

26 March 2024

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OIA 29186

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Proactive Release

I refer to your email of 3 March 2024 in which you request the following under the Official Information Act 1982 (OIA):

'all official information and discussion (reports, memos, letters, notes, advice and emails, briefings, materials like tape recordings, videos or computer records and internal policies and guidelines for decision making) regarding the designation of Hamas as a terrorist organisation as provided for under the Official Information Act.'

On 6 March 2024, we contacted you to discuss the refinement of your request. On 7 March 2024, you agreed to refine your request to be for:

'all formal and informal advice offered by the Ministry of Foreign Affairs and Trade regarding the designation of the political wing of Hamas as a terrorist organisation'

On 13 March 2024, we contacted you to advise that part of your request was transferred under section 14(b)(ii) of the OIA to the Office of the Prime Minister. You will hear further from the Office of the Prime Minister, concerning your request, in due course.

For clarity, as described in "The legal framework and process for terrorist designations", found on the New Zealand Police website: <https://www.police.govt.nz/about-us/publication/terrorist-entity-legal-framework-process>, the responsibility of decision making for the designation of terrorist entities is held by the Prime Minister. The Minister of Foreign Affairs is not involved in this decision-making process.

The Terrorist Designation Working Group (TDWG) is responsible for referring advice to the National Security Board on the factual possibility of designating a person, group, trust, partnership, or fund, or an unincorporated association or organisation as a terrorist entity. The TDWG will weigh the viability of a designation, usually by collecting and discussing facts that demonstrate that an entity has conducted a terrorist act. This typically involves conducting sufficient research to allow the drafting of a Statement of Case, and the critique of that Case by TDWG-member agencies. Where there is consensus that the Case demonstrates that an entity can be designated, the decision on whether an entity should be designated is transferred to the National Security Board for eventual relay to the Prime Minister.

In scope of your request is a Weekly Report item dated 15 December 2023 that was written by the Ministry of Foreign Affairs and Trade (the Ministry) for the Minister of Foreign Affairs. Please see the excerpt below:

Update on the designation of Hamas political wing as terrorist group [Withheld under 9(2)(g)(ii)]

Following the 7 October terrorist attacks on Israel, the former Prime Minister requested advice on the designation of the entirety of Hamas. New Zealand previously only designated the military wing [Withheld under 6(a)]. The Terrorist Designations Working Group (which includes Ministry officials) provided advice recommending the full designation be made. This advice is being considered by the National Security Board presently, following which it will go to the Prime Minister for consideration (in accordance with the Terrorism Suppression Act 2002). The Prime Minister must consult the Attorney-General before finalising his decision. □

Some information has been withheld 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; 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 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



Sarah Corbett
for Acting Secretary of Foreign Affairs and Trade