

RESTRICTED

C09000255-NYK

Reference:

Our Reference: AFG/1

FROM:	New York	C09000255- NYK	08 N
TO:	Tehran, Wellington, Washington		Pr
CC:	Defence, EAB, The Hague, Brussels, Berlin, Geneva		Rc
MFAT:	MEA, ISED, LGL, AMER, DSP1, DSP3, DSP4, CEO		—
AGENCIES:	SEEMail: Defence MOD (Sec Def, IDR) Manual: Defence HQNZDF (VCDF, AC SCI, MFA, P/S Defence, PMC [FPA DESI		

ATTACHMENTS: Afghan talking points.doc

RE (C09003184-WLN): AFGHANISTAN NEW ZEALAND MILITARY ARRANGEMENTSummary

Following tasking in your C09-3184, we met with the PSR(R)1. We were assured that our request to update the Military Technical Agreement "would be sent to PSR(C)1 with a note of urgency" and would be followed-up "as soon as possible".

Message**Action**

For information

Report

Discussion and emails with Washington refer.

2 HOM (accompanied by PSR(IC)3) met this afternoon with PSR(C)1

3 HOM ran through bullets 1-10 of the attached talking points (drawn from you C09-3184 - for which thanks) and handed over the TPN and versions of the MTA attached to your C09-3238. HOM added that New Zealand was currently reviewing its commitment to Afghanistan and an updated MTA was of importance to that review – we would like it updated as soon as possible. HOM noted issues such as the death penalty were sensitive in Kabul but they were also sensitive in New Zealand .

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4 PSR(C)1

5 HOM welcomed PSR(C)1 response and affirmed that an ASAP response was important to us.

6 At their request we emailed electronic versions of the MTA to the Afghan Mission. We will follow up at expert-level on this issue in due course.

Talking points for bilateral meeting with PSR(C)1

- The Afghanistan – New Zealand Military Technical Arrangement (MTA) was signed in Kabul in 2004 by New Zealand and the (then) Afghanistan Transitional Authority.
- The MTA provides the basis for the privileges and immunities afforded to most New Zealand personnel deployed in Afghanistan, including those in the PRT in Bamyán Province. Also sets out the PRT's mission objectives.
- New Zealand has, since 2006, sought to update the MTA to:
 - Acknowledge that the Government of the Islamic Republic of Afghanistan is now the other partner and not any longer the Afghanistan Transitional Authority;
 - Ensure that all New Zealand personnel deployed to Afghanistan are covered (by removing NZ PRT specific language); and
 - Provide a guarantee in writing that detainees handed over by New Zealand to the Afghan Government will be treated in accordance with international humanitarian law and will not be subject to the death penalty.
- We received a verbal assurance on the issue of the death penalty at the Ministerial-level in February 2006 during the London Conference, from PSR(C)1 to then Defence Minister Goff.
- Since then New Zealand officials have continued to pursue the issue, including by handing over copies of the MTA with drafting updates.
- Afghan officials have responded each time that they will consider the requested changes, but we have yet to receive assurance in writing.
- The last contact on the issue was between the New Zealand Ambassador and the Afghan Foreign Ministry during an accreditation visit to Kabul in November 2008.
- We are encouraged that PSR(C)1 managed in 2006 to secure a Memorandum of Understanding with Afghanistan addressing the treatment of detainees handed over to the Afghan authorities.
- Would a separate limited arrangement on detainees, rather than an update of the MTA be more acceptable to Afghan authorities?
- I present you with a copy of the MTA with proposed changes and also a 'clean' version.

- [New Zealand is, as you may be aware, presently reviewing its future engagement in Afghanistan and, in that context, really needs clarification and some conclusion on this issue.]
- [If no agreement can be reached, future NZ deployments to Afghanistan may be at risk]