

Rt Hon Winston Peters

Deputy Prime Minister
Minister of Foreign Affairs
Minister for Racing



22 July 2024

John Minto
National Chair
PALESTINE SOLIDARITY NETWORK AOTEAROA

Dear John Minto

Thank you for your letter of 20 June 2024, which was also directed to the Prime Minister, the Attorney General, the Minister of Immigration, the Minister for Regulation, the Minister of State for Trade, Minister for Women, the Associate Minister of Foreign Affairs, the Associate Minister of Immigration, and the Associate Minister of Defence. This is a response on behalf of the New Zealand Government.

The situation in Gaza and the West Bank remains complex, uncertain, and difficult from every angle. As the conflict enters its tenth month, civilian populations continue to endure an unacceptable humanitarian crisis. The resulting trauma experienced by all civilians is horrific and harrowing. We acknowledge that the situation is distressing for communities across the world to witness.

Your statement that New Zealand is in breach of its obligations under international law is not correct. Your letter contains a number of factual inaccuracies and misrepresentations of New Zealand's position in relation to the conflict in Gaza. The Government's response to the assertions as contained in your letter are addressed with specificity in Annex I.

New Zealand's response to the Israel-Hamas conflict, has, since 7 October 2023, been consistently grounded in the upholding of international law, including international humanitarian law, alongside New Zealand's broader foreign policy.

New Zealand has taken a range of actions to date in relation to the conflict in Gaza:

- The Government established a travel ban regime against some extremist Israeli settlers who undermined stability in the West Bank through illegally settling in the area, perpetrating violence and displacing Palestinian civilians from their homes.
- New Zealand has provided a total of NZ\$22 million in financial support to the humanitarian response to the Israel-Hamas conflict since 7 October 2023. The Ministry of Foreign Affairs and Trade (MFAT) will continue to closely monitor the humanitarian crisis and consider how New Zealand can best support the response.

Bilateral engagement with Israel

- At Ministerial level, the importance of compliance with international law was raised on 7 December 2023 in a call with then-Israeli Foreign Minister Eli Cohen. On 12 February 2024 the same point was reiterated in a meeting with the Israeli Ambassador to New Zealand, as well as the importance of ensuring the protection of Palestinian civilians.

- Senior officials from the Ministry of Foreign Affairs and Trade (MFAT) have repeatedly raised the importance of compliance with international humanitarian law with Israeli counterparts. This includes senior Ministry officials raising the issue on multiple occasions with Israel's Ambassador to New Zealand, as well New Zealand's Ambassador to Israel speaking directly with Israeli officials.
- Senior MFAT officials have also engaged with their counterparts in the Ministry of Foreign Affairs of Israel and the Israel Defense Forces (IDF) about their international law obligations. Officials have raised specific concerns about the IDF's compliance with international humanitarian law and reports of Israeli strikes on United Nations (UN) and humanitarian facilities in Gaza.

Leader level statements

- Joint Statements by CANZ (Canada, Australia, and New Zealand) Leaders, calling for Israel and Hamas to respect international law and protect civilians.
 - The CANZ statement issued on 13 December 2023 clearly stated that "In defending itself Israel must respect international humanitarian law. Civilians and civilian infrastructure must be protected. We are alarmed at the diminishing safe space for civilians in Gaza. The price of defeating Hamas cannot be the continuous suffering of all Palestinian civilians."
 - A separate CANZ statement delivered at the UN Security Council Debate on 26 June 2024 stated that "CANZ strongly condemns any grave violations committed against children by any State or party, and in any conflict" and strongly urged "all States, including the newly listed state actors – the Israeli Armed and Security Forces and the Sudanese Armed Forces – to uphold their obligations under international humanitarian law and international human rights law."

Multilateral statements and voting record

- Since October last year, New Zealand has taken numerous opportunities at the UN, including in meetings of the Security Council, the General Assembly, and the Human Rights Council, to deliver strong statements which articulated our national positions and conveyed our strong concerns over developments in Israel and the Occupied Palestinian Territories. Among other things, these statements have called for the fighting to stop, for civilians to be protected, for all parties to the conflict to abide by international law and international humanitarian law, and for a sustainable ceasefire.
- The 9 April statement to the General Assembly at Ministerial level stated that Israel must do everything in its power to enable safe, rapid and unimpeded humanitarian access; that Israel must abide by provisional measures ordered by the International Court of Justice in respect of Israel's actions in Gaza; and that building and expanding illegal Israeli settlements in the occupied territories and the forcible displacement of Palestinians from Gaza imperil the two-state solution.
- New Zealand voted in favour of several UN General Assembly resolutions focused on a cessation of hostilities or ceasefire, including Resolution ES-10/21 (27 October 2023) and Resolution ES-10/22 (13 December 2023), the latter of which called for an "*immediate humanitarian ceasefire*." On 8 December 2023, New Zealand co-sponsored a UN Security Council draft resolution calling for an immediate humanitarian ceasefire, which was ultimately not adopted. On 10 May 2024, New Zealand voted in favour of a resolution which enhanced Palestine's participation rights at the United Nations General Assembly.

