



Communiqué to the Office of the Prosecutor of the International Criminal Court

Under Article 15 of the Rome Statute

**Conduct of New Zealand political and
business leaders in relation to the situation
in Gaza:**

**Request to investigate the potential
commission of international crimes**

3 July 2025

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Executive summary

1. This communiqué is prepared by Palestine Solidarity Network Aotearoa (PSNA), a network of community organisations in Aotearoa (New Zealand) which coordinates with Palestinian New Zealanders to build and strengthen campaigns for a free Palestine.
2. In this communiqué, PSNA calls upon the Office of the Prosecutor (“OTP”) of the International Criminal Court (“Court”) to commence a preliminary examination of, and thereafter, with the authorisation of the Pre-Trial Chamber, an investigation into, crimes within the jurisdiction of the Court which PSNA believes may have been committed by New Zealand political and business leaders.
3. In the alternative, PSNA requests that the OTP consider the information in this communiqué as part of its ongoing investigation into the Situation in the State of Palestine.
4. This communiqué posits that, since 7 October 2023, certain members of Israel’s political leadership and armed forces have committed war crimes,¹ crimes against humanity,² and genocide³ in Gaza as part of *a group of persons acting with a common purpose* for the purpose of article 25(3)(d) of the Rome Statute of the International Criminal Court (“Rome Statute”), where the group’s common purpose has been, with respect to Gaza, to kill civilians, to destroy civilian objects, to cause widespread civilian suffering, to deprive the people of Gaza of the necessities of life, and to render Gaza depopulated and uninhabitable.
5. Noting the centrality of the state of Israel to the commission of these international crimes and within the broader *group of persons acting with a common purpose* for the purpose of article 25(3)(d) of the Rome Statute, in this communiqué that group will be referred to simply as Israel. PSNA recognises that many Israeli nationals have opposed, or played no part in, the commission of these international crimes.
6. The focus of this communiqué is New Zealand political and business leaders who PSNA believes may have intentionally contributed to Israel’s commission of war crimes, crimes against humanity, and genocide, in a manner falling within article 25(3)(d) of the Rome Statute.

¹ Article 8, Rome Statute of the International Criminal Court (“Rome Statute”).

² Article 7, Rome Statute.

³ Article 6, Rome Statute.

New Zealand political support for Israel's commission of international crimes

7. Leading New Zealand politicians have supported Israel's commission of international crimes in Gaza since 7 October 2023, in particular by characterising Israel's attacks on Gaza as self-defence, by shifting blame for Israel's actions to Hamas, by denying or avoiding recognition of Israel's atrocities, and by publicly presenting warm diplomatic relations with Israel without censure for its crimes.
8. Through such actions, New Zealand political leaders have intentionally provided moral support and political cover to Israel. Despite PSNA's repeated requests for intervention from the New Zealand government to hold Israel to account for its crimes through the means at its disposal, no such actions have been taken.
9. There is a reasonable basis to believe that the New Zealand political leaders responsible for this conduct have individual criminal responsibility for their intentional contributions to Israel's international crimes pursuant to article 25(3)(d) of the Rome Statute.

Potential New Zealand material support for Israel's commission of international crimes

10. PSNA believes it is highly likely that New Zealand-linked companies Rakon Limited ("Rakon") and Rocket Lab USA Incorporated ("Rocket Lab") have materially contributed towards Israel's devastating air attacks on civilians and civilian infrastructure in Gaza, thereby contributing towards Israel's commission of war crimes, crimes against humanity, and genocide. New Zealand politicians have allowed these likely material contributions to Israel's commission of international crimes, and in this way are also implicated.
11. PSNA believes Rakon to be a global leader in the supply of military-grade crystal oscillators, which are components used to guide missiles to targets. PSNA believes Rakon's crystal oscillators are likely being incorporated into Joint Direct Attack Munition (JDAM) "smart bombs" as well as other satellite-guided munitions manufactured in the United States, from where PSNA believes these munitions equipped with Rakon-supplied componentry have likely been provided to Israel for use in its air strikes on Gaza.
12. PSNA believes Rakon has likely provided this contribution to Israel's air attacks after the beginning of its war on Gaza on 7 October 2023, and with knowledge within the company of

this likely contribution to Israel's commission of international crimes. PSNA considers there is a reasonable basis to believe that at the highest level of this company, there is individual criminal responsibility for intentional contribution to Israel's international crimes pursuant to article 25(3)(d) of the Rome Statute. PSNA also believes that New Zealand Prime Minister Rt Hon Christopher Luxon and Minister of Foreign Affairs Rt Hon Winston Peters are likely criminally responsible for their roles in allowing the likely export of Rakon's military-grade crystal oscillators from New Zealand.

13. Rocket Lab launches geospatial intelligence satellites from its spaceports in New Zealand and in Virginia in the United States. PSNA believes it is highly likely that satellites launched by Rocket Lab for US geospatial intelligence company BlackSky Technology ("BlackSky") are providing geospatial intelligence to Israel. Geospatial intelligence is used by Israeli artificial intelligence systems, which generate civilian strike targets for approval and execution. In November 2024, PSNA advised Rocket Lab chief executive officer Sir Peter Beck as well as New Zealand's Minister for Space, Hon Judith Collins KC, of this issue.
14. PSNA believes that Rocket Lab's launching of geospatial intelligence satellites for BlackSky on 19 February 2025 and 3 June 2025 very likely attracts criminal responsibility to individuals at the highest level of Rocket Lab, alongside Ms Collins, for intentional contribution to Israel's international crimes pursuant to article 25(3)(d) of the Rome Statute. Three further launches of BlackSky's "next generation" earth observation satellites are intended to take place from Rocket Lab's New Zealand spaceport.
15. PSNA also considers that New Zealand's involvement in United States and United Kingdom-led air strikes, targeting the Houthis in Yemen, has assisted Israel to continue committing international crimes in Gaza in the face of Houthi opposition. PSNA believes that New Zealand's involvement in these air strikes attracts criminal responsibility to each of Mr Luxon, Mr Peters, and Ms Collins as Minister of Defence, pursuant to article 25(3)(d) of the Rome Statute.
16. New Zealand is a member of Five Eyes, an intelligence alliance between New Zealand, Australia, the United States, Canada, and the United Kingdom. With particular reference to the Five Eyes context, in this communiqué PSNA provides evidence to the OTP about possible New Zealand intelligence sharing with Israel. PSNA believes this is worthy of investigation.

Potential offences for investigation

17. PSNA calls upon the OTP to investigate New Zealand political and business leaders for the commission of potential offences as follows:
- Rt Hon Christopher Luxon (Prime Minister), for the commission of war crimes, crimes against humanity, and genocide. Mr Luxon's criminal responsibility arises from his political support for Israel's commission of international crimes, for allowing Rakon's likely material contribution to Israel's commission of international crimes, and for New Zealand's participation in air strikes against the Houthis in Yemen;
 - Rt Hon Winston Peters (Minister of Foreign Affairs), for the commission of war crimes, crimes against humanity, and genocide. Mr Peters' criminal responsibility arises from his political support for Israel's commission of international crimes, for allowing Rakon's likely material contribution to Israel's commission of international crimes, and for New Zealand's participation in air strikes against the Houthis in Yemen;
 - Hon David Seymour (Minister for Regulation) for the commission of war crimes, crimes against humanity, and genocide. Mr Seymour's criminal responsibility arises from his political support for Israel's commission of international crimes;
 - Dr Sinan Altug, chief executive officer of Rakon, for the potential commission of war crimes, crimes against humanity, and genocide. Dr Altug's potential criminal responsibility arises from Rakon's likely material contribution to Israel's commission of international crimes;
 - Sir Peter Beck, chief executive officer and chair of the Board of Directors for Rocket Lab, for the potential commission of war crimes, crimes against humanity, and genocide. Sir Peter's potential criminal responsibility arises from Rocket Lab's very likely material contribution to Israel's commission of international crimes;
 - Hon Judith Collins KC (Minister for Space and Minister of Defence), for the potential commission of war crimes, crimes against humanity, and genocide. Ms Collins' potential criminal responsibility arises from allowing Rocket Lab's very likely material contribution to Israel's commission of international crimes, and for New Zealand participation in air strikes against the Houthis in Yemen.

18. PSNA also seeks that the OTP investigate possible New Zealand intelligence sharing with Israel. There is insufficient clarity about this for PSNA to identify individuals who are likely criminally responsible. PSNA notes that Ms Collins is the Minister Responsible for the GCSB and the Minister Responsible for the NZSIS (the New Zealand intelligence agencies).
19. PSNA understands that the International Criminal Court is a court of last resort. The absence of domestic criminal investigations or prosecutions for the outlined conduct means that the case(s) raised by this communiqué are admissible before the Court. PSNA has tried unsuccessfully to have the New Zealand authorities investigate this conduct.
20. In terms of gravity (as part of the test for admissibility), PSNA notes that the crime of genocide is particularly grave. Israel's commission of genocide and other international crimes in Gaza have shocked the human conscience. These crimes have been ongoing for over 20 months, bringing an unfathomable human cost that will reverberate for decades. Israel's brazen and ceaseless commission of international crimes in Gaza would not be possible without the political backing of Western leaders (such as New Zealand's leading politicians), and without the provision of military and intelligence support from outside Israel, as PSNA believes has likely been provided from New Zealand.

Israel's commission of international crimes

21. As a starting point, this communiqué relies on the finding of the Pre-Trial Chamber that there are reasonable grounds to believe that Israeli Prime Minister Benjamin Netanyahu and former defence minister Yoav Gallant bear criminal responsibility for war crimes and crimes against humanity committed in Gaza, at least for the period 8 October 2023 to 20 May 2024.⁴
22. As per the information released by the International Criminal Court on 21 November 2024,⁵ the Pre-Trial Chamber found reasonable grounds to believe that Mr Netanyahu and Mr Gallant each bear criminal responsibility for the following crimes *as co-perpetrators for committing the acts jointly with others*: the war crime of starvation as a method of warfare; and the crimes against humanity of murder, persecution, and other inhumane acts.

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<https://www.icc-cpi.int/news/situation-state-palestine-icc-pre-trial-chamber-i-rejects-state-israels-challenges>

⁵ Ibid.

23. The Chamber also found reasonable grounds to believe that Mr Netanyahu and Mr Gallant each bear criminal responsibility as civilian superiors for the war crime of intentionally directing an attack against a civilian population. The Chamber was only able to make those findings with regard to two incidents before it which it found qualified as attacks that were intentionally directed against civilians.
24. PSNA takes note of the Pre-Trial Chamber's finding that with regard to Mr Netanyahu and Mr Gallant's commission of the war crime of starvation as a method of warfare, and the crimes against humanity of murder, persecution, and other inhumane acts, they bear responsibility for these crimes as co-perpetrators for committing the acts *jointly with others*.
25. This communiqué suggests that each of the war crimes and crimes against humanity which the Pre-Trial Chamber found reasonable grounds to believe had been committed by Mr Netanyahu and Mr Gallant, as well as the crime of genocide as discussed below, have in fact been committed by various members of Israel's political leadership and armed forces since 7 October 2023.
26. This communiqué further suggests that in committing those international crimes, those persons have acted as part of *a group of persons acting with a common purpose* for the purpose of article 25(3)(d) of the Rome Statute, where the group's common purpose has been, with respect to Gaza, to kill civilians, to destroy civilian objects, to cause widespread civilian suffering, to deprive the people of Gaza of the necessities of life, and to render Gaza depopulated and uninhabitable.
27. This group of persons has existed in Israel since 7 October 2023.
28. The jurisprudence of the Court makes clear that under article 25(3)(d) of the Rome Statute, the persons who actually commit a crime, or crimes, under that article, may form all or part of the *group of persons acting with a common purpose*.⁶
29. Critically, it is suggested that members of Israel's political leadership and armed forces have committed genocide in Gaza in pursuit of that same common purpose held by the group.

⁶ *Prosecutor v Germain Katanga* (Judgment pursuant to article 74 of the Statute) ICC-01/04-01/07 (7 March 2014) at [1624]. URL: https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2015_04025.PDF

30. This communiqué suggests that the commission of all of these crimes is ongoing, as indeed the Pre-Trial Chamber noted that conduct similar to the war crimes and crimes against humanity it ruled on appeared to be ongoing as of 21 November 2024.
31. It will follow that PSNA believes the New Zealand individuals named in this communiqué may be responsible pursuant to art 25(3)(d) of the Rome Statute as accessories to the commission of war crimes, crimes against humanity, and genocide.
32. For the analysis of the extent of international crimes committed by members of Israel's political leadership and armed forces, PSNA relies on the specific findings made by the Pre-Trial Chamber (on the basis of belief on reasonable grounds) when it issued arrest warrants for Mr Netanyahu and Mr Gallant:⁷
- Both individuals intentionally and knowingly deprived the civilian population in Gaza of objects indispensable to their survival, including food, water, and medicine and medical supplies, as well as fuel and electricity, from at least 8 October 2023 to 20 May 2024;
 - Mr Netanyahu and Mr Gallant each played a role in impeding humanitarian aid in violation of international humanitarian law and they failed to facilitate relief by all means at their disposal;
 - The conduct of these individuals led to the disruption of the ability of humanitarian organisations to provide food and other essential goods to the population in need in Gaza;
 - Those restrictions on the supply of humanitarian aid together with cutting off electricity and reducing fuel supply to Gaza also had a severe impact on the availability of water in the territory and the ability of hospitals to provide medical care;
 - No clear military need or other justification under international humanitarian law could be identified for the restrictions placed on access for humanitarian relief operations;

⁷ https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2015_04025.PDF

- Despite numerous warnings and appeals to Israel, only minimal humanitarian assistance was authorised;
- The lack of food, water, electricity and fuel, and specific medical supplies, created conditions of life calculated to bring about the destruction of part of the civilian population in Gaza, which resulted in the death of civilians, including children due to malnutrition and dehydration;
- With regard to Palestinians in Gaza killed by Israeli forces over the period to 20 May 2024, there were reasonable grounds to believe that the crime against humanity of murder was committed by Mr Netanyahu and Mr Gallant in relation to those victims;
- By intentionally limiting or preventing medical supplies and medicine from getting into Gaza, in particular anaesthetics and anaesthesia machines, the two individuals are also responsible for inflicting great suffering by means of inhumane acts on persons in need of treatment. Doctors were forced to operate on wounded persons and carry out amputations, including on children, without anaesthetics, and/or were forced to use inadequate and unsafe means to sedate patients, causing these persons extreme pain and suffering. This amounts to the crime against humanity of other inhumane acts;
- The abovementioned conduct deprived a significant portion of the civilian population in Gaza of their fundamental rights, including the rights to life and health, and the population was targeted based on political and/or national grounds. The crime against humanity of persecution was therefore committed.
- There are reasonable grounds to believe that Mr Netanyahu and Mr Gallant bear criminal responsibility as civilian superiors for the war crime of intentionally directing attacks against the civilian population of Gaza. The Chamber was only able to make findings on two incidents that qualified as attacks that were intentionally directed against civilians. There are reasonable grounds to believe that Mr Netanyahu and Mr Gallant, despite having measures available to them to prevent or repress the commission of these crimes or ensure the submittal of the matter to the competent authorities, failed to do so.

33. This section of the communiqué will traverse some of the key aspects of the international crimes PSNA believes have been committed by the alleged *group of persons acting with a common purpose*, with a view to addressing the commission of crimes not yet subject to any determination by the Pre-Trial Chamber:

- Commission of international crimes by the group of persons acting with a common purpose;
- Commission of genocide in Gaza by the group of persons acting with a common purpose;
- Ongoing commission of these international crimes by the group past 20 May 2024 and to the present day.

Commission of international crimes by a group of persons acting with a common purpose

34. The alleged group of persons acting with a common purpose extends to various people in Israel who, since 7 October 2023, have promoted the following with respect to Gaza: killing civilians, destroying civilian objects, causing widespread civilian suffering, depriving the people of Gaza of the necessities of life, and rendering Gaza depopulated and uninhabitable.

Group of persons acting with a common purpose

35. Statements from Israeli political leaders, members of the armed forces, and others, demonstrate the scope of this group of persons acting with a common purpose.

36. On 7 October 2023, member of the Knesset (Israeli parliament) Revital Gotliv said:⁸

"Bring down buildings!! Bomb without distinction!! Stop with this impotence. You have ability. There is worldwide legitimacy! Flatten Gaza. Without mercy! This time, there is no room for mercy!"

37. On 7 October journalist Shimon Riklin said:⁹

"Gaza should be wiped off the face of the earth."

⁸ <https://intent.law4palestine.org/>

⁹ <https://intent.law4palestine.org/>

38. On 7 October, in a televised address, Mr Netanyahu said:¹⁰

“We will take mighty vengeance for this black day. We will take revenge for all the young people who lost their lives. We will target all of Hamas’s positions. We will turn Gaza into a deserted island. To the citizens of Gaza, I say: You must leave now. We will target each and every corner of the strip.”

39. On 8 October 2023, influencer/internet personality Ildad Yaniv said:¹¹

“The only way to win is in creating a humanitarian crisis in Gaza ... we need to dry out the Gazans.”

40. On 9 October 2023, Mr Gallant declared as follows:¹²

“I have ordered a complete siege on the Gaza Strip. There will be no electricity, no food, no fuel, everything is closed...We are fighting human animals, and we are acting accordingly.”

41. On 9 October, Minister of Education Yoav Kisch said:¹³

“Those are animals, they have no right to exist. I'm not arguing on how it should be done, but they need to be exterminated”.

42. On 10 October 2023, Mr Gallant spoke as follows when speaking to Israeli troops on the Gaza border:¹⁴

“I have released all restraints . . . You saw what we are fighting against. We are fighting human animals. This is the ISIS of Gaza. This is what we are fighting against . . . Gaza won't return to what it was before. There will be no Hamas. We will eliminate everything. If it doesn't take one day, it will take a week, it will take weeks or even months, we will reach all places.”

10 <https://www.aljazeera.com/news/2023/10/7/world-is-watching-fears-grow-of-a-massive-gaza-invasion-by-israel>

11 <https://intent.law4palestine.org/>

12

https://www.timesofisrael.com/liveblog_entry/defense-minister-announces-complete-siege-of-gaza-no-power-food-or-fuel/

13 <https://intent.law4palestine.org/>

14 As relied upon in the International Court of Justice’s provisional judgment in the South Africa v Israel genocide proceeding, dated 26 January 2024, at [52].

43. On 10 October 2023, the head of the Israel Defense Forces' (IDF's) Coordinator of Government Activities in the Territories, Maj. Gen. Ghasan Alian addressed Gaza residents directly, saying:¹⁵

"Human animals must be treated as such. There will be no electricity and no water, there will only be destruction. You wanted hell, you will get hell".

44. The same day, IDF spokesperson Daniel Hagari acknowledged the wanton and intentionally destructive nature of Israel's bombing campaign in Gaza:¹⁶

"While balancing accuracy with the scope of damage, right now we're focused on what causes maximum damage".

45. On 11 October 2023, Mr Gallant announced that Israel was moving to "a full-scale response" and that he had "removed every restriction" on Israeli forces, as well as stating:¹⁷

"Gaza won't return to what it was before. There will be no Hamas. We will eliminate everything".

46. The same day, an unnamed Israeli Defence official vowed that Gaza would be wiped out and reduced to a "city of tents".¹⁸

47. On 12 October 2023, Mr Isaac Herzog, Israel's president, stated as follows referring to Gaza:¹⁹

"We are working, operating militarily according to rules of international law. Unequivocally. It is an entire nation out there that is responsible. It is not true this rhetoric about civilians not aware, not involved. It is absolutely not true. They could have risen up. They could have fought against that evil regime which took over Gaza in a coup d'état. But we are at war. We are at war. We are at war. We are defending our homes. We are protecting our homes. That's the truth. And when a nation protects its home, it fights. And we will fight until we'll break their backbone."

¹⁵ https://www.timesofisrael.com/liveblog_entry/cogat-chief-addresses-gazans-you-wanted-hell-you-will-get-hell/

¹⁶ <https://www.theguardian.com/world/2023/oct/10/right-now-it-is-one-day-at-a-time-life-on-israels-frontline-with-gaza>

¹⁷ <https://www.timesofisrael.com/what-does-israel-need-to-do-to-comply-with-the-icj-genocide-decision/>

¹⁸ <https://nypost.com/2023/10/11/israeli-official-says-gaza-will-be-made-a-city-of-tents/>

¹⁹ As relied upon in the International Court of Justice's provisional judgment in the South Africa v Israel genocide proceeding, dated 26 January 2024, at [52].

48. On 13 October 2023, Mr Israel Katz, then Minister of Energy and Infrastructure of Israel, stated on X (formerly Twitter):²⁰

“We will fight the terrorist organization Hamas and destroy it. All the civilian population in [G]aza is ordered to leave immediately. We will win. They will not receive a drop of water or a single battery until they leave the world.”

49. On 13 October, as was depicted in a social media video which circulated online, Israeli citizens sang while dancing:²¹

“Gaza is a cemetery.”

50. On 28 October, in a televised speech Mr Netanyahu used the biblical Amalek narrative, a violent theory that refers to entirely crushing the population of Gaza, including its women and children:²²

“Remember what Amalek did to you' (Deuteronomy 25:17). We remember and we fight.”

51. These various statements made after the 7 October 2023 attacks on Israel demonstrate:

- Intention to kill civilians and destroy civilian objects;
- Intention to cause widespread civilian suffering;
- Intention to deprive the people of Gaza of the necessities of life;
- Intention to depopulate Gaza and render it uninhabitable.

52. These intentions may summarise the alleged common purpose of the group. It is suggested that these intentions amount to war crimes, crimes against humanity, and genocide. Intention to commit the crimes which the Pre-Trial Chamber found reasonable grounds to

²⁰ As relied upon in the International Court of Justice's provisional judgment in the South Africa v Israel genocide proceeding, dated 26 January 2024, at [52].

²¹ <https://intent.law4palestine.org/>

²² See the transcript of Mr Netanyahu's speech:

<https://www.gov.il/en/pages/statement-by-pm-netanyahu-28-oct-2023>

See an explanation of the Amalek narrative:

<https://www.abc.net.au/news/2024-01-31/biblical-story-amalek-south-africa-icj-genocide-case-israel/103403552>

believe Mr Netanyahu and Mr Gallant had committed in Gaza are included as part of this common purpose:

- The war crimes of starvation as a method of warfare, and intentionally directing attacks against the civilian population of Gaza;
- The crimes against humanity of murder, persecution, and other inhumane acts (intentionally limiting or preventing medical supplies and medicine from getting into Gaza).

53. This communiqué does not intend to provide a comprehensive analysis of continued manifestations of the group's common purpose. It is suggested that the group acting with common purpose continues to exist, though members of the group may have changed over time.

Actual commission of international crimes by members of the group

54. In those initial days of the response to the attacks on Israel of 7 October 2023, an emergency unity government of Israel was formed. The government agreed to establish a war cabinet which would make the major decisions regarding the war, with those decisions to be approved by the broader and pre-existing security cabinet. On 12 October 2023, the formation of the Israeli war cabinet was approved by Israel's parliament.²³ The war cabinet was comprised of five (later six) government ministers, of which three held voting power (Mr Netanyahu, Mr Gallant, and minister without portfolio Benny Gantz, who was also a former head of the Israel Defense Forces).²⁴

55. In Israeli constitutional law, the military (Israel Defense Forces) is subject to the authority of the government. As the Basic Law of 1976 on the army provides:²⁵

2(A) The Army is subject to the authority of the Government.

(B) The Minister in charge of the Army on behalf of the Government is the Minister of Defence.

²³

<https://www.timesofisrael.com/knesset-okays-war-cabinet-pm-saturday-most-horrible-day-for-jews-since-holocaust/>

²⁴ Ibid. See also:

<https://www.aljazeera.com/news/2024/6/17/israels-netanyahu-dissolved-the-war-cabinet-does-it-matter>

²⁵ <https://www.refworld.org/legal/legislation/natlegbod/1976/en/28150>

56. It follows that while the defence minister may be responsible for the day-to-day operations of the army, the government as a whole is in charge of the army's broader strategic decisions. In reality, this meant that from the outset of Israel's war on Gaza, military decision-making (at the civilian superior level) rested with Mr Netanyahu and with the war cabinet.
57. The war cabinet continued with its same three voting members until Mr Gantz's resignation on 9 June 2024, which led to its dissolution.²⁶ The war cabinet was then replaced by a less formal "kitchen cabinet" for Mr Netanyahu to receive consultations on the war.²⁷
58. Mr Netanyahu dismissed Mr Gallant as defence minister in early November 2024, replacing him with Israel Katz, who remains defence minister.²⁸
59. It is suggested that in terms of civilians, those people from the group who have actually committed the war crimes and crimes against humanity already identified by the Pre-Trial Chamber at least extends to the voting members of the Israeli war cabinet, and following its dissolution, Mr Netanyahu and the acting defence minister.
60. It is suggested that various members of the Israel Defense Forces have also actually committed the international crimes identified by the Pre-Trial Chamber. In particular, this would include the head of the Israel Defense Forces (Chief of the General Staff, which was Herzi Halevi until his resignation on 5 March 2025, followed since by Eyal Zamir²⁹), as well as other commanders and officers who have committed the identified crimes as part of the group's common purpose. The following are highlighted simply as illustrations:
- Brigadier General Yehuda Vach, commander of the 252nd division, who directed his soldiers to impede aid deliveries and who is known for brutality against civilians, considering that "there are no innocents in Gaza",³⁰

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<https://www.aljazeera.com/news/2024/6/17/israels-netanyahu-dissolved-the-war-cabinet-does-it-matter>

²⁷ Ibid.

