

PART II

THE GENERAL FRAMEWORK OF THE INQUIRIES CONDUCTED BY THE PARLIAMENTARY COMMITTEE

1. THE ACTIVITY OF THE PARLIAMENTARY COMMITTEE. HEARINGS AND MISSIONS

The Committee's first step was to obtain the documentation relating to the inquiries carried out in the wake of the disaster. These comprised the three Italian judicial inquiries, the two administrative military inquiries (Italian and American) and the trials by court martial in Camp Lejeune in the United States. The Committee then embarked on a full program of hearings and missions in order to obtain a complete picture of the facts and the steps taken and to study in closer detail the main issues emerging from the documents in question.

The hearings began with the representatives of the Public Prosecutor's Office who were bringing the charges before the criminal court of Trento and the military courts of Padua and Bari. In these hearings the Committee heard the principal actors describe the criteria they followed in carrying out their investigations, the difficulties encountered, the principal questions that emerged and the impressions they had gained from their meetings with the military personnel involved in the various aspects of the incident. The hearings also provided an opportunity to answer questions regarding the outcome of the trials and the legal reasoning used. The Committee then heard representatives of the Government, in the persons of the Under-Secretary of State for the Prime Minister's Office and the Minister of Defense, who contributed to clarifying the framework of international agreements by which Italy is bound, especially with regard to the obligations arising from the country's membership of the NATO Alliance, and the review process for the agreements themselves. At this hearing the action taken by the Government in the wake of the tragedy and the adequacy of the measures adopted were also discussed. The hearing attended by representatives of the local communities, including the Mayor of Cavalese and the President of the Autonomous Province of Trento, and representatives of the public, in the form of the *Comitato 3 febbraio per la giustizia*, allowed the Committee to gain a direct impression of the impact of the military flights on local communities and to learn about the initiatives taken by local administrations for some time before the incident to report the abuses that were taking place and the unease and concern these had created among the population, and in pressing central government to intervene. The next hearing involved senior military personnel: the Chief of the Italian Air Staff, the current Commander of the airport of Aviano; the acting Commander of the 5th ATAF; the military adviser to the Prime Minister; the Chief of the Defense Staff; and the acting Commander of the airport of Aviano.

These persons, who were heard in their dual capacity as members of the administration and experts on the subject of military flights, enabled the Committee to examine more closely the state of relations between Italian and allied military personnel, acquire a greater knowledge of the events leading up to the disaster, clarify complex questions regarding the scheduling, implementation and monitoring of air missions, and, finally, to summarize and evaluate the provisions adopted to ensure that incidents of this nature are not repeated. The Committee also deemed it appropriate to hear the former mayor of Cavalese to find out what the situation regarding military training flights had been in the years preceding the incident, and to conduct a mission to the airport of Aviano to find out how the new procedures adopted after the disaster were being implemented. The Committee then held a session of open hearings at the police headquarters of the Government of Trento, in order to gather further on-the-spot information on low-level flights in the valleys of the Trentino region. After a series of contacts arranged with the help of diplomatic authorities, a mission to Washington was organized to hear the most senior American authorities with expert knowledge of the subject, verify what provisions had been taken and formulate a number of preliminary queries. On their return from this mission the Committee considered that a further hearing with the Commander of the airport of Aviano should be held in order to obtain further clarification from him on his role in the military inquiry carried out by the Americans immediately after the incident.

We shall now provide a slightly more detailed review of the inquiries conducted by the Committee.

On 9 February 2000 the Committee heard Dr. Franco Antonio Granero, Public Prosecutor with the Court of Trento and Dr Bruno Giardina, Deputy Public Prosecutor with the Court of Trento, who made the following points:

from the legal point of view the Aviano base is under Italian sovereignty. However, it is also classified as an « American base » in Italy since the 31st FW of F16s is stationed there under bilateral agreements. The Aviano base is not therefore a NATO base, although it has been used for NATO activities related to operations in Bosnia;

the agreements relating to aircraft deployed for these operations, and in particular the agreement of 21 April 1997 (message SMA/175), envisage a total ban on low-level flights over Italian territory, not least because operations in Bosnia were always carried out at an altitude of no less than 5,000 feet and the aircraft that caused the incident was not an F16 but a Prowler, deployed expressly and exclusively for the operations in Bosnia and therefore subject to this ban;

the Committee noted that breaches of the rules governing minimum altitudes had become something of a habit for the crews of the aircraft of the 31st FW and those deployed for Bosnia, with the acquiescence of the Italian military authorities. It was also pointed out that the American aircraft only used the charts published by the US

mapping agency, in which neither Cavalese nor the Cermis cable car were marked, rather than the Italian Air Force charts, which had been duly sent to them. The Committee also discovered that no suitable quality-control system had been put in place to ensure that the aircrews flying from Aviano had received adequate training and information on the regulations in force or, probably, of the status of the places they would be flying over. For example, the Committee discovered that NOTAMs were transmitted but not brought to anyone's direct attention. A degree of responsibility therefore seemed to be attributable to the American Commander of the base, the Commander of the operational group of the 31st FW and the Italian Commander of the base, whose duty it was to inform the squadrons based there of the relevant regulations and check that they were being observed;

on the question of the priority jurisdiction claimed by the United States for the incident in question, many commentators observed that Italy, like the other NATO countries, had always exercised its right under the Status of Forces Agreement of 1951 (SOFA) to assert its jurisdiction over military personnel who had committed offenses abroad (the most typical case is the Frecce Tricolori formation flying team). But there is a significant legal difference with these cases since the agreement is not being violated in any way, while in the Cermis incident such a violation did take place, which takes us outside the terms of the treaty. The public prosecutor's initial thesis was therefore that the SOFA was not applicable. If, however, we accept that the Agreement should in fact apply, then Italy should be recognized as having sole rather than concurrent jurisdiction, in consideration of the fact that the affair involved to an overwhelming degree the sole interest of Italy, while the investigation of the crime would in no way have influenced the organizational structure of the US forces. If we accept, on the other hand, the existence of concurrent jurisdiction, then priority should be attributed to Italy, again in view of the preponderant interest. The public prosecutors were in no doubt over Italy's sole jurisdiction with regard to the offense of endangering public transport (*attentato alla sicurezza dei trasporti*) pursuant to Article 432 of the Italian Criminal Code, since this offense is not envisaged under US legislation. This last point was confirmed by the consultant on international law appointed by the Public Prosecutor's Office of Trento;

the presence of foreign forces on national territory is in essence regulated not by the North Atlantic Treaty of 1949 as such or by the SOFA, which regulates the consequences of the North Atlantic Treaty in matters concerning jurisdiction, but through a series of pacts and agreements reached at government or even staff level, which implement the framework established by the SOFA. These pacts have not been ratified by law, as Article 80 of the Italian Constitution requires: this explains some of the questions of constitutionality that were raised in the application for committal for trial, while other questions hinged on the fact that the mechanism deriving from the SOFA violates the principle of the natural judge as ascertained by law;

all the NATO countries, including Turkey, have renegotiated some clauses of the SOFA. The agreements renegotiated by the Federal

