

**From:** s22(1)(a)  
**To:** [Nicholas Cooper](#)  
**Cc:** s22(1)(a)(ii); s 47F(1); [Gemma Huggins](#); s22(1)(a)(ii); [Paul Schotfield](#); s22(1)(a); [Adam McCarthy](#); s22(1)(a); [Marie-Charlotte Mckenna](#); [Craig Maciachlan](#); [Richard Feakes](#); [Rebekah Grindlay](#); [DM Israel-Gaza-Iasktorce](#); [Gemma Huggins](#); [Marc Innes-Brown](#); s22(1)(a)(ii); [Media](#); s s22(1)(a) [CHCH Social Media](#); [Phoebe Bowden](#)  
**Subject:** ICJ Provisional Measures Ruling in South Africa v Israel - Update and Talking Points [SEC=OFFICIAL:Sensitive]  
**Date:** Saturday, 27 January 2024 2:06:41 AM  
**Attachments:** [image001.png](#)

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**OFFICIAL: Sensitive**

Dear FMO Colleagues,

The ICJ delivered its provisional measures ruling in the South Africa v Israel case at 11pm Canberra time, and has **ordered provisional measures**.

s 33(a)(iii)

- s 42(1)

s 33(a)(iii), s 47C(1), s 47E(d)

//

- Australia is aware of the ICJ's ruling on provisional measures.
  - This is an interim decision – it is not a final determination on the merits of the case.
- Australia respects the independence of the ICJ and the critical role it plays in upholding international law and the rules-based order, s 33(a)(iii), s 47C(1), s 47E(d)
- Australia is gravely concerned about the dire humanitarian situation in Gaza and the number of civilian deaths, including children.

s 33(a)(iii), s 47C(1)

- s 33(a)(iii), s 47C(1)

### s22(1)(a)(ii)

A/g Assistant Secretary, International Law Branch I | Legal Division

Department of Foreign Affairs and Trade

**P** s22(1)(a)(ii) | **M** s22(1)(a)(ii)

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**PROTECTED**

s 33(a)(iii)

s 33(a)(iii), s 42(1)

s 33(a)(iii)

s 33(a)(iii), s 42(1)

text ends

**PROTECTED**







## **Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)**

### **Talking Points**

#### ICJ's order for provisional measures

- Australia is aware of the ICJ's ruling on provisional measures handed down on 26 January 2024.
  - This is an interim decision – it is not a final determination on the merits of the case.
- Australia respects the independence of the ICJ and the critical role it plays in upholding international law and the rules-based order.
  - We note that decisions of the ICJ are binding on the parties to a case.
- We expect Israel to act in accordance with the ICJ's ruling, including to enable the provision of basic services and humanitarian assistance.
- Australia is gravely concerned about the dire humanitarian situation in Gaza and the number of civilian deaths, including children.
  - Australia affirms Israel's right to defend itself, however the way it does so matters.
  - Israel must respect international humanitarian law and protect civilian lives.

s 33(a)(iii), s 47C(1)

~~OFFICIAL Sensitive~~

s 33(a)(iii), s 47C(1)

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**From:** s22(1)(a)(ii)  
**Sent:** Wednesday, 31 January 2024 3:53 PM  
**To:**  
**Cc:** s 47F(1) ; Craig Maclachlan; Adam McCarthy; s22(1)(a)(ii) ; Marie-Charlotte Mckenna; s22(1)(a)(ii) ; Marc Innes-Brown; Gemma Huggins; s22(1)(a)(ii) Katy Lin; s22(1)(a)(ii) ; s 47F(1)  
**Subject:** RE: Senator Thorpe statement on South Africa v Israel and proposed bill to amend Australian law [SEC=OFFICIAL:Sensitive]

s 47F(1)

Please see below further TPs, as requested.

Best regards,

s22(1)(a)(ii)

s 33(a)(iii), s 47C(1)

- Australia is aware of the ICJ's ruling on provisional measures handed down on 26 January 2024.
  - This is an interim decision – it is not a final determination on the merits of the case.
- Australia respects the independence of the ICJ and the critical role it plays in upholding international law and the rules-based order.
  - We note that decisions of the ICJ are binding on the parties to a case.
- Consistent with the ICJ's ruling, we call on Israel to act in accordance with its obligations under the Genocide Convention, enable the provision of basic services and humanitarian assistance, and prevent and punish incitement to commit genocide.
- Australia is gravely concerned about the dire humanitarian situation in Gaza and the number of civilian deaths, including children.
  - Australia affirms Israel's right to defend itself, however the way it does so matters.
  - Israel must respect international humanitarian law and protect civilian lives.

s22(1)(a)(ii)

s22(1)(a)(ii)

Best,

s22(1)(a)(ii)

Director | International Security Law Section  
International Law Branch I | Legal Division  
Department of Foreign Affairs and Trade  
P s 47E(d) | M s 47E(d)

