

From: [Katy Lin](#)
To: s 22(1)(a)(ii)
Cc: s 22(1)(a)(ii)
Subject: Re: PRIORITY **For line area action** Due to MLS 12pm today - s 47F(1) s 47G(1) - US travel bans for Israeli settler violence links[SEC=OFFICIAL]
Date: Thursday, 7 December 2023 9:28:01 AM

OFFICIAL

Thanks s 22(1)(a)(ii) looks good to me. Suggest you give FMO two versions option 1 is your short version and option 2 being the expanded version.

K

From: s 22(1)(a)(ii) <@dfat.gov.au>
Date: Thursday, 7 December 2023 at 9:19:11 am
To: "Katy Lin" <Katy.Lin@dfat.gov.au>
Cc: s 22(1)(a)(ii) <@dfat.gov.au>
Subject: FW: PRIORITY **For line area action** Due to MLS 12pm today - s 47F(1) s 47G(1)(a) - US travel bans for Israeli settler violence links [SEC=OFFICIAL]

OFFICIAL

Hi Katy

s 22(1)(a)(ii) would you be happy with the below?

s 47E(d), s 47C(1)

I've erred on the side of short and sharp s 47E(d), s 47C(1)

Kind regards

s 22(1)(a)(ii)

From: s 22(1)(a)(ii) <@dfat.gov.au>
Sent: Thursday, 7 December 2023 9:11 AM
To: s 22(1)(a)(ii) <@dfat.gov.au>; s 22(1)(a)(ii) <@dfat.gov.au>
Cc: Bronte Moules <Bronte.Moules@dfat.gov.au>; Katy Lin <Katy.Lin@dfat.gov.au>; s 47E(d) <@dfat.gov.au>; Gemma Huggins <Gemma.Huggins@dfat.gov.au>; s 22(1)(a)(ii) <@dfat.gov.au>
Subject: FW: PRIORITY **For line area action** Due to MLS 12pm today - s 47F(1) s 47G(1)(a) - US travel bans for Israeli settler violence links [SEC=OFFICIAL]

OFFICIAL

Hello colleagues

s 22(1)(a)(ii)

the below media enquiry.

mentioned your areas may have an interest in

s 47C(1)

Kind regards

s 22(1)(a)(ii)

Assistant Director | Levant Section
Middle East Branch | Middle East and Africa Division
Department of Foreign Affairs and Trade
WhatsApp/Signal: s 22(1)(a)(ii)
Mobile: s 22(1)(a)(ii)
s 22(1)(a)(ii)

From: Media <media@dfat.gov.au>

Sent: Thursday, 7 December 2023 8:56 AM

To: s 47E(d)

[@dfat.gov.au](mailto:media@dfat.gov.au); s 47E(d)

[@dfat.gov.au](mailto:media@dfat.gov.au); Cameron Archer <Cameron.Archer@dfat.gov.au>; Peter Sawczak <Peter.Sawczak@dfat.gov.au>; s 22(1)(a)(ii) [@dfat.gov.au](mailto:media@dfat.gov.au);

Gemma Huggins <Gemma.Huggins@dfat.gov.au>; Marc Innes-Brown <marc.innes@dfat.gov.au>; s 22(1)(a)(ii) [@dfat.gov.au](mailto:media@dfat.gov.au)>

Cc: s 47E(d) [@dfat.gov.au](mailto:media@dfat.gov.au); s 47E(d)

[@dfat.gov.au](mailto:media@dfat.gov.au); s 47E(d) [@dfat.gov.au](mailto:media@dfat.gov.au); Media <media@dfat.gov.au>; s 22(1)(a)(ii) [@dfat.gov.au](mailto:media@dfat.gov.au); s 47E(d)

[@dfat.gov.au](mailto:media@dfat.gov.au); s 22(1)(a)(ii) [@dfat.gov.au](mailto:media@dfat.gov.au) s 47E(d)

[@dfat.gov.au](mailto:media@dfat.gov.au); s 47E(d) [@dfat.gov.au](mailto:media@dfat.gov.au); Ciara

Spencer <Ciara.Spencer@dfat.gov.au>; s 22(1)(a)(ii) [@dfat.gov.au](mailto:media@dfat.gov.au); Media

<media@dfat.gov.au>

Subject: PRIORITY **For line area action** Due to MLS 12pm today - s 47F(1) s 47G(1)(a) - US travel bans for Israeli settler violence links [SEC=OFFICIAL]

OFFICIAL

Good morning LVS and UPS colleagues,

s 47C(1)

s 47C(1)

Grateful if an SES-cleared response could be provided to MLS by **12pm today (7/12)**. Please let me know if this is not realistic.

Kind regards,

s 22(1)(a)(ii)

Assistant Director | Media Liaison Section (MLS)
Media and Communications Delivery Branch (CMB)
Strategic Communications Division (SCD)

T s 22(1)(a)(ii) | M s 22(1)(a)(ii) | E s 22(1)(a)(ii) [@dfat.gov.au](mailto:dfat.gov.au)



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[We acknowledge](#) the Traditional Custodians of Country throughout Australia, and their continuing connection to land, waters and community. We pay our respects to all First Nations peoples, their cultures and to their Elders, past, present and emerging.

From: [Katy Lin](#)
To: s 22(1)(a)(ii)
Cc: s 22(1)(a)(ii)
Subject: Fwd: PRIORITY **For line area action** Due to MLS 12pm today - s 47F(1) s 47G(1)(- US travel bans for Israeli settler violence links[SEC=OFFICIAL]
Date: Thursday, 7 December 2023 9:44:56 AM
Attachments: [image002.png](#)

OFFICIAL

Just check if any background is required to be provided to FMO.

s 47E(d), s 47C(1)

K

From: s 22(1)(a)(ii) [@dfat.gov.au](#)>
Date: Thursday, 7 December 2023 at 9:33:51 am
To: s 22(1)(a)(ii) [@dfat.gov.au](#)>, s 22(1)(a)(ii) [@dfat.gov.au](#)>
Cc: "Bronte Moules" <[Bronte.Moules@dfat.gov.au](#)>, "Katy Lin" <[Katy.Lin@dfat.gov.au](#)>, s 47E(d) [@dfat.gov.au](#)>, "Gemma Huggins" <[Gemma.Huggins@dfat.gov.au](#)>, s 22(1)(a)(ii) [@dfat.gov.au](#)>
Subject: RE: PRIORITY **For line area action** Due to MLS 12pm today - s 47F(1) s 47G(1)(a) - US travel bans for Israeli settler violence links [SEC=OFFICIAL]

OFFICIAL

Hi s 22(1)(a)(ii)

I understand the below options have been cleared by AS AST. They both look good to me and we are just running past Bronte now for her review.

I'll get back to you asap.

Kind regards,

s 22(1)(a)(ii)

A/g Director | Human Rights Autonomous Sanctions Section
 Human Rights Branch | Multilateral Policy and Human Rights Division
 Department of Foreign Affairs and Trade
T: s 22(1)(a)(ii) **M:** s 22(1)(a)(ii)

[dfat.gov.au](#) | [Twitter](#) | [Facebook](#) | [Instagram](#) | [LinkedIn](#)

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We acknowledge the Traditional Custodians of Country throughout Australia, and their continuing connection to land, waters and community. We pay our respects to all First Nations peoples, their cultures and to their Elders, past, present and emerging.

From: s 22(1)(a)(ii) @dfat.gov.au>
Sent: Thursday, 7 December 2023 9:31 AM
To: s 22(1)(a)(ii) @dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au>
Cc: Bronte Moules <Bronte.Moules@dfat.gov.au>; Katy Lin <Katy.Lin@dfat.gov.au>; s 47E(d) @dfat.gov.au>; Gemma Huggins <Gemma.Huggins@dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au>
Subject: RE: PRIORITY **For line area action** Due to MLS 12pm today - s 47F(1) s 47G(1)(a) - US travel bans for Israeli settler violence links [SEC=OFFICIAL]

Thanks, s 22(1)(a)(ii)

s 47C(1)

Happy for either version to be used. Please feel free to call me with any questions.

Kind regards

s 22(1)(a)(ii)

A/g Director | Australian Sanctions Office
Australian Sanctions Office and Transnational Crime Branch (AST) | Regulatory Legal Division (RLD)

T s 22(1)(a)(ii)

From: s 22(1)(a)(ii)
To: s 22(1)(a)(ii)
Cc: Bronte Moules; Katy Lin; s 47E(d) ; Gemma Huggins; s 22(1)(a)(ii)
Subject: RE: PRIORITY **For line area action** Due to MLS 12pm today - s 47F(1) s 47G(1) - US travel bans for Israeli settler violence links [SEC=OFFICIAL]
Date: Thursday, 7 December 2023 9:51:27 AM
Attachments: image002.png

OFFICIAL

Hi s 22(1)(a)(ii)

Thanks again for consulting.

HRB's preference is to use the first option below (the shorter version), however, if pressed (or if a longer response is required or preferred by FMO), then we are also comfortable with the second option.

Please let us know if you need anything further from us.

Kind regards

s 22(1)(a)(ii)

A/g Director | Human Rights Autonomous Sanctions Section
Human Rights Branch | Multilateral Policy and Human Rights Division
Department of Foreign Affairs and Trade
T: s 22(1)(a)(ii) **M:** s 22(1)(a)(ii)

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We acknowledge the Traditional Custodians of Country throughout Australia, and their continuing connection to land, waters and community. We pay our respects to all First Nations peoples, their cultures and to their Elders, past, present and emerging.

From: s 22(1)(a)(ii) @dfat.gov.au>
Sent: Thursday, 7 December 2023 9:31 AM
s 22(1)(a)(ii) - email removed as duplicate email found on page 5

From: [Katy Lin](#)
To: s 22(1)(a)(ii)
Subject: RE: Update-s 33(a)(iii) US plans to impose visa bans on Israeli settlers [REDACTED]
Date: Thursday, 7 December 2023 4:49:00 PM

[REDACTED]

Thanks K

Katy Lin

Assistant Secretary
 Australian Sanctions Office and Transnational Crime Branch
 Regulatory & Legal Policy Division
P s 22(1)(a)(ii) | **M** s 22(1)(a)(ii)

From: s 22(1)(a)(ii) @dfat.gov.au>
Sent: Thursday, 7 December 2023 3:38 PM
To: Katy Lin <Katy.Lin@dfat.gov.au>
Subject: FW: Update-s 33(a)(iii) US plans to impose visa bans on Israeli settlers [REDACTED]

[REDACTED]

Hi Katy – s 22(1)(a)(ii) just flagged that Bronte may have some policy points to add to the end of this – they will go back over the top.