Republic of Germany and the United States established that the higher interests of the German system of justice (in relation to crimes resulting in the death of an individual, robbery, or rape, with the exception of cases involving the members of an armed force, a civilian component or a person in service) all come under its jurisdiction;

the pilots refused to reply when questioned. From the evidence given by other military personnel heard as « persons informed of the facts », in particular the aircrew members who had flown the same aircraft on the morning of that same day, it emerged clearly that the American defense strategy was to suggest that the radar altimeter (RadAlt) had malfunctioned. This hypothesis was ruled out by the testimony of other pilots, by the reconstruction of the aircraft maintenance records and by the statements of the mechanics and other persons. A malfunction in the RadAlt would have been irrelevant in any case, given that the BOAT manual, which regulated very low-level flights, requires that in all cases of a malfunctioning RadAlt occurs during a low altitude flight, the aircrew must interrupt the exercise immediately and maintain an altitude of at least 2000 feet;

with respect to the responsibility of the various military commands in the disaster, the « foreseeability » of the tragedy, and the regular failure to respect the established limits, in just the three months preceding the mishap 449 low-level missions over Italian territory took place, of which 46 were American; of this total, 84 (27 of which American) involved the Province of Trento. Eleven of these missions were carried out by aircraft deployed to Italy for Operation DG and were therefore in violation of the agreement, which did not envisage low-level training flights for these aircrews;

with regard to the impact of low-level flights on the local communities, 73 formal complaints were found to have been lodged by various bodies or persons, 13 of which involved reports of damage to persons or property. Only in 34 of these cases was it possible to identify the aircraft. The outcome of the 73 complaints, which led to investigations by the Air Force, was just one disciplinary measure taken against the aircrew involved;

various cases were discovered of situations very similar to the one that caused the Cermis tragedy: in 1987 the Falzarego cable car was hit and several people were injured (luckily the gondola was at the station at the time); other cases occurred at Socchieve, in the Province of Udine, Vallarsa, in Trentino, Cortina d'Ampezzo (the American authorities apologized a year later: this was the most that could be obtained). Other cases included the overflight of Torbole, in June 1997, by an Italian aircraft;

the testimony of the parish priest of Molina di Fiemme was of particular interest. He declared that from the rectory, which is at the top of a hillock at one end of the Val di Fiemme, he had seen planes entering the valley at low altitude from Lago Stramentizzo and that he

had observed them from above, in the sense that he could see the upper surface of the aircraft. It was calculated that these aircraft had been flying at 30 meters above ground level;

finally, and this is a question of fundamental importance, the request for authorization of the mishap flight was submitted, it is thought deliberately, if not with wrongful intent, in a daily flight schedule (DFS) listing all the flights of the 31st FW. This was the flight schedule of the US Air Force stationed at Aviano, whose flights were subject to approval by the COA/COM (Alternate/Mobile Operations Center) in Martina Franca, which processes them more or less automatically and is simply required to deconflict the flight schedules. The flights of the forces deployed to Aviano for the Bosnia operation should have gone through another procedural channel and been transmitted and authorized by the 5th ATAF at Vicenza, which has tactical-strategic control for NATO objectives. It can be stated with certainty that this body, which had issued the ban on low-level flights for aircraft used for the operations in Bosnia, would never have authorized such a flight. This is confirmed by the testimony of Gen. Vannucchi, who was the 5th ATAF Commander at the time.

On 5 February 2000 the Committee heard Mr. Maurizio Block, Military Prosecutor with the Military Court of Padua, and Mr. Sergio Dini, Deputy Military Prosecutor with the same court, who made the following points:

the reason for the involvement of the Military Prosecutor's Office of Padua was that the Aviano base falls within its jurisdiction. The military courts have a limited sphere of responsibility: Article 103 of the Constitution indicates that their jurisdiction only extends to military crimes committed by members of the Italian armed forces. The shortcomings of the military criminal justice system had been clear from the very outset (the Military Criminal Code dates from 1941). As a result of these shortcomings, when the investigations were completed it was not possible to conclude that the only offense that seemed applicable, that indicated by Article 117 of the peacetime Military Criminal Code (c.p.m.p.) – *omessa esecuzione di un incarico*, or failure to perform an assigned responsibility – actually applied to the Commander of the base, Colonel Orfeo Durigon. The investigation had to ascertain whether Col. Durigon had carried out the duties laid down by national laws and agreements, as well as the staff organization schedules of 1 August 1994 regulating the tasks of the Commander of the Aviano base.

The possible responsibilities charged to Col. Durigon included: failing to set up a system, under his own command, on the basis of which the Italian command would always be informed of all American activity, so that it could carry out preliminary checks of planned activities, including training flights; and failing to check that very low-level flights did not take place, in compliance with a provision contained in message SMA 175 of 21 April 1997, which applied to the whole country. This provision was repeated the following August, with regard to the Alps alone;

the Committee obtained copies of the legislation governing these matters in order to evaluate the powers and duties of the Commander of the Aviano base. From an analysis of these texts it emerged that the Commander does not have substantive powers of control over the DFSs asked of the Americans, and certainly no powers of veto except over purely formal questions. The 1956 Memorandum of Understanding provides for the presence of an Italian Commander at the installation but goes on to state that the American Commander shall exercise military control over personnel, equipment and any American operations. The Memorandum merely envisages an obligation to inform the Italian Commander of the general activities and requirements of the American military bodies located at the installations, where these activities and requirements might be of interest to the Italian civilian and military authorities. In view of this legislative framework the military prosecutor felt it was not appropriate to bring Durigon to trial and therefore asked for the proceedings against him to be dismissed. The set of duties that the legislation assigns to the Aviano Commander did not seem to take the form of an « assigned responsibility » under the terms of Article 117 c.p.m.p.;

the contradictory nature of the statements made by various members of the Italian Air Force could also be explained by the existence of gaps in the legislation. According to Gen. Pollice the message of 21 April 1997 banning low-level flights also had immediate prescriptive effect for the Aviano Commander, to whom, however, it was addressed merely for information. According to generals Mario Arpino and Andrea Fornasiero, however, both former chiefs of the Air Staff, a message sent for information and not for action (*per competenza*) does not give rise to an obligation for the recipient to implement it. Finally, the contradictory statements made by Gen. Vannucchi and by generals Arpino and Fornasiero and Col. Posocco should be noted. According to Gen. Vannucchi, Col. Durigon should have noticed that the flight authorization procedure was irregular, since it could not be inserted in the flight schedule of the 31st FW of Aviano. According to generals Arpino and Fornasiero and Col. Posocco, however, the procedure was in order, since the flight in question was a training flight of the 31st FW, from which it had originated;

a further complication arises from the presence on the Aviano base of two categories of aircraft: those belonging to the 31st FW and the Marine Prowlers, deployed to the base for the operation in Bosnia. The Commander of Aviano has some powers in relation to the F16s since, for example, the Italian Commander is responsible for air traffic services and the national authorities must be notified in advance of the 31st FW's training and operational activities; such provisions were not, however, envisaged for the aircraft deployed for operations in Bosnia. The regulations governing this type of aircraft are included in the Memorandum of Understanding (MOU) of 1995, which is divided into three sub-agreements. Only the Air Force sub-agreement, which was never signed, would have given the Aviano Commander real powers to block any activities posing a danger to public health on Italian territory.