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**From:** s 47F(1) @dfat.gov.au>  
**Sent:** Tuesday, January 30, 2024 7:40 PM  
**To:** s22(1)(a)(ii) @dfat.gov.au>  
**Cc:** s 47F(1) @dfat.gov.au>; Craig MacLachlan <Craig.MacLachlan@dfat.gov.au>; Adam McCarthy <Adam.McCarthy@dfat.gov.au>; s22(1)(a)(ii) @dfat.gov.au>; Marie-Charlotte McKenna <Marie-Charlotte.McKenna@dfat.gov.au>; s22(1)(a)(ii) @dfat.gov.au>; Marc Innes-Brown <marc.innes@dfat.gov.au>; Gemma Huggins <Gemma.Huggins@dfat.gov.au>; s22(1)(a)(ii) @dfat.gov.au>; s 47F(1) @dfat.gov.au>; s 47F(1) @dfat.gov.au>; s 47F(1) @dfat.gov.au>; s 47F(1) @dfat.gov.au>; s 47F(1) @dfat.gov.au>  
**Subject:** RE: Senator Thorpe statement on South Africa v Israel and proposed bill to amend Australian law [SEC=OFFICIAL:Sensitive]

s22(1)(a)(ii)

s22(1)(a)(ii)

Nick

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**From:** s22(1)(a)(ii) @dfat.gov.au>  
**Sent:** Tuesday, January 30, 2024 6:59 PM  
**To:** Nicholas Cooper <Nicholas.Cooper@dfat.gov.au>  
**Cc:** Ajsa Bajraktarevic <Ajsa.Bajraktarevic@dfat.gov.au>; Craig Maclachlan <Craig.Maclachlan@dfat.gov.au>; Adam McCarthy <Adam.McCarthy@dfat.gov.au>; s22(1)(a)(ii) @dfat.gov.au>; Marie-Charlotte McKenna <Marie-Charlotte.McKenna@dfat.gov.au>; s22(1)(a)(ii) @dfat.gov.au>; Marc Innes-Brown <marc.innes@dfat.gov.au>; Gemma Huggins <Gemma.Huggins@dfat.gov.au>; s22(1)(a)(ii) @dfat.gov.au>; Katy Lin <Katy.Lin@dfat.gov.au>; s22(1)(a)(ii) @dfat.gov.au>  
**Subject:** Senator Thorpe statement on South Africa v Israel and proposed bill to amend Australian law [SEC=OFFICIAL:Sensitive]

[REDACTED]

s 47F(1)

- Senator Thorpe has issued a statement on the ICJ's provisional measures order in *South Africa v Israel* s22(1)(a)(ii)

Please let us know if FMO requires anything further. We are very happy to discuss.

Best regards,

s22(1)(a)(ii)

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#### STATEMENT ON PALESTINE: In light of ICJ ruling, Australia must sanction Israel.

##### Quotes attributable to Senator Lidia Thorpe:

The International Court of Justice has ruled that it's plausible that Israel is committing genocide in Gaza.

In light of this interim ruling from the ICJ, it now looks increasingly likely that the court's final decision – to be handed down at a later date – will confirm Israel's actions in Gaza amount to genocide.

We can't sit back and watch the worst possible crime against humanity – genocide – happen once again.

The Australian Government must now condemn Netanyahu's actions in the strongest possible terms, withdraw all Australian support for the regime, and impose sanctions.

Failure to do this could see the Albanese government complicit in the genocide of Palestinian people, and taking the side of war criminals.

We've watched over the past 16 weeks as the Israeli government has murdered over 25,000 Gazans in an indiscriminate but systematic campaign of brutality.

Yet governments across the world – including the Australian government – have been too scared to act.

Albanese should remember that Australia is a signatory to the Convention on the Prevention and Punishment of the Crime of Genocide – this government has a duty to do all it can to prevent genocide in Gaza.

I commend South Africa for pursuing this case and for calling on the world to wake up, and for the atrocities in Gaza to stop.

After World War II, reemerging from the unfathomable horrors of the Holocaust, the world agreed that Genocide is the worst of all crimes and we promised ourselves 'never again'.

To keep that promise, we must act now.

Next week in Parliament, I'll be introducing a Bill to strengthen Australia's commitment to international human rights and the rule of law by giving fuller effect to the Convention on the Prevention and Punishment of the Crime of Genocide.

My Bill removes the requirement for the Attorney General to consent to commence proceedings on cases of Genocide, crimes against humanity and war crimes. This fiat power has been a significant barrier to justice for victims and survivors of these atrocious crimes.

Australia has been falling short of, and even intentionally avoiding its obligation to prevent and punish Genocide. I'll have more to say on my Bill in the coming days.

s22(1)(a)(ii)

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Director | International Security Law Section  
 International Law Branch I | Legal Division  
 Department of Foreign Affairs and Trade  
 P s22(1)(a)(ii) | M s22(1)(a)(ii)

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[REDACTED]

s22(1)(a)(ii)

s 33(a)(iii), s 33(b)

text ends

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**Sent by:** s22(1)(a)(ii)  
**Prepared  
by:**

[REDACTED]













































s 33(a)(iii), s 33(b)

s22(1)(a)(ii)

s 33(a)(iii), s 33(b)

s22(1)(a)(ii)



