

Thursday 22 May

- Attache departs New Zealand.
- MFAT send update to ① – not forwarded to Minister (see below)

P/SEC MFA P/SEC MFA

On Thursday 22 May ① was copied into a message noting the decision by the Malaysian authorities to decline the waiver request and repatriate the attaché and his family. This wasn't sent to you (it was during the journey back from Guyana).

Wednesday 25 June

- SEA instructs (by phone) NZ Post in KLU to follow up on Malaysians: what are they going to do about this?

From: (i) (SEA)
Sent: Monday, 30 June 2014 12:31 p.m.
To: (i) NZ POLICE
Subject: Thanks RE: Diplomatic Immunity Issue (msg ends)

From: (i) [redacted] | @police.govt.nz]
Sent: Monday, 30 June 2014 12:29 p.m.
To: (i) (SEA)
Cc: (i) NZ POLICE
Subject: Diplomatic Immunity Issue

(i)
Timeline relating to events as follows

- 9 May 2014 – Foreign diplomat arrested and charged. Unknown immunity status at time of arrest.
- 10 May 2014 – Diplomat appears in court before JP and suppression order granted. Remanded on bail with conditions to 30 May 2014.
- 10 May 2014 – MFAT drafts letter to Malaysian High Commission requesting consideration for immunity to be waived.
- 12 May 2014 – MFAT and NZ Police meet with Malaysian High Commission to discuss matters and confirm diplomatic immunity status. Malaysian HC advise they do not have mandate to make decision
- 14 May 2014 - MFAT confirm diplomatic community in writing to NZ Police.
- 15 May 2014 – Bail conditions withdrawn at court. Defendant did not appear.
- (i) 1 May 2014 – Notice received from Malaysian HC advising they would not waive Diplomatic Immunity. Defendant to be repatriated 22 May 2014.
- 22 May 2014 - Defendant repatriated.
- 23 May 2014 – NZ Police seek advice from Crown Law on how to proceed.
- 28 May 2014 – Crown Law advise prosecution to remain in place and a warrant to arrest sought.
- 30 May 2014 – NZ Police in chambers seek warrant to arrest. (i) grants warrant and suppression orders remain in place.

If you need anything else or further clarification please come back to me.

Regards



(i)
Wellington Central Police Station | PO Box 693
SX11220 Wellington DX Sort | Wellington

www.police.govt.nz

From: (i) (SEA)
Sent: Monday, 30 June 2014 12:32 p.m.
To: (i) (DS AAG)
Subject: RE: Post Cab Malaysia

I advised (i) ^{DPMC} by phone he could mention the psych angle to the PM. (5)

From: (i) (DS AAG)
Sent: Monday, 30 June 2014 12:31 p.m.
To: (i) (ESD); (i) (SEA); (i) (PRD); (i) (PRD); (i)
(OFS)
Subject: RE: Post Cab Malaysia

It seems to be there are some points from this morning that are not covered. E.g. we've not got an answer to the question how are we pursuing the getting of justice in the home country, nor the question about how we raised the matter with the home country (and (i) question about why official level not Ministerial).

^{DPMC}
The background needs to include what we are doing with the Malaysians now.

And we haven't provided advice about the psychological stuff.

From: P/SEC MFA ①
Sent: Monday, 30 June 2014 2:33 p.m.
To: PRESS SEC MFA ① [DPMC]; ①
Cc: ① (DS AAG); ① (SEA); ① (ESD); P/SEC MFA
① (OFS); ① (PRD); ① (PRD); ①
Subject: P/SEC MFA
RE: Update post Minister meeting

Hello ①

Here are the answers to your additional questions, plus updated points following discussion with Minister McCully.

P/SEC MFA ①

When did this happen and when did he go back to his country?

My understanding is that the incident occurred last month and he was returned to his home country a couple of weeks later.

When were you briefed?

I was made aware that an incident had occurred shortly after, but was only fully briefed for the first time on Saturday.

When was Murray McCully briefed?

He was briefed about the incident shortly after it took place in early May.

When did Mfat request the waiver?

The day after the incident took place.

P/SEC MFA, ① DPMC

①

From: SPS MFA
Sent: Monday, 30 June 2014 12:36 p.m.
To: P/SEC MFA; PRESS SEC MFA; P/SEC MFA
Subject: RE: Timeline of events

⑤

①

I Senior Private Secretary | Office of Hon Murray McCully

From: P/SEC MFA
Sent: Monday, 30 June 2014 12:31 p.m.
To: P/SEC MFA; PRESS SEC MFA; SPS MFA
Subject: Timeline of events

Friday 9 May:

- Wellington Police arrested a male in Brooklyn on the night of Friday 9 May.
- Charges laid of burglary and assault with intent to rape after he followed

At the time of the arrest neither the attaché nor his senior colleagues at the High Commission understood that he had diplomatic immunity. It was incorrectly assumed by them that because he was a member of the admin/tech staff, he was not eligible for diplomatic status.

Saturday 10 May

- Protocol Division confirm that he was in fact entitled to immunity and inviolability and therefore should not have been arrested, detained or charged.
- As a result, Police sought from the court a stay of proceedings and withdrew the terms and conditions of bail.
- MFAT, in discussion with Police, send TPN to the Malaysian High Commission seeking a waiver of the attaché's immunity to allow court proceedings to take place. (I believe NZ post in KLU were also asked to press for a waiver)
- Protocol Division send update to P/SEC MFA ① - forwarded to Minister (see below)

On Saturday 10 May P/SEC MFA ① was phoned by ① about the arrest of the diplomat. She sent you a message noting that the Malaysians had not invoked diplomatic immunity yet (as at the time they didn't realise he had immunity); that we would be seeking a waiver of immunity in Kuala Lumpur through the normal process; and that if the waiver wasn't granted the Malaysians would be able to remove the diplomat from New Zealand. It also noted that media lines would be prepared.

Later that day the office was sent a copy of the TPN seeking the waiver to note that the process was underway.

Monday 12 May

- Meeting with Police, MFAT, CIV, High Commissioner. HC sought more details.
- Police advised the High Commissioner about the rights of the victim. Police want to interview victim to get more details
- Malaysian HC agrees for assailant to undergo psychiatric assessment.
- During this meeting, it was made very clear that it was not an option for the attaché to remain in NZ. If waiver was refused we would consult Minister about declaring the Attaché Persona Non Grata;

Monday 19 May

- Police report on interview with victim.
- Psychiatric assessment not undertaken as no appointments available with specialist (1-month delay)
- The High Commissioner conceded the seriousness of the charges and confirmed that the decision had been made in Kuala Lumpur to repatriate the family as soon as possible.

Wednesday 21 May

- MFAT receive TPN from Malaysians declining request for immunity, and confirming the decision to repatriate attaché and family.

Thursday 22 May

- Attaché departs New Zealand.
- MFAT send update to ① – not forwarded to Minister (see below)

P/SEC MFA P/SEC MFA

On Thursday 22 May ① was copied into a message noting the decision by the Malaysian authorities to decline the waiver request and repatriate the attaché and his family. This wasn't sent to you (it was during the journey back from Guyana).

Wednesday 25 June

- SEA instructs (by phone) NZ Post in KLU to follow up on Malaysians: what are they going to do about this?

From:

① @crownlawn.govt.nz

Sent:

Monday, 30 June 2014 12:37 p.m.

To:

① (OFS)

Subject:

RE: Name suppression

⑥

⑦

From: (i) (DS AAG)
Sent: Monday, 30 June 2014 12:41 p.m.
To: (i) [DPMC]; (i) (SEA); (i) (PRD);
(i) (OFS); (i) (PRD); (i) (ESD)
Cc: PRESS SEC MFA; P/SEC MFA (i)
(SEA); P/SEC MFA (i)
Subject: RE: MALAYSIA POINTS: REVISED: REQUEST FOR MORE INFO

We've just got the advice from Crown Law on the country naming so are working that into the advice.

From: (i) [DPMC]
Sent: Monday, 30 June 2014 12:10 p.m.
To: (i) (SEA); (i) (PRD); (i) (PRD);
(i) (ESD)
Cc: PRESS SEC MFA; P/SEC MFA (i) (DS AAG); (i)
(SEA);
Subject: RE: MALAYSIA POINTS: REVISED: REQUEST FOR MORE INFO

Hi guys

How are we looking on this please?

Thanks,

(i) DPMC

From: (i) [DPMC]
Sent: Monday, 30 June 2014 10:09 a.m.
To: (i) (SEA); (i) (PRD); (i) (PRD);
Cc: PRESS SEC MFA; P/SEC MFA (i) (DS AAG); (i)
(SEA);
Subject: RE: MALAYSIA POINTS: REVISED: REQUEST FOR MORE INFO

All

Ok – Interest is running hot on this in the media, so PMO have asked that we cover off answer/brief the PM on following points, in the updated briefing we are working on:

- Are we able to refer to the fact that this person was a Defence Attache, and therefore could also face potential charges under military jurisdiction.
- Reiterated that we need clarification as to what the rules are under the Vienna Convention in terms of expectations that the person will be charged in their home jurisdiction.
- A line on whether the person could be extradited to NZ, notwithstanding that he was subject to diplomatic immunity.
- A line on why this was dealt with at officials' level, and why it has not been elevated to Ministerial/PM's level in terms of engagement with the Malaysians.

Deadline for all of this is noon please.

Also, can someone please get back to me asap on the earlier question about the suppression order (what jurisdiction was it issued under? Is it publicly accessible? If so, where?)

Cheers

DPNC ①

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From: (1) (SEA)
Sent: Monday, 30 June 2014 12:48 p.m.
To: PISEC MFA (1)
Subject: FW: Seemail RE: Malaysian staff member: police case

PISEC MFA (1)

, as requested. Please note the caveats I advised over the phone, i.e. publication of information shouldn't enable the indiv to be identified.

(1)

From: (1) @police.govt.nz]
Sent: Friday, June 27, 2014 01:22 PM
To: @police.govt.nz>; (1) (PRD)
Cc: (1) @police.govt.nz>; (1) @Police.Govt.NZ>;
Subject: Seemail RE: Malaysian staff member: police case

Afternoon,

I have spoken with (1) and (1)

The situation is as follows;

In chambers on 30 May 2014 Judge Davidson issued a Warrant to Arrest as sought by Police following advice from Crown Law. The matter remains a live prosecution and should the accused return to NZ the prosecution will continue.

(1) also continued interim name suppression of the accused which prevents any reference to the accused by name only. It does not cover his occupation or nationality. There is nothing in the court documentation that prevents discussion on either. This is the advice I understand (1) is providing to MFAT comms. (1) also mentions that the media are aware of the accuseds nationality and diplomatic status.

With reference to the TPN referred to in (1) email regarding the NZ Police 'considering' sealing all documentation pertaining to this matter. As the prosecution is still active the only order that may assist with this is the interim name suppression which I note Police did not oppose. The court has not made any order sealing documentation.

I hope this clarifies the situation somewhat. If you would like to discuss further please come back to me.

Thanks

(1)



Wellington Central Police Station | PO Box 693
SX11220 Wellington DX Sort | Wellington

www.police.govt.nz

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From: ① [DPMC]
Sent: Monday, 30 June 2014 12:48 p.m.
To: ① (OFS); ① (PRD); ① (SEA); ① (PRD); ① (ESD)
Cc: PRESS SEC MFA, P/SEC MFA ①
(SEA); P/SEC MFA ①
Subject: RE: MALAYSIA POINTS: REVISED: REQUEST FOR MORE INFO

Ok. It needs to go up at 1300, so the clock is really ticking.