On 16 February 2000 the Committee heard Mr. Giuseppe Iacobellis, Military Prosecutor with the Military Court of Bari, who testified:

the involvement of the Military Prosecutor of Bari could be explained by the fact that, following the investigations carried out by the magistrates in Trentino, a copy of message SMA-322/00175/SFOR of 21 April 1997 had been obtained. This was sent by the Italian Air Staff in Rome to the NATO SHAPE/SOPA command in Mons (Belgium) and to various bodies in the NATO chain of command in Italy, as well as, for information, various other bodies including the AEROROCs of Monte Venda and Martina Franca;

with regard to flight procedures, the message includes the following elements: arrangements for daily flight schedules; the transmission of these for authorization to the COA/COM, at that time known as the ROC, which has responsibility for the unit's operational and logistical activity and also has the power to issue general instructions to dependent agencies. These include the ATCC, whose main function in peacetime is to deconflict flight plans. This agency has its own exclusive technical sphere of responsibility and is responsible for the training, discipline and use of the personnel in its direct employ. Message SMA/175 of 21 April 1997 was addressed for information to the AEROROCs of Monte Venda and Martina Franca, which at that time operated only in their respective areas of responsibility. Further to various General Staff provisions to reconfigure the lines of command and control of air forces, changes were introduced so that with effect from 5 January 1998 and up to 1 September 1998 the duties and responsibilities of the COA/COM of Martina Franca and the ATCC were extended countrywide;

within this temporary restricted sphere of responsibility, the daily flight schedule for Aviano for 3 February 1998 arrived in Martina Franca from the 31st FW on 2 February 1998. The ATCC of the Martina Franca command then issued the ASMIX message authorizing, for 3 February 1998, the EASY 01 mission involving the low-level flight AV047 BD of the aircraft that would cause the Cermis tragedy. All these factors explain why the Military Prosecutor of Bari, whose district includes the Martina Franca COA/COM, was involved;

the Military Prosecutor of Bari was not actively involved in the proceedings resulting from the Cermis disaster because it did not fall within its sphere of responsibility. However, after the tragedy it was necessary to ascertain whether or not the person who organized the flight had complied with the provisions of message SMA/175 of 21 April 1997 and whether the message was prescriptive or informative, in order to establish whether it introduced a ban on authorizing low-level flights over Italian territory. Once the necessary checks had been carried out, Lt. Col. Celestino Carratù, at the time the director of the COA/COM at Martina Franca, was placed under investigation for the offense envisaged by Article 117 of the c.p.m.p. (*omessa esecuzione di un incarico*), since, having been charged by means of message SMA/175 not to authorize low-level flights on Italian territory unless

he received instructions to the contrary, he had failed to perform this responsibility since he did not issue instructions not to authorize low-level flights;

briefly, the message was considered by the competent bodies to be informative rather than prescriptive, since the SMA merely proposed to the NATO command the solutions decided upon (technical meeting of 17 March 1997 between the General Staff and NATO to prevent environmental damage). It did not, however, explicitly clarify that provisions had emerged from that technical meeting that had to be implemented and had in any case been sent to the AEROROC of Martina Franca for information. Since the message does not confirm that a responsibility was being assigned, it was requested that the proceedings be dismissed.

On 1 March 2000 the Committee heard the Under-Secretary of State in the Prime Minister's office, Mr. Marco Minniti, who provided a brief summary of the facts and the various inquiries carried out, and went on to underscore the following points:

the American request to exercise jurisdiction over the crew of the aircraft had been entirely legitimate. At the same time, our Government had acted correctly in pointing out, in full respect for the American military jurisdiction, that the decision for acquittal should have led the parties involved to examine whether there was a higher level of responsibility, since it was not acceptable that the attempt to ascertain the truth should be abandoned. The Government cooperated with the judicial authorities, as shown by the decision to waive state secrecy and allow them access to part of the text of the bilateral Italy-United States framework infrastructure agreement signed on 20 October 1954;

the Tricarico-Prueher Bilateral Commission was established with the task of defining all procedures relating to exercises and low-level training activity by US forces in Italy, so as to ensure the maximum degree of safety. The basic result of this was a ban on low-level flights over Italian territory by non-permanent foreign flight units, except in exceptional circumstances to be assessed on a case-by-case basis by the Italian authorities. This type of flight was peremptorily curtailed for permanently stationed units;

with regard to the rationalization of the regulatory agreements, the review process had already begun with the stipulation of the Memorandum of Understanding (MOU), known as the Shell Agreement, between the Ministry of Defense and the US Department of Defense in 1995, on the use of installations by US forces in Italy. This document sets out the terms of reference for drawing up the technical arrangements for each installation and infrastructure. The agreement has two annexes: one contains the standard format for the technical articles required to draw up the technical arrangement for each installation, the other concerns the procedures for the relinquishment of the infrastructure and the calculation of the residual value. The new

technical arrangements, to be based on the standard format contained in the Shell Agreement, will deal mainly with detailed aspects of routine administration, making them simpler to apply and introducing greater transparency in relations with the United States, while « sensitive » information will be contained in the additional protocols to the above-mentioned 1954 Agreement. This will be signed by the Ministry of Defense, as it is an integral part of the agreement legitimizing the US presence in Italy;

the Government's initiatives to compensate the relatives of the victims led to the appointment of a liquidator on 25 January 2000 and the issuing of the DPCM (Prime Minister's Decree) of 8 February 2000.

On 8 March 2000 the Mayor of Cavalese, Mauro Gilmozzi, and the representatives of the *Comitato 3 febbraio per la giustizia* of Cavalese, Mr. Werner Pichler and Mr. Beppe Pontrelli, were heard.

The Mayor of Cavalese made the following points:

military flights in Val di Fiemme have created a situation of deep unease and fear among inhabitants, but the response to their frequent complaints had been that the flights were in order. The question was therefore political in nature, in that Italy allowed training activity that was dangerous and a nuisance to take place in such a delicate area as the Alpine valleys: it is the State that lays down the rules. The Municipality had done everything in its power to bring the situation to the attention of the competent bodies.

Various complaints relating to episodes that had taken place between 1981 and the present were then presented.

The representatives of the *Comitato 3 febbraio per la giustizia* observed:

that the Mayor had not brought an essential document regarding a question submitted in 1991 by a municipal councilor, which focused on these flights (3); while this was not a personal dispute with the Mayor, the municipal administration did not seem to have taken adequate and sufficient action;

the findings contained in the documents of the judicial proceedings showed clearly all the breaches of the rules that had been committed and the responsibilities of the pilot; the representatives of the committee proposed that other eye witnesses, whose names were provided, should be heard;

the *Comitato 3 febbraio* had engaged in intense activity to bring the affair to the public's attention and help to reveal the truth: a brief presentation of this activity was given.

(3) During the hearing, after the objection by the representatives of the *Comitato 3 febbraio*, the Mayor, Mauro Gilmozzi, handed over a copy of the question to the Commission.

On 15 March the President of the Province of Trento, Lorenzo Dellai, was heard. He made the following points:

within the sphere of the judicial proceedings the Province of Trento had appointed its own technical consultant, who worked alongside the Public Prosecutor's Office of Trento;

with regard to administrative activities, the Province had tried to take action with the American Embassy through the Ministry of Defense so that arrangements could be made quickly to establish procedures for obtaining compensation for damages, especially for the relatives of the victims;

at the Province's request, on 5 February 1998 the Conference of Presidents of the Regions and Autonomous Provinces approved an agenda item expressing the hope that the inquiry would not be removed from Italian jurisdiction, asking the government to ban low-level flights, and also « expressing grave concern and regret over a tragedy that was foreseeable and preventable »;

with regard to the activity carried out by the Province before the Cermis tragedy, some documents were of particular importance: the agenda of the Provincial Council of Trento of 9 July 1996, in which concern was expressed over incidents caused by military aircraft and it was asked that steps be taken to avoid them in the future; and a subsequent letter from the acting President of the Province to the Minister of Defense, referring to this agenda. The Minister of Defense answered by providing assurances that the Government would be issuing specific rules to regulate low-level flights. The Province then acted on behalf of the members of the public by taking their complaints to Government level, exhibiting confidence in the institutions that is typical of the inhabitants of these valleys. However, the replies they received hardly seemed adequate and did not take the gravity of the situation fully into account.

