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666 broadway new york, ny 10012
212.614.6464 www.ccr-ny.org

May 24, 2010

The Honorable William K. Suter, Clerk
The Supreme Court of the United States
One First Street, N.E.
Washington, D.C. 20543

Re: *Arar v. Ashcroft* (09-923)

Dear Mr. Suter:

I represent Maher Arar, who petitioned this Court for a Writ of Certiorari in *Arar v. Ashcroft* (09-923) on February 1, 2010, and who is submitting his Reply today. Mr. Arar requests permission to lodge non-record material with the Court pursuant to Supreme Court Rule 32.3. The material proposed for lodging is an April 15, 2010 letter from Canada's Minister of Foreign Affairs, the Honorable Lawrence Cannon ("Canada's Letter"). Canada's Letter is available at <http://www.ccrjustice.org/ourcases/current-cases/arar-v.-ashcroft>.

In Canada's Letter, the "Government of Canada confirms that it does not have reason to believe that Mr. Arar's civil suit in the United States would risk harming diplomatic relations between Canada and the United States." Canada's Letter may properly be considered by this Court in light of the Second Circuit majority's reliance on foreign policy and diplomatic "special factors" in dismissing Mr. Arar's *Bivens* claims. App. A. 33a-39a; 43a. Respondents have similarly asserted that Mr. Arar's claims cannot proceed because they would require review of "sensitive intergovernmental communications." Ashcroft Opp. 13, *see also*, Ashcroft Opp. 12, 16.

Canada's Letter further states that "the Government of Canada confirms that it hasn't at any time opposed Mr. Arar's entry to Canada." Canada's letter may also be considered by this Court because it confirms that the Second Circuit majority erred in finding that Canada was "evidently unwilling to receive" Mr. Arar. App. A, 48a. *See also*, Mr. Arar's Petition for Certiorari, p. 9, n. 5 (pointing out that the record established that Canada informed U.S. authorities that it would admit Mr. Arar).



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Mr. Arar therefore respectfully requests permission to lodge Canada's Letter with the Court.

Respectfully submitted,



MARIA C. LAHOOD
Counsel of Record
Center for Constitutional Rights
666 Broadway, 7th floor
New York, NY 10012
(212) 614-6430
mlahood@ccrjustice.org

Counsel for Petitioner Maher Arar

cc: all counsel on attached Proof of Service