

X DIPLOMATIC AND CONSULAR RELATIONS

Diplomatic relations – establishment of diplomatic relations – Cambodia

On 16 October 1991 the Minister for Foreign Affairs and Trade, Senator Gareth Evans, issued a news release which read in part:

The Minister for Foreign Affairs and Trade, Senator Gareth Evans, announced today that Mr Hun Sen would visit Australia from 26–31 October as a guest of the Australian Government.

The invitation has been extended to Mr Hun Sen in his capacity as a member of the Supreme National Council of Cambodia (SNC). Mr Hun Sen is also the Prime Minister of the State of Cambodia Government, one of the four Cambodian groups represented on the SNC.

...

On 2 July, Australia became the first country to accept the invitation of the Chairman of the SNC, Prince Norodom Sihanouk, to accredit a diplomatic representative to the SNC.

The SNC, established in September 1990, is made up of twelve representatives of the four Cambodian parties. It is the agreed embodiment of the sovereignty of Cambodia and representative of Cambodia in the United Nations.

Diplomatic relations – establishment of diplomatic relations – Baltic States – Estonia, Latvia and Lithuania

On 27 August 1991 the Prime Minister, Mr Hawke, issued a news release which read in part:

The Government has decided today to establish full diplomatic relations with the Baltic States of Estonia, Latvia and Lithuania.

...

We look forward to building closer relations and stronger cooperation with the Baltic States. The Australian Government will seek to accredit our Ambassador in Copenhagen to Lithuania and Latvia, and our Ambassador in Stockholm to Estonia. We will move immediately to discuss the necessary practical arrangements with the Baltic Governments.

Diplomatic relations – Iraq – maintenance of diplomatic relations during armed conflict

On 22 January 1991 the Minister for Foreign Affairs and Trade, Senator Gareth Evans, said in the course of an answer to a question without notice (Sen Deb 1991, p 137):

As is the case with other members of the United Nations force in the Gulf, Australia is, nonetheless, maintaining diplomatic relations with Iraq. That is essentially because we do consider it important to ensure that this channel of

communication is kept open, not least for the kinds of communications that we were able to make to the Iraqis this morning, for example, in the context of the prisoner of war issue and the targeting of civilian populations.

On the outbreak of hostilities with Iraq, the Australian Government imposed a 50 kilometre travel restriction on members of the Iraqi Embassy in Canberra. It is only a small mission, with only something like six people there. That restriction was imposed on security grounds. We would of course be concerned about any activities by diplomats of Iraq or of any country that posed any more specific threat to Australian security. We would take appropriate action to deal with such a situation.

The Minister added (*ibid*, p 151):

I just want to clarify for the record that there is no case of which we are aware in which a whole Iraqi mission has been expelled, but there are a number of cases, though – the ones that I indicated – where the numbers have been reduced on security grounds.

On 14 August 1991 the Minister for Foreign Affairs and Trade, Senator Gareth Evans, provided the following written answer, in part, to a question on notice (*Sen Deb* 1991, p 371):

Australia maintains diplomatic relations with Iraq, the head of state of which is President Saddam Hussein. The Government withdrew Australian staff from our Embassy in Bagdad in January 1991, before the outbreak of the Gulf war, and we currently have no plans to return staff to the Embassy. Iraq maintains an Embassy in Canberra headed by a Charge d'Affairs.

Diplomatic relations – reduction of diplomatic staff – principle of reciprocity – South Africa

On 13 November 1990 the Minister for Foreign Affairs and Trade, Senator Gareth Evans, said in part in answer to a question without notice (*Sen Deb* 1990, p 3966):

As reported this morning, South Africa told us officially yesterday of its intention to close the Sydney Consulate and to scale back its Canberra Embassy representation to an ambassador and two diplomatic personnel by March next year. It appears clear, especially from statements made by Ambassador Tohill, that the main motivation for this has been financial – the need to make savings in order to accommodate new pressures for upgraded representation elsewhere, especially in eastern Europe. That is a familiar problem for governments – one that we are wrestling with ourselves – and it is a response that causes us no difficulty whatsoever. But it does seem that South Africa could not resist the opportunity to try to score some political points in the process to make a propaganda virtue, as it were, out of its economic necessity.

It seems clear that there is an element of diplomatic punishment involved for Australia as a result of our continued active support for sanctions, through the Commonwealth and elsewhere. The most explicit

indication of this is, I guess, in the terms of the South African note that we received which states not only that there is a 'diminished level of mutual interest prevailing in relations between South Africa and Australia' but also that it is the "view of the South African Government that Australia's representation in South Africa should be reduced to a commensurate level by 31 March 1991".

