are done.

20 16593 MR. BATTISTA: When we look at the
21 daytimer for the 23rd of June, what would indicate to
22 you that you were at Harrington Lake?

23 16594 MR. P. SMITH: I want to answer your
24 question very carefully. I don't know that there is
25 anything on this agenda that indicates that, but it

1 certainly is very clear in my mind that we were there
2 at that period in time.

3 16595 MR. BATTISTA: Do you remember when
4 you would have arrived at Harrington Lake that day?

5 16596 MR. P. SMITH: If you are referring
6 to the 23rd --

7 16597 MR. BATTISTA: Yes.

8 16598 MR. P. SMITH: -- that's a different
9 kind of day, but, as I say, I usually would get there
10 anywhere from an hour to an hour and a half prior to
11 Mr. Mulroney's day starting.

12 16599 MR. BATTISTA: And on the 23rd?

13 16600 MR. P. SMITH: On the 23rd --

14 --- Pause

15 16601 MR. P. SMITH: On the 23rd, that
16 seems to be -- and I am choosing my words as carefully
17 as I can -- that seems to be the day that a meeting
18 occurred between Mr. Schreiber and Mr. Mulroney.

19 16602 I recall that meeting occurring, but
20 it's only after looking at my agenda that it seems
21 logical to me that it occurred on that day.

22 16603 MR. BATTISTA: Why do you recall the
23 meeting occurring?

24 16604 MR. P. SMITH: Because I drove Mr.
25 Schreiber to Harrington Lake.

1 16605 MR. BATTISTA: And why is that
2 something that you would remember?

3 16606 MR. P. SMITH: I simply -- I remember
4 driving him to the lake. We were outside of Hull, we
5 were in the vehicle, he's in the passenger seat -- it's
6 as clear as day.

7 16607 I remember light conversation about
8 my desire to study -- to pursue an M.B.A. in Europe,
9 which I subsequently did.

10 16608 I also recall his giving me his
11 business card, inviting me to call him after my M.B.A.
12 was completed.

13 16609 MR. BATTISTA: Okay.

14 16610 MR. P. SMITH: That's what I recall.

15 16611 MR. BATTISTA: How often had you met
16 Mr. Schreiber?

17 16612 MR. P. SMITH: Never. The first
18 time.

19 16613 MR. BATTISTA: That was the first
20 time?

21 16614 The only time?

22 16615 MR. P. SMITH: Pardon me?

23 16616 MR. BATTISTA: The only time you met
24 him?

25 16617 MR. P. SMITH: Yes, sir.

1 16618 MR. BATTISTA: We have heard evidence
2 here, and there are documents that sort of tend to
3 indicate that Mr. Schreiber had met Mr. Mulroney on
4 several occasions during your period when you were
5 executive assistant.

6 16619 There is an indication that he met
7 him on April 10th, `91.

8 16620 Now, you started in April of 1991.
9 Do you remember when in April of `91?

10 16621 MR. P. SMITH: Well, I like saying
11 April 8th, but I am under oath, so I've got to be
12 careful, but that's what I tell my son.

13 16622 MR. BATTISTA: Okay. April 8th --

14 16623 MR. P. SMITH: -- 1991.

15 16624 MR. BATTISTA: Why do you say April
16 8th?

17 16625 MR. P. SMITH: Because I have a thing
18 for dates.

19 16626 MR. BATTISTA: All right. So this
20 was a period when you would have been working there.

21 16627 Do you remember ever meeting him --
22 Mr. Schreiber?

23 16628 MR. P. SMITH: No, in April of `91 I
24 was on training wheels, as it were, and I don't recall
25 meeting him.

1 16629 MR. BATTISTA: The date that we were
2 referring to, the April 10th date, is found in a letter
3 that has been filed with the Commission, where Mr.
4 Schreiber thanks Mr. Mulroney for having met him.

5 16630 That, I take it, would be a more
6 formal meeting than just a private meeting. Would that
7 help you in any way?

8 16631 MR. P. SMITH: I can't help you, sir.

9 16632 MR. BATTISTA: Okay. There was
10 another meeting on May 5th, 1992, in Mr. Mulroney's
11 office, with Mr. MacKay also present.

12 16633 Would that help you, that Mr.
13 Mulroney met --

14 16634 MR. P. SMITH: No, sir.

15 16635 MR. BATTISTA: Not at all.

16 16636 And on June 3rd -- we have here on
17 your daytimer -- the monthly revised --

18 16637 MR. P. SMITH: It's not my daytimer,
19 sir.

20 16638 MR. BATTISTA: No, no, the document
21 that you had, the revised agenda for June `93 -- we
22 have on Thursday the 3rd of June, "3:30 - Private
23 Meeting".

24 16639 We have heard evidence here, and
25 there are documents that we have that will be filed,

1 that suggest and confirm that a meeting took place
2 between Mr. Doucet, Mr. Schreiber and Mr. Mulroney.

3 16640 Would you have any recollection of
4 that?

5 16641 MR. P. SMITH: None, sir.

6 16642 MR. BATTISTA: That was just 20 days
7 before the 23rd of June. That would not, in any way --

8 16643 MR. P. SMITH: Your question is fair,
9 but I have no recollection.

10 16644 MR. BATTISTA: Okay. Do you recall
11 what you did at Harrington Lake that day?

12 16645 MR. P. SMITH: That's a fairly
13 open-ended question. I remember driving Mr. Schreiber
14 there. I remember the meeting occurring. I don't know
15 how he left.

16 16646 My routine would have been to stay
17 throughout the day. As I look at the agenda, there
18 were other events on the day. So I would have stayed
19 there to ensure that these meetings would unfold, and I
20 would have left after the day was done.

21 16647 MR. BATTISTA: Did Mr. Mulroney
22 regularly receive guests or conduct business at
23 Harrington Lake?

24 16648 MR. P. SMITH: As you can see, it
25 depended --

1 16649 This was abnormal for him, I believe.
2 I mean, I don't want to contradict anyone, but he was
3 at the end of his prime ministership. Mrs. Campbell
4 was moving into 24.

5 16650 They were at Harrington Lake. They
6 spent holidays there, but most of the business was not
7 done there.

8 16651 So now we are into the tail-end, and
9 some meetings are occurring. It's a fairly full
10 agenda, as you can see.

11 16652 MR. BATTISTA: Were you regularly
12 asked to bring guests to Harrington Lake?

13 16653 MR. P. SMITH: No, sir.

14 16654 MR. BATTISTA: This was a unique
15 occasion, or an unusual occasion?

16 16655 MR. P. SMITH: Certainly unusual, and
17 I would say the only one. The only time.

18 16656 MR. BATTISTA: The only one?

19 16657 MR. P. SMITH: Yeah.

20 16658 MR. BATTISTA: Now, do you have an
21 independent recollection, when you think back today, of
22 that day?

23 16659 You said that you remember speaking
24 to Mr. Schreiber.

25 16660 MR. P. SMITH: Yes.

1 16661 MR. BATTISTA: You remember him
2 giving you his business card.

3 16662 MR. P. SMITH: Yeah.

4 16663 MR. BATTISTA: Do you remember where
5 you picked him up?

6 16664 MR. P. SMITH: No, sir, I honestly
7 don't.

8 16665 MR. BATTISTA: Do you remember if it
9 was in Ottawa or outside Ottawa?

10 16666 MR. P. SMITH: I believe it was in
11 Ottawa. Where in Ottawa, I have no idea.

12 16667 MR. BATTISTA: Do you recall who
13 asked you to pick him up?

14 16668 MR. P. SMITH: I have no
15 recollection, sir.

16 16669 I have thought about that a lot, and
17 I have no idea. And there is no point in speculating,
18 I think, but I certainly wouldn't have done this free
19 form, as it were, without checking it with Mr.
20 Mulroney.

21 16670 MR. BATTISTA: So you don't recall
22 who asked you to pick him up?

23 16671 MR. P. SMITH: No, sir.

24 16672 MR. BATTISTA: You wouldn't recall
25 when you were asked to do this -- the day before, a few

1 days before, a week before?

2 16673 MR. P. SMITH: It would be logical
3 that it would only have occurred in the days preceding.

4 16674 MR. BATTISTA: Okay, but you don't
5 have an independent --

6 16675 MR. P. SMITH: No, sir.

7 16676 MR. BATTISTA: -- recollection of
8 that.

9 16677 Now, you said that you have given
10 this some thought.

11 16678 MR. P. SMITH: Yes.

12 16679 MR. BATTISTA: Why have you given it
13 some thought?