From: ① (DS AAG) ①
Sent: Monday, 30 June 2014 12:41 p.m.
To: [DPMC]; ① (SEA); PRD); / (OFS);
(PRD); (ESD)
Cc: PRESS SEC MFA; P/SEC MFA ① (SEA);
Subject: RE: MALAYSIA POINTS: REVISED: REQUEST FOR MORE INFO

⑥

From: ① [DPMC]
Sent: Monday, 30 June 2014 12:10 p.m.
To: ① (SEA); ① (PRD); ① (PRD);
① (ESD)
Cc: PRESS SEC MFA; P/SEC MFA ①; ① (DS AAG);
(SEA); P/SEC MFA ①
Subject: RE: MALAYSIA POINTS: REVISED: REQUEST FOR MORE INFO

Hi guys

How are we looking on this please?

Thanks,

① DPMC

From: i
Sent: Monday, 30 June 2014 12:52 p.m.
To: P/SEC MFA
Subject: FW: Dip Immunity

FYI

| Senior Private Secretary | Office of Hon Murray McCully

From: SPS MFA
Sent: Monday, 30 June 2014 12:52 p.m.
To: i @mfat.govt.nz; i (CEO Office); i @mfat.govt.nz
Cc: P/SEC MFA PRESS SEC MFA
Subject: Dip Immunity

Hi i i – thought I would write a quick note to suggest senior coordination over this diplomatic immunity story. It's a bit of a frenzy over here and my sense is that the media/protocol/regional elements need a more shape and the sharpness of the advice coming over needs to be improved. Appreciate if someone senior could get across it, assess where the story is at, coordinate response efforts on how we need to move. Minister is looking to release a statement ahead of PM's Post Cab.

PRESS SEC MFA; P/SEC MFA; DPMC working on it at this end.

Thanks, i

i | Senior Private Secretary | Office of Hon Murray McCully

i

From: (i) (SEA)
Sent: Monday, 30 June 2014 12:53 p.m.
To: (i) (ESD)
Subject: RE: Post Cab Malaysia

(i) , sorry to slow your progress, but there was a point in last night's advice (i) ^{DPMC} email) you might want to slot into the Q&A, namely:

Will we call in the High Commissioner of the country concerned?

MFAT has been in close contact on this issue with the High Commissioner, who is fully aware of the seriousness with which we view this matter.

(i) Our own High Commission in the country concerned has also been in close contact with the authorities there, and will continue to liaise closely with them.

(i)

From: (i) (SEA)
Sent: Monday, 30 June 2014 12:57 p.m.
To: PISEC MRA (i)
Subject: FW: Legal Advice, Crown Law

(5)

From: (i) (OFS)
Sent: Monday, 30 June 2014 12:34 p.m.
To: (i) (ESD); (i) (SEA); (i) (DS AAG); MEDIA
Cc: (i) (OFS)
Subject: Legal Advice

(6)

From: (1) (ESD)
Sent: Monday, 30 June 2014 12:59 p.m.
To: (1) (OFS); (1) (SEA); (1) (PS AAG)
Subject: RE: Name suppression

Consolidated draft with further changes

Everybody ok ? (1) ^{DPMC} needs its asap.

Monday 30 June 2014 latest

(1) Post Cabinet Briefing

Talking Points Malaysia Diplomat

- Today the government obtained legal advice as to the scope of the court order suppressing details of a foreign diplomat who recently claimed immunity from criminal charges.
- That advice was to assess what the government can publicly say about this case under the suppression order, and in particular if we can identify his home country.
- The advice received is there is a Court order in force suppressing the alleged offender's name, and any information likely to lead to his identification. I have been advised that in this case, publication of the man's nationality is likely to breach that order.
- As you are aware we asked the diplomat's government to waive his right to immunity so he could face charges, but this was declined and he immediately departed New Zealand.
- We continue to follow the situation closely and are liaising with authorities in the person's country via our High Commission there. We have been assured the individual is under investigation in his home nation. If we are not satisfied we will make further representations.
- Foreign Minister Murray McCully will also look for opportunities to raise this matter with his counterpart in coming weeks.

Question and Answers

What exactly the Vienna Convention means in terms of the obligations/requirements of the sending country in a case such as this?

Under the Vienna Convention there is no additional obligation on the host country [to do what? This is unclear to me]. However New Zealand's position is clear that it expects a further investigation of this individual. We have been assured this is under way, but it is too early to determine what the outcome of that process will be.

Can you extradite the individual?

From: (i) (DS AAG)
Sent: Monday, 30 June 2014 1:05 p.m.
To: (i) (SEA); (i) (ESD)
Subject: RE: Post Cab Malaysia

As discussed with (i), can I please see the draft and be advised of timeline for response.

From: (i) (SEA)
Sent: Monday, 30 June 2014 12:49 p.m.
To: (i) (DS AAG)
Subject: RE: Post Cab Malaysia

No, MFA is still proposing to issue a statement. Media circulated a draft, which does not mention Malaysia.

From: (i) (DS AAG)
Sent: Monday, 30 June 2014 12:40 p.m.
To: (i) (SEA); (i) (ESD); (i) (PRD); (i) (PRD); (i) (OFS)
Subject: RE: Post Cab Malaysia

Yes, it's important that what we provide to the PM today does not require him to go back to any previous material but is the full encapsulation. So please also look at other material provided over the weekend and reinsert things that have not made it into this version

(i) I take it MFA's proposed statement has fallen by the way?

From: (i) (SEA)
Sent: Monday, 30 June 2014 12:35 p.m.
To: (i) (DS AAG); (i) (ESD); (i) (PRD); (i) (PRD); (i) (OFS)
Subject: RE: Post Cab Malaysia

On (i) first points, we can reiterate our advice of yesterday, i.e. that our HC in KLU is liaising closely and will continue to do so; I'll add some wording. The mention of Mr McCully following up reinforces that track.

From: PISEC MFA ①
Sent: Monday, 30 June 2014 2:15 p.m.
To: PRESS SEC MFA ① [DPMC]; PISEC MFA ①
Cc: (DS AAG); (SEA); (ESD);
(OFS); (PRD); ① (PRD)
Subject: Update post Minister meeting

From: PRESS SEC MFA ①
Sent: Monday, 30 June 2014 2:07 p.m.
To: PISEC MFA ①
Subject: TPs

Monday 30 June 2014 latest

Post Cabinet Briefing

Talking Point Diplomat

- There is a Court order in force suppressing the alleged offender's name, and any information likely to lead to his identification. I have been advised that in this case, publication of the man's nationality is likely to breach that order.
- As you are aware we asked the diplomat's government to waive his right to immunity so he could face charges, but this was declined and he immediately departed New Zealand.
- We continue to follow the situation closely and are liaising with authorities in the person's country via our High Commission there. We have been assured the individual is under investigation in his home nation. If we are not satisfied we will make further representations.
- We respect the privileges and immunities granted to diplomats under the Vienna Convention but they are still under a duty to respect their host country's laws.
- Foreign Minister Murray McCully is monitoring the situation closely and will consider what further steps might be necessary.

Question and Answers

What exactly the Vienna Convention means in terms of the obligations/requirements of the sending country in a case such as this?

Under the Vienna Convention there is no additional obligation on the host country. However New Zealand's position is clear that it expects a further investigation of this individual. We have been assured this is under way, but it is too early to determine what the outcome of that process will be.

Can you extradite the individual?

Given that the individual has claimed diplomat immunity this is unlikely. Our expectation is the host government will take steps to investigate the individual. New Zealand's position is that it wishes to see appropriate accountability. We will continue to monitor the situation.

Can you reconfirm the exact terms of the Suppression Order in terms of the publication of the nationality question?

The individual was granted name suppression. There is a Court order in force suppressing the alleged offender's name, and any information likely to lead to his identification. I have been advised that in this case, publication of the man's nationality is likely to breach that order.

Why did the police place charges if he had immunity?

The Police arrested him and he appeared in court the next day before the host government claimed immunity. At that point the police applied for a stay of proceedings. Those proceedings effectively remain live and could be reactivated should the individual return to New Zealand.

Is it fair to the victim?

This has been an ordeal for the victim. Our preference would have been to see the accused face justice in New Zealand. This is why we sought a waiver.

What can we do in these situations?

We would always ask for diplomatic immunity to be waived when a case is serious. If this is declined the person involved would have to be removed from New Zealand or face being determined as persona non grata. However the High Commission quickly agreed the individual should leave New Zealand. The case is under investigation in his own country. In this case we have yet to be advised how that will take place but we will continue to liaise closely on its outcome.

What are we doing to ensure the home country follows a rigorous process to investigate this case?

Our High Commission has liaised closely with authorities, who assure us this is being taken seriously and is under investigation. If we are not satisfied we can make further representations.

Will we call in the High Commissioner of the country concerned?

MFAT has been in close contact on this issue with the High Commissioner, who is fully aware of the seriousness with which we view this matter. In order to reinforce this point the Minister has asked the Secretary of Foreign Affairs and Trade to call in the High Commissioner.

Our own High Commission in the country concerned has also been in close contact with the authorities there, and will continue to liaise closely with them.

Background – not for publication

- Wellington Police arrested a male in Brooklyn on the night of Friday 9 May. Charges were laid of burglary and assault with intent to rape after he followed a 21 year old woman and assaulted her in her home.
- The arrested individual was the military attaché at the Malaysian High Commission - a member of the military administrative and technical staff.
- At the time of the arrest neither the attaché nor his senior colleagues at the High Commission understood that he had diplomatic immunity. It was incorrectly assumed by them that because he was a member of the admin/tech staff, he was not eligible for diplomatic status.
- It was subsequently confirmed by Protocol Division, the following morning that he was in fact entitled to immunity and inviolability and therefore should not have been arrested, detained or charged.

From: P/SEC MFA @parliament.govt.nz
Sent: Monday, 30 June 2014 2:33 p.m.
To: PRESS SEC MFA [DPMC]; PMO
Cc: (DS AAG); (SEA); (ESD); (OFS); (PRD); (PRD); (PRD); (PRD);
Subject: SPS MFA
RE: Update post Minister meeting

Hello PMO

Here are the answers to your additional questions, plus updated points following discussion with Minister McCully.

①

When did this happen and when did he go back to his country?

Understanding is that the incident occurred last month and he was returned to his home country a couple of weeks later.

When were you briefed?

I was made aware that an incident had occurred shortly after, but was only fully briefed for the first time on Saturday.

When was Murray McCully briefed?

He was briefed about the incident shortly after it took place in early May.

When did Mfat request the waiver?

The day after the incident took place.

From: PRESS SEC MFA
Sent: Monday, 30 June 2014 2:07 p.m.
To: P/SEC MFA
Subject: TPs

Monday 30 June 2014 latest

Post Cabinet Briefing

Talking Point Diplomat

- There is a Court order in force suppressing the alleged offender's name, and any information likely to lead to his identification. I have been advised that in this case, publication of the man's nationality is likely to breach that order.
- As you are aware we asked the diplomat's government to waive his right to immunity so he could face charges, but this was declined and he immediately departed New Zealand.
- We continue to follow the situation closely and are liaising with authorities in the person's country via our High Commission there. We have been assured the individual is under investigation in his home nation. If we are not satisfied we will make further representations.

- We respect the privileges and immunities granted to diplomats under the Vienna Convention but they are still under a duty to respect their host country's laws.
- Foreign Minister Murray McCully is monitoring the situation closely and will consider what further steps might be necessary.

Question and Answers

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What are we doing to ensure the home country follows a rigorous process to investigate this case?

Our High Commission has liaised closely with authorities, who assure us this is being taken seriously and is under investigation. If we are not satisfied we can make further representations.

Will we call in the High Commissioner of the country concerned?

- MFAT has been in close contact on this issue with the High Commissioner, who is fully aware of the seriousness with which we view this matter. In order to reinforce this point the Minister has asked the Secretary of Foreign Affairs and Trade to call in the High Commissioner.

Our own High Commission in the country concerned has also been in close contact with the authorities there, and will continue to liaise closely with them.

When did this happen and when did he go back to his country?

My understanding is that the incident occurred last month and he was returned to his home country a couple of weeks later.

When were you briefed?

I was made aware that an incident had occurred shortly after, but was only fully briefed for the first time on Saturday.

When was Murray McCully briefed?