There is of course no principle of reciprocity in international relations which requires a country to downgrade its presence in a second country in response to that country downgrading its own presence in the first country. If it were really accepted by the South African Government that we were about to greet the dawn of a new era in South Africa's domestic circumstances and in its international relations, this is hardly the time to be diminishing the opportunities for contact between us.

Diplomatic visas – entry permits – exemptions for diplomats and members of their families

On 11 January 1990 the Acting Minister for Immigration, Local Government and Ethnic Affairs, Mr West, by Instrument of Exemption under sub-section 106(2) of the Migration Act 1958, exempted various classes of persons from the requirement to hold a valid entry permit upon entry into Australia, including the following (*Commonwealth of Australia Gazette*, No GN 3, 24 January 1990, p 138):

- (3) diplomatic agents or consular officers of a foreign country passing through Australia to take up or return to their post, or to return to their country;
- (4) the spouse or dependent relatives of a person referred to in paragraph (3) above, provided they hold a valid passport which identifies them as such and they are accompanying that person, or passing through Australia to join that person at their post, or returning to their country, and any dependent children who are born in Australia to such person or persons on or after the 20 August 1986;
- (5) diplomatic or consular couriers of a foreign country, provided they hold a valid passport which identifies them as such and they are entering Australia in the course of their duty;
- (6) persons who, by regulations made under the *International Organisations (Privileges and Immunities) Act 1963*, are exempt from the application of laws relating to immigration;

Diplomatic immunity – criminal proceedings against a former diplomat – certification of diplomatic status – waiver of diplomatic immunity

On 16 May 1991 a former member of the diplomatic staff of the Greek Embassy in Canberra was acquitted of several charges involving the alleged theft of

money from Greek Embassy accounts in 1986 ("Embassy bookkeeper found not guilty", *The Canberra Times*, 17 May 1991, p 2). Following are certificates relating to the case issued in 1986 by the then Minister for Foreign Affairs and the Greek Ambassador:

I, WILLIAM GEORGE HAYDEN, Minister for Foreign Affairs of Australia and Minister of the Commonwealth for the time being administering the Diplomatic Privileges and Immunities Act 1967 HEREBY CERTIFY pursuant to sub-section 14(1) of the Act that:-

(a) Mr ANTHONY LOUCATARIS of 228 Bugden Avenue, Fadden in the Australian Capital Territory has, since 8 April 1983, been recognised by the Government of the Commonwealth of Australia as a diplomatic agent and a member of the diplomatic staff of the Embassy of Greece in Canberra, namely as an Attache, who is permanently resident in Australia within the meaning of Article 38 of the Vienna Convention on Diplomatic Relations, and continues as of the date of this certificate to be so recognised; and

(b) for the purpose of Article 38 of the Convention, no additional privileges and immunities have been granted by Australia to any diplomatic agent who is an Australian citizen or permanently resident in Australia.

IN WITNESS I have hereunto set my hand and affixed my seal on this sixteenth day of October 1986.

(Bill Hayden)
Minister of State for Foreign Affairs

EMBASSY OF GREECE
CANBERRA, ACT

F054.4/AS821

I, EFTHYMIOS TZAFERIS, Ambassador of Greece to Australia, hereby CONSENT to the agents of Australia, pursuant to Article 30 of the Vienna Convention on Diplomatic Relations as read with Article 22 of the Convention, entering the private residence of ANTHONY LOUCATARIS, Attache and member of the diplomatic staff of the Embassy of Greece in Canberra, for the purpose of executing any search warrant by the Australian authorities.

DATED this sixteenth day of October 1986.

SIGNED (E. TZAFERIS)

EMBASSY OF GREECE
CANBERRA, ACT
No.F.050.4/AS816

I, EFTHYMIOS TZAFERIS, Ambassador of Greece to Australia, hereby WAIVE the immunity from jurisdiction of ANTHONY LOUCATARIS, Attache and member of the diplomatic staff of the Embassy of Greece in Canberra, in so far as he may enjoy any immunity from the jurisdiction of Australian Courts.

DATED this sixteenth day of October 1986

SIGNED (E. TZAFERIS)

Consular relations - Yugoslavia (Croatia) - Uruguay - opening of Australian Consulates

On 11 June 1991 the Acting Minister for Foreign Affairs and Trade, Dr Blewett, issued a news release which read in part:

The Acting Minister for Foreign Affairs and Trade, Neal Blewett, announced today that Australia will establish a Consulate in Zagreb, the capital of the Republic of Croatia in Yugoslavia.