On 29 March 2000 the Minister of Defense, the Hon. Sergio Mattarella, was heard. He emphasized the following points:

NATO had played an essential role in ending the East-West confrontation. Italy had always occupied a strategic position and was now contributing to the creation of a new common security system in Europe. The problem, therefore, was not one of eliminating Allied forces, in particular US forces, from Italian territory, whose presence should not be considered a curtailment of Italian national sovereignty, but rather one of finding more appropriate means of regulating the forms taken by this presence and the arrangements governing it;

the framework of agreements regulating the presence of the Allied forces, and American forces in particular, on Italian territory, which derive from the Treaty of Washington of 1949 and the SOFA of 1951, is the following: the Basic Infrastructure Agreement (BIA) of 12 October 1954, which, notwithstanding its high security classification, and in a radical departure from normal procedure, the Government

had made partly available to the judicial authorities responsible for the Cermis case; and the Shell Agreement of 2 February 1995, signed by the Italian Ministry of Defense and the US Department of Defense. This sets out the conditions to be observed in drafting or up-dating the technical arrangements regulating the presence and activities of US forces in individual installations and infrastructures. Since these technical arrangements are not confidential, they will be reviewed in order to define more precisely, stringently and forcefully the spheres of competence, responsibility and control of the national authorities with responsibility for each infrastructure conceded to the US forces. They may also be supplemented by additional confidential protocols regarding technical-operational aspects, which are particularly sensitive from the point of view of military security. The ministry is currently up-dating the technical agreement covering the Sigonella base, which will serve as a pilot agreement for the other infrastructures;

after the Cavalese tragedy, the Italian Government took the following prompt and decisive action: it appointed an Italy-United States Commission chaired for Italy by Gen. Tricarico and for the United States by Admiral Prueher, which drew up new procedures and operational constraints to guarantee maximum flight safety; disbursed compensation for the relatives of the victims and the sole survivor; opened procedures by the Ministry of Defense for compensation for the Alpe Cermis company, the Province of Trento and the Municipality of Cavalese.

On 30 March the Committee heard Gen. Andrea Fornasiero, the Air Force Chief of Staff. Gen. Fornasiero made the following points:

the presence of American forces in Italy is regulated by bilateral agreements signed in most cases in the 1950s and 1960s and currently being reviewed in line with the 1995 Shell Agreement between the Italian Ministry of Defense and the US Defense Department. This agreement marks a watershed in the philosophy underlying military treaties, especially with regard to security classifications, and contains principles for the day-to-day management of bases and infrastructure granted for use by foreign forces. The detailed military agreements are still at the draft stage and have not yet been ratified, since the Minister of Defense has not yet signed the additional protocol to the Basic Infrastructure Agreement (BIA), the first of the new political agreements legitimizing the US presence in Italy;

with the start of operations in the former Yugoslavia in the first half of 1993 and the substantial presence of Allied structures in Italy, and with regard to the environmental impact of this increased activity, the SMA placed further limitations on the scheduling of action, and the number and altitude (no less than 500 feet during the day and 1,000 at night) of authorized flights. It then tightened restrictions on allied aircraft based temporarily in Italy, and notified the NATO commands of the need to reduce both the « time window » in which training flights can take place and the intensity of low-level flight training. It thus took

steps to further regulate a sensitive operational training activity, in full respect of flight safety requirements and the need to keep noise pollution to a minimum, and called upon the recipients to observe these measures scrupulously. In spite of this, a large number of notifications were received from private citizens, sometimes in the form of formal complaints, that gave rise to painstaking investigations. The message of 21 April 1997 (SMA/175), which played an important part in the Cermis affair, was in fact informational; if it had been prescriptive, a NOTAM would have been issued. It was addressed to Vicenza and sent to Bari for information only, since Vicenza controlled all operational flights over Bosnia. On the basis of the agreements the training flights were inserted in the national chain of command and operational flights in the NATO chain. The message in any case regarded environmental impact, not flight safety;

it was necessary to distinguish clearly between operational activity and training activity. Real operations and training for purely national requirements came under the responsibility of the ROCs. At the time of the incident the armed forces were undergoing a reorganization; the command and control structure, previously entrusted to the ROCs of the 1st and 3rd Air Region, had been placed entirely in the hands of the ROC of Martina Franca until the COFA-CO (Air Force Command – Operation Center) at Poggio Renatico could assume full control of flights. The chain of command and control for the use of NATO air forces in the operations in Bosnia, which was implemented by the 5th ATAF at Vicenza through the Combined Air Operation Center, was different. The task of organizing the daily flight activity of the squadrons involved was delegated to the Vicenza command, with regard to both active operations and preparatory training missions for operations in Bosnia. Vicenza could not therefore authorize any training flights: on the basis of the agreements training flights came under the national chain of command. The mishap flight was part of Operation DG but had not been scheduled as a DG mission; it did not therefore seem in any way unusual for authorization to be addressed to Martina Franca, which had no objections since the request had been submitted along with the flights of the 31st FW. The 11 missions carried out by aircraft deployed for Operation DG do not appear to have breached safety rules, otherwise this would have been noted. These missions were part of the 449 low-level missions carried out in the three months preceding the incident, of which 46 were American (84 of these missions, of which 27 American, involved the Province of Trento). Aircraft based temporarily in Italy could carry out a certain number of training missions if these were included in the normal flight plan; authorization depended on whether or not they fell within the authorized percentage limits. They could not be performed if the flight plan was sent to the 5th ATAF but if the normal line was followed it was considered a deployed aircraft authorized to carry out a training mission;

with regard to the flight of 3 February, the altitude envisaged for the leg in which the incident took place was 2,000 feet. Since weather

conditions at the time did not require a change of route or a reduction in altitude to maintain visual contact with the terrain, it must be assumed that the responsibility for the failure to observe the limits lies exclusively with the personnel involved in the incident;

one of the duties of the Commander of Aviano was to check that the flight plans corresponded with the plans for the area as a whole – there was a specific ID code – and that the number of sorties was equal to or lower than the authorized number for the base; he then had to transmit this information to the ROC command in Martina Franca, which deconflicted these routes on the basis of all the messages received. On 3 February the check had been carried out and the flight in question was in fact corrected because the route taken by the previous flight had been indicated in the automatic processing routine. The sergeant major had called the captain, who had authorized the correction. Martina Franca merely checked that the route did not exceed the number of missions authorized for Aviano and did not interfere with other routes, and then authorized the flight;

immediately after the incident, new limits were imposed. The minimum overflight altitude for the Alps was set at 2,000 feet (about 600 meters) above ground level, overflights at altitudes of less than 13,000 feet (about 4,300 meters) from average sea level were banned over an area of about 30 km around the town of Cavalese, and the minimum altitudes over the rest of the country were doubled (with the exception of areas for exercises at sea). More effective control mechanisms were introduced by issuing a «overflight report form» for countrywide distribution; and instructions were issued so that an additional channel could be created for information on military overflights deemed to be irregular, as reported by members of the public or the armed forces. The Cermis incident also highlighted the need for a review of the rules and procedures. The Prime Minister entrusted this to a joint Italy-United States Commission (Tricarico-Prueher), which led to more stringent rules of procedure and tighter restrictions on low-level training flights by American aircraft; these were subsequently extended to all foreign units deployed on Italian territory. These rules included a requirement to designate a military authority who, serving as the reference contact for Italian commands, would be responsible for attesting that aircrews knew the rules governing low-level flights; that the crews were sufficiently qualified and trained to carry out the missions assigned to them; and that flights had been planned in compliance with Italian flight regulations and using Italian navigation charts. For Aviano, the United States designated the Commander of the 31st FW. The flights would have to be inserted in the host airport command's daily flight schedule, which is sent to the COFA-CO for approval. Foreign units permanently stationed in Italy may carry out low-level training flights, as envisaged under existing bilateral and NATO agreements, subject to a ceiling of 25% of authorized weekly flight operations. Squadrons based temporarily in Italy that are authorized to carry out low-level flights may not do so over the Alps. Before any flights over Italian territory the crews

receive a briefing on the low-level rules and procedures from a suitably qualified representative of the Italian Air Force or other Italian armed force or corps, in full respect of the restrictions and provisions contained in the instructions and/or issued through NOTAMs.