He was briefed about the incident shortly after it took place in early May.

When did Mfat request the waiver?

3 day after the incident took place.

Background – not for publication

- Wellington Police arrested a male in Brooklyn on the night of Friday 9 May. Charges were laid of burglary and assault with intent to rape after he followed a 21 year old woman and assaulted her in her home.
- The arrested individual was the military attaché at the Malaysian High Commission - a member of the military administrative and technical staff.
- At the time of the arrest neither the attaché nor his senior colleagues at the High Commission understood that he had diplomatic immunity. It was incorrectly assumed by them that because he was a member of the admin/tech staff, he was not eligible for diplomatic status.
- It was subsequently confirmed by Protocol Division, the following morning that he was in fact entitled to immunity and inviolability and therefore should not have been arrested, detained or charged.
- As a result, Police sought from the court a stay of proceedings and withdrew the terms and conditions of bail.
- Following usual practice in serious cases such as this one MFAT, in discussion with Police, sent a formal diplomatic Note to the Malaysian High Commission on 10 May seeking a waiver of the attachés immunity to allow court proceedings to take place. The Note is attached.
- Two meetings were held at MFAT with the High Commissioner and senior staff, the two police detectives handling the case and a member of Protocol division.
- At the first meeting available options were discussed including a waiver of immunity by the Malaysians. Other points:
 - It was made very clear that it was not an option for the attaché to remain in NZ. If waiver was refused we would consult the Minister about declaring the Attaché Persona Non Grata;
 - Police and the High Commission observed that psychiatric factors could be involved;
 - the High Commissioner requested more detailed evidence and information about the incident as sought by her foreign Minister and Military Chief of Staff
 - Police advised the High Commissioner about the rights of the victim.
- At the second meeting on 19 May, a summary was presented to the High Commissioner of the interview with the victim. The High Commissioner conceded the seriousness of the charges and confirmed that the decision had been made in Kuala Lumpur to repatriate the family as soon as possible.

From: PMO @parliament.govt.nz>
Sent: Monday, 30 June 2014 2:42 p.m.
To: P/SEC MFA PRESS SEC MFA [DPMC];
Cc: (DS AAG); (SEA); (ESD);
(OFS); (PRD); (PRD); P/SEC MFA
Subject: SPS MFA
RE: Update post Minister meeting

Thank you – one more questionin recent memory, when has a country agreed to waive diplomatic immunity following a serious incident/accusation of serious crime?

PMO
Office of the Prime Minister
Floor The Beehive | Wellington NZ |

From: P/SEC MFA
Sent: Monday, June 30, 2014 2:40 PM
To: PRESS SEC MFA [DPMC]; PMO
Cc: (DS AAG); (SEA); (ESD); mfat.govt.nz';
(PRD); (PRD);
Subject: RE: Update post Minister meeting

And one more additional point.... I've also added it into the main body of points below.

If pressed: why did it take so long before he left?

When the country concerned declined the waiver, they also informed us the diplomat would be leaving the following day.

From: PRESS SEC MFA
Sent: Monday, 30 June 2014 2:07 p.m.
To: P/SEC MFA
Subject: TPs

Monday 30 June 2014 latest

Post Cabinet Briefing

Talking Point Diplomat

- There is a Court order in force suppressing the alleged offender's name, and any information likely to lead to his identification. I have been advised that in this case, publication of the man's nationality is likely to breach that order.
- As you are aware we asked the diplomat's government to waive his right to immunity so he could face charges, but this was declined and he immediately departed New Zealand.

- The High Commissioner asked Police if the documents referring to the case could be sealed. The process for doing this was to be followed up by Police.
- On 21st May, MFAT received the attached diplomatic Note from the Malaysians declining the request for a waiver of immunity and confirming the decision to repatriate the attaché and his family. Given this there was no reason for New Zealand to consider declaring him persona non grata. The family departed NZ 22 May.

 | Press Secretary | Office of Hon Murray McCully
  parliament.govt.nz
6.1 Executive Wing Beehive | Parliament Buildings | Wellington 6160 | New Zealand

From: ① (DS AAG)
Sent: Monday, 30 June 2014 3:17 p.m.
To: ① (SEA)
Subject: Re: Malaysian HCer

Yes I absolutely agree. She can be alone and ① accompanied by you. But let's ensure when we brief ① at 4.30 that he knows of the request ②

From: (SEA)
Sent: Monday, June 30, 2014 03:15 PM
To: (DS AAG)
Subject: Malaysian HCer

Just FYI, the Malaysian High Commissioner has asked to see ① on his own.

②

Do you agree? If so, should we alert ① to this request?

①

From: CMD
Sent: Monday, 30 June 2014 3:57 p.m.
To: (DS AAG); (ESD); (SEA);
(ESD); (PRD); (OFS)
Subject: FW: NZ Expects Diplomat To Face Justice - Herald enquiry

Hi there

In response to below Herald are asking when HC will be called in and can they take photos as they have in past such situations (apparently).

Will discuss with ① when he returns but keen to make you aware above questions have been lodged.

Thanks

From: NewsRoom
Sent: Monday, 30 June 2014 2:53 p.m.
To: CMD
Subject: NZ Expects Diplomat To Face Justice



NZ Expects Diplomat To Face Justice

PRESS RELEASE BY NEW ZEALAND GOVERNMENT AT 2:49PM, 30 JUN 2014

Foreign Minister Murray McCully says he expects the diplomat accused of an attack on a young woman to face the consequences of his actions in his home country. This follows his Government declining New Zealand's request for a waiver of diplomatic immunity.

The man's identity is currently subject to a Court Suppression Order and Crown Law advice is that naming the individual or other identifying features, such as country he represented, would breach that order.

"The New Zealand Government took all appropriate steps to have the foreign diplomat accused of the attack face trial in New Zealand," Mr McCully says.

"New Zealand expects all diplomats in our country to abide by our laws and we make this very clear to all foreign missions operating in New Zealand," Mr McCully says.

"On this occasion a foreign diplomat has been accused of a very serious crime. The Ministry of Foreign Affairs and Trade formally requested that his right to diplomatic immunity be waived.

"This request was declined and the individual returned to his home country where an investigation is being carried out by the relevant authorities.

"We have seen nothing to suggest the matter is being swept under the carpet. The Ministry is monitoring this investigation closely and will continue to watch developments and consider what further steps are required.

"I have asked the Secretary of Foreign Affairs to call in the relevant Head of Mission to convey directly the New Zealand Government's interest in the actions taken by their authorities.

From: (1) (KLU)
Sent: Monday, 30 June 2014 4:05 p.m.
To: (1) (KLU); (1) (SEA)
Subject: RE: Attention: (3) Request for Assistance

Thanks for this (1) NZ media reports that Secretary of Foreign Affairs (1) will call in the relevant ambassador to "convey directly the New Zealand Government's interest in the actions taken by their authorities". I will be waiting for Wellington's report on that before any follow-up with MFA here.

(1)

From: (1) (KLU)
Sent: Monday, 30 June 2014 11:34 a.m.
To: (1) (KLU); (3) (SEA)
Subject: FW: Attention: (3) : Request for Assistance

Hi (1), FYI. I'll get in touch once I hear something back. Also the two appointments that I mentioned yesterday are both that would have had regular dealings with the Malaysian DA's Office in Wellington (albeit around training) and thus would/should have been aware of the MAF person's departure from NZ. (3); on the other hand, will know as the MY DAs all report to the Directorate that he works in. Anyway we'll see what he says and

(2) + (3)

Cheers

(1)

From: (1) (KLU)
Sent: Monday, 30 June 2014 10:24 a.m.
To: (3) @Rln.gov.MY
Subject: RE: Attention: (3) : Request for Assistance

Thank you

From: (3)
Sent: Monday, 30 June 2014 10:24 a.m.
To: (1) (KLU)
Subject: RE: Attention: (3) : Request for Assistance

Sir,

We'll get back to you soon.

(3)

(1)

From: (1) (KLU)
Sent: Monday, June 30, 2014 10:30 AM

From: [redacted] (DS AAG)
Sent: Monday, 30 June 2014 4:06 p.m.
To: [redacted] (DS AAG Office)
Subject: Re: I'll be late...

Can u set me up an 8.30am meeting with [redacted] (if she'll be back), [redacted] [redacted] as well as inviting [redacted] to participate, should she wish. I want to do a lessons learned from the Malaysian incident and discuss next steps in managing. They are welcome to bring anyone else they think should be there.

From: [redacted] (SEA)
Sent: Monday, 30 June 2014 4:07 p.m.
To: [redacted] (DS AAG); [redacted] (ESD); [redacted] (OFS); [redacted] (PRD); [redacted] (KLU)
Cc: PISE C MFA
Subject: Draft points for [redacted] to speak to and hand over.
Importance: High

[redacted] and [redacted]

As discussed, here are a few key points for the 4.45pm meeting between MFAT [redacted] and the Malaysian High Commissioner [redacted]. The intention would be to hand them over to her as an aide memoir. Please let me know by 4.25pm if possible if you have any changes or additions.

- As intense media scrutiny since the weekend reflects, there is a high level of public interest in the serious allegations against the former Defence Attache with the Malaysian High Commission relating to an incident on Friday 9 May and the circumstances surrounding his return to Malaysia on Thursday 22 May.
- We have appreciated the assurances of the [redacted]; that despite the decision by the Government of Malaysia not to waive diplomatic immunity under the Vienna Convention, the allegations are being taken seriously by Malaysian authorities and a process is underway.
- We are also aware that the individual comes under the jurisdiction of the Malaysian Armed Forces, which is currently investigating possible courses of action.
- The New Zealand Government remains deeply concerned about the 9 May incident and has high expectations Malaysia's processes will be rigorous and transparent.
- We would like to reinforce the expectation our High Commission in Kuala Lumpur will be kept fully informed to this effect and that the outcome will be commensurate with the seriousness of the alleged crimes.

=====
=====
Background:

- It is possible High Commissioner [redacted] that the former DA was arrested and charged, despite his immunity under the Vienna Convention. The fact is that the High Commissioner was not aware he had immunity – thinking instead he was 'technical/administrative staff' and therefore not protected. It was MFAT who discovered the man had diplomatic immunity and immediately informed the High Commissioner accordingly.
- It is also possible the High Commissioner will again raise her wish for the police documents pertaining to the case be sealed.

Police has no intention of sealing the documents and we understand would be willing to make its record of its inquiries into the alleged crime available to Malaysian investigators if asked. NZ

- The High Commissioner is [redacted]. The mounting level of public and media interest, and the fact we have raised the issue directly with the Malaysian foreign ministry

- The suppression order, renewed most recently on 30 May, applies to the name but also prevents publication of any information that would enable the alleged offender to be identified. ⁽⁶⁾
⁽⁶⁾ Minister McCully was considering whether he could indicate, without breaching the order, that the man was a defence attaché.

From: (1) (SEA)
Sent: Monday, 30 June 2014 4:08 p.m.
To: (1) (KLU)
Subject: RE: Attention: (3) : Request for Assistance

Just with you. This is a development from this afternoon.

From: (1) (KLU)
Sent: Monday, 30 June 2014 4:05 p.m.
To: (1) (KLU); (1) (SEA)
Subject: RE: Attention: (3) Request for Assistance

Thanks for this (1) NZ media reports that Secretary of Foreign Affairs (1) will call in the relevant ambassador to "convey directly the New Zealand Government's interest in the actions taken by their authorities". I will be waiting for Wellington's report on that before any follow-up with MFA here.

