

29 January 2024

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OIA 28941

Tēnā koe

I refer to your email of 4 December 2023 in which you request the following under the Official Information Act 1982 (OIA):

- '1. Please provide copies of Cabinet papers, minutes, and any other communications concerning the government's decision to provide \$5 million in humanitarian support to Israel and Gaza.*
- 2. Please provide all governmental communications concerning the October 2023 statements on Israel/Gaza made at the UN by New Zealand's Permanent Representative to the UN, Carolyn Schwalger.*
- 3. Please provide MFAT's advice to the current caretaker government concerning its response to Hamas's attack against Israel on 7 Oct 2023 and Israel's response.'*

On 5 December 2023, you rescoped part two of your request to be for:

'...all advice provided to ministers concerning the October 2023 statements on Israel/Gaza made at the UN by New Zealand's Permanent Representative to the UN, Carolyn Schwalger.'

On 24 January 2024, the timeframes for responding to your request were extended by an additional 20 working days due to the consultations necessary to make a decision on your request (15A(1)(b) of the OIA refers).

Information concerning the government's decision to provide \$5 million in humanitarian support to Israel and Gaza

As you may be aware, New Zealand has announced two tranches of support to the humanitarian response, totalling NZ\$10 million, to address urgent humanitarian needs in Gaza, the West Bank and Israel. This includes contributions of NZ\$5 million to the International Committee of the Red Cross (ICRC) and NZ\$5 million to the World Food Programme (WFP).

Information relevant to the humanitarian response is publicly available on the Ministry of Foreign Affairs and Trade (The Ministry) website at the following address: www.mfat.govt.nz/en/media-

[and-resources/oia-28902-advice-to-elected-officials-on-humanitarian-support-to-the-israel-gaza-conflict/](#).

The full Ministerial announcements on New Zealand's humanitarian response to the crisis are available at the links below:

- Further humanitarian support for Gaza, the West Bank and Israel (18 November 2023): www.beehive.govt.nz/release/further-humanitarian-support-gaza-west-bank-and-israel
- New Zealand provides humanitarian support to Israel and Gaza (17 October 2023): www.beehive.govt.nz/release/new-zealand-provides-humanitarian-support-israel-and-gaza

Consequently, this part of your request is refused under section 18(d), as the information requested is publicly available.

All advice provided to ministers concerning the October 2023 statements on Israel/Gaza made at the UN by New Zealand's Permanent Representative to the UN, Carolyn Schwalger.

The three documents in scope of your request, and attached to this response are:

- Submission: *New Zealand statements at the United Nations – 20 October 2023*
- Submission: *New Zealand statements at the United Nations – 24 October 2023*
- Submission: *New Zealand position on General Assembly resolution – 27 October 2023*

We have withheld some information under the following sections of the OIA:

- s6(a): to avoid prejudicing the security or defence of New Zealand or the international relations of the New Zealand Government; and
- s9(2)(g)(ii): to protect officials and agency employees from improper pressure or harassment.

Where the information has been withheld under section 9 of the OIA, we have identified no public interest in releasing the information that would override the reasons for withholding it.

Advice to the caretaker government concerning its response to Hamas's attack against Israel on 7 Oct 2023 and Israel's response

In line with section 16(1)(e) of the OIA, the Ministry is providing you with the following summary of the information in scope of this part of your request. The Ministry has provided information and advice to Ministers on New Zealand's response to the Israel-Hamas conflict:

Consistent with the caretaker convention, former Prime Minister Hipkins determined at the outset of the response to the conflict between Israel and Hamas to keep then-Leader of the Opposition Prime Minister Luxon informed of developments. Therefore, daily Situation Reports prepared by the Ministry were shared with Mr Luxon. In addition, the former Prime Minister consulted Mr Luxon on decisions relating to the conflict. To support that, the former Ministers of Foreign Affairs and Defence asked that a series of decision submissions be shared with Prime Minister Luxon through the former Prime Minister's Office.

Information and advice provided to Ministers on the Israel-Hamas conflict included written and oral briefings, submissions, regular Situation Reports, and talking points. This covered topics such as:

- Latest **developments in the conflict**, in Gaza, the West Bank and Israel, and in the region
- The **humanitarian situation** in Gaza, the West Bank and Israel, and New Zealand contributions of humanitarian assistance;
- New Zealand's **consular response**;
- **Engagements with international partners**, e.g. bilateral ministerial calls;
- **International and multilateral** reactions to the conflict, e.g. public statements by other countries, and United Nations resolutions;
- New Zealand's statements and voting positions in the **United Nations (UN)**.
- New Zealand's **public statements on the conflict**, e.g. through press releases, statements in multilateral fora and social media.

New Zealand's response to the Israel-Hamas conflict since 7 October 2023 has been consistently grounded in international law and revolves around four pillars, as follows:

- **The upholding of international law and IHL**, including the protection of civilians and the provision of humanitarian assistance for those in need. This has guided our position on the release of hostages; protection of civilians; and the urgent need for humanitarian access;
- **Opposition to the use of terror as a political tool and illegal act** – guiding New Zealand's unequivocal condemnation of Hamas' 7 October attacks on Israel;
- **Recognition of the right for a state to defend itself** – guiding statements on Israel's right to defend itself, within the limits of full compliance with international law; and
- **The importance of political, not military, solutions** - guiding our approach to the long term solution to the crisis, specifically calls for an urgent restart of the Middle East Peace Process and for a two state solution to the Israeli-Palestinian conflict as the best path for a durable and lasting peace in the region.

The Ministry's advice has also drawn from New Zealand's longstanding approach to the Middle East Peace Process, including:

- Support for a comprehensive and sustainable two-state solution, with secure and recognised borders for both Israel and Palestine (based on 1967 lines).
- Support for Israel's right to exist in peace and security.
- Support for the right of the Palestinian people to self-determination.
- Recognition that direct negotiations between the parties are the only way to achieve a sustainable agreement, and a call for a return to such negotiations.

The Ministry provides international legal advice to Ministers as and when required. The nature of that legal advice is subject to legal privilege and if requested under the OIA would be withheld under section 9(2)(h).

Please note that it is our policy to proactively release our responses to official information requests where possible. Therefore, our response to your request (with your personal information removed)

may be published on the Ministry website: www.mfat.govt.nz/en/about-us/contact-us/official-information-act-responses/

If you have any questions about this decision, you can contact us by email at: DM-ESD@mfat.govt.nz. You have the right to seek an investigation and review by the Ombudsman of this decision by contacting www.ombudsman.parliament.nz or freephone 0800 802 602.

Nāku noa, nā

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

Owen Thornber
for Secretary of Foreign Affairs and Trade