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January 22, 2016

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Federal Court of Appeal
701 West Georgia Street
Vancouver, British Columbia
V7Y 1B6

Attention: Courts Administration Services

Dear Sir/Madam:

**Re: CANADA (Prime Minister and Governor General) v. ALANI, Aniz
Federal Court of Appeal No. A-265-15
Response to Court Direction of January 19, 2016**

On behalf of the Appellants (“Canada”), I write further to the Court’s direction of January 19, 2016 requesting the parties’ position on whether the Government’s announcement of that day renders their litigation moot.

It is Canada’s position that the Government’s announcement of the establishment of the Independent Advisory Board for Senate Appointments and its intention to fill all of the outstanding vacancies in the Senate by the end of 2016 means that there is no longer any live controversy between the parties. As such, Canada understands and shares the Court’s concern that the parties are nevertheless still poised to expend time and resources on this litigation in the absence of a live controversy.

Accordingly, we have proposed to Mr. Alani that the parties resolve this matter by immediately discontinuing their respective proceedings before the Federal Court and the Federal Court of Appeal, on a without costs basis. We requested that Mr. Alani provide his response to this proposal by 10 a.m. (Vancouver time) today. As of the time of writing (11:00 a.m), Mr. Alani has not responded to Canada’s proposal.

In the circumstances, Canada is prepared to proceed with its appeal on Monday. With respect to the issue of mootness, as noted above, it is Canada’s position that Mr. Alani’s application before the Federal Court is indeed moot. However, as Mr. Alani has not discontinued his application, the same cannot be said of Canada’s appeal before the Federal Court of Appeal. So long as the underlying application remains, Canada maintains its position on appeal that the Federal Court motions judge erred by not dismissing the application for non-justiciability and lack of jurisdiction.

We would be grateful if this information could be forwarded to the Court.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Jan Brongers". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Jan Brongers
Senior General Counsel,
B.C. Regional Office

JB/kw

c.c. Aniz Alani
Respondent