(1)

From: (1) (KLU)
Sent: Monday, 30 June 2014 11:34 a.m.
To: (1) (KLU); (1) (SEA)
Subject: FW: Attention: (3) : Request for Assistance

Hi. (1) FYI. I'll get in touch once I hear something back. Also the two appointments that I mentioned yesterday are both that would have had regular dealings with the Malaysian DA's Office in Wellington (albeit around training) and thus would/should have been aware of the MAF person's departure from NZ. (3), on the other hand, will know as the MY DAs all report to the Directorate that he works in. Anyway we'll see what he

(2) + (3)

Cheers

(1)

From: (1) (KLU)
Sent: Monday, 30 June 2014 10:24 a.m.
To: (3) @RM.gov.my
Subject: RE: Attention: (3) : Request for Assistance

Thank you

From: (3) @mod.gov.my
Sent: Monday, 30 June 2014 10:24 a.m.
To: (1) (KLU)
Subject: RE: Attention: (3) Request for Assistance

Sir,

We'll get back to you soon.

③

From: ① (KLU)
Sent: Monday, June 30, 2014 10:30 AM
To: ② @Kln.gov.my
Subject: Attention: ③ : Request for Assistance

③

I seek your assistance in a delicate matter. As you may be aware one of the MAF staff in the DA's Office based in Wellington had to leave the country under not so favourable circumstances. You may also be aware that, as much as the incident in question has found its way now to the NZ media-although all relevant details regarding identity have been suppressed.

Anyway as it's very likely that this story will be in the news for some time, Wellington has asked if you could provide us with what action to date if any has been taken on the MAF person either through the Military or the civilian disciplinary system? The NZ High Com in KL has raised a similar request for info from MFA in Putrajaya,

②

Can I please re state that this an informal request to ensure that our appropriate Ministers and Officials are apprised of the facts from relevant Malaysian authorities such as FLO. As such any info that you can provide on the status of the MAF person in question would be much appreciated.

Happy to talk more if required.

③

"The information contained in this email message is intended only for the addressee and is not necessarily the official view or communication of the Ministry. It may be legally privileged. If you are not the intended recipient you must not use, disclose, copy or distribute this message or the information in it as this may be unlawful. If you have received this message in error, please email or telephone the sender immediately."



From: (i) (ENV)
Sent: Monday, 30 June 2014 4:22 p.m.
To: (i) (LGL); (i) (PRD); (i) (OFS);
(i) (PRD); (i) (CMD)
Subject: FW: Dip.Immunity - Malaysia?

FYI - I've thanked (i) for this.

(i) - not sure who is dealing with this on the media side, but could you forward as necessary?)

-----Original Message-----

From: (i) .net.nz
Sent: Monday, 30 June 2014 4:14 p.m.
To: (i) (ENV)
Subject: Dip.Immunity - Malaysia?

Just to let you know that I was called a few minutes ago by a TV 1 Breakfast show reporter to talk about the current incident which he told me involves Malaysia. I gave him some very general background and history of diplomatic immunity but said I wasn't interested in going on camera (apart from anything else presumably i will be at the airport or in the air at the relevant time). He asked who else he might use and I suggested Campbell with a few other academics as backup.

LC

From: (i) (SEA)
Sent: Monday, 30 June 2014 4:33 p.m.
To: (i) (CEO Office)
Subject: FW: Draft points for (i) to speak to and hand over.
Importance: High.

Kia ora (1)

Would you be able to put the following in a Word document for (i) to talk to and hand over when the Malaysian High Commissioner calls in 15 mins? I am having trouble removing classification headers and need to be with (1) in a few mins!

Thanks

(1)

=====

Aide Memoir

Meeting with High Commissioner for Malaysia to New Zealand, (3)
30 June 2014

- Thank you for coming in. I am wanting to talk with you today on the instruction of the Minister of Foreign Affairs.
- As intense media scrutiny since the weekend reflects, there is a high level of public interest in the serious allegations against the former Defence Attache with the Malaysian High Commission relating to an incident on Friday 9 May and the circumstances surrounding his return to Malaysia on Thursday 22 May.
- We have appreciated the assurances of the Ministry of Foreign Affairs (3), that despite the decision by the Government of Malaysia not to waive diplomatic immunity under the Vienna Convention, the allegations are being taken seriously by Malaysian authorities and a process is underway. (3)
- We are also aware that the individual comes under the jurisdiction of the Malaysian Armed Forces, which is currently investigating possible courses of action.
- The New Zealand Government remains deeply concerned about the 9 May incident and has high expectations Malaysia's processes will be rigorous and transparent.
- We would like to reinforce the expectation our High Commission in Kuala Lumpur will be kept fully informed to this effect and that the individual will be held to

account and the outcome will be commensurate with the seriousness of the alleged crimes.

①. New Zealand Secretary of Foreign Affairs and Trade

From: ① (SEA)
Sent: Monday, 30 June 2014 6:37 p.m.
To: ① (DS AAG); ① (ESD); ① (OFS);
P/SEC MFA @parliament.govt.nz; ① (PRD); ① (KLU);
① (KLU); ① (KLU); ① (CEO); ①
(CEO Office); ① (SEA); ① (SEA); ① (SEA);
① @nzdf.mil.nz
Cc: P/SEC MFA @parliament.govt.nz; PRESS SEC MFA (ESD);
@dpmc.govt.nz
Subject: RE: Draft points for ① to speak to and hand over.

Kia ora tatau,
① called in Malaysian High Commissioner ① this afternoon on instruction from Minister McCully. The following is a summary of the key points of the meeting:

②

From: (1) (DS AAG)
Sent: Tuesday, 1 Jul 2014 7:06 a.m.
To: CMD; (1) (PRD); (ESD); (1) (OFS); (SEA); (1) (ESD);
Subject: Re: NZ Expects Diplomat To Face Justice - Herald enquiry

Not sure how you responded in the end to this, but to my knowledge the Ministry has never allowed photos when we've called in Ambassadors/High Commissioners. And in this case, it would have been tantamount to identifying the country...

-----Original Message-----

From: CMD
To: (1) (DS AAG)
To: (ESD)
To: (1) (SEA)
To: (ESD)
To: (PRD)
To: (OFS)
Subject: FW: NZ Expects Diplomat To Face Justice - Herald enquiry
Sent: Jun 30, 2014 3:57 PM

Hi there

In response to below Herald are asking when HC will be called in and can they take photos as they have in past such situations (apparently).

Will discuss with (1) when he returns but keen to make you aware above questions have been lodged.

Thanks

From: NewsRoom [<mailto:newsroom@newsroom.co.nz>]
Sent: Monday, 30 June 2014 2:53 p.m.
To: CMD
Subject: NZ Expects Diplomat To Face Justice

NZ Expects Diplomat To Face Justice Press Release by New Zealand Government at 2:49PM, 30 Jun 2014 Foreign Minister Murray McCully says he expects the diplomat accused of an attack on a young woman to face the consequences of his actions in his home country. This follows his Government declining New Zealand's request for a waiver of diplomatic immunity.

The man's identity is currently subject to a Court Suppression Order and Crown Law advice is that naming the individual or other identifying features, such as country he represented, would breach that order.

"The New Zealand Government took all appropriate steps to have the foreign diplomat accused of the attack face trial in New Zealand," Mr McCully says.

From: PRESS SEC MFA
Sent: Tuesday, 1 July 2014 9:26 a.m.
To: SPS MFA P/SEC MFA P/SEC MFA
Subject: Malaysia points for today

Hi all – obviously I will need to amend this after the Crown Law meeting. But

- As we have said from the outset it was our strong preference that the diplomat stand trial in NZ.
- We sought a waiver of diplomatic immunity from the sending state and this was declined.
- I have sought fresh Crown Law advice this morning.
- The man's identity is currently subject to a Court Suppression Order and naming the individual or other identifying features, such as country he represented, would breach that order.
- However, I have now been advised that I can tell you that is a serving military officer. We do not believe this breaches the suppression order and it means we can provide some more detail about the sort of process he will face in his home country.
- He is subject to military law and we have been advised that a Board of Enquiry has been established to investigate his alleged crimes.
- I have instructed my officials to ensure all material held by NZ Police is passed to the relevant investigating authorities. We will also extend every possible cooperation to the Board of Enquiry.
- Yesterday the secretary of Foreign Affairs called in the relevant Head of Mission and made clear our views on the seriousness of the matter. This was a constructive discussion and the sending state was left in no doubt about our views on the matter.

- At this stage we have every reason to think this matter is being dealt with appropriately by the sending state and we are prepared to let the Board of Enquiry process run its course.
- Finally – we view the Vienna Convention as critical to our efforts offshore. It protects our people and ensures they can carry out the important work of furthering NZ's interest abroad.
- The privileges and immunities granted to diplomats under the Vienna Convention are meant to ensure that diplomatic personnel are able to perform their duties with freedom, independence and security.
- However, they are still under a duty to respect their host country's laws and with the privileges comes responsibility.
- We expect all diplomats in NZ to obey our laws.
- If a foreign country does not respect our laws and does not deal with breaches of our law appropriately - the first step we would take is to reassess the level and kind of representation we allow them to have in NZ.

| Press Secretary | Office of Hon Murray McCully
| + [@parliament.govt.nz](mailto:press@parliament.govt.nz)

6.1 Executive Wing Beehive | Parliament Buildings | Wellington 6160 | New Zealand

From: (1) (SEA) ✓
Sent: Tuesday, 1 July 2014 10:01 a.m.
To: (KLU); (1) (KLU); (KLU);
Cc: (1) (ESD); (PAC) (1) (KLU) (1) (PRD);
(SEA); (SEA); (SEA)
Subject: Malaysian media: SEX AND THE MALAYSIAN DIPLOMAT

Hello Team KLU,

I'm sure you're monitoring Malaysian media and will alert us to coverage such as that below, sent to SEA's inbox. I don't know whether Malaysiakini is widely followed – no doubt easy to miss, as (1) regular searches didn't unearth it - but if the Malaysian media are reporting widely his nationality it will add to pressure here for lifting of the name suppression order.

Note there is also a strong possibility the alleged offender will be named in the House today under Parliamentary privilege.

(1)

(1)

From: (1) (PRD)
Sent: Tuesday, 1 July 2014 10:03 a.m.
To: P/SEC MFA
Cc: (1) (SEA); (1) (GM SGG); (1) (DS AAG); (1) (ESD)
Subject: Police case: number of seconded defence officials in wellington

P/SEC MFA

1 Seconded defence staff resident in Wellington

Numbers are:

Australia: 1 x defence adviser; 1 x assistant DA
Britain: 1 x defence adviser
China: 1 x defence Attaché; 1 x assistant DA
Indonesia: 1 x defence Attaché
Malaysia: 1 x defence adviser (usually two)
PNG: 1 x defence adviser
Singapore: 1 x defence adviser
USA: 1 x defence attaché; 4 X defence attaché positions

TOTAL 12 positions.

2 Protocol policy and process for following up foreign officials with diplomatic and consular status regarding civil acts

Police: article 41 of the VCDR states that all those with immunity must respect the law of the host state. Protocol policy is not to allow foreign staff with diplomatic or official status to get away with not paying fines if we become aware of any cases.

Process: when individuals who are pulled up by police identify themselves as having diplomatic or consular status, or WCC statistics show a particular foreign official has repeatedly refused to pay parking fines, police contact DPS who contact protocol to verify the status of the individual and seek advice on what action to take.

- 1 if there is a fine involved PRD will contact the individual in person and use various means of persuasion to insist on the fine being paid.
- 2 For those with consular status, if an alleged civil crime takes place outside working hours, PRD will advise police to proceed with a prosecution or fine depending on the nature of the transgression (consular status only covers official acts).
- 3 If a dependant of an official with diplomatic or consular status breaks the law, protocol will alert the parents and the head of mission and insist on appropriate action being taken.
- 4 With repeated refusal to pay parking fines, WCC contacts MoJ which contacts Protocol and the same process follows of contacting the individual directly.

