

25 March 2024

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Wellington 6160
New Zealand

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OIA 28956

Personal Details removed for Proactive
Release

Personal Details removed for Proactive
Release
Tēnā koe

I refer to the Department of the Prime Minister and Cabinet's email of 6 December 2023, partially transferring the bolded parts of your below request for information to the Ministry of Foreign Affairs and Trade (the Ministry), under the Official Information Act 1982 (OIA):

- **All written advice and correspondence, including briefings, emails, minutes, and diplomatic cables, since 7 October 2023**, relating to any government discussions or considerations concerning the designation of Hamas as a terrorist organisation under the Terrorism Suppression Act 2002;
- **All written advice and correspondence, including briefings, memos, emails, minutes, and diplomatic cables, since 7 October 2023**, relating to any government discussions or considerations concerning the potential designation of Israeli settler groups and individuals terrorising and displacing Palestinians in the West Bank. "

I believe the part of your request for diplomatic cables relating to any government discussions or considerations concerning the designation of Hamas, and/or potential designation of Israeli settler groups and individuals terrorising and displacing Palestinians in the West Bank is more closely connected to the functions of the Ministry of Foreign Affairs and Trade (MFAT).

On 25 January 2024, the timeframes for responding to your request were extended by an additional 25 working days due to the consultations necessary to make a decision on your request (section 15A(1)(b) of the OIA refers).

On 1 March 2024, you were advised a decision had been made on your request.

The correspondence relevant to your request has now been prepared and is attached. We have withheld some information under the following sections of the OIA:

- 6(a): to avoid prejudicing the security or defence of New Zealand or the international relations of the New Zealand Government;
- 6(d): to avoid endangering the safety of any person;
- 6(b)(i): to protect the passing of information from another government on a confidential basis;
- 9(2)(g)(i): to protect the free and frank expression of opinions by departments; and
- 9(2)(g)(ii): to protect officers and 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. Please note, duplicate information present in the attached information has been removed.

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 a stylized 'O' and 'T' followed by a horizontal line.

Owen Thornbur
for Acting Secretary of Foreign Affairs and Trade

MEA initial tasking FM

From: MEA <DM-MEA@mfat.govt.nz>

Sent: Monday, 9 October 2023 5:40 am

To: BERLIN <BER@mfat.govt.nz>; BRUSSELS <BRU@mfat.govt.nz>; CANBERRA <CBA@mfat.govt.nz>; DUBLIN <DUB@mfat.govt.nz>; GENEVA <GVA@mfat.govt.nz>; HAGUE <HAG@mfat.govt.nz>; LONDON <LON@mfat.govt.nz>; MADRID <MAD@mfat.govt.nz>; NEW YORK <NYK@mfat.govt.nz>; OTTAWA <OTT@mfat.govt.nz>; PARIS <PAR@mfat.govt.nz>; ROME <ROM@mfat.govt.nz>; STOCKHOLM <SKM@mfat.govt.nz>; TOKYO <TKY@mfat.govt.nz>; SEOUL <SEL@mfat.govt.nz>; WASHINGTON <WSH@mfat.govt.nz>; ABU DHABI <ABD@mfat.govt.nz>; RIYADH <RIY@mfat.govt.nz>; CAIRO <CAI@mfat.govt.nz>; ANKARA <ANK@mfat.govt.nz>
Cc: AMER <DM-AMER@mfat.govt.nz>; AUS <DM-AUS@mfat.govt.nz>; CEO <DM-CEO@mfat.govt.nz>; DCE <DCE@mfat.govt.nz>; DS EMA <DM-DSEMA@mfat.govt.nz>; EUR <DM-EUR@mfat.govt.nz>; MEA <DM-MEA@mfat.govt.nz>; NAD <DM-NAD@mfat.govt.nz>; PHM <PHM@mfat.govt.nz>; UNHC <DM-UNHC@mfat.govt.nz>; FM.P/S MFA (Seemail) <PS.MFA@mfat.net.nz>; FM.DPMC (FPA) (Seemail) <DPMCFPA@mfat.net.nz>
Subject: FORMAL MESSAGE: TASKING ON SITUATION IN ISRAEL, GAZA AND THE WEST BANK

5. We provide **talking points**, to draw on as appropriate, for your engagement:

- New Zealand condemns unequivocally the terrorist attacks led by Hamas on Israel.
- We are appalled by the targeting of civilians, and the taking of hostages which violate fundamental international humanitarian law principles.
- New Zealand has designated the military wing of Hamas as a terrorist organisation since 2010. Designations are made under our Terrorism Suppression Act.
- We recognise Israel's right to defend itself.
- We are very concerned that the situation will escalate in the coming days and New Zealand again calls for restraint, the protection of civilians, and the upholding of international humanitarian law by all parties.
- International Humanitarian actors play an essential role in the provision of humanitarian assistance and basic services in Israel and the Occupied Palestinian Territories. It is important that humanitarian actors observe humanitarian principles.

If-needed media lines:

- **If asked – why hasn't New Zealand designated the political wing of Hamas as a terrorist organisation?**
 - New Zealand has designated the military wing of Hamas as a terrorist organisation since 2010. Designations are made under our Terrorism Suppression Act.
 - Like other countries, New Zealand designates entities in accordance with UN Security Council Resolutions and in accordance with domestic legislation. New Zealand has discretion as to how further designations are made, as long as TSA criteria are met.
 - While our designations reflect our independent foreign policy, we do consider the views of others.
 - Any designation of Hamas' political wing would depend on an independent assessment process carried out by the officials' Terrorist Designations Working Group, and subsequent recommendations made to the Prime Minister.

