

**Mason, Timothy**

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From: Media AGD  
Sent: Tuesday, 25 October 2011 4:20 PM  
To: Coles, Anthony; Ananijevski, Branko; Williams, Diana  
Subject: FW: war crimes claims against Rajapaksa [SEC=UNCLASSIFIED]

Security Classification:  
UNCLASSIFIED

**UNCLASSIFIED**

FYI -apologies, forgot to copy you in before I hit send.

Naomi Hyland | CHOGM 2011 Security Media  
Strategic Communication Branch | Australian Government Attorney-General's Department  
[REDACTED] | e. [media@ag.gov.au](mailto:media@ag.gov.au)

S47F(1)

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From: Media AGD  
Sent: Tuesday, October 25, 2011 4:18:27 PM  
To: Liddell, Ryan  
Cc: Media AGD  
Subject: FW: war crimes claims against Rajapaksa [SEC=UNCLASSIFIED]  
Auto forwarded by a Rule

**UNCLASSIFIED**

Hi Ryan,

Please see the below enquiry re. Sri Lankan President. Are you happy to take it? There's also another one which just came through that I'll forward to you now.

Thanks,

Naomi Hyland | CHOGM 2011 Security Media  
Strategic Communication Branch | Australian Government Attorney-General's Department  
[REDACTED] | e. [media@ag.gov.au](mailto:media@ag.gov.au)

S47F(1)

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From: Janak Rogers[SMTP:ROGERS.JANAK@ABC.NET.AU]  
Sent: Tuesday, October 25, 2011 4:15:01 PM  
To: Media AGD  
Subject: war crimes claims against Rajapaksa  
Auto forwarded by a Rule

Hi there,

Janak Rogers from ABC Radio Australia – I was just on the phone with Kaitlin from your department. I was hoping for some clarification on the possible war crimes charges being laid against the Sri Lankan President Rajapaksa.

The PM gave a press conference earlier today saying "no such legal action can be taken on an issue like this without the consent of the Attorney-General, and the Attorney-General hasn't received any request in relation to this matter". Is that still the case? The lawyers for the claimant maintain, I believe, that the request has been sent.

And secondly, any indication on whether – once the request has been received (if it hasn't already) – the AG will allow the case to stand. i.e. Is it a foregone conclusion that diplomatic immunity will override any possible prosecution?

Am hoping to file on this in the next few hours, and any comment on tape – ie quick telephone interview – would be ideal; or else, written statement is grand.

Thanks in advance for your time with this.

Janak Rogers  
ABC Radio Australia  
Ph 9626 1930

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**Mason, Timothy**

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**From:** Inverarity, Tara  
**Sent:** Tuesday, 25 October 2011 4:21 PM  
**To:** Ng, Phillip  
**Cc:** Reid, John; Coles, Anthony; Winter, Josephine; Ananijevski, Branko  
**Subject:** RE: Charge-Sheet & Summons against President of Sri Lanka brought in Magistrates' Court of Victoria ~~{SEC=IN-CONFIDENCE:LEGAL}~~

**Security Classification:**  
~~LEGAL-IN-CONFIDENCE~~

**~~LEGAL-IN-CONFIDENCE~~**

Hi Phillip

FYI – PM has made some public comments and the article references one of the Rob Stary lawyers claiming that there is authority to the effect that war crimes potentially over-riding diplomatic immunity. Not sure that we need to directly address this but thought you should be aware in case it arises.

<http://news.smh.com.au/breaking-news-national/govt-must-ok-sri-lanka-presidents-casepm-20111025-1mhfn.html>

Tara

**From:** Ng, Phillip  
**Sent:** Tuesday, 25 October 2011 3:58 pm  
**To:** Ananijevski, Branko  
**Cc:** Winter, Josephine; Inverarity, Tara  
**Subject:** FW: Charge-Sheet & Summons against President of Sri Lanka brought in Magistrates' Court of Victoria ~~{SEC=IN-CONFIDENCE:LEGAL}~~  
**Importance:** High

**~~LEGAL-IN-CONFIDENCE~~**

Branko,

Please see advice below as discussed.

Kind regards

Phillip

**From:** Reid, John  
**Sent:** Tuesday, 25 October 2011 3:02 PM  
**To:** Sheehan, Tony; Coles, Anthony; Clifton, Jacob  
**Cc:** Campbell, Bill; Ng, Phillip; Winter, Josephine; dominic.trindade@dfat.gov.au; Williams, Diana; Little, Matthew  
**Subject:** FW: Charge-Sheet & Summons against President of Sri Lanka brought in Magistrates' Court of Victoria ~~{SEC=IN-CONFIDENCE:LEGAL}~~  
**Importance:** High

**~~LEGAL-IN-CONFIDENCE~~**

All,

[REDACTED]

Grateful for advice.