With immunity, compliance cannot be forced

(5)

(1)

From: (1) (SEA) ✓
Sent: Tuesday, 1 July 2014 10:04 a.m.
To: (1) (SEA); (1) (KLU); (1) (SEA);
(1) (KLU); (1) (KLU)
Subject: Urgent: news report of Malaysian Foreign Minister to call press conference on diplomatic case today + diplomat identified as Malaysian in Malaysian media
Follow Up Flag: Follow up
Flag Status: Flagged

Dear all,

Following the email that has cropped up in the FM inbox below, there is some reporting in Malaysia on the alleged rape diplomatic case following on from the article I shared with you during the weekend. Please note that Malaysian Foreign Minister will be convening a press conference today Tuesday 1 July. (1) , do you have any updates?

Most notably on MSN Malaysia, which quotes the Malaysiakini outlet that seems to have broken the story and is mentioned in the email below - <http://news.malaysia.msn.com/tmi/nz-wants-malaysian-diplomat-extradited-over-alleged-sexual-assault>

Given that MSN is a global news outlet I am surprised that this has not then been shared globally via other MSN outlets, including New Zealand and others.

The Rakyat Post also notes that the diplomat is Malaysian – <http://www.therakyatpost.com/news/2014/06/30/malaysian-diplomat-nz-believed-caught-assault-case/>

The story is also the headline on Malaysiakini, which names itself as covering “alternative news” in Malaysia:

From: (1) (SEA)
Sent: Tuesday, 1 July 2014 10:19 a.m.
To: (ESD); P/SEC MFA
Cc: (1) DS AAG; (PRD); (1) MEDIA (GM SGG);
(SEA); (1) (SEA); (1) (SEA)
Subject: FW: Urgent: news report of Malaysian Foreign Minister to call press conference on diplomatic case today + diplomat identified as Malaysian in Malaysian media

(1)

It appears from this reporting in Malaysian media that its Foreign Minister, Anifah, is planning to hold a press conference about the case today. We will be seeking confirmation from its High Commission in Wellington and will of course task the post to cover and report immediately.

(1)

From the Rakyat Post, quoting an online news outlet, Malaysiakini:

However, *Malaysiakini* has alleged that the diplomat in question is a Malaysian who worked at the Malaysian High Commission based in Wellington.

The report stated that the man, in his 30s, followed a 21-year-old woman home and assaulted her. Foreign Affairs Minister Datuk Seri Anifah Aman reportedly told *Malaysiakini* that the matter would be addressed at a press conference tomorrow.

(1)

From: PRESS SEC MFA
Sent: Tuesday, 1 July 2014 10:20 a.m.
To: P/SEC MFA (1) (ESD)
Subject: FW: New Recording
Attachments: New Recording.m4a; ATT00001.txt

Here is the audio from the stand up.

(1) - could we get a readout from KL on what is being reported locally and the possibility of Press Conf? MFA will ask when he gets back from Caucus.

(1) Office of Hon Murray McCully

-----Original Message-----

(1) m: PRESS SEC MFA
Sent: Tuesday, 1 July 2014 10:16 a.m.
To: PRESS SEC MFA
Subject: New Recording

(1)

From: (1) (SEA)
Sent: Tuesday, 1 July 2014 10:21 a.m.
To: (1) (CEO Office)
Cc: (1) (CEO Office)
Subject: FW: Urgent: news report of Malaysian Foreign Minister to call press conference on diplomatic case today + diplomat identified as Malaysian in Malaysian media

Kia ora (1) for (1) awareness also.

(1) – meant to say thanks for printing out the aide-memoire for (1) for me yesterday; things were galloping pretty fast!

(1)

(1)

(1)

(1)

(1)

From: P/SEC MFA ①
Sent: Tuesday, 1 July 2014 10:25 a.m.
To: MFA; McCully1
Cc: P/SEC MFA ①
Subject: Diplomat identified as Malaysian in Malaysian media; Malaysia FM may call press conference?

Minister,

See the email below from SEA: The Rakyat Post in Malaysia has reported the diplomat is Malaysian.

The newspaper goes on to suggest that it Foreign Minister Anifah is planning to hold a press conference about the case today.

○ P/SEC MFA ①

From: (i) (SEA)
Sent: Tuesday, 1 July 2014 10:49 a.m.
To: (i) (SEA)
Subject: Quick background check - just making sure no fishhooks around death penalty

One of the things that could impact on our cooperation with any request on a criminal matter might be if the end result could be the death penalty (unusual but not out of the question for sexual offences). My quick search of Wikipedia indicates we're OK on this, but I flag it in case you want to get the post to check more formally:

"The following is a list of the criminal offenses that carry the death penalty:

- Waging war against the Yang di-Pertuan Agong - Section 121 Penal Code (see: Al-Ma'unah)
- Offences against the person of a Ruler[1] - Section 121A Penal Code
- Abetting mutiny (Armed Forces) - Section 132 Penal Code
- Murder - Section 302 Penal Code (mandatory) (see: Mona Fandey)
- Abetment of suicide[2] - Section 306 Penal Code
- Attempt by life convict to murder, if hurt is caused - Section 307(c) Penal Code (mandatory)
- Kidnapping or abducting in order to murder - Section 364 Penal Code
- Hostage taking - Section 374A Penal Code (see: Pudu Prison siege)
- Gang robbery with murder - Section 396 Penal Code
- Drug trafficking - Section 39B Dangerous Drugs Act 1952 (mandatory) (see: Barlow and Chambers execution)
- Possession of firearms - Section 57 Internal Security Act 1960 (see: Botak Chin)"

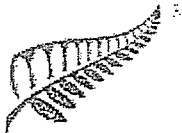
(i)

South and South East Asia Division
New Zealand Ministry of Foreign Affairs & Trade | Manatū Aorere

(i)

195 Lambton Quay, Private Bag 18901
Wellington 5045
New Zealand

www.mfat.govt.nz | www.nzembassy.com | www.aid.govt.nz | www.safetravel.govt.nz | www.nzunsc.govt.nz

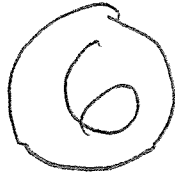


NEW ZEALAND
UNITED NATIONS
SECURITY COUNCIL
2015-16



From: (1) (LGL)
Sent: Tuesday, 1 July 2014 11:18 a.m.
To: (1) - (OFS)
Cc: (1) (SEA)
Subject: RE: Mutual Assistance on Criminal Matters
Attachments: Mutual Assistance in Criminal Matters Act 1992.pdf; 2. CLO document on Mutual Assistance.docx

(6)



195 Lambton Quay, Private Bag 18901
Wellington 5045
New Zealand

www.mfat.govt.nz | www.nzembassy.com | www.aid.govt.nz | www.safetravel.govt.nz



NEW ZEALAND
FOREIGN AFFAIRS & TRADE



From: [redacted] (KLU)
Sent: Tuesday, 1 July 2014 11:18 a.m.
To: [redacted] (SEA); [redacted] (SEA); [redacted] (KLU);
Subject: Re: Urgent: news report of Malaysian Foreign Minister to call press conference on diplomatic case today + diplomat identified as Malaysian in Malaysian media

Morning [redacted]

I'll let [redacted] answer the more important question if she has anything to add, but just a note on Malaysiakini, as both [redacted] and you have asked. It is a very widely read, online only, news source and its stories do get picked up by other media. We certainly log in every day [redacted]

[redacted] As can be gleaned from the tone of the comments section every day, its readership is mostly drawn from the urban crowd who are strongly disenchanted with the govt.

Unrelated to this case, but FYI, PM Najib is taking Malaysiakini to court, alleging defamation due to reader comments on an article related to Terrenganu politics.

[redacted]
From: [redacted] (SEA)
Sent: Tuesday, July 01, 2014 10:04 AM
To: [redacted] (SEA); [redacted] (KLU); [redacted] (SEA); [redacted] (KLU);
Subject: Urgent: news report of Malaysian Foreign Minister to call press conference on diplomatic case today + diplomat identified as Malaysian in Malaysian media

Dear all,

Following the email that has cropped up in the FM inbox below, there is some reporting in Malaysia on the alleged rape diplomatic case following on from the article I shared with you during the weekend. Please note that Malaysian Foreign Minister will be convening a press conference today Tuesday 1 July. [redacted] do you have any updates?

Most notably on MSN Malaysia, which quotes the Malaysiakini outlet that seems to have broken the story and is mentioned in the email below - <http://news.malaysia.msn.com/tmi/nz-wants-malaysian-diplomat-extradited-over-alleged-sexual-assault>

Given that MSN is a global news outlet I am surprised that this has not then been shared globally via other MSN outlets, including New Zealand and others.

The Rakyat Post also notes that the diplomat is Malaysian "ā€" <http://www.therakyatpost.com/news/2014/06/30/malaysian-diplomat-nz-believed-caught-assault-case/>

From: (1) (SEA)
Sent: Tuesday, 1 July 2014 11:18 a.m.
To: (1) NZ POLICE
Subject: RE: Seemail RE: Urgent/Investigation/Brooklyn Sexual Assault/

Thanks (1) completes the circle. Also, FYI I have just spoken to (1) and conveyed the gist of this message. She will consult her authorities and get back to us in due course.

(1)

From: (1) [mailto:(1)@police.govt.nz]
Sent: Tuesday, 1 July 2014 11:05 a.m.
To:
Cc: (1) NZ POLICE NZ POLICE (1) (SEA); (1) NZ POLICE
Subject: Seemail RE: Urgent/Investigation/Brooklyn Sexual Assault/

Morning,

I've had a discussion by phone with (1) (MFAT) who will in turn speak with the Malaysian High Commission. Following our conversation and (1) email (1) will advise the High Commission that NZ Police are happy to cooperate with the Malaysian authorities if a prosecution were to be considered either by court martial or in a civilian court. If this were the case a request through the appropriate Mutual Assistance agreement would need to be made.

It is understood that the release of any information from NZ Police would be subject to agreed caveats which will need to be discussed at an appropriate level.

MFAT also advise that they have received information that the Malaysian Foreign Minister has called a press conference later today (Malaysian time). It is unclear what information will be discussed but obviously this will identify the Embassy.

It is also highly likely that today in parliament the name of the embassy and offender will be discussed under privilege. I am uncertain on whether this in turn can be reported in media given the standing suppression order.

Thanks



Police
Wellington Central Police Station | PO Box 693
SX11220 Wellington DX Sort | Wellington

www.police.govt.nz

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Follow @NZPolice



NZ Police on YouTube

Cc: NZ POLICE ① NZ POLICE ① NZ POLICE ① (SEA) ①
Subject: Urgent/Investigation/Brooklyn Sexual Assault/
Importance: High

①

As discussed in our phone call ① I has received a request from ① (MFAT) seeking a copy of the prosecution file for this matter. We understand that the request is on behalf of Minister McCully. I understand they are seeking more information on the investigation to enable them to engage with the Malaysian High Commission.

We are obviously very focussed on ensuring our victim is fully informed of the situation and that she is provided all the support possible throughout this matter.

There has been a suggestion that the investigation be provided to the Malaysian High Commission so that consideration can be given to further investigation outside of New Zealand. This of course raises a number of issues that need addressing prior to these decisions being made. This would include:

- Process around disclosure of the investigation file outside of NZ Police
- Expectations in respect to our victim should this matter proceed outside NZ jurisdiction
- Continued name Suppression of our victim throughout any process in NZ or elsewhere
- Evidential requirement of Malaysian authorities

And there will obviously be other matters to consider as this progresses.

We are seeking some guidance from your office around this matter before undertaking any further action. We currently hold the physical investigation/prosecution file and will continue to do so.

Perhaps there is some value in getting the appropriate people together to discuss this matter and the way forward.

① will continue to keep our victim apprised.

We acknowledge the urgency around this matter but are well aware that we need to ensure everything is done to the required standard and within the law as well as our duty and care around our victim.

I can be contacted on ①

My thanks and I look forward to hearing from your office.