Kind regards
 s 22(1)(a)(ii)

From: Gemma Huggins <Gemma.Huggins@dfat.gov.au>
Sent: Thursday, 7 December 2023 3:17 PM
To: s 22(1)(a)(ii) @dfat.gov.au>
Cc: Katy Lin <Katy.Lin@dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au>
Subject: RE: Update-s 33(a)(iii) US plans to impose visa bans on Israeli settlers [REDACTED]

s33(a)(iii)

I've put some of your points below into dot form – would these be okay for s 22(1)(a)(ii) to draw on?

s 47E(d), s 47C(1)

s 47E(d), s 47C(1)

From: s 22(1)(a)(ii) [@dfat.gov.au](mailto:s 22(1)(a)(ii)@dfat.gov.au)>
Sent: Thursday, 7 December 2023 11:38 AM
To: Gemma Huggins <Gemma.Huggins@dfat.gov.au>
Cc: Katy Lin <Katy.Lin@dfat.gov.au>; s 22(1)(a)(ii) [@dfat.gov.au](mailto:s 22(1)(a)(ii)@dfat.gov.au); s 22(1)(a)(ii) [@dfat.gov.au](mailto:s 22(1)(a)(ii)@dfat.gov.au); s 22(1)(a)(ii) [@dfat.gov.au](mailto:s 22(1)(a)(ii)@dfat.gov.au)>
Subject: FW: Update-s 33(a)(iii) US plans to impose visa bans on Israeli settlers [REDACTED]

[REDACTED]

Dear Gemma

s 47E(d), s 47C(1)

s 47E(d), s 47C(1)

Kind regards

s 22(1)(a)(ii)

A/g Director | Australian Sanctions Office
Australian Sanctions Office and Transnational Crime Branch (AST) | Regulatory Legal Division
(RLD)
T s 22(1)(a)(ii)

From: s 22(1)(a)(ii) [@dfat.gov.au](mailto:s22(1)(a)(ii)@dfat.gov.au)>

Sent: Wednesday, 6 December 2023 11:37 AM

s 22(1)(a)(ii) - email removed as duplicate email found on page 16



s 47C(1)

s 47E(d), s 47C(1)

s 47E(d), s 47C(1)

From: Gemma Huggins <Gemma.Huggins@dfat.gov.au>

Sent: Thursday, 7 December 2023 3:17 PM

s 22(1)(a)(ii) - email removed as duplicate email found on page 7

From: s 22(1)(a)(ii)
To: s 22(1)(a)(ii); [Gemma Huggins](#); s 22(1)(a)(ii)
Cc: [Katy Lin](#); s 22(1)(a)(ii); [Bronte Moules](#); s 22(1)(a)(ii)
Subject: Re: Update-s 33(a)(iii) US plans to impose visa bans on Israeli settlers [REDACTED]
Date: Thursday, 7 December 2023 10:50:01 PM
Attachments: [image001.png](#)

[REDACTED]

Many thanks Gemma s 22(1)(a)(ii) .

Best
s 22(1)(a)(ii)

s 22(1)(a)(ii) - email removed as duplicate email found on second half of page 10

s 22(1)(a)(ii) - email removed as duplicate email found on second half of page 10

From: Gemma Huggins <Gemma.Huggins@dfat.gov.au>

Sent: Thursday, 7 December 2023 3:17 PM

s 22(1)(a)(ii) - email removed as duplicate email found on page 7

From: [Katy Lin](#)
To: s 22(1)(a)(ii)
Cc:
Subject: FW: Update: s 33(a)(iii) Israeli settlers sanctions [REDACTED]
Date: Friday, 8 December 2023 9:32:04 AM

[REDACTED]

[REDACTED]

Morning s 22(1)(a)(ii)

Would you mind sending Julie a short email for her visibility on the issue and the advice we have provided as input?

Thanks

K

Katy Lin

Assistant Secretary
Australian Sanctions Office and Transnational Crime Branch
Regulatory & Legal Policy Division
P s 22(1)(a)(ii) | M s 22(1)(a)(ii)

From: s 22(1)(a)(ii) @dfat.gov.au>
Sent: Friday, 8 December 2023 7:46 AM
To: Gemma Huggins <Gemma.Huggins@dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au>; Joanna Grainger <Joanna.Grainger@dfat.gov.au>
Cc: Dougal McInnes <Dougal.McInnes@dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au>; Katy Lin <Katy.Lin@dfat.gov.au>; s 47E(d) @dfat.gov.au>; Marc Innes-Brown <marc.innes@dfat.gov.au>; s 22(1)(a)(ii) dfat.gov.au>; Scott Ryan <Scott.Ryan@dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au>
Subject: Update: s 33(a)(iii) Israeli settlers sanctions [REDACTED]

[REDACTED]

Gemma

s 22(1)(a)(ii)

s 22(1)(a)(ii)

s 47C, s 47E(d)

s 47C, s 47E(d)

From: s 22(1)(a)(ii) @dfat.gov.au
Sent: Wednesday, 6 December 2023 11:37 AM
To: s 22(1)(a)(ii) @dfat.gov.au; Gemma Huggins
<Gemma.Huggins@dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au; Joanna
Grainger <Joanna.Grainger@dfat.gov.au>
Cc: Dougal McInnes <Dougal.McInnes@dfat.gov.au>; s 22(1)(a)(ii)
@dfat.gov.au; Katy Lin <Katy.Lin@dfat.gov.au>; s 47E(d)
@dfat.gov.au; Marc Innes-Brown <marc.innes@dfat.gov.au>; s 22(1)(a)(ii)
dfat.gov.au; Scott Ryan <Scott.Ryan@dfat.gov.au>; s 22(1)(a)(ii)
@dfat.gov.au
Subject: Re: Update- s 33(a)(iii) US plans to impose visa bans on Israeli settlers [REDACTED]

[REDACTED]

Gemma

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

They also mentioned the G7 statement coming out tomorrow (my separate email, not to all, refers).

Thanks
s 22(1)(a)(ii)

From: s 22(1)(a)(ii) <dfat.gov.au>
Date: Friday, December 1, 2023 at 7:48:30 PM
To: "Gemma Huggins" <Gemma.Huggins@dfat.gov.au>, s 22(1)(a)(ii) <dfat.gov.au>, "Joanna Grainger" <Joanna.Grainger@dfat.gov.au>
Cc: "Dougal McInnes" <Dougal.McInnes@dfat.gov.au>, s 22(1)(a)(ii) <dfat.gov.au>, "Katy Lin" <Katy.Lin@dfat.gov.au>, s 47E(d) <dfat.gov.au>, "Marc Innes-Brown" <marc.innes@dfat.gov.au>, s 22(1)(a)(ii) <dfat.gov.au>, "Scott Ryan" <Scott.Ryan@dfat.gov.au>, s 22(1)(a)(ii) <dfat.gov.au>
Subject: Update-s 33(a)(iii) US plans to impose visa bans on Israeli settlers [REDACTED]

Gemma

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

Best

s 22(1)(a)(ii)

s 22(1)(a)(ii)

s 22(1)(a)(ii)

s 47E(d), s 47C(1), s 42(1)

From: Katy Lin <Katy.Lin@dfat.gov.au>
Sent: Friday, 8 December 2023 11:08 AM
To: Julie Heckscher <Julie.Heckscher@dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au; Lauren Henschke <Lauren.Henschke@dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au
Cc: s 22(1)(a)(ii) @dfat.gov.au; s 22(1)(a)(ii) @dfat.gov.au
Subject: RE: Update: s 33(a)(iii) Israeli settlers sanctions [REDACTED]

Agree Julie – s 47E(d), s 47C(1), s 42(1)

s 33(a)(iii)

s 22(1)(a)(ii) /Lauren: I'll go over the top of the emails with MAD to loop you both in.

K

Katy Lin

Assistant Secretary
Australian Sanctions Office and Transnational Crime Branch
Regulatory & Legal Policy Division
P s 22(1)(a)(ii) | M s 22(1)(a)(ii)

From: Julie Heckscher <Julie.Heckscher@dfat.gov.au>
Sent: Friday, 8 December 2023 10:40 AM
To: s 22(1)(a)(ii) @dfat.gov.au; Lauren Henschke <Lauren.Henschke@dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au

Cc: Katy Lin <Katy.Lin@dfat.gov.au>; s 22(1)(a)(ii) [@dfat.gov.au](mailto:dfat.gov.au); s 22(1)(a)(ii) [@dfat.gov.au](mailto:dfat.gov.au)>

Subject: RE: Update: s 33(a)(iii) Israeli settlers sanctions [REDACTED]

s 22(1)(a)(ii)

Thanks for the heads up

s 47E(d), s 47C(1), s 42(1)

Julie Heckscher
Regulatory and Legal Policy Division

Department of Foreign Affairs and Trade
Canberra

E | julie.heckscher@dfat.gov.au
T | s 22(1)(a)(ii)

From: s 22(1)(a)(ii) [@dfat.gov.au](mailto:dfat.gov.au)>

Sent: Friday, 8 December 2023 10:12 AM

To: Julie Heckscher <Julie.Heckscher@dfat.gov.au>

Cc: Katy Lin <Katy.Lin@dfat.gov.au>; s 22(1)(a)(ii) [@dfat.gov.au](mailto:dfat.gov.au); s 22(1)(a)(ii) [@dfat.gov.au](mailto:dfat.gov.au)>

Subject: FW: Update: s 33(a)(iii) Israeli settlers sanctions [REDACTED]

Hi Julie

For your visibility:

s 33(a)(iii)

- s 22(1)(a)(ii) reached out to us for some points on Australia's ability to impose sanctions in this way.

s 22(1)(a)(ii)

s 22(1)(a)(ii)

Please let me know if you would like any further information or context.