On 5 April 2000 the Committee heard the Commander of the military airport of Aviano, Col Alessandro Tudini. Col. Tudini underscored the following points:

the task of the Commander of the Aviano airbase is essentially that of ensuring that the bilateral agreements establishing the limits and constraints governing the American presence on the base are implemented correctly. The sectors in which the Commander may intervene are flight operations in general; air traffic control services (for which the Italian Commander has overall responsibility); monitoring the numbers of American civilian and military personnel permanently or temporarily stationed on the base; local defense and security of the installations; relations with the local civilian and military authorities and the implementation of any specific instructions issued by a superior authority;

after the incident the minimum altitude for low-level flights was doubled; a ban on overflights at altitudes of less than 13,000 feet was imposed over a radius of 30 kilometers in the neighborhood of Cavalese; the need for positive radar contact throughout the entire mission was emphasized, where the conditions of the terrain make this feasible; the compulsory use of Italian charts in planning was confirmed; it was established that any unit deployed on Italian territory must receive a briefing by suitably qualified Italian Air Force personnel on the rules governing low-level flights in Italy. The Tricarico-Prueher Commission also formulated seven recommendations that were adopted by the Italian and US Air Staffs, and have been put in force;

there are two different types of flight activity: flights carried out by the 31st FW, permanently stationed at Aviano, whose presence is regulated by a bilateral agreement establishing the limits and constraints on their space; and flights by the three NATO detachments operating in the Balkans. The former are authorized to carry out training activity on Italian territory, the latter are not: they take off from Aviano but operate outside territorial waters and Italian air space. As far as the activity of the 31st FW is concerned, the Aviano airbase command intervenes to varying degrees and in different roles in the planning and scheduling stages. On the NATO side, the command plays a very marginal role, because these units do not operate on Italian territory. Italy is, however, obliged to provide them with briefing on local procedures, the rules of engagement for operations and the instructions adopted for any exercises being carried out;

On 3 May 2000 the Committee visited the Aviano airbase. A series of explanatory briefing sessions took place. The Italian Commander of the airbase, Col. Tudini, explained how the base was organized, the

principal tasks of each structure and the way the Tricarico-Prueher report was being implemented; Gen. Daniel Darnell, Commander of the 31st FW, spoke briefly about the 31st FW's mission in Aviano; Col. Jeffrey Eberhard, Commander of the 31st FW's operations group, described the procedures followed for low-level flights in implementing the recommendations of the Tricarico-Prueher Commission.

On 10 May the Committee heard Gen. Arnaldo Vannucchi of the Italian Air Force general, who made the following points:

Gen. Vannucchi became Commander of the 5th ATAF in October 1996. In that position he comes under the responsibility of the Commander of the Allied Air Forces for Southern Europe (COMAIR-SOUTH) for air operations in Bosnia. These were carried out through the CAOC, which planned and organized operational missions over Bosnia by air units assigned to NATO and training missions (CAT FLAGS and Local Area Orientation – LAO) in preparation for missions in the skies of the former Yugoslavia. All these missions were included in the daily air tasking orders (ATOs) issued by the CAOC. The ATO also included the very low-level missions required by the units assigned to NATO and deployed in Italy to keep their pilots in training for such flights, in accordance with both the national rules for very low-level flights and the restrictions imposed by the Air Staff on the number of flights to be carried out on a weekly basis for each aircraft. Any type of flight operations involving air forces deployed in Italian bases for operations in support of the SFOR had to be authorized by the CAOC. The CAOC of the 5th ATAF was the main point of reference for flights by the units which the various nations had assigned to NATO;

the Commander of the 5th ATAF is an operational Commander, which means that he intervenes in operations or exercises using the resources the nation assigns to him. The forces assigned at that time to the 5th ATAF or NATO fall under his operational control, while command remains in national hands. The operational Commander is extraneous to any questions regarding rules. When they come under the operational control of the 5th ATAF, the aircraft assigned already know what the rules for low-level flights entail. The most that the Commander of the 5th ATAF could do was to point these out to the representatives of the twelve nations during the briefing sessions each morning, and urge them to ensure that all the rules were respected;

the content of the message of 21 April 1997 could not regard any body other than the 5th ATAF, since this was the only structure that could issue flight authorizations, including low-level flights. For this reason, when the message arrived he promptly gave verbal instructions to the effect that the directions laid down by the Air Staff should be complied with immediately. Since the 5th ATAF was the focal point for all the activity of the air units deployed in Italy, when a message arrived for the 5th ATAF it was considered mandatory, prescriptive message for the general as Commander, and was interpreted as an order. That is to say, it was prescriptive for the Commander of the 5th ATAF but not for the others, since they were not involved in the

authorization process. The Commander did not pass it on to the various military bases under his responsibility, because the national staffs of the units deployed in Italy and responsible for applying the order were in Vicenza themselves. Once the message arrived, the Chief of Staff and the director of the CAOC called the national representatives and notified them of the ban on low-level flights. Low-level missions were actually banned the following day. When he called the operations room after the Cermis incident to find out what had happened, the director of the CAOC said that since he himself had communicated the ban on low-level missions, they had disabled the so-called training cell in the computer, where low-level missions ended up; this meant that no authorizations could be issued;

for the missions in Bosnia the CAOC has three screens showing, second by second, the positions of the aircraft. These are constantly up-dated. The fact that flights are at high or average altitude in the outward journey towards the territory of the former Yugoslavia, in the skies over the former Yugoslavia, and on the return journey, facilitates the operation; there is also an AWACS keeping them under constant control. However, where low-level flights are concerned Italy's mountainous terrain makes it very difficult for radar to follow aircraft throughout the flight. It is not possible to follow them moment by moment. Monitoring is therefore somewhat irregular;

with regard to the flight of 3 February 1998 the American Commander was in breach of the rules since, although he was aware that an application to the 5th ATAF for a low altitude mission would have been rejected, he inserted one anyway in the daily flight schedule sent to Martina Franca. This did not arouse any suspicions in Martina Franca, since the request came from a permanent unit, the 31st FW, which was authorized to make such flights. Once this step had been taken, the flight authorized by Martina Franca appeared to all intents and purposes to be a regular daily flight authorized with its own ID code, which did not raise any problems for the radar controls. The general was not aware of the « scam ».