S42(1)

Kind regards,  
John

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**John Reid**  
Assistant Secretary  
International Law, Trade and Security Branch  
Office of International Law  
Attorney-General's Department

T: +61 2 6141 3554

F: +61 2 6141 4096

S47F(1)

E: [john.reid@ag.gov.au](mailto:john.reid@ag.gov.au)

**From:** Daley, Simon [mailto:Simon.Daley@ags.gov.au]

**Sent:** Tuesday, 25 October 2011 2:48 pm

**To:** Campbell, Bill; Reid, John

**Cc:** Cranston, Jeff

**Subject:** FW: [REDACTED]

[SEG=IN-CONFIDENCE:LEGAL]

**Importance:** High

S42(1)

Bill/John

Please see our advice set out in Jeff Cranston's email below

The effect of the advice, stated briefly, is that

S42(1)

- [REDACTED]
- [REDACTED]
- [REDACTED]

Simon

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**Simon Daley**  
Chief Solicitor  
Dispute Resolution  
Australian Government Solicitor  
T 02 9581 7490 F 02 9581 7732 [REDACTED]  
simon.daley@ags.gov.au  
Find out more about AGS at <http://www.ags.gov.au>

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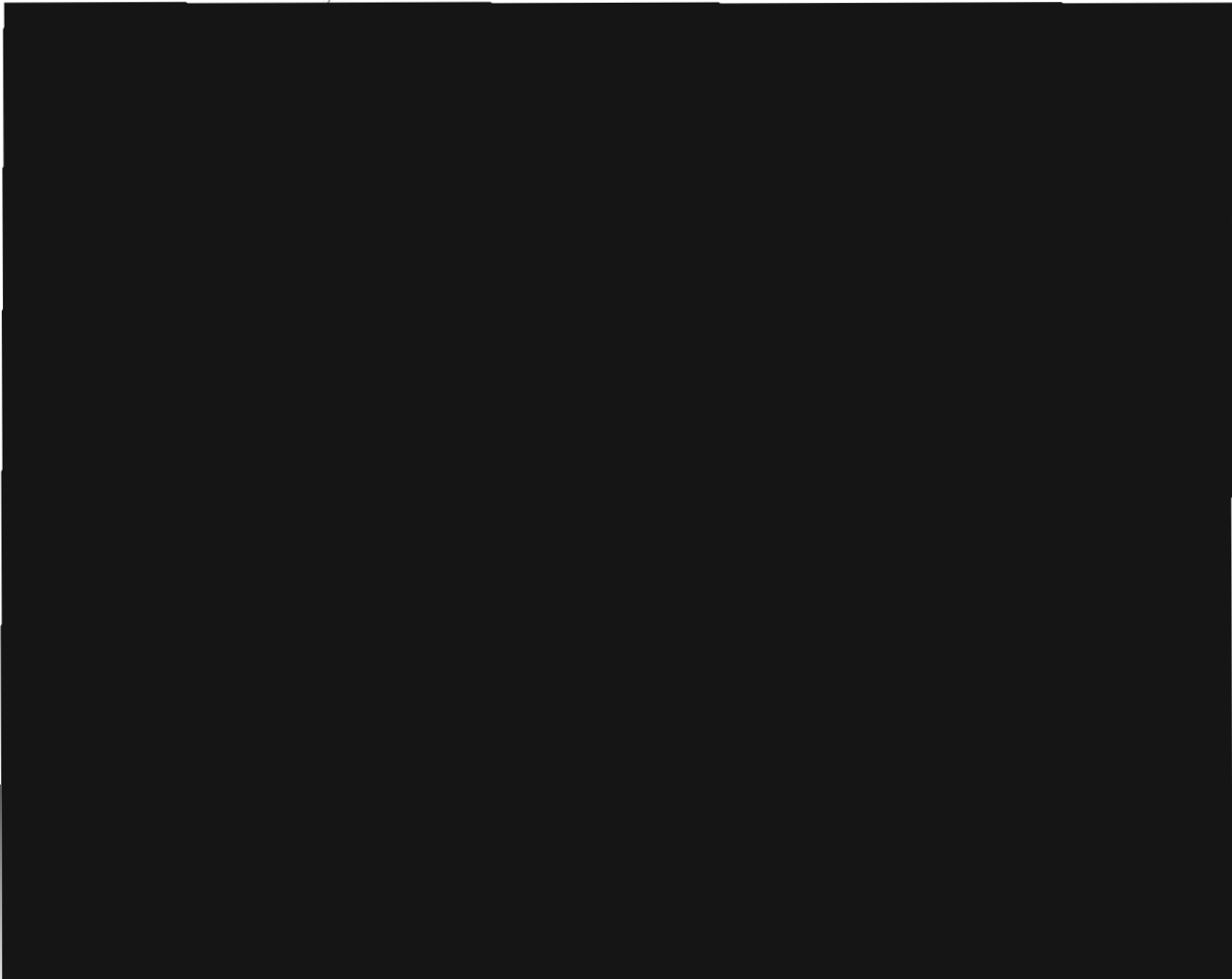
**From:** Cranston, Jeff  
**Sent:** 25 October 2011 14:16  
**To:** Daley, Simon  
**Subject:** [REDACTED]