- Designation of Hamas' military wing was last considered and renewed in 2022.
If needed – The PM has asked officials for advice on designation under the Terrorism Suppression Act of the political wing of Hamas.
- ***If asked: terrorist designation of other relevant entities:***
 - New Zealand has designated the Palestinian Islamic Jihad (PIJ) since 2010
 - New Zealand has designated the military wing of Hezbollah since 2010.

Released under the Official Information Act

MEA Sitrep 3

From: MEA <DM-MEA@mfat.govt.nz>

Sent: Wednesday, 11 October 2023 10:45 AM

To: ...ALL POSTS <ALLPOSTS@mfat.net.nz>; ALL DIVISIONS <ALLDIVISIONS@mfat.net.nz>

Cc: FM.P/S MFA (Seemail) <PS.MFA@mfat.net.nz>; FM.P/S Associate MFA (Seemail) <PSAssociateMFASeemail@mfat.net.nz>; FM.DPMC (FPA) (Seemail) <DPMCFPA@mfat.net.nz>; s6(a)

FM.Defence (Seemail) <fm.defence@nzdf.mil.nz>; FM.P/S Trade (Seemail) <PSTrade@mfat.net.nz>; s6(a)

s6(a) s6(a) s6(a)
FM.Police (Seemail) <Registry.NIC@police.govt.nz>; ...WLN SLT <WLN-SLT@mfat.net.nz>; FM.P/S Defence (Seemail) <P/SDEFENCE@mfat.net.nz>; FM.P/S Police (Seemail) s9(2)(g)(ii)
MEDIA <media@mfat.govt.nz>; ESD <DM-ESD@mfat.govt.nz>; OCE <OCE@mfat.govt.nz>; DCE <DCE@mfat.govt.nz>; s9(2)(g)(ii)

FM.MBIE Formal Messages (Seemail) <cables@mbie.govt.nz>; s6(a)
s6(a) FM.Treasury (Seemail) <merlin@treasury.govt.nz>; FM.Min for Women (Seemail) <international@women.govt.nz>; FM.DPMC (Seemail) DPMC@mfat.net.nz

Subject: FORMAL MESSAGE: SITREP 3: ISRAEL-GAZA CONFLICT

New Zealand Response:

13 In addition to the statements from the PM and MFA, the following are under action:

- There continues to be extensive domestic press interest, with PM and MFA being asked about the situation in media interviews.
- s9(2)(g)(i)
- New Zealand has designated the military wing of Hamas as a terrorist organisation since 2010, under our Terrorism Suppression Act. Officials have been asked to also consider designating the political wing of Hamas.

If needed media lines:

- **Why hasn't New Zealand designated the political wing of Hamas as a terrorist organisation?**
 - New Zealand has designated the military wing of Hamas as a terrorist organisation since 2010. Designations are made under our Terrorism Suppression Act.
 - Like other countries, New Zealand designates entities in accordance with UN Security Council Resolutions and in accordance with domestic legislation. New

Zealand has discretion as to how further designations are made, as long as TSA criteria are met.

- While our designations reflect our independent foreign policy, we do consider the views of others.
- Designation of Hamas' military wing was last considered and renewed in 2022.
- The Prime Minister has asked for more advice on designation under the Terrorism Suppression Act of the political wing of Hamas. As the Prime Minister has already signalled, any decision on this would be for after the election, following the thorough assessment process carried out by the officials' Terrorist Designations Working Group.

[Contains duplicate information]

Released under the Official Information Act

MEA Sitrep 4

From: MEA <DM-MEA@mfat.govt.nz>

Sent: Wednesday, 11 October 2023 5:47 pm

To: MEA <DM-MEA@mfat.govt.nz>; ...ALL POSTS <ALLPOSTS@mfat.net.nz>; ALL DIVISIONS <ALLDIVISIONS@mfat.net.nz>

Cc: FM.P/S MFA (Seemail) <PS.MFA@mfat.net.nz>; FM.P/S Associate MFA (Seemail) <PSAssociateMFASeemail@mfat.net.nz>; FM.DPMC (FPA) (Seemail) <DPMCFPA@mfat.net.nz>; s6(a)

FM.Defence (Seemail) <fm.defence@nzdf.mil.nz>; FM.P/S Trade (Seemail) <PSTrade@mfat.net.nz>; s6(a)

s6(a)
FM.Police (Seemail) <Registry.NIC@police.govt.nz>; ...WLN SLT <WLN-SLT@mfat.net.nz>; FM.P/S Defence (Seemail) <P/SDEFENCE@mfat.net.nz>; FM.P/S Police (Seemail) s9(2)(g)(ii)
MEDIA <media@mfat.govt.nz>; ESD <DM-ESD@mfat.govt.nz>; OCE <OCE@mfat.govt.nz>; DCE <DCE@mfat.govt.nz>; s9(2)(g)(ii)

FM.MBIE

Formal Messages (Seemail) <cables@mbie.govt.nz>; s6(a)
'scmu@dpmc.govt.nz' <scmu@dpmc.govt.nz>; FM.Treasury (Seemail) <merlin@treasury.govt.nz>; FM.Min for Women (Seemail) <international@women.govt.nz>; FM.DPMC (Seemail) <DPMC@mfat.net.nz>; s9(2)(g)(ii)

Subject: RE: FORMAL MESSAGE: SITREP 4: ISRAEL-GAZA CONFLICT

Israel – Gaza conflict – Thursday, 12 October 2023

Key media lines:

- **Terrorist designation of Hamas:** New Zealand has designated the military wing of Hamas as a terrorist organisation since 2010, under our Terrorism Suppression Act. Officials have been asked to also consider designating the political wing of Hamas.