²⁸ <https://www.npr.org/2024/11/05/nx-s1-5179904/israel-defense-minister-gallant-fired-netanyahu>

²⁹

<https://www.timesofisrael.com/eyal-zamir-takes-over-from-herzi-halevi-as-idf-chief-vows-victory-over-hamas/>

³⁰ <https://www.middleeasteye.net/news/israeli-generals-contempt-human-life-led-widespread-deaths-gaza>

- The (secret) commander of unit 8200, an intelligence unit of the IDF which has approved the targeting at scale of civilian objects, killing large numbers of civilians.³¹

Commission of genocide in Gaza by this group

61. PSNA refers to the various statements made in the days after 7 October 2023 by members of the group of persons acting with a common purpose, provided at [36] to [50] of this communiqué.
62. Such high-level Israeli statements made from the beginning of its war on Gaza show an intent to destroy the people of Gaza, by killing them, causing them serious bodily and mental harm, and deliberately inflicting on them conditions of life calculated to bring about their physical destruction.³² These statements are evidence of the mental element of genocide.
63. As the OTP will be aware, the threats made by members of the group at the beginning of the war were carried out by Israeli leaders and members of the IDF, and they continue to be carried out.
64. As the Pre-Trial Chamber found with regard to the period to 20 May 2024, there are reasonable grounds to believe that the lack of food, water, electricity and fuel, and specific medical supplies in Gaza created conditions of life calculated to bring about the destruction of part of the civilian population, which resulted in the death of civilians, including children due to malnutrition and dehydration.³³ This is a finding that a physical element of genocide, *deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part*, is present.
65. In December 2024, Amnesty International produced a report finding that Israeli authorities have committed genocide in Gaza.³⁴ This report did not analyse criminal responsibility of

³¹ <https://www.972mag.com/lavender-ai-israeli-army-gaza/>;

<https://www.npr.org/2023/12/14/1218643254/israel-is-using-an-ai-system-to-find-targets-in-gaza-experts-say-its-just-the-s>
[t](#)

³² See for instance Human Rights Watch's analysis finding that Israel has committed genocide in Gaza, with focus on the intention of Israeli authorities from the outset of their war on Gaza to inflict on the people of Gaza conditions of life calculated to bring about their physical destruction:
<https://www.hrw.org/report/2024/12/19/extermination-and-acts-genocide/israel-deliberately-depriving-palestinians-gaza>

³³

<https://www.icc-cpi.int/news/situation-state-palestine-icc-pre-trial-chamber-i-rejects-state-israels-challenges>

³⁴ <https://www.amnesty.org/en/documents/mde15/8668/2024/en/>

particular individuals, but instead the commission of genocide by Israeli authorities as a whole. The study period of the report was 7 October 2023 to early July 2024.

66. Amnesty International analysed the question of whether the acts of “killing members of the group”, and “causing serious bodily or mental harm to members of the group”, as physical elements of genocide, had occurred. Amnesty International’s summarised findings in this regard are provided below:³⁵

To constitute the act of “killing members of the group” as prohibited under the Genocide Convention, killings must be intentional. Within the context of armed conflict, “killing” may include causing the deaths of civilians through direct attacks on civilians and civilian objects, as well as through indiscriminate attacks that are directed deliberately at the civilian population alongside military objectives. Meanwhile, the act of “causing serious bodily or mental harm to members of the group” requires the infliction of harm so serious as to threaten or contribute to the physical or biological destruction of the group. Although the harm does not need to be permanent or irreversible, international jurisprudence has required it to cause “grave and long-term disadvantage to a person’s ability to lead a normal and constructive life.”

Amnesty International has focused on the acts of “killing members of the group” and “causing [them] serious mental and bodily harm” perpetrated by Israel in the context of its aerial attacks. It reviewed the results of investigations it had conducted into 15 air strikes that took place in northern, central and southern Gaza between 7 October 2023 and 20 April 2024. These air strikes hit 12 homes and other residential buildings, a church, a street and a public market – all of them located in densely populated urban areas. They killed at least 334 civilians, including at least 141 children, and wounded hundreds of others. The organization concluded that they constituted direct attacks on civilians and civilian objects or deliberately indiscriminate attacks, and likely amount to war crimes.

Amnesty International’s in-depth investigation found that all 15 locations that were struck were civilian objects, and that it was Israel which had launched the air strikes. Amnesty International did not find any evidence that any of the strikes were directed at a military objective. A review of all available evidence showed that all those killed were civilians not taking a direct part in hostilities.

³⁵ See Amnesty International report, pages 18 - 20:
<https://www.amnesty.org/en/documents/mde15/8668/2024/en/>

These attacks were conducted in ways that were designed to cause a very high number of fatalities and injuries among the civilian population. This is evidenced through Israel's use of explosive weapons with wide area effects, the timing and location of the attacks and the lack of an effective warning, in one case, or of any warnings at all, in all others.

In several cases, Amnesty International's analysis of weapons fragments showed that Israel used large bombs, such as US-manufactured Joint Direct Attack Munitions (JDAM). At least five of the attacks struck homes and other residential buildings between 11pm and 4am when their residents were likely to be sleeping. In addition, 11 of the 15 attacks were carried out on homes and other buildings south of Wadi Gaza [a wetland area dividing southern and northern Gaza], where people living north of Wadi Gaza were ordered to flee following the mass "evacuation" order of 13 October 2023. These locations, known for their population density, were even more overcrowded than usual due to the influx of displaced people, with many homes hosting extended families...

In one illustrative case, Abdallah Shehada, a 69-year-old retired surgeon, was killed after an Israeli air strike destroyed his home in Rafah. The attack, which occurred at 11.45am on 14 December 2023, killed 30 other civilians: 11 children, eight men and 11 women. At least 10 others were wounded. Some 45 people had been residing in the three-storey building. Among them were 20 members of the Nasman family who were displaced from Gaza City to the south and sought safety at their relative's house. The oldest victim of the attack was Hamdi Abu Daff, a displaced 86-year-old man, while the youngest was Ayla Nasman, aged only three months. Ayla Nasman's grandparents, mother and two siblings, aged five and four, were all killed in the attack. Her father, Ahmad Nasman, a physiotherapist, was among the few members of the extended Nasman family to survive the attack. He said that it took him four days to retrieve Ayla's body from the rubble; the blast had decapitated his five-year-old child, Arwa.

While Amnesty International's investigation has focused only on a small fraction of Israel's aerial attacks, they are indicative of a pattern of repeated direct or indiscriminate attacks by the Israeli military in Gaza over the nine-month period under review. The Israeli authorities argue that their military forces lawfully targeted Hamas and other Palestinian armed groups throughout Gaza, including when they were operating in and near critical infrastructure and other objects indispensable to the survival of the civilian population, and that the resulting unprecedented death and destruction were the

outcome of Hamas' co-location among Palestinian civilians. Amnesty International's 15 specific investigations do not support that defence.

Crucially, even where Israeli forces targeted what could be considered military objectives, Israel's attacks use of explosive weapons with wide area effects, especially aerial bombs of 250 pounds (110kg) to 2,000 pounds (900kg), on residential buildings and in the proximity of hospitals in one of the world's most densely populated areas likely constitute indiscriminate and/or disproportionate attacks. Amnesty International recognizes that Hamas and other Palestinian armed groups endangered Palestinian civilians through their conduct by operating from, or in the vicinity of, densely populated residential areas, and violated their obligation to take all feasible precautions to protect civilians and civilian objects under their control against the effects of attacks. However, such conduct by these groups does not release Israel from its own obligations under international humanitarian law to spare civilians and avoid attacks that would be indiscriminate or disproportionate.

The tens of thousands of air strikes that Israel has launched on Gaza have resulted in unprecedented numbers of killings and injuries among the Palestinian population. Of the 40,717 fatalities that the Gaza-based Ministry of Health fully identified by 7 October 2024, children, women and older people constituted just under 60%. The remaining 40% were men under 60, with no independent source able to establish how many of those were fighters and how many were civilians.

Additionally, of the total number of injured people, already in late July 2024, approximately 22,500 were facing life-changing injuries requiring long-term rehabilitation, according to the World Health Organization (WHO). By 30 September 2024, the Gaza-based Ministry of Health had registered 1,200 conflict-related amputations but estimated that the actual number of amputees would be around 4,500, given a significant reporting lag resulting from the collapse of the healthcare system; the WHO had also recorded some 2,000 cases of major burns and 2,000 spinal cord and severe traumatic brain injuries. Medical professionals consider that many of those injured will face trauma and mental health issues for years to come.

Amnesty International concluded that the direct or indiscriminate attacks carried out by Israel constitute the acts of "killing members of the group" and "causing serious bodily or mental harm to members of the group", as prohibited under Articles II(a) and (b) of

the Genocide Convention, respectively, in that these strikes caused deliberate and unlawful deaths of and injuries to Palestinian civilians. Amnesty International assesses the underlying intent of these and other strikes below, taking into account the full scale, intensity and scope of Israel's campaign, as well as other relevant factors.

67. Amnesty International also found that Israeli authorities have deliberately inflicted on Palestinians in Gaza conditions of life calculated to bring about their physical destruction in whole or in part. As discussed above, it appears that the Pre-Trial Chamber considers there are reasonable grounds to believe this is so.
68. The Amnesty International report considered the pattern of conduct by Israeli authorities over the study period of their report (7 October 2023 to early July 2024) to assess in this way evidence for genocidal intent. Amnesty International found as follows:³⁶

“Amnesty International found that the following pattern of conduct indicated genocidal intent: repeated direct attacks on civilians and civilian objects and deliberately indiscriminate strikes over the nine-month period, wiping out entire Palestinian families, repeatedly launched at times when these strikes would result in high numbers of civilian casualties; the repeated use of weapons with wide area effects in densely populated residential neighbourhoods; the speedy, massive and comprehensive destruction of civilian objects and infrastructure, be they homes, shelters, health facilities, water and sanitation infrastructure, agricultural land or other objects essential to the survival of the civilian population; the repeated destruction of civilian objects and infrastructure and of cultural and religious sites, including through bulldozing and controlled demolitions, after Israel had gained military control over them; the sweeping, often incomprehensible, misleading and arbitrary “evacuation” orders, repeated over the nine-month period under review, and directed at an extremely large number of people, which caused their repeated mass forced displacement under unsafe and inhumane conditions with no way out of Gaza; the torture and incommunicado detention of Palestinians from Gaza; and the continuous refusal to allow adequate humanitarian aid and other essentials to reach people in Gaza in the face of international condemnation and legally binding orders by the ICJ.”

69. PSNA has no doubt that the OTP will have been supplied a large amount of first hand evidence by other parties demonstrating, between 7 October 2023 and the present day, the

36 At page 31.

commission of genocide in Gaza by members of Israel's political leadership and armed forces as part of the alleged group acting with a common purpose.

Commission of international crimes by the group to the present day

70. PSNA considers it will be similarly clear to the OTP that those war crimes and crimes against humanity that the Pre-Trial Chamber believes on reasonable grounds Mr Netanyahu and Mr Gallant committed jointly with others in Gaza between 8 October 2023 and 20 May 2024, as well as the war crimes committed by Mr Netanyahu and Mr Gallant of intentionally directing attacks against the civilian population of Gaza, and the crime of genocide, have been committed by members of the identified group in Gaza in pursuit of its common purpose well beyond 20 May 2024 and to the present day.
71. It is noted again that the Pre-Trial Chamber considered that conduct similar to the war crimes and crimes against humanity addressed in its warrants of arrest for Mr Netanyahu and Mr Gallant appeared to be ongoing as of 21 November 2024.
72. As is relevant to the potential criminal responsibility of New Zealanders, this communiqué will briefly address the escalation of Israel's international crimes in Gaza since March 2025:
 - On 2 March, Israel began a total humanitarian blockade of Gaza, entailing a ban on the entry of any supplies, including food, medicine and fuel.³⁷ This was accompanied by a call from Bezalel Smotrich, Israel's Finance Minister, for "opening the gates of hell" on Gaza, "as quickly and lethally as possible on the cruel enemy, until absolute victory",³⁸
 - By cutting the fuel supply to Gaza as well as the power lines to Gaza's main desalination plants, Israel effected severe restrictions to Gaza's ability to produce and distribute water, causing critical and worsening impacts to water access;³⁹

³⁷ <https://www.ochaopt.org/content/humanitarian-situation-update-290-gaza-strip>

³⁸ <https://www.aa.com.tr/en/middle-east/israel-s-smotrich-calls-for-opening-gates-of-hell-on-gaza-after-halt-of-humanitarian-aid/3497731>

³⁹ <https://www.bbc.com/news/articles/ced227p84n4o#>

- On the night of 17-18 March, Israel unilaterally ended all aspects of its ceasefire with Hamas and resumed its attacks on Gaza with a massive surprise attack, killing more than 400 people;⁴⁰
- In early May, Israel launched Operation Gideon's Chariots, through which it sought to expand its control of the Gaza strip.⁴¹ A week before the commencement of the operation, Mr Netanyahu disclosed to the Knesset (Israeli parliament) Foreign Affairs and Defence Committee: "We are destroying more and more homes. They have nowhere to return to... The only inevitable outcome will be the desire of Gazans to emigrate outside of the Gaza Strip."⁴²
- Amidst the ongoing humanitarian blockade, food consumption and dietary diversity in Gaza collapsed to critical levels in May 2025, with key nutritious items like meat, eggs, dairy products, vegetables and fruit nearly absent from diets.⁴³ Reports emerged of growing deaths by starvation and malnutrition.⁴⁴
- After criticism from some of its allies, on 18 May Mr Netanyahu's office announced that Israel would allow a "basic" amount of aid to enter Gaza.⁴⁵ This has entailed the entry into Gaza of very limited amounts of certain food items, nutrition supplies, some health supplies, and water purification items.⁴⁶ A limited amount of food supplies is also now being provided through a militarised distribution mechanism under the US-Israeli "Gaza Humanitarian Foundation", with three distribution points set up in Rafah and one in central Gaza.⁴⁷ Near-daily shooting incidents have occurred at and near these distribution points, with at least 410 Palestinians killed

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<https://www.aljazeera.com/news/2025/3/18/israel-launches-gaza-assault-killing-hundreds-and-shattering-ceasefire>

41

<https://www.aljazeera.com/features/2025/5/19/what-is-israels-new-major-ground-offensive-operation-gideon-chariots>

42 Ibid.

43 <https://www.ochaopt.org/content/humanitarian-situation-update-294-gaza-strip>

44 <https://news.un.org/en/story/2025/05/1163166>;

<https://www.aljazeera.com/news/2025/5/22/palestinian-health-minister-reports-29-starvation-related-deaths-in-gaza>

45

<https://www.theguardian.com/world/live/2025/may/18/gaza-israel-palestinian-bombing-war-latest-news-updates-live>

46 <https://www.ochaopt.org/content/humanitarian-situation-update-294-gaza-strip>

47

<https://www.aljazeera.com/news/longform/2025/5/29/visual-guide-to-how-the-gaza-aid-distribution-turmoil-unfolded>

trying to access this aid as of 24 June 2025.⁴⁸ At least 93 others have reportedly been killed trying to access the few other aid convoys allowed into Gaza since May.⁴⁹

- There remains a total blockade on fuel entering Gaza, placing life-sustaining health, water, sanitation and hygiene facilities at severe risk.⁵⁰
- As part of Operation Gideon's Chariots, more and more parts of Gaza have become subject to displacement orders. As of 25 June, 77 per cent of the Gaza strip is under displacement orders.⁵¹ No shelter supplies have been allowed to enter Gaza since 2 March despite the growing displacement.⁵² Much of Gaza has been rendered inaccessible to aid, while many Palestinians are unable to move for reasons of exhaustion, illness, injuries, amongst others.⁵³

International nature of commission of international crimes

73. As this communiqué is prepared by Palestine Solidarity Network Aotearoa, its purpose is to provide information to the OTP about the potential criminal responsibility of New Zealand political and business leaders for what PSNA believes are their likely intentional contributions towards the commission of international crimes by Israel, pursuant to article 25(3)(d) of the Rome Statute.
74. As the OTP will be aware, there are many individuals outside Israel who can be considered to have intentionally contributed to Israel's commission of international crimes in Gaza. Most significantly, since 7 October 2023 Israel has received significant and ongoing supplies of weaponry from its international allies, above all from the United States, with most of the remainder supplied by Germany.⁵⁴
75. The US government has transferred vast amounts of weaponry to Israel. The full detail of the transfers is unknown, since they are generally not subject to congressional oversight.

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<https://www.ohchr.org/en/press-briefing-notes/2025/06/gaza-palestinians-seeking-food-continue-be-killed-israeli-military>

⁴⁹ Ibid.

⁵⁰ <https://www.ochaopt.org/content/humanitarian-situation-update-300-gaza-strip>

⁵¹ Ibid.

⁵² Ibid.

⁵³ <https://www.ochaopt.org/content/humanitarian-situation-update-294-gaza-strip>

⁵⁴ <https://edition.cnn.com/2024/10/16/middleeast/where-israel-get-its-weapons>;
<https://www.dw.com/en/amid-calls-for-arms-embargo-who-supplies-israels-weapons/a-72675978#:~:text=US%20is%20Israel's%20biggest%20arms,to%202024%2C%20according%20to%20SIPRI>.

However, it is known that by March 2024, the Biden administration had approved more than 100 separate weapons deals for Israel (about one every 36 hours from the beginning of the war).⁵⁵ As of June 2024, the US government had transferred to Israel 14,000 MK-84 2,000 pound bombs, 6,500 500-pound bombs, 3,000 Hellfire precision-guided air-to-ground missiles, 1,000 bunker-buster bombs, 2,600 air-dropped small-diameter bombs, and other munitions.⁵⁶ Many of the bombs used on Gaza appear to be US-made,⁵⁷ and there are numerous demonstrated examples of air strikes on Gaza conducted with US-made weapons.⁵⁸

76. It is also understood that as part of the United States' close partnership with Israel, it has enhanced its intelligence sharing with Israel since 7 October 2023 to assist with its military operations.⁵⁹

77. New Zealand maintains close ties with the United States, with deep cooperation between the two countries in the military sphere, as well as in intelligence and foreign policy. As is apparent in this communiqué, where New Zealand political and business leaders may have provided material or political support for Israel's commission of international crimes, this has often occurred through actors in the United States. Assessment of the criminal responsibility of individuals in the United States will necessarily follow from the analysis of this communiqué, even though PSNA considers that to be outside its focus.

New Zealand political support for Israel's commission of international crimes

78. Leading New Zealand politicians have provided meaningful political support to Israel's commission of international crimes since 7 October 2023. This support can be seen in particular through:

⁵⁵ <https://responsiblestatecraft.org/us-weapons-gaza/>;

<https://www.washingtonpost.com/national-security/2024/03/06/us-weapons-israel-gaza/>

⁵⁶

<https://www.reuters.com/world/us-has-sent-israel-thousands-2000-pound-bombs-since-oct-7-2024-06-28/>

⁵⁷

<https://apnews.com/article/israel-gaza-bombs-destruction-death-toll-scope-419488c511f83c85baea22458472a796>

⁵⁸ <https://responsiblestatecraft.org/us-weapons-gaza/>

⁵⁹

<https://www.wsj.com/politics/national-security/u-s-and-israels-unprecedented-intelligence-sharing-draws-criticism-a85979b4>

- Statements from the early months of the genocide characterising Israel's attacks on Gaza as self-defence;
 - The maintenance and public expression of close diplomatic relations between New Zealand and Israel without censure for Israel's crimes; and
 - Repeated positioning by New Zealand government officials that denies, avoids or minimises Israel's international crimes, shifts blame for those crimes to Hamas, and justifies Israel's use of violence against the people of Gaza.
79. There is a reasonable basis to believe that the New Zealand political leaders responsible for providing this moral support and political cover to Israel have individual criminal responsibility for their intentional contributions to Israel's international crimes pursuant to article 25(3)(d) of the Rome Statute.
80. This section of the communiqué will provide a chronological analysis of the political support provided by New Zealand leaders towards Israel's commission of international crimes from 7 October 2023 to the present, through the following subsections:
- Early statements of political support;
 - International Court of Justice order of 26 January 2024;
 - Meeting between Winston Peters and Ran Yaakoby on 12 February 2024;
 - Statements of Mr Luxon and Mr Peters in early 2024;
 - Military offensive on Rafah and resulting ICJ order;
 - New Zealand participation in RIMPAC;
 - Statements of Mr Luxon and Mr Peters in late 2024;
 - Statements of Mr Peters on escalated atrocities since March 2025.

Early statements of political support

81. In the days which followed the 7 October 2023 attacks, the genocidal intent of *the group of persons acting with a common purpose* with respect to Gaza was clearly expressed (see above at paragraphs [36] to [50]), and Israeli leaders and members of the armed forces

swiftly began to take action commensurate with that intent by launching a campaign of air strikes and severely restricting the necessities of life from entering Gaza.

82. During the early weeks of Israel's war on Gaza, leading New Zealand politicians made public statements conveying their positions on these events. This section of the communiqué considers those statements made by Christopher Luxon (Prime Minister), Winston Peters (Minister of Foreign Affairs, Deputy Prime Minister), and David Seymour (Minister for Regulation) between 7 October 2023 and 26 January 2024, when the International Court of Justice issued its first order in the *South Africa v Israel* genocide proceeding.
83. Mr Luxon, Mr Peters, and Mr Seymour are each leaders of political parties (respectively, National, New Zealand First, and ACT) which participated in New Zealand's general election on 14 October 2023. They came to power through this election. It was apparent on election night that the National party led by Mr Luxon would be leading the new government, in which both ACT led by Mr Seymour and New Zealand First led by Mr Peters would participate. A coalition agreement was reached on 24 November and the incoming ministers were sworn in on 27 November.⁶⁰ Against this backdrop, a number of the relevant political statements referred to in this communiqué were made while the new coalition government was still being formed and the Prime Minister and other ministers had not yet been sworn in.
84. The statements relied upon for this section of the communiqué are provided below.

Statements of Christopher Luxon between 7 October 2023 and 26 January 2024

Media interview on 25 October 2023, confirmed death toll 5,791 people⁶¹

85. 24 October 2023 was (at that time) the deadliest day of Israel's war on Gaza, with at least 704 people killed in air attacks.⁶² On 25 October, Mr Luxon was asked by media what he was being told by the outgoing New Zealand government about the situation in Gaza. He replied:⁶³

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<https://www.rnz.co.nz/news/political/503352/watch-christopher-luxon-new-ministers-sworn-in-at-government-house>

⁶¹

<https://www.aljazeera.com/news/2023/10/24/more-than-700-killed-in-overnight-israeli-attacks-gaza-officials-say>

⁶² Ibid.

⁶³

<https://www.rnz.co.nz/news/political/500936/parliament-summer-close-down-period-will-be-shorter-incoming-pm-luxon-says>

"I think it's important the government is the government until the new government's formed, they're taking the lead of New Zealand's response to the situation...