Kind regards

s 22(1)(a)(ii)

A/g Director | Australian Sanctions Office

Australian Sanctions Office and Transnational Crime Branch (AST) | Regulatory Legal Division (RLD)

T s 22(1)(a)(ii)

From: s 22(1)(a)(ii) <[s22\(1\)\(a\)\(ii\)@dfat.gov.au](mailto:s22(1)(a)(ii)@dfat.gov.au)>

Sent: Friday, 8 December 2023 7:46 AM

To: Gemma Huggins <Gemma.Huggins@dfat.gov.au>; s 22(1)(a)(ii) <[s22\(1\)\(a\)\(ii\)@dfat.gov.au](mailto:s22(1)(a)(ii)@dfat.gov.au)>; Joanna Grainger <Joanna.Grainger@dfat.gov.au>

Cc: Dougal McInnes <Dougal.McInnes@dfat.gov.au>; s 22(1)(a)(ii) <[s22\(1\)\(a\)\(ii\)@dfat.gov.au](mailto:s22(1)(a)(ii)@dfat.gov.au)>;

Katy Lin <Katy.Lin@dfat.gov.au>; s 47E(d) <[s47E\(d\)@dfat.gov.au](mailto:s47E(d)@dfat.gov.au)>; Marc Innes-Brown

<marc.innes@dfat.gov.au>; s 22(1)(a)(ii) <[s22\(1\)\(a\)\(ii\)@dfat.gov.au](mailto:s22(1)(a)(ii)@dfat.gov.au)>; Scott Ryan

<Scott.Ryan@dfat.gov.au>; s 22(1)(a)(ii) <[s22\(1\)\(a\)\(ii\)@dfat.gov.au](mailto:s22(1)(a)(ii)@dfat.gov.au)>

Subject: Update: s 33(a)(iii) Israeli settlers sanctions [REDACTED]

Gemma

s 22(1)(a)(ii)

s 22(1)(a)(ii)

s 47C, s 47E(d)

s 47C, s 47E(d)

From: s 22(1)(a)(ii) [@dfat.gov.au](mailto:dfat.gov.au)>

Sent: Wednesday, 6 December 2023 11:37 AM

s 22(1)(a)(ii) - email chain removed as duplicate emails found on pages 16-17

From: [Marie-Charlotte McKenna](#)
To: [Gemma Huggins](#)
Cc: [Ridwaan Jadwat](#); [Adam McCarthy](#); s 22(1)(a)(ii)
; [Paul Schotfield](#); s 22(1)(a)(ii); [Craig MacLachlan](#); s 22(1)(a)(ii)
Subject: Israel-Gaza[SEC=OFFICIAL]
Date: Sunday, 8 October 2023 3:15:46 PM

OFFICIAL

Dear Gemma,

Please don't hesitate to reach out if we can be of assistance on any legal aspects of recent developments.

s 47E(d), s 47C

Best,
Marie-Charlotte

s 47E(d), s 47C

Marie-Charlotte McKenna
Assistant Secretary
International Law Branch
Department of Foreign Affairs and Trade
Tel: s 22(1)(a)(ii)
Mob: s 22(1)(a)(ii)

s 47E(d), s 47C

s 47E(d), s 47C

s 47E(d), s 47C

s 47E(d), s 47C

From: Marie-Charlotte McKenna <Marie-Charlotte.McKenna@dfat.gov.au>
Sent: Sunday, 8 October 2023 3:55 PM
To: Gemma Huggins <Gemma.Huggins@dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au>
Cc: Ridwaan Jadwat <Ridwaan.Jadwat@dfat.gov.au>; Adam McCarthy
<Adam.McCarthy@dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au>; s 22(1)(a)(ii)
@dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au>; s 22(1)(a)(ii)
@dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au>; s 22(1)(a)(ii)
@dfat.gov.au>; Paul Schofield <Paul.Schofield@dfat.gov.au>; s 22(1)(a)(ii)
@dfat.gov.au>; Craig Maclachlan <Craig.Maclachlan@dfat.gov.au>;
s 22(1)(a)(ii) @dfat.gov.au>
Subject: Re: Israel-Gaza[SEC=OFFICIAL]

OFFICIAL

Dear s 22(1)(a)(ii)

Forwarding the below per Gemma's out of office.

Best,
Marie-Charlotte

Marie-Charlotte McKenna
Assistant Secretary
International Law Branch
Department of Foreign Affairs and Trade
Tel: s 22(1)(a)(ii)
Mob: s 22(1)(a)(ii)

From: "Marie-Charlotte McKenna" <Marie-Charlotte.McKenna@dfat.gov.au>

Date: Sunday, 8 October 2023 at 3:15:44 pm
s 22(1)(a)(ii) - email removed as duplicate email found on page 19

s 47E(d), s 47C

From: s 22(1)(a)(ii) @dfat.gov.au>

Sent: Tuesday, 10 October 2023 6:54 PM

s 22(1)(a)(ii) - email removed as duplicate email found on page 25

s 47E(d), s 47C

From: s 22(1)(a)(ii)

Sent: Tuesday, 10 October 2023 6:54 PM

s 22(1)(a)(ii) - email removed as duplicate email found on page 25

From: s 22(1)(a)(ii)
To: s 22(1)(a)(ii)
Cc: [Krass, Charlotte](#); [Adam McCarthy](#); [Ridwaan Jadwat](#); [Marie-Charlotte Mckenna](#); s 22(1)(a)(ii)
s 47E(d)
Subject: RE: DFAT Talking Points - International Law [SEC=OFFICIAL:Sensitive]
Date: Sunday, 15 October 2023 10:09:03 PM

OFFICIAL: Sensitive

Hi s 22(1)(a)(ii)

Thanks for your email.

The TP reflects the language used by the Foreign Minister. The key body of international law applicable to both Hamas and Israel in the conflict is international humanitarian law (as reflected in the Geneva Conventions, other treaties, and customary international law).

s 47E(d), s 47C

s 47E(d), s 47C

s 47C(1)

s 47C(1)

s 47E(d), s 47C

From: s 22(1)(a)(ii)

Sent: Sunday, 15 October 2023 2:37 PM

s 22(1)(a)(ii) - email removed as duplicate email found on page 30

s 47E(d), s 47C

From: s 22(1)(a)(ii)**Sent:** Friday, 3 November 2023 9:05 AM**To:** s 22(1)(a)(ii) @dfat.gov.au>; s 47E(d) @dfat.gov.au>**Cc:** s 22(1)(a)(ii) @dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au>**Subject:** UN experts allegations of genocide/partners' responsibilities [SEC=OFFICIAL:Sensitive]**OFFICIAL: Sensitive**

Dear s 22(1)(a)(ii)

We note the UN has published the following statement overnight - [Gaza is 'running out of time' UN experts warn, demanding a ceasefire to prevent genocide | OHCHR](#). s 47E(d), s 47C

, but please let us

know if there is anything further that we can assist with.

Key extracts are as follows:

*"We remain convinced that the Palestinian people **are at grave risk of genocide**," the experts said. "The time for action is now. **Israel's allies also bear responsibility** and must act now to prevent its disastrous course of action," they said.*

*The experts expressed "deepening horror" about Israeli airstrikes against the Jabalia refugee camp in northern Gaza since Tuesday (31 October) night, which have reportedly killed and injured hundreds of Palestinians, calling it a **brazen breach of international law**.*

*"The Israeli airstrike on a residential complex in the Jabalia refugee camp is a **brazen violation of international law** – and a war crime. **Attacking a camp sheltering civilians including women and children is a complete breach of the rules of proportionality and distinction between combatants and civilians**," the experts said.*

Best

s 22(1)(a)(ii)

s 22(1)(a)(ii)

Assistant Director

International Law and Security Section | Legal Division

Department of Foreign Affairs and Trade

T +s 22(1)(a)(ii) | M s 22(1)(a)(ii)

E s 22(1)(a)(ii) [@dfat.gov.au](mailto:s22(1)(a)(ii)@dfat.gov.au)

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s 33(a)(iii)

s 33(a)(iii)

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

s 47C(1)

From: s 22(1)(a)(ii) @dfat.gov.au>
Sent: Thursday, 19 October 2023 12:37 PM
To: s 22(1)(a)(ii) @dfat.gov.au>; s 47E(d) @dfat.gov.au>
Cc: s 22(1)(a)(ii) @dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au>; Ridwaan
Jadwat <Ridwaan.Jadwat@dfat.gov.au>
Subject: RE: ICC Israel/Palestine [REDACTED]

Hi s 22(1)(a)(ii)

Thanks for confirming.

s 47E(d), s 47C

s 33(a)(iii)

s 47E(d), s 47C

s 47E(d), s 47C

Kind regards

s 22(1)(a)(ii)

Assistant Director | International Security Law Section
International Law Branch | Legal Division
Department of Foreign Affairs and Trade
T : s 22(1)(a)(ii) | M: s 22(1)(a)(ii)

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From: s 22(1)(a)(ii) <[s22\(1\)\(a\)\(ii\)@dfat.gov.au](mailto:s22(1)(a)(ii)@dfat.gov.au)>

Sent: Thursday, 19 October 2023 9:40 AM

s 22(1)(a)(ii) - email removed as duplicate email found on page 57

From: s 22(1)(a)(ii)
To: s 22(1)(a)(ii)
Cc: s 22(1)(a)(ii)
Subject: RE: ICC investigation into the "situation in Palestine": estimates response [SEC=OFFICIAL:Sensitive]
Date: Thursday, 9 November 2023 3:53:48 AM

Many thanks s 22(1)(a)(ii)

Very helpful s 33(a)(iii)

Regards,

s 22(1)(a)(ii)

From: s 22(1)(a)(ii) @dfat.gov.au>
Sent: Wednesday, 8 November 2023 10:02 AM
To: s 22(1)(a)(ii) @dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au>
Cc: s 22(1)(a)(ii) @dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au>
Subject: ICC investigation into the "situation in Palestine": estimates response [SEC=OFFICIAL:Sensitive]

OFFICIAL: Sensitive

Hi s 22(1)(a)(ii)

Thanks for taking the time to speak earlier, always good to catch up.

As promised, below my signature block are the relevant excerpts from Senate Estimates on 23 October, when Marie-Charlotte engaged with the Committee on the matter of the ICC's investigation into the "Situation in Palestine". I've also copied some standing TPs and background, which were cleared more recently by Marie-Charlotte (but track along the same lines as the estimates response).

s 33(a)(iii)

The Court's decision and Australia's observations are attached for reference.