If-needed media lines – situation and New Zealand response:

- **Are you concerned about the conflict spreading, given reports of further strikes from Lebanon overnight?**
 - Any escalation of the conflict would be deeply concerning. We call on regional actors to do all they can to ensure there is no further escalation.
 - **If asked specifically on Hezbollah:** New Zealand designates the military wing of Hezbollah as a terrorist organisation.

Background: Situation in Israel, Gaza and the West Bank

9 s9(2)(g)(i)

Officials met with Australian counterparts on 11 October to discuss our respective approaches to supporting the humanitarian response.

[Contains duplicate information]

MEA sitrep 6

From: MEA <DM-MEA@mfat.govt.nz>

Sent: Saturday, 14 October 2023 1:52 PM

To: MEA <DM-MEA@mfat.govt.nz>; ...ALL POSTS <ALLPOSTS@mfat.net.nz>; ALL DIVISIONS <ALLDIVISIONS@mfat.net.nz>

Cc: FM.P/S MFA (Seemail) <PS.MFA@mfat.net.nz>; FM.P/S Associate MFA (Seemail) <PSAssociateMFASeemail@mfat.net.nz>; FM.DPMC (FPA) (Seemail) <DPMCFPA@mfat.net.nz>; s6(a)

FM.Defence (Seemail) <fm.defence@nzdf.mil.nz>; FM.P/S

Trade (Seemail) <PSTrade@mfat.govt.nz>; s6(a)

s6(a) s6(a)

FM.Police (Seemail) <Registry.NIC@police.govt.nz>; ...WLN SLT <WLN-SLT@mfat.net.nz>; FM.P/S Defence (Seemail) <P/SDEFENCE@mfat.net.nz>; FM.P/S Police (Seemail)

s9(2)(g)(ii) MEDIA <media@mfat.govt.nz>; ESD <DM-ESD@mfat.govt.nz>; OCE <OCE@mfat.govt.nz>; DCE <DCE@mfat.govt.nz>; s9(2)(g)(ii)

FM.MBIE Formal Messages (Seemail) <cables@mbie.govt.nz>; s6(a)

s6(a) 'scmu@dpmc.govt.nz' <scmu@dpmc.govt.nz>; FM.Treasury (Seemail) <merlin@treasury.govt.nz>; FM.Min for Women (Seemail) <international@women.govt.nz>; FM.DPMC (Seemail) <DPMC@mfat.govt.nz>; s9(2)(g)(ii)

Subject: FORMAL MESSAGE: SITREP 6: ISRAEL-GAZA CONFLICT

15 The Terrorist Designations Working Group (TDWG), met on 11 October and initiated the work to develop advice on adding designation of Hamas's political wing to the existing designation of its military wing.

- ***Will New Zealand designate IDF as a terrorist organisation:***
 - No. The IDF is the military of a sovereign state recognised by New Zealand. Its actions are governed by the law of armed conflict.
 - New Zealand has consistently called on states to meet their international legal obligations.

- ***Are you concerned about the conflict spreading, given reports of further strikes from Lebanon overnight?***
 - Any escalation of the conflict would be deeply concerning. We call on regional actors to do all they can to ensure there is no further escalation.
 - *If asked specifically on Hezbollah:* **We condemn reported Hezbollah attacks from Lebanon.** New Zealand designates the military wing of Hezbollah as a terrorist organisation.

[Contains duplicate information]

Released under the Official Information Act

MEA sitrep 8

From: MEA <DM-MEA@mfat.govt.nz>

Sent: Monday, 16 October 2023 4:30 PM

To: MEA <DM-MEA@mfat.govt.nz>; ALL POSTS (FM) <ALLPOSTSFM@mfat.net.nz>; ALL DIVISIONS <ALLDIVISIONS@mfat.net.nz>

Cc: FM.P/S MFA (Seemail) <PS.MFA@mfat.net.nz>; FM.P/S Associate MFA (Seemail) <PSAssociateMFASeemail@mfat.net.nz>; FM.DPMC (FPA) (Seemail) <DPMCFPA@mfat.net.nz>; s6(a)

FM.Defence (Seemail) <fm.defence@nzdf.mil.nz>; FM.P/S Trade (Seemail) <PSTrade@mfat.govt.nz>; s6(a)

s6(a) s6(a)

FM.Police (Seemail) <Registry.NIC@police.govt.nz>; ...WLN SLT <WLN-SLT@mfat.net.nz>; FM.P/S Defence (Seemail) <P/SDEFENCE@mfat.net.nz>; FM.P/S Police (Seemail)

s9(2)(g)(ii) MEDIA <media@mfat.govt.nz>; ESD <DM-ESD@mfat.govt.nz>; OCE <OCE@mfat.govt.nz>; DCE <DCE@mfat.govt.nz>;s9(2)(g)(ii)