*They're doing a good job of keeping us closely involved and informed and also consulted during that transition period, but **the bottom line is that we condemn Hamas' terrorist attacks on Israel and we support Israel's rights to defend itself.** We do want to see both sides acting in full compliance with international law and their obligations."*

Media interview on 28 October 2023, confirmed death toll 7,326 people⁶⁴

86. On 28 October 2023, at the time of New Zealand's outgoing administration voting in support of an immediate humanitarian truce at the UN General Assembly, Mr Luxon was asked by media for his view on a ceasefire. He avoided saying if he would support a ceasefire, and instead explained:⁶⁵

*"From my point of view, **what I want to make sure is there's very strong statements that are condemning the Hamas attacks on Israel on October the 7th.**"*

Media interview on 1 November 2023, confirmed death toll 8,525 people⁶⁶

87. On 1 November 2023, Mr Luxon was interviewed by journalist Ryan Bridge on the AM Show, who mentioned to Mr Luxon recent reports that there had been an explosion at a refugee camp in Gaza.⁶⁷
88. When Mr Bridge asked Mr Luxon if he thought Israel was meeting their humanitarian obligations, Mr Luxon said:

*"**I haven't seen any advice to say they are not** but what I have seen is obviously concern of what we see on the TV and the images we all see."*

89. Mr Bridge asked: "Are you comfortable with Israel's behaviour right now?"

⁶⁴

<https://www.aljazeera.com/news/2023/10/27/un-says-gaza-health-ministry-death-tolls-in-previous-war>

⁶⁵

<https://www.stuff.co.nz/nz-news/350480824/thousands-of-protesters-march-in-auckland-wellington-christchurch-in-support-of-palestine>

⁶⁶ <https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-25>

⁶⁷

<https://www.stuff.co.nz/politics/350480946/prime-minister-elect-christopher-luxon-hasn-t-seen-any-advice-to-suggest-israel-isn-t-respecting-international-law-in-gaza>

90. Mr Luxon responded:

*“Look, as I said **we absolutely support their right to defend themselves** but we want both parties, we expect both parties, to be acting in consideration of their international obligations.”*

91. Mr Bridge asked: “So given that, do you think they are acting with regard to their international obligations right now Israel or not?”

92. Mr Luxon responded:

*“**Well that’s an assessment that will be made by others**, but at this point our call and that’s why we signed that agreement or that statement from the UN is to say very clearly that we have high expectations that all parties are complying with their international obligations...”*

93. Mr Luxon later added:

*“**What we have said very clearly is we absolutely condemn the attacks by Hamas, you know unprovoked, barbaric, terrorist attacks on Israel, we defend Israel’s right to defend itself**, but we expect all parties to be in compliance with their international law and obligations.”*

94. Mr Luxon denied and avoided any recognition of Israel’s breaches of its obligations under international law. He firmly emphasised the attacks on Israel on 7 October 2023 and Israel’s right to self-defence in explanation for Israel’s actions.

*Media interview on 20 November 2024, confirmed death toll 11,078 people*⁶⁸

95. On 20 November 2023, in response to the opposing Labour party’s call for a ceasefire, Mr Luxon commented as follows to the media:⁶⁹

*“We would all love to see hostilities cease in the Middle East, we all want to see that, all New Zealanders are all horrified by the images that we’re seeing on our TVs. **But the reality is you need the conditions for a ceasefire to be there, and that requires that***

⁶⁸

<https://reliefweb.int/report/occupied-palestinian-territory/hostilities-gaza-strip-and-israel-reported-impact-20-november-2023-2359>

⁶⁹

<https://www.rnz.co.nz/news/political/502823/hamas-must-release-hostages-before-dialogue-around-ceasefire-nz-jewish-council>

*you have both parties wanting to progress a ceasefire, hostilities have to then stop across the whole of the territory, and thirdly you need a real clear pathway into a peace process because military action is not going to restore peace in the Middle East. So, what we mean by that is that actually yes **we want to support steps to a ceasefire but you've got to have the conditions there for that to be able to be met.**"*

96. Mr Luxon denied the possibility of an unconditional ceasefire, in marked contrast to his demands for the unconditional release of the hostages held by Hamas. In a pattern that would become evident through subsequent statements of Mr Luxon and Minister of Foreign Affairs Winston Peters, Mr Luxon suggested that Israel could only stop its attacks on Gaza if Hamas met certain conditions. This positioning gave (and still gives) Israel licence to continue its genocidal violence on the people of Gaza.

Media interview on 3 December 2023, confirmed death toll 15,500 people⁷⁰

97. On 3 December 2023, shortly after the end of the brief humanitarian truce, Mr Luxon (now sworn in as Prime Minister) explained as follows the New Zealand government's position on the war:⁷¹

"Israel has a right to defend itself. But it's not just at any cost and causing huge damage and hurt, pain and suffering to civilians and innocent civilians. Equally, Hamas needs to release all hostages, stop using human shields... and be compliant with international humanitarian law. That's what we expect all parties to do, is to be fully compliant with international humanitarian law. We really want to see the peace process restarted. It's the best way in which peace will be delivered in the Middle East not through military action."

70

<https://www.aljazeera.com/gallery/2023/12/3/from-north-to-south-nowhere-safe-in-gaza-as-700-killed-in-24-hours>

71

<https://www.nzherald.co.nz/nz/politics/israel-hamas-war-pm-christopher-luxon-on-resumption-of-fighting-in-gaza-palestine-after-humanitarian-pause-says-no-peace-through-military-action/N6GSHXJZGFA5ZMGBKXHSQB74LE/#:~:text=%E2%80%9CIsrael%20has%20a%20right%20to,compliant%20with%20international%20humanitarian%20law>

Comments by Mr Luxon in Parliament on 7 December 2023, confirmed death toll 16,015 people⁷²

98. In Parliament on 7 December 2023, Member of Parliament Rt Hon Chris Hipkins asked Mr Luxon:⁷³

“Why won't the New Zealand Government call for an immediate and permanent ceasefire when more than 16,000 people have died, the great majority of them civilians, and that is continuing as we speak?”

99. Mr Luxon responded:

*“As I've said, we would all like to see a sustainable ceasefire, but **it actually requires all parties to actually make the conditions to make that happen, and for that to happen, for hostilities to cease, Hamas needs to actually cease its attacks on Israel, needs to stop exploiting civilian infrastructure and using civilians as shields, and it needs to locate and release all the remaining hostages.** On the other hand, we actually need to see Israel respecting the laws of humanitarian law and war, we need to make sure that they're actually ensuring that innocent civilians are being protected, they need to make sure that their civilians have access to food and fuel and resources and medical supplies, and we also need to make sure that the loss of life that we saw in the North doesn't take place in the South. **So there are responsibilities on both sides of this equation. There are responsibilities on both parties to make sure we get an enduring, sustainable ceasefire.**”*

Joint statement by Prime Ministers of New Zealand, Australia and Canada on 13 December 2023, confirmed death toll 18,608 people⁷⁴

100. Mr Luxon alongside the Prime Ministers of Australia and Canada issued the following statement (provided below in part) on 13 December 2023:⁷⁵

⁷²

<https://www.rnz.co.nz/news/world/504181/how-many-palestinians-have-died-in-the-gaza-war-and-how-will-the-counting-continue>

⁷³ https://www.parliament.nz/en/pb/hansard-debates/rhr/combined/HansD_20231207_20231207

⁷⁴

<https://reliefweb.int/report/occupied-palestinian-territory/hostilities-gaza-strip-and-israel-reported-impact-13-december-2023-2359>

⁷⁵

<https://www.beehive.govt.nz/release/joint-statement-prime-ministers-new-zealand-australia-and-canada>

“Australia, Canada, and New Zealand mourn every Israeli and Palestinian innocent life which has been lost in this conflict and express our condolences to all families and communities affected by the violence.

We unequivocally condemn Hamas’ terror attacks on Israel on October 7, the appalling loss of life, and the heinous acts of violence perpetrated in those attacks, including sexual violence. We condemn Hamas’ unacceptable treatment of hostages and call for the immediate and unconditional release of all remaining hostages.

We recognise Israel’s right to exist and right to defend itself. In defending itself, Israel must respect international humanitarian law. Civilians and civilian infrastructure must be protected. We are alarmed at the diminishing safe space for civilians in Gaza. The price of defeating Hamas cannot be the continuous suffering of all Palestinian civilians.

*We remain deeply concerned by the scale of the humanitarian crisis in Gaza and ongoing risks to all Palestinian civilians. **Safe and unimpeded humanitarian access must be increased and sustained.***

The recent pause in hostilities allowed for the release of more than 100 hostages and supported an increase in humanitarian access to affected civilians. We acknowledge the persistent diplomatic efforts of the United States, Qatar, and Egypt to broker this pause, and we regret it could not be extended.

We want to see this pause resumed and support urgent international efforts towards a sustainable ceasefire. This cannot be one-sided. Hamas must release all hostages, stop using Palestinian civilians as human shields, and lay down its arms.

There is no role for Hamas in the future governance of Gaza.

We support Palestinians’ right to self-determination. We oppose the forcible displacement of Palestinians from Gaza, the re-occupation of Gaza, any reduction in territory, and any use of siege or blockade. We emphasize that Gaza must no longer be used as a platform for terrorism. We reaffirm that settlements are illegal under international law. Settlements and settler violence are serious obstacles to a negotiated two-state solution.”

101. The leaders' statement placed significant emphasis on the attacks on Israel on 7 October 2023. Both the attacks and Hamas's treatment of hostages were condemned. Flowing from those condemnations, the leaders recognised Israel's right to self-defence, framing Israel's continuing assault on Gaza (over two months after 7 October) as such: *"In defending itself, Israel must respect international humanitarian law."*
102. While expressing concerns for civilians and the international law requirements incumbent on Israel, the leaders' statement avoided identifying any wrongdoing by Israel. The statement supported Israel's war aim of destroying Hamas: *"[t]here is no role for Hamas in the future governance of Gaza"*, while advocating for an end to Israel's violence on Gaza only on condition that Hamas *"release all hostages, stop using Palestinian civilians as human shields, and lay down its arms."* Like subsequent statements by Mr Luxon referred to in this communiqué, the leaders' joint statement echoed Israel's justifications for its violence and supported the continuation of its genocidal war on Gaza.

Statements of Winston Peters between 7 October 2023 and 26 January 2024

*Minister of Foreign Affairs press release on 1 December 2023, confirmed death toll 15,000 people*⁷⁶

103. Winston Peters, as Minister of Foreign Affairs, published a press release on 1 December 2023 (during the brief humanitarian truce) as follows:⁷⁷

New Zealand welcomes the further one-day extension of the pause in fighting, which will allow the delivery of more urgently needed humanitarian aid into Gaza and the release of more hostages, Foreign Minister Winston Peters said.

"The human cost of the conflict is horrific, and New Zealand wants to see the violence end. We call on all parties involved in the conflict, as well as countries with influence in the region, to work urgently towards a long-term ceasefire", Mr Peters said.

"We reiterate that all remaining hostages must be released. New Zealand continues to unequivocally condemn Hamas' terrorist attack of 7 October.

"We have consistently supported the right of Israel to defend itself against Hamas' terrorist attacks, though we repeat our call for international humanitarian law to be

⁷⁶

<https://www.reuters.com/world/middle-east/gaza-negotiators-try-get-israel-hamas-agree-extend-truce-again-2023-12-01/>

⁷⁷ <https://www.beehive.govt.nz/release/nz-welcomes-further-pause-fighting-gaza>

observed by all sides and in all circumstances. Ultimately, there can be no military solution. We need to return to the Middle East Peace Process”, Mr Peters said.

104. Like in statements made by Mr Luxon, Mr Peters presented a ceasefire as being possible only pursuant to negotiations between Israel and Hamas, in stark contrast to his demand that the hostages be released unconditionally. Mr Peters presented Israel’s actions as self-defence.

*Comments by Mr Peters in Parliament on 7 December 2023, confirmed death toll 16,015 people*⁷⁸

105. In Parliament on 7 December 2023, Mr Peters proposed a motion as follows:⁷⁹

*“I move, that this House express grave concern at the ongoing violence in Israel and the occupied Palestinian territories; **unequivocally condemn the Hamas terrorist attack on 7 October 2023**, and call for the release of all hostages; **call on all parties involved in the conflict, as well as countries with influence in the region, to take urgent steps towards establishing a ceasefire; recognise Israel's right to defend itself**, acting in accordance with international law, and that all civilians be protected from armed conflict; affirm that a lasting solution to the conflict will only be achieved by peaceful means and that action to revive the Middle East Peace Process is critical; note that the Government will continue its efforts to help all New Zealanders impacted by the conflict.”*

Statements of David Seymour between 7 October 2023 and 26 January 2024

*Media interview on 20 November 2023, confirmed death toll 11,078 people*⁸⁰

106. On 20 November 2023, in an interview on the AM Show with journalist Ryan Bridge, David Seymour (not yet a minister in the incoming government) said:⁸¹

*“Let’s just remember how it all started because that’s been forgotten. **Hamas, which is a terrorist organisation, was the aggressor, went into Israel, they raped, murdered and took hostage hundreds of people. They have still got those hostages. Israel is***

78

<https://www.rnz.co.nz/news/world/504181/how-many-palestinians-have-died-in-the-gaza-war-and-how-will-the-counting-continue>

⁷⁹ https://www.parliament.nz/en/pb/hansard-debates/rhr/combined/HansD_20231207_20231207

80

<https://reliefweb.int/report/occupied-palestinian-territory/hostilities-gaza-strip-and-israel-reported-impact-20-november-2023-2359>

81

<https://www.stuff.co.nz/politics/350481865/david-seymour-greens-chl-e-swarbrick-clash-over-israel-hamas-conflict-in-fiery-am-interview>

defending itself. How many more rockets were they supposed to allow to go over the border before they started defending themselves?"

107. Mr Bridge:

"I guess the problem is that you've got to look at what's in front of you here and now don't you and I agree it was Hamas that started this particular conflict."

108. Mr Seymour replied:

"And it's Hamas that continues it because it is Hamas that holds the hostages."

109. Mr Bridge:

"But that doesn't give Israel carte blanche to just respond in any way it wants."

110. Mr Seymour replied:

"And that's not what they're doing either. There's an incredible double standard here. If any other country was attacked the way that Israel has been attacked I think the world would be saying yes this is terrible, but actually the right thing to do is for the other guys to release the hostages and stop attacking Israel. In this case somehow Israel is at fault and the calls are for the Israeli ambassador to be expelled. I'm sorry but that is completely wrong."

Summary - early statements of political support

111. The statements of Mr Luxon, Mr Peters and Mr Seymour from the initial months of Israel's onslaught on Gaza, as provided above, lent support to Israel in a number of respects. There is no condemnation of Israel's atrocities or indeed any recognition of wrongdoing by Israel, but instead repeated condemnation of the 7 October 2023 attacks on Israel, with Israel's right to self-defence repeatedly referred to to justify its actions. Mr Luxon and Mr Seymour denied, and avoided recognising, Israel's commission of crimes. All three men conditioned the possibility of a ceasefire on Hamas taking certain actions first, thereby shifting blame away from Israel for its genocidal violence against Gaza.

International Court of Justice order of 26 January 2024, confirmed death toll 26,083 people⁸²

112. In its order dated 26 January 2024, the International Court of Justice (“ICJ”) found there was a plausible risk that Israel was committing genocide in Gaza, and it ordered provisional measures in order to prevent genocide.⁸³

113. The ICJ made factual findings as follows:⁸⁴

“The Court considers that the civilian population in the Gaza Strip remains extremely vulnerable. It recalls that the military operation conducted by Israel after 7 October 2023 has resulted, inter alia, in tens of thousands of deaths and injuries and the destruction of homes, schools, medical facilities and other vital infrastructure, as well as displacement on a massive scale (see paragraph 46 above). The Court notes that the operation is ongoing and that the Prime Minister of Israel announced on 18 January 2024 that the war ‘will take many more long months’. At present, many Palestinians in the Gaza Strip have no access to the most basic foodstuffs, potable water, electricity, essential medicines or heating.”

114. The ICJ found there was a “real and imminent risk of irreparable prejudice” to the right of Palestinians in Gaza to be protected from acts of genocide,⁸⁵ and it determined that Israel must, in accordance with its obligations under the Genocide Convention in relation to Palestinians in Gaza:⁸⁶

“take all measures within its power to prevent the commission of all acts within the scope of Article II of this Convention, in particular: (a) killing members of the group; (b) causing serious bodily or mental harm to members of the group; (c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; and (d) imposing measures intended to prevent births within the group. The Court recalls that these acts fall within the scope of Article II of the Convention when they are committed with the intent to destroy in whole or in part a

⁸² <https://english.wafa.ps/Pages/Details/141083>

⁸³ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v Israel)* [2024] ICJ. See order of 26 January 2024:

<https://www.icj-cij.org/sites/default/files/case-related/192/192-20240126-ord-01-00-en.pdf>

⁸⁴ At [70].

⁸⁵ At [66] and [74].

⁸⁶ At [78].

group as such. The Court further considers that Israel must ensure with immediate effect that its military forces do not commit any of the above-described acts”.

115. Further, the Court considered that Israel:

“must take all measures within its power to prevent and punish the direct and public incitement to commit genocide in relation to members of the Palestinian group in the Gaza Strip” (some of which are documented above),⁸⁷

“must take immediate and effective measures to enable the provision of urgently needed basic services and humanitarian assistance to address the adverse conditions of life faced by Palestinians in the Gaza Strip”;⁸⁸ and

“must also take effective measures to prevent the destruction and ensure the preservation of evidence related to allegations of acts within the scope of Article II and Article III of the Genocide Convention against members of the Palestinian group in the Gaza Strip.”⁸⁹

116. After the ICJ issued its order, New Zealand leaders denied Israel’s commission of genocide.

Discussion in Parliament on 31 January 2024, confirmed death toll 26,900 people⁹⁰

117. In Parliament on 31 January 2024, Member of Parliament James Shaw asked Mr Luxon the following question:⁹¹

What actions is the Government taking to meet its obligations under article 1 of the Genocide Convention in light of the recent ruling by the International Court of Justice (ICJ) that found a plausible risk of genocide against Palestinians in Gaza?

118. Prime Minister Christopher Luxon responded:

It was a provisional finding, and it wasn't a plausible risk.

⁸⁷ At [79].

⁸⁸ At [80].

⁸⁹ At [81].

⁹⁰

<https://www.aljazeera.com/news/liveblog/2024/1/31/israels-war-on-gaza-live-severe-hunger-in-gaza-as-aid-trucks-surrounded>

⁹¹

https://www.parliament.nz/en/pb/hansard-debates/rhr/document/HansS_20240131_050820000/4-question-no-4-prime-minister

...

119. Mr Shaw:

Is he aware that the ICJ did find that there is a plausible risk of genocide against Palestinians in Gaza—

120. Minister Chris Bishop interrupted: *And not a genocide.*

121. Mr Shaw:

—and that —and that that would trigger New Zealand's obligations under article 1 of the Convention to take action to prevent genocide before it occurs?

122. Mr Luxon:

The court did not make any findings that Israel has actually engaged in genocidal conduct.

123. Mr Shaw:

“Is the Prime Minister aware that there is a difference between having found whether genocide has taken place or whether there is a plausible risk of genocide taking place, and that article 1 of the [Genocide] Convention requires New Zealand to take action to prevent genocide before it occurs—i.e., when there is a plausible risk?”

124. Mr Luxon:

“As I said earlier, the court did not make any findings that Israel has actually engaged in genocidal conduct. That is part of a full and substantive hearing that will take place in subsequent months and years.”

125. David Seymour followed by asking:

“Does the Prime Minister believe it is important to use a word as heavy as “genocide” accurately and only when fully justified by the facts, in order to respect those many victims throughout history who, tragically, have suffered from actual genocide?”

126. After interruptions, Mr Luxon responded:

“Look, the issue here is there have been provisional measures that have been announced in the provisional ruling of the ICJ, and there is a further case that is continuing on, and I'm only going to respond to the provisional measures.”

Israel's actions following the ICJ order

127. Israel paid no heed to the provisional measures ordered by the ICJ. Some of Israel's notable atrocities in the days and weeks which followed are as follows:

- 26 January - 16 February 2024: In the three weeks following the ICJ's order, Israel reduced the number of trucks entering Gaza by a third, cutting off crucial supplies like fuel and water for a population at risk of starvation, injuries, and serious illnesses.⁹² This was in clear defiance of the ICJ order, which stated that Israel must take immediate measures to enable the provision of basic services and humanitarian assistance.
- 29 January 2024: Five year old Hind Rajab was shot and killed by Israeli forces while fleeing fighting in a vehicle in northern Gaza, along with six of her family members and two paramedics who arrived on the scene.⁹³ The paramedics were killed by Israeli forces despite coordinating with the Israeli military to reach the scene and administer aid. The bodies were found on 10 February 2024.
- 30 January 2024: At least 30 Palestinian bodies were found buried in plastic bags near Hamad school in Northern Gaza. The bodies were blindfolded, their hands were tied, and there was evidence of torture.⁹⁴
- 5 February 2024: Israeli forces fired on a UN convoy, destroying food that was heading for northern Gaza as that area was at that time on the verge of famine.⁹⁵

⁹²

<https://www.amnesty.org/en/latest/news/2024/02/israel-defying-icj-ruling-to-prevent-genocide-by-failing-to-allow-adequate-humanitarian-aid-to-reach-gaza/>

⁹³ <https://edition.cnn.com/2024/02/10/middleeast/hind-rajab-death-israel-gaza-intl/index.html>

⁹⁴

<https://www.aljazeera.com/news/2024/2/1/palestinians-demand-international-inquiry-after-mass-grave-found-in-gaza>

⁹⁵ <https://edition.cnn.com/2024/02/21/middleeast/un-food-convoy-gaza-israel-strike-cmd-intl>

- 7 February 2024: Israeli forces fired on a water distribution truck, killing at least 13 Palestinians and injuring others while they were filling their water barrels.⁹⁶
- Late January 2024 - March 2024: Israeli forces conducted a siege of Al Amal Hospital in Khan Younis,⁹⁷ cutting off critical supplies and targeting anyone attempting to leave the hospital.⁹⁸
- 12 February 2024: A wave of heavy airstrikes in Rafah as part of an operation to recover hostages killed over 100 Palestinians.⁹⁹

128. These atrocities are just some of those committed by Israel in Gaza at that time. From the date of the ICJ order on 26 January 2024 to 12 February 2024 when Winston Peters met with Israeli ambassador Ran Yaakoby, the total civilian casualty numbers remained extremely high, never falling below 100 reported deaths on any given day.¹⁰⁰

129. In response to such actions in defiance of the ICJ's order, on 12 February 2024 South Africa took the step of petitioning the ICJ with an urgent request for additional measures.¹⁰¹

Meeting between Mr Peters and Mr Yaakoby on 12 February 2024, confirmed death toll 28,340 people¹⁰²

130. On 12 February 2024, New Zealand Minister of Foreign Affairs Winston Peters met with the Israeli ambassador, Ran Yaakoby, in Wellington. There is no indication that Mr Peters used this meeting to censure Israel for its atrocities, demand that Israel comply with international

⁹⁶

<https://www.unocha.org/publications/report/occupied-palestinian-territory/hostilities-gaza-strip-and-israel-flash-update-112>

⁹⁷

<https://reliefweb.int/report/occupied-palestinian-territory/palestine-red-crescent-society-calls-international-community-provide-protection-its-headquarters-and-medical-and-ems-teams-khan-yunis-enar>

⁹⁸ <https://theintercept.com/2024/02/08/gaza-hospital-seige-red-crescent/> See also:

<https://gazahcsector.palestine-studies.org/en/node/76>

⁹⁹ See:

<https://edition.cnn.com/2024/02/12/middleeast/israel-airstrikes-rafah-ground-offensive-looms-intl-hnk/index.html>; see also:

<https://apnews.com/article/israel-hamas-war-news-raid-timeline-4f226be0227e40ba2484d7f551bd2306>

¹⁰⁰ Daily reported deaths can be found in the flash updates provided by the UN Office for the Coordination of Humanitarian Affairs, for instance flash update 104 dated 28 January 2024:

<https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-104>

¹⁰¹ See <https://www.icj-cij.org/sites/default/files/case-related/192/192-20240212-wri-01-00-en.pdf>

¹⁰²

<https://www.aljazeera.com/news/liveblog/2024/2/13/israels-war-on-gaza-live-jordans-king-urges-cease-fire-in-biden-meeting>

law, or call for Israel to suspend its military operations against Gaza (as had been ordered by the ICJ as a measure to prevent genocide).

131. On the contrary, it was clear from an amiable post that Mr Peters as Minister of Foreign Affairs shared on X, that Israel continued to enjoy New Zealand's support.¹⁰³



132. Mr Peters posted the following at 5:56 pm on 12 February 2024:¹⁰⁴

“The Minister of Foreign Affairs met Israel’s Ambassador to New Zealand, Ran Yaakoby, today. They discussed:

¹⁰³ <https://x.com/NewZealandMFA/status/1756905148528681166>

¹⁰⁴ Ibid.

- *Hamas' October 7 attacks;*
- *developments on the ground in Israel & Gaza since;*
- *how a lasting, peaceful outcome to the conflict might be found; &*
- *the Israel-New Zealand relationship."*

133. The post was accompanied by a picture of Mr Yaakoby and Mr Peters standing side-by-side and smiling in front of the New Zealand flag.

134. Mr Peters' post placed emphasis on the 7 October 2023 attack on Israel, characterising Israel's subsequent and then-ongoing atrocities as "developments on the ground in Israel and Gaza since". There was no criticism of Israel's conduct, or any indication that Mr Peters advocated for Israel to cease its attacks on Gaza.

