



Decision on Intervener Participation in Stage 2 Hearings (Yuen Pau Woo)

Introduction

1. Senator Yuen Pau Woo (“Senator Woo”) seeks an order granting him Party standing for the Commission’s Stage 2 factual hearings.
2. In this decision, I explain why I have decided to dismiss the application.

Background

3. Senator Woo has Intervener standing during the Commission’s factual hearings.
4. On 6 September 2024, I released a series of decisions respecting the rights that certain Interveners would have during the Commission’s Stage 2 factual hearings. None of these decisions related to Senator Woo.
5. Later that day, Senator Woo wrote to Commission counsel and asked to be granted “full standing” during the Stage 2 factual hearings and to receive funding for legal counsel. Commission counsel informed Senator Woo that he was required to bring an application if he wanted to have his grant of standing modified.
6. On 8 September 2024, Senator Woo filed his application.

The Application

7. Senator Woo submits that he has a substantial and direct interest in the subject matter of the Stage 2 factual hearings because they are “straying into areas where allegations are made against Canadians who are unable to defend themselves”. He



indicates that certain participants have made allegations against him respecting alleged ties to the government of the People's Republic of China ("PRC"). He submits that he requires Party standing because at least one participant "is determined to make me a subject of the Inquiry."

8. He also notes that there have been allegations made against other Vancouver-based Chinese Canadians that suggest they are PRC proxies. He submits that, while he "cannot speak for them as such" he is able to question witnesses who may make such allegations.

9. With respect to Clause (a)(i)(C)(II) of my Terms of Reference, Senator Woo submits that his participation would assist in understanding the impact of foreign interference discourse of diaspora communities. He states that the Commission privileges participants and witnesses who are motivated to provide examples of foreign interference, which may target other members of diaspora communities. That targeting can be unfair or based on weak evidence, and result in stigmatization and harm. Senator Woo submits that while he cannot speak for all diaspora communities, he could at least ask questions about some of the claims that are made. This would present a more balanced view.

10. Senator Woo also submits that he is "one of the very few, if not the only, participant who is thinking about flawed intelligence, exaggerated claims, and the risks of stigmatization and abuse of fundamental rights." He indicates that he would be able to question or challenge these flawed claims by questioning witnesses.



Analysis

11. I would dismiss the application.

12. Because Senator Woo's application was filed so close to the start of the Stage 2 hearings, these reasons will be brief.

13. Allegations that specific named individuals are or are not proxies for foreign states will not be addressed in the Stage 2 factual hearings. During Stage 2, I am directed by my terms of reference to

(C) assess the capacity of relevant federal departments, agencies, institutional structures and governance processes to permit the Government of Canada to detect, deter and counter any form of foreign interference directly or indirectly targeting Canada's democratic processes [...]¹

14. Although some questions examined during stage 1 will be revisited and deepened during stage 2, allegations that specific named individuals are proxies is unlikely to assist me in fulfilling any aspect of my mandate. There are also significant procedural fairness concerns that would arise if the public hearings devolved into allegations against specific individuals. I therefore fully expect that this type of allegation will not be made during the Stage 2 hearings and both participants and witnesses have been advised that they should not be made.

15. I agree with Senator Woo that it is important for the Commission to receive information from a wide range of perspectives. This could include members of diaspora

¹ *Terms of Reference*, Clause (a)(i)(C).



communities who feel that they have been harmed by the discourse surrounding foreign interference or the measures taken to counter it.

16. The Commission anticipates presenting this perspective during Stage 2 through witnesses or consultation panels. I am therefore unable to agree that Senator Woo's ability to question witnesses on this topic is a "necessary contribution".

17. With respect to Senator Woo's submission that other participants have not been taking a critical perspective with respect to the intelligence that has been presented at the hearings, I do not agree.

18. The Commission has approached this intelligence cautiously, critically, and with a careful attention to what conclusions can and cannot be drawn from it. Much of this work has occurred during *in camera* hearings, where Commission counsel have had the advantage of seeing all of the relevant intelligence products. I therefore cannot conclude that Senator Woo would make a "necessary contribution" by questioning witnesses on this topic.

19. I add one qualification to this decision: If, contrary to my belief and instructions, allegations are raised against Senator Woo during the Stage 2 hearings, I may revisit my decision and grant him appropriate participation rights in order to respond. This is part of my duty and commitment to provide procedural fairness to anyone whose rights or interests are sufficiently impacted by the Inquiry.

20. As Senator Woo's request for funding was based on his request for Party status, it is not necessary for me to address it.



Conclusion

21. The application is dismissed.

Signed

Commissioner Marie-Josée Hogue

September 13, 2024