①

Wellington

=====
WARNING

The information contained in this email message is intended for the addressee only and may contain privileged information. It may also be subject to the provisions of section 50 of the Policing Act 2008, which creates an offence to have unlawful possession of Police

From: (1) (SEA)
Sent: Tuesday, 1 July 2014 11:24 a.m.
To: (1) (KLU); (1) (SEA); (1) (KLU);
(1) (SEA); (1) (KLU)
Cc: (1) (PRD); (1) (SEA); (1) (SEA)
Subject: RE: Urgent: news report of Malaysian Foreign Minister to call press conference on diplomatic case today + diplomat identified as Malaysian in Malaysian media

Importance: High

Hi (1), since you're the first early bird on line could I ask post via you to make inquiries as soon as possible with Wisma Putra about the Anifah press conference? I have just spoken with (3), who said she understood from talking with Minister Anifah's (3) last night that the conference would be at 12.30pm KLU time. She is seeking confirmation and will get back to me with details once she has this.

As you'll appreciate, our Minister is very seized of this issue and has twice asked (including coming out of caucus to do so) that we confirm the details asap, and certainly before the House sits at 2pm NZT.

It would be useful to have a phone conversation with (1) or (1) as soon as possible. Please let me know if there are complicating factors about doing this before noon NZT.

Thanks again

(1)

From: (1) (SEA) ✓
Sent: Tuesday, 1 July 2014 11:27 a.m.
To: (1) NZ POLICE (1) NZ POLICE (1)
Cc: (1) NZ POLICE (1) NZ POLICE (1) NZ POLICE (1)
(1) NZ POLICE (1) NZ POLICE (1) NZ POLICE (1)
(1) (PRD)
Subject: RE: Urgent/Investigation/Brooklyn Sexual Assault/

Many thanks (1) and to (1) for the information over the phone and your subsequent email.

As mentioned to (1)

(6)

(6)

Following confirmation from (1) I have conveyed this to the High Commissioner, noting that NZ Police are open to cooperation on this matter, but that the nature and extent of the information would be subject to further discussion among interested parties ((6) though I did not add this at this point).

We would welcome the suggested discussion with you on the way forward, and will be in touch accordingly.

My thanks again for the ready response to my inquiries around an issue that is clearly both high profile and evolving rapidly.

Regards

(1)

(1)

South and South East Asia | Ministry of Foreign Affairs & Trade

(1)

3 Lambton Quay, Private Bag 18901
Wellington 5045, New Zealand

www.mfat.govt.nz



See the 'NZ Inc' Strategy for ASEAN: <http://www.mfat.govt.nz/NZ-Inc/8-NZ-Inc-ASEAN/index.php>
And for India: <http://www.mfat.govt.nz/NZ-Inc/5-Opening-doors-to-India/index.php>

From: (1) (SEA)
Sent: Tuesday, 1 July 2014 11:37 a.m.
To: (1)
Subject: RE: Urgent/Investigation/Brooklyn Sexual Assault/

(7)

(1)
From: (1) [mailto:(1)@Police.Govt.NZ]
Sent: Tuesday, 1 July 2014 11:31 a.m.
To: (1) (SEA); (1)
Subject: Urgent/Investigation/Brooklyn Sexual Assault/

(1) and (1)

(7)

(1)

Response and Operations, Police National Headquarters
Police National Headquarters | 180 Molesworth Street | PO Box 3017 | Wellington 6011 | New Zealand

(1) (1) (1)

From: (1) (SEA) (1)
Sent: Tuesday, 1 July 2014 11:27
To: (1) (1) (1) (1) (1) (1) (1)
Cc: (1) (1) (1) (1) (1) (1) (1) (1) (1) (1)
Subject: RE: Urgent/Investigation/Brooklyn Sexual Assault/ (PRD)

(1)

Many thanks (1) , and to (1) for the information over the phone and your subsequent email.

As mentioned to (1)

(6)

From: (1) (SEA)
Sent: Tuesday, 1 July 2014 11:55 a.m.
To: (1) (ESD); P/SEC WFA MEDIA (1)
(CEO Office); (KLU); (1) (KLU); (1) (KLU);
Cc: (1) (DS_AAG); (1) (PRD); (1) (GM SGG)
(SEA); (1) (SEA); (1) (SEA);
Subject: DPMC Update from Malaysian High Commissioner. Tues 1 July 11am

Kia ora tatau

As we discussed this morning with Minister McCully, I have followed up with the Malaysian High Commissioner and with NZ Police.

(2)

(1)

From: PRESS SEC MFA
Sent: Tuesday, 1 July 2014 12:11 p.m.
To: MFA; McCully1
Cc: P/SEC MFA ; SPS MFA
Subject: Outcry erupts as Wellington wants diplomat tried under its laws

Could Malaysia be considering sending him back?

Nation

[Home](#) > [News](#) > Nation

Published: Tuesday July 1, 2014 MYT 12:00:00 AM

Updated: Tuesday July 1, 2014 MYT 7:44:43 AM

Outcry erupts as Wellington wants diplomat tried under its laws

BY [PAUL GABRIEL](#)

Email [Facebook](#)1

KUALA LUMPUR: A Malaysian diplomat who is said to have sexually assaulted a 21-year-old woman at her home in Wellington has been recalled, but New Zealand is demanding that he be sent back to face charges there.

The incident has created a public outcry in New Zealand, with Prime Minister John Key saying his "preference" was for the diplomat, said to be in his 30s, to be tried under NZ law.

The diplomat apparently followed the young woman back to her home in Brooklyn on the night of May 9 and is alleged to have assaulted her with the intent to rape.

Some reports have also linked him to burglary.

Each of the offences carries a maximum of 10 years in prison.

A New Zealand judge has granted an order barring the man's name and details from being revealed on the ground of diplomatic immunity, with government lawyers interpreting the order as including naming the diplomat's home country.

New Zealand's courts sometimes suppress the details of those accused of sexual crimes in order to protect the identity of victims. The New Zealand media has so far complied with the order.

Contacted by *The Star* yesterday, Foreign Minister Datuk Seri Anifah Aman confirmed that the accused was a Malaysian diplomat and that he had been recalled.

Stressing that Wisma Putra was not "protecting" him, Anifah said he had asked that police investigations in New Zealand be allowed to continue in the interest of justice.

"Just because he is a diplomat does not mean he gets off scot-free," Anifah said.

"Diplomatic immunity is not about having the licence to commit crime.

"I have spoken to our High Commissioner (in New Zealand)," he added.

Asked why the diplomat had been recalled, the minister said there could have been a misinterpretation of an email sent to Wisma Putra by the New Zealand Ministry of Foreign Affairs and Trade.

Anifah, who is scheduled to hold a press conference on the issue today, said the diplomat would be returned to Wellington only if he was assured of a fair trial and that his life was not in danger there.

| Press Secretary | Office of Hon Murray McCully
| [@parliament.govt.nz](https://www.parliament.govt.nz)
6.1 Executive Wing Beehive | Parliament Buildings | Wellington 6160 | New Zealand

From: (SEA)
Sent: Tuesday, 1 July 2014 12:14 p.m.
To: MEDIA
Subject: RE: Urgent: news report of Malaysian Foreign Minister to call press conference on diplomatic case today + diplomat identified as Malaysian in Malaysian media

Sure.

From: MEDIA
Sent: Tuesday, 1 July 2014 11:52 a.m.
To: (SEA)
Subject: RE: Urgent: news report of Malaysian Foreign Minister to call press conference on diplomatic case today + diplomat identified as Malaysian in Malaysian media

Hi (SEA), do you want me to forward this to (SEA) as well? DPM

From: (SEA)
Sent: Tuesday, 1 July 2014 10:19 a.m.
To: (SEA); ESD); P/SEC MFA (SEA); MEDIA
Cc: (SEA); (DS AAG); (PRD); (GM SGG); (SEA); (SEA); (SEA); (SEA)
Subject: FW: Urgent: news report of Malaysian Foreign Minister to call press conference on diplomatic case today + diplomat identified as Malaysian in Malaysian media

(SEA)
It appears from this reporting in Malaysian media that its Foreign Minister, Anifah, is planning to hold a press conference about the case today. We will be seeking confirmation from its High Commission in Wellington and will course task the post to cover and report immediately.

(SEA)
From the Rakyat Post, quoting an online news outlet, Malaysiakini:

However, *Malaysiakini* has alleged that the diplomat in question is a Malaysian who worked at the Malaysian High Commission based in Wellington.

The report stated that the man, in his 30s, followed a 21-year-old woman home and assaulted her. Foreign Affairs Minister Datuk Seri Anifah Aman reportedly told *Malaysiakini* that the matter would be addressed at a press conference tomorrow.

From: P/SEC MFA ①
Sent: Tuesday, 1 July 2014 12:17 p.m.
To: ① (SEA)
Subject: RE: Update from Malaysian High Commissioner. Tues 1 July 11am

Thanks. Agree it would be useful to have it passed across at both ends.

①

From: ① (SEA)
Sent: Tuesday, 1 July 2014 12:15 p.m.
To: P/SEC MFA ①
Subject: RE: Update from Malaysian High Commissioner. Tues 1 July 11am

① handed over the press statement yesterday to H Cer. Will follow up with post accordingly.

From: P/SEC MFA ①
Sent: Tuesday, 1 July 2014 12:00 p.m.
To: ① (SEA)
Subject: RE: Update from Malaysian High Commissioner. Tues 1 July 11am

Thanks ①

Have had a quick conversation up here, following our phone call. You may have done this already, but in case not, can you please make sure the post in KLU provides a copy to the Malaysians of the Minister's press statements/comments, so that they know where things are moving towards in New Zealand?

②

①

From: ① (SEA)
Sent: Tuesday, 1 July 2014 11:55 a.m.
To: ① (ESD); P/SEC MFA ① MFDTA ① (CEO Office); ① (KLU); ① (KLU);
Cc: ① (DS AAG); ① (PRD); ① (GM SGG); ① (SEA); ① (SEA);
Subject: Update from Malaysian High Commissioner. Tues 1 July 11am

Kia ora tatau

As we discussed this morning with Minister McCully, I have followed up with the Malaysian High Commissioner and with NZ Police.

②

From: (1) (SEA)
Sent: Tuesday, 1 July 2014 12:25 p.m.
To: (1) (DS AAG); (1) (ESD); (1) (PRD);
(OFS) (GM SGG) P/SEC MFA
(1) (ESD); (1) (GEO Office); (ESD); MEDIA
Cc:
Subject: RE: Diplomatic immunity issue: PQ to the Prime Minister
Importance: High

DPMC -as requested, updated TPs, with changes/additions in purple FYI.

(1)

Talking Point Diplomat

- There is a Court order in force suppressing the alleged offender's name, and any information likely to lead to his identification. I have been advised that in this case, publication of the man's nationality is likely to breach that order.
- On his instruction, the Secretary of Foreign Affairs and Trade called in the country's High Commissioner yesterday to convey the Government's deep concern about this incident and our expectation the individual would be brought to account in his home country.
- Foreign Minister Murray McCully is monitoring the situation closely and has said if we are not satisfied with the response it could have a bearing on how we deal with that country.
- We continue to follow the situation closely and are liaising with authorities in the person's country via our High Commission there. We have been assured the individual is under investigation in his home nation.
- We have also told the High Commission the NZ Police is willing to assist that country's own processes in bringing this man to account.
- As you are aware we asked the diplomat's government to waive his right to immunity so he could face charges, but this was declined and he immediately departed New Zealand.
We understand there is foreign media reporting that another country's Foreign Minister plans to hold a press conference on the issue there later today
- We respect the privileges and immunities granted to diplomats under the Vienna Convention but they are still under a duty to respect their host country's laws.

Question and Answers

What exactly the Vienna Convention means in terms of the obligations/requirements of the sending country in a case such as this?

Under the Vienna Convention there is no additional obligation on the host country. However New Zealand's position is clear that it expects a further investigation of this individual. We have been assured this is under way, but it is too early to determine what the outcome of that process will be.

Can you extradite the individual?

Given that the individual has claimed diplomat immunity this is unlikely. Our expectation is the host government will take steps to investigate the individual. New Zealand's position is that it wishes to see appropriate accountability. We will continue to monitor the situation.