...

"Once the Consulate is operational, it should not be necessary normally for people from Croatia to travel to Belgrade for routine consular and visa services", he said.

Dr Blewett said he hoped the opening of the Consulate would strengthen links with a significant area of Yugoslavia which had many connections with Australia.

On 15 July 1991 the Minister for Trade and Overseas Development, Dr Blewett, issued a news release which read in part:

Australia will establish a Consulate in Uruguay to improve contact between the two countries, the Minister for Trade and Overseas Development, Neal Blewett, said today.

Speaking at the end of his official visit to Uruguay, Dr Blewett said that the Consulate, to be set up in Montevideo, would be staffed by an Honorary Consul. It would provide a focal point for ongoing contacts between Australia and Uruguay.

Consuls – murder of Turkish Consul-General in 1980 – renewal of reward

On 21 February 1990 the Minister for Justice, Senator Tate, issued the following news release:

The Federal Minister for Justice, Senator Tate, and the NSW Minister for Police and Emergency Services, Mr Pickering, today jointly announced the renewal of the reward of \$250,000 for information leading to the arrest of the person or persons responsible for the murder in 1980 of the Turkish Consul-General and his aide.

The shooting of Mr Sarik Ariyak, the Consul-General of Turkey, and Mr Egin Sever took place at about 9.45am on Wednesday, 17 December 1980 in Portland Street, Dover Heights, in the eastern suburbs of Sydney.

Senator Tate and Mr Pickering said that the Commonwealth and the NSW Government would each contribute \$125,000 to the renewal of the reward, and that the renewing of the reward offer on the same terms was an indication of the seriousness with which both Governments continued to view the offences. The reward demonstrates the determination of both the Commonwealth and NSW Governments to take every possible step to apprehend the person or persons responsible for the murders.

Consulates – re-opening of Yugoslav Consulate-General in Sydney – possession of firearms by diplomatic and consular personnel – compensation to victim of shooting at Yugoslav Consulate-General in 1988

On 2 July 1990 the Minister for Foreign Affairs and Trade, Senator Gareth Evans, issued the following news release:

The Australian Government has advised the Yugoslav Government that it may reopen its consulate-general in Sydney. The consulate-general was

closed and its staff expelled in December 1988 after a young Australian boy, Josef Tokic, was shot from within the consulate premises.

Announcing the Government's decision today, the Minister for Foreign Affairs and Trade, Senator Gareth Evans, said that in the 18 months since the shooting of Josef Tokic, there had been no further incidents involving Yugoslav diplomatic and consular representatives in Australia.

It had become clear during this period that Yugoslavia had a valid and continuing need for an office in Sydney to provide a full range of consular services to the large community of Yugoslav origin.

"The long period during which the Government has refused to allow the reopening of the consulate-general has left the Yugoslav authorities in no doubt as to the seriousness with which the Australian Government viewed this incident. The Government's decision to allow the reopening of the consulate-general in no way signifies any lessening of its abhorrence of the shooting of Josef Tokic", Senator Evans said.

Senator Evans said that the Government remained very much conscious of the concerns of both the Yugoslav and the wider Australian community, which were shocked by the shooting incident and which were entitled to an assurance that the Government would do all in its power to prevent a recurrence of such an incident.

"The Australian Government, therefore, has decided to place new restrictions on the possession of firearms by the diplomatic and consular community", Senator Evans said.

"In agreeing to permit the reopening of the Yugoslav consulate-general in Sydney, the Government has imposed tight restrictions on the possession, carriage and use of firearms by the diplomatic and consular communities, the details of which have been communicated to all missions.

"Very few such weapons will be permitted, and only under rigid control. The Government will consider taking the most serious steps available to it under international law against any diplomatic or consular personnel seen to have a firearm without the necessary approval.

"These restrictions take into account the justified concerns of the Australian community about the misuse of firearms. The Government hopes that they will ensure the avoidance in the future of firearms incidents like the one which occurred at the consulate-general."

On 16 October 1990 the Minister for Foreign Affairs and Trade, Senator Gareth Evans, provided the following written answer to the respective questions on notice (Sen Deb 1990, p 3201):

(1) In relation to an incident in Sydney on 27 November 1988 in which Joseph Tokic, a 16-year-old Australian, was shot by a Yugoslav security guard from within the compound of the Yugoslav Consulate-General, has the Yugoslav Government since apologised either to the Australian Government or to the victim or his family.