FM.MBIE Formal Messages (Seemail) <cables@mbie.govt.nz>; s6(a)
s6(a) 'scmu@dpmc.govt.nz' <scmu@dpmc.govt.nz>; FM.Treasury (Seemail) <merlin@treasury.govt.nz>; FM.Min for Women (Seemail) <international@women.govt.nz>; FM.DPMC (Seemail) <DPMC@mfat.govt.nz>; s9(2)(g)(ii)

'NSComms@dpmc.govt.nz' <NSComms@dpmc.govt.nz>; s9(2)(g)(ii)

s6(a) FM.NZTE (Seemail)
formalmessages@nzte.govt.nz

Subject: FORMAL MESSAGE: SITREP 8: ISRAEL-GAZA CONFLICT

Please see attached Sitrep 8 for the Israel-Gaza conflict.

Current as at 12:00pm NZT (16 October)

Daily SitReps will be sent by MEA until further notice. There is no red text due to the new format (which will be used from today), though we will resume this practice from tomorrow.

[Contains duplicate information]

NYK 18 October

From: NEW YORK <NYK@mfat.govt.nz>

Sent: Wednesday, 18 October 2023 5:38 AM

To: NEW YORK <NYK@mfat.govt.nz>; MEA <DM-MEA@mfat.govt.nz>; ALL POSTS (FM) <ALLPOSTSFM@mfat.net.nz>; ALL DIVISIONS <ALLDIVISIONS@mfat.net.nz>

Cc: FM.P/S MFA (Seemail) <PS.MFA@mfat.net.nz>; FM.P/S Associate MFA (Seemail) <PSAssociateMFASeemail@mfat.net.nz>; FM.DPMC (FPA) (Seemail) <DPMCFPA@mfat.net.nz>; s6(a)

FM.Defence (Seemail) <fm.defence@nzdf.mil.nz>; FM.P/S Trade (Seemail) <PSTrade@mfat.govt.nz>; s6(a) <nzicprivatesecretary@parliament.govt.nz>; s6(a) FM.Police (Seemail) <Registry.NIC@police.govt.nz>; ...WLN SLT <WLN-SLT@mfat.net.nz>; FM.P/S Defence (Seemail) <P/SDEFENCE@mfat.net.nz>; FM.P/S Police (Seemail) s9(2)(g)(ii) MEDIA <media@mfat.govt.nz>; ESD <DM-ESD@mfat.govt.nz>; OCE <OCE@mfat.govt.nz>; DCE <DCE@mfat.govt.nz>; ...s9(2)(g)(ii)

FM.MBIE

Formal Messages (Seemail) <cables@mbie.govt.nz>; s6(a) scmu@dpmc.govt.nz; FM.Treasury (Seemail) <merlin@treasury.govt.nz>; FM.Min for Women (Seemail) <international@women.govt.nz>; FM.DPMC (Seemail) <DPMC@mfat.govt.nz>; s9(2)(g)(ii)

NSComms@dpmc.govt.nz; s9(2)(g)(ii)

s9(2)(g)(ii)

s6(a)

FM.NZTE (Seemail) <formalmessages@nzte.govt.nz> s6(a)

...s9(2)(g)(ii)

Subject: FORMAL MESSAGE: MEPP: EXPLANATIONS OF VOTES ON RUSSIA'S RESOLUTION ON ISRAEL-GAZA CONFLICT

10. **Israel** said the Council was facing a pivotal moment - whether to fight for civilisation or incentivise genocidal murderers. It criticised the UN for long having its head in the sand about the risk posed by Hamas. There was only one solution to the cancer that was Hamas - to eviscerate every cell. The Council needed to: designate Hamas as the murderous terrorist organisation it was; to hold it fully and solely accountable for the situation in Gaza; support Israel's right to defend itself, not with empty words, but by standing in solidarity; and immediately and unconditionally demand the release of all hostages. Israel would not accept having its hands tied while fighting for its future and security.

KLU 30 October

From: KUALA LUMPUR <KLU@mfat.govt.nz>

Sent: Monday, 30 October 2023 4:52 PM

To: MEA <DM-MEA@mfat.govt.nz>; CANBERRA <CBA@mfat.govt.nz>; WASHINGTON <WSH@mfat.govt.nz>; LONDON <LON@mfat.govt.nz>; STOCKHOLM <SKM@mfat.govt.nz>; DUBLIN <DUB@mfat.govt.nz>; MADRID <MAD@mfat.govt.nz>; OTTAWA <OTT@mfat.govt.nz>; PARIS <PAR@mfat.govt.nz>; BERLIN <BER@mfat.govt.nz>; HAGUE <HAG@mfat.govt.nz>; BRUSSELS <BRU@mfat.govt.nz>; TOKYO <TKY@mfat.govt.nz>; GENEVA <GVA@mfat.govt.nz>; SEOUL <SEL@mfat.govt.nz>; VIENNA <VNA@mfat.govt.nz>; JAKARTA <JAK@mfat.govt.nz>; KUALA LUMPUR <KLU@mfat.govt.nz>

Cc: s6(a)