Can you reconfirm the exact terms of the Suppression Order in terms of the publication of the nationality question?

The individual was granted name suppression. There is a Court order in force suppressing the alleged offender's name, and any information likely to lead to his identification. I have been advised that in this case, publication of the man's nationality is likely to breach that order.

Why did the police place charges if he had immunity?

The Police arrested him and he appeared in court the next day before the host government claimed immunity. At that point the police applied for a stay of proceedings. Those proceedings effectively remain live and could be reactivated should the individual return to New Zealand.

Is it fair to the victim?

This has been an ordeal for the victim. Our preference would have been to see the accused face justice in New Zealand. This is why we sought a waiver.

What can we do in these situations?

We would always ask for diplomatic immunity to be waived when a case is serious. If this is declined the person involved would have to be removed from New Zealand or face being determined as persona non grata. However the High Commission quickly agreed the individual should leave New Zealand. The case is under investigation in his own country. In this case we have yet to be advised how that will take place but we will continue to liaise closely on its outcome.

What are we doing to ensure the home country follows a rigorous process to investigate this case?

Our High Commission has liaised closely with authorities, who assure us this is being taken seriously and is under investigation. If we are not satisfied we can make further representations.

Will we call in the High Commissioner of the country concerned?

MFAT has been in close contact on this issue with the High Commissioner, who is fully aware of the seriousness with which we view this matter. In order to reinforce this point the Minister has asked the Secretary of Foreign Affairs and Trade to call in the High Commissioner.

Our own High Commission in the country concerned has also been in close contact with the authorities there, and will continue to liaise closely with them.

When did this happen and when did he go back to his country?

My understanding is that the incident occurred last month and he was returned to his home country a couple of weeks later.

When were you briefed?

I was made aware that an incident had occurred shortly after, but was only fully briefed for the first time on Saturday.

When was Murray McCully briefed?

He was briefed about the incident shortly after it took place in early May.

When did Mfat request the waiver of immunity?

The day after the incident took place.

If pressed: why did it take so long before he left?

When the country concerned declined the waiver, they also informed us the diplomat would be leaving the following day.

Background – not for publication

- We understand from the Malaysian High commissioner that the Malaysian Foreign Minister plans to hold a press conference at 12.30pm today local time(4.30pm NZT) at which he would raise this issue. The High Commission in Kuala Lumpur will attend.

- MFAT also conveyed to the High Commissioner the NZ Police's willingness to assist an investigation in that country into this incident, including through sharing information and evidence.

Wellington Police arrested a male in Brooklyn on the night of Friday 9 May. Charges were laid of burglary and assault with intent to rape after he followed a 21 year old woman and assaulted her in her home.

- The arrested individual was the military attaché at the Malaysian High Commission - a member of the military administrative and technical staff.
- At the time of the arrest neither the attaché nor his senior colleagues at the High Commission understood that he had diplomatic immunity. It was incorrectly assumed by them that because he was a member of the admin/tech staff, he was not eligible for diplomatic status.
- It was subsequently confirmed by Protocol Division, the following morning that he was in fact entitled to immunity and inviolability and therefore should not have been arrested, detained or charged.
- As a result, Police sought from the court a stay of proceedings and withdrew the terms and conditions of bail.
- Following usual practice in serious cases such as this one MFAT, in discussion with Police, sent a formal diplomatic Note to the Malaysian High Commission on 10 May seeking a waiver of the attachés immunity to allow court proceedings to take place. The Note is attached.
- Two meetings were held at MFAT with the High Commissioner and senior staff, the two police detectives handling the case and a member of Protocol division.
- At the first meeting available options were discussed including a waiver of immunity by the Malaysians. Other points:
 - It was made very clear that it was not an option for the attaché to remain in NZ. If waiver was refused we would consult the Minister about declaring the Attaché Persona Non Grata;
 - Police and the High Commission observed that psychiatric factors could be involved;
 - the High Commissioner requested more detailed evidence and information about the incident as sought by her foreign Minister and Military Chief of Staff
 - Police advised the High Commissioner about the rights of the victim.
- At the second meeting on 19 May, a summary was presented to the High Commissioner of the interview with the victim. The High Commissioner conceded the seriousness of the charges and confirmed that the decision had been made in Kuala Lumpur to repatriate the family as soon as possible.
- The High Commissioner asked Police if the documents referring to the case could be sealed. The process for doing this was to be followed up by Police.
- On 21st May, MFAT received the attached diplomatic Note from the Malaysians declining the request for a waiver of immunity and confirming the decision to repatriate the attaché and his family. Given this there was no reason for New Zealand to consider declaring him persona non grata. The family departed NZ 22 May.

From: ① (SEA)
Sent: Tuesday, 1 July 2014 12:55 p.m.
To: ③
Subject: RE: Returning Call

Thanks : ① - yes, I didn't have the HCer's number, so wanted to get it from you. Our most urgent requirement is for confirmation of your Foreign Minister's press conference today – time and venue for our High Commission to attend.

①

From: ③ @ Rln.gov.my
Sent: Tuesday, 1 July 2014 11:50 a.m.
To: ① (SEA)
Subject: Returning Call

①
Apologies, I missed your call but I heard your voice message.

High Commissioner ① has informed me that you have spoken to her. I believe its for the same thing.

Will respond to you once we have the information.

Regards.

③

From: P/SEC MFA ①
Sent: Tuesday, 1 July 2014 1:07 p.m.
To: ① (SEA)
Cc: P/SECs + PRESS SEC MFA ① (DS AAG); ①
(PRD); ① [DPMC]
Subject: FW: Outcry erupts as Wellington wants diplomat tried under its laws

①

As discussed, below is the article I referred on the phone. Can you please get KLU to call the Malaysian Foreign Ministry immediately, and find out what the 'misunderstanding' is.

It would be good if our position could be clarified: our preference originally was that the diplomat stand trial in New Zealand, so we sought a waiver of diplomatic immunity. The focus now is on making sure that due process is followed.

As per my earlier message, I think it would be helpful if the Malaysian Foreign Ministry could be passed the Minister's press statement from yesterday, and a summary of his comments to media. We don't want the Malaysians to be relying on media reports in Malaysia, which are in turn summarising media reports from New Zealand.

Could we also confirm when the press conference will be, and what Minister Anifah will be saying.

I think it would be good for this to be done at High Commissioner level, if at all possible.

The Minister will want an update on this asap, as he will face media on the way to the house. Can I have a report by 1:35pm please.

①

①

Office of Hon Murray McCully, Minister of Foreign Affairs
Parliament Buildings | Wellington | New Zealand

①

From: PRESS SEC MFA
Sent: Tuesday, 1 July 2014 1:02 p.m.
To: P/SEC MFA
Subject: FW: Outcry erupts as Wellington wants diplomat tried under its laws

Nation

From: (1) (SEA)
Sent: Tuesday, 1 July 2014 1:10 p.m.
To: (1) (KLU); (1) (KLU); (1) (KLU); (1)
(1) (PRD)
Cc: (1) (DS AAG) (1) (ESD); (1) (GM SGG); (1)
(1) (CEO Office)
Subject: FW: Malaysian media coverage of diplomat case: FM Anifah's comments
Importance: High

Hello again,

Since speaking with (1) we have seen this report, with some very interesting comments from FM Anifah. As Mr McCully will be facing media questioning as he goes to the House in less than an hour, could (1) please urgently check with Wisma Putra what the email and the claimed "misunderstanding" might have been? This needs to be done at High Commissioner level please.

The Minister's Office has asked for a respond by our 1.35pm, so could I please hear back by our 1.30pm (your 9.30am)?

Thanks

(1)

Contacted by *The Star* yesterday, Foreign Minister Datuk Seri Anifah Aman confirmed that the accused was a Malaysian diplomat and that he had been recalled.

Stressing that Wisma Putra was not "protecting" him, Anifah said he had asked that police investigations in New Zealand be allowed to continue in the interest of justice.

"Just because he is a diplomat does not mean he gets off scot-free," Anifah said.

"Diplomatic immunity is not about having the licence to commit crime.

"I have spoken to our High Commissioner (in New Zealand)," he added.

Asked why the diplomat had been recalled, the minister said there could have been a misinterpretation of an email sent to Wisma Putra by the New Zealand Ministry of Foreign Affairs and Trade.

Anifah, who is scheduled to hold a press conference on the issue today, said the diplomat would be returned to Wellington only if he was assured of a fair trial and that his life was not in danger there.

From: [DPMC] ①
Sent: Tuesday, 1 July 2014 1:12 p.m.
To: P/SEC MFA ① (SEA)
Cc: P/SEC + PRESS SEC MFA ① (DS AAG); ① (PRD)
Subject: RE: Outcry erupts as Wellington wants diplomat tried under its laws

Thanks P/SEC MFA ①

Just to reinforce also that we are very keen to also make sure the PM has the very latest on this for his media on the way to the House.

Many thanks,
DPMC ①

From: P/SEC MFA ①
Sent: Tuesday, 1 July 2014 1:07 p.m.
To: ① 'SFA'
Cc: P/SEC + PRESS SEC MFA ① Parliament: ① (DS AAG); ① (PRD); ① [DPMC]
Subject: FW: Outcry erupts as Wellington wants diplomat tried under its laws

①

As discussed, below is the article I referred on the phone. Can you please get KLU to call the Malaysian Foreign Ministry immediately, and find out what the 'misunderstanding' is.

It would be good if our position could be clarified: our preference originally was that the diplomat stand trial in New Zealand, so we sought a waiver of diplomatic immunity. The focus now is on making sure that due process is followed.

As per my earlier message, I think it would be helpful if the Malaysian Foreign Ministry could be passed the Minister's press statement from yesterday, and a summary of his comments to media. We don't want the Malaysians to be relying on media reports in Malaysia, which are in turn summarising media reports from New Zealand.

Could we also confirm when the press conference will be, and what Minister Anifah will be saying.

I think it would be good for this to be done at High Commissioner level, if at all possible.

The Minister will want an update on this asap, as he will face media on the way to the house. Can I have a report by 1:35pm please.

①

Private Secretary
Office of Hon Murray McCully, Minister of Foreign Affairs
Parliament Buildings | Wellington | New Zealand

From: (SEA)
Sent: Tuesday, 1 July 2014 1:17 p.m.
To: (SEA); (SEA); (SEA); (KLU); (KLU); (KLU);
Subject: Diplomatic immunity case: Radio NZ: pressure mounting to lift name suppression and interviews with families affected by other diplomatic immunity cases etc
Follow Up Flag: Follow up
Flag Status: Flagged

Dear all,

As the coverage changes, this Radio NZ page was updated around 5 minutes ago as follows:

To note:

1. Father of a woman killed by a diplomat from a previous diplomatic immunity case is being interviewed – link below.
2. Warren Brookbanks (an expert on criminal law in NZ based at Auckland Law School) providing advice – link is also below.

More to follow,

①

'No reason' for secrecy over accused diplomat

Updated 2 minutes ago

[Tweet](#) [Share](#)

Foreign Minister Murray McCully is backing the lifting of name suppression on a diplomat accused of attacking a woman in Wellington.

The man has claimed diplomatic immunity to avoid prosecution and has left New Zealand.

Police say the man in his 30s was arrested in the Wellington suburb of Brooklyn on 9 May this year and charged with burglary and assault with intent to rape after he followed a 21-year-old woman.



Murray McCully.

Photo: AFP

From:

(1) (SEA)

Sent:

Tuesday, 1 July 2014 1:19 p.m.

To:

[DPMC]; P/SEC MFA

Cc:

(1) Parliament: (1) (DS)
AAG), - (1) PRD); (1) (SEA); (1) (SEA); (1)
(SEA); (1) (KLU); (1) (KLU)

Subject:

RE: Outcry erupts as Wellington wants diplomat tried under its laws

I've just spoken to the (1) (i) who is trying to phone our (1) to ask about the "misunderstanding" referred to in the story. (1) Understanding was also that the press conference would be held at 12.30pm local time – our 4.30pm. He will advise if this changes.