14 16680 I think I know the answer, but I will
15 let you --

16 16681 MR. P. SMITH: Thought as to who
17 would have asked me?

18 16682 MR. BATTISTA: Yes, and what happened
19 on the 23rd of June 1993.

20 16683 MR. P. SMITH: I think that -- I do
21 follow the news, and this has been in the news for a
22 period of time.

23 16684 I did have a conversation with Mr.
24 Roitenberg four weeks ago and the same question was
25 posed, so it would cause one to think about it, if it

1 apparently is important to the people looking at the
2 situation.

3 16685 I'm sorry, I can't help you any
4 better -- any more than that.

5 16686 MR. BATTISTA: You say that you don't
6 recall who asked you. I am going to suggest -- was it
7 Mr. Mulroney himself who asked you, or was it someone
8 like Mr. Fred Doucet who asked you?

9 16687 Do you know?

10 16688 Do either of those names -- Mr.
11 Mulroney, obviously, you were working for him. Mr.
12 Fred Doucet --

13 16689 MR. P. SMITH: I don't think that the
14 Prime Minister would have asked me. That doesn't sound
15 logical to me.

16 16690 Who would have asked me?

17 16691 Now we are getting into the area of
18 speculation. Could it have been Mr. Doucet? Perhaps.

19 16692 MR. BATTISTA: Did you know Mr.
20 Doucet at the time?

21 16693 MR. P. SMITH: I did.

22 16694 MR. BATTISTA: Did you know the type
23 of relationship he had with Mr. Mulroney at the time?

24 16695 MR. P. SMITH: I know that it's a
25 long friendship, going back to university days.

1 16696 MR. BATTISTA: Did they meet
2 regularly when Mr. Mulroney was Prime Minister?

3 16697 MR. P. SMITH: I mean, yes and no. I
4 mean, they are friends, so they talk and they meet
5 and --

6 16698 I didn't see it as a formal type of
7 relationship. These are friendships that go back
8 decades.

9 16699 MR. BATTISTA: You were there for a
10 period of approximately three years.

11 16700 Is that fair to say?

12 16701 Or two years -- two full years -- `91
13 to `92 and `92 to `93.

14 16702 MR. P. SMITH: `93, yeah.

15 16703 MR. BATTISTA: In that period of
16 time, did you see Mr. Doucet frequently visit, or pay a
17 visit, or stop over and speak to Mr. Mulroney?

18 16704 MR. P. SMITH: Yeah, I believe when
19 we started out on this type of questioning -- no, sir,
20 I don't remember him popping by the office every other
21 day, or frequently to use your term.

22 16705 MR. BATTISTA: Okay. But you did
23 know who he was.

24 16706 MR. P. SMITH: Sure.

25 16707 MR. BATTISTA: And you knew that he

1 was a close personal friend of Mr. Mulroney?

2 16708 MR. P. SMITH: Absolutely.

3 16709 MR. BATTISTA: And that their

4 friendship went back a long way?

5 16710 MR. P. SMITH: I did, yeah.

6 16711 MR. BATTISTA: Did you know what type

7 of work Mr. Doucet was involved in?

8 16712 MR. P. SMITH: Yes.

9 16713 MR. BATTISTA: What type of work was

10 it?

11 16714 MR. P. SMITH: I believe government

12 relations.

13 16715 MR. BATTISTA: And was it your

14 knowledge that he was lobbying on behalf of certain

15 industries or certain companies?

16 16716 MR. P. SMITH: No, sir.

17 16717 MR. BATTISTA: Do you remember what

18 type of vehicle you were using when you --

19 16718 MR. P. SMITH: On the 23rd of June?

20 16719 MR. BATTISTA: Yes.

21 16720 MR. P. SMITH: A second-hand Jeep.

22 16721 MR. BATTISTA: A second-hand Jeep.

23 16722 What type was it?

24 16723 MR. P. SMITH: It was either my

25 second-hand Suzuki Samurai or my second-hand Jimmy.

1 16724 The vernacular is that they call
2 these vehicles Jeeps.

3 16725 MR. BATTISTA: You use the term
4 "Jeep" as opposed to "SUV". Is there a reason for
5 that?

6 16726 MR. P. SMITH: I am of the generation
7 that still calls them Jeeps.

8 16727 MR. BATTISTA: Okay. Since you have
9 spoken to Mr. Roitenberg about this, were you able to
10 check your records to determine what type of vehicle
11 you were in fact the owner of at that time?

12 16728 MR. P. SMITH: Believe me, I have
13 tried. I understand that it is important to this
14 Commission. I have tried looking. I have spoken to
15 the dealership, I have looked at my files -- 16 years
16 ago.

17 16729 MR. BATTISTA: So what you recall is
18 that you had either a Suzuki Samurai or a GMC Jimmy.

19 16730 Is that it?

20 16731 MR. P. SMITH: Yes, sir.

21 16732 The Samurai was blue, the Jimmy was
22 black.

23 16733 MR. BATTISTA: Okay. When you drove
24 him to Harrington Lake -- the agenda here indicates 11
25 o'clock. What did you do when you got there with Mr.

1 Schreiber, do you recall?

2 16734 MR. P. SMITH: I don't recall, but I
3 can tell you what typically would occur. I would stand
4 away and stay near to a phone, and be available if
5 folks were looking for us or for the Prime Minister.

6 16735 MR. BATTISTA: What we see here on
7 the agenda is that there was an 11 o'clock meeting, and
8 then the next one was at 2:30.

9 16736 MR. P. SMITH: Yes. I read that as
10 "two", sir, but -- two o'clock --

11 16737 MR. BATTISTA: Two o'clock. Sorry,
12 yes, that's my mistake.

13 16738 Between 11 and two o'clock, is it
14 fair to assume that that was the duration of the
15 meeting, or was it shorter than that?

16 16739 MR. P. SMITH: Well, it certainly
17 wasn't a three-hour meeting, if that's your question.

18 16740 I can't recall how long it lasted,
19 but certainly not for that entire span.

20 16741 MR. BATTISTA: Now, how would Mr.
21 Schreiber have left Harrington Lake?

22 16742 MR. P. SMITH: That, too, is a
23 subject of conversation. I have no idea.

24 16743 I am fairly confident -- and I don't
25 pretend to be absolutely certain, but I am fairly

1 confident that I did not drive him out.

2 16744 So how would he have left? By other
3 motorized vehicles. Whether it was a taxi or another
4 car, I don't know, but I am fairly confident that it
5 wasn't me.

6 16745 MR. BATTISTA: What you would know
7 from your agenda, if we go on the basis of your
8 experience, is that at two o'clock you would certainly
9 have been at Harrington Lake, to make sure that Mr.
10 Mulroney was ready for his meeting or --

11 16746 MR. P. SMITH: Yeah. I mean, David
12 McLaughlin was his then chief of staff. The formality
13 of it is far less than, say, a complete outsider, but,
14 still, it is my job to ensure that things unfold the
15 way they are supposed to. So it would have been in my
16 routine to have been there.

17 16747 MR. BATTISTA: How did people
18 normally come to Harrington Lake?

19 16748 Did they get there on their own
20 means, were they escorted? What was the practice when
21 you were there?

22 16749 MR. P. SMITH: Well, I drove in. I
23 had my own vehicle and I would drive through the gates.
24 Other people -- I think that other people may have
25 arrived by taxi, or have taken their own vehicles.

1 16750 It's somewhat secluded, as you know.

2 16751 MR. BATTISTA: And in the case of Mr.

3 Schreiber, you have absolutely no recollection

4 whatsoever of how he left the premises.

5 16752 MR. P. SMITH: No, sir.

6 16753 MR. BATTISTA: Is it possible that

7 Mr. Schreiber would have left Harrington Lake with the

8 Prime Minister's chauffeured limousine?

9 16754 MR. P. SMITH: No, I think that to be

10 virtually impossible. The Mounties -- because it's not

11 in the Mounties' job description. They are there to

12 guard the Prime Minister and to have the vehicle there,

13 at the ready, were an emergency to occur.

14 16755 I think that would be a severe breach

15 of protocol, quite frankly.

16 16756 MR. BATTISTA: And there was no other

17 means of transportation that was available for the

18 Prime Minister for a guest that would be on the

19 premises, as far as you know?

20 16757 MR. P. SMITH: No, sir.

21 16758 MR. BATTISTA: I know that this is

22 maybe asking you to speculate, but I am asking you to

23 take -- not to speculate, but to think this through and

24 to tell us how -- from your experience, how Mr.