135. Mr Peters' approach to the meeting with Mr Yaakoby may be sharply contrasted with New Zealand's diplomatic approach to Israel during its 2014 war on Gaza, when officials called in the Israeli ambassador to formally register New Zealand's concerns with Israel's conduct.¹⁰⁵

136. At 5.56pm New Zealand time on 12 February 2024 (the exact same time as Mr Peters' post), Mr Yaakoby's official X account posted (with the same image of the two men):¹⁰⁶

"Thank you Hon @winstonpeters for your time to discuss #NewZealand-@Israel relations, the urgent need for the release of 134 hostages who have remained in the brutal captivity of Hamas since #October7, the destruction of Hamas capabilities and the designation of Hamas in its entirety as a terrorist organisation by New Zealand."

137. The focus of the meeting between Mr Peters and Mr Yaakoby appeared to be on the actions of Hamas, and Israel's stated objectives in its war.

138. The timing of the meeting and the posts on X is noteworthy. At 12.50pm New Zealand time (on the same day that Mr Peters met with Mr Yaakoby), Israel bombed and flattened several

¹⁰⁵

https://www.nzherald.co.nz/nz/pm-israeli-ambassador-necessary/PRJFBMHXH67LCSTMFFYMM7CSIM/#google_vignette

¹⁰⁶ <https://x.com/IsraelinNZ/status/1756904977350660442>

residential blocks in Rafah.¹⁰⁷ The attacks killed over 100 Palestinians, in Rafah where over 1.3 million Palestinians - many of whom had already been displaced by prior Israeli attacks - were seeking refuge.¹⁰⁸ This assault on Rafah was quickly dubbed “the Super Bowl Massacre” across social media (with #SuperBowlMassacre trending on X), as it occurred simultaneously with the US Super Bowl kickoff.¹⁰⁹ Gruesome images quickly circulated online, including of seven-year-old Sidra Hassouna’s body hanging from a destroyed building with her legs in tatters.¹¹⁰ Reports of casualties from the air strikes emerged at about 1.30pm New Zealand time.¹¹¹ It is implausible that Mr Peters as Minister of Foreign Affairs would not have been made aware of this attack, which gained such quick notoriety around the world, on the day of his meeting with Mr Yaakoby and before he posted about the meeting online.

139. With the assistance of Mr Peter’s amiable and uncritical post, Mr Yaakoby was able to use the meeting as an opportunity to shift blame for events in Gaza to Hamas, to suggest New Zealand’s support for Israel’s objective of destroying Hamas’s capabilities (an objective frequently referred to by Israel to justify its war crimes),¹¹² and to project New Zealand’s support for the plight of the hostages, that issue being of particular relevance when it was Israel’s justification for the massacre it had just committed in Rafah on 12 February.

¹⁰⁷

<https://apnews.com/article/israel-hamas-war-news-raid-timeline-4f226be0227e40ba2484d7f551bd2306>

The attacks on Rafah took place alongside an Israeli operation to recover hostages in Rafah, however several residential blocks were bombed and flattened in this densely populated area. The strikes occurred at 1.50am Israel/Palestine time (UTC+2:00), 11 hours behind New Zealand summer time (UTC+13:00).

¹⁰⁸

<https://edition.cnn.com/2024/02/12/middleeast/israel-airstrikes-rafah-ground-offensive-looms-intl-hnk>

¹⁰⁹ <https://www.thenation.com/article/world/super-bowl-rafah-israel-gaza/>

¹¹⁰

<https://www.theguardian.com/world/2024/feb/16/palestinian-ambassador-to-uk-says-eight-relatives-killed-in-israeli-strikes-in-rafah>

¹¹¹

<https://apnews.com/article/israel-hamas-war-news-raid-timeline-4f226be0227e40ba2484d7f551bd2306>

Reports of casualties emerged at 2.30am Israel/Palestine time, 11 hours behind New Zealand summer time.

¹¹² For instance, justifying Israel’s heavy restrictions on the entry of fuel into Gaza:

<https://www.aljazeera.com/news/2023/10/25/gaza-is-out-of-fuel-out-of-time-under-israels-bombardment>; Destroying Hamas’s capabilities has also been used by Israel as a justification for its various assaults on hospitals:

<https://www.thinkglobalhealth.org/article/facts-and-falsehoods-israels-attacks-against-gazas-hospitals>;
<https://reliefweb.int/report/occupied-palestinian-territory/israels-targeting-and-disabling-gaza-hospitals-dismantling-life-and-destroying-last-refuges-enar>

140. Mr Peters and Mr Luxon publicly expressed concerns over Israel attacking Rafah around this time. On 11 February 2024, the day before Mr Peters' meeting with Mr Yaakoby, he posted on X:¹¹³

"We are extremely concerned by indications that Israel is planning a ground offensive into Rafah. New Zealand has been clear from outset that the protection of civilians is paramount. The humanitarian consequences of a ground offensive would be appalling."

141. After the Rafah attack, on 15 February 2024, Mr Luxon issued a joint statement with the prime ministers of Canada and Australia urging Israel not to launch a ground offensive into Rafah (see below at [143]).¹¹⁴

142. However, such statements discouraging Israel were meaningless when Mr Peters as New Zealand's foreign minister publicly presented friendly relations with the Israeli ambassador immediately after the attack on Rafah, emphasising again the 7 October 2023 attacks on Israel and indicating no censure or criticism for Israel's atrocities. Mr Peters' public expression of warm relations with Israel in the immediate aftermath of the attack on Rafah lent diplomatic support to Israel at a moment when it faced particular criticism and outrage. The projection of amiable relations further signalled that, despite New Zealand government expressions of concern over Israel's actions, political consequences for Israel would not be forthcoming. Israeli leaders knew that New Zealand would value and prioritise its friendly relationship with Israel over holding Israel to account for its crimes.

¹¹³ <https://x.com/NewZealandMFA/status/1756475273955140008>

¹¹⁴

<https://www.beehive.govt.nz/release/joint-statement-prime-ministers-australia-canada-and-new-zealand>

Statements of Mr Luxon and Mr Peters in early 2024

Joint statement by Prime Ministers of New Zealand, Australia and Canada on 15 February 2024 - confirmed death toll 28,663 people¹¹⁵

143. As referred to at [141], Mr Luxon issued a statement alongside the Prime Ministers of Australia and Canada on 15 February 2024 urging Israel to desist from its planned military operation on Rafah. Part of this statement was as follows:¹¹⁶

We are gravely concerned by indications that Israel is planning a ground offensive into Rafah.

A military operation into Rafah would be catastrophic. About 1.5 million Palestinians are taking refuge in the area, including many of our citizens and their families. With the humanitarian situation in Gaza already dire, the impacts on Palestinian civilians from an expanded military operation would be devastating. We urge the Israeli government not to go down this path. There is simply nowhere else for civilians to go.

*There is growing international consensus. **Israel must listen to its friends and it must listen to the international community.** The protection of civilians is paramount and a requirement under international humanitarian law. Palestinian civilians cannot be made to pay the price of defeating Hamas.*

An immediate humanitarian ceasefire is urgently needed. Hostages must be released. The need for humanitarian assistance in Gaza has never been greater. Rapid, safe and unimpeded humanitarian relief must be provided to civilians. The International Court of Justice has been clear: Israel must ensure the delivery of basic services and essential humanitarian assistance and must protect civilians. The Court's decisions on provisional measures are binding.

*We are clear that a sustainable ceasefire is necessary to finding a path towards securing lasting peace for Israelis and Palestinians. **Any ceasefire cannot be one sided. Hamas***

115

<https://www.aljazeera.com/news/2024/2/15/exodus-from-rafah-as-israel-ramps-up-strikes-on-south-gaza>

116

<https://www.beehive.govt.nz/release/joint-statement-prime-ministers-australia-canada-and-new-zealand>

must lay down its arms and release all hostages immediately. We again unequivocally condemn Hamas for its terror attacks on Israel on October 7.

Ultimately, a negotiated political solution is needed to achieve lasting peace and security. Australia, Canada, and New Zealand remain steadfast in their commitment to a two-state solution, including the creation of a Palestinian state alongside Israel, where Palestinians and Israelis live side by side in peace, security, and dignity.

144. While in this statement Mr Luxon (with Mr Albanese and Mr Trudeau) publicly called on Israel to comply with international humanitarian law and the International Court of Justice, the joint statement avoided identifying the commission of atrocities by Israel, or making any criticism of Israel's actions to date. It also reminded that New Zealand, Australia and Canada remain Israel's "friends". No call was made for Israel to end its war on Gaza; instead the joint statement suggested that a ceasefire would require Hamas to lay down its arms. The joint statement gave Israel licence to continue its genocidal war on Gaza.

*Comments by Mr Peters in Parliament on 5 March 2024, confirmed death toll 30,534 people*¹¹⁷

145. In Parliament on 5 March 2024, Member of Parliament James Shaw questioned Mr Peters as follows:¹¹⁸

Does he [Mr Peters] agree with Associate Professor of Law Treasa Dunworth, who said about the International Court of Justice ruling in the case against Israel under the Genocide Convention that New Zealand "has a legal obligation to do what it can to ensure that Israel complies with the court's orders"; if so, what action is the Government taking to fulfil its legal obligation?

146. Mr Peters responded:

"It's important to make clear that the International Court of Justice (ICJ) has not made any determination of genocide in this case and, indeed, has not released any final ruling on the matter. What has happened so far is that the ICJ has released a provisional ruling and has taken the substantive issues under advisement. That said, of course, all countries have a general obligation to prevent and punish genocide. New Zealand has

¹¹⁷ <https://english.wafa.ps/Pages/Details/142187>

¹¹⁸

https://www.parliament.nz/en/pb/hansard-debates/rhr/document/HansS_20240305_060360000/1-que-stion-no-1-foreign-affairs

consistently called on Israel to comply with the binding interim measures—that is, take all reasonable steps not to commit genocide—as issued by the International Court on 26 January 2024”

...

147. Mr Shaw followed:

Will he [Mr Peters] unequivocally condemn Israel's use of starvation as a weapon of war, which has resulted in the deaths of at least 10 children, so far, by starvation?

148. Mr Peters responded:

New Zealand is meeting its obligations under the Genocide Convention, including by clearly and consistently stating its position publicly. Since the start of the conflict, New Zealand has consistently called on all parties to comply with international law in national statements and in statements alongside Australia. Since the ICJ provisional ruling, I have engaged with representatives of around 50 countries, and developments in Gaza have been a regular topic of discussion and none of those 50 countries are left in any doubt as to what New Zealand's position is. For the member's benefit, New Zealand has been clear from the outset that the protection of civilians is paramount. The price of defeating Hamas cannot be continued at the suffering of Palestinian people.”

149. In his comments in Parliament on 5 March 2024, Mr Peters emphasised the undetermined nature of the *South Africa v Israel* genocide proceeding at the ICJ, and in this way denied Israel’s commission of genocide. Despite Mr Shaw seeking his condemnation specifically of the use of starvation as a weapon of war, Mr Peters avoided that issue, and avoided any recognition of Israel’s atrocities.

*Speech by Mr Peters at United Nations General Assembly on 9 April 2024, confirmed death toll 33,207 people*¹¹⁹

150. Mr Peters gave the following speech to the UN General Assembly on 9 April 2024:¹²⁰

The situation in Gaza is an utter catastrophe.

¹¹⁹ <https://english.news.cn/20240409/9c898946365043ebaa110798390386e9/c.html>

¹²⁰

<https://www.beehive.govt.nz/speech/speech-united-nations-general-assembly-66th-plenary-meeting-78th-session>

New Zealand condemns Hamas for its heinous terrorist attacks on 7 October and since, including its barbaric violations of women and children. All of us here must demand that Hamas release all remaining hostages immediately.

At the same time, the facts on the ground in Gaza are absolutely clear. More than 32,000 people have been killed. Millions have been displaced. Warnings ring in our ears that famine in Gaza is imminent.

*Indeed, **Palestinian civilians continue to bear the brunt of Israel's military actions,** humanitarian and medical workers are being killed, and health facilities and vital infrastructure have been destroyed.*

Gaza, which was already facing huge challenges before this conflict, is now a wasteland. Worse still, another generation of young Palestinians – already scarred by violence – is being further traumatised.

Since the start of the current crisis in Gaza, the veto has been used five times to prevent the Security Council from acting decisively. This has seen the Council fail in its responsibility to maintain international peace and security.

New Zealand is a long-standing opponent of the use of the veto. We have actively supported the Veto Initiative from its inception and remain a proud proponent of Resolution 76/262.

New Zealand welcomed Resolution 2728, which demanded an immediate ceasefire for the month of Ramadan, leading to a lasting sustainable ceasefire. We call on all parties to this conflict to comply with Resolution 2728 without delay.

We acknowledge Israel's belated announcements that it will allow more humanitarian aid into Gaza. *Israel must do everything in its power to enable safe, rapid and unimpeded humanitarian access.*

Israel cannot now be under any misconceptions as to its legal obligations. *The provisional measures ordered by the International Court of Justice are clear and must be complied with fully and immediately.*

New Zealand offers its full support for the mandate of Sigrid Kaag, Senior Humanitarian and Reconstruction Coordinator for Gaza. Last week we announced a financial

contribution from New Zealand to support Kaag's Mechanism to maximise aid flows into Gaza.

New Zealand looks forward to the outcome of the investigations into serious allegations that have been made against certain UNRWA staff because UN Agencies, including UNRWA, have a critical role to play in meeting the needs of Palestinians. Israeli constraints on UNRWA's ability to operate in Gaza must be lifted.

*New Zealand is gravely concerned by repeated indications from Israel that it may soon launch a military offensive into Rafah. **Palestinian civilians must not be made to pay the price of defeating Hamas.***

The risks of the wider region being further drawn into this conflict also remain alarmingly high. We strongly urge regional actors, including Iran, to exercise maximum restraint.

Israelis and Palestinians deserve to live in peace and security. There is overwhelming support in the international community – including from New Zealand – for a two-state solution. Achieving this will require serious negotiations by the parties and must involve a Palestinian state.

We do not accept that Israel can achieve peace and security while taking more and more territory intended for a future Palestinian state. This misguided notion must end. Building and expanding illegal Israeli settlements in the occupied territories and the forcible displacement of Palestinians from Gaza imperil the two-state solution, which remains the only blueprint for peace that we have.

151. In Mr Peters' speech to the United Nations General Assembly, he again emphasised the attacks on Israel on 7 October 2023. His condemnation was reserved for those atrocities alone; he again avoided recognising Israel's commission of atrocities. Mr Peters presented the harms of Israel's actions to civilians and civilian objects, including starvation, as *unintentional* harms despite the well understood evidence to the contrary. Mr Peters called for Israel to comply with the provisional measures ordered by the ICJ to prevent genocide, without recognising Israel's defiance of those orders over a period (then) of over two months.

Military offensive on Rafah and resulting ICJ order

152. Following weeks of intensified bombardment, on 7 May 2024 Israel began its long-awaited military offensive on Rafah, where approximately 1.5 million civilians had taken refuge.¹²¹ On 10 May 2024, South Africa urgently applied to the ICJ for further provisional measures to be ordered against Israel, in particular seeking that Israel cease its military offensive on Rafah. In its order dated 24 May 2024, the ICJ found that Israel's offensive on Rafah, with its impacts on fleeing civilians with insufficient access to the necessities of life, presented a real and imminent risk to the right of Palestinians in Gaza to be protected from acts of genocide.¹²² It ordered that Israel immediately halt its military offensive on Rafah, and maintain open the Rafah crossing for the urgent provision of humanitarian necessities.¹²³ Israel immediately rejected the ruling and indicated it would continue to attack Rafah.¹²⁴

*Mr Peters ministerial X account post on Rafah military offensive on 28 May 2024, confirmed death toll 36,096 people*¹²⁵

153. Four days after the ICJ's order of 24 May 2024, Mr Peters posted the following as Minister of Foreign Affairs on X:¹²⁶

New Zealand has been clear all along that military operations into Rafah would be catastrophic.

But Israel continues to strike Rafah and is causing horrific civilian consequences.

Israel must listen to the appeals of the international community and the International Court of Justice for an immediate halt to its military offensive in Rafah.

And Hamas, which committed heinous terrorist acts on 7 October 2023, should long ago have released all hostages.

¹²¹ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v Israel)* [2024] ICJ. See order of 24 May 2024:

<https://www.icj-cij.org/node/204091>

¹²² At [47].

¹²³ At [57].

¹²⁴ See comments of Israeli officials including then-war cabinet minister Benny Gantz:

<https://www.bbc.com/news/articles/crggvmyz03vo>

¹²⁵

<https://apnews.com/article/israel-palestinians-hamas-war-news-05-28-2024-21ea44e3b514d3f3f2bd26a33f157e48>

¹²⁶ <https://x.com/NewZealandMFA/status/1795261016466731048>

We reiterate our calls for an immediate ceasefire.

154. Mr Peters avoided recognising Israel's unlawful conduct in breaching orders of the ICJ to prevent genocide. He misconstrued the ICJ's order as an "appeal" to Israel to halt the offensive on Rafah, instead of a binding order, flagrantly breached by Israel. Mr Peters maintained emphasis on Hamas's attacks on Israel on 7 October 2023 and its continued holding of hostages, presented in this post as an explanation for Israel's actions. While not condoning Israel's genocidal assault on Rafah, Mr Peters' post sought to reduce its seriousness.

New Zealand participation in RIMPAC

155. In late June and July 2024, New Zealand and a number of other nations participated in US-led military exercises in Hawai'i (RIMPAC or Rim of the Pacific), alongside Israel.¹²⁷

156. RIMPAC is the world's largest maritime warfare exercise, taking place biennially. As the New Zealand Defence Force explained on its website, "The purpose of RIMPAC is to engage in mutual, large-scale military exercises to foster familiarity, trust, interoperability and collective strength among Pacific nations. This means the navies of friendly nations get used to working together... The exercise is also a sharing of cultures. All ships host open days and functions for the participating nations, and there is a hotly contested sports competition among nations."¹²⁸ RIMPAC military activities included "live-firing of guns, torpedoes and missiles,"¹²⁹ as well as other "amphibious operations... anti-submarine, and air defence exercises."¹³⁰ The theme of RIMPAC 2024 was "Partners: Integrated and Prepared."¹³¹

157. New Zealand was an active and important contributor to these exercises. New Zealand deployed the HMNZS Aotearoa ship, which was responsible for "sustaining the coalition force by resupplying other ships with fuel, food, spare parts and ammunition."¹³² The New Zealand Defence Force also sent 250 personnel, a Royal New Zealand Air Force P-8A Poseidon aircraft and air detachment, and medical personnel.¹³³

¹²⁷ Participating nations were Australia, Belgium, Brazil, Brunei, Canada, Chile, Colombia, Denmark, Ecuador, France, Germany, India, Indonesia, Israel, Italy, Japan, Malaysia, Mexico, Netherlands, New Zealand, Peru, South Korea, Philippines, Singapore, Sri Lanka, Thailand, Tonga, United Kingdom, United States. <https://www.cpf.navy.mil/About-Us/Exercises-Missions/RIMPAC/Participants/>

¹²⁸ <https://www.nzdf.mil.nz/navy/what-we-do/combat-ready/the-largest-maritime-exercise/>

¹²⁹ Ibid.

¹³⁰ <https://www.nzdf.mil.nz/media-centre/news/hmnzs-aotearoa-arrives-at-rimpac-2024/>.

¹³¹ <https://www.defence.gov.au/defence-activities/exercises/rim-pacific>

¹³² <https://www.nzdf.mil.nz/media-centre/news/hmnzs-aotearoa-arrives-at-rimpac-2024/>

¹³³ <https://www.nzdf.mil.nz/media-centre/news/hmnzs-aotearoa-arrives-at-rimpac-2024/>

158. Prior to the exercises commencing, PSNA had called on the New Zealand government, including Minister of Defence Judith Collins, to withdraw New Zealand from RIMPAC “because of Israel’s industrial-scale slaughter of Palestinians in Gaza”.¹³⁴ Other organisations and political leaders, including Green party defence spokesperson Teanau Tuiono, also called on the government to withdraw from RIMPAC, with reference to the ICJ genocide proceeding and Israel’s commission of crimes against children.¹³⁵ In an interview on 23 June 2024, when directly questioned about the issue, Ms Collins brushed aside the critiques, stating that RIMPAC is the “most important military training operation” New Zealand is part of, that RIMPAC allowed New Zealand access to training that it would not otherwise afford, and that New Zealand was not responsible for who attended.¹³⁶
159. New Zealand’s enthusiastic participation in RIMPAC alongside Israel served as a measure of political and military support to Israel on the international stage.
160. PSNA emphasises that the participation of numerous other nations in RIMPAC 2024 does not detract from the potential criminal responsibility to be considered arising from New Zealand participation in this event.

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<https://www.pсна.nz/press-releases/government-urged-to-abandon-rimpac-2024-the-genocidal-state-of-israel-is-taking-part>

135

<https://www.teaonews.co.nz/2024/06/14/new-zealands-involvement-in-rimpac-exercise-condemned-because-of-israels-participation/>

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<https://www.1news.co.nz/2024/06/23/full-interview-judith-collins-on-nzdf-challenges-aucus-pms-plane/>

See also further comments of Ms Collins to the media:

<https://www.stuff.co.nz/politics/350307737/why-nz-navy-training-israel-and-what-could-mean>

Statements of Mr Luxon and Mr Peters in late 2024

Joint statement by Prime Ministers of New Zealand, Australia and Canada on 26 July 2024, confirmed death toll 39,363 people¹³⁷

161. Mr Luxon alongside the Prime Ministers of Australia and Canada issued a further joint statement (provided in part below) on 26 July 2024:¹³⁸

“The situation in Gaza is catastrophic. The human suffering is unacceptable. It cannot continue.

We remain unequivocal in our condemnation of Hamas for the atrocities of October 7 and ongoing acts of terror. Hamas must lay down its arms and release all hostages. We see no role for Hamas in the future governance of Gaza.

Israel must listen to the concerns of the international community. The protection of civilians is paramount and a requirement under international humanitarian law. Palestinian civilians cannot be made to pay the price of defeating Hamas. It must end.

An immediate ceasefire is needed desperately. Civilians must be protected, and a sustained increase in the flow of assistance throughout Gaza is needed to address the humanitarian situation.

We fully stand behind the comprehensive ceasefire deal, outlined by President Biden and endorsed by the UN Security Council. We call on parties to the conflict to agree to the deal. Any delay will only see more lives lost.

We are committed to working towards an irreversible path to achieving a two-state solution, where Israelis and Palestinians can live securely within internationally recognised borders. This is the only realistic option to achieve a just and enduring peace.

We call on Israel to respond substantively to the ICJ’s advisory opinion, and ensure accountability for ongoing acts of violence against Palestinians by extremist settlers,

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<https://reliefweb.int/report/occupied-palestinian-territory/gaza-humanitarian-snapshot-2-13-29-july-2024>

138

<https://www.beehive.govt.nz/release/joint-statement-prime-ministers-canada-australia-and-new-zealand>

reverse the record expansion of settlements in the West Bank which are illegal under international law, and work towards a two-state solution.

162. This joint statement referred to the ceasefire proposal which was agreed by Hamas in May 2024 and promoted by US President Joe Biden,¹³⁹ which was then adopted by the UN Security Council on 10 June 2024 despite Israel's refusal to agree to it.¹⁴⁰ The joint statement falsely presented Hamas alongside Israel as an impediment to a ceasefire: a position which obfuscated Israel's intention to continue committing international crimes in Gaza.
163. It may be worth noting that from as early as December 2023, Hamas supported a cessation of hostilities in exchange for the release of all hostages alongside prisoner exchanges.¹⁴¹
164. The joint statement construed Israel's ongoing commission of international crimes as unintended humanitarian consequences from a war between two parties. This depiction of events was supported by, again, emphasis on the attacks on Israel of 7 October 2023. Israel's demands for Hamas to disarm and cease governing Gaza are echoed in the joint statement, lending support to Israel's justifications for the continuation of its genocidal war on Gaza.
165. New Zealand leaders would not call for an unconditional and permanent ceasefire ending Israel's violence in Gaza until joining a UN General Assembly resolution to this effect on 11 December 2024.¹⁴²

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<https://www.aljazeera.com/news/2024/5/31/biden-says-israel-has-agreed-to-enduring-gaza-ceasefire-proposal>

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<https://www.aljazeera.com/news/2025/6/8/clearly-an-excuse-does-netanyahu-really-want-hamas-gone>

¹⁴¹ <https://www.npr.org/2023/12/27/1221761431/gaza-israel-ceasefire-palestinians-war>

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https://www.mfat.govt.nz/en/media-and-resources/united-nations-explanation-of-vote-at-the-emergency-special-session-on-israel-gaza-unrwa-operations-resolution-gaza-ceasefire-resolution?utm_source=chatgpt.com;

<https://www.aljazeera.com/news/2024/12/12/un-general-assembly-demands-immediate-ceasefire-in-gaza-supports-unrwa>

Statement by Mr Luxon and Mr Peters on 7 October 2024, confirmed death toll over 41,600 people¹⁴³

166. Mr Luxon and Mr Peters issued a statement on the one-year anniversary of the 7 October 2023 attacks on Israel:¹⁴⁴

Prime Minister Christopher Luxon and Deputy Prime Minister and Foreign Minister Winston Peters are renewing New Zealand's calls for restraint and de-escalation, on the first anniversary of the 7 October terrorist attacks on Israel.