Thanks
s 22(1)(a)(ii)

Assistant Director | International Law and Security Section

International Law Branch | Legal Division

Ms 22(1)(a)(ii)

s 22(1)(a)(ii)

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Senator STEELE-JOHN: Thank you. Sticking with the question of international law, in 2021 the Office of the Prosecutor of the International Criminal Court commenced an investigation into the situation in Palestine, having engaged in a protracted legal process to assure itself of the court's jurisdiction over East Jerusalem and the West Bank, and Gaza as well. At the time, the Morrison government opposed the investigation, and Australia was one of the parties to lodge dissenting briefs in the legal process. Is it your government's position, Minister, that the Australian Commonwealth now supports the investigation undertaken by the ICC?

Ms McKenna : In 2021 the pre-trial chamber of the International Criminal Court found that the court has territorial jurisdiction over the Occupied Palestinian Territories, including Gaza, and the prosecutor has opened an investigation into the situation in the Occupied Palestinian Territories. In making its decision, the pre-trial chamber noted that any state or suspect might submit a jurisdictional challenge in any future stages of the proceedings, so I wouldn't purport to pre-empt any such challenge or the court's future consideration of those questions. Of course, the focus of the prosecutor's current investigation is a matter for the prosecutor.

Senator STEELE-JOHN: Minister, that is a factual statement of the process at hand, but, in terms of the government's position, not the departmental response, does the government support the investigation currently being undertaken by the ICC?

Senator Wong: I will take this on notice. Obviously, this also is something that the Attorney-General might be engaged on. But I don't think I have anything to add to Ms McKenna's answer.

Senator STEELE-JOHN: So you'll take it on notice for the committee?

Ms Adams : Yes.

Senator Wong: Yes.

[...]

Senator STEELE-JOHN: [...] Just finally, would the government be supportive of the ICC conducting investigations into the events in Israel and Palestine since 7 October? We have war crimes committed by Hamas. We have war crimes committed by the State of Israel. Surely this is what the ICC was created to investigate, Minister.

Ms Adams : We'll take the question on notice.

Senator STEELE-JOHN: Fascinating. Thank you, Chair.

[...]

If raised – what is Australia's position on the ICC investigation into the Occupied Palestinian Territories?

- In 2021 the ICC's Pre-Trial Chamber found that the ICC has territorial jurisdiction over the Occupied Palestinian Territories, including Gaza.

- The Prosecutor opened an investigation in 2021 [3 March] into the situation in the Occupied Palestinian Territories.
 - The focus of that investigation is a matter for the Prosecutor.
 - There is no decision point for States Parties at this stage of the proceedings.

[If pressed]

- In making its decision in 2021 the Pre-Trial Chamber noted that any State or suspect may submit a jurisdictional challenge in any future stages of the proceedings.
 - Not appropriate to pre-empt consideration of these questions.

Background

The International Criminal Court (ICC) is an independent court established to investigate and prosecute individuals for genocide, crimes against humanity and war crimes. The Court will only have jurisdiction where the State of the person accused, or the State on the territory of which the conduct has occurred, have accepted the ICC's jurisdiction (in the absence of a UN Security Council referral).

Israel is not a party to the ICC's Rome Statute. In 2015, the Palestinian Authority lodged an instruction of accession under the entry into force provisions of the Rome Statute. In 2015, Australia wrote to the UN Secretary General stating that it did not recognise the right of the Palestinian Authority to lodge an instrument of accession under the entry into force provisions of the Rome Statute. In 2020, Australia made a submission to the ICC objecting to the Court exercising jurisdiction in relation to the situation in the Occupied Palestinian Territories, including on the basis that it did not recognise Palestinian statehood. In 2021 the ICC's Pre-Trial Chamber found that the ICC has territorial jurisdiction over the Occupied Palestinian Territories, including Gaza. The Prosecutor opened an investigation in 2021 [3 March] into the situation in the Occupied Palestinian Territories.

The ICC Prosecutor [Karim Khan KC] has made it clear that the open investigation into the situation in Occupied Palestinian Territory may include investigating acts committed in the current conflict, and may also extend to any acts committed by Palestinian nationals in Israeli territory.

From: s 22(1)(a)(ii)
To: s 22(1)(a)(ii) [Harvey, Nina](#)
Cc: [Marie-Charlotte McKenna](#); s 22(1)(a)(ii)
Subject: RE: [For urgent comment] TPs on ICC investigation into OPTs [REDACTED]
Date: Wednesday, 15 November 2023 6:22:15 PM
Attachments: [image001.png](#)

[REDACTED]

Hi s 22(1)(a)(ii)

Many thanks for your email.

We are happy with the approach taken to the TPs on Australia's position on the ICC investigation. We have just suggested inserting a reference (in red text below) to the timeframe applicable to the current investigation below.

We'll come back to you on the QoN responses and the contingency TPs on referral by COB tomorrow as requested.

Please don't hesitate to reach out further if you'd like to discuss this evening.

Cheers

s 22(1)(a)(ii)

T: s 22(1)(a)(ii)
M: s 22(1)(a)(ii)

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From: s 22(1)(a)(ii) [REDACTED] <[REDACTED]@dfat.gov.au>
Sent: Wednesday, 15 November 2023 6:04 PM
To: Harvey, Nina <Nina.Harvey@ag.gov.au>; s 22(1)(a)(ii) [REDACTED] <[REDACTED]@ag.gov.au>
Cc: Marie-Charlotte McKenna <Marie-Charlotte.McKenna@dfat.gov.au>; s 22(1)(a)(ii) [REDACTED] <[REDACTED]@dfat.gov.au>; s 22(1)(a)(ii) [REDACTED] <[REDACTED]@dfat.gov.au>
Subject: [For urgent comment] TPs on ICC investigation into OPTs [REDACTED]
Importance: High

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[REDACTED]

Hi Nina s 22(1)(a)(ii)

As Marie-Charlotte discussed with Nina this afternoon, we have a few products below relating to

the ICC investigation into the Occupied Palestinian Territories. The first is for inclusion in tomorrow morning's WoG TPs, and the others are for comment by COB tomorrow.

s 47C(1)

s 33(a)(iii)

s 47E(d), s 47C

s 47E(d), s 47C

Kind regards

s 22(1)(a)(ii)

Assistant Director | International Security Law Section
International Law Branch | Legal Division
Department of Foreign Affairs and Trade
T : s 22(1)(a)(ii) | M: s 22(1)(a)(ii)
W: www.dfat.gov.au

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From: [Marie-Charlotte McKenna](#)
To: [s 22\(1\)\(a\)\(ii\)](#)
Subject: FW: Crisis Centre - TPs for inclusion in WoG TPs - Possible ICC referral Israel/Palestine [REDACTED]
Date: Tuesday, 9 January 2024 2:01:06 PM
Attachments: [image001.png](#)

From: [s 22\(1\)\(a\)\(ii\)](#) @dfat.gov.au>
Sent: Wednesday, 15 November 2023 7:08 PM
To: [s 47E\(d\)](#) @dfat.gov.au>; [s 47E\(d\)](#) @dfat.gov.au>
Cc: [s 22\(1\)\(a\)\(ii\)](#) @dfat.gov.au>; Bronte Moules <Bronte.Moules@dfat.gov.au>;
[s 22\(1\)\(a\)\(ii\)](#) @dfat.gov.au>; Gemma Huggins
<Gemma.Huggins@dfat.gov.au>; Marie-Charlotte McKenna <Marie-Charlotte.McKenna@dfat.gov.au>; [s 47E\(d\)](#) @dfat.gov.au>; Ridwaan Jadwat
<Ridwaan.Jadwat@dfat.gov.au>
Subject: Crisis Centre - TPs for inclusion in WoG TPs - Possible ICC referral Israel/Palestine [REDACTED]

Dear Crisis Centre

Please include the AS MEB and AS LGD cleared TPs below in tomorrow morning's WoG TPs:

TPs on Australia's position on the ICC investigation

If asked whether Australia supports a role for the International Criminal Court (ICC) in relation to the current situation in the Occupied Palestinian Territories

The ICC has found that the Court has territorial jurisdiction over the Occupied Palestinian Territories, including Gaza.

In making its finding, the Court noted that any suspect or state might submit a jurisdictional challenge in future stages of the proceedings.

The Prosecutor has an active investigation into the situation in the Occupied Palestinian Territories.

The focus of the Prosecutor's investigation is a matter for the Prosecutor.

Thank you
[s 22\(1\)\(a\)\(ii\)](#)

Crisis Response – Middle East Branch
Department of Foreign Affairs and Trade

T s 22(1)(a)(ii) | M s 22(1)(a)(ii)

From: Gemma Huggins <Gemma.Huggins@dfat.gov.au>
Sent: Wednesday, 15 November 2023 6:58 PM
To: Marie-Charlotte McKenna <Marie-Charlotte.McKenna@dfat.gov.au>
Cc: s 22(1)(a)(ii) <[s 22\(1\)\(a\)\(ii\)@dfat.gov.au](mailto:s 22(1)(a)(ii)@dfat.gov.au)>; Bronte Moules <Bronte.Moules@dfat.gov.au>; s 22(1)(a)(ii) <[s 22\(1\)\(a\)\(ii\)@dfat.gov.au](mailto:s 22(1)(a)(ii)@dfat.gov.au)>
Subject: Re: (Gemma - for clearance) Possible ICC referral Israel/Palestine [REDACTED]

[REDACTED]

No issues. I've copied HRB colleagues who are keen to keep across this issue too.

From: "Marie-Charlotte McKenna" <Marie-Charlotte.McKenna@dfat.gov.au>
Date: Wednesday, 15 November 2023 at 6:44:20 pm
To: "Gemma Huggins" <Gemma.Huggins@dfat.gov.au>
Cc: s 22(1)(a)(ii) <[s 22\(1\)\(a\)\(ii\)@dfat.gov.au](mailto:s 22(1)(a)(ii)@dfat.gov.au)>; s 22(1)(a)(ii) <[s 22\(1\)\(a\)\(ii\)@dfat.gov.au](mailto:s 22(1)(a)(ii)@dfat.gov.au)>
Subject: FW: (Gemma - for clearance) Possible ICC referral Israel/Palestine [REDACTED]

[REDACTED]

Gemma, Feel free to give me a buzz on mobile if you want to discuss – we're only proposing that the points highlighted in green go in. AGD has cleared.