On 24 May 2000 Gen. Leonardo Tricarico, military adviser to the Prime Minister and leader of the Italian delegation on the Tricarico-Prueher Commission on the subject of safety, made the following points in his hearing before the Committee:

the Tricarico-Prueher Commission was set up in March 1999 following an agreement between Prime Minister D'Alema and President Clinton, who delegated their respective defense ministries to carry out a critical evaluation of the rules regulating flights over Italian territory with a view to establishing safety standards and provisions that would better ensure that the essential principles underpinning flight safety were respected;

the report itself included proposals for operational and organizational measures that would substantially modify the regulatory framework governing flights by foreign aircraft on Italian territory;

from the operational point of view, the Commission proposed that new training procedures be adopted for low-level flights by US aircraft in Italian air space. As a rule, temporarily deployed units would not be allowed to conduct such flights. Any exceptions would be assessed and authorized on a case-by-case basis. For units stationed in Italy, a ceiling of 25% of weekly authorized flight operations would be introduced for this form of training. This was undoubtedly the most significant provision because it effectively suspended low-level flights over Italian territory for foreign units based temporarily in the country;

from the organizational point of view, the Commission formulated a number of proposals: that one person be appointed in each US unit deployed in Italy to certify that flights in Italy were carried out in full respect of the relevant Italian rules and laws (this measure is particularly significant because it assigns responsibility to a single individual and makes it easier for Italy to monitor the situation, while providing the Italian side with fuller information on the extent to which the rules on the scheduling and conduct of flights are being respected); that Italian officials should be posted with each of these units to optimize the flow of information and facilitate communications (this measure was intended to make the exchange of information and instructions less bureaucratic and formal and to facilitate cooperation between the Italian and American sides, thereby enhancing the integration of the units on Italian territory); that a joint Italian-US commission should be set up for a periodic examination of all flight safety issues; that flight procedures should be reviewed periodically to ensure that they met any new requirements; that an Internet site should be set up where up-to-date information on the theatre of operations and the rules regulating flying activity in Italian air space would be posted (this measure has not yet been implemented); and, finally, that the Italy-United States bilateral agreements regulating the use of bases on Italian territory by the United States be reviewed and up-dated to bring them more closely into line with the current needs of the two countries;

as the Commission's recommendations have nearly all been implemented, it is felt that the system is now better protected against the possibility of incidents connected with flight exercises over national territory;

the problem of sovereignty has never in fact been an issue: indeed, whenever Italy has forcefully asserted its sovereignty, it never been contested;

with regard to the situation preceding the Cermis incident, the rules were already in place; the fact that they were not respected does not mean that the rules themselves were flawed in any way. In the light of events, the bilateral Commission sought to establish further rules that would make the recurrence of such an incident far less likely. The suspension of low-level flights for units based temporarily in Italy was justified by the fact that it was not possible for anyone, in difficult, complex terrain such as Italy's, to acquire the overall body of knowl-

edge and custom that would enable them to fly in a fully professional manner in Italy. The measures adopted were therefore an improvement on rules that were in any case already sound;

the chain of command was undoubtedly weak and the structure had gaps, as shown by the fact that the flight of 3 February was inserted in a daily flight schedule when it should have been included in a task order handled by the NATO command in Vicenza. Since the flight did take place, the structure evidently accepted it, so for this very reason a closer surveillance system based on clear, detailed and up-to-date agreements, with intermediate levels of supervision and a greater assumption of responsibility by the aircrews, can only improve safety conditions in the future;

the fact that the message of 21 April 1997 (SMA/175) bore an « INFO » address meant that it was not conveying a mandatory command. The question that needed to be answered here was why the message should have been sent to some recipients for action and others for information.

On 31 May 2000 Gen. Mario Arpino, Chief of the Defense Staff, was heard. He made the following points:

as he had been Chief of the Air Staff at the time of the incident, he was reiterating the statements made during the interview with the Military Prosecutor's Office of Padua, to the effect that the message of 21 April 1997 (SMA/175), which had played a central role in the affair, was not mandatory for the NATO authorities to which it was addressed, and even less so for the national bodies to which it was addressed merely for information. This message had merely proposed solutions designed to reduce the environmental impact caused by the proliferation of low-level training flights and was not in any way intended to deal with problems of flight safety. Its aim had simply been to come some way towards meeting the demands of the local population. If the intention had been to issue orders, this would have expressly required the COA/COM and the Commander of Aviano to reject any low-level flights directly, in derogation from the normal staff organization schedules;

in the aftermath of the incident and the wave of emotion it aroused, the message was interpreted as having been prescriptive, probably because of the strong sense of guilt over the failure to interpret it in more restrictive terms, even at the cost of stretching its meaning and spirit. This interpretation was shared by various officers, including at senior level, and can probably be explained by the fact that they only had a partial view of the issues. Two major categories need to be kept distinct: the NATO missions in Bosnia, which could be either NATO or national and which therefore passed through the CAOC at Vicenza, and all other missions carried out for different reasons (checkflights or periodic training flights). These had nothing to do with NATO and Bosnia and were routinely inserted in the daily flight schedule, which was authorized by the COA/COM at Martina Franca.

Vannucchi and Tricarico, being former NATO Commanders, had probably based their reasoning on a NATO point of view: their task was to manage CAOC missions rather than flights inserted in the daily flight schedule. And as the mission that led to the disaster was a CAOC mission, if it been processed through their computer programs it would have been rejected and never authorized. The fact that the flight was included in the flights of the 31st FW can therefore be explained by the circumstance that all the Aviano missions were coordinated by the 31st FW;

responsibility should therefore be sought in the 31st FW's failure to ensure that sufficient information was available on the rules and regulations that the crews were and are required to apply. This failure to follow the procedures precisely should not be ignored, even if the immediate cause of the tragedy was a lack of discipline on the part of the pilot;

the shortcomings of the agreements stipulating the powers of the Italian Commander of Aviano were identified after the event by the Tricarico-Prueher Commission, which drew up a list of further initiatives to step up preventive flight control and safety measures. It would not, however, have been possible to identify such measures beforehand as the rules and flight safety norms were in any case precise and detailed. If these rules had been respected, even the minor ones, the tragedy would not have occurred;

with regard to the legislative framework, the following agreements should be kept in mind: the Shell Agreement of 1995, which derives from the Basic Infrastructure agreement (BIA) of 1954, which regulates Italy-US relations with regard to the use of Italian bases granted to American forces in Italy. The BIA does not envisage sub-agreements for the three armed forces, but rather the drawing up and revision of the Technical Arrangement (TA) for each base in question. These technical agreements cannot be formalized without political approval, which as things stand at present will take the form of additional protocols to the BIA. The BIA is therefore the fundamental agreement, while the principle of national sovereignty and the way it should be applied will be shaped by reviews of, respectively, the additional protocols to the BIA on the political side, and the TAs deriving from the Shell Agreement on the military side. These protocols and the TAs must also contain and implement the findings of the Tricarico-Prueher Commission, which means stricter rules and more precise responsibilities for both the US and Italian commands. However, although it enhances Italy's ability to monitor permanent US bases, these legislative measures do not change – because no such change is needed – the principle already set out clearly in the BIA, which is that the flight operations of units stationed on Italian territory must comply with national rules and laws. This was already envisaged and should in itself have been sufficient to avoid the tragedy;

the second agreement to bear in mind is the MOU of 15 December 1995 between the Ministry of Defense and the Supreme

