

26 November 2024

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OIA 29789

Thank you for your email of 29 October 2024 in which you request the following under the Official Information Act 1982 (OIA):

"Could I please request under the OIA the following briefing ["Non-paper: Recognition of Palestinian statehood", dated 5 April 2024], and any correspondence between the Minister and/or his Office and the Ministry concerning the paper (up until the present date)?"

Background

A significant amount of information relating to the Israel-Hamas conflict is publicly available on the Ministry of Foreign Affairs and Trade website. This information is regularly updated and includes links to announcements, details on funding, statements and press releases, proactively released OIA responses, and responses to frequently asked questions. We encourage you to check the Ministry website before submitting future OIA requests, as the information you are seeking may already be publicly available:

<https://www.mfat.govt.nz/en/countries-and-regions/middle-east/israel-hamas-conflict>

Response to your request

The briefing titled *"Non-paper: Recognition of Palestinian statehood"*, dated 5 April 2024, is publicly available on the Ministry website. Accordingly, this part of your request is refused under section 18(d) of the OIA as the information is publicly available:

<https://www.mfat.govt.nz/en/media-and-resources/oia-29329-advice-on-palestine-statehood-recognition>

Attached are the following documents, which are in scope of your request for correspondence between the Minister of Foreign Affairs and/or his office and the Ministry concerning the paper titled, "Non-paper: Recognition of Palestinian statehood":

- Email chain dated 15 April 2024; and
- Attachment to email *"Non-paper: Recognition of Palestinian Statehood – Unclassified version"*.

Some information is 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;
- 9(2)(a): to protect individuals' privacy;
- 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, no public interest in releasing the information has been identified 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 Secretary of Foreign Affairs and Trade

Out of scope

From: s9(2)(g)(ii)
Sent: Monday, April 15, 2024 5:07 PM
To: s9(2)(g)(ii)

Cc: s9(2)(g)(ii)

<media@mfat.govt.nz>

ESD <DM-ESD@mfat.govt.nz>; MEDIA

Subject: RE: Non-paper on recognition of Palestinian statehood

[UNCLASSIFIED]

Hi all, further to a quick chat with s9(2)(g)(ii) we have re-tweaked the points below (in red) s9(2)(g)(i)
s9(2)(g)(ii)

From: s9(2)(g)(ii)
Sent: Monday, 15 April 2024 4:30 pm
To: s9(2)(g)(ii)
Cc: s9(2)(g)(ii)

s9(2)(g)(ii)

ESD <DM-ESD@mfat.govt.nz>; MEDIA

<media@mfat.govt.nz>

Subject: RE: Non-paper on recognition of Palestinian statehood

Hi ^{s9(2)}_{(a)(ii)} these will be supplied to media on an if raised/if asked basis. There is no intention to release a PR.

Note that there were a few missing words from the third point below (now corrected).

Cheers

s9(2)(g)(ii)

From: s9(2)(g)(ii)

Sent: Monday, April 15, 2024 4:23 PM

To: s9(2)(g)(ii)

Cc: s9(2)(g)(ii)

ESD <DM-ESD@mfat.govt.nz>; MEDIA

<media@mfat.govt.nz>

Subject: RE: Non-paper on recognition of Palestinian statehood

[SEEMAIL] [RESTRICTED]

Thanks ^{s9(2)}_{(a)(ii)} noted. Is MFA still planning a reactive statement at this stage, or rely on the below as talking points if raised?

s9(2)(g)(ii)

Ministry of Foreign Affairs & Trade – Manatū Aorere | Auckland –
Tāmaki Makaurau T ^{s9(2)}(a)

From: s9(2)(g)(ii)

Sent: Monday, 15 April 2024 16:17

To: s9(2)(g)(ii)

s9(2)(g)(ii)

Cc: s9(2)(g)(ii)

ESD <DM-ESD@mfat.govt.nz>

Subject: RE: Non-paper on recognition of Palestinian statehood

Hi s9(2)(g)(ii)

Thanks again to you and the team for the swift work on this.

The Minister has approved the below lines for responding to any media enquiries on the issue tomorrow. Please let us know if you've got any questions.

Cheers

s9(2)(g)(ii)

The Government supports the establishment of a Palestinian state and has done so for decades. We must see momentum towards this goal and it's a matter of 'when not if' we see Palestinian statehood.

As successive New Zealand governments have said, a two-state solution with a State of Palestine living in peace and security side by side with the State of Israel is the only blueprint for peace we have.