25 Schreiber could have left the Harrington Lake premises.

1 16759 If you drove him there and you didn't
2 drive him back, and the Prime Minister didn't have him
3 escorted out, how did he leave?

4 16760 MR. P. SMITH: The realm of
5 possibility, as it were, would be to call a taxi --

6 16761 MR. BATTISTA: Did that happen
7 frequently, to your knowledge and in your experience?

8 16762 MR. P. SMITH: It's not as if we
9 received a pile of people out there, as I mentioned. I
10 remember that the messenger would leave Centre Block
11 and deliver stuff by taxi, so that's an image in my
12 mind.

13 16763 How David MacLaughlin got there that
14 day -- I assume he got there in his own car.

15 16764 MR. BATTISTA: So other than a taxi,
16 there is not much --

17 16765 MR. P. SMITH: Maybe a staffer going
18 into town, but those are the only --

19 16766 MR. BATTISTA: Okay. Did you ever
20 discuss this particular matter with Mr. Mulroney?

21 16767 MR. P. SMITH: The day's event?

22 16768 MR. BATTISTA: Yes.

23 16769 MR. P. SMITH: Yes, sir.

24 16770 MR. BATTISTA: Can we know when?

25 16771 MR. P. SMITH: It was in preparation

1 for his testimony before the parliamentary committee.

2 16772 MR. BATTISTA: And did it ever occur
3 to you to, maybe, come forward and say, you know,
4 "Maybe I can offer testimony," or was that ever an
5 offer that was posed to you?

6 16773 MR. P. SMITH: It wasn't asked of me;
7 I would certainly have volunteered.

8 16774 MR. BATTISTA: You would have
9 volunteered?

10 16775 MR. P. SMITH: Well, I mean, I would
11 have -- if called upon, I would have -- I would have
12 presented myself.

13 16776 MR. BATTISTA: It is fair to say,
14 though, that you never, on your own, took the
15 initiative of offering to testify --

16 16777 MR. P. SMITH: No.

17 16778 MR. BATTISTA: -- or to meet with
18 anybody on this matter.

19 16779 MR. P. SMITH: No, sir.

20 16780 MR. BATTISTA: If I could just have a
21 second, Commissioner.

22 --- Pause

23 16781 MR. BATTISTA: Maybe just a follow-up
24 question on the issue of the discussion with Mr.
25 Mulroney on this matter.

1 16782 When you spoke to Mr. Mulroney, what
2 exactly did you talk about?

3 16783 MR. P. SMITH: What did we talk
4 about?

5 16784 Probably, I would have produced this
6 agenda. I sent it down.

7 16785 And I think -- I don't know how -- I
8 think he asked me what I remembered of that day, and
9 that's when I said that I remembered quite clearly
10 having driven Mr. Schreiber to the lake.

11 16786 MR. BATTISTA: Did the issue of what
12 that meeting was about ever come up?

13 16787 MR. P. SMITH: With Mr. Mulroney?

14 16788 MR. BATTISTA: Yeah.

15 16789 MR. P. SMITH: Well, he did ask me if
16 I had staffed the meeting or attended it, to which I
17 replied no. So that kind of left it at that, as to
18 what was discussed during the meeting.

19 16790 MR. BATTISTA: And you never
20 discussed it with him on that day, I presume?

21 16791 MR. P. SMITH: No, sir.

22 16792 MR. BATTISTA: When Mr. Mulroney
23 would be receiving a guest, for example, as happened
24 here, there would be a plan --

25 16793 I know that this is a revised agenda,

1 but I presume that on the 23rd of June -- the daytimer
2 that you had indicated that Mr. Schreiber was to be
3 there.

4 16794 MR. P. SMITH: Correct.

5 16795 MR. BATTISTA: Would you have
6 discussions with the Prime Minister, then, to know what
7 the meeting was about?

8 16796 MR. P. SMITH: No, sir. Our
9 relationship was somewhat formal. I didn't ask
10 questions, I did things when asked.

11 16797 MR. BATTISTA: Okay. And since that
12 time, since this has become an issue -- whether you
13 drove him or not, and what happened on the 23rd of
14 June -- have you discussed with him what the purpose of
15 that meeting was or what the content of that meeting
16 was?

17 16798 MR. P. SMITH: No, sir.

18 16799 MR. BATTISTA: Okay. Those are my
19 questions, Commissioner.

20 16800 COMMISSIONER OLIPHANT: Thank you,
21 Mr. Battista.

22 16801 Mr. Hughes...?

23 EXAMINATION: PAUL SMITH BY MR. HUGHES /

24 INTERROGATOIRE: PAUL SMITH PAR Me HUGHES

25 16802 MR. HUGHES: Thank you, Commissioner,

1 I just have a couple of quick questions.

2 16803 Mr. Smith, Mr. Schreiber testified
3 last week that he received an autographed picture of
4 the Prime Minister. Could you tell us, in your time
5 with the Prime Minister's Office, how often the Prime
6 Minister would sign -- autograph pictures?

7 16804 MR. P. SMITH: How often he would
8 sign them? Frequently.

9 16805 MR. HUGHES: Could you say
10 approximately how many he would have signed in your
11 time with him?

12 16806 MR. P. SMITH: In my time, thousands.

13 16807 MR. HUGHES: Thousands. And, of
14 those, could you say how many would have -- again, an
15 estimate -- how many would have expressed gratitude,
16 thanks or appreciation to the recipient?

17 16808 MR. P. SMITH: Frequently.

18 16809 MR. HUGHES: Hundreds, thousands...?

19 16810 MR. P. SMITH: Well -- yes, sir,
20 thousands, hundreds.

21 16811 MR. HUGHES: Thank you.

22 16812 Those are my questions, Commissioner.

23 16813 COMMISSIONER OLIPHANT: Okay. Mr.
24 Vickery, any questions?

25 16814 MR. VICKERY: No, no questions.

1 Thank you.

2 16815 COMMISSIONER OLIPHANT: Mr. Houston?

3 16816 MR. HOUSTON: No, sir, thank you.

4 16817 COMMISSIONER OLIPHANT: Mr. Auger?

5 16818 MR. AUGER: Yes, Commissioner.

6 16819 COMMISSIONER OLIPHANT: Okay. Mr.

7 Auger represents Mr. Schreiber, Mr. Smith.

8 EXAMINATION: PAUL SMITH BY MR. AUGER /

9 INTERROGATOIRE: PAUL SMITH PAR Me AUGER

10 16820 MR. AUGER: Thank you, Commissioner.

11 16821 As I appreciate your evidence, I have

12 the clear impression that you are being quite candid,

13 and you have admitted to the Commission that you are

14 really relying on your memory. You don't have any

15 notes, obviously, of these events, other than P-20,

16 which has been entered as an exhibit.

17 16822 Is that fair?

18 16823 MR. P. SMITH: Yes, sir.

19 16824 MR. AUGER: In fact, you corrected

20 Mr. Battista and indicated that even P-20 isn't your

21 own recording.

22 16825 MR. P. SMITH: Correct.

23 16826 MR. AUGER: So what we are left with,

24 then, are no recordings by you of any sort to assist

25 you to testify today.

1 16827 Correct?

2 16828 MR. P. SMITH: Formal recordings,
3 sir?

4 16829 Is that your question?

5 16830 MR. AUGER: Formal or informal. Do
6 you have any -- did you make any notes about --

7 16831 MR. P. SMITH: Did I make notes? No,
8 sir.

9 16832 MR. AUGER: So really what we are
10 left with is your independent recollection.

11 16833 MR. P. SMITH: Yes, sir.

12 16834 MR. AUGER: And, obviously, you tried
13 your best today in answering all of the questions from
14 your memory.

15 16835 Correct?

16 16836 MR. P. SMITH: Yes, sir.

17 16837 MR. AUGER: And you were quite
18 candid, I think, as well, in your evidence in saying
19 that you were 26 at the time and these were fast and --
20 words to the effect that these were fast and long days.

21 16838 Is that fair?

22 16839 MR. P. SMITH: It is fair.
23 Twenty-six -- in '93 I was already 29.

24 16840 MR. AUGER: The first time that you
25 had a chance to think about the Harrington Lake meeting

1 was in 2008, when Mr. Mulroney was preparing for the
2 Ethics Committee.

3 16841 MR. P. SMITH: I'm not sure that's
4 accurate. This stuff has been in the newspaper for
5 many moons.

6 16842 It seems to me prior to that, but
7 that's --

8 16843 I do recall having driven Mr.
9 Schreiber up, so it wouldn't have been the first time
10 that I would have thought about it, but it has come to
11 the fore.