"New Zealand was horrified by the monstrous actions of Hamas against Israel a year ago today," Mr Luxon says.

"Then, as now, we remain appalled by Hamas' brutality and the taking of hostages."

"Hamas' terrorist attack set in motion an absolutely unacceptable cycle of violence and human suffering," Mr Peters says.

"We continue to reiterate that a ceasefire, endorsed by the United Nations Security Council, is the best way to protect civilians on all sides.

"New Zealand also renews its call for the immediate and unconditional release of all remaining hostages by Hamas."

"New Zealand remains concerned by the escalating hostilities across the Middle East", Mr Luxon says.

"We again call for restraint, the protection of civilians, and the upholding of international humanitarian law by all parties."

167. This statement clearly reflects the efforts of Mr Luxon and Mr Peters to shift blame for Israel's atrocities to Hamas, to continually centre the provocation of Israel, and minimise Israel's responsibility for its continuing international crimes.

¹⁴³ <https://www.unocha.org/news/one-year-unimaginable-suffering-7-october-attack>

¹⁴⁴ <https://www.beehive.govt.nz/release/new-zealand-marks-anniversary-7-october>

Statement of Mr Peters in support of Israeli soldiers on 1 February 2025, confirmed death toll 47,487 people¹⁴⁵

168. In late January 2025, Israeli newspaper Haaretz reported that New Zealand was requiring Israeli visitors to disclose whether they had served in the Israel Defense Forces upon entry to New Zealand.¹⁴⁶ The Haaretz reporting also referred to a “Genocide Hotline” established by PSNA to identify Israeli soldiers holidaying in New Zealand.¹⁴⁷

169. The reporting on border controls was incorrect, but it provoked sharp criticism from US senator Ted Cruz on X (formerly Twitter).¹⁴⁸ On 1 February 2025, Mr Peters forcefully responded on his ministerial X account:¹⁴⁹

This @haaretzcom story is fake news, Senator @TedCruz. We are demanding it be corrected.

Israelis do not need visitor visas to travel to New Zealand, let alone have to declare their military service.

And both New Zealand’s Chief Human Rights Commissioner and I - as Foreign Minister - have made clear that the so-called “genocide hotline” is dangerous, antisemitic nonsense.

New Zealanders are a friendly people - and Israelis are very welcome to visit New Zealand. Many do so under our visitor visa waiver programme.

New Zealand & the United States are long-standing, close partners - and we are looking forward to building that partnership further under the Trump Administration.

170. Mr Peters’ statement on X sought to convey assurances of welcome to Israeli soldiers without concern for their involvement in the commission of international crimes.

¹⁴⁵ <https://english.wafa.ps/Pages/Details/154162>

¹⁴⁶

<https://www.rnz.co.nz/news/political/540622/winston-peters-has-fierce-response-to-us-senator-ted-cruz-about-nz-immigration-requirements-for-israelis>

¹⁴⁷ Ibid.

¹⁴⁸ Ibid.

¹⁴⁹ Ibid.

Statements of Mr Peters on escalated atrocities since March 2025

Mr Peters' ministerial X account post on 20 March 2025, confirmed death toll 49,617 people¹⁵⁰

171. After Israel's termination of the January - March 2025 ceasefire, with Israel's massive surprise attack on Gaza on the night of 17-18 March 2025 killing more than 400 people,¹⁵¹ Mr Peters posted on his ministerial X account as follows:¹⁵²

"New Zealand is deeply concerned about renewed fighting in Gaza.

A permanent end to the fighting needs to be found.

New Zealand has consistently called for a ceasefire and de-escalation of tensions in the region. This is critical for ending the incomprehensible human suffering over the past year and a half.

New Zealand calls on both sides to reinstate the ceasefire and fully implement the terms of the deal."

172. Mr Peters' statement sought to shift blame for Israel's resumption of mass killings in Gaza towards Hamas. He misrepresented Israel's unilateral termination of the ceasefire as "renewed fighting" between Israel and Hamas, accompanied by his call for "both sides to reinstate the ceasefire". The statement shows an attempt to obfuscate Israel's intention to continue its criminal conduct. No mention was made at this point of Israel's total humanitarian blockade of Gaza, in effect since 2 March 2025.

Mr Peters' media comments on 21 May 2025, confirmed death toll 53,655 people¹⁵³

173. In the context of Israel's total humanitarian blockade from 2 March 2025 to 18 May 2025 (followed by limited deliveries of aid largely under the militarised Gaza Humanitarian Foundation), with growing numbers of deaths by starvation as of May 2025, it is relevant for this analysis to note recent New Zealand government criticism at that point of Israel's aid blockade.

¹⁵⁰ <https://x.com/palinfoen/status/1903355969033130010>

¹⁵¹ <https://www.aljazeera.com/news/2025/3/18/israel-launches-gaza-assault-killing-hundreds-and-shattering-ceasefire>

¹⁵² <https://x.com/NewZealandMFA/status/1902425340913324149>

¹⁵³ <https://www.ochaopt.org/content/reported-impact-snapshot-gaza-strip-21-may-2025>

174. As Mr Peters said on 21 May 2025 with regard to the aid blockade, “we’ve just simply had enough of it, utterly so [from Israel].” He added that “Israel needs to get the message very clear - we are running out of patience and hearing excuses.”¹⁵⁴
175. Mr Peters’ belated criticism of Israel’s aid blockade - in line with criticism voiced at that time by the United Kingdom, France and Canada - has not been repeated, nor extended to address any of Israel’s further atrocities at this time, notably its expanded military offensive in Gaza, progressive ethnic cleansing of the Gaza Strip, and near-daily killings of Palestinians seeking aid from the Gaza Humanitarian Foundation.

Summary - New Zealand political support for Israel’s commission of international crimes

176. Despite the obvious and incessant nature of Israel’s commission of international crimes in Gaza since 7 October 2023, New Zealand political leaders, and in particular Mr Luxon and Mr Peters as the New Zealand government’s relevant spokespeople, have provided meaningful support over time for Israel’s commission of international crimes.
177. They repeatedly suggested in the earlier months of the genocide that Israel was acting in self-defence. In February 2024, when Israel faced mounting criticism while it continued to commit atrocities in the wake of the ICJ’s first order, Mr Peters publicly projected warm relations with Israel and an absence of censure or criticism for its defiance of the ICJ’s measures ordered to prevent genocide. The New Zealand government’s participation in military exercises with Israel in RIMPAC 2024 demonstrated again New Zealand’s support for Israel.
178. New Zealand’s political leaders have denied Israel’s commission of genocide, avoided recognising Israel’s atrocities, attempted to minimise Israel’s responsibility for its crimes, echoed Israel’s justifications for its actions, and shifted blame for Israel’s atrocities towards Hamas, including by falsely presenting Hamas as an impediment to a ceasefire. While recognising the severity of the humanitarian situation in Gaza, Mr Luxon and Mr Peters repeatedly presented the harms of Israel’s actions in Gaza as unintentional. In these various

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<https://www.rnz.co.nz/news/political/561641/winston-peters-joins-allies-in-demanding-israel-allow-aid-into-gaza>

ways, leading New Zealand politicians have legitimised and given political cover to Israel's genocidal violence against Gaza.

Potential New Zealand material support for Israel's commission of international crimes

Rakon's likely supply of crystal oscillators for Israel's air strikes

179. PSNA believes it is likely that Rakon Limited ("Rakon"), a New Zealand company headquartered in Auckland, has supplied critical missile componentry (crystal oscillators) to the United States, where this componentry has likely been integrated into missiles provided by the US government to Israel. PSNA believes it is likely that missile componentry manufactured by Rakon since 7 October 2023 has been used to guide missiles for striking civilian targets in Gaza.
180. Despite numerous communications between PSNA, New Zealand government officials, and Rakon, there has been no resolution of this issue. Due to the secrecy of Rakon's internal affairs and limited disclosure of information from the New Zealand government, PSNA is unable to confirm this likely support by Rakon for Israel's commission of international crimes in Gaza. Rakon has not denied the allegations; it has only denied awareness of its products being incorporated into weapons provided to Israel (see Rakon statement provided below at [200]).¹⁵⁵
181. With reference to the longstanding nature of claims that Rakon has assisted Israel through its supply of crystal oscillators to the US (going back to 2006),¹⁵⁶ PSNA believes that at the highest levels of Rakon, there is likely awareness of the contribution the company has likely provided since 7 October 2023 towards Israel's commission of international crimes. PSNA considers that potential criminal responsibility for this should be considered, at a minimum, as applying to Rakon's chief executive officer Dr Sinan Altug.

¹⁵⁵ <https://www.rakon.com/news/statement-on-recent-claims-about-rakon-products>; See also statements made to New Zealand media:

<https://www.stuff.co.nz/nz-news/350460494/new-zealand-company-rakon-refuses-to-rule-out-products-being-incorporated-into-weapons-used-by-israel>

¹⁵⁶ <https://www.scoop.co.nz/stories/PO0607/S00365.htm>

182. Unless the crystal oscillators in question have been manufactured by Rakon outside New Zealand, a possibility which PSNA cannot exclude,¹⁵⁷ we consider that the OTP should also consider the criminal responsibility of Prime Minister Christopher Luxon and Minister of Foreign Affairs Winston Peters for allowing these exports.

Background to this issue

183. Crystal oscillators are electronic components which provide stable frequency, enabling applications such as radar, communications, positioning and navigation.¹⁵⁸ Rakon produces military-grade crystal oscillators, which are key components for military “PNT” (Positioning, Navigation and Timing) systems.¹⁵⁹ Such military-grade crystal oscillators produced by Rakon comprise Ultra-Stable Oven Controlled Crystal Oscillators (OCXOs), GPS-Disciplined OCXOs, and Temperature-Controlled Crystal Oscillators (TCXOs).¹⁶⁰ PSNA understands these crystal oscillators are used for guiding weapons.

184. In 2005 and 2006, internal Rakon documents emerged showing that Rakon crystal oscillators were being incorporated into US Joint Direct Attack Munition (JDAM) “smart bomb kits” produced by US company Boeing.¹⁶¹ JDAM kits are guidance kits, which convert unguided bombs into all-weather satellite-guided munitions.¹⁶² They use crystal oscillators to enable GPS positioning while the missile is in flight, ensuring that the missile is guided to the correct location, or to a moving target. These weapons were used in the US-led wars in Afghanistan and Iraq.¹⁶³

185. The leaked Rakon documents revealed Rakon’s supply of crystal oscillators to Rockwell Collins, the US weapons company which provided the precision guidance technology to

¹⁵⁷

<https://www.reseller.co.nz/article/3953911/scott-technology-expects-minimal-impact-from-trump-tariffs-this-year-at-least.html>

¹⁵⁸ See uses of crystal oscillators listed in the Rakon statement provided responding to the allegations made:

<https://www.rakon.com/news/statement-on-recent-claims-about-rakon-products>

¹⁵⁹ <https://www.rakon.com/applications/defence/positioning-navigation>

¹⁶⁰ Ibid.

¹⁶¹

<https://www.nzherald.co.nz/business/companies/agribusiness/ithe-rakon-files-nz-companys-weapons-role/PM6SQWCMIF6JV7C5Y2OYT4UA3U/>

¹⁶²

<https://www.af.mil/About-Us/Fact-Sheets/Display/Article/104572/joint-direct-attack-munition-gbu-313238/>

¹⁶³

<https://www.nzherald.co.nz/business/companies/agribusiness/ithe-rakon-files-nz-companys-weapons-role/PM6SQWCMIF6JV7C5Y2OYT4UA3U/>

Boeing for the JDAM.¹⁶⁴ It was understood from those documents that Rockwell Collins used Rakon components for almost all of its GPS applications.¹⁶⁵ As disclosed in Rakon's 2005 business plan, "[e]xcept for a very expensive [crystal oscillator] Rockwell builds themselves, Rakon is [its] sole supplier."¹⁶⁶

186. Rakon faced criticism from as early as 2006 for its supply of crystal oscillators for US-produced satellite-guided munitions believed to be used by Israel (at that time, for its attacks on Lebanon).¹⁶⁷ Rakon faced further criticism in early 2009 for its supply of crystal oscillators then understood to be used in satellite-guided munitions used by Israel in its 2008-2009 war on Gaza.¹⁶⁸

187. Rakon's historic customer Rockwell Collins now operates as part of Collins Aerospace, a subsidiary of RTX Corporation (formerly Raytheon Technologies).¹⁶⁹ RTX Corporation is one of the US government's major weapons suppliers, and its subsidiary Collins Aerospace continues to specialise in navigation and weapons guidance technology.¹⁷⁰ There is no indication that Boeing has ceased relying on Collins Aerospace to provide the guidance technology for its JDAM kits,¹⁷¹ and there is no indication that Rakon has ceased to supply crystal oscillators to Collins Aerospace.

Israeli air strikes on Gaza using United States-supplied satellite-guided munitions

188. As part of the US government's "surging"¹⁷² of military assistance to Israel for its war on Gaza since October 2023, it has transferred to Israel JDAM bombs and various other

¹⁶⁴ See publication of Rockwell Collins obtaining this contract with Boeing's predecessor, McDonnell Douglas, in 1996: <https://aviationweek.com/jdam-get-gps-module>

¹⁶⁵

<https://www.nzherald.co.nz/business/companies/agribusiness/ithe-rakon-filesi-nz-companys-weapons-role/PM6SQWCMIF6JV7C5Y2OYT4UA3U/>

¹⁶⁶

<https://www.nzherald.co.nz/business/companies/agribusiness/ithe-rakon-filesi-nz-companys-weapons-role/PM6SQWCMIF6JV7C5Y2OYT4UA3U/>

¹⁶⁷ <https://www.scoop.co.nz/stories/PO0607/S00365.htm>

¹⁶⁸ <https://www.scoop.co.nz/stories/PO0901/S00081.htm>

¹⁶⁹ See the explanation of corporate changes to Rockwell Collins provided by Wikipedia:

https://en.wikipedia.org/wiki/Rockwell_Collins

¹⁷⁰

<https://www.collinsaerospace.com/what-we-do/industries/military-and-defense/navigation/weapons-products/guidance-navigation-control>

¹⁷¹ See Boeing Canada's reference to Rockwell Collins on its webpage for the JDAM:

<https://www.boeing.ca/products-and-services/defense-space-security/joint-direct-attack-munition>; See also reporting on Rockwell Collins's supply of guidance technology to the Boeing JDAM as of 2015:

<https://www.defensenews.com/air/2015/05/31/guided-bomb-makers-anticipate-gps-jammers/>

¹⁷²

<https://news.sky.com/video/israel-hamas-war-joe-biden-condemns-bloodthirsty-hamas-and-pledges-extra-military-assistance-12981977>

satellite-guided munitions¹⁷³ - which rely on crystal oscillators - including RTX Corporation's own Paveway IV guided bomb.¹⁷⁴ Satellite-guided munitions supplied by the US which have been found to be used in strikes on Gaza include the GBU-31 (a 2000 pound bomb fitted with a JDAM kit) and the GBU-39 (a 250 pound bomb fitted with a JDAM kit), and there are numerous other examples of bombings where remnants of JDAM kits were found.¹⁷⁵

189. In a December 2023 report, Amnesty International documented the use of bombs with JDAM kits in two strikes which killed 43 civilians in central Gaza.¹⁷⁶
190. On 6 June 2024 Israel bombed a United Nations-run school in Nuseirat refugee camp, using at least two GBU-39 munitions.¹⁷⁷ That attack took place without warning, killing at least 40 Palestinians and wounding at least 74 others who were displaced people seeking shelter.¹⁷⁸ The inertial measurement unit of the bomb (used to aid with precision targeting) was identified by Al Jazeera as being manufactured by US company Honeywell.¹⁷⁹ The New Zealand government has not answered PSNA's calls to investigate whether Rakon components were used in the missile which struck Nuseirat refugee camp.¹⁸⁰
191. As Israel's war on Gaza has progressed and expanded, arms transfers from the US have continued unabated. In February 2025, the US Congress approved the Pentagon to sell to Israel precision-guided bombs, missiles, and associated equipment worth US \$7.41 billion.¹⁸¹ In May 2025, Israel's Defense Ministry stated that it had received over 90,000 tons of military

¹⁷³ <https://inthesetimes.com/article/united-states-israel-precision-guided-munitions-stockpile>; see also: <https://responsiblestatecraft.org/us-weapons-gaza/>

¹⁷⁴

<https://www.airforce-technology.com/news/us-republicans-appalled-at-decision-to-stop-israel-munitions-deliveries/>

See an explanation of the Paveway IV bomb: <https://www.thinkdefence.co.uk/2022/11/paveway-iv/>

¹⁷⁵ <https://responsiblestatecraft.org/us-weapons-gaza/>

¹⁷⁶

<https://www.amnesty.org/en/latest/news/2023/12/israel-opt-us-made-munitions-killed-43-civilians-in-two-documented-israeli-air-strikes-in-gaza-new-investigation/>

¹⁷⁷ <https://responsiblestatecraft.org/us-weapons-gaza/>

¹⁷⁸

<https://www.aljazeera.com/news/2024/6/6/us-weapons-parts-used-in-israeli-attack-on-gaza-school-al-jazeera-analysis>

¹⁷⁹ Ibid.

¹⁸⁰ See PSNA's media release following the investigation into the Nuseirat refugee camp air strike:

<https://www.psna.nz/press-releases/were-rakon-components-in-the-bomb-that-killed-at-least-40-people>

¹⁸¹ <https://www.newarab.com/news/us-sending-israel-thousands-bombs-missiles-gaza-assault>

equipment from the United States since the beginning of its war on Gaza, including munitions.¹⁸²

Replenishment of US munition stocks

192. PSNA believes the US government has continued to procure satellite-guided weapons over the course of Israel's war. The Pentagon closely manages its inventory of weapons in order to keep its stocks replenished;¹⁸³ as transfers of weapons to Israel have proceeded, so therefore has procurement of the weapons supplied. In November 2023, the US Secretary of Defense explained before the Senate (when seeking approval for additional military funding) that "when we send our friends munitions from our stockpiles, the money to replenish our supplies strengthens our military readiness, [as] we invest in American industry and American workers. That also holds true for funding for Israel or Ukraine to procure new equipment off the production line."¹⁸⁴ In April 2024, the US passed legislation approving additional funding of US \$4.4 billion to replenish defence articles and defence services provided to Israel.¹⁸⁵ An official disclosed in June 2024 that due to the demands caused by Israel's war on Gaza, the Pentagon had been liaising with US weapons companies such as Boeing and General Dynamics as the weapons companies worked to manufacture more.¹⁸⁶
193. Given the vast scale of US weapons transfers to Israel in the 20 months that have elapsed since the start of Israel's war on Gaza, PSNA believes it is likely that within the time that has passed since 7 October 2023, satellite-guided munitions have been manufactured in the United States, acquired by the US government, supplied to Israel, and then used by Israel to strike civilian targets in Gaza.

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<https://www.middleeastmonitor.com/20250527-israel-receives-940-us-arms-shipments-since-gaza-war-defense-ministry/>

183

<https://www.defensenews.com/pentagon/2024/04/30/soaring-us-munitions-demand-strains-support-for-israel-ukraine-taiwan/>

184

<https://www.defense.gov/News/News-Stories/Article/Article/3579571/ukraine-defense-package-includes-missiles-air-defense/>

¹⁸⁵ <https://www.congress.gov/bill/118th-congress/house-bill/8034/text>

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<https://www.reuters.com/world/us-has-sent-israel-thousands-2000-pound-bombs-since-oct-7-2024-06-28/>

Likely assistance provided by Rakon to Israel's commission of international crimes since 7 October 2023

194. PSNA believes it likely that Rakon is continuing to supply crystal oscillators to its historic customer Collins Aerospace as well as other weapons manufacturers in the US. Rakon has not denied that it supplies crystal oscillators for use in guided munitions.¹⁸⁷
195. While Rakon generally bundles together space and defence in its reporting, it reported in 2022 that products used for defence applications constituted nine percent of its total revenue.¹⁸⁸ Rakon maintains three customer support locations in the US.¹⁸⁹ As shared in its 2022 annual report, Rakon is an approved supplier to the majority of Tier 1 companies in its core markets, and it has “developed long and enduring relationships with major customers”.¹⁹⁰ Rakon describes as part of its growth strategy “growing our core business” and as part of that, with regard to space and defence, focus on its market access in North America.¹⁹¹
196. Rakon’s 2005 business plan stated that the company’s objective was to dominate “the lucrative and expanding guided munitions and military positioning market” within five years.¹⁹² Rakon is among the top global suppliers of crystal oscillators.¹⁹³
197. In all of these circumstances, PSNA believes that since 7 October 2023, through its likely continued supply of crystal oscillators to US weapons manufacturers, Rakon has likely manufactured crystal oscillators which have been incorporated into satellite-guided munitions used by Israel to strike civilian targets in Gaza.

¹⁸⁷ <https://www.rakon.com/news/statement-on-recent-claims-about-rakon-products>

¹⁸⁸ Rakon Annual Report 2022 at page 17.

<https://www.rakon.com/hubfs/Files/Investor/FY22/Rakon%20FY22%20Annual%20Report.pdf>

¹⁸⁹ Rakon Annual Report 2024 at page 6.

<https://www.rakon.com/hubfs/Files/Investor/FY24/RAK%20FY24%20Annual%20Report.pdf>

¹⁹⁰ Above n 188, at page 21.

¹⁹¹ Above n 189, at page 14.

¹⁹²

<https://www.nzherald.co.nz/business/companies/agribusiness/ithe-rakon-files-nz-companys-weapons-role/PM6SQWCMIF6JV7C5Y2OYT4UA3U/>

¹⁹³ See mention of Rakon in crystal oscillator industry analysis:

<https://www.mordorintelligence.com/industry-reports/global-crystal-oscillator-market-industry>

Communications between PSNA, Rakon, and New Zealand government

198. On 5 April 2024, a United Nations Human Rights Council (UNHCR) resolution demanded an end to all arms sales to Israel in response to Israel's war crimes.¹⁹⁴ PSNA then wrote to Mr Luxon on 8 April 2024 seeking an assurance that New Zealand military export orders to the US and Israel, including any such exports from Rakon, were halted following the UNHCR resolution. No response was received.
199. In May 2024, in the context of media coverage of this issue, New Zealand export regulators from the Ministry of Foreign Affairs and Trade met with Rakon representatives.¹⁹⁵ Export regulators questioned awareness by Rakon as to PSNA's claims that their crystal oscillators were being used in munitions supplied to Israel by the US.¹⁹⁶ Rakon representatives responded that they had been shown no evidence to back up those claims.¹⁹⁷ They assured export regulators that none of their products were captured by New Zealand export controls.¹⁹⁸ On 21 May 2024, Mr Luxon said in a media interview that "we have very strong export controls around defence companies selling defence things into places".¹⁹⁹ Rakon offered a meeting with PSNA at about this time to discuss PSNA's concerns, then retracted that offer.²⁰⁰
200. PSNA wrote again to Mr Luxon on 26 May 2024, asking for the suspension of military-capable exports from Rakon pending an independent investigation into their potential use in Israel's genocidal attacks on Gaza.²⁰¹ Rakon issued the following statement on 28 May 2024:²⁰²

Rakon does not design or manufacture weapons. We do not supply products to Israel for weapons, and we are not aware of our products being incorporated into weapons which are provided to Israel.

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<https://www.aljazeera.com/news/2024/4/5/un-rights-body-demands-israel-be-held-accountable-for-possible-war-crimes>

¹⁹⁵ See documents received from the Ministry of Foreign Affairs and Trade, **annexed** as "A".

¹⁹⁶ Ibid.

¹⁹⁷ Ibid.

¹⁹⁸ Ibid.

¹⁹⁹

<https://www.stuff.co.nz/politics/350460261/israel-gaza-conflict-pm-christopher-luxon-says-former-short-land-street-actor-s-hunger-strike-a-real-shame-defends-govt-s-response>

²⁰⁰

<https://www.stuff.co.nz/nz-news/350460494/new-zealand-company-rakon-refuses-to-rule-out-products-being-incorporated-into-weapons-used-by-israel>

²⁰¹ See PSNA's letter to Mr Luxon dated 26 May 2024, **annexed** as "E".