FM.P/S MFA (Seemail) <PS.MFA@mfat.net.nz>; CEO <DM-CEO@mfat.govt.nz>; ...s9(2)(g)(ii)

ALL DIVISIONS (FM) <ALLDIVISIONSFM@mfat.net.nz>; ALL POSTS (FM) <ALLPOSTSFM@mfat.net.nz>; FM.Immigration NZ (Seemail) <immigrationcables@mbie.govt.nz>; FM.Customs Service (Seemail) <cables@customs.govt.nz>; FM.Police (Seemail) <Registry.NIC@police.govt.nz>; FM.Defence (Seemail) <fm.defence@nzdf.mil.nz>; FM.NZTE (Seemail) <formalmessages@nzte.govt.nz>
Subject: RE: FORMAL MESSAGE: TASKING FOR FURTHER ENGAGEMENT ON ISRAEL/GAZA CONFLICT: MALAYSIA UPDATE

RĀPOPOTO – SUMMARY

But both foreign and domestic contacts have expressed concern that Anwar may not be able to control the depth of feeling he has provoked amongst the Malay community, many of whom attended further large rallies and demonstrations this weekend. s6(d)

s9(2)(g)(ii)

TĀKUPU - COMMENT

16 s6(a), s9(2)(g)(i)

s6(a)

ANK 30 October

From: ANKARA <ANK@mfat.govt.nz>

Sent: Monday, 30 October 2023 8:22 pm

To: MEA <DM-MEA@mfat.govt.nz>; CAIRO <CAI@mfat.govt.nz>; ANKARA <ANK@mfat.govt.nz>; WASHINGTON <WSH@mfat.govt.nz>

Cc: ABU DHABI <ABD@mfat.govt.nz>; ADDIS ABABA <DM-AUE@mfat.govt.nz>; ANKARA <ANK@mfat.govt.nz>; AUCKLAND <AKL@mfat.govt.nz>; CAIRO <CAI@mfat.govt.nz>; s9(2) s6(a) ii)

MADRID <MAD@mfat.govt.nz>; NEW YORK <NYK@mfat.govt.nz>; PARIS <PAR@mfat.govt.nz>; PRETORIA <PRE@mfat.govt.nz>; RIYADH <RIY@mfat.govt.nz>; TEHRAN <TEH@mfat.govt.nz>; s9(2)(g)(ii) ;)NEW YORK <NYK@mfat.govt.nz>; GENEVA <GVA@mfat.govt.nz>; LGL <DM-LGL@mfat.govt.nz>; PHM <PHM@mfat.govt.nz>; AMER <DM-AMER@mfat.govt.nz>; UNHC <DM-UNHC@mfat.govt.nz>; DS EMA <DM-DSEMA@mfat.govt.nz>; DS MLG <DM-DSMLG@mfat.govt.nz>; CON <DM-CONS@mfat.govt.nz>; CEO <DM-CEO@mfat.govt.nz>; DCE PO <DCEPO@mfat.govt.nz>
Subject: RE: FORMAL MESSAGE: ISRAEL- GAZA CONFLICT: s6(a)

RĀPOPOTO – SUMMARY

In a call today with s6(b)(i) at the Israeli Ministry for Foreign Affairs, HOM conveyed New Zealand's policy positions and our concerns on the escalating crisis. HOM reiterated New Zealand's condemnation of the terror attacks by Hamas, and Israel was urged to take all steps to protect innocent civilians. s6(b)(i)

HOHENGANGA – ACTION

s6(b)(i)

ISED – grateful update on review of Hamas' political wing as a designated terrorist entity.

All others – for information.

Recognition of the Hamas political wing as a designated terrorist entity

12 s6(b)(i)

13 s9(2)(g)(i)

s6(a)

Why has New Zealand not designated the political wing of Hamas a terrorist organisation?

- New Zealand designated the military wing of Hamas as a terrorist organisation in 2010. Designations are made under our Terrorism Suppression Act.
- Officials are preparing advice on possible designation, following the established process under the Terrorism Suppression Act.

[Contains duplicate information]

Released under the Official Information Act

ISED – Tasking 24 Nov

From: ISED <DM-ISED@mfat.govt.nz>

Sent: Friday, 24 November 2023 12:01 PM

To: CANBERRA <CBA@mfat.govt.nz>; BRUSSELS <BRU@mfat.govt.nz>; OTTAWA <OTT@mfat.govt.nz>; WASHINGTON <WSH@mfat.govt.nz>; LONDON <LON@mfat.govt.nz>

Cc: ISED <DM-ISED@mfat.govt.nz>; CEO <DM-CEO@mfat.govt.nz>; DCE <DCE@mfat.govt.nz>; DS MLG <DM-DSMLG@mfat.govt.nz>; DS EMA <DM-DSEMA@mfat.govt.nz>; DS AAG <DM-DSAAG@mfat.govt.nz>; MEA <DM-MEA@mfat.govt.nz>; EUR <DM-EUR@mfat.govt.nz>; AUS <DM-AUS@mfat.govt.nz>; AMER <DM-AMER@mfat.govt.nz>; ANKARA <ANK@mfat.govt.nz>; CAIRO <CAI@mfat.govt.nz>; TEHRAN <TEH@mfat.govt.nz>; LGL/SAN <DM-LGL/SAN@mfat.govt.nz>; LGL <DM-LGL@mfat.govt.nz>; Israel.Gaza.tf <Israel.Gaza.tf@mfat.govt.nz>; FM.DPMC (FPA) (Seemail) <DPMCFPA@mfat.govt.nz>; FM.DPMC (Seemail) <DPMC@mfat.govt.nz>; FM.Police (Seemail) <Registry.NIC@police.govt.nz>; FM.Defence (Seemail) <fm.defence@nzdf.mil.nz>; s6(a) s6(a) FM.Crown Law Office (Seemail) <cables@crownlaw.govt.nz>; FM.P/S MFA (Seemail) <PS.MFA@mfat.govt.nz>; s6(a)