12 16844 It came to the fore before the
13 parliamentary committee.

14 16845 MR. AUGER: Can you give the
15 Commissioner a sense of the first time that you
16 remembered back to the Harrington Lake event?

17 16846 MR. P. SMITH: No, sir.

18 16847 MR. AUGER: You would have no reason
19 to think back to that event. There was nothing notable
20 in your mind.

21 16848 MR. P. SMITH: Only, as I say, this
22 has been a subject of public debate for more than a
23 year and a half. It has been a subject of debate
24 for -- going on 10, 12 years. So I do remember, as I
25 say, that event.

1 16849 MR. AUGER: The Harrington Lake
2 event, in particular? Your information --

3 16850 MR. P. SMITH: Strictly --

4 16851 MR. AUGER: I'm sorry.

5 16852 MR. P. SMITH: Strictly, sir.

6 16853 You mentioned the Harrington Lake
7 event in particular. I say strictly.

8 16854 MR. AUGER: And it's your evidence
9 that the Harrington Lake meeting was in the public
10 domain for 10 years prior to the 2008 Ethics Committee
11 proceedings?

12 16855 That's your evidence?

13 16856 MR. P. SMITH: I think it's in
14 Mr. Kaplan's book dated 2004. I think.

15 16857 MR. AUGER: Again, I don't want you
16 to think or guess.

17 16858 MR. P. SMITH: Yes, okay.

18 16859 MR. AUGER: If you don't know, you
19 don't know and that's fair.

20 16860 MR. P. SMITH: Okay.

21 16861 MR. AUGER: You told the Commissioner
22 that you did speak to Mr. Mulroney when he was
23 preparing for the Ethics Committee. Did I understand
24 that correctly?

25 16862 MR. P. SMITH: Yes, sir, you did.

1 16863 MR. AUGER: And did he ask you or
2 indicate to you that it was a Jeep that Mr. Schreiber
3 was riding in?
4 16864 MR. P. SMITH: No, sir, I indicated
5 to him.
6 16865 MR. AUGER: And that was before he
7 testified at the Ethics Committee is your recollection?
8 16866 MR. P. SMITH: Yes.
9 16867 MR. AUGER: So your impression of
10 that exchange with Mr. Mulroney was that he didn't have
11 any knowledge of the vehicle or the route or how
12 Mr. Schreiber arrived or left Harrington Lake?
13 16868 Is that --
14 16869 MR. P. SMITH: I don't know what his
15 impression was, but I remember volunteering the
16 information.
17 16870 MR. AUGER: You told the Commissioner
18 today that you picked up Mr. Schreiber in Ottawa and
19 that's the best you could do. Correct?
20 16871 MR. P. SMITH: Yes, sir.
21 16872 MR. AUGER: You can't tell the
22 Commissioner what part of Ottawa?
23 16873 MR. P. SMITH: No, sir.
24 16874 MR. AUGER: And are you able to tell
25 the Commissioner how long the drive was from Ottawa to

1 Harrington Lake?

2 16875 MR. P. SMITH: Typically about 40
3 minutes.

4 16876 MR. AUGER: Are you able to tell the
5 Commissioner what route you took?

6 16877 MR. P. SMITH: Well, you would go
7 over I believe the McDonald Cartier Bridge onto No. 5
8 and work your way up into the Gatineaus.

9 16878 MR. AUGER: Are you able to tell the
10 Commissioner whether you picked up Mr. Schreiber at an
11 apartment building or a condo complex or a house or the
12 nature of the area?

13 16879 MR. P. SMITH: No, sir.

14 16880 MR. AUGER: You told the Commissioner
15 that you wouldn't be able to say under oath who asked
16 you to pick up Mr. Schreiber?

17 16881 MR. P. SMITH: Yes, sir.

18 16882 MR. AUGER: So I take it by extension
19 you are not able to tell us what was said or the nature
20 of that request?

21 16883 MR. P. SMITH: As to arranging the
22 meeting or to picking him up?

23 16884 MR. AUGER: Travel arrangements.
24 What was said in terms of the travel arrangements?

25 16885 MR. P. SMITH: No, sir.

1 16886 MR. AUGER: No recollection
2 whatsoever.

3 16887 MR. P. SMITH: As I say, the only
4 thing I remember in my mind's eye is having the
5 gentleman in my Jeep.

6 16888 MR. AUGER: Right. You were quite
7 candid in that and you told the Commissioner that there
8 was something you remember in your mind's eye was a
9 business card.

10 16889 MR. P. SMITH: Yes, sir.

11 16890 MR. AUGER: And I think there was
12 something also in your mind's eye about you discussing
13 your MBA studies.

14 16891 Is that right?

15 16892 MR. P. SMITH: Absolutely.

16 16893 MR. AUGER: Other than that, you have
17 no other recollection of being in the vehicle with
18 Mr. Schreiber. Correct?

19 16894 MR. P. SMITH: I suppose, yeah.

20 16895 MR. AUGER: And I take it you are not
21 able to tell the Commissioner how far in advance of
22 June 23rd you were requested to transport
23 Mr. Schreiber?

24 16896 MR. P. SMITH: Well, we discussed it.
25 It would be logical to me that this would have been

1 arranged a few days ahead of time, but certainly not
2 much longer than that.

3 16897 MR. AUGER: But again, that's based
4 on your practice or routine --

5 16898 MR. P. SMITH: Correct.

6 16899 MR. AUGER: -- at the time in you
7 job. Right?

8 16900 MR. P. SMITH: Correct.

9 16901 MR. AUGER: You don't have an
10 independent recollection of when you were asked?

11 16902 MR. P. SMITH: No, sir.

12 16903 MR. AUGER: I take it you are not
13 able to tell the Commissioner whether you travelled
14 from your own home or whether you were at Harrington
15 Lake early in the morning already?

16 16904 MR. P. SMITH: Oh no, I was not at
17 Harrington already. So I would have left from my home
18 or from the office, if I had gone to Centre Block
19 beforehand.

20 16905 MR. AUGER: And you testified to the
21 effect that it was your routine to remain at Harrington
22 Lake until the end of the business day.

23 16906 Is that my understanding?

24 16907 MR. P. SMITH: To stay with the Prime
25 Minister until the end of his working day and then

1 afterwards.

2 16908 So that is what would have occurred
3 on that day, I believe.

4 16909 MR. AUGER: Again, that is based on
5 your general routine and practice at the time.

6 16910 MR. P. SMITH: Right. Correct.

7 16911 MR. AUGER: Not an independent
8 recollection of June 23rd specifically?

9 16912 MR. P. SMITH: No, sir.

10 16913 MR. AUGER: But obviously, again as a
11 matter of practice, if Mr. Mulroney asked you or made a
12 special request of you, you would comply with that
13 request?

14 16914 MR. P. SMITH: To the extent of my
15 ability.

16 16915 MR. AUGER: Are you able to tell the
17 Commissioner what time you say you picked up
18 Mr. Schreiber?

19 16916 MR. P. SMITH: No, sir. I simply
20 have this aide memoir which has 11 o'clock, if that's
21 the meeting. Therefore, I would have picked him up
22 with sufficient time to get there on time. So you can
23 count backwards from 11:00, allowing time for the
24 drive.

25 16917 MR. AUGER: You are referring to

1 Exhibit P-20.

2 16918 MR. P. SMITH: I am.

3 16919 MR. AUGER: And really you are

4 piecing together the fact that P-20 says 11 o'clock

5 private meeting.

6 16920 MR. P. SMITH: Correct.

7 16921 MR. AUGER: You have no notes and no

8 independent recollection of when you picked up

9 Mr. Schreiber?

10 16922 MR. P. SMITH: No, sir.

11 16923 MR. AUGER: This was a unique event

12 that Mr. Schreiber was at Harrington Lake. Correct?

13 16924 MR. P. SMITH: Given -- yes, sir, I

14 believe it was.

15 16925 MR. AUGER: I think you had even said

16 earlier in your evidence that it was either the first

17 time or very unusual that there would be a meeting with

18 Mr. Mulroney at Harrington Lake of this nature?

19 16926 MR. P. SMITH: Look at the schedule,

20 sir. Multiple meetings occurred during those days.

21 16927 So if I mislead you into thinking

22 this was unique, I may have misspoken. There are a lot

23 of things going on here.

24 16928 MR. AUGER: And what was particular

25 about this is that it was a private meeting.

1 16929 MR. P. SMITH: Yes.

2 16930 MR. AUGER: And as I understand P-20,
3 there are a number of names.

4 16931 And let's just focus on June 23rd.