Best,
 Marie-Charlotte

From: s 22(1)(a)(ii) <[s 22\(1\)\(a\)\(ii\)@dfat.gov.au](mailto:s 22(1)(a)(ii)@dfat.gov.au)>
Sent: Wednesday, 15 November 2023 6:42 PM
To: Gemma Huggins <Gemma.Huggins@dfat.gov.au>
Cc: Marie-Charlotte McKenna <Marie-Charlotte.McKenna@dfat.gov.au>; s 22(1)(a)(ii) <[s 22\(1\)\(a\)\(ii\)@dfat.gov.au](mailto:s 22(1)(a)(ii)@dfat.gov.au)>; s 22(1)(a)(ii) <[s 22\(1\)\(a\)\(ii\)@dfat.gov.au](mailto:s 22(1)(a)(ii)@dfat.gov.au)>; s 47E(d) <[s 47E\(d\)@dfat.gov.au](mailto:s 47E(d)@dfat.gov.au)>; s 47E(d) <[s 47E\(d\)@dfat.gov.au](mailto:s 47E(d)@dfat.gov.au)>; s 22(1)(a)(ii) <[s 22\(1\)\(a\)\(ii\)@dfat.gov.au](mailto:s 22(1)(a)(ii)@dfat.gov.au)>; s 47E(d) <[s 47E\(d\)@dfat.gov.au](mailto:s 47E(d)@dfat.gov.au)>
Subject: RE: (Gemma - for clearance) Possible ICC referral Israel/Palestine [REDACTED]

[REDACTED]

Hi Gemma

Seeking your clearance on the TPs highlighted below so they can be included in the AM version tomorrow.

Thank you
 s 22(1)(a)(ii)

s 22(1)(a)(ii)

Crisis Response – Middle East Branch

Department of Foreign Affairs and Trade

T s 22(1)(a)(ii) | M s 22(1)(a)(ii)

From: s 22(1)(a)(ii) <[REDACTED]@dfat.gov.au>

Sent: Wednesday, 15 November 2023 6:16 PM

To: s 47E(d) <[REDACTED]@dfat.gov.au>

Cc: Marie-Charlotte McKenna <Marie-Charlotte.McKenna@dfat.gov.au>; Gemma Huggins <Gemma.Huggins@dfat.gov.au>; s 22(1)(a)(ii) <[REDACTED]@dfat.gov.au>; s 22(1)(a)(ii) <[REDACTED]@dfat.gov.au>

Subject: FW: Possible ICC referral Israel/Palestine [REDACTED]

Dear LVS

Further to Marie-Charlotte email below, we have prepared a few products below relating to the ICC investigation into the Occupied Palestinian Territories for your comment.

The first is for inclusion in tomorrow morning's WoG TPs so we would be grateful for comments **as soon as possible**.

TPs on Australia's position on the ICC investigation

s 47C(1)

If asked whether Australia supports a role for the International Criminal Court (ICC) in relation to the current situation in the Occupied Palestinian Territories

The ICC has found that the Court has territorial jurisdiction over the Occupied Palestinian Territories, including Gaza.

In making its finding, the Court noted that any suspect or state might submit a jurisdictional challenge in future stages of the proceedings.

The Prosecutor has an active investigation into the situation in the Occupied Palestinian Territories.

The focus of the Prosecutor's investigation is a matter for the Prosecutor.

We would be grateful if you would **confirm as soon as possible** whether you are comfortable with them being included in tomorrow's WoG TPs.

s 47E(d), s 47C

s 47E(d), s 47C

QoN responses

We have prepared the attached response to the two QoNs from Senate Steele-John on whether Australia supports the ICC's jurisdiction into the OPTs.

We would be grateful for **comments by 12noon Tuesday 21 November.**

Kind regards

s 22(1)(a)(ii)

Assistant Director | International Security Law Section
International Law Branch | Legal Division
Department of Foreign Affairs and Trade
T : s 22(1)(a)(ii) | M: s 22(1)(a)(ii)

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From: Marie-Charlotte McKenna <Marie-Charlotte.McKenna@dfat.gov.au>

Sent: Wednesday, 15 November 2023 5:07 PM

To: Gemma Huggins <Gemma.Huggins@dfat.gov.au>; s 22(1)(a)(ii)
@dfat.gov.au; s 47E(d) @dfat.gov.au

Cc: s 22(1)(a)(ii) @dfat.gov.au; s 22(1)(a)(ii) @dfat.gov.au; Ridwaan
Jadwat <Ridwaan.Jadwat@dfat.gov.au>; Craig Maclachlan <Craig.Maclachlan@dfat.gov.au>; Adam
McCarthy <Adam.McCarthy@dfat.gov.au>

Subject: RE: Possible ICC referral Israel/Palestine [REDACTED]



Thanks Gemma. We're on it. The team is working on some draft general points on the ICC for tomorrow morning's updated media points which we will share with you (and AGD) prior for review.

s 22(1)(a)(ii)

Fyi, I have also just worked with the team on a draft response to the Senate Estimates QoNs on the role of the ICC, on which we will consult MAD (and AGD) shortly.

I have separately briefed both s 47F(1) previously on the broader context around the ICC investigation, in the same terms as discussed with you, Ridwaan and AGD, and we will brief them on the development relayed by UNNY overnight on the referral issue too.

s 47E(d), s 47C

Note s 47F(1) called me on the issue of our position on the ICC in the last hour ahead of the s 47E(d) I also drew his attention to the United Kingdom's s 47F(1)) comments on this issue overnight (as reported in the Guardian today: link [here](#)).

Best,
Marie-Charlotte

From: Gemma Huggins <Gemma.Huggins@dfat.gov.au>

Sent: Wednesday, 15 November 2023 4:05 PM

To: s 22(1)(a)(ii) <[s22\(1\)\(a\)\(ii\)@dfat.gov.au](mailto:s22(1)(a)(ii)@dfat.gov.au)>; s 47E(d) <[s47E\(d\)@dfat.gov.au](mailto:s47E(d)@dfat.gov.au)>

Cc: Marie-Charlotte McKenna <Marie-Charlotte.McKenna@dfat.gov.au>; s 22(1)(a)(ii)

s 22(1)(a)(ii) @dfat.gov.au; s 22(1)(a)(ii) @dfat.gov.au; Ridwaan Jadwat
<Ridwaan.Jadwat@dfat.gov.au>; Craig Maclachlan <Craig.Maclachlan@dfat.gov.au>
Subject: Re: Possible ICC referral Israel/Palestine [REDACTED]

[REDACTED]

s 22(1)(a)(ii)

s 47C(1)

s 33(a)(iii)

s 33(a)(iii)

From: [Marie-Charlotte Mckenna](#)
To: s 22(1)(a)(ii)
Subject: FW: DFAT Talking Points - Hamas-Israel Conflict - v94 [SEC=OFFICIAL:Sensitive]
Date: Tuesday, 9 January 2024 2:01:38 PM

OFFICIAL: Sensitive

From: s 47E(d) @dfat.gov.au>
Sent: Thursday, 16 November 2023 10:59 AM
To: s 47E(d) @dfat.gov.au>
Subject: DFAT Talking Points - Hamas-Israel Conflict - v94 [SEC=OFFICIAL:Sensitive]

OFFICIAL:Sensitive

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**MEDIA
TALKING
POINTS
DISTRIBUTION:
CRISIS**

Topic: POLITICAL-ECONOMIC
Subject: Hamas-Israel Conflict

Originating Division: CCD

Version Date: 16/11/2023

Version: 94

Reason for Update:
Resolve technical errors
which corrupted previous
version

Expiry: 8/01/2024

Talking Points

Headline messages

- The ongoing conflict in Israel and the Occupied Palestinian Territories has already claimed a harrowing number of civilian lives, including children
 - our thoughts are with all those impacted.
- We want to take the next steps towards a ceasefire, but this cannot be one-sided
 - Hamas is still holding hostages and is still attacking Israel.
- We are particularly concerned by the impact on medical facilities
 - Australia wants to see hospitals and medical transport protected in accordance with international humanitarian law.
- We continue to support the ongoing efforts of international partners to de-escalate the situation.

- Australia reaffirms the call for safe, unimpeded and sustained humanitarian access to enable lifesaving assistance to reach affected civilians
 - to allow food, fuel, water, medicine and other essential assistance to reach people in desperate need
 - and for formalised pauses in the conflict so that civilians can get to safety.
- Australia's \$25 million in humanitarian assistance is helping to meet urgent needs in the Occupied Palestinian Territories and across the region like medical supplies and emergency water, sanitation and hygiene services.
- Australia is doing all it can to support Australians, their immediate family members and a number of long-term visa holders still in Gaza who wish to depart
 - including providing the best available information and communicating through all available channels.

Australia's position

- Australia unequivocally condemns the Hamas attacks on Israel as abhorrent acts of terror against innocent civilians
 - Australia calls for Hamas to immediately and unconditionally release all hostages.
- 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
 - this requires the application of the principles of distinction, proportionality and precaution
 - Israel should do everything it can to ensure it observes these principles in its military operations against Hamas.
- Israel's ongoing security would face grave threats if the conflict were to spill over across the region.

Is Australia pushing for a ceasefire?

- We want to take the next steps towards a ceasefire, but this cannot be one sided – it must be agreed by both parties
 - we have called for humanitarian pauses as a necessary first step.
- A ceasefire involves a suspension of fighting agreed to by both parties and is normally linked to a political process
 - it is clear Hamas has not resiled from what it did on 7 October – it still holds hostages and is still attacking Israel
 - Israel's operations against Hamas are ongoing – it will not accept a ceasefire as this would allow Hamas to regroup.

Why does the Australian Government refuse to use the word 'genocide'?

- Australia's consistent position in all contexts is to call for the protection of civilian lives, the observation of international humanitarian law, and respect for human rights.
- We need to be very careful about using the term genocide, which is specifically defined in international law
 - it is one of the strongest allegations that can be made against any state or actor.

Why does the Australian Government refuse to use the word 'war crimes'?

- Australia's consistent position in all contexts is to call for the protection of civilian

- lives, the observation of international humanitarian law, and respect for human rights.
- We need to be careful using the term ‘war crimes’, which has a specific legal definition covering a range of different crimes.
- Australia has called on Israel to exercise restraint and adhere to international law.