Subject: FORMAL MESSAGE: ADVICE ON DESIGNATION OF THE ENTIRETY OF HAMAS – TASKING FOR POSTS

TOHUTOHU KAWA – HANDLING INSTRUCTIONS

Police; DPMC s6(a) Crown Law; NZDF Legal; s6(a) – for members of the Terrorist Designations Working Group.

RĀPOPOTO – SUMMARY

To inform interagency advice to the Prime Minister, we seek key partners' views on New Zealand's possible move from designating only the military wing of Hamas, to designating the entire organisation as a terrorist entity in New Zealand.

HOHENGGA – ACTION

CBA, BRU (for the EU), LON, OTT, WSH: As capacity allows, please engage with counterparts to update them on New Zealand's approach to designation of the entirety of Hamas, and seek any information they are able to provide to support this. Talking points are provided at para 12.

Grateful any responses by **Friday 1 December NZT**.

s6(b)(i)

PŪRONGO – REPORT

4. The Prime Minister designated the military wing of Hamas, also known as Izz al-Din al-Qassam Brigades (IQB), Ezzedein Al-Qassam Brigades (EQB), or Izz al-Din Al-Qassem Brigades (IQB), in October 2010 and renewed this in October 2013, September 2016, September 2019, and August 2022. Designations are made under New Zealand's Terrorism Suppression Act 2002.

5. The political wing of Hamas has never been designated under New Zealand's regime, which has, to date, treated the two wings of the organisation as distinct.
s6(a)

s6(a)

6. s6(a)

7. On 10 October, the outgoing Prime Minister confirmed to media that he had asked officials for advice on designating the entirety of Hamas. This request has also been considered by the National Security Board, including at their most recent meeting of 22 November.

8. The interagency Terrorist Designations Working Group (TDWG) is quickly progressing this advice, s9(2)(g)(i)

9. s9(2)(g)(i)

10. The TDWG's advice will be provided to the National Security Board at the earliest opportunity. NSB will consider this advice and, if they agree, endorse the recommendation and forward the advice to the Prime Minister. When taking the final designation decision the Prime Minister retains ultimate discretion and is required to consult with the Attorney-General.

11. Designation decisions are published in the New Zealand Gazette and Statements of Case are made publically available on the New Zealand Police website: [Lists associated with Resolution 1373 | New Zealand Police](#)

12. s6(a)

Engagement with partners

13. Engagement with our likeminded international partners is a standard feature of the TDWG's terrorist designation consideration process.

14. s6(a), s6(b)(i)

15. We would be grateful if addressee posts could engage with counterterrorism counterparts to update them on New Zealand's approach to this designation, and seek relevant information, using the following **talking points**:

- The Terrorism Suppression Act 2002 (TSA) provides legislative authority for the Prime Minister to designate terrorist entities. This is one measure New Zealand takes to contribute to the international campaign against terrorism.
- New Zealand designated the military wing of Hamas, also known as Izz al-Din al-Qassam Brigades (IQB) in October 2010, and has consistently renewed this, most recently in August 2022.
- The political wing of Hamas has never been designated under New Zealand's regime, which has, to date, treated the two wings of the organisation as distinct.
- s9(2)(g)(i)
- We continue to unequivocally condemn Hamas' terrorist attack of 7 October. It is our priority to explore all possible measures available to us to condemn the terrorist acts of Hamas (the entire organisation) and limit their ability to carry out further acts of terrorism.
- s6(a)
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MUTU - ENDS

s9(2)(g)(ii)

Subject: FORMAL MESSAGE: SITREP 47: ISRAEL-GAZA CONFLICT

Situation overview (not for public dissemination)

- New Zealand officials continue to progress substantive advice on moving to designate the entirety of Hamas as a terrorist entity, by extending the current designation of the military wing to also include the political wing.

Terrorist designations

Why has New Zealand not designated the political wing of Hamas a terrorist organisation?

- New Zealand designated the military wing of Hamas as a terrorist organisation in 2010 and has consistently renewed this, most recently in August 2022. Designations are made under our Terrorism Suppression Act 2002.
- Officials continue to progress substantive advice on moving to designate the entirety of Hamas, by extending the current designation of the military wing to also include the political wing. We are engaging our likeminded international partners on this issue.

Released under the Official Information Act

s9(2)(g)(ii)

Subject: FORMAL MESSAGE: SITREP 48: ISRAEL-GAZA CONFLICT

- Hamas has announced the death of four senior commanders in recent days. These included Ahmed Al-Ghandour, a member of Hamas's military council and commander of its North Brigade. Al-Ghandour was listed by the US in 2017 as a "specially designated global terrorist".