²⁰² <https://www.rakon.com/news/statement-on-recent-claims-about-rakon-products>

Crystal oscillators are very common commercial electronic components. Rakon's products are used in a wide range of applications in many different industries and market sectors including telecommunications, space and defence, and positioning. For our customers in the defence sector, product applications can include radar, communications, positioning and navigation.

Our Trade Compliance Policy conforms with New Zealand Government regulations and sets out customer due diligence requirements for customers involved in the defence sector. Rakon policy also states we will not sell products which could be used in weapons of mass destruction (or their means of delivery), or in cluster munitions or for terrorist activity.

201. Rakon's statement did not deny PSNA's claims.
202. PSNA wrote again to Mr Luxon and other government officials on 20 June 2024 and on 4 September 2024 expressing concern at the likelihood of Rakon's crystal oscillators contributing towards Israel's atrocities.²⁰³ PSNA has received no response from the New Zealand government to any of its letters about this issue.
203. "[G]uidance and navigation equipment", where used for military purposes, is a type of goods on New Zealand's Strategic Goods List,²⁰⁴ for which export from New Zealand requires an export permit issued by New Zealand's Secretary of Foreign Affairs and Trade.²⁰⁵ Pursuant to the catch-all export controls,²⁰⁶ all goods which may be intended for a military use or application require an export permit from the Secretary of Foreign Affairs and Trade, unless the goods are consigned for final use in a "white list" country such as the United States (Israel is not such a country). Exports by Rakon of military-grade crystal oscillators from New

²⁰³ See PSNA's letter of demand to Mr Luxon dated 20 June 2024 **annexed** as "F"; see PSNA's further letter to the New Zealand government dated 4 September 2024 **annexed** as "H".

²⁰⁴ See New Zealand Strategic Goods List at page 58:

https://bwimplementation.org/sites/default/files/resource/NZ_New%20Zealand%20Strategic%20Goods%20List%20November%202021_EN.pdf

²⁰⁵ See New Zealand government explanation of the export controls system:

<https://www.mfat.govt.nz/en/trade/export-controls>

To be clear, the Secretary of Foreign Affairs and Trade is an official from the New Zealand Ministry of Foreign Affairs and Trade.

²⁰⁶

<https://www.mfat.govt.nz/assets/Trade-General/Brokering-weapons-AND-Trading-weapons-and-controlled-chemicals/Catch-all-Gazette-Notice.pdf>

See also explanatory notes:

<https://www.mfat.govt.nz/assets/Trade-General/Brokering-weapons-AND-Trading-weapons-and-controlled-chemicals/Catch-all-Gazette-Notice-Explanatory-Notes.pdf>

Zealand to the United States, where those goods are not consigned for final use in the United States but instead may be sent to Israel, should be caught at a minimum by the catch-all export controls.

204. Any such exports must be disclosed to New Zealand's export regulators at the Ministry of Foreign Affairs and Trade, and only proceed pursuant to an export permit issued by the Secretary of Foreign Affairs and Trade.²⁰⁷
205. Official information provided by the Ministry of Foreign Affairs and Trade to PSNA confirms that Rakon is subject to no export controls.²⁰⁸
206. The same official information received by PSNA shows that the "investigations" conducted by the Ministry of Foreign Affairs and Trade into these allegations in May 2024 did not proceed further than obtaining Rakon's assessment of whether its crystal oscillators were caught by export controls.²⁰⁹
207. In April 2025, Rakon disclosed to media that of its products directly shipped to customers in the US, Rakon manufactures approximately 85 per cent in New Zealand, 12 per cent in France, and three per cent in India.²¹⁰ PSNA cannot exclude the possibility that Rakon's military-grade crystal oscillators are manufactured outside New Zealand. If in fact they are manufactured outside New Zealand, then there would be no case to implicate Mr Luxon (Prime Minister) and Mr Peters (Minister of Foreign Affairs) for allowing their supply to US weapons companies producing munitions supplied to Israel. This would not affect the potential criminal responsibility of Dr Altug and other individuals at Rakon.

Rocket Lab launches of satellites providing military intelligence to Israel

208. PSNA believes that satellites launched by New Zealand-founded company Rocket Lab USA ("Rocket Lab") are very likely assisting Israel to commit international crimes in Gaza.
209. PSNA believes that Rocket Lab's most recent satellite launches for US geospatial intelligence company BlackSky Technology ("BlackSky"), which took place from Rocket Lab's New Zealand

²⁰⁷ See New Zealand government explanation of the export controls system:
<https://www.mfat.govt.nz/en/trade/export-controls>

²⁰⁸ See documents received from the Ministry of Foreign Affairs and Trade **annexed** as "A".

²⁰⁹ Ibid.

²¹⁰

<https://www.reseller.co.nz/article/3953911/scott-technology-expects-minimal-impact-from-trump-tariffs-this-year-at-least.html>

spaceport on 19 February 2025 and 3 June 2025,²¹¹ may attract individual criminal responsibility for Rocket Lab CEO Sir Peter Beck as well as New Zealand Minister for Space Judith Collins, for potential contribution towards Israel's international crimes. Three further such launches for BlackSky are intended to take place.²¹²

210. Rocket Lab has numerous links to geospatial intelligence which may be important for the OTP to understand, though the focus of this communiqué is on the geospatial intelligence provided to Israel by BlackSky, and Rocket Lab's role in launching satellites for BlackSky. Rocket Lab has active contracts to launch satellites for US geospatial intelligence companies Capella Space²¹³ and HawkEye 360²¹⁴ in addition to BlackSky. Each of these three companies produce military intelligence, which they sell to governments around the world. All three companies were sponsors of a geospatial intelligence conference in Israel which took place in January 2025 (Ramon GeoInt360), of which the Israel Ministry of Defense and BlackSky were "leading partners" and HawkEye 360 and Capella Space were sponsors.²¹⁵ The potential role of each of these companies in Israel's commission of international crimes is worthy of investigation.
211. PSNA also notes Rocket Lab's history of launching satellites for the US National Reconnaissance Office ("NRO"), including most recently in March 2024 from Rocket Lab's spaceport in Virginia in the United States.²¹⁶ PSNA considers it likely that data produced by NRO satellites, where relevant to Israel's conflicts, is provided to Israel.²¹⁷

BlackSky Technology

212. BlackSky Technology has a US \$150 million contract to supply high temporal frequency images and analysis to Israel.²¹⁸ BlackSky's satellites monitor target locations by shooting high

²¹¹ <https://rocketlabcorp.com/missions/missions-launched/>

²¹²

<https://www.blacksky.com/blacksky-signs-five-launch-deal-with-rocket-lab-to-launch-next-gen-capabilities-and-meet-growing-demand-for-high-frequency-monitoring/>

²¹³

<https://www.capellaspace.com/press-releases/rocket-lab-signs-multi-launch-deal-to-deploy-satellite-constellation-for-capella-space>

²¹⁴ <https://rocketlabcorp.com/missions/upcoming-missions/hawkeye-360/>

²¹⁵ <https://www.geoint360.com/>

²¹⁶ <https://rocketlabcorp.com/missions/missions-launched/>

²¹⁷ <https://theintercept.com/2024/01/11/israel-air-force-targeting-intelligence/>

²¹⁸

<https://www.intelligenceonline.com/surveillance--interception/2024/07/30/blacksky-prepares-to-go-under-nyse-knife,110273656-gra>

resolution photographs once every hour.²¹⁹ PSNA believes that this intelligence is used by Israel Defense Forces artificial intelligence systems to select strike targets in Gaza.²²⁰

213. Rocket Lab has launched satellites for BlackSky since 2019. On 19 February 2025, Rocket Lab began deploying BlackSky's constellation of "next generation" ("Gen-3") earth observation satellites, with improved capability.²²¹ Unlike BlackSky's previous satellites, the Gen-3 satellites include shortwave infrared scanning that enable imaging at night and through clouds.²²²
214. In total, five launches of these "next generation" BlackSky satellites are intended to take place, all from Rocket Lab's spaceport in New Zealand on the Māhia Peninsula ("Māhia spaceport").²²³
215. It may be relevant to note that BlackSky also has a contract to provide data to US intelligence agencies.²²⁴ PSNA believes it is likely that that data, where relevant to Israel's conflicts, is available to Israel.²²⁵

²¹⁹

<https://www.seattletimes.com/business/boeing-aerospace/seattle-built-spy-satellites-deliver-real-time-intelligence/>

²²⁰

<https://www.idf.il/en/mini-sites/idf-press-releases-israel-at-war/june-24-pr/the-idf-s-use-of-data-technologies-in-intelligence-processing/>, see in particular: "Intelligence used to identify objects or persons as military targets may come from a range of sources - including **geospatial intelligence (such as satellite and aerial imagery)**, signals intelligence (such as communications interceptions), human sources, multi-sensor platforms (such as aerial assets and ground-based sensors), enemy military documents and open-source information."

See also intelligence confirming the exclusive use of BlackSky satellite imagery over Lebanese regions by the Pentagon and Israel:

<https://www.intelligenceonline.com/surveillance--interception/2024/10/07/tel-aviv-dependent-on-us-spy-satellites-for-offensive-in-lebanon-and-beyond,110314173-fac>

²²¹

<https://www.blacksky.com/blacksky-signs-five-launch-deal-with-rocket-lab-to-launch-next-gen-capabilities-and-meet-growing-demand-for-high-frequency-monitoring/>;

<https://rocketlabcorp.com/missions/upcoming-missions/blacksky/>

²²²

<https://www.seattletimes.com/business/boeing-aerospace/seattle-built-spy-satellites-deliver-real-time-intelligence/>

²²³

<https://www.blacksky.com/blacksky-signs-five-launch-deal-with-rocket-lab-to-launch-next-gen-capabilities-and-meet-growing-demand-for-high-frequency-monitoring/>

²²⁴ <https://spacenews.com/blacksky-maxar-planet-win-10-year-nro-contracts-for-satellite-imagery/>;

https://www.satellitetoday.com/government-military/2023/02/01/capella-space-strengthens-government-and-classified-focus-with-a-new-subsiary/?oly_enc_id=8975H619514510C;

<https://spacenews.com/nro-awards-contract-extensions-to-hawkeye-360-and-maxars-aurora-insight-for-radio-frequency-data/>

²²⁵ On US sharing of geospatial intelligence on Gaza with Israel:

<https://theintercept.com/2024/01/11/israel-air-force-targeting-intelligence/>; See also:

<https://www.intelligenceonline.com/surveillance--interception/2024/10/07/tel-aviv-dependent-on-us-spy-satellites-for-offensive-in-lebanon-and-beyond,110314173-fac>

BlackSky's likely contribution to Israel's strikes against civilian targets

216. Israel relies on geospatial intelligence to wage its attacks on Gaza. Israel's choice of targets is deliberate, and target selection occurs at scale with the assistance of artificial intelligence systems which rely on geospatial intelligence.²²⁶ Residential buildings have regularly been identified for targeting through these AI systems,²²⁷ which can quickly generate very large numbers of targets.²²⁸
217. As is clear from the analysis of Amnesty International referred to at paragraph [66], many of Israel's strike targets are civilian targets, with the strikes clearly designed to cause a very high number of fatalities and injuries among the civilian population.
218. By identifying where people are located,²²⁹ geospatial intelligence can inform Israel where to strike in order to kill. Over a number of weeks in October and November 2024, Israeli forces targeted densely populated houses and shelters in northern Gaza.²³⁰ Despite Israel's assertions that they only target military objectives, the evidence collated by Amnesty International as well as the vast scale of destruction of civilian infrastructure in Gaza from the air²³¹ suggests otherwise.
219. PSNA therefore believes that the geospatial intelligence provided by BlackSky to Israel is very likely assisting Israel to strike civilian targets in Gaza.

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<https://www.idf.il/en/mini-sites/idf-press-releases-israel-at-war/june-24-pr/the-idf-s-use-of-data-technologies-in-intelligence-processing/>, see in particular: "Intelligence used to identify objects or persons as military targets may come from a range of sources - including **geospatial intelligence (such as satellite and aerial imagery)**, signals intelligence (such as communications interceptions), human sources, multi-sensor platforms (such as aerial assets and ground-based sensors), enemy military documents and open-source information.";

<https://lieber.westpoint.edu/algorithms-war-military-ai-war-gaza/>, see in particular: "These technologies all rely on **geospatial and opensource intelligence** that is then matched with an endless stream of historical datasets to tell a coherent story about the present and near-future." See also:

<https://www.hrw.org/news/2024/09/10/questions-and-answers-israeli-militarys-use-digital-tools-gaza>

²²⁷ <https://www.972mag.com/lavender-ai-israeli-army-gaza/>

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<https://www.npr.org/2023/12/14/1218643254/israel-is-using-an-ai-system-to-find-targets-in-gaza-experts-say-its-just-the-st>

²²⁹ https://www.nga.mil/about/About_Us.html, see in particular: "Geospatial intelligence allows military commanders to know the exact location of U.S. forces, coalition partners, adversaries and noncombatant persons. It predicts adversary movement based on natural and man-made obstacles."

<https://www.npr.org/2023/12/14/1218643254/israel-is-using-an-ai-system-to-find-targets-in-gaza-experts-say-its-just-the-st>

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<https://www.aljazeera.com/news/2024/11/7/at-least-12-displaced-palestinians-killed-in-israeli-strike-on-gaza-school>

²³¹ <https://www.middleeastmonitor.com/20240820-un-over-80-of-gazas-buildings-destroyed/>

Communications between Rocket Lab, Minister for Space, and PSNA

220. The two launches that have proceeded to date of BlackSky's Gen-3 earth observation satellites are the only launches Rocket Lab has undertaken for BlackSky since 7 October 2023.
221. In 2023 BlackSky sought approval from Judith Collins, New Zealand Minister for Space, for these launches pursuant to New Zealand's Outer Space and High-altitude Activities Act 2017.²³² Specifically, BlackSky sought Ms Collins' authorisation of a payload permit under New Zealand law whereby the satellites would be approved to be launched from New Zealand.
222. Ms Collins authorised the payload permit in December 2023.²³³ Due to heavy redactions of the relevant advice document,²³⁴ it is unknown whether at that time Ms Collins was aware of BlackSky's contract with Israel. However, as the New Zealand government's remote sensing policy (referred to in the advice document) makes clear, Ms Collins and New Zealand's space regulators are well aware of the human rights risks associated with New Zealand launches of geospatial intelligence satellites.²³⁵ Ms Collins confirmed her knowledge of the BlackSky-Israel contract in October 2024.²³⁶
223. In November 2024, PSNA wrote to both Sir Peter Beck (chief executive officer of Rocket Lab) and Ms Collins, outlining the likely assistance PSNA believed Rocket Lab's intended BlackSky satellite launches would provide towards Israel's commission of international crimes.²³⁷ PSNA urged Rocket Lab to desist from the planned launches, and Ms Collins was urged to revoke any payload permits authorised for BlackSky satellites (as she is enabled to do under New Zealand law, if revocation would be necessary in the interests of compliance with New

²³² See advice document with Ms Collins' approval of payload permit **annexed** as "B".

²³³ Ibid.

²³⁴ Ibid.

²³⁵ See remote sensing policy document, **annexed** as "C".

²³⁶ This occurred by way of a written question and answer between Member of Parliament Teanau Tuiono and Ms Collins. Mr Tuiono asked: "Is the Minister aware that BlackSky who has a contract to supply high temporal frequency images and analysis to the Israel Defence ministry and if so, will this prohibit further launches from New Zealand and if not, why not?"

Ms Collins responded: "Yes, I am aware. National interest for payload permit applications under the Outer Space and High-altitude Activities Act 2017 is reviewed on a case-by-case basis."

See here:

https://www.parliament.nz/en/pb/order-paper-questions/written-questions/document/WQ_66157_2024/66157-2024-teanau-tuiono-to-the-minister-for-space

²³⁷ See PSNA letter dated 14 November 2024 to Minister for Space Judith Collins, **annexed** as "I", and PSNA letter dated 14 November 2024 to Sir Peter Beck **annexed** as "J".

Zealand's international obligations²³⁸). Both Sir Peter and Ms Collins were warned that they may face international criminal responsibility for their conduct.

224. PSNA received no response from Rocket Lab or Ms Collins, though each provided limited responses to New Zealand media.²³⁹ No revocation of the BlackSky payload permit has occurred and the launches are now underway. PSNA believes that the BlackSky satellites launched are very likely assisting Israel to commit international crimes in Gaza.

225. Through their respective roles in the launching of BlackSky's Gen-3 earth observation satellites in New Zealand, PSNA believes that Sir Peter and Ms Collins should each be investigated for their potential contribution towards Israel's commission of international crimes.

Deployment of New Zealand Defence Force personnel to military operations against the Houthis

226. On 23 January 2024, Mr Luxon, Mr Peters and Ms Collins announced that New Zealand would commit six New Zealand Defence Force personnel to military operations targeting the Houthis in Yemen, as part of an international coalition.²⁴⁰ It was said that this was unconnected to events in Gaza,²⁴¹ but it was also well documented that the Houthis had stated they were attacking ships in the Red Sea until Israel allowed sufficient food and medicine into Gaza.²⁴² On 16 December 2023, Houthi chief negotiator Mohammed Abdulalam said in this regard:²⁴³

"[A]ny genuine steps responding to the humanitarian situation in Palestine and Gaza through bringing in food and medicine would contribute to reducing the escalation"

227. Israel's actions in withholding food and medicine to Gaza amount to the war crime of starvation as a method of warfare, and the crime against humanity of inflicting great

²³⁸ Section 21(1)(c)(ii) of the Outer Space and High-altitude Activities Act 2017.

²³⁹

<https://newsroom.co.nz/2024/11/15/rocketlabs-mahia-launches-linked-to-israeli-military-intelligence/>

²⁴⁰ <https://www.beehive.govt.nz/release/new-zealand-deploying-nzdf-team-protect-red-sea-shipping>

²⁴¹ Ibid.

²⁴²

<https://www.aljazeera.com/news/2023/12/19/yemens-houthis-will-not-stop-red-sea-attacks-until-israel-stops-gaza-war>

²⁴³

<https://www.saba.ye/en/news3288853.htm#:~:text=SANA'A%20December%2016..contribute%20to%20reducing%20the%20escalation.>

suffering by means of inhumane acts, in respect of which the Pre-Trial Chamber has already issued warrants to arrest for Mr Netanyahu and Mr Gallant.²⁴⁴

228. The US government had requested New Zealand's assistance towards the international coalition.²⁴⁵ New Zealand personnel deployed included intelligence analysts, mission planners, and a legal advisor, whose purpose was to work alongside coalition partners to enable air strikes against Houthi targets in Yemen, with the aim of degrading or destroying Houthi military capability.²⁴⁶
229. Regardless of the government ministers' underlying motivation of upholding maritime security, in effect, these military operations were directed towards removing barriers to Israel's commission of war crimes, crimes against humanity, and genocide in Gaza. New Zealand did provide support to coalition air strikes as intended, for example on 3 February 2024 when New Zealand contributed to United States and United Kingdom-led air strikes against 36 targets across 13 locations in Yemen.²⁴⁷ Further such air strikes in Yemen in which New Zealand participated took place on 24 February 2024 and 30 May 2024.²⁴⁸
230. In July, New Zealand's deployment was extended for a further six months.²⁴⁹ It ended on 31 January 2025.
231. PSNA considers that potential criminal responsibility arising from New Zealand's involvement in these military operations should be attributed to Mr Luxon (as Prime Minister), Mr Peters (as Minister of Foreign Affairs) and Ms Collins (as Minister of Defence).

Possible New Zealand intelligence sharing with Israel

232. In this section, PSNA outlines possible New Zealand intelligence sharing with Israel which PSNA considers may contribute to Israel's commission of international crimes.

²⁴⁴

<https://www.icc-cpi.int/news/situation-state-palestine-icc-pre-trial-chamber-i-rejects-state-israels-challenges>

²⁴⁵ See official advice documents on the deployment **annexed** as "D".

²⁴⁶ Ibid.

²⁴⁷

<https://www.gov.uk/government/news/joint-statement-from-australia-bahrain-denmark-canada-the-netherlands-new-zealand-united-kingdom-and-united-states-on-additional-strikes-against-houthi-targets#:~:text=Today%2C%20at%20the%20direction%20of%20targets%20across%2013%20locations%20in>

²⁴⁸ <https://commonslibrary.parliament.uk/research-briefings/cbp-9930/>

²⁴⁹

https://www.nzdf.mil.nz/media-centre/news/red-sea-deployment-extension/?utm_source=chatgpt.com

233. New Zealand is one of the members of Five Eyes, an intelligence alliance between New Zealand, Australia, the United States, Canada, and the United Kingdom. As part of Five Eyes arrangements, New Zealand signals intelligence systems are thoroughly integrated into the United States signals intelligence network.²⁵⁰ As explained by Nicky Hager, a New Zealand intelligence expert, New Zealand passes on “virtually everything” that its Five Eyes partners request and “[i]n the United States, the NSA [National Security Agency] then distributes New Zealand reports through the rest of the American intelligence and military system, deciding where it should go and who should have access to it.”²⁵¹ This includes sharing New Zealand intelligence on to third parties such as allies of the United States like Israel, on condition of approval by New Zealand’s relevant intelligence agency,²⁵² and potentially requiring prior ministerial approval for the on-sharing of New Zealand intelligence with the third-party nation.²⁵³
234. The United States and Israel have strong intelligence links dating back to the 1960s,²⁵⁴ institutionalised through the US-Israel Agreement of 1999²⁵⁵ and a 2009 intelligence memorandum.²⁵⁶ American intelligence sharing with Israel was enhanced in the wake of the 7 October attacks on Israel. The then-President Joe Biden directed his officials to “work with their Israeli counterparts on every aspect of the hostage crisis, including sharing intelligence”.²⁵⁷ This was operationalised through, among other things, a “secret memorandum” on intelligence sharing by the White House shortly after the October 7 attacks.²⁵⁸
235. New Zealand intelligence collection (in particular signals intelligence collection) may be limited in geographical scope, although the limits of such geographical scope are unclear.

²⁵⁰ Nicky Hager *Secret Power: New Zealand’s Role in the International Spy Network* (Potton & Burton, Nelson, 1996) at 123.

²⁵¹ Nicky Hager *Secret Power: New Zealand’s Role in the International Spy Network* (Potton & Burton, Nelson, 1996) at 203.

²⁵² Brendan Horsley *Review of NZSIS and GCSB Human Rights Risk Assessments: Public report*.

<https://www.gcsb.govt.nz/assets/GCSB-Documents/Public-report-NZSIS-and-GCSB-HRRAs-2024.pdf>

²⁵³ *Ibid* at [20].

²⁵⁴ Jeffrey Richelson *Foreign Intelligence Operations* (Ballinger Publishing Co, Pensacola, 1988) at 33.

²⁵⁵ <https://theintercept.com/document/israel-us-1999-agreement/>

²⁵⁶

<https://www.theguardian.com/world/interactive/2013/sep/11/nsa-israel-intelligence-memorandum-understanding-document>

²⁵⁷

<https://www.whitehouse.gov/briefing-room/statements-releases/2023/10/09/statement-from-president-joe-biden-on-american-citizens-impacted-in-israel/>

²⁵⁸

<https://www.wsj.com/politics/national-security/u-s-and-israels-unprecedented-intelligence-sharing-draws-criticism-a85979b4>

PSNA understands that historic intelligence collection by New Zealand intelligence agencies has covered the following jurisdictions/regions: Southeast Asia, Southwest Pacific, China, North Korea, Western Pacific, North Asia, Pakistan, India, Iran, Antarctica, French Polynesia (and the South Pacific more broadly), South America, Vietnam, Japan, Egypt, and East Germany.²⁵⁹

236. Noting the distinction between *intelligence collection* and *intelligence analysis*, both of which are areas of cooperation within the Five Eyes,²⁶⁰ it is also possible that New Zealand intelligence agencies have analysed information collected by other Five Eyes agencies relevant to Israel's actions in Gaza, with such analysis then being on-shared with the United States and/or Israel.
237. It may also be relevant to note that New Zealand intelligence agencies may host foreign intelligence systems in New Zealand-based facilities, as it is now known the New Zealand signals intelligence agency (Government Communications Security Bureau) allowed with respect to an undisclosed foreign intelligence agency for a number of years until 2020.²⁶¹ That foreign intelligence system enabled military targeting overseas.²⁶²
238. It is unknown to PSNA whether the New Zealand intelligence agencies hold authorisations to share information directly with Israel.
239. Noting the critical nature of intelligence to military action, PSNA believes that New Zealand intelligence agencies may well have played a role since 7 October 2023 in the collection and/or analysis of intelligence which is supplied to Israel (including through the United States), thereby contributing to Israel's commission of international crimes in Gaza.