Statements on international law

- New Zealand has been clear on multiple occasions that Israel must comply with the binding provisional measures orders delivered by the International Court of Justice in *South Africa v Israel* on 26 January, 28 March, and 24 May 2024.
- New Zealand has been explicit in our support for the International Criminal Court (ICC). The ICC has an ongoing investigation into the Situation in Palestine. Recently the ICC Prosecutor applied to the ICC for warrants of arrest against Hamas and Israeli leaders.
- On 21 May 2024 the Prime Minister said that it is critical that the international rules-based system is upheld, and that New Zealand supports the ICC as a key part of that infrastructure.
- New Zealand endorsed a Joint Statement in support of the ICC alongside 93 states. The statement reaffirmed support to the Court as an independent and impartial judicial institution and shared commitment to preserve the Court's integrity from political interference and pressure.

The New Zealand Government takes its international obligations very seriously. The New Zealand Government has not failed to comply with those obligations in respect of the conflict in Gaza. To the contrary, the Government has consistently emphasised the importance of international law, and New Zealand's expectation that the parties to the conflict will comply fully and immediately with their obligations.

Yours sincerely



Rt Hon Winston Peters
Minister of Foreign Affairs

Annex 1: New Zealand's response to allegations contained in Palestinian Solidarity Network letter of 20 June 2024

1. Failure to prevent export of military components for use in weaponry by Israel

Exports of strategic goods or goods to military end users from New Zealand are subject to New Zealand's export controls regime. MFAT has not approved the export of strategic goods for use by the IDF or Israeli Security Services since the electronic Export Controls database was established in 2003. Export applications are assessed against MFAT's Export Controls criteria, which take into consideration New Zealand's obligations and commitments regarding fundamental principles of international law, international human rights law, and international humanitarian law.

2. Participation in RIMPAC military exercises alongside IDF personnel

The New Zealand Defence Force (NZDF) has been involved in Rim of the Pacific (RIMPAC) exercise for many years and participated again this year. RIMPAC is the world's largest maritime warfare exercise. It is a US-hosted maritime, air, and land exercise involving ships, aircraft, and land forces of many countries.

NZDF's primary purpose in participating in RIMPAC is to build the NZDF's inter-operability with Indo-Pacific partners. Such familiarity can be valuable, for example, when we work alongside each other on humanitarian aid and disaster relief responses in our region. The United States determines the participants in RIMPAC, not New Zealand. NZDF personnel are not training IDF.

3. Participation in military operations against the Houthi

New Zealand has deployed a six-member Defence Force team to the Middle East region to join international coalition members' action to uphold maritime security in the Red Sea. The coalition is in response to the Houthi attacks on international commercial and naval shipping in the Red Sea, which are illegal and profoundly destabilising both for the region and wider global economies.

Alongside our coalition partners, we are acting in the collective self-defence of vessels in the Red Sea, in accordance with Article 51 of the United Nations Charter and UN Security Council Resolution 2722, dated 10 January 2024. Resolution 2722 has been clear on the issue, condemning the Houthi attacks, demanding that the Houthi immediately cease their attacks, and also noted the right of States, in accordance with international law, to defend vessels from attacks.

More than 50 nations have been affected in at least 53 attacks on international commercial shipping by Houthi militants. Three mariners have been killed, and two ships have sunk risking significant environmental damage.

New Zealand has a long and proud history of defending freedom of navigation in both the Middle East and closer to home. Our position on Houthi attacks is based on our long-standing support and defence of international rules and freedom of navigation.

4. Withholding of approval for funding support for the United Nations Relief Works Agency for Palestine Refugees in the Near East (UNRWA)

New Zealand did not pause funding support for UNRWA.

New Zealand has supported UNRWA since its establishment in 1949, including through engagement on its mandate and financial contributions. Under our current three-year arrangement with the Agency (2021/22-2023/24), New Zealand provides UNRWA with NZ\$1 million in core funding annually.

In the absence of a two-state solution, it is New Zealand's longstanding view that UNRWA plays a unique and essential role in ensuring the humanitarian, development, and protection needs of Palestinian refugees are met in Jordan, Lebanon, Syria, and the occupied Palestinian territories.

New Zealand takes the January 2024 allegations that certain UNRWA employees participated in the 7 October 2023 Hamas terror attacks on Israel very seriously. In response to the allegations New Zealand did not pause funding. However, a decision to disburse our funding in June 2024 followed careful consideration of the UN's response, including external and internal investigations. It also reflected assurances received from the UN Secretary-General about remedial work underway to enhance UNRWA's neutrality.

We remain acutely aware of the humanitarian crisis in Gaza and the critical role of UNRWA in the response. Regarding the Israel-Hamas conflict and the situation in Gaza, the Government's strong focus is on the protection of civilians and the urgent need to stop the violence as soon as possible. New Zealand has long advocated for an immediate humanitarian ceasefire in Gaza, leading to a lasting, sustainable peace. New Zealand will continue to advocate strongly for improved humanitarian access at all levels, including in Prime Minister and Foreign Minister engagements, and directly with Israel.