(1) has undertaken to get back to me by our 1.30pm.

(1)

(1)

(1)

From: (1) @police.govt.nz
Sent: Tuesday, 1 July 2014 1:25 p.m.
To: (1) (ESD)
Subject: RE: Malaysian news outlets

Thanks (1) the Fairfax hearing around name suppression is going ahead at 2.30pm today. They want to challenge the name suppression ahead of the 4.30pm press conference. Looks like we are up for an interesting afternoon.

Cheers,

(1)

From: (1) (ESD)
Sent: Tuesday, 1 July 2014 13:08
To: (1) NZ Police
Subject: Malaysian news outlets

Hi (1)

These news outlets will cover the press conference I would say. We will also get some reporting from our post so I will share with you what I can.

I think the challenge to the suppression order is being heard at 2.30pm. Does that sound right to you?

<http://news.malaysia.msn.com/tmi/nz-wants-malaysian-diplomat-extradited-over-alleged-sexual-assault>

<http://www.therakyatpost.com/news/2014/06/30/malaysian-diplomat-nz-believed-caught-assault-case/>

Cheers

(1)
(1)
Executive Services Division
New Zealand Ministry of Foreign Affairs & Trade | Manatū Aorere

(1)

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From: SPS MFA
Sent: Tuesday, 1 July 2014 1:31 p.m.
To: P/SEC MFA
Cc: PRESS SEC MFA
Subject: FW: OIA request, probably

Hi – we better get a full set of the emails sent between MFAT and MHC on this issue, so we know what we are dealing with.

| Senior Private Secretary | Office of Hon Murray McCully

From: PRESS SEC MFA
Sent: Tuesday, 1 July 2014 1:27 p.m.
To: P/SEC MFA SPS MFA
Subject: FW: OIA request, probably

Hi both – ① has clarified on the phone that she is after all correspondence between MFAT and our HC and the Malaysians.

Thanks

| Press Secretary | Office of Hon Murray McCully

From: ① @mediaworks.co.nz
Sent: Tuesday, 1 July 2014 12:08 p.m.
To: PRESS SEC MFA
Subject: OIA request, probably

hey PRESS SEC MFA

Any chance of getting hold of this? If not, can I OIA this, please?

cheers

①

<http://www.thestar.com.my/News/Nation/2014/07/01/Envoy-in-sex-case-called-home-Outcry-erupts-as-Wellington-wants-diplomat-tried-under-its-laws/>

Asked why the diplomat had been recalled, the minister said there could have been a misinterpretation of an email sent to Wisma Putra by the New Zealand Ministry of Foreign Affairs and Trade.

①

| Political Editor | RadioLIVE |

①

| www.radiolive.co.nz

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The information contained in this message and/or attachments is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other

From: (1) (ESD) (1)
Sent: Tuesday, 1 July 2014 1:31 p.m.
To: PRESS SEC MFA (1)
Subject: Fairfax hearing around name suppression is going ahead at 2.30pm today at High Court

(1)

You may already know this.

Apparently they want to challenge the name suppression ahead of the 4.30pm press conference.

(1)

Executive Services Division
New Zealand Ministry of Foreign Affairs & Trade | Manatū Aorere

(1)

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From: MEDIA
Sent: Tuesday, 1 July 2014 1:38 p.m.
To: PRESS SEC MFA (1)
Subject: FW: Outcry erupts as Wellington wants diplomat tried under its laws

Hi (1)

Just fyi so you know how we are tracking on this.

From: (1) (DS AAG)
Sent: Tuesday, 1 July 2014 1:35 p.m.
To: MEDIA; (1) (SEA); (1) (PRD)
Cc: (1) (GM SGG); (1) (ESD); (1) (CEO Office); (1) (OFS); (1) (ESD); (1) (ESD)
Subject: RE: Outcry erupts as Wellington wants diplomat tried under its laws

Please link in this request with the separate but related request from the Office to (1) seeking clarification of what the Malaysian FM is saying/will say. It's only once (1) has actioned that (which requires input from KL) that we'll be in position to properly deal with this request.

From: MEDIA
Sent: Tuesday, 1 July 2014 1:29 p.m.
To: (1) (SEA); (1) (PRD)
Cc: (1) (GM SGG); (1) (DS AAG); (1) (ESD); (1) (CEO Office); (1) (OFS); (1) (ESD); (1) (ESD)
Subject: FW: Outcry erupts as Wellington wants diplomat tried under its laws

Hi all,

(1) has asked for a line responding to a query from the Nation that the Malaysian Foreign Minister told Malaysian media:

Asked why the diplomat had been recalled, the minister said there could have been a misinterpretation of an email sent to Wisma Putra by the New Zealand Ministry of Foreign Affairs and Trade.

Can we say?

"We were very clear about requesting a waiver of diplomatic immunity. A formal diplomatic note was sent to the Government of the sending country on 10 May saying that the New Zealand Police believed that it was in the public interest to prosecute these offences due to the serious nature of the offending."

Could I please have feedback on this line as soon as possible.

Thanks

(1)

From: ① (SEA)
Sent: Tuesday, 1 July 2014 1:40 p.m.
To: DPMC ①
Subject: FW: Malaysian media coverage of diplomat case: FM Anifah's comments
Importance: High

From: ① (KLU)
Sent: Tuesday, 1 July 2014 1:32 p.m.
To: ① (SEA); ① (KLU); ① (PRD)
Cc: ① (DS AAG); ① (ESD); ① (GM SGG); ① (CEO Office);
DPMC ①
Subject: RE: Malaysian media coverage of diplomat case: FM Anifah's comments
Importance: High

② + ③

③ confirmed that the media conference will be held at 12.30 Malaysian time and that Minister Anifah will be fronting it.

In response to my question, ② + ③ said that the Minister would be providing background to the incident and outlining the actions to be taken by the Ministry of Defence. The person in question is "under Defence custody" undergoing medical and psychiatric assessments. Depending on the results of these the Ministry of Defence would determine the action to be taken.

I emphasised with ③ our Minister's clear expectation that appropriate action would be taken

①

②

From: ① (SEA)
Sent: Tuesday, 1 July 2014 9:10 a.m.
To: ① (KLU); ① (KLU); ① (KLU); ① (PRD)
Cc: ① (DS AAG); ① (ESD); ① (GM SGG); ① (CEO Office)
Subject: FW: Malaysian media coverage of diplomat case: FM Anifah's comments
Importance: High

Hello again,
Since speaking with ① we have seen this report, with some very interesting comments from FM Anifah. As Mr McCully will be facing media questioning as he goes to the House in less than an hour, could ① please urgently check with ② what the email and the claimed "misunderstanding" might have been? This needs to be done at High Commissioner level please.

The Minister's Office has asked for a respond by our 1.35pm, so could I please hear back by our 1.30pm (your 9.30am)?

From: (i) (SEA)
Sent: Tuesday, 1 July 2014 1:43 p.m.
To: (i) (AAG)
Subject: RE: Outcry erupts as Wellington wants diplomat tried under its laws

Has (i) provided the email trail we discussed this morning?

From: (DS AAG)
Sent: Tuesday, 1 July 2014 1:35 p.m.
To: MEDIA; (i) (SEA); (i) (PRD)
Cc: (i) (GM SGG); (i) (ESD); (i) (CEO Office); (i) (OFS);
Subject: RE: Outcry erupts as Wellington wants diplomat tried under its laws

Please link in this request with the separate but related request from the Office to (i) seeking clarification of what the Malaysian FM is saying/will say. It's only once (i) has actioned that (which requires input from KL) that we'll be in position to properly deal with this request.

From: MEDIA
Sent: Tuesday, 1 July 2014 1:29 p.m.
To: (i) (SEA); (i) (PRD)
Cc: (i) (GM SGG); (i) (DS AAG); (i) (ESD); (i) (OFS); (i) (ESD); (i) (CEO Office);
Subject: FW: Outcry erupts as Wellington wants diplomat tried under its laws

Hi all,

PRESS SEC

MFA has asked for a line responding to a query from the Nation that the Malaysian Foreign Minister told Malaysian media:

Asked why the diplomat had been recalled, the minister said there could have been a misinterpretation of an email sent to Wisma Putra by the New Zealand Ministry of Foreign Affairs and Trade.

Can we say?

"We were very clear about requesting a waiver of diplomatic immunity. A formal diplomatic note was sent to the Government of the sending country on 10 May saying that the New Zealand Police believed that it was in the public interest to prosecute these offences due to the serious nature of the offending."

Could I please have feedback on this line as soon as possible.

Thanks

(i)

From: (i) (SEA)
Sent: Tuesday, 1 July 2014 1:49 p.m.
To: (i) (DS AAG); MEDIA (PRD)
Cc: (i) (GM SGG); (i) (ESD); (i) (CEO Office);
(i) (OFS); (i) (ESD); (i) (ESD)
Subject: RE: Outcry erupts as Wellington wants diplomat tried under its laws

② + ③

. On this basis I think the following would cover the issue.

"We have contacted the country's foreign ministry asking for clarification of what email is being referred to. We were, however, very clear in requesting a waiver of diplomatic immunity. A formal diplomatic note was sent to the Government of the sending country by the Ministry of Foreign Affairs and Trade soon after the alleged incident saying that the New Zealand Police believed that it was in the public interest to prosecute these offences due to their serious nature. The country replied by formal diplomatic note declining the request and the man left the country the following day."

From: (i) (DS AAG)
Sent: Tuesday, 1 July 2014 1:35 p.m.
To: MEDIA; (SEA); (PRD)
Cc: (i) (GM SGG); (i) (ESD); (i) (CEO Office); (i) (OFS);
(ESD); (ESD)
Subject: RE: Outcry erupts as Wellington wants diplomat tried under its laws

Please link in this request with the separate but related request from the Office to (i) seeking clarification of what the Malaysian FM is saying/will say. It's only once (i) has actioned that (which requires input from KL) that we'll be in position to properly deal with this request.

From: MEDIA
Sent: Tuesday, 1 July 2014 1:29 p.m.
To: (SEA); (PRD)
Cc: (i) (GM SGG); (i) (DS AAG); (i) (ESD); (i) (CEO Office);
(i) (OFS); (i) (ESD); (i) (ESD)
Subject: FW: Outcry erupts as Wellington wants diplomat tried under its laws

Hi all,

(i) has asked for a line responding to a query from the Nation that the Malaysian Foreign Minister told Malaysian media:

1

From: [redacted] (KLU)
Sent: Tuesday, 1 July 2014 1:56 p.m.
To: [redacted] (KLU); [redacted] (SEA); [redacted] (KLU); [redacted] (PRD);
Cc: [redacted] (DS AAG); [redacted] (ESD); [redacted] (GM SGG); [redacted] (CEO Office); **DPMC**
Subject: RE: Malaysian media coverage of diplomat case: FM Anifah's comments

I have just spoken with FM Anifah's Press Secretary, [redacted]. She would only confirm that Minister Anifah will be holding a press conference at 12noon on 'an important issue' (and later claimed it would be on 'numerous issues').

I noted that we had been informed of the PC by the Malaysian HC in NZ, and told by **Wisma Putra** that we would be [redacted] [having not yet received [redacted] email below]. I understood that this was an important issue involving New Zealand. [redacted] said it had not been stated what the PC would be on, and assumptions were based on the claim in The Star that it would be on this issue.

I noted that our PM continued to face questions on this matter, and that NZ media were seeking urgent lifting of the suppression order. [redacted] was aware of this, but mistakenly believed that suppression of the country name was under the Vienna Convention. I said that it was a part of the name suppression order, so could not continue to be relied upon.

I asked that we be informed the time and venue of this 'public' press conference, so that we could try to report developments to our capital as quickly as possible. [redacted] said she would get back to me.

[redacted]

[redacted]

New Zealand High Commission Kuala Lumpur | Te Aka Aorere

[redacted]