But the most immediate and urgent need is for an immediate ceasefire and the provision of aid to help alleviate the desperate plight of an innocent civilian population.

We cannot afford to take our eyes off the current crisis.

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

Asserting statehood unilaterally at this point, however well intentioned, would do nothing to alleviate the current plight of the Palestinian people. s6(a), s9(2)(g)(i)

We would need to be sure that any change in our current settings would contribute credibly to a serious diplomatic push to achieve a two-state solution. s9(2)(g)(i)

s9(2)(g)(i)

From: s9(2)(g)(ii)

Sent: Monday, April 15, 2024 11:42 AM

To: s9(2)(g)(ii)

Cc: s9(2)(g)(ii)

ESD <DM-ESD@mfat.govt.nz>

Subject: Non-paper on recognition of Palestinian statehood

Importance: High

[SEEMAIL] [RESTRICTED]

Kia ora ^{s9(2)(g)}_(iii)

Please find attached two copies of a non-paper regarding recognition of Palestinian statehood:

- R*stricted version: classified elements are highlighted in yellow for your benefit and to speak to when briefing MFA
- Unclassified version: for the Minister to have in front of him

As discussed, this paper is essentially a background note and does not make any explicit policy recommendations on our current position. We would just like to make clear for your discussion with MFA that ^{s6(a)}, ^{s9(2)(g)(i)}

Let us know if you have any questions, I am available on the below number, and all the best for your discussion.

Ngā mihi,

s9(2)(g)(ii)

Senior Policy Officer

M s9(2)(a)

E s9(2)(g)(ii)

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Non-paper: Recognition of Palestinian statehood

New Zealand's current position and rationale

1. New Zealand's long-standing policy is that recognition of a state is to be inferred from the nature and level of our interaction with that state rather than by way of formal statements. Accordingly, recognition of a state by New Zealand is implied through our actions, such as the establishment of full diplomatic relations. ^{s6(a)}

2. New Zealand's policy was established for a range of practical and foreign policy reasons. New Zealand has supported Palestine's application for non-member observer status of the United Nations and membership of other international organisations, such as the International Criminal Court, where membership is open to all "states" (as opposed to "member states" which denotes full UN membership). ^{s6(a)}

3. Our approach is consistent with international law, but also allows for gradual and incremental progress towards Palestinian statehood.

What tests would apply to recognise Palestine?

4. There are clear criteria to be classified as a sovereign state set out under the 1933 Montevideo Convention, the orthodox legal criteria requires:

- A permanent population;
- A defined territory;
- An effective government that exercises legal authority over its population and territory; and
- The capacity to conduct international relations with other States.

5. A decision on recognition would encompass wider foreign policy considerations.

International progress on recognition

6. Following the outbreak of the Israel-Hamas conflict on 7 October 2023 and in response to the increasingly dire situation in Gaza, there is renewed attention on the question of Palestinian statehood and recognition. Recent comments by the UK Foreign Secretary Lord Cameron and Australian Foreign Minister Penny Wong reflect this.

7. Palestine is recognised as a State by 138 out of 193 UN Member States. Few of these are Western or Pacific countries. The majority of these countries carried out formal acts of recognition following the 1988 Palestinian Declaration of Independence. Of Western countries, recently Iceland recognised Palestinian statehood in 2011 and Sweden did so in 2014.

8. Spanish President Pedro Sánchez is currently undertaking outreach among forward-leaning European countries to recognise Palestine, possibly as soon as July. Spain, Ireland, Malta Norway and Slovenia have already agreed to take steps towards recognition. Proponents of recognition, including Spain, view it as a tool for granting Palestine legitimacy and viability in any two-state solution negotiations – a starting point rather than an end point.

United Nations and full membership status

9. There is a renewed push towards Palestine's full membership this month at the UN, supported by the Arab Group, the Organisation of Islamic Cooperation, and the Non-Aligned Movement. Palestine's formal request was referred by the Security Council to its Admissions Committee on 8 April, which met twice last week to consider the request. As admission to UN membership is a substantive issue, it requires the agreement of at least nine of the Council's 15 members and the veto applies. If the Council positively recommends Palestinian membership, a two-thirds majority of the General Assembly would then be required.

10. We expect that support for full Palestinian membership would achieve the requisite level of support in the General Assembly. The Security Council, however, has previously been unable to agree on a positive recommendation.

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

Talking points on recognition

s9(2)(g)(i)

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*Middle East and Africa Division
15 April 2024*