S42(1)

Simon,

I refer to our telephone conversations this morning regarding the above matter as well as the documentation you have e-mailed to me.

S42(1)



S42(1)



S42(1)





I would be happy to set out my reasons for the above advice on request

S42(1)

Regards,

Jeff

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**Jeff Cranston**

Senior Executive Lawyer

Australian Government Solicitor

T: 03 9242 1367 F: 03 9242 1496

jeff.cranston@ags.gov.au

Find out more about AGS at <http://www.ags.gov.au>

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**Mason, Timothy**

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**From:** Ananijevski, Branko  
**Sent:** Tuesday, 25 October 2011 4.33 PM  
**To:** Reid, John  
**Cc:** Ng, Phillip  
**Subject:** Letter - consent to prosecute Sri Lanka pres.doc [~~SEC=IN-CONFIDENCE~~]  
**Attachments:** Letter - consent to prosecute Sri Lanka pres.doc  
Attachment excluded as irrelevant (draft)  
**Security Classification:** ~~IN-CONFIDENCE~~

**~~IN-CONFIDENCE~~**

Hi John and Phillip

Please see attached a draft letter re consent to prosecute the Sri Lankan President for your comment.

Regards  
Branko



Irrelevant

REDACTED

**Mason, Timothy**

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**From:** Reid, John  
**Sent:** Tuesday, 25 October 2011 4:45 PM  
**To:** Ananijevski, Branko  
**Cc:** Ng, Phillip; Campbell, Bill, Coles, Anthony  
**Subject:** RE: Letter - consent to prosecute Sri Lanka pres.doc [SEC=IN-CONFIDENCE]  
**Attachments:** Letter - consent to prosecute Sri Lanka pres - OIL comments.doc

**Security Classification:** Attachment excluded as irrelevant  
~~IN-CONFIDENCE~~ (draft)

**~~IN-CONFIDENCE~~**

S42(1)

Branko,



Happy to discuss.

Cheers,  
John

**From:** Ananijevski, Branko  
**Sent:** Tuesday, 25 October 2011 4:33 pm  
**To:** Reid, John  
**Cc:** Ng, Phillip  
**Subject:** Letter - consent to prosecute Sri Lanka pres.doc [SEC=IN-CONFIDENCE]

**~~IN-CONFIDENCE~~**

Hi John and Phillip

Please see attached a draft letter re consent to prosecute the Sri Lankan President for your comment.

Regards  
Branko

irrelevant

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**Mason, Timothy**

---

**From:** Ananijevski, Branko  
**Sent:** Tuesday, 25 October 2011 4:48 PM  
**To:** Reid, John  
**Cc:** Ng, Phillip  
**Subject:** RE Letter - consent to prosecute Sri Lanka pres.doc {SEC=IN-CONFIDENCE}

**Security Classification:**  
~~IN-CONFIDENCE~~

**~~IN-CONFIDENCE~~**

Thanks John, noted and much appreciated! We are clearing the sub and letter now.

Regards  
Branko

**From:** Ananijevski, Branko  
**Sent:** Tuesday, 25 October 2011 4:33 PM  
**To:** Reid, John  
**Cc:** Ng, Phillip  
**Subject:** Letter - consent to prosecute Sri Lanka pres.doc {SEC=IN-CONFIDENCE}

**~~IN-CONFIDENCE~~**

Hi John and Phillip

Please see attached a draft letter re consent to prosecute the Sri Lankan President for your comment.