If asked: Does Australia support a role for the International Criminal Court (ICC) in relation to the current situation in the Occupied Palestinian Territories

- The ICC has found that the Court has territorial jurisdiction over the Occupied Palestinian Territories, including Gaza.
 - In making its finding, the Court noted that any suspect or state might submit a jurisdictional challenge in future stages of the proceedings.
- The Prosecutor has an active investigation into the situation in the Occupied Palestinian Territories.
 - The focus of the Prosecutor’s investigation is a matter for the Prosecutor.

Why won’t the Australian Government remove the Israeli Ambassador from Australia / Why won’t Australia remove the Australian Ambassador from Israel?

- Australia is a longstanding friend of Israel
 - as a friend we raise concerns when and where they exist.
- Embassies and diplomatic staff are essential to maintain official channels of communication between governments.
- Our diplomatic relationship allows us to make direct representations to Israel on issues of concern.

What is Australia’s view on the longer-term solution to the Hamas-Israel conflict?

- The devastating crisis in Gaza underscores the need for a political solution to the long-running conflict between Israelis and Palestinians.
- The Australian Government's guiding principle has always been the pursuit of a two-state solution
 - where Israelis and Palestinians can live in peace and security within internationally recognised borders.
- While a negotiated settlement seems a long way off, it remains the only pathway to the just and enduring peace that both Israelis and Palestinians deserve.
- One of the many tragic consequences of Hamas's abhorrent attack on 7 October is that it pushes this two-state solution further out of reach.

What are Australia’s views on PM Netanyahu’s comments that, after its war with Hamas, Israel would manage security in Gaza for an ‘indefinite period’?

- A range of views have been expressed about arrangements following Israel’s current operations in Gaza.
- Clear that an enduring peace will require a political solution.
- Despite deep challenges involved, this will require a two-state solution in which Israelis and Palestinians can live securely within internationally recognised borders.

What are Australia’s views on strikes on hospitals and other targets with potentially high civilian casualties? [e.g. strikes on refugee camps and schools]

- We have seen a harrowing number of civilians killed, 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 when conducting military operations targeting Hamas.
- International humanitarian law requires the application of the principles of distinction, proportionality and precaution
 - Israel should do everything it can to ensure it observes these rules in its military operations.

What is Australia's response to the Special Rapporteur comments that Australia is 'complicit' in Israel/Gaza conflict?

- The Special Rapporteur has an important role – as an independent expert – to investigate and assess the human rights situation on the ground in the Occupied Palestinian Territories.
- To suggest Australia is somehow complicit in the unfolding situation in Gaza is not helpful.
- Australia's position in all contexts is to call for the protection of civilian lives and the adherence to international humanitarian law.
- We continue to support the ongoing efforts of international partners to de-escalate the situation.
- Australia's \$25 million in humanitarian assistance is helping to meet urgent needs in Gaza like medical supplies and emergency water, sanitation and hygiene services.

Travel Advice and Departures

How can Australians in Israel, the Occupied Palestinian Territories and Lebanon register with DFAT?

- Australians in Israel, the Occupied Palestinian Territories and Lebanon can register via crisis.dfat.gov.au.

What is DFAT's advice to Australians in Israel or the Occupied Palestinian Territories?

- The Australian Government's overall level of travel advice for Israel and the Occupied Palestinian Territories is Level 3 'Reconsider your need to travel' due to the volatile security situation, including the threat of terrorism, armed conflict and civil unrest
 - the Australian Government advises Level 4 'Do not travel' for the West Bank (excluding East Jerusalem), Gaza and bordering areas, and border areas with Lebanon.
- Australians who want to leave are strongly encouraged to take the first available option
 - Tel Aviv's Ben Gurion International Airport remains open and commercial flights are available.
- Monitor local media and public safety information updates through the National Emergency Portal (accessible in Israel only).

What assistance is Australia providing to Australians and their families in Gaza?

- We continue to provide assistance to individuals in Gaza
 - including Australians, their family members and long-term visa holders who have told us they want our help to depart.

- DFAT continues to receive and assess registrations from groups and individuals in Gaza seeking assistance.
- Australia is communicating about departure options with all individuals registered with us in Gaza
 - disruptions to communications infrastructure in Gaza make contact difficult.
- Australia has worked with authorities and supported international efforts to establish a safe passage corridor both for humanitarian supplies and for Australians and their family members who want to depart Gaza.
- DFAT will continue to provide support to any individuals registered with us who are unable to, or do not want to, leave Gaza.

How can Australians leave the West Bank?

- Australia has assisted a number of Australians and their family members to depart the West Bank.
- We continue to work on further departures for Australians requiring assistance to leave the West Bank.
- Australians considering leaving via a border crossing should check the status of the border crossing before departure.

What is DFAT's advice to Australians in Lebanon?

- The Australian Government's travel advice for Lebanon is Level 4 'Do not travel'.
- Daily military action is occurring in southern Lebanon, including rocket and missile fire, as well as airstrikes
 - the situation could escalate quickly, and this could affect your ability to move to safety
 - avoid areas where military activity is ongoing.
- Australians in Lebanon who wish to leave should leave now while commercial flights remain available
 - the Australian Government may not be able to assist you to leave.
- There are no assisted departure flights scheduled. There are 924 active registrations in Lebanon, and an estimated 15,000 Australians in Lebanon at any given time.

Are you supporting Australians to depart Lebanon by commercial means?

- Australians should first look to family and friends for financial support if they are unable to afford to depart Lebanon.
- Australians in Lebanon may be eligible to receive a Traveller Emergency Loan (TEL) to assist with
 - the purchase of tickets on a commercial flight to depart Lebanon
 - bringing forward the date of an existing flight booking.
- Further information is available online at:

<https://www.smartraveller.gov.au/information-australians-lebanon>.

Is Australia proposing to withdraw non-essential staff from our Embassy in Beirut, as the UK has done?

- Due to the changing security environment, on 15 October the Government offered voluntary departures of dependants of Australian officials posted in Lebanon.
- Our Embassy staff remain in Beirut for critical duties, including supporting the large number of Australian citizens in Lebanon.

How is the Australian Government ensuring that none of those being repatriated to Australia have links to terrorist groups?

- The Australian Government is committed to protecting the safety of all Australians and has robust domestic measures and strong international partnerships in place to address terrorism risks.

Australian Government actions

What else is the Australian Government doing for Australians caught up in the crisis?

- Australian Government officials have been deployed to the region
 - the DFAT Crisis Centre in Canberra is operating on a 24-hour basis.
- Between 14-20 October, eight Australian assisted flights departed Israel to a regional hub.
- DFAT has also assisted the departure of 38 individuals from the West Bank, and 28 from Gaza.

Is there an update on how many Australians have been caught up in the conflict?

- At least 2,098 Australians, permanent residents and their families have now left Israel or the Occupied Palestinian Territories.
 - of the registered individuals that have departed 1,256 have returned to Australia (assisted and independently).
- There are 1,553 active registrations in Israel and the Occupied Palestinian Territories
 - 437 of those are registered for information updates only.
- DFAT is providing consular assistance to more 200 Australians and their family members as a result of the conflict, comprising
 - a small number of individuals in Israel, including the family of one Australian who was killed
 - more than 50 individuals in the West Bank
 - more than 150 individuals in Gaza (includes Australian citizens, permanent residents, and Palestinians with Australian visas and Australian family members).
- It is estimated there are 10,000-12,000 Australians in Israel at any given time.

What diplomacy is the Australian Government undertaking?

- Foreign Minister Wong is speaking frequently to counterparts about the situation, including the need to secure greater humanitarian access to Gaza and prevent the conflict from widening.
- These engagements have included:
 - Foreign Ministers of Egypt, Lebanon, Israel, Jordan, the Palestinian Authority, Lebanon, UAE, Japan, Canada, Indonesia, Korea, Belgium, Brazil, Iraq, Iran, Türkiye, Qatar, the UK Foreign Secretary, the US Secretary of State, the President of the International Committee of the Red Cross, the UN Special Coordinator to the Middle East Peace Process, the Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator and UN Office for the Coordination of Humanitarian Affairs (OCHA).

How does the Australian Government respond to domestic protests and violent clashes?

- As Foreign Minister Wong has said, there is no place for antisemitism nor Islamophobia in Australia and related violence is unacceptable
 - all Australians have a right to be safe and feel safe
 - we don't want to turn understandable distress into anger that divides us.

Humanitarian

What support is Australia providing for the humanitarian situation in Gaza?

- Australia has announced \$25 million in humanitarian assistance for civilians affected by the conflict in the Occupied Palestinian Territories and region, focused on Gaza. Our support will provide essential supplies and support services. This includes:
 - \$9 million through the Red Cross and Red Crescent Movement to provide food, water and medical care to victims of the conflict.
 - \$13 million to provide essential support and services with a focus on women and children, to be delivered through UN agencies such as UN Children's Fund (UNICEF) and UN Population Fund (UNFPA).
 - \$3 million to respond to emerging humanitarian needs caused by the conflict.

Where can Australians donate to support humanitarian efforts on the ground?

- DFAT's Crisis Hub web page includes information on donating to charities that deliver humanitarian relief. Refer to www.dfat.gov.au/crisis-hub

Are charitable donations by Australians being 'funnelled' to organisations linked to the Popular Front for the Liberation of Palestine terror group?

- Australia's counter-terrorism financing sanctions make it an offence to use or deal with an asset owned or controlled by a listed person or entity, or to provide any kind of asset to them
 - there are serious penalties for infringement of Australian sanctions laws [*up to 10 years' imprisonment and heavy fines*]
 - it is important that due diligence is conducted to ensure funds are protected from misuse, and the persons or entities that charities may be transacting with are not designated under Australian sanctions law
 - the Australian Government Listed Terrorist Organisations website (www.nationalsecurity.gov.au/what-australia-is-doing/terrorist-organisations/listed-terrorist-organisations) and Consolidated List of all designated persons and entities on the DFAT website (www.dfat.gov.au/international-relations/security/sanctions/consolidated-list) are available as tools to assist the public in undertaking their due diligence checks
 - we also recommend reviewing the Australian Charities and Not-for-profits Commission (ACNC) website (www.acnc.gov.au) to check if a charity is registered with ACNC or access useful information on donations more broadly.
- The Popular Front for the Liberation of Palestine has been subject to counter-terrorism financing sanctions (COTUNA Part 4) since 21 December 2001.
- DFAT's Crisis Hub web page includes information on donating to charities that

deliver humanitarian relief.