²⁵⁹ John Battersby and Rhys Ball "The Phantom Eye: New Zealand and the Five Eyes" (2023) 38(6) *Intell Natl Secur* 920 at 923 and 929.

<https://mro.massey.ac.nz/server/api/core/bitstreams/db270dfc-eb4b-4492-bd18-fc7ef7ec3b19/content>

²⁶⁰ John Battersby and Rhys Ball "The Phantom Eye: New Zealand and the Five Eyes" (2023) 38(6) *Intell Natl Secur* 920 at 920.

<https://mro.massey.ac.nz/server/api/core/bitstreams/db270dfc-eb4b-4492-bd18-fc7ef7ec3b19/content>

²⁶¹ Brendan Horsley Inquiry into GCSB's hosting of a foreign capability (Inspector-General of Intelligence and Security, March 2024).

<https://igis.govt.nz/assets/Uploads/FINAL-Inquiry-into-GCSBs-hosting-of-a-foreign-capability.pdf>

²⁶² Brendan Horsley Inquiry into GCSB's hosting of a foreign capability (Inspector-General of Intelligence and Security, March 2024) at [39].

<https://igis.govt.nz/assets/Uploads/FINAL-Inquiry-into-GCSBs-hosting-of-a-foreign-capability.pdf>

Communications with New Zealand government over this issue

240. On 4 September 2024, PSNA wrote to Mr Luxon and Ms Collins (as Attorney-General) to request that the New Zealand government investigate whether New Zealand signals intelligence has been used for the war on Gaza.²⁶³ No response was received.
241. On 12 September 2024, three New Zealand lawyers wrote to New Zealand's Inspector-General of Intelligence and Security, seeking that he open an inquiry into possible New Zealand sharing of intelligence with Israel, albeit indirectly, which may impugn New Zealand in Israel's commission of international crimes in the Gaza Strip since 7 October 2023.²⁶⁴ The request articulated the information reproduced above at paragraphs [233] to [238] amongst other factual and legal aspects of this issue.
242. On 9 October 2024 the Inspector-General responded, declining to commence an inquiry at that time, and indicating his preference to continue tracking the activities of the intelligence agencies as they develop.²⁶⁵ He expressed that the policy and process requirements for the agencies' human rights risk assessments were logical and provided reasonable safeguards, and his tracking of information-sharing to date had not raised issues of legality or propriety that had caused him to begin an inquiry.²⁶⁶
243. It is impossible for PSNA to know whether the Inspector-General's response was reasoned by fact, because he did not provide evidence. PSNA considers that the Inspector-General's response was essentially an assertion of him being unwilling to investigate a fair case to be answered.

Potential criminal responsibility

244. In seeking that the OTP investigate possible New Zealand intelligence sharing with Israel, there is insufficient information for PSNA to suggest who would likely be criminally responsible. Ms Collins, to whom PSNA wrote on 4 September 2024 seeking investigation of possible New Zealand sharing of signals intelligence with Israel, is the Minister Responsible

²⁶³ See PSNA's letter to the New Zealand government dated 4 September 2024 **annexed** as "H".

²⁶⁴

<https://assets.ctfassets.net/36uckqj2sybw/zoos7xcGfNShCRduNsM8z/bc732e2ae8879facc33c317a5df39cc0/2024.09.12-Request-for-an-Own-Motion-Inquiry.pdf>

²⁶⁵

<https://igis.govt.nz/publications/media-releases/announcements/igis-response-to-a-request-to-open-a-n-inquiry>

²⁶⁶ Ibid.

for the GCSB and the Minister Responsible for the NZSIS (the New Zealand intelligence agencies).

245. PSNA also notes that the Government Communications Security Bureau (signals intelligence agency) did not inform the responsible minister about its recent hosting of a foreign capability enabling military targeting, as discussed at paragraph [237].²⁶⁷

Article 25(3)(d) of the Rome Statute

246. This communiqué addresses New Zealand political and business leaders who may have intentionally contributed to Israel's commission of war crimes, crimes against humanity, and genocide, in a manner falling within article 25(3)(d)(ii) of the Rome Statute.

247. Article 25(3)(d) of the Rome Statute provides as follows:

In accordance with this Statute, a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the Court if that person:

...

(d) In any other way contributes to the commission or attempted commission of such a crime by a group of persons acting with a common purpose. Such contribution shall be intentional and shall either:

(i) Be made with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of a crime within the jurisdiction of the Court; or

(ii) Be made in the knowledge of the intention of the group to commit the crime...

248. Article 30 of the Rome Statute further provides:

1. Unless otherwise provided, a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the Court only if the material elements are committed with intent and knowledge.

2. For the purposes of this article, a person has intent where:

(a) In relation to conduct, that person means to engage in the conduct;

²⁶⁷ <https://igjis.govt.nz/assets/Uploads/FINAL-Inquiry-into-GCSBs-hosting-of-a-foreign-capability.pdf>

(b) In relation to a consequence, that person means to cause that consequence or is aware that it will occur in the ordinary course of events.

3. For the purposes of this article, “knowledge” means awareness that a circumstance exists or a consequence will occur in the ordinary course of events. “Know” and “knowingly” shall be construed accordingly.

249. The Court’s jurisprudence has established that under article 25(3)(d) of the Rome Statute, intentional contribution to the crime by an accused accessory does not require that the accused shared the group’s intention to commit the crime.²⁶⁸ The intentionality applies to the conduct which constitutes the contribution, not the criminal activity itself.²⁶⁹ The intentionality requirement means that the accused accessory’s actions constituting the contribution must have been deliberate and made with awareness.²⁷⁰
250. For all of the potential criminal conduct referred to in this communiqué, the relevant elements for consideration for criminal responsibility under article 25(3)(d)(ii) of the Rome Statute are as follows:²⁷¹
- A crime within the jurisdiction of the Court was committed;
 - The persons who committed the crime belonged to a group acting with a common purpose;
 - The accused made a significant contribution to the commission of the crime;
 - The contribution was intentional; and
 - The accused’s contribution was made in the knowledge of the intention of the group to commit the crime.
251. An accused accessory’s contribution to the commission of the crime will be considered significant if it had a bearing on the occurrence of the crime and/or the manner of its commission.²⁷²

²⁶⁸ *Prosecutor v Germain Katanga* (Judgment pursuant to article 74 of the Statute) ICC-01/04-01/07 (7 March 2014) at [1638]. https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2015_04025.PDF

²⁶⁹ *Ibid.*

²⁷⁰ *Ibid.*

²⁷¹ Elements of criminal responsibility pursuant to article 25(3)(d)(ii) as drawn from *Prosecutor v Germain Katanga* (Judgment pursuant to article 74 of the Statute) ICC-01/04-01/07 (7 March 2014) at [1620]. https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2015_04025.PDF

²⁷² *Ibid* at [1633].

252. Knowledge by an accused accessory of the group's intention must be established for each specific crime.²⁷³ Knowledge of a general criminal intention is not sufficient to prove that the accessory knew of the group's intention to commit each of the crimes forming part of the common purpose.²⁷⁴

Assessment of individual criminal responsibility

Elements for consideration which apply to all individuals

253. Before addressing the potential criminal responsibility of the named individuals in this communiqué, this section will address the elements for consideration which apply to all individuals.

A crime within the jurisdiction of the Court was committed

254. PSNA refers back to paragraphs [21] to [72] of this communiqué, establishing the commission of war crimes, crimes against humanity, and genocide in Gaza, by certain members of Israel's political leadership and armed forces, between 7 October 2023 and the present day.

255. PSNA anticipates that a large amount of information provided by other sources will be held by the OTP demonstrating such commission of international crimes.

256. For clarity, it is specified that the potential contributions through the activities of Rakon and Rocket Lab to Israel's commission of international crimes are only considered by PSNA to relate to the following crimes committed by Israel:

- The war crime of intentionally directing attacks against a civilian population;
- The crimes against humanity of murder and persecution; and
- Genocide.

The persons who committed the crime belonged to a group acting with a common purpose

257. PSNA refers back to paragraphs [34] to [60] of this communiqué, establishing that the members of Israel's political leadership and armed forces who have committed war crimes, crimes against humanity and genocide in Gaza since 7 October 2023 have done so as part of a broader group of persons in Israel acting with a common purpose. That common purpose

²⁷³ Ibid at [1642].

²⁷⁴ Ibid.

has been, with respect to Gaza, to kill civilians, to destroy civilian objects, to cause widespread civilian suffering, to deprive the people of Gaza of the necessities of life, and to render Gaza depopulated and uninhabitable.

Rt Hon Christopher Luxon (Prime Minister)

The accused made a significant contribution to the crime

258. PSNA refers to:

- Mr Luxon's statements made prior to the ICJ's first order in the *South Africa v Israel* genocide proceeding, provided at [85] to [102] of this communiqué;
- New Zealand's participation in military operations against the Houthis in Yemen, discussed at [226] to [231] of this communiqué;
- Mr Luxon's statements in response to the first order of the ICJ, provided above at [117] to [126];
- The role played by the New Zealand government in allowing Rakon's likely export of crystal oscillators by New Zealand for use by Israel, provided above at [198] to [207];
- Mr Luxon's subsequent statements over the course of 2024, provided above at [143], [161] and [166];
- New Zealand's participation alongside Israel in RIMPAC 2024, discussed at [155] to [160] of this communiqué.

259. The most significant ways Mr Luxon has provided *political support* for Israel's commission of international crimes can be summarised as follows:

- Firmly and consistently emphasising the attacks on Israel on 7 October 2023 in explanation for Israel's actions, and during the earlier months of Israel's war on Gaza characterising its actions as self-defence;
- Denying and avoiding any recognition of Israel's commission of atrocities;
- Voicing support for Israel's expressed war aims (demilitarising and removing Hamas from power) and only supporting an end to Israel's actions in Gaza on those conditions, thereby giving Israel licence to continue its genocidal violence;

- Emphasising the undetermined nature of the *South Africa v Israel* genocide proceeding at the ICJ, so as to deny Israel's commission of genocide;
 - Falsely presenting Hamas alongside Israel as an impediment to a ceasefire, thereby obfuscating Israel's intention to continue committing international crimes in Gaza;
 - Overseeing New Zealand's participation in RIMPAC 2024 alongside Israel.
260. Mr Luxon's positioning on Israel's war on Gaza has carried the weight of the New Zealand government. Mr Luxon acted in concert with other international leaders (for instance as seen in the joint statements from the leaders of New Zealand, Australia and Canada). It is clear that he has played a role amongst Israel's "friends" in the international community in legitimising Israel's genocidal violence in Gaza, and failing such legitimisation, providing a degree of political cover for its atrocities. The calls Mr Luxon and other similarly aligned leaders have made for Israel to respect international humanitarian law have carried very little weight, because they have not recognised Israel's egregious breaches thereof.
261. The degree of political support Mr Luxon as New Zealand Prime Minister has provided to Israel is far from the norm in the international community. For instance, in November 2023 the leaders of the BRICS grouping of nations including those nations recently joined (Brazil, Russia, India, China, South Africa, Argentina, Egypt, Ethiopia, Iran, Saudi Arabia and the United Arab Emirates) condemned acts of violence against Palestinian and Israeli citizens, and called unconditionally for a cessation of hostilities.²⁷⁵
262. In this contested international context, Mr Luxon's support for Israel has been of significance in terms of providing Israel, alongside its other "friends" in the international community, with sufficient political cover for its actions.
263. Significantly, PSNA also refers to Mr Luxon's conduct with respect to Rakon's likely export of crystal oscillators from New Zealand to the United States, where PSNA believes these components have likely been incorporated into satellite-guided munitions provided by the US government to Israel, and used to strike civilian targets in Gaza.
264. Mr Luxon was informed about Rakon's likely contribution in this way towards Israel's international crimes in April 2024. He received letters from PSNA on 26 May 2024 and 20 June 2024 seeking the government's suspension of Rakon's military-capable exports and

²⁷⁵ <https://x.com/PresidencyZA/status/1726984282865127787/photo/2>

investigation of the issue. No genuine investigation has occurred and Rakon's exports have continued unaffected.

265. With regard to Mr Luxon's role in directing New Zealand's participation in military operations against the Houthis in Yemen, PSNA emphasises that as part of these operations numerous air strikes with New Zealand participation did proceed, for instance on 3 February 2024 when air strikes proceeded against 36 targets in Yemen.
266. The Houthis had stated they were attacking ships in the Red Sea until Israel allowed sufficient food and medicine into Gaza. Israel's actions in this regard amount to war crimes, crimes against humanity, and genocide. The air strikes New Zealand participated in against the Houthis, which can be expected to have reduced their military capabilities, weakened the barrier the Houthis sought to place against Israel's commission of these international crimes. Shipping has continued through the Red Sea throughout and since the time of the air strikes, albeit at a reduced level.²⁷⁶
267. According to New Zealand constitutional convention, the Prime Minister is the head of the executive government.²⁷⁷ He chairs Cabinet, the central executive decision-making body,²⁷⁸ and he determines the portfolio allocations of ministers.²⁷⁹ He had the ability to intervene and prevent Rakon's likely contribution to Israel's international crimes, as indeed he had the ability to prevent New Zealand's participation in air strikes against the Houthis, and prevent New Zealand's participation in RIMPAC. He did none of the above. Mr Luxon's likely contributions, as discussed, to Israel's commission of international crimes, should be regarded as having had a bearing on the occurrence of the crimes.

²⁷⁶ <https://portwatch.imf.org/pages/chokepoint4>

²⁷⁷ Cabinet Manual at 2.7:
<https://www.dpmc.govt.nz/our-business-units/cabinet-office/supporting-work-cabinet/cabinet-manual/2-ministers-crown-appointment-role-and-conduct/prime-minister>

²⁷⁸ Cabinet Manual at 2.9:
<https://www.dpmc.govt.nz/our-business-units/cabinet-office/supporting-work-cabinet/cabinet-manual/2-ministers-crown-appointment-role-and-conduct/prime-minister>

²⁷⁹ Cabinet Manual at 2.7:
<https://www.dpmc.govt.nz/our-business-units/cabinet-office/supporting-work-cabinet/cabinet-manual/2-ministers-crown-appointment-role-and-conduct/prime-minister>

The contribution was intentional

268. As noted at paragraph [249], the intentionality requirement means that the accused accessory's actions constituting the contribution must have been deliberate and made with awareness.
269. Mr Luxon's various actions supporting Israel, including his conduct with respect to Rakon's likely supply of missile componentry for use by Israel, and New Zealand's participation in military operations against the Houthis, can only be considered as deliberate.
270. Mr Luxon must have been aware that his various statements contributed to Israel's actions in Gaza. For instance, in advocating internationally for Israel's position that it would continue its war on Gaza until Hamas was destroyed, he must have been aware that this would have political impact.
271. Through PSNA's correspondence with Mr Luxon, he would have also been aware of the contribution he has likely made to Israel's international crimes through his permissive approach to Rakon's likely supply of crystal oscillators for munitions used by Israel in Gaza. Lack of certainty by Mr Luxon as to this likely contribution would rely on wilful blindness (that is, a refusal to look further into the issue). This cannot be considered as negating his awareness.²⁸⁰
272. The Houthi aim of restoring a sufficient supply of food and medicine into Gaza was well understood at the time of New Zealand joining the international coalition against the Houthis. Mr Luxon was undoubtedly aware that New Zealand's participation in these military operations would support Israel to continue withholding the necessities of life from Gaza.

The accused's contribution was made in the knowledge of the intention of the group to commit the crime

273. As is traversed at [35] to [51] of this communiqué, in the aftermath of the attacks on Israel of 7 October 2023, Israeli leaders as part of the broader *group of persons acting with a common purpose*, expressed their intentions in Gaza to kill civilians, to destroy civilian objects, to cause widespread civilian suffering, to deprive the people of Gaza of the necessities of life, and to render Gaza depopulated and uninhabitable.

²⁸⁰ *Prosecutor v Dusko Tadic* (Judgment), Case No. IT-94-1-T, (7 May 1997) at [657].
<https://www.refworld.org/jurisprudence/caselaw/icty/1997/en/40193>

274. The genocidal nature of this intent was swiftly commented on by scholars,²⁸¹ drawn into New Zealand public discussion,²⁸² and of course materialised through Israel's actions in Gaza which Mr Luxon was undoubtedly well aware of. In early November 2023, New Zealand media reported on the warnings of UN experts that Palestinians in Gaza were at grave risk of genocide.²⁸³ Mr Luxon would have understood, at latest within the first month of Israel's attacks on Gaza, of Israel's intent to commit the international crimes referred to in this communiqué:

- The war crimes of starvation as a method of warfare, and intentionally directing attacks against the civilian population of Gaza;
- The crimes against humanity of murder, persecution, and other inhumane acts (intentionally limiting or preventing medical supplies and medicine from getting into Gaza);
- Genocide.

Rt Hon Winston Peters (Minister of Foreign Affairs)

The accused made a significant contribution to the crime

275. PSNA refers to:

- Mr Peters' statements made prior to the ICJ's first order in the *South Africa v Israel* genocide proceeding (at [103] to [105] of this communiqué);
- New Zealand's participation in military operations against the Houthis in Yemen, as discussed at [226] to [231] of this communiqué;

²⁸¹ <https://twailr.com/public-statement-scholars-warn-of-potential-genocide-in-gaza/>

²⁸² See early references to the accusation of genocide against Israel manifested in New Zealand protests in October and November 2023:
<https://web.archive.org/web/20231029130737/https://thespinoff.co.nz/politics/25-10-2023/thousands-take-part-in-pro-palestine-demonstrations-across-aotearoa>

See also:

<https://www.nzherald.co.nz/nz/auckland-lawyer-arrested-at-pro-palestine-protest-lucy-rogers-claims-police-misused-power/AMN2QZVPX5DJ5KE44KNX7AUCGQ/>

²⁸³

<https://www.rnz.co.nz/news/world/501647/un-experts-say-ceasefire-needed-as-palestinians-at-grave-risk-of-genocide>

- Mr Peters' meeting with Israeli ambassador Ran Yaakoby and his public communication about that meeting (as discussed at [130] to [142] of this communiqué);
- The role played by New Zealand export regulators, for whom Mr Peters is the responsible minister, in allowing Rakon's likely export of crystal oscillators by New Zealand for use by Israel, as discussed at [199] and at [203] to [206] of this communiqué;
- Mr Peters' further relevant statements over the course of 2024 and early 2025 at [145] to [154] and at [166] to [170] of this communiqué; and
- His statement following Israel's resumption of attacks on Gaza in March 2025, at [171] of this communiqué.

276. The most significant features of Mr Peters' *political support* for Israel's crimes can be summarised as follows:

- Firmly and consistently emphasising the attacks on Israel on 7 October 2023 in explanation for Israel's actions, and during the earlier months of Israel's war characterising its actions as self-defence;
- Publicly projecting warm relations with Israel without censure or criticism of its conduct in the wake of the ICJ's order of 26 January 2024;
- Emphasising the undetermined nature of the *South Africa v Israel* genocide proceeding at the ICJ, so as to deny Israel's commission of genocide;
- Avoiding any recognition of Israel's commission of atrocities, and likewise avoiding any recognition of Israel's breaches of measures ordered by the ICJ to prevent genocide;
- Presenting Israel's unilateral termination of the early 2025 ceasefire and resumption of attacks on Gaza as "renewed fighting" between Israel and Hamas.

277. Similar to Mr Luxon, as Minister of Foreign Affairs Mr Peters' positioning on Israel's war on Gaza has carried the weight of the New Zealand government. Mr Peters has represented to the international community on numerous occasions New Zealand's firm moral support for Israel. In his public statements, Mr Peters has consistently sought to minimise Israel's

responsibility for its crimes, often by shifting blame for Israel's actions to Hamas. His calls for Israel to respect international humanitarian law and abide by the measures ordered by the ICJ have carried very little weight, as Mr Peters has not recognised Israel's egregious breaches thereof. There was no indication by Mr Peters of any contention within the New Zealand-Israel diplomatic relationship until his (one-off) public criticism of Israel's aid blockade in May 2025.

278. The impact of Mr Peters' assistance to Israel may be illustrated through the X post of Israel's ambassador to New Zealand (Ran Yaakoby) about his meeting with Mr Peters, released simultaneously with Mr Peters' post on X about the meeting. As discussed at [139] of this communiqué, with Mr Peters' support Mr Yaakoby was able to project New Zealand's support for destroying Hamas's capabilities (an objective frequently referred to by Israel to justify its war crimes)²⁸⁴ and for the plight of the hostages, this being Israel's justification for the massacre it had just committed in Rafah on 12 February 2024.
279. Mr Peters can be seen to have played a role, alongside others in the international community, in providing Israel with sufficient political cover for its actions.
280. Critically, PSNA refers to Mr Peters' conduct with respect to permitting Rakon's likely material contribution to Israel's commission of international crimes.
281. As Minister of Foreign Affairs, with responsibility for New Zealand's export controls, Mr Peters took no action to prevent Rakon's likely export of military-grade crystal oscillators, nor did he genuinely investigate the issue, to PSNA's knowledge. Mr Peters' likely material contribution, in this way, to Israel's commission of international crimes, should be regarded as having had a bearing on the occurrence of the crime.
282. PSNA also refers to the discussion at [265] and [266] above regarding Mr Luxon's role in directing New Zealand's participation in military operations against the Houthis. As Minister of Foreign Affairs, this fell within Mr Peters' purview. He participated in the press release about New Zealand joining these military operations. Mr Peters should be considered to have directed New Zealand's participation in these military operations alongside Mr Luxon

²⁸⁴ For instance, justifying Israel's heavy restrictions on the entry of fuel into Gaza: <https://www.aljazeera.com/news/2023/10/25/gaza-is-out-of-fuel-out-of-time-under-israels-bombardment>; Destroying Hamas's capabilities has also been used by Israel as a justification for its various assaults on hospitals: <https://www.thinkglobalhealth.org/article/facts-and-falsehoods-israels-attacks-against-gazas-hospitals>; <https://reliefweb.int/report/occupied-palestinian-territory/israels-targeting-and-disabling-gaza-hospitals-dismantling-life-and-destroying-last-refuges-enar>

(and indeed Ms Collins as discussed below). For the reasons discussed at [265] and [266] above, the role of each of these three individuals in the military operations against the Houthis should be regarded as having had a bearing on the occurrence of Israel's crimes in Gaza.

The contribution was intentional

283. As noted above at [249], the intentionality requirement means that the accused accessory's actions constituting the contribution must have been deliberate and made with awareness.
284. Mr Peters' various actions supporting Israel, including his conduct with respect to Rakon's likely supply of missile componentry for use by Israel, and New Zealand's participation in military operations against the Houthis, can only be considered as deliberate.
285. Mr Peters must have been aware that his various statements as traversed contributed to Israel's actions in Gaza. For instance, in presenting warm relations with Israel in the wake of the ICJ's order of 26 January 2024, he must have been aware that his actions would have political impact.
286. Documents PSNA has received from the Ministry of Foreign Affairs and Trade show Mr Peters' knowledge in May 2024 of Rakon's potential contribution to Israel's international crimes. Officials provided Mr Peters and his office with talking points for the media, including.²⁸⁵

"The government is aware of recent allegations that a New Zealand company may be exporting goods to Israel via a third party for military use. MFAT is looking into this, and we understand that the company has offered to meet a civil society organisation that is concerned over this matter."

287. Lack of certainty by Mr Peters as to this potential contribution to Israel's commission of international crimes would rely on wilful blindness. This cannot be considered as negating his awareness.²⁸⁶ The requirement of awareness by Mr Peters with regard to this potential contribution is met.

²⁸⁵ See documents received from the Ministry of Foreign Affairs and Trade, **annexed** as "A", at page 4. Note that MFA refers to the Minister of Foreign Affairs.

²⁸⁶ *Prosecutor v Dusko Tadic* (Judgment), Case No. IT-94-1-T, (7 May 1997) at [657].
<https://www.refworld.org/jurisprudence/caselaw/icty/1997/en/40193>

288. As with regard to Mr Luxon as discussed above at [272], Mr Peters would undoubtedly have been aware that directing New Zealand's participation in military operations against the Houthis would support Israel to continue withholding the necessities of life from Gaza.

The accused's contribution was made in the knowledge of the intention of the group to commit the crime

289. PSNA refers to the explanation provided at [273] and [274] of this communiqué regarding Mr Luxon's knowledge of Israel's intention to commit war crimes, crimes against humanity and genocide, at latest within the first month of Israel's attacks on Gaza.