Headquarters Allied Powers Europe (SHAPE) regarding the provision of logistical support to external forces transiting or temporarily based on Italian territory. This MOU, which served primarily to formalize the logistical and financial aspects of the activity of the units of all the nations taking part in the operations in Bosnia and operating on Italian territory, was extended to cover subsequent operations, including the current SFOR and KFOR, in Bosnia and Kosovo respectively. Three sub-agreements to this MOU were then drawn up for the three armed forces. In the case of the army and naval forces, these were finalized, since they were circumscribed and limited in scope. However, the agreement drafted for air forces, which was more complicated, has not yet been signed. The real reason for the Air Force's failure to sign was and is the systematic reluctance of our foreign counterparts to accept the Italian proposals, which envisage undertakings that they do not always, or fully, agree with. A partial solution has been found, in the form of local arrangements between the Italian Commander and the Commander of the guest unit to define logistical and financial requirements in the various bases. This procedure was followed in all the bases with the exception of Aviano, for the simple reason that the additional aircraft, or the aircraft deployed for the Bosnia operation, used the permanent American structures already regulated by the BIA. This is the underlying reason for the different responsibilities of the Italian Commander of Aviano with respect to the other Italian Commanders. Therefore, the reason the agreements have not been signed is not that the Air Force was to a greater or lesser degree subordinate to the Americans, and while it is true that if they had been finalized the Italian Commander of Aviano would have had more authority, this would still not have prevented the sort of serious failure of discipline that caused the tragedy, as the agreements in question mainly covered logistical issues;

reports of low-level flights were often based on the impressions of members of the public, who rely on their own sensations and the noise and speed of the flights to form estimates that had proved on several occasions to be inaccurate. This is because they do not have either the equipment or the experience to measure the altitude of overflights or discriminate between 500, 700 or 1,000 feet in difficult mountain terrain. However, the Air Force has devoted considerable personnel and resources to investigations and inquiries aimed at providing answers to all the notifications of possible incidents. In order to enhance training, the *Istituto Superiore per la Sicurezza del Volo* (Flight Safety Institute) was set up in 1995. This provides training for military and civilian personnel in flight safety and accident prevention, and in investigation procedures;

as regards the extent to which the Tricarico-Prueher recommendations have been implemented, the Internet site had not yet been set up and the TAs still have to be fully updated. The agreement has not yet been renegotiated at the military level, since the Sigonella agreement, which will act as template for all 21 agreements on American bases, has not yet been finalized.

On 7 June 2000 the Committee heard Col. Orfeo Durigon, of the Italian Air Force, who testified as follows:

Col. Durigon was Italian Commander at the Aviano base from 29 September 1997 to 29 July 1999. His principal task was to supervise the application of the bilateral agreements: the Technical Agreement and the Memorandum of Understanding, dating respectively from 1994 and 1993. He also had the following additional duties: to guarantee the security of the airport, integrating Italian and American resources for its defense; act as liaison officer between the allied military authorities, the civilian authorities and external law enforcement authorities; handle air traffic control, using mixed American and Italian teams, in the air space immediately surrounding the airport; provide any support requested by the units, if possible, and consult his superiors if not; and ensure that all the general airport services functioned properly. His tasks were purely logistical. He had no operational tasks, these being the responsibility of the American Commander, who had a flight unit. The Italian Commander did not have a flight unit and was not responsible for training allied aircrews, a task entrusted to the American Commander. He had been appointed to the Command Investigation Board (CIB) that investigated the Cermis incident, where he acted principally as an observer, contributor, and interpreter; he could also put questions and had full access to documents. The CIB had tried to question the pilot, who had availed himself of the right to remain silent, except to express his condolences and state that he had not deliberately broken the rules. Col. Durigon recalled that the last page of the summary of the report by the CIB contained an assertion that the pilot had deliberately broken the minimum altitude rules in not one but two legs of the flight;

with regard to the aircraft's instrumentation, this was not a black box in the modern sense of the term, but an older version which provides mainly tactical information on electronic data-acquisition during electronic warfare. The data were not precise, which meant that calculations were always required to determine altitude above ground level;

with regard to the relationship between the Marines and the command of the 31st FW, any American aircraft that landed at Aviano came immediately under the responsibility of the American Commander of the 31st FW and received information directly from him, even if he belonged to another branch of the military. These powers were reinforced by the Tricarico-Prueher Commission, but the MOU already states that the US Commander is responsible for all American flight activity. However, Italian sovereignty over the base had never been placed in doubt and a climate of full cooperation had always reigned between the Italian and American commands. In briefings to introduce the Flight Wing to guests, the American Commander would show them a photograph of the Commander, describe him as the Italian Commander of the Aviano base, and briefly illustrate the organization of the base;

Col. Durigon pointed out he did not have any relationship with the 5th ATAF and so was not aware of the orders it issued to units temporarily deployed in Italy. As Commander of the base, he belonged to a single national chain of information transmission; one of his tasks was to transmit information on national training activity for approval by the Martina Franca COA/COM. This chain was respected. If other orders were issued he would not have known about them, as he was not part of the NATO information chain and did not receive anything from the 5th ATAF. He knew, however, that since 1991 training activity had been authorized for units deployed in Italy and that this had to follow the normal Italian procedures: the flights had to be inserted in the DFS, which was exactly what happened;

in the four months preceding the incident there had been four requests from the higher authorities for information on irregular flyovers. The procedure was that the ROC sent the unit the request for information and the unit checked the flight schedule for the day in question to verify who could transit that area. If it was confirmed that someone was authorized to be in that area at that time, the unit consulted the Americans immediately and asked for a report on the flight in question. The Americans supplied the report, which was sent to the ROC. In the four months in which he was Commander before the incident, he received no telephone notifications from members of the public or the authorities. He received no information that could be correlated with American activity, until the day of the incident. Afterwards the Americans suspended low-level flights for nearly a year.

On 9 June 2000 a Committee delegation led by the Deputy Chairman, the Hon. Luigi Olivieri, and composed of the Hons. Boato, Saonara, Fontan, Mitolo and Detomas, went to Trento to attend an open hearing with Giovanni Trettel, Sergio Vanzo and Father Angelico Boschetto, who described episodes of low-level flights over the Val di Fiemme. The Deputy Prefect at the police headquarters of the Government of Trento, Stelio Iuni, who also testified at the open hearing, provided the delegation with documentation relating to reports of low-level flights subsequent to the incident of 3 February 1998. The following elements emerged from the hearing:

Giovanni Trettel, who had been director of the Società Alpe del Cermis since its establishment, gave an eyewitness account of an episode that took place between 1967 and 1968. A fighter plane had passed below the cables of the car, which was not moving at the time. The formal protest sent to the Air Force's North-Eastern Command in Padua produced no results;

Father Angelico Boschetto reported that in autumn 1997, from the window of the rectory of the parish of Molina di Fiemme, which is situated 50 meters above the village, he had seen the upper part of the wings of a military aircraft. A similar episode, of which he had again been an eyewitness, had taken place a year earlier, but very low-level flights (at between 50 and 100 meters from ground level) were frequent (about two a month), especially after periods of bad weather.

Father Boschetto also reported the episode – which he had been told about by a recently deceased member of the parish, Valeria Perghel – of a very low-level flight over the Lago di Stramentizzo;

Sergio Vanzo, municipal councilor in Cavalese since 1978, had submitted a question to Mayor Gilmozzi in 1991 in which he pointed out the danger of the flights and the complaints of the resident population. After the Cermis tragedy he submitted a new complaint to the Public Prosecutor's Office, since no steps had been taken even though the Mayor had been warned of the danger. Vanzo also pointed out that the problem of low-level flights had already been raised with the previous administration in 1987-88, under Mayor Fontana, and one or more telegrams had been sent to the North-Eastern Command;

after confirming that he had had direct knowledge of the existence of low level flights in the valleys of Trentino, Stelio Iuni, Deputy-Prefect of Trento, exhibited documents (two photocopies of letters and four of telegrams) sent by the Carabinieri to the Prefect's office following reports by members of the public.