- (2) Has any compensation been paid to the victim or his family.
- (3) What are the present gun laws as they apply to foreign missions in Australia, and how are they policed.
- (4) What has been the subsequent history of the security guard who fired the shot.

(1) No.

(2) This matter is subject to private negotiations and possibly litigation and any enquiry should be directed to Mr Tokic or his legal representatives.

(3) The gun laws applying to diplomatic missions and consular posts in Australia are those that apply to Australian citizens. The Customs Act covers the importation of weapons into Australia and the Australian Customs Service polices that. The laws of the State or Territory where the mission or post is situated cover the possession and licensing of weapons, and State and Territory police forces and the Australian Federal Police are responsible for policing those laws. As I announced on 2 July, the Government has placed tight additional restrictions on the possession, carriage and use of firearms in the diplomatic and consular community. This has been done under the Vienna Conventions on Diplomatic and Consular Relations. In consultation with the Australian Federal Police Force, my Department will approve the very few weapons that are to be permitted, under rigid control. State and Federal Police will report any significant abuse of those restrictions. I will deal with any such report on the basis of the Government's instruction that consideration is to be given to taking the most serious steps available to us under international law.

(4) The individual concerned was expelled from Australia along with other members of the Consulate-General and the Australian Government has no further information on him.

Consular relations - consular protection - Palestinian refugees

On 25 May 1990 the Minister for Foreign Affairs and Trade, Senator Gareth Evans, provided the following written answer in part to a question concerning Palestinian refugees (Sen Deb 1990, Vol 139, p 1133):

Australia accepts as a matter of international law that "everyone has the right to leave any country including his own and return to his country" (article 13(2) of the Universal Declaration of Human Rights).

We also accept that "no one shall be subject to arbitrary interference with his ... home" and that "everyone has the right to protection of the law against such interference or attacks" (article 12 of the Universal Declaration of Human Rights).

It is open to any person inside or outside a country to seek redress through the municipal legal system of that country for compensation for

property lost and the return of ownership of the property. If municipal remedies are exhausted, in certain circumstances another state may espouse the claim of the individual against the country in which the property was located as a matter of international law (state responsibility). A key condition is that the person seeking redress have the citizenship of the state espousing the claim at the time the claim arises. ...

In these circumstances Australia's position on the right of return of Palestinians to what is now Israel and on compensation for property lost as a result of the fighting in 1948 is that we regard these as matters for ultimate resolution in the context of a peace settlement, which may involve the creation of an independent Palestinian state.

Information offices – distinguished from diplomatic or consular premises – Palestine Liberation Organisation office in Australia – status of PLO representative in Australia

On 5 December 1990 the Minister for Foreign Affairs and Trade, Senator Gareth Evans, provided the following written answer in part to a question on notice (HR Deb 1990, Vol 174, p 4536):

The Palestine Liberation Organisation has requested Australia's in-principle agreement to the issue of visas to PLO officials to staff the PLO office in Canberra. The PLO has not yet sought visas for specific PLO officials pending this in-principle agreement. The Government is still considering the PLO request. ...

The PLO Representative in Australia, Mr Ali Kazak, is an Australian citizen. While the matter of visas remains under consideration, there is nothing to prevent Mr Kazak from employing other Australian citizens in his office, including of course those of Palestinian descent.

Non-diplomatic or consular representation in Australia – commercial representation – Taiwanese representation in Australia

On 14 March 1991 the Minister for Foreign Affairs and Trade, Senator Gareth Evans, issued the following news release:

Senator Evans confirmed today that, further to his statement of 12 November 1990 on Australian policy towards Taiwan, the Australian Government had now advised Taiwan through the Australian Commerce and Information Office in Taipei that it agreed to two proposals for enhancing Taiwan's unofficial, commercial representation in Australia.

The names of Taiwan's commercial offices in Australia, located in Sydney and Melbourne, could be changed from "Far East Trading Company" to "Taipei Economic and Cultural Office".

In addition – as stated in the Senate at Question Time yesterday – a third office could be established in Canberra.

Senator Evans said that the timing of each move was still under consideration by the two sides.

He explained that the change of name had been agreed so as to indicate more clearly the actual role of Taiwan's commercial offices in Australia. The new name would match usage in a number of other countries which also have diplomatic relations with the PRC.

Senator Evans said that the name change did not imply any change to the unofficial, commercial status of Taiwan's offices in Australia. Nor did it imply any departure from Australia's strict adherence to a one-China policy. Within the framework of this policy, the Australian Government gave strong support to the development of a mutually beneficial, unofficial, commercial relationship with Taiwan.