- The Australian Government is actively monitoring the humanitarian situation and consulting with humanitarian agencies and the Australian Council for International Development (ACFID) as they assess funding requirements and implement response plans.
- The Australian Government is currently providing funding through UN agencies and the International Red Cross and Red Crescent Movement
 - these organisations are in Gaza, have early supplies being replenished via Rafah and have strong procedures in place to manage risks of terrorism financing and meet Australian sanctions law.

If asked: Is the Union of Health Work Committees subject to Australian financial sanctions or listed as a terrorist organisation under the Criminal Code?

- No.
- The Australian Government Listed Terrorist Organisations and a Consolidated List of all designated persons and entities are available as tools to assist the public in undertaking their due diligence checks.

If asked: Has a sanctions offence occurred?

- Australia takes possible breaches of Australian sanctions laws seriously
 - it would be inappropriate to comment on specific sanctions compliance matters.

Sanctions

Will Australia impose additional sanctions against Hamas? Are you aware of action taken by the US / other countries?

- Australia has already taken strong action and imposed counter-terrorism financing sanctions under Part 4 of the Charter of the United Nations Act 1945 (COTUNA) in relation to Hamas, Palestinian Islamic Jihad (PIJ) and Hizballah
 - a further six entities and nine persons with links to these groups have also been sanctioned.
- Aware the US [on 14 November] designated eight persons and two entities for targeted financial sanctions in response to the attacks perpetrated by Hamas against Israeli civilians
 - this is in addition to previous related listings by the US.
- Australia continues to engage regularly with international partners on the Israel-Hamas conflict.
- Sanctions frameworks, processes and legal thresholds differ between countries.
- We do not speculate on potential sanctions measures.

What about Australians fighting in the conflict or donating to terrorist organisations?

- Australians who travel to fight, who are not serving in the armed forces of a foreign country, may be committing a criminal offence.
- Hamas is a listed terrorist organisation under Australian law
 - Australians who travel to fight with a terrorist organisation, or who recruit another person to do so, are committing a serious criminal offence
 - if you are concerned that someone you know may be preparing to travel to

fight for a terrorist organisation, contact the National Security Hotline on 1800 123 400.

- Hamas is also a designated entity subject to counter-terrorism financing sanctions under the Australian sanctions law
 - it is a criminal offence for Australian citizens or residents to fund listed terrorist organisations, either directly or indirectly.

Any use or disclosure of personal information about individuals and the incidents contained in this background should not be made public. To do so may constitute a breach of the Privacy Act 1988 (Cth).

Background

On 7 October, Hamas and other militant groups, including the Palestinian Islamic Jihad (PIJ), launched a surprise attack against Israel from Gaza. Large numbers of military and civilians were taken hostage, including foreign nationals from the US, Thailand, Nepal, Russia, UK, Canada, Mexico, France and Germany. To date, five hostages have been freed. An estimated 241 hostages remain in Gaza.

The attacks prompted Israeli Prime Minister Netanyahu to declare war and a state of emergency. Israel has responded with air strikes and a ground incursion into Gaza.

Special Rapporteur on the situation of human rights in the Palestinian Territory occupied since 1967

Francesca Albanese, the UN's 'Special Rapporteur on the situation of human rights in the Palestinian Territory occupied since 1967', is visiting Australia as a guest of the Adelaide-based Australian Friends of Palestine Association to present the Edward Said Memorial Lecture. She is not visiting Australia in her official capacity as UN Special Rapporteur. An article in the Sydney Morning Herald (12 November 2023), quoted Ms Albanese as saying Australia was 'complicit' in the scenes of death and destruction in Gaza and accused Israel of using the war against Hamas as a pretext to push Palestinians out of their ancestral lands.

Rafah Crossing

Since 1 November, the Rafah border crossing into Egypt has been opening and closing periodically for foreign nationals to depart Gaza. On 1 November 20 Australian citizens, one permanent resident and two family members departed Gaza. On 2 November one Australian citizen, and one Australian permanent resident departed. On 7 November, a family group of three Australian citizens crossed the Rafah border into Egypt. No Australians have crossed the border at Rafah since 7 November.

Australians affected

On 11 October 2023, Foreign Minister Wong announced the death of Australian woman, Ms Galit Carbone.

Australian sanctions - Hamas and the Palestinian Islamic Jihad

Hamas has been subject to counter-terrorism financing sanctions under Australian sanctions law since 21 December 2001, pursuant to Australia's obligations under UNSCR 1373. In addition to the entity listing, six entities and three individuals with links to Hamas are also subject to sanctions.

Hamas has been a designated Terrorist Organisation under Australia's Commonwealth Criminal Code since 4 March 2022. Hamas' paramilitary wing, the Izz al-Din al-Qassam Brigades has been designated a Terrorist Organisation since 5 November 2003.

PIJ has been subject to counter-terrorism financing sanctions under Australian sanctions law since 21 December 2001. PIJ has also been designated as a Terrorist Organisation under the Criminal Code since 3 May 2004.

Sanctions imposed by the US

On 14 November, the US designated eight individuals and two entities for targeted financial sanctions, due to ties with Hamas and Palestinian Islamic Jihad (PIJ). This is in addition to the targeted financial sanctions imposed by the US [on 18 and 27 October] in relation to the attacks perpetrated by Hamas against Israeli civilians on 7 October 2023. The US action was taken in coordination with the UK, which also announced sanctions against senior Hamas leaders and financiers on 14 November.

Additional Defence personnel and aircraft deployed under Operation BEECH

In response to a request from the Foreign Minister, the ADF deployed two aircraft and personnel to the region as a precautionary measure to support contingency planning should the security situation deteriorate. Additionally, in Australia, there is a C-17A Globemaster III heavy transport ready to provide support if required.

Handling Notes

Nil.

Media Interest

These events have a high level of domestic and international interest.

s 47E(d)

s 47E(d)

From: [Harvey, Nina](#)
To: s 22(1)(a)(ii)
Cc: [Marie-Charlotte Mckenna](#); s 22(1)(a)(ii)
Subject: RE: [For urgent comment] TPs on ICC investigation into OPTs [REDACTED]
Date: Thursday, 16 November 2023 5:10:19 PM
Attachments: [image001.png](#)
s 47E(d) - [for consultation.docx](#)
- [for consultation.docx](#)
[ICC Referral State of Palestine.docx](#)

[REDACTED]

Hi s 22(1)(a)(ii)

I confirm that we are comfortable with the proposed QoN responses and with the contingency TPs.

Regards,

Nina Harvey (she/her)
Assistant Secretary
International Security, Criminal and Diplomatic Law Practice Group
Office of International Law
Attorney-General's Department

3-5 National Circuit | Barton ACT 2600

T: s 22(1)(a)(ii)

E: nina.harvey@ag.gov.au

From: s 22(1)(a)(ii) [REDACTED] <[REDACTED]@dfat.gov.au>

Sent: Wednesday, 15 November 2023 6:04 PM

s 22(1)(a)(ii) - email removed as duplicate email found on page 59

s 47C(1)

From: s 22(1)(a)(ii) @dfat.gov.au>
Sent: Friday, 17 November 2023 8:32 AM
To: s 47E(d) @dfat.gov.au>
Cc: Marie-Charlotte McKenna <Marie-Charlotte.McKenna@dfat.gov.au>; Gemma Huggins <Gemma.Huggins@dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au>
Subject: RE: Possible ICC referral Israel/Palestine [REDACTED]

Hi LVS

We have received a further updates from Post overnight on the possible ICC referral.

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

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

Contingency points

Given this timing, we would be **grateful if could provide any comments on the contingency points by COB today**, so that we can clear at SES level and finalise on Monday. We have proposed a minor addition based on my discussion with ^{s 22(1)(a)(ii)} on Wednesday (in blue). We have also included an additional point **s 33(a)(iii), s 47E(d)**

s 47E(d)

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

QoNs

Thank you also to **s 47F(1)** for sharing a third QoN **s 47E(d)** on the same issue. I haven't been able to access PDMS today, but the question is as follows:

"Senator STEELE-JOHN: Just finally, would the government be supportive of the ICC conducting investigations into the events in Israel and Palestine since 7 October? We have war crimes committed by Hamas. We have war crimes committed by the State of Israel. Surely this is what the ICC was created to investigate, Minister.

We propose to respond in the same way as the other two QoNs (attached for convenience)

As noted in my earlier email, grateful for any comments on these three QoNs by **COB today**.

Kind regards

s 22(1)(a)(ii)

Assistant Director | International Security Law Section
International Law Branch | Legal Division
Department of Foreign Affairs and Trade
T : s 22(1)(a)(ii) | M: s 22(1)(a)(ii)

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From: s 22(1)(a)(ii)

Sent: Thursday, 16 November 2023 4:23 PM

To: s 47E(d) <[s 47E\(d\)@dfat.gov.au](mailto:s 47E(d)@dfat.gov.au)>

Cc: Marie-Charlotte McKenna <Marie-Charlotte.McKenna@dfat.gov.au>; Gemma Huggins <Gemma.Huggins@dfat.gov.au>; s 22(1)(a)(ii) <[s 22\(1\)\(a\)\(ii\)@dfat.gov.au](mailto:s 22(1)(a)(ii)@dfat.gov.au)>; s 22(1)(a)(ii) <[s 22\(1\)\(a\)\(ii\)@dfat.gov.au](mailto:s 22(1)(a)(ii)@dfat.gov.au)>

Subject: RE: Possible ICC referral Israel/Palestine [REDACTED]

Hi LVS

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

In relation to the **QoNs**, we would be grateful if we could instead receive comments by **COB Friday (tomorrow)**. We've brought this deadline up to allow us time to clear at DepSec level.