5 16932 MR. P. SMITH: Yes.

6 16933 MR. AUGER: We don't have to get into
7 all of the names, but there are a number of individuals
8 that are actually named on the agenda. Right?

9 16934 MR. P. SMITH: Yes, sir.

10 16935 MR. AUGER: And we don't have to go
11 through all of them, but that is true actually for the
12 entire month of June 1993; that there are a number of
13 names disclosed on P-20?

14 16936 MR. P. SMITH: Yes, sir.

15 16937 MR. AUGER: And a quick glance at
16 them, we don't need to count them, but in the range of
17 20 to 30 names associated with meetings in June of
18 1993?

19 16938 MR. P. SMITH: Correct.

20 16939 MR. AUGER: And three or four entries
21 of private meetings, one of which we now know through
22 you is Mr. Schreiber?

23 16940 MR. P. SMITH: Yes, sir.

24 16941 MR. AUGER: Harrington Lake was a
25 quiet, private country property?

1 16942 MR. P. SMITH: Yes, sir, belonging to
2 the Crown.

3 16943 MR. AUGER: And you recall seeing
4 Mr. Schreiber on the property with Mr. Mulroney on June
5 23rd?

6 16944 MR. P. SMITH: No, sir, not on June
7 23rd. I remember bringing him there. It's with the
8 aide memoir that I assume it occurs at 11 a.m.

9 16945 MR. AUGER: So you don't even have an
10 independent recollection of seeing Mr. Schreiber on the
11 property on June 23rd?

12 16946 MR. P. SMITH: No, sir.

13 16947 MR. AUGER: Can you tell us whether
14 or not between 11 a.m. on June 23rd and 1:30 there was
15 anyone else on the property other than Mr. Mulroney and
16 Mr. Schreiber?

17 16948 MR. P. SMITH: Well, there is his
18 family and there are Mounties.

19 16949 MR. AUGER: Do you remember that?

20 16950 MR. P. SMITH: There was staff.
21 Absolutely. I mean, I remember it. These are normal
22 occurrences. These are normal events.

23 16951 So where do we span here in terms of
24 there are things that I am absolutely certain of and
25 there are things that I have completely forgotten.

1 16952 It's logical for me that if
2 Mr. Mulroney is at Harrington Lake, there is staff with
3 him and the family is with him.

4 16953 MR. AUGER: And you remember that for
5 June 23rd, that Mr. Mulroney's family was with him at
6 Harrington Lake?

7 16954 I think your word was absolutely.

8 16955 MR. P. SMITH: Yeah. I look at the
9 day's event. It's logical to me that that would be the
10 case. How about that?

11 16956 MR. AUGER: In terms of routine or
12 your independent recollection which you have told the
13 Commissioner you are absolutely sure of?

14 16957 MR. P. SMITH: I believe in the
15 routine, in terms of routine.

16 16958 MR. AUGER: So you are not absolutely
17 sure that Mr. Mulroney's family was there on June 23rd?

18 16959 MR. P. SMITH: That's correct. It
19 would be unusual if they weren't there, but you are
20 correct.

21 16960 MR. AUGER: Mr. Mulroney was to no
22 longer be Prime Minister effective June 25th, two days
23 later. Correct?

24 16961 MR. P. SMITH: Correct.

25 16962 MR. AUGER: I take it you can't tell

1 the Commissioner any reason why the June 23rd meeting
2 with Mr. Schreiber was a private meeting?

3 16963 MR. P. SMITH: I cannot.

4 16964 MR. AUGER: Thank you, Commissioner.

5 Those are my questions.

6 16965 COMMISSIONER OLIPHANT: Mr.

7 Battista...?

8 16966 MR. BATTISTA: May I maybe have one

9 minute? I just want to consult with counsel.

10 --- Pause

11 16967 MR. BATTISTA: Mr. Commissioner, I

12 have no re-examination for this witness.

13 16968 COMMISSIONER OLIPHANT: Okay. I have

14 one question I want to ask you, if I could.

15 16969 Let me tell you, unlike some others

16 in the room, I don't expect you to remember things that

17 happened 16 years ago. Okay?

18 16970 MR. P. SMITH: Thank you, sir.

19 Manitobans do that to each other.

20 16971 COMMISSIONER OLIPHANT: Let me just

21 ask you this. I know that some of your answers today

22 are based on what would normally occur in the course of

23 your serving the Prime Minister as EA.

24 16972 MR. P. SMITH: Yes, sir.

25 16973 COMMISSIONER OLIPHANT: Was it ever

1 the case during your tenure in that position that you
2 drove the Prime Minister's limousine?

3 16974 MR. P. SMITH: No, sir.

4 16975 COMMISSIONER OLIPHANT: Okay.

5 Thanks.

6 16976 MR. P. SMITH: That was a job for the
7 Mounties.

8 16977 COMMISSIONER OLIPHANT: That was left
9 to the RCMP?

10 16978 MR. P. SMITH: Yes, sir.

11 16979 COMMISSIONER OLIPHANT: Okay. Any
12 questions arising out of that question?

13 16980 Mr. Smith, thank you very much for
14 coming. I appreciate your assistance.

15 16981 MR. P. SMITH: Thank you,
16 Commissioner.

17 16982 COMMISSIONER OLIPHANT: You are free
18 to leave.

19 16983 Mr. Battista...?

20 16984 MR. BATTISTA: The next witness is
21 Mr. Harry Swain. I would ask him to step forward.

22 16985 COMMISSIONER OLIPHANT: Good
23 afternoon, Mr. Swain. You are a very patient man.

24 AFFIRMED: HARRY SWAIN /
25 DÉCLARATION SOLENNELLE / HARRY SWAIN

1 16986 COMMISSIONER OLIPHANT: Mr. Battista,
2 I know that there are some concerns about Mr. Swain
3 remaining, but can you perhaps enlighten me as to how
4 long you expect to go today?

5 16987 MR. BATTISTA: Well, I thought we
6 would start. I have verified with Mr. Vickery, who has
7 spoken to Mr. Swain. We would try to do as much as we
8 can today and if we are not done by, say, 5 o'clock,
9 then Mr. Swain will be back tomorrow morning.

10 16988 COMMISSIONER OLIPHANT: All right.

11 16989 I know that's not very convenient for
12 you, Mr. Swain, but you are prepared to stay over?

13 16990 MR. SWAIN: Yes, sir.

14 16991 COMMISSIONER OLIPHANT: All right. I
15 understand that you are anxious to get back to Victoria
16 where you might go sailing.

17 16992 MR. SWAIN: Yes, sir.

18 16993 COMMISSIONER OLIPHANT: I would like
19 to come with you, but I can't.

20 16994 Mr. Battista, go ahead.

21 EXAMINATION: HARRY SWAIN BY MR. BATTISTA /
22 INTERROGATOIRE : HARRY SWAIN PAR Me BATTISTA

23 16995 MR. BATTISTA: So, Mr. Swain, good
24 afternoon and thank you for your patience.

25 16996 I would like to start maybe by just

1 tell us what your present occupation is and maybe then
2 your background.

3 16997 So what is your occupation right now?

4 16998 MR. SWAIN: Mr. Battista, I'm having
5 a little trouble hearing you --

6 16999 MR. BATTISTA: Yes, I'm sorry.

7 17000 MR. SWAIN: -- but I think you
8 said --

9 17001 MR. BATTISTA: Yes, I'm sorry. So
10 I'm going to ask you a bit about your background. Can
11 you tell us what your present occupation is?

12 17002 MR. SWAIN: I am presently retired.

13 17003 By way of background, I was an
14 academic and a civil servant and after that a banker
15 and a consultant.

16 17004 MR. BATTISTA: Okay. So you are
17 presently retired?

18 17005 MR. SWAIN: Yes, sir.

19 17006 MR. BATTISTA: You were in government
20 and that is what is of concern for us. In 1985 you
21 were Assistant Deputy Minister in the Department of
22 Regional and Industrial Expansion?

23 17007 MR. SWAIN: Yes, sir.

24 17008 MR. BATTISTA: That was known as
25 DRIE. Is that correct?

