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Fax Cover Sheet

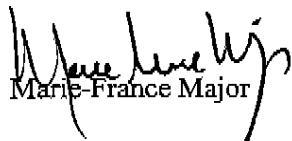
Date: March 11, 2008

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Re: The Minister of Justice and Attorney General of Canada, The Minister of Foreign Affairs, the Director of the Canadian Intelligence Service, and the Commissioner of the Royal Canadian Mounted Police v. Omar Ahmed Khadr (SCC File No: 32147)

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Message: Please see attached the revised page 2 of the Memorandum of Argument of the Response of the Respondent on Crown's Motion to Strike, which is served upon you today pursuant to the *Rules of the Supreme Court of Canada*.


Marie-France Major

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contained in the Appellants' Record filed with this Court and its admissibility is not the subject of dispute.¹

5. As this Court noted most recently in *Hape*, foreign law must be proven through expert evidence. With a view towards this requirement, the Applicant's evidence at first instance included the Affidavit of Richard Wilson, an American law professor at American University in Washington D.C. Professor Wilson's affidavit contains a detailed analysis of the law governing the detainees in Guantanamo Bay, current to the date of that Affidavit. This Affidavit is contained in the Appellants' Record before this Court and its admissibility is not the subject of dispute.
6. Pursuant to r. 92.1, the Respondent has also filed the Affidavit of Lt. Cdr. William Kuebler which provides a current update as to the legal matters deposed to in Professor Wilson's Affidavit. The Crown does not take issue with the admissibility of this evidence "to the extent it simply updates the procedural history of the American litigation".

The Respondent's Written Submissions at the Chambers Level

7. The written submissions presented to von Finckenstein J. at the chambers level clearly emphasized that the interrogations formed one of the bases for the order sought.
8. At paragraph 34 of the Applicant's Memorandum of Fact and Law it was argued that: "as has previously been found by this Court, officials of the government of Canada have participated in gathering evidence against Mr. Khadr for their own intelligence and law enforcement purposes."
9. At paragraph 35 of the Applicant's Memorandum of Fact and Law it was argued that the decision of the British Columbia Court of Appeal in *Purdy* was analogous to the case at bar since in *Purdy*, "The RCMP has [*sic*] assisted in gathering evidence against the applicant and was in possession of material relevant to the charges."

¹ Exhibits to Cross-Examination of William Johnson, A.R. Vol. II, pp. 304-312.