Kind regards

s 22(1)(a)(ii)

Assistant Director | International Security Law Section
International Law Branch | Legal Division
Department of Foreign Affairs and Trade
T : s 22(1)(a)(ii) | M: s 22(1)(a)(ii)



Australian Government
Department of Foreign Affairs and Trade

QUESTION ON NOTICE FOR: SENATOR THE HON PENNY WONG

s 47E(d)

Question Submitted by: Jordon Steele-John
Question Number:
Question Date: 02 November 2023
Committee Due Date: 23 November 2023
Subject: Israel/ Hamas - International Criminal Court
Clearance: Paul Schofield **Date:** 21 November 2023
ISG | LGD | International Law Branch I
Contact Officer: s 22(1)(a)(ii) **Phone:** s 22(1)(a)(ii)
Information Minister: TIM WATTS

Background for Advisers:

In 2020, Australia made a submission to the ICC objecting to the Court exercising jurisdiction in relation to the situation in the Occupied Palestinian Territories, including on the basis that it did not recognise Palestinian statehood. In 2021 the ICC's Pre-Trial Chamber found that the ICC has territorial jurisdiction over the Occupied Palestinian Territories, including Gaza. The Prosecutor opened an investigation on 3 March 2021 into the situation in the Occupied Palestinian Territories.

The attached response to this question is

APPROVED / NOT APPROVED

PENNY WONG

...../...../.....

QUESTION ON NOTICE / Spoken

– Supplementary Budget Estimates

Page:

Topic: Israel/ Hamas - International Criminal Court

Senator Jordon Steele-John

Question

"Senator STEELE-JOHN: Thank you. Sticking with the question of international law, in 2021 the Office of the Prosecutor of the International Criminal Court commenced an investigation into the situation in Palestine, having engaged in a protracted legal process to assure itself of the court's jurisdiction over East Jerusalem and the West Bank, and Gaza as well. At the time, the Morrison government opposed the investigation, and Australia was one of the parties to lodge dissenting briefs in the legal process. Is it your government's position, Minister, that the Australian Commonwealth now supports the investigation undertaken by the ICC?

Ms McKenna: In 2021 the pre-trial chamber of the International Criminal Court found that the court has territorial jurisdiction over the Occupied Palestinian Territories, including Gaza, and the prosecutor has opened an investigation into the situation in the Occupied Palestinian Territories. In making its decision, the pre-trial chamber noted that any state or suspect might submit a jurisdictional challenge in any future stages of the proceedings, so I wouldn't purport to pre-empt any such challenge or the court's future consideration of those questions. Of course, the focus of the prosecutor's current investigation is a matter for the prosecutor.

Senator STEELE-JOHN: Minister, that is a factual statement of the process at hand, but, in terms of the government's position, not the departmental response, does the government support the investigation currently being undertaken by the ICC?

Senator Wong: I will take this on notice. Obviously, this also is something that the Attorney-General might be engaged on. But I don't think I have anything to add to Ms McKenna's answer.

Senator STEELE-JOHN: So you'll take it on notice for the committee?

Ms Adams: Yes.

Senator Wong: Yes."

Answer

In 2021 the Pre-Trial Chamber of the International Criminal Court found that the Court has territorial jurisdiction over the Occupied Palestinian Territories, including Gaza. In making its finding, the Court said it was not competent to determine the matter of statehood, and its decision was without prejudice to any future borders. The Court noted that any State or suspect may submit a jurisdictional challenge in future stages of the proceedings.

The Prosecutor has an active investigation open into the situation in the Occupied Palestinian Territories. Australia will not pre-empt ongoing prosecutorial and judicial processes in this matter.

Division: ISG LGD International Law Branch I	
PDR No: s 47E(d)	
Prepared by: s 22(1)(a)(ii) Date: 20 November 2023	Cleared by Branch Head: Marie-Charlotte McKenna, AS ILB Date: 20 November 2023
Consultation: s 47E(d)	
Cleared by FAS: Paul Schofield, A/g FAS LGD Date: 21 November 2023	



Australian Government
Department of Foreign Affairs and Trade

QUESTION ON NOTICE FOR: SENATOR THE HON PENNY WONG

s 47E(d)

Question Submitted by: Jordon Steele-John
Question Number:
Question Date: 02 November 2023
Committee Due Date: 23 November 2023
Subject: Israel/Hamas - International Criminal Court
Clearance: Paul Schofield **Date:** 21 November 2023
 ISG | LGD | International Law Branch I
Contact Officer: s 22(1)(a)(ii) **Phone:** s 22(1)(a)(ii)
Information Minister: TIM WATTS

Background for Advisers:

In 2020, Australia made a submission to the ICC objecting to the Court exercising jurisdiction in relation to the situation in the Occupied Palestinian Territories, including on the basis that it did not recognise Palestinian statehood. In 2021 the ICC's Pre-Trial Chamber found that the ICC has territorial jurisdiction over the Occupied Palestinian Territories, including Gaza. The Prosecutor opened an investigation on 3 March 2021 into the situation in the Occupied Palestinian Territories.

The attached response to this question is

APPROVED / NOT APPROVED

PENNY WONG

...../...../.....

QUESTION ON NOTICE / Spoken

– Supplementary Budget Estimates

Page:

Topic: 014 - Israel/Hamas - International Criminal Court

Senator Jordon Steele-John

Question

"Senator STEELE-JOHN: I have a question of clarification. Notwithstanding that you have taken on notice the question of whether the current government is supportive of the ICC prosecutor's investigations in relation to the situation in Palestine, is it the government's position that the court has jurisdiction to investigate such matters?

Ms Adams: I think we will take it on notice as part of the original question.

Senator STEELE-JOHN: The reason I ask it here is that I'm following the foreign minister's lead in having asked the same question in, I think, February 2020 of the Department of Foreign Affairs and Trade.

Senator Wong: Did I get an answer?

Senator STEELE-JOHN: Yes, you did, from Mr Larsen.

Senator Wong: The advice I have from the department is that they need to take it on notice, so we are going to take it on notice.

Senator STEELE-JOHN: So you can't tell the committee today whether—

Senator Wong: No."

Answer

In 2021 the Pre-Trial Chamber of the International Criminal Court found that the Court has territorial jurisdiction over the Occupied Palestinian Territories, including Gaza. In making its finding, the Court said it was not competent to determine the matter of statehood, and its decision was without prejudice to any future borders. The Court noted that any State or suspect may submit a jurisdictional challenge in future stages of the proceedings.

The Prosecutor has an active investigation open into the situation in the Occupied Palestinian Territories. Australia will not pre-empt ongoing prosecutorial and judicial processes in this matter.

Division: ISG LGD International Law Branch I	
PDR No: s 47E(d)	
Prepared by: s 22(1)(a)(ii) Date: 20 November 2023	Cleared by Branch Head: Marie-Charlotte McKenna, AS ILB Date: 20 November 2023
Consultation: s 47E(d)	
Cleared by FAS: Paul Schofield, A/g FAS LGD Date: 21 November 2023	



Australian Government
Department of Foreign Affairs and Trade

QUESTION ON NOTICE FOR: SENATOR THE HON PENNY WONG

s 47E(d)

Question Submitted by: Jordon Steele-John
Question Number:
Question Date: 02 November 2023
Committee Due Date: 23 November 2023
Subject: Israel/ Hamas Conflict – International Criminal Court
Clearance: Paul Schofield **Date:** 21 November 2023
 ISG | LGD | International Law Branch I
Contact Officer: s 22(1)(a)(ii) **Phone:** s 22(1)(a)(ii)
Information Minister: TIM WATTS

Background for Advisers:

In 2020, Australia made a submission to the ICC objecting to the Court exercising jurisdiction in relation to the situation in the Occupied Palestinian Territories, including on the basis that it did not recognise Palestinian statehood. In 2021 the ICC's Pre-Trial Chamber found that the ICC has territorial jurisdiction over the Occupied Palestinian Territories, including Gaza. The Prosecutor opened an investigation on 3 March 2021 into the situation in the Occupied Palestinian Territories.

The attached response to this question is

APPROVED / NOT APPROVED

PENNY WONG

...../...../.....

QUESTION ON NOTICE / Spoken

018 – Supplementary Budget Estimates

Page:

Topic: 018 - Israel/ Hamas Conflict

Senator Jordon Steele-John

Question

"Senator STEELE-JOHN: Just finally, would the government be supportive of the ICC conducting investigations into the events in Israel and Palestine since 7 October? We have war crimes committed by Hamas. We have war crimes committed by the State of Israel. Surely this is what the ICC was created to investigate, Minister.

Ms Adams: We'll take the question on notice."

Answer

In 2021 the Pre-Trial Chamber of the International Criminal Court found that the Court has territorial jurisdiction over the Occupied Palestinian Territories, including Gaza. In making its finding, the Court said it was not competent to determine the matter of statehood, and its decision was without prejudice to any future borders. The Court noted that any State or suspect may submit a jurisdictional challenge in future stages of the proceedings.

The Prosecutor has an active investigation open into the situation in the Occupied Palestinian Territories. Australia will not pre-empt ongoing prosecutorial and judicial processes in this matter.

Division: ISG MAD Middle East Branch	
PDR No: s 47E(d)	
Prepared by: s 22(1)(a)(ii) Date: 20 November 2023	Cleared by Branch Head: Marie-Charlotte McKenna, AS ILB Date: 20 November 2023
Consultation: s 47E(d)	
Cleared by FAS: Paul Schofield, A/g FAS LGD Date: 21 November 2023	

s 47E(d)

s 22(1)(a)(ii)

s 22(1)(a)(ii)

s33(a)(iii) and s33(b)

s 22(1)(a)(ii)



Background

s 22(1)(a)(ii)

Australia's position on ICC's investigation into Occupied Palestinian Territories

In 2015, the Palestinian Authority lodged an instruction of accession under the entry into force provisions of the Rome Statute. In 2015, Australia wrote to the UN Secretary General stating that it did not recognise the right of the Palestinian Authority to lodge an instrument of accession under the entry into force provisions of the Rome Statute. In 2020, Australia made a submission to the ICC objecting to the Court exercising jurisdiction in relation to the situation in the Occupied Palestinian Territories, including on the basis that it did not recognise Palestinian statehood. In 2021 the ICC's





Pre-Trial Chamber found that the ICC has territorial jurisdiction over the Occupied Palestinian Territories, including Gaza. The Prosecutor opened an investigation in 2021 [3 March] into the situation in the Occupied Palestinian Territories. The ICC Prosecutor [*Karim Khan KC*] has made it clear that the open investigation into the situation in Occupied Palestinian Territory may include investigating acts committed in the current conflict, and may also extend to any acts committed by Palestinian nationals in Israeli territory.