- 1 17009 MR. SWAIN: DRIE at the time.
- 2 17010 MR. BATTISTA: Yes, DRIE. In March
3 of that year, that is 1985, you became Assistant
4 Secretary of the Privy Council Office?
- 5 17011 MR. SWAIN: Yes.
- 6 17012 MR. BATTISTA: When you were at the
7 PCO, did you work with Mr. Tellier?
- 8 17013 MR. SWAIN: Yes.
- 9 17014 MR. BATTISTA: Can you explain what
10 the Assistant Secretary of the Privy Council does?
- 11 17015 MR. SWAIN: At the time there were
12 four principal Assistant Secretaries at the Cabinet.
13 My job was economic and regional development.
- 14 17016 The job involves making sure that
15 materials that are prepared for Cabinet consideration
16 are adequate, attending the relevant Cabinet committee
17 meetings, taking notes, preparing decisions.
- 18 17017 MR. BATTISTA: I take it that you
19 were working with Mr. Tellier. You said there were
20 four assistants like yourself. So you were responsible
21 for economic development?
- 22 17018 MR. SWAIN: Yes.
- 23 17019 MR. BATTISTA: The others who were
24 there during your tenure were who?
- 25 17020 MR. SWAIN: Bob Fowler was Foreign

1 Affairs and Defence; Ray Protti was Social Policy;
2 David Broadbent was Operations.

3 17021 MR. BATTISTA: In 1987 you became
4 Deputy Minister of Indian Affairs and you held this
5 position for five years?

6 17022 MR. SWAIN: Yes.

7 17023 MR. BATTISTA: So during those years
8 you had no involvement whatsoever with the Bear Head
9 Project and nothing of that sort came to your
10 attention?

11 17024 MR. SWAIN: None.

12 17025 MR. BATTISTA: That's correct?

13 17026 In the fall of 1992 you became Deputy
14 Minister of Industry and you held this position until
15 November of 1995?

16 17027 MR. SWAIN: Yes.

17 17028 MR. BATTISTA: At that time you had
18 involvement in the Bear Head Project, as it came to be
19 known under the last years of the Conservative
20 government and under the new Liberal government.

21 17029 MR. SWAIN: Yes.

22 17030 MR. BATTISTA: Is that correct?

23 17031 So if we can sort of recapitulate
24 your involvement in the Bear Head Project, you were
25 present in the civil service at the very inception of

1 the project, the first years, and you were there during
2 the last years when the project came to an end?

3 17032 MR. SWAIN: Correct.

4 17033 MR. BATTISTA: Okay. So I'm going to
5 take you through the documents.

6 17034 I am going to ask you to go to Tab 2.

7 17035 MR. SWAIN: Tab 2?

8 17036 MR. BATTISTA: Tab 2. We will come
9 back to Tab 1 eventually. You will note that Tab 1 is
10 a document that is not dated, and I will come back and
11 I will suggest to you when that document may have been
12 written.

13 17037 But at Tab 2 --

14 17038 COMMISSIONER OLIPHANT: Mr. Battista,
15 just before you go on, I don't think this has been
16 entered as an exhibit yet.

17 17039 MR. BATTISTA: I'm sorry, I'm sorry.

18 17040 So I'm going to enter it as Exhibit
19 P-21. So it is a book of documents containing 17 tabs.

20 17041 Thank you, Commissioner.

21 17042 COMMISSIONER OLIPHANT: By consent,
22 counsel? Thank you.

23 EXHIBIT NO. P-21: Book of
24 documents containing 17 tabs
25 pertaining to Harry Swain's

1 evidence

2 17043 MR. BATTISTA: So if we go to Tab 2,
3 we see it is a memorandum from Mr. Tellier, dated
4 February 5, 1986.

5 17044 That is correct?

6 17045 MR. SWAIN: Yes.

7 17046 MR. BATTISTA: And we see "RRF". I
8 presume that means it is Mr. Fowler who drafted this?

9 17047 MR. SWAIN: Robert R. Fowler.

10 17048 MR. BATTISTA: And you are cc'd on
11 the document.

12 17049 MR. SWAIN: Correct.

13 17050 MR. BATTISTA: And we see this
14 document has an appendix to it, and it's memorandum for
15 the Prime Minister which carries Mr. Tellier's name.

16 17051 It accompanies this memorandum for
17 Mr. Tellier; right?

18 17052 MR. SWAIN: Yes.

19 17053 MR. BATTISTA: What I understand is
20 that these documents, they were drafts that were
21 prepared and this memorandum from Mr. Tellier told him
22 what the memo he was sending to the Prime Minister
23 would contain.

24 17054 Is that fair?

25 17055 MR. SWAIN: Yes.

1 17056 MR. BATTISTA: So that document was
2 prepared for Mr. Tellier.

3 17057 Is that right?

4 17058 MR. SWAIN: Yes.

5 17059 MR. BATTISTA: And you would have had
6 a hand or you would have participated probably in its
7 elaboration or at least in the ideas that form part of
8 the document? Yes?

9 17060 MR. SWAIN: Yes.

10 17061 MR. BATTISTA: So I will draw your
11 attention to the second sentence in the second
12 paragraph. You indicate here:

13 "As you are aware the proposal
14 calls for construction of a
15 plant in Cape Breton by a major
16 German manufacturing concern to
17 produce military vehicles,
18 including light tanks for sale
19 in the Middle East and perhaps
20 elsewhere." (As read)

21 17062 I take it that your understanding at
22 that time in 1986 was that Thyssen's proposal was to
23 set up a plant in Canada and its main export market or
24 its main objective was the Middle East countries.

25 17063 Is that correct?

1 17064 MR. SWAIN: Yes.

2 17065 MR. BATTISTA: If I take you to the
3 third paragraph, the middle of the line, you are
4 specifically referred to and it indicates:
5 "Harry Swain thinks the economic
6 risks outweigh any possible
7 advantages." (As read)

8 17066 And we are talking about the Thyssen
9 proposal. Can you elaborate on that?

10 17067 MR. SWAIN: We felt that the proposal
11 put all of the risks on the government and none on the
12 proponent; that we would be in a position of
13 subsidizing a competitor to an established Canadian
14 firm; that the business plan and sales plan were
15 seriously incomplete.

16 17068 The idea that the sales would depend
17 on a non-existent Canadian military requirement and
18 sales to markets we had deliberately eschewed in the
19 past on sound political grounds rendered it a
20 nonstarter.

21 17069 MR. BATTISTA: Okay. I will take you
22 through the document. At the time there was I
23 understand support in Cabinet for this proposal, or for
24 the project to be initiated in that region.

25 17070 MR. SWAIN: Yes.

1 17071 MR. BATTISTA: Is that fair?

2 17072 MR. SWAIN: Yes.

3 17073 MR. BATTISTA: And what were the
4 reasons for that? What were the arguments in favour of
5 the proposal?

6 17074 MR. SWAIN: Regional development.
7 Ministers from eastern Canada were very interested in
8 it. Mr. Stevens, who was the Chairman of the Cabinet
9 Committee on Economic Development, had taken a
10 particular interest in Cape Breton, would like to have
11 seen something happen there. And there were people in
12 the Prime Minister's office who were interested in it.

13 17075 The only one I recall talking to at
14 the time was Charlie McMillan.

15 17076 MR. BATTISTA: Okay. Mr. MacKay from
16 Nova Scotia, was he also --

17 17077 MR. SWAIN: Yes.

18 17078 MR. BATTISTA: -- an active promoter?

19 17079 Now I will refer you to page 3 of the
20 document -- actually it's the third page, but it's page
21 2 of the memorandum prepared for Mr. Tellier.

22 17080 MR. SWAIN: Yes.

23 17081 MR. BATTISTA: And in it we see some
24 of the concerns that were raised and I will refer you
25 to the sort of third bullet or point.

1 17082 We see:

2 "Economically the federal

3 government's investment would be

4 \$19 million in startup,

5 infrastructure costs plus \$35

6 million in investment tax. This

7 would represent a direct cost

8 per job of \$42,000 and an

9 overall cost of \$119,000 per job

10 creation which would probably be

11 viewed as very excessive."

12 (As read)

13 17083 That was what you were referring to

14 before in terms of the costs, cost benefit analysis of

15 implementing that project?

16 17084 MR. SWAIN: I didn't speak about the

17 cost-benefit analysis, but this would certainly be one

18 of the, as it were, direct costs that we would expect

19 to face. We would have expected to face others as

20 well.

21 17085 MR. BATTISTA: Okay. There were also

22 other concerns in terms of the Middle East, selling

23 weapons to the Middle East.

24 17086 Can you elaborate on that little bit?

25 17087 MR. SWAIN: These were concerns that

1 were better known to my colleague Fowler with his
2 background in Foreign Affairs, and he was quite
3 explicit about them in the memorandum to which you are
4 referring.

5 17088 It had long been part of Canadian
6 international trade policy to avoid selling weapons to
7 countries or regions that were in conflict, or about to
8 be in conflict, or which were let's say not our friends
9 in some direct fashion.