[Contains duplicate information]

Released under the Official Information Act

CBA – Aus Response

From: CANBERRA <CBA@mfat.govt.nz>

Sent: Tuesday, 28 November 2023 5:35 PM

To: ISED <DM-ISED@mfat.govt.nz>

Cc: CEO <DM-CEO@mfat.govt.nz>; DCE <DCE@mfat.govt.nz>; DS MLG <DM-DSMLG@mfat.govt.nz>; DS EMA <DM-DSEMA@mfat.govt.nz>; DS AAG <DM-DSAAG@mfat.govt.nz>; MEA <DM-MEA@mfat.govt.nz>; EUR <DM-EUR@mfat.govt.nz>; AUS <DM-AUS@mfat.govt.nz>; AMER <DM-AMER@mfat.govt.nz>; ANKARA <ANK@mfat.govt.nz>; CAIRO <CAI@mfat.govt.nz>; TEHRAN <TEH@mfat.govt.nz>; LGL/SAN <DM-LGL/SAN@mfat.govt.nz>; LGL <DM-LGL@mfat.govt.nz>; Israel.Gaza.tf <Israel.Gaza.tf@mfat.govt.nz>; FM.DPMC (FPA) (Seemail) <DPMCFPA@mfat.govt.nz>; FM.DPMC (Seemail) <DPMC@mfat.govt.nz>; FM.Police (Seemail) <Registry.NIC@police.govt.nz>; FM.Defence (Seemail) <fm.defence@nzdf.mil.nz>; s6(a)
FM.Crown Law Office (Seemail) <cables@crownlaw.govt.nz>; FM.P/S MFA (Seemail) <PS.MFA@mfat.govt.nz>; s6(a)
s6(a) CANBERRA <CBA@mfat.govt.nz>; BRUSSELS <BRU@mfat.govt.nz>; OTTAWA <OTT@mfat.govt.nz>; WASHINGTON <WSH@mfat.govt.nz>; LONDON <LON@mfat.govt.nz>

Subject: RE: FORMAL MESSAGE: ADVICE ON DESIGNATION OF THE ENTIRETY OF HAMAS – AUSTRALIAN RESPONSE

TOHUTOHU KAWA – HANDLING INSTRUCTIONS

Police; DPMC s6(a)); Crown Law; NZDF Legal; s6(a) – for members of the Terrorist Designations Working Group.

RĀPOPOTO – SUMMARY

Australia has shared its experience in extending the designation of Hamas to encompass the military and political wing which occurred in March 2022. Should further information be required please provide specific questions to help the Australian system respond effectively.

HOHENGGA – ACTION

- ISED – in response to tasking of 24 November

PŪRONGO – REPORT

We have been in touch with DFAT's Counterterrorism team about its designation of Hamas. s6(b)(i)

2. The Statement of Case for this listing is available [here](#) and articulates the rationale behind the change to the designation to encompass the entirety of Hamas. s6(b)(i)

3. s6(b)(i)

4. Should we have further specific questions the Australian system is happy to provide more details.

MUTU - ENDS

Released under the Official Information Act

BRU – EU response

From: BRUSSELS <BRU@mfat.govt.nz>

Sent: Thursday, 7 December 2023 2:50 AM

To: ISED <DM-ISED@mfat.govt.nz>; CANBERRA <CBA@mfat.govt.nz>; BRUSSELS <BRU@mfat.govt.nz>; OTTAWA <OTT@mfat.govt.nz>; WASHINGTON <WSH@mfat.govt.nz>; LONDON <LON@mfat.govt.nz>

Cc: CEO <DM-CEO@mfat.govt.nz>; DCE <DCE@mfat.govt.nz>; DS MLG <DM-DSMLG@mfat.govt.nz>; DS EMA <DM-DSEMA@mfat.govt.nz>; DS AAG <DM-DSAAG@mfat.govt.nz>; MEA <DM-MEA@mfat.govt.nz>; EUR <DM-EUR@mfat.govt.nz>; AUS <DM-AUS@mfat.govt.nz>; AMER <DM-AMER@mfat.govt.nz>; ANKARA <ANK@mfat.govt.nz>; CAIRO <CAI@mfat.govt.nz>; TEHRAN <TEH@mfat.govt.nz>; LGL/SAN <DM-LGL/SAN@mfat.govt.nz>; LGL <DM-LGL@mfat.govt.nz>; Israel.Gaza.tf <Israel.Gaza.tf@mfat.govt.nz>; FM.DPMC (FPA) (Seemail) <DPMCFPA@mfat.govt.nz>; FM.DPMC (Seemail) <DPMC@mfat.govt.nz>; FM.Police (Seemail) <Registry.NIC@police.govt.nz>; FM.Defence (Seemail) <fm.defence@nzdf.mil.nz>; s6(a) FM.Crown Law Office (Seemail) <cables@crownlaw.govt.nz>; FM.P/S MFA (Seemail) <PS.MFA@mfat.govt.nz>; s6(a)

s6(a)

Subject: RE: FORMAL MESSAGE: ADVICE ON DESIGNATION OF THE ENTIRETY OF HAMAS – TASKING FOR POSTS - EU RESPONSE

RĀPOPOTO – SUMMARY

- The EU designated Hamas' military wing as a terrorist entity in 2001 and the organisation in its entirety, including its political wing, in 2003. Despite several legal challenges to the designation through the EU courts over the years, the EU has maintained this designation.
- The EU reviews its terrorism designations every six months s6(a)
- s6(b)(i)
- The EU designated the military wing of Hezbollah as a terrorist entity in 2013.