New Zealand has provided a total of NZ\$22 million in financial support to the humanitarian response. MFAT will continue to closely monitor the humanitarian crisis and consider how New Zealand can best support the response.

5. Failure to issue humanitarian visas for Palestinians in Gaza who have family in New Zealand

Immigration New Zealand (INZ) has implemented processes to ensure consistency and priority allocation to help expedite applications for those affected by the conflict. Since the beginning of the crisis in October 2023, INZ has granted 71 visas to Palestinian nationals. Twenty of those have arrived onshore, although not all were resident in Gaza at the time of applying for a visa.

Holding a New Zealand visa does not guarantee people the ability to exit Gaza. Formal exit permits are required to leave Gaza. We understand Israel's current policy is that only foreign nationals and 'first-degree' relatives thereof are being granted official exit permits. This presents significant challenges for people who fall outside that category.

Any future decisions about changes to visa pathways would need to be taken by Cabinet and decisions in response to humanitarian crises are always context specific.

6. Failure to suspend diplomatic relations with Israel

The New Zealand Government has long used open dialogue with other states as a core feature of advancing New Zealand's foreign policy. Maintaining diplomatic channels of communication with Israel, including via Israel's Ambassador and other Embassy officials in Wellington, is important as it affords the opportunity to convey New Zealand's positions and to engage with Israel directly and frankly. New Zealand Government senior officials have met with the Ambassador of Israel to New Zealand several times since October 2023, including to

register our position and concerns on the current conflict in Gaza and the West Bank, and the situation in the region.

Expulsion of an Ambassador and closure of any embassy would be counter-productive to the aim of diplomatic engagement. The Government does not agree that we should only deal with countries that are aligned with our positions, even when those disagreements are severe. Effective engagement is a vital part of our response to events in Gaza and the region more broadly.

7. Failure to suspend the Working Holiday Visas for Israeli citizens who have served with the IDF carrying out international crimes

New Zealand's Working Holiday Scheme arrangement with Israel was agreed to in 2010. All visa applications, including those from Israelis under the working holiday scheme, undergo robust character checks and any individual convicted of, or under investigation for war crimes would not be eligible for entry to New Zealand.

In addition to character requirements, on 29 February this year, New Zealand announced travel bans on some extremist Israeli settlers who have committed violent attacks against Palestinians in the West Bank. New Zealand will continue to refuse entry to known extremist Israeli settlers.

8. Continuing to allow shipping company ZIM to use New Zealand ports

New Zealand is not under a legal obligation to impose sanctions on Israel. New Zealand can only impose sanctions in two ways: through the domestic implementation of sanctions as mandated by resolution of the UN Security Council; or targeted sanctions under the Russia Sanctions Act in response to Russia's 2022 invasion of Ukraine.

As a trade-dependent economy, geographically distant from export markets, New Zealand is a firm supporter of free and open trade. It is in New Zealand's interests to maintain open global shipping routes to ensure New Zealand's imports and exports reach consumers.

9. Failure to ban imports and investments from companies building and maintaining illegal Israeli settlements on Palestinian land

New Zealand is not under a legal obligation to impose sanctions on Israel. New Zealand can only impose sanctions in two ways: through the domestic implementation of sanctions as mandated by resolution of the UN Security Council; or targeted sanctions under the Russia Sanctions Act in response to Russia's 2022 invasion of Ukraine.

However, New Zealand has established a travel ban regime against some extremist Israeli settlers who undermined stability in the West Bank through illegally settling in the area, perpetrating violence and displacing Palestinian civilians from their homes.

To date, New Zealand has regulations to implement United Nations sanctions on 13 countries: Iran, DPRK, Iraq, Yemen, Sudan, Congo, the Central African Republic, Somalia, South Sudan, Libya, Lebanon, Mali, and Guinea-Bissau. There are also regulations implementing UN sanctions for designated terrorist groups (ISIL, Al-Qaida and the Taliban) and regarding "conflict diamonds" under the Kimberley Process.

These UN sanctions regimes are long-standing. In the current international climate, it can be challenging for existing UN sanctions to be amended or additional sanctions imposed in response to new developments.

10. Failure to engage with proceedings in *South Africa v Israel* at the International Court of Justice

New Zealand has engaged in proceedings in *South Africa v Israel* through being clear on multiple occasions that Israel must comply with the binding provisional measures orders delivered by the International Court of Justice in *South Africa v Israel* on 26 January, 28 March, and 24 May 2024. You can view the statements via the following links:

- [27 January 2024: x.com/NewZealandMFA/status/1750947842854912349?s=46](https://twitter.com/NewZealandMFA/status/1750947842854912349?s=46)
- [14 February 2024: x.com/NewZealandMFA/status/1757537650456875172?s=20](https://twitter.com/NewZealandMFA/status/1757537650456875172?s=20)
- [28 May 2024: x.com/NewZealandMFA/status/1795261016466731048](https://twitter.com/NewZealandMFA/status/1795261016466731048)

To date only six states (Nicaragua, Colombia, Libya, Mexico, Palestine and Spain), have filed a Declaration of Intervention with the International Court of Justice. New Zealand has not yet taken a decision on whether to intervene in the *South Africa v Israel* case.