On 18 July the Committee heard Giorgio Fontana, mayor of Cavalese from 1978 to 1990. He made the following points:

at 15:15 hours on 14 October 1981, a fighter plane passed not more than 100 meters from the village of Masi di Cavalese, flying under the cableways of the Cermis cable car. He had witnessed this event personally. At the suggestion of the local Carabinieri, he sent a complaint to the V Territorial Command in Padua but received no response. Two years later, in July 1983, a similar incident took place and was reported by the town's works foreman. Mayor Fontana contacted the 1st Air Region in Milan, which replied that no military aircraft had transited the Val di Fiemme that day at the specified time. After this episode, however, no more low-level flights took place in Val di Fiemme until 1990.

After this intense program of hearings and missions, the Committee decided that further inquiries should be pursued in the United States, and opened a series of informal contacts with the American Embassy. These culminated with a meeting between the Chairman Iacobellis, the Deputy Chairman Olivieri and Ambassador Thomas Foglietta on 19 October 2000.

In view of the complexity of the arrangements required to organize the mission it was found necessary to extend the original term of ten months envisaged by Article 6, paragraph 1 of the resolution establishing the Committee to allow it to complete its investigations. This term would otherwise would have expired on 10 October 2000. A proposal for a three-month extension, signed by nearly all the members, from both the majority and the opposition, was therefore submitted and approved by a large majority on 10 October 2000.

A delegation led by Chairman Ermanno Iacobellis and composed of deputies Luigi Olivieri, Cesare Rizzi, Marco Boato and Giuseppe

Detomas then traveled to Washington, where a series of meetings were held with American political and military authorities on 20 and 21 November, following a previously agreed agenda.

On 20 November the Committee met the Secretary of the Navy, Richard Danzig and Under-Secretary Robert Pirie.

The others members of the American delegation were: General Michael Williams, Assistant Commandant of the Marine Corps; General Fred McCorkle, Deputy Commandant Aviation of the Marine Corps; Colonel Bruce Albrecht, USMC Aviation; General Joseph Composto, Judge Advocate of the Marine Corps; Colonel Kevin Winters, Judge Advocate of the Marine Corps; Colonel Gary Sokoloski, Judge Advocate of the Marine Corps; Captain Jim Norman, Judge Advocate of the Navy; Captain Jane Dalton, legal expert to the Commander Joint Chiefs of Staff; Lieutenant Steve Williams, Department of Defense (OSD, Italian Desk); John Reidy, EUCOM (Air Operations); and Major Maria Carty, EUCOM (Italian Desk).

The Committee noted with regret that both the records of Command Investigation Board and the records from Ashby's trial left many questions unresolved, especially the question of whether, under normal conditions, the US air forces had adopted adequate safety procedures.

The Committee also acknowledged that the Marines Corps had reacted attentively and decisively to the tragedy but pointed out that it could not consider its task to be complete without taking into account the information and evaluations produced by the administrative inquiries conducted by the Marines.

The Committee then asked the American authorities if they could have a copy of the records of these administrative inquiries and if they could meet Major General M. D. Ryan and Brigadier General W.G. Bowden, who had conducted them, to hear their direct view of the facts that had emerged. The Committee also repeated its request for the records of Ashby and Schweitzer's trials on the charge of obstruction of justice and asked if the American authorities would consider whether a flight safety investigation should be conducted under the terms of the NATO standardization agreement (STANAG 3531), involving if possible the waiver of the United States' right to conduct its own investigation in lieu of the NATO inquiry.

The American authorities renewed their expressions of regret over the Cermis incident, and their condolences for the victims. They stressed their willingness to cooperate to throw full light on the affair, while reserving the right to examine the requests submitted and to reply promptly. In this spirit of cooperation, they informed the delegation that they had already sent the Italian Embassy in Washington the records of the trials of Captains Ashby and Schweitzer.

The American delegation then illustrated separate reports regarding: the Cavalese incident and the action undertaken to identify and punish those responsible; the problems regarding compensation for the victims, the legislation in force pursuant to the Treaty of London and the procedures established to make the payments; the measures adopted immediately after the incident to guarantee flight safety and improved coordination between the Italian military authorities and the

American forces, and the establishment and working methods of the Tricarico-Prueher Commission; the recommendations formulated by the Tricarico-Prueher Commission to increase flight safety and the action taken by the Americans to implement them.

On the subject of the recommendations formulated by the Tricarico-Prueher Commission, the Parliamentary Committee repeated their request to include these in the context of the Shell Agreement relating to military bases hosting American forces.

On 21 November the Committee met the Deputy Chairman of the Joint Chiefs of Staff Richard Myers, who emphasized Italy's essential role within NATO, as illustrated by the recent events in Kosovo. He then expressed his regret, as an airman, over the Cermis incident and undertook to provide a prompt response to the requests put by the Committee, bearing in mind the tight time-scale imposed by the imminent closure of the legislature.

In a letter dated 14 December 2000, the American Ambassador Thomas Foglietta conveyed his government's response to the requests formulated in Washington. After reiterating its full willingness to provide technical and legal assistance to examine the documentation already sent to the Committee, it ruled out any possibility of providing further documentation since American law, and particularly the legislation regarding the protection of personal data, would not allow it. It also ruled out a safety investigation under the terms of STANAG 3531, since this eventuality had already been assessed and it had been decided to conduct an investigation in which the Italians could participate. In the view of the US government it would not therefore be productive to carry out an inquiry of this nature at this time.

On 12 December 2000 the Committee again heard Col. Orfeo Durigon, Commander of the Aviano airbase at the time of the disaster. After the mission to the United States, the Committee felt that he should testify again to shed further light on his role on the US Command Investigation Board that had investigated the mishap immediately after it occurred.

Col. Durigon specified the following points:

he had been called to take part in the Board by the Chief of the Air Staff, Gen. Mario Arpino, and had taken part in the proceedings on an equal and independent footing with the other members;

he recalled that immediately after the incident the Americans had opened a restricted inquiry, the task of which was to gather evidence while awaiting the start of the main inquiry. He had not taken part in this and did not know what information had been collected. He considered, however, that in view of the short time available, this had been limited to statements taken while the event was still fresh in people's minds;

immediately after the incident, when news of the emergency came in, the pilots did not say they had hit the cableways but merely referred in generic terms to a hydraulic emergency. When he rushed to examine

the aircraft with the American head of the operations office, he realized that it had hit a cable. He concerned himself with the safety of the aircraft as it appeared it might catch fire since it was losing fuel and hydraulic fluid. Col. Durigon learned of the disaster from the Televideo service, about an hour later. The pilots did not reply to questions during the Command Investigation Board. They merely made statements and apologies that were very generic and similar in tone, without providing any information that was of use to the investigation. The work of the CIB, which lasted about a month, had started out with meetings as often as three times a day. Col. Durigon again recalled that each member of the CIB had equal weight and openly expressed their opinions. He felt that Gen. DeLong had handled the proceedings very well. Gen. DeLong and the other members of the CIB all concluded that the aircrew had deliberately broken the rules. He denied that he had been subjected to any form of pressure during his work, and was not aware of any other members of the CIB having been subjected to undue interference. With regard to his contribution to the inquiry, he remembered pointing out the high speed of the flight, 550 knots, as confirmed by calculations carried out later.