Regards  
Branko

**Mason, Timothy**

---

**From:** Reid, John  
**Sent:** Tuesday, 25 October 2011 5:00 PM  
**To:** Campbell, Bill; Ng, Phillip  
**Subject:** FW: Section 40 Certificate - Mahindra Rajapaksa [SEC=IN-CONFIDENCE]  
**Attachments:** Section 40(1) Certificate for Mahinda Rajapaksa - RUDD.docx

**Security Classification:**  
~~IN-CONFIDENCE~~

**~~IN-CONFIDENCE~~**

I think this is fine.

Comments?

**From:** Lau, Thea [mailto:[Thea.Lau@dfat.gov.au](mailto:Thea.Lau@dfat.gov.au)]  
**Sent:** Tuesday, 25 October 2011 4:57 pm  
**To:** Reid, John  
**Cc:** Day, Elizabeth; Trindade, Dominic  
**Subject:** Section 40 Certificate - Mahindra Rajapaksa [SEC=IN-CONFIDENCE]

Hi John,

As you have discussed with Dominic Trindade, A/S DLB/ILD, please find attached a draft Section 40 Certificate for Mahinda Rajapaksa.

Once we have received any proposed changes/clearance, we will make arrangements for the Minister's signature.

Kind regards,

Thea Lau  
Consular, Passports and Protocol Section  
Department of Foreign Affairs and Trade  
Tel: +612 6261 1546  
Fax: +612 6112 1546  
[thea.lau@dfat.gov.au](mailto:thea.lau@dfat.gov.au)

REDACTED

**Mason, Timothy**

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**From:** Reid, John  
**Sent:** Tuesday, 25 October 2011 5:02 PM  
**To:** Ng, Phillip  
**Subject:** FW: Prosecution in the Magistrates' Court of Victoria against President of Sri Lanka  
~~{SEC=IN-CONFIDENCE}~~  
**Attachments:** Application AGD 25-10-11.DOC: Affidavit in supp of AGD application 25-10-11.DOC

**Security Classification:**  
~~IN-CONFIDENCE~~

**~~IN-CONFIDENCE~~**

FYI

**From:** Cranston, Jeff [mailto:Jeff.Cranston@ags.gov.au]  
**Sent:** Tuesday, 25 October 2011 4:54 pm  
**To:** Daley, Simon (AGS)  
**Cc:** Campbell, Bill; Reid, John  
**Subject:** Prosecution in the Magistrates' Court of Victoria against President of Sri Lanka

Simon,

S42(1)



Regards,

Jeff

---

**Jeff Cranston**  
Senior Executive Lawyer  
Australian Government Solicitor  
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[jeff.cranston@ags.gov.au](mailto:jeff.cranston@ags.gov.au)  
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REDACTED

## Mason, Timothy

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**From:** Reid, John  
**Sent:** Tuesday, 25 October 2011 5:09 PM  
**To:** Lau, Thea  
**Cc:** Day, Elizabeth; Trindade, Dominic; Campbell, Bill; Ng, Phillip  
**Subject:** RE: Section 40 Certificate - Mahindra Rajapaksa {SEC=IN-CONFIDENCE}  
**Attachments:** Section 40(1) Certificate for Mahindra Rajapaksa - RUDD - OIL comments.doc

**Security Classification:** ~~IN-CONFIDENCE~~

**~~IN-CONFIDENCE~~**

Thea  
Some changes suggested in track.

Cheers,  
John

---

**John Reid**  
Assistant Secretary  
International Law, Trade and Security Branch  
Office of International Law  
Attorney-General's Department

T: +61 2 6141 3554  
F: +61 2 6141 4096

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E: [john.reid@ag.gov.au](mailto:john.reid@ag.gov.au)

**From:** Lau, Thea [mailto:[Thea.Lau@dfat.gov.au](mailto:Thea.Lau@dfat.gov.au)]  
**Sent:** Tuesday, 25 October 2011 4:57 pm  
**To:** Reid, John  
**Cc:** Day, Elizabeth; Trindade, Dominic  
**Subject:** Section 40 Certificate - Mahindra Rajapaksa [SEC=IN-CONFIDENCE]

Hi John,

As you have discussed with Dominic Trindade, A/S DLB/ILD, please find attached a draft Section 40 Certificate for Mahindra Rajapaksa.

Once we have received any proposed changes/clearance, we will make arrangements for the Minister's signature.

Kind regards,

Thea Lau  
Consular, Passports and Protocol Section  
Department of Foreign Affairs and Trade  
Tel: +612 6261 1546

Fax: +612 6112 1546  
[thea.lau@dfat.gov.au](mailto:thea.lau@dfat.gov.au)