HOHENGGA – ACTION

ISED – in response to your tasking.

Hei titiro māu – for information.

PŪRONGO – REPORT

Further to your tasking, we report on the EU's approach to the designation of Hamas as a terrorist entity s6(a), s6(b)(i)

EU legal framework for terrorism designations

2 The EU's legal framework for designating individuals or groups as terrorist entities is set out in the "Council Common Position of 27 December 2001 on the application of specific measures to combat terrorism" (2001/931/CFSP), which implements the EU Member States' obligations under UN Security Council resolution 1373 (28 September 2001). In order for the EU to designate an entity as a

terrorist, the Common Council Position requires a “national decision” – i.e. not a decision of an EU institution, but of the government of a country. The legal framework describes this requirement as the decision of a “competent authority”, which means a judicial authority or an equivalent competent authority where there is no judicial authority. Examples might include a conviction for terrorism offences in a national court or a decision by an administrative authority. This is different to the approach that the EU takes to its other sanctions regimes (e.g. its global human rights framework) where it builds a case based on publicly available evidence in order to demonstrate that the specific criteria in the relevant legal act are met.

3 Although the Common Council Position requires a national decision, it does not have to be a national decision from a Member State – it could also be a national decision from a third country. However, when the EU relies on the decision of a third country, it has to be satisfied that the decision was taken following due process. s6(a)

Designation of Hamas

4 The EU designated Hamas s6(a) when it adopted CP 2001/931/CFSP on 27 December 2001. It designated Hamas in its entirety on 12 December 2003 (“Hamas, including Hamas-Izz al-Din al-Qassem”). s6(b)(i)

6 The EU’s designation of Hamas has been subject to several legal challenges in the EU courts. In each case, the EU’s decision to designate has been upheld, either at first instance or on appeal. Even in those cases where the designation was initially annulled, the designation did not lapse while the case was appealed. The most recent judgment from November 2021 is available [here](#).

Current state of play

7 The EU reviews its terrorism designations every six months. s6(b)(i)

8 s6(b)(i)

s6(b)(i)

s6(b)(i)

MUTU – ENDS.

Released under the Official Information Act

OTT – Canada response

From: OTTAWA <OTT@mfat.govt.nz>

Sent: Thursday, 7 December 2023 11:51 AM

To: ISED <DM-ISED@mfat.govt.nz>

Cc: CEO <DM-CEO@mfat.govt.nz>; DCE <DCE@mfat.govt.nz>; DS MLG <DM-DSMLG@mfat.govt.nz>; DS EMA <DM-DSEMA@mfat.govt.nz>; DS AAG <DM-DSAAG@mfat.govt.nz>; MEA <DM-MEA@mfat.govt.nz>; EUR <DM-EUR@mfat.govt.nz>; AUS <DM-AUS@mfat.govt.nz>; AMER <DM-AMER@mfat.govt.nz>; ANKARA <ANK@mfat.govt.nz>; CAIRO <CAI@mfat.govt.nz>; TEHRAN <TEH@mfat.govt.nz>; LGL/SAN <DM-LGL/SAN@mfat.govt.nz>; LGL <DM-LGL@mfat.govt.nz>; Israel.Gaza.tf <Israel.Gaza.tf@mfat.govt.nz>; FM.DPMC (FPA) (Seemail) <DPMCFPA@mfat.govt.nz>; FM.DPMC (Seemail) <DPMC@mfat.govt.nz>; FM.Police (Seemail) <Registry.NIC@police.govt.nz>; FM.Defence (Seemail) <fm.defence@nzdf.mil.nz>; s6(a)
FM.Crown Law Office (Seemail) <cables@crownlaw.govt.nz>; FM.P/S MFA (Seemail) <PS.MFA@mfat.govt.nz>; s6(a)
s6(a) ; CANBERRA <CBA@mfat.govt.nz>; BRUSSELS <BRU@mfat.govt.nz>; OTTAWA <OTT@mfat.govt.nz>; WASHINGTON <WSH@mfat.govt.nz>; LONDON <LON@mfat.govt.nz>

Subject: RE: FORMAL MESSAGE: ADVICE ON DESIGNATION OF THE ENTIRETY OF HAMAS – TASKING FOR POSTS: CANADA

RĀPOPOTO – SUMMARY

s6(a), s6(b)(i)

Canada's designation is longstanding, having listed the organisation in its entirety since 2002. s6(a), s6(b)(i)

HOHENGANGA – ACTION

s6(a)

PŪRONGO – REPORT

1. As you note, Canada's designation of Hamas is longstanding, having listed the organisation in its entirety since 2002. The Criminal Code is Canada's primary listings mechanism, the threshold for which requires "reasonable grounds to believe that an entity: i) has knowingly carried out, attempted to carry out, participated in or facilitated a terrorist activity; or ii) has knowingly acted on behalf of, at the direction of, or in association with such an entity."

s6(a), s6(b)(i)

s6(a), s6(b)(i)

MUTU – ENDS

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