10 17089 Existing NATO members might be a
11 normal sort of market, but even then from time to time
12 a NATO member would get itself in a conflict that we
13 would wish to avoid. One can think of the eastern
14 Mediterranean, for example.

15 17090 And we were certainly not at the
16 stage in 1986 of regarding the Eastern European
17 countries, the Soviet Union as it then was, or China,
18 those kinds of places as potential markets.

19 17091 MR. BATTISTA: Okay. But in 1986 the
20 concern, if I'm not mistaken, was specific to the
21 Middle East. Is that not a fair comment if we refer to
22 the document?

23 17092 MR. SWAIN: No, that was merely the
24 one that is cited in this memo.

25 17093 MR. BATTISTA: Well, one of the

1 points, if I'm not mistaken, is that the Thyssen group
2 wanted to have the possibility of selling to that
3 market.

4 17094 Is that not correct?

5 17095 MR. SWAIN: Yes, and that's why it's
6 mentioned here, because Thyssen had referenced it as a
7 prime market.

8 17096 MR. BATTISTA: And if we look at the
9 second page of the memo to Mr. Tellier, what we see at
10 the second bullet in the middle of the paragraph:

11 "There is the perception in this
12 case being a German firm
13 attempting to end run German
14 government policy and in effect
15 laundering its sale of military
16 equipment through Canada."

17 (As read)

18 17097 What I understand from that is that
19 the German authorities had regulations in place that
20 would prevent German arms manufacturers from selling to
21 those regions, and the concern was that maybe Thyssen
22 was setting up in Canada and doing indirectly what it
23 was not authorized to do in Germany.

24 17098 MR. SWAIN: Correct.

25 17099 MR. BATTISTA: Is that a fair

1 comment?

2 17100 So that was one of the concerns also
3 raised at that time. Fair?

4 17101 MR. SWAIN: Yes.

5 17102 MR. BATTISTA: On the third page the
6 note here is that -- in the first bullet we talk about
7 "a bleak prospect for entry into the American market".
8 Correct?

9 17103 MR. SWAIN: Correct.

10 17104 MR. BATTISTA: The point you were
11 making earlier, the second bullet, that the Canadian
12 Forces have no need for the equipment that was being
13 proposed at that time.

14 17105 Is that fair?

15 17106 MR. SWAIN: Yes.

16 17107 MR. BATTISTA: And the concern of the
17 direct competition to General Motors Diesel Division.

18 17108 MR. SWAIN: Yes.

19 17109 MR. BATTISTA: Okay. That was based
20 in London, Ontario.

21 17110 MR. SWAIN: Yes.

22 17111 MR. BATTISTA: So obviously you were
23 not supportive of the project at the time. That's
24 fair?

25 17112 MR. SWAIN: That's correct.

1 17113 MR. BATTISTA: I will take you now to
2 Tab 3. It's a memorandum for the Prime Minister and it
3 concerns an article. In the last page of that tab we
4 see that there is an article in the Toronto Globe and
5 Mail, dated February 14, 1986, and it refers to
6 conflict or debate and discussion within Cabinet about
7 the Thyssen proposal at that time.

8 17114 Is that correct?

9 17115 MR. SWAIN: Correct.

10 17116 MR. BATTISTA: And these are speaking
11 points, if I can use the term, for the Minister or for
12 the PMO or the Prime Minister's Office --

13 17117 MR. SWAIN: Yes.

14 17118 MR. BATTISTA: -- to be able to deal
15 with this matter? Did you draft the document or
16 participate in its drafting?

17 17119 MR. SWAIN: Yes. They were drafted
18 by Mr. McNamara who worked for me and I signed off on
19 them.

20 17120 MR. BATTISTA: Okay.

21 17121 I will take you to page 2 of the
22 document. What we note in terms of talking points are
23 that there are five main objections to the project.

24 17122 Is that correct?

25 17123 MR. SWAIN: Well, I wouldn't -- the

1 last point is not an objection.

2 17124 MR. BATTISTA: Go ahead.

3 17125 MR. SWAIN: Four are objections and
4 the last point is "employment would be created in Cape
5 Breton".

6 17126 This would not be viewed as an
7 objection.

8 17127 MR. BATTISTA: Okay. So what you are
9 saying is that the talking points were to highlight the
10 issues that are being faced by Cabinet. There are some
11 concerns and there is a positive aspect to this
12 project.

13 17128 Is that correct?

14 17129 MR. SWAIN: Yes. The speaking points
15 are really on the previous page.

16 17130 MR. BATTISTA: Yes.

17 17131 MR. SWAIN: And the five bullets on
18 the second page are advice to the Minister, to the
19 Prime Minister and the Deputy Prime Minister.

20 17132 MR. BATTISTA: Okay. Can you go
21 through them? Can you explain to us?

22 17133 MR. SWAIN: The five points?

23 17134 MR. BATTISTA: Yes.

24 17135 MR. SWAIN:
25 "The effect on other Canadian

1 manufacturers including the
2 operation of General Motors at
3 London, Ontario". (As read)

4 17136 We had a long and fruitful history
5 with GMDD. The military were very happy with their
6 products. The Industry department had from time to
7 time I believe provided DIPP funding for product
8 development and so on.

9 17137 We were also aware that there were a
10 lot of people in the world who wished to manufacture
11 light armoured vehicles and that the market was
12 probably oversupplied. If we subsidized another
13 entrant to that market, it would be probably to the
14 disadvantage of an established Canadian firm.

15 17138 MR. BATTISTA: Okay.

16 17139 MR. SWAIN: Second:

17 "The nature and size of any
18 financial contribution sought
19 from the federal government."

20 (As read)

21 17140 We had an initial vague proposal from
22 them, which we just mentioned, which involved very
23 distinct costs on the government side with no
24 particular promise of benefits.

25 17141 Third:

1 "The effect on Canada's
2 international relations."
3 (As read)

4 17142 This is particularly in regard to
5 being seen as being an armourer of one side or another
6 in the Middle East and the effect that this could be
7 expected to have in political domestic terms.

8 17143 Fourth:

9 "Canada's export permit policy"

10 17144 There was I believe at this stage a
11 request that Thyssen be given a five-year export permit
12 to in effect anybody they wanted. We never did this.
13 Transactions were always regarded as one-offs because
14 international political situations can change on a dime
15 and it was, frankly, in our view naive of them even to
16 ask for a five-year blanket permit.

17 17145 And the fifth point:

18 "The employment which would be
19 created in Cape Breton."

20 17146 Yes, there would be some employment.

21 It would be very expensive.

22 17147 MR. BATTISTA: Thank you for
23 correcting me. The annex is actually the speaking
24 notes that were prepared.

25 17148 MR. SWAIN: Yes.

1 17149 MR. BATTISTA: So basically the
2 comment, if I understand it, was not to conduct debate
3 in public on these matters. Correct?

4 17150 MR. SWAIN: Yes.

5 17151 MR. BATTISTA: But to highlight the
6 fact that the government had introduced a sort of tax
7 incentive to invite foreign investment.

8 17152 Is that fair?

9 17153 MR. SWAIN: M'hmm.

10 17154 MR. BATTISTA: And that at that time
11 there had been over 700 inquiries to respond to that
12 proposal by the government.

13 17155 Is that fair?

14 17156 MR. SWAIN: Yes.

15 17157 MR. BATTISTA: Yes. And the Thyssen
16 project was one among those many?

17 17158 MR. SWAIN: Correct.

18 17159 MR. BATTISTA: I'm going to take you
19 to Tab 4.

20 17160 This is a memorandum to Mr. Tellier
21 from Mr. Fowler and you are cc'd on it.

22 17161 We see that on page 5 of the
23 document.

24 17162 MR. SWAIN: Yes.

25 17163 MR. BATTISTA: Now, this is a memo

1 that highlights some of the negative aspects of the
2 Thyssen proposal at that time.

3 17164 Is that fair?

4 17165 MR. SWAIN: Correct.

5 17166 MR. BATTISTA: I will take you to
6 point 1(b), the issue that General Motors does not
7 produce tanks.

8 17167 There is a comment about the
9 production of offensive versus defensive weapons and
10 that Thyssen at that time insisted that it must be able
11 to make and market tanks at the Cape Breton facility.

12 17168 That was an important concern at that
13 time?

14 17169 MR. SWAIN: Apparently.

15 17170 MR. BATTISTA: The fact that, if we
16 take it at point 1(a), General Motors is not a German
17 company, that would -- I assume the concern there is
18 that General Motors doesn't have the history that
19 Germany has because General Motors is a Canadian or
20 American company.