290. The same reasoning applies to Mr Peters' knowledge.

Hon David Seymour (Minister for Regulation)

The accused made a significant contribution to the crime

291. PSNA refers to Mr Seymour's statements at [106] to [110] of this communiqué (his media interview on 20 November 2023), and his statement in Parliament on 31 January 2024 provided at [125] of this communiqué.

292. In his statements Mr Seymour expressed firm support for Israel's violence against the people of Gaza under the pretext of self-defence, denial of Israel's breaches of international humanitarian law, and unequivocal denial of Israel's commission of genocide.

293. It is acknowledged that Mr Seymour's statements in support of Israel were not made on behalf of the New Zealand government, but rather in his capacity as leader of the ACT party and a leading member of the incoming government in 2023. Mr Seymour became Minister for Regulation upon being sworn in as a minister on 27 November 2023.

294. Mr Seymour's expressions of firm support for Israel's position in the early months of its war on Gaza lent Israel support particularly within the domestic (New Zealand) context. It is unclear to what extent he may have fomented support for Israel's commission of international crimes, for instance among supporters of the ACT party he leads. However, outspoken supporters of Israel internationally such as Mr Seymour are likely to have played an important role in mobilising support for Israel's actions and shaping public opinion in Israel's favour. PSNA considers that Mr Seymour's actions in support of Israel since 7 October

2023 (including those which have not been public-facing) are likely to be worthy of investigation.

The contribution was intentional

295. Mr Seymour's contributions to Israel's commission of international crimes were clearly intentional.

The accused's contribution was made in the knowledge of the intention of the group to commit the crime

296. PSNA refers to the explanation provided at [273] and [274] of this communiqué regarding Mr Luxon's knowledge of Israel's intention to commit war crimes, crimes against humanity and genocide, at latest within the first month of Israel's attacks on Gaza.

297. The same reasoning applies to Mr Seymour's knowledge.

Dr Sinan Altug

The accused made a significant contribution to the crime

298. PSNA refers to the contribution we believe Rakon has likely made to Israel's commission of international crimes in Gaza, as explained at [179] to [197] of this communiqué.

299. PSNA believes that Rakon has likely provided critical missile guidance componentry for US missiles used by Israel to strike civilian targets in Gaza. In light of the process of US weapon supply to Israel whereby the US government supplies weapons to Israel and then replenishes its stocks from US weapons companies, there is likely a degree of delay between Rakon's supply of crystal oscillators to the United States after 7 October 2023, and the likely use of those crystal oscillators to guide missiles striking Gaza.

300. This likely contribution by Rakon to Israel's commission of international crimes would appropriately be considered as having had a bearing on the occurrence of the crimes, and if confirmed, Rakon's contribution would therefore amount to a significant contribution to the crimes.

301. At a minimum, PSNA believes this likely significant contribution by Rakon to Israel's commission of international crimes is appropriately attributed to Rakon's chief executive officer, Dr Altug. Dr Altug's position is at the top of Rakon's chain of command, although he is

accountable to Rakon's Board of Directors who are ultimately responsible under New Zealand law²⁸⁷ for the company. The OTP may also wish to investigate Rakon's directors or other individuals at the company to consider their involvement and potential criminal responsibility.

The contribution was intentional

302. As noted at [249], the intentionality requirement means that the accused accessory's actions constituting the contribution must have been deliberate and made with awareness.
303. PSNA considers that Dr Altug's likely contribution to Israel's commission of international crimes through Rakon's supply of crystal oscillators to the United States can only have been made deliberately.
304. PSNA believes that Dr Altug would have been aware of the nature of this potential contribution from the outset of Israel's war on Gaza, in light of the long history of controversy in New Zealand over Rakon's export of crystal oscillators and especially having regard to the prior claims made in 2006 and 2009 about Rakon's crystal oscillators being used in Israel's wars at those times.²⁸⁸
305. PSNA refers to Rakon's evident awareness of the accusations made against the company as of May 2024. PSNA notes again, as may be relevant to Dr Altug, that any lack of certainty on his part as to this potential contribution to Israel's commission of international crimes would rely on wilful blindness. This cannot be considered to negate awareness.²⁸⁹

The accused's contribution was made in the knowledge of the intention of the group to commit the crime

306. For clarity, it is again noted that the following are the international crimes committed by Israel which PSNA believes Dr Altug has likely contributed to:
- The war crime of intentionally directing attacks against a civilian population;
 - The crimes against humanity of murder and persecution; and
 - Genocide.

²⁸⁷ As provided by the Companies Act 1993

²⁸⁸ See [186] of this communiqué.

²⁸⁹ *Prosecutor v Dusko Tadic* (Judgment), Case No. IT-94-1-T, (7 May 1997) at [657].
<https://www.refworld.org/jurisprudence/caselaw/icty/1997/en/40193>

307. PSNA refers to the explanation provided at [273] and [274] of this communiqué regarding Mr Luxon's knowledge of Israel's intention to commit war crimes, crimes against humanity and genocide, at latest within the first month of Israel's attacks on Gaza.
308. PSNA believes a similar reasoning will apply to Dr Altug's knowledge. Israel's targeting and mass killing of civilians in Gaza (these features of Israel's war amounting to the war crimes and crimes against humanity which PSNA believes Dr Altug has likely contributed to) were well understood across the world from the outset of Israel's war on Gaza. The well-documented genocidal nature of Israel's actions was drawn into New Zealand public discussion within October 2023.
309. PSNA considers that Dr Altug would have known, from the outset of Israel's war on Gaza, that Israel intended to commit acts in Gaza amounting to war crimes and crimes against humanity. At latest within the first month of Israel's attacks on Gaza, PSNA believes that Dr Altug would have known that Israel intended to commit genocide in Gaza.

Sir Peter Beck

The accused made a significant contribution to the crime

310. PSNA refers to the contribution it believes Rocket Lab has very likely made to Israel's commission of international crimes in Gaza, as explained at [208] to [225] of this communiqué.
311. This year, Rocket Lab has conducted two launches of geospatial intelligence satellites for US company BlackSky, which PSNA believes are very likely providing Israel with intelligence to assist in selecting civilian strike targets at scale.
312. This likely contribution by Rocket Lab to Israel's commission of international crimes is appropriately considered as having had a bearing on the occurrence of the crimes. Therefore, PSNA believes this likely contribution amounts to a significant contribution to the crimes.
313. At a minimum, PSNA believes this likely significant contribution by Rocket Lab to Israel's commission of international crimes is appropriately attributed to Sir Peter Beck, who is Rocket Lab's chief executive officer and the chair of its Board of Directors. The OTP may also

wish to investigate Rocket Lab's other directors, or other individuals at the company, to consider their involvement and potential criminal responsibility.

The contribution was intentional

314. As noted at [249], the intentionality requirement means that the accused accessory's actions constituting the contribution must have been deliberate and made with awareness.
315. PSNA considers that Sir Peter's likely contribution to Israel's commission of international crimes through Rocket Lab's launches of satellites for BlackSky can only have been made deliberately.
316. Sir Peter would have been aware of the nature of this likely contribution. PSNA refers to the letter it sent to Sir Peter in November 2024 outlining the contribution PSNA believed he would very likely make to Israel's commission of international crimes if the BlackSky launches proceeded.

The accused's contribution was made in the knowledge of the intention of the group to commit the crime

317. For clarity, it is again noted that the following are the international crimes committed by Israel which PSNA believes Sir Peter has very likely contributed to:
- The war crime of intentionally directing attacks against a civilian population;
 - The crimes against humanity of murder and persecution; and
 - Genocide.
318. Israel's targeting and mass killing of civilians in Gaza (these features of Israel's war amounting to the war crimes and crimes against humanity which PSNA believes Sir Peter has very likely contributed to) were well understood across the world from the outset of Israel's war on Gaza. By the time of Rocket Lab's first launch for BlackSky relevant to this communiqué, in February 2025, the Pre-Trial Chamber had issued arrest warrants for Mr Netanyahu and Mr Gallant on the basis that it believed on reasonable grounds they had committed (relevantly) the war crime of intentionally directing attacks against a civilian population, and the crimes against humanity of murder and persecution.²⁹⁰ In these circumstances, Sir Peter should be

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<https://www.icc-cpi.int/news/situation-state-palestine-icc-pre-trial-chamber-i-rejects-state-israels-challenges>

considered to have had knowledge of Israel's intention to commit such crimes at the time of the BlackSky satellite launches.

319. The well-documented genocidal nature of Israel's actions was also well understood across the world by February 2025. Sir Peter should be considered to have had knowledge of Israel's intention to commit genocide at the time of the BlackSky satellite launches.

Hon Judith Collins KC (Minister for Space and Minister of Defence)

The accused made a significant contribution to the crime

320. Flowing from the analysis at paragraphs [310] to [313] above, as New Zealand's Minister for Space, PSNA believes Ms Collins should also be considered to have made a likely significant contribution to Israel's commission of war crimes, crimes against humanity, and genocide.
321. Ms Collins approved the payload permit for BlackSky's satellites in December 2023.
322. As PSNA's November 2024 letter to Ms Collins makes clear, she had (and still has) the ability to revoke the payload permit for BlackSky. She should have done so before the first launch proceeded in February 2025.
323. It follows that Ms Collins' conduct in allowing the BlackSky satellite launches has likely had a bearing on the occurrence of the crimes in question. PSNA therefore considers that Ms Collins has likely made a significant contribution to these crimes.
324. PSNA also refers to Ms Collins' role in directing New Zealand's participation in military operations against the Houthis. The significance of New Zealand's role in these operations is discussed at [265] and [266] of this communiqué. As Minister of Defence, this fell within Ms Collins' purview. Alongside Mr Luxon and Mr Peters, Ms Collins participated in the press release about New Zealand joining these military operations. She should also be considered to have directed New Zealand's participation in them. For the reasons discussed at [265] and [266] of this communiqué, her role should be regarded as having had a bearing on the occurrence of Israel's crimes in Gaza.

The contribution was intentional

325. As noted at [249], the intentionality requirement means that the accused accessory's actions constituting the contribution must have been deliberate and made with awareness.

326. PSNA considers that Ms Collins' likely contribution to Israel's commission of international crimes through her approval and non-revocation of BlackSky's payload permit can only have been made deliberately.
327. PSNA also considers that Ms Collins' role in directing New Zealand's participation in military operations against the Houthis can only have been made deliberately.
328. With respect to the issue of Rocket Lab's satellite launches for BlackSky, Ms Collins would have been aware of the nature of her likely contribution to Israel's commission of international crimes by allowing the launches. Due to redactions to her disclosed advice document for approval of the BlackSky payload permit in December 2023, PSNA cannot confirm whether Ms Collins was aware of BlackSky's contract with Israel when she approved the payload permit.
329. However, since PSNA's letter to Ms Collins in November 2024 outlined the contribution she would very likely make to Israel's commission of international crimes if the BlackSky launches proceeded, her non-revocation of the payload permit after that point should be considered to have been accompanied by her awareness of her very likely contribution to Israel's commission of international crimes.
330. As with regard to Mr Luxon as discussed above at [272], Ms Collins would undoubtedly have been aware that directing New Zealand's participation in military operations against the Houthis would support Israel to continue withholding the necessities of life from Gaza.

The accused's contribution was made in the knowledge of the intention of the group to commit the crime

331. PSNA refers to the explanation provided at [273] and [274] of this communiqué regarding Mr Luxon's knowledge of Israel's intention to commit war crimes, crimes against humanity and genocide, at latest within the first month of Israel's attacks on Gaza.
332. The same reasoning applies to Ms Collins' knowledge, which addresses each of the crimes PSNA believes Ms Collins may have contributed to, both through allowing Rocket Lab's satellite launches for BlackSky, and by directing New Zealand's participation in military operations against the Houthis.

Consideration of further contribution by Ms Collins to Israel's commission of international crimes

333. In her capacity as Minister of Defence, Ms Collins oversaw New Zealand's participation in RIMPAC 2024 alongside Israel. In the absence of a broader pattern of actions by Ms Collins to provide moral support to Israel, this is not relied on for PSNA's assessment of her potential criminal responsibility for supporting Israel's commission of international crimes in Gaza.

Elements for preliminary examination by the Office of the Prosecutor

Jurisdiction

334. PSNA believes that the potential crimes referred to in this communiqué fall within the jurisdiction of the Court.

335. New Zealand is a State Party to the Rome Statute, as is Palestine. The potential crimes have all occurred well after the entry into force of the Rome Statute in relation to New Zealand (1 July 2002) and Palestine (1 April 2015).

336. Where the conduct in question has occurred in New Zealand, there may be jurisdiction over that conduct by the Court pursuant to article 12(2)(a) of the Rome Statute. Where a potential accused is a national of a State Party to the Rome Statute, there may also be jurisdiction over their conduct by the Court pursuant to article 12(2)(b) of the Rome Statute.

337. PSNA cannot say with certainty that all the statements relied on by Mr Luxon and Mr Peters were made in New Zealand. However, both men are New Zealand nationals. There may therefore be jurisdiction regarding all of the statements they have made pursuant to article 12(2)(b) of the Rome Statute.

338. It is acknowledged again that PSNA cannot exclude the possibility that Rakon's military-grade crystal oscillators of concern were produced outside New Zealand. However, even if that were the case, PSNA believes that the relevant *conduct* by individuals at Rakon (at least its chief executive officer Dr Altug) has occurred at Rakon's head office in Auckland, New Zealand. This is where Dr Altug has conducted his work as chief executive officer of Rakon. PSNA is not aware of Dr Altug's nationality.

339. Rocket Lab operates from its headquarters in the United States. It is understood that this is where Sir Peter Beck conducts his work for Rocket Lab. It may be considered that the relevant concern by Sir Peter Beck has occurred in the United States. Sir Peter Beck is, however, a New Zealand national. There is at least jurisdiction over his conduct under article 12(2)(b) of the Rome Statute.
340. The Prosecutor may therefore exercise the Court's jurisdiction over all of the conduct traversed in this communiqué.

Admissibility: complementarity

341. PSNA understands that the International Criminal Court is a court of last resort, complementary to national jurisdictions, reflected in the admissibility restrictions for the Court in article 17 of the Rome Statute.
342. PSNA and others have sought the intervention of the New Zealand government, by way of investigation or prosecution, for the various aspects of potentially criminal conduct traversed in this communiqué. While these earlier communications may not have addressed all matters with the same degree of specificity, and they have not addressed facts arising in recent months, in substance all matters have been raised with the New Zealand government.
343. PSNA refers to correspondence as follows.
- PSNA wrote to Mr Luxon on 26 May 2024 asking for the suspension of military-capable exports from Rakon pending an independent investigation into their use in Israel's genocidal attacks on Gaza.²⁹¹
 - PSNA wrote a letter of demand to Mr Luxon on 20 June 2024, amongst other issues notifying him of the potential criminal responsibility for New Zealand government ministers and Members of Parliament arising from:²⁹²

“Potential failure to prevent companies supplying parts used in weapons of war by Israel, specifically Rakon which may be supplying military components to Israel;

²⁹¹ PSNA's letter to Mr Luxon dated 26 May 2024, **annexed** as “E”.

²⁹² PSNA's letter of demand to Mr Luxon dated 20 June 2024, **annexed** as “F”.

Statements made in support of Israel, especially statements characterising Israel's actions in Gaza as self-defence justified by the 7 October 2023 attacks;

Diplomatic support for Israel, in particular through Minister of Foreign Affairs Winston Peters' meeting with the Israeli Ambassador on 12 February 2024; and

Sending New Zealand Defence Force (NZDF) personnel to train alongside Israel Defence Forces at RIMPAC."

- PSNA's letter of 20 June 2024 listed a number of the statements made by Mr Luxon, Mr Peters and Mr Seymour which are referred to in this communiqué.
- The New Zealand government provided a response to that letter, in a letter authored by Mr Peters dated 22 July 2024.²⁹³ Mr Peters denied all alleged breaches of international law by the New Zealand government, and he did not address the allegations of potential criminal conduct. He did not respond to the issues raised with regard to Rakon, except to say that:

"MFAT [Ministry of Foreign Affairs] has not approved the export of strategic goods for use by the IDF or Israeli Security Services since the electronic Export Controls database was established in 2003."

- PSNA wrote a further letter in response, to Mr Luxon and to Ms Collins (in her capacity as Attorney General), on 4 September 2024.²⁹⁴ That letter requested that the New Zealand government investigate the following:

"Whether New Zealand-produced Rakon crystal oscillators have been used to guide US-made missiles attacking Gaza;

Whether Rocket Lab (a company which has received significant New Zealand government investment) has launched US satellites used to gather intelligence for the war on Gaza;

Whether New Zealand signals intelligence has been used for the war on Gaza;

Whether any other New Zealand companies are contributing to the supply chain of weapons used in Gaza, or to intelligence-gathering for the war."

²⁹³ New Zealand government letter of response to PSNA dated 22 July 2024, **annexed** as "G".

²⁹⁴ PSNA's further letter to the New Zealand government, dated 4 September 2024, **annexed** as "H".

- PSNA's letter of 4 September 2024 also requested that the New Zealand government investigate criminal responsibility arising from New Zealand political support for Israel:

“As outlined in our previous letter, we are also concerned by the political support New Zealand leaders have lent Israel by characterising its attacks on Gaza as self-defence, and shifting responsibility for the ongoing war to Hamas. This includes by characterising Hamas as an impediment to a ceasefire, a position repeated recently in the CANZ leaders joint statement of 26 July 2024, despite Hamas agreeing to the UN Security Council-endorsed ceasefire in June 2024. New Zealand must cease giving political cover to Israel's aggression...

We also identify as relevant the Government's maintenance of close diplomatic ties with Israel throughout its war on Gaza, in effect ensuring Israel is aware of New Zealand's continued support despite its crimes.

We seek that the New Zealand Government investigate the criminal responsibility of New Zealanders who may be secondary parties to Israel's international crimes, while also taking action as we have demanded to bring to an end New Zealand's support for these crimes.”

- PSNA received no response to this letter.
- On 12 September 2024, three New Zealand lawyers wrote to New Zealand's Inspector-General of Intelligence and Security, seeking that he open an inquiry into possible New Zealand engagement with actions contributing to Israel's activities in the Gaza Strip since 7 October 2023.²⁹⁵
- On 9 October 2024 the Inspector-General of Intelligence and Security declined to commence an inquiry at that time, stating that his tracking of information-sharing to date had not raised issues of legality or propriety that had caused him to begin an inquiry.²⁹⁶ No evidence was provided by the Inspector-General as part of this response.

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<https://assets.ctfassets.net/36uckqj2sybw/zoos7xcGfNShCRduNsM8z/bc732e2ae8879facc33c317a5df39cc0/2024.09.12-Request-for-an-Own-Motion-Inquiry.pdf>

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<https://igis.govt.nz/publications/media-releases/announcements/igis-response-to-a-request-to-open-a-n-inquiry>

- On 14 November 2024, PSNA wrote to Ms Collins as Minister for Space, notifying her of the very likely contribution Rocket Lab's intended launches of satellites for BlackSky would make towards Israel's commission of international crimes, and the likelihood that these launches would attract international criminal responsibility.²⁹⁷ PSNA requested that Ms Collins revoke the payload permits for those launches in accordance with New Zealand law.
- PSNA's letter was also provided to New Zealand media organisations, one of which questioned Ms Collins as to whether she was concerned about the nature of the BlackSky launches.²⁹⁸ She responded:²⁹⁹

“New Zealand is committed to the safe, responsible, secure and sustainable use of space. All space activities must be consistent with New Zealand's international obligations and not be contrary to New Zealand's national interest and national security.”

- PSNA received no response from Ms Collins.

344. The New Zealand authorities have been unwilling to genuinely investigate the issues raised. This includes with respect to Rakon's likely supply of crystal oscillators for Israel's attacks on Gaza, for which the Ministry of Foreign Affairs' "investigations" appeared limited to seeking Rakon's explanations in response to the allegations made.³⁰⁰

345. PSNA also considers that the Inspector-General of Intelligence and Security has been unwilling to genuinely investigate the issue of New Zealand's possible intelligence sharing with Israel. Though he indicated in his letter on 9 October 2024 that his tracking of New Zealand intelligence sharing had not caused him concerns, and that he would continue his monitoring work, this does not equate to the conducting of an investigation. New Zealand intelligence support for Israel may well be taking place, undiscovered to date by the Inspector-General.

²⁹⁷ PSNA's letter to Ms Collins regarding Rocket Lab satellite launches dated 14 November 2024, **annexed** as "I".

²⁹⁸

<https://newsroom.co.nz/2024/11/15/rocketlabs-mahia-launches-linked-to-israeli-military-intelligence/>

²⁹⁹ Ibid.

³⁰⁰ See documents received from the Ministry of Foreign Affairs and Trade **annexed** as "A".

346. For completeness, while PSNA has not requested that the New Zealand government investigate any criminal responsibility arising from its participation in military operations against the Houthis, in our letter of demand to Mr Luxon on 20 June 2024, PSNA demanded that New Zealand withdraw its personnel from these operations so as to comply with its international law obligations to prevent genocide and bring to an end Israel's abuses in Gaza. In Mr Peters' letter of response on 22 July 2024, he stated that New Zealand was acting in the collective self-defence of vessels in the Red Sea, in accordance with Article 51 of the United Nations Charter and UN Security Council Resolution 2722, dated 10 January 2024.
347. PSNA considers there are no issues of inadmissibility pursuant to articles 17(1)(a)-(c) of the Rome Statute.

Admissibility: gravity

348. The Court has previously considered that the gravity analysis pursuant to article 17(1)(d) of the Rome Statute should not be "overly restrictive" and "hamper the deterrent role of the Court".³⁰¹ The conduct in question need not be systematic or large-scale.³⁰²
349. The gravity of a given case should not be assessed only from a quantitative perspective (i.e. by considering the number of victims) but also from a qualitative perspective.³⁰³
350. PSNA considers that the starting point for the gravity assessment for all of the conduct addressed in this communiqué is the extremely serious nature of the international crimes committed by Israel. There is little need to expand this analysis, where the OTP will have followed the atrocities committed by Israel against the people of Gaza since October 2023. These crimes have cast a shadow over humanity.
351. At issue in this communiqué is Israel's international backing, both political and material. Israel's relationships with other "Western" nations like New Zealand underpin its military and political power. Without that outside support, Israel would not be able to commit such brazen and ceaseless atrocities against the people of Gaza.

³⁰¹ The Appeals Chamber, ICC-01/04, *Decision on the Prosecutor's Application for Warrants of Arrest*, Article 58, 69-79 (July 13, 2006). https://www.icc-cpi.int/CourtRecords/CR2006_01807.PDF

³⁰² Ibid.

³⁰³ Ibid.

352. Like other Western leaders, individuals such as Mr Luxon and Mr Peters should be considered to have had an outsized impact in shaping global discussion and thinking on Israel and its atrocities in Gaza, above all within the halls of power. They are listened to, locally and internationally. Despite widespread global solidarity with the people of Gaza, at the same time many powerful interests across the world have backed Israel, and many who have spoken up or protested for Gaza have been silenced or persecuted. In this contested context, the efforts of leaders such as Mr Luxon, Mr Peters and Mr Seymour to legitimise and downplay Israel's actions should be understood to have played a crucial role in the maintenance of international backing for Israel, and the sidelining of the victims of its atrocities in Gaza.
353. PSNA believes that the potential avenues of material support for Israel's crimes in Gaza as traversed in this communiqué are also suggestive of grave criminal conduct:
- As understood to PSNA, the componentry likely supplied by Rakon for munitions used in Gaza is necessary so that the munitions may be guided by GPS to their chosen targets. Such technology is clearly of assistance to Israel in its deliberate killings of civilians and destruction of civilian infrastructure. The conduct of Mr Luxon and Mr Peters in allowing the likely export of such componentry is similarly grave.
 - BlackSky's real-time monitoring of locations of interest is very likely used by Israel to assist in selecting strike targets in Gaza. Such technology is also clearly of assistance to Israel's deliberate killings of civilians in Gaza. Sir Peter Beck and Judith Collins have allowed satellite launches for BlackSky in full knowledge of these circumstances. This likely criminal conduct should also be considered as grave.
 - New Zealand's participation in air strikes against the Houthis in Yemen provided clear support to Israel's ability to continue its commission of international crimes in Gaza, regardless of the New Zealand government's justifications. This criminal conduct should be considered as grave.
 - New Zealand's possible intelligence sharing with Israel is not well understood. In the absence of investigation to determine what intelligence New Zealand may have shared with Israel, such potential contribution to its international crimes should not be considered as less than grave.

Conclusion

354. For the foregoing reasons, PSNA urges the OTP to consider opening a preliminary examination into (or alternatively adding to the existing investigation into the Situation in the State of Palestine) the information and evidence described in this communiqué, regarding the potential criminal responsibility of New Zealand political and business leaders for contributing to Israel's commission of international crimes in Gaza.

EMBARGOED