21 17171 That was the concern there that was
22 being raised?

23 17172 MR. SWAIN: I think so, yes.

24 17173 MR. BATTISTA: And when we go to (c),
25 the comment there is that General Motors had not, until

1 that time, made any sales to the Middle East.

2 17174 Is that correct?

3 17175 MR. SWAIN: I believe that is
4 correct.

5 17176 MR. BATTISTA: And one of the points
6 that is made in that point (c) is in the middle of the
7 paragraph:

8 "Thyssen, on the other hand,
9 says that it requires access to
10 the Middle East market in order
11 to survive." (As read)

12 17177 Is that correct?

13 17178 MR. SWAIN: That's --

14 17179 MR. BATTISTA: I know that's not your
15 field of specialty, but is it fair to say that at that
16 time when world market studies were conducted the
17 Middle East was probably the major buyer of military
18 equipment?

19 17180 Is that your knowledge?

20 17181 MR. SWAIN: I would hesitate on that.
21 It would certainly be a major buyer, but national
22 military organizations tend to buy new stuff when the
23 old stuff wears out.

24 17182 MR. BATTISTA: Yes.

25 17183 MR. SWAIN: So that a purchase may be

1 a consequence of a decision taken 15 or 20 years prior.
2 17184 Even countries which are not normally
3 large purchasers may suddenly show up in any given year
4 as an important purchaser of equipment.
5 17185 MR. BATTISTA: Okay.
6 17186 Point (d):
7 "General Motors has not been
8 given a five-year export
9 guarantee." (As read)
10 17187 This is what I understand you were
11 alluding to a little earlier when you said that --
12 17188 MR. SWAIN: That's correct.
13 17189 MR. BATTISTA: -- Thyssen demanded
14 that as part of the agreement to build a plant in the
15 Cape Breton area. Correct?
16 17190 MR. SWAIN: Yes.
17 17191 MR. BATTISTA: I draw your attention
18 to the concluding paragraph, page 5, and I will read it
19 for you and I will ask you for your comment:
20 "There are important points of
21 policy at issue here. Canada
22 made a principle decision long
23 ago that it would not seek to
24 profit from regional conflicts
25 in its arms export policy. That

1 decision was not designed to
2 mirror the policies of other
3 Western states, it was a
4 decision reflecting a Canadian
5 view of international propriety.
6 Acceptance of the Thyssen
7 proposal would be seen as a de
8 facto alteration of this policy.
9 To be sure Canadian sales of
10 tanks to the Middle East are not
11 going to trigger a war in this
12 region, neither will the refusal
13 to sell bring everlasting peace.
14 At bottom this is a moral
15 choice, a point of principle, a
16 decision not to build a stall in
17 the Middle East arms bazaar. It
18 has also been a policy strongly
19 supported by the Canadian public
20 over time." (As read)

21 17192 So from a foreign policy perspective
22 at that time this was, I would take it to be, a very
23 important and major concern.

24 17193 Is that a fair statement?

25 17194 MR. SWAIN: Mr. Fowler wrote a

1 passionate memo, correct.

2 17195 MR. BATTISTA: And that was your
3 understanding at the time --

4 17196 MR. SWAIN: Yes.

5 17197 MR. BATTISTA: -- of what the
6 objections to the project would be from an
7 international perspective?

8 17198 MR. SWAIN: Yes.

9 17199 MR. BATTISTA: Added to the concerns
10 that you raised --

11 17200 MR. SWAIN: Certainly.

12 17201 MR. BATTISTA: -- from your own
13 expertise in terms of the economics of it?

14 17202 MR. SWAIN: Yes.

15 17203 MR. BATTISTA: I bring you to Tab 5.
16 17204 I draw your attention to the fact
17 that this memo is written a little over a year later.
18 So at Tab 4 we were in February of '86. Now we are in
19 September of '87 and this is a memorandum for the Prime
20 Minister.

21 17205 What we see here, and I draw your
22 attention to the middle of the first paragraph:
23 "Thyssen's proposal is geared
24 towards the US market for
25 armoured vehicles. They are

1 asking for \$25 million as a
2 startup grant from the federal
3 and Nova Scotia governments and
4 a directed sole-source contract
5 from the Department of National
6 Defence for 250 light armoured
7 vehicles valued at about \$425
8 million to see them through the
9 initial two years of its
10 operations. It is argued that
11 this would allow them to
12 penetrate the US market."

13 (As read)

14 17206 So it is correct to say that at this
15 point they are now aiming the U.S. market?

16 17207 MR. SWAIN: It would appear that the
17 proposal has changed.

18 17208 MR. BATTISTA: Okay. And I will take
19 you to the --

20 17209 I'm sorry, Commissioner.

21 17210 So you made the point that the
22 proposal has now changed. Simply to recap, it is
23 geared to the U.S. market, \$25 million grant and they
24 want a sole-source contract for 250 vehicles. Correct?

25 17211 The objections to the proposal we

1 find in the next paragraphs.

2 17212 What we can highlight, and I refer
3 you to paragraph 2:

4 "This proposal is highly
5 questionable from a variety of
6 viewpoints. First, it is
7 doubtful if this operation could
8 ever become economically viable.
9 The US defence equipment market
10 is tremendously difficult to
11 penetrate without a close
12 relationship with one of the big
13 US manufacturers. Thyssen's
14 chances must be rated as very
15 poor." (As read)

16 17213 Correct? So again here the General
17 Motors Diesel Division has better opportunities in that
18 sphere.

19 17214 That's the opinion at the time?

20 17215 MR. SWAIN: Yes.

21 17216 MR. BATTISTA: Secondly:

22 "DND has no requirement for the
23 sort of vehicle that they were
24 proposing." (As read)

25 17217 Again, is that correct?

1 17218 MR. SWAIN: That's correct.

2 17219 MR. BATTISTA: And thirdly:

3 "Thyssen would be in direct

4 competition with General Motors

5 of London, Ontario." (As read)

6 17220 MR. SWAIN: Correct.

7 17221 MR. BATTISTA: So if we recapitulate,

8 essentially what we are finding is that there are

9 economic reasons why we don't think this project is

10 going to be viable and there is competition to an

11 established Canadian enterprise?

12 17222 MR. SWAIN: Yes.

13 17223 MR. BATTISTA: And finally I draw

14 your attention to the second-to-last paragraph in that

15 document. There is still a concern about the Middle

16 East and I will read that to you:

17 "Finally it is possible that

18 Thyssen, once established, will

19 seek export permits for

20 countries including some in the

21 Middle East which would cause

22 great difficulty for the

23 government in terms of its

24 foreign export control policies.

25 This was a central feature of

1 Thyssen's proposal of last year,
2 one which was strongly resisted
3 by Mr. Clark." (As read)

4 17224 Correct?

5 17225 MR. SWAIN: That's correct.

6 17226 MR. BATTISTA: So lurking behind this
7 proposal is the fear that eventually since they want
8 permits to export that the Middle East will again be a
9 target for Thyssen.

10 17227 Is that fair? Okay.

11 17228 Mr. Commissioner, it's 5 o'clock. We
12 could maybe stop now because I was going to then jump
13 to Tab 9 -- for the witness as well -- and I may have
14 some time on that. So if you want to stop now, we
15 could reconvene tomorrow and we will finish probably
16 earlier in the morning, and that will be good for
17 everyone.

18 17229 COMMISSIONER OLIPHANT: I am going to
19 agree with your suggestion that we stop now for today.

20 17230 It has been a long day for a lot of
21 people, not just lawyers, but there are many staff
22 members here who are working and media people and we
23 have been at it since 9:30 this morning.

24 17231 So we will break for today and we
25 will resume at 9:30 tomorrow morning with the

1 continuation of your evidence, Mr. Swain. So I will
2 ask you to be back at 9:30 ready to go. Okay, please?

3 17232 MR. SWAIN: Yes, sir.

4 17233 COMMISSIONER OLIPHANT: Thank you
5 very much.

6 17234 Good afternoon, Mr. Swain, counsel.

7 --- Whereupon the hearing adjourned at 5:00 p.m.,
8 to resume on Wednesday, April 22, 2009
9 at 9:30 a.m. / L'audience est ajournée à 17 h 00,
10 pour reprendre le mercredi 22 avril 2009 à 9 h 30

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We hereby certify that we have accurately
transcribed the foregoing to the best of
our skills and abilities.

Nous certifions que ce qui précède est une
transcription exacte et précise au meilleur
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Lynda Johansson

Jean Desaulniers

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