

Palestine Solidarity Network Aotearoa

3 May 2024

Jo Townsend
Chief Executive Officer
New Zealand Superannuation Fund
enquiries@nzsuperfund.co.nz

Kia ora Ms Townsend,

Request for urgent reassessment of Superfund investments in companies linked with illegal Israeli settlements and companies complicit in Israel's genocidal attacks on Palestinians

Events in Gaza over the past seven months have appalled and sickened the world. Israel's indiscriminate slaughter of Palestinians has left over 34,000 dead so far with the majority being women and children. At least 10,000 more Palestinians are missing under the rubble.

After 76 years of military occupation and brutal oppression of Palestinians most of the world is demanding action to hold Israel to account for its blatant war crimes and abuses of international law.

You will be aware that two months ago Environment Canterbury became the first local body in New Zealand to alter its procurement policy for goods and services to exclude all companies on the United Nations Human Rights Council list of businesses which are involved in the building or maintenance of illegal Israeli settlements on Palestinian land. Many more New Zealand local bodies will be following this example in coming months.

The United Nations Human Rights Council has recently updated its database of companies complicit in illegal Israeli settlements. The updated database is here in a pdf.

From previous correspondence you will know that the United Nations Human Rights Council list was drawn up after New Zealand successfully sponsored United Nations Security Council resolution 2334 in 2016. That resolution, moved under a National-led government, states that, in the occupied Palestinian territories, Israeli settlements had **"no legal validity"** and constituted **"a flagrant violation under international law"**. It said they were a **"major obstacle to the achievement of the two-state solution and a just, lasting and comprehensive peace"** in the Middle East. (The full text of UNSC2334 is included as an appendix to this letter)

The resolution went on to ask member states to differentiate between companies in Israel and companies in illegal Israeli settlements on Palestinian land.

5. Calls upon all States, bearing in mind paragraph 1 of this resolution, to distinguish, in their relevant dealings, between the territory of the State of Israel and the territories occupied since 1967;

The New Zealand Ministry of Foreign Affairs has made plain to ourselves and Environment Canterbury that the Ministry believes local bodies should themselves make decisions around UNSC 2334 without government involvement. The advice they provided to Environment Canterbury was included in the briefing paper for Environment Canterbury councillors.

As well as the horrendous situation in Gaza now it's important to point out that in December 2022 Israel elected its most extreme ethno-nationalist government ever and as well as stepping up their brutal repression of Palestinians and making clear they will not negotiate with Palestinians on a

peace plan or the formation of a Palestinian state, they have said their “top priority” is to push ahead with more illegal Jewish-only settlements on Palestinian land. They began this with a June 2023 announcement to build more than 5,000 additional houses in these illegal settlements on Palestinian land.

We believe it is time for the New Zealand Superannuation fund to stand up and take meaningful action to hold Israel to account. UNSC 2334 provides the opportunity as well as the responsibility to do so.

We urge you to act quickly and decisively and look forward to hearing shortly.

Ngā mihi.

Nā,

John Minto
Palestine Solidarity Network Aotearoa

Appendix – full wording of UNSC2334 (2016)

United Nations

S/RES/2334 (2016)



Security Council

Distr.: General

23 December 2016

Resolution 2334 (2016)

**Adopted by the Security Council at its 7853rd meeting, on
23 December 2016**

The Security Council,

Reaffirming its relevant resolutions, including resolutions 242
(1967),

338 (1973), 446 (1979), 452 (1979), 465 (1980), 476 (1980),
478 (1980), 1397 (2002), 1515 (2003), and 1850 (2008),

Guided by the purposes and principles of the Charter of the United Nations, and reaffirming, inter alia, the inadmissibility of the acquisition of territory by force,

Reaffirming the obligation of Israel, the occupying Power, to abide scrupulously by its legal obligations and responsibilities under the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and *recalling* the advisory opinion rendered on 9 July 2004 by the International Court of Justice,

Condemning all measures aimed at altering the demographic

composition, character and status of the Palestinian Territory occupied since 1967, including East Jerusalem, including, inter alia, the construction and expansion of settlements, transfer of Israeli settlers, confiscation of land, demolition of homes and displacement of Palestinian civilians, in violation of international humanitarian law and relevant resolutions,

Expressing grave concern that continuing Israeli settlement activities are dangerously imperilling the viability of the two-State solution based on the 1967 lines,

Recalling the obligation under the Quartet Roadmap, endorsed by its resolution 1515 (2003), for a freeze by Israel of all settlement activity, including “natural growth”, and the dismantlement of all settlement outposts erected since March 2001,

Recalling also the obligation under the Quartet roadmap for the Palestinian Authority Security Forces to maintain effective operations aimed at confronting all those engaged in terror and dismantling terrorist capabilities, including the confiscation of illegal weapons,

Condemning all acts of violence against civilians, including acts of terror, as well as all acts of provocation, incitement and destruction,

Reiterating its vision of a region where two democratic States, Israel and Palestine, live side by side in peace within secure and recognized borders,

Stressing that the status quo is not sustainable and that significant steps, consistent with the transition contemplated by prior agreements, are urgently needed in order to (i) stabilize the situation and to reverse negative trends on the ground, which are steadily eroding the two-State solution and entrenching a one-State reality, and (ii) to create the conditions for successful final status negotiations and for advancing the two-State solution through those negotiations and on the ground,

1. *Reaffirms* that the establishment by Israel of settlements in the Palestinian territory occupied since 1967, including East Jerusalem, has no legal validity and constitutes a flagrant violation under international law and a major obstacle to the achievement of the two-State solution and a just, lasting and comprehensive peace;

2. *Reiterates* its demand that Israel immediately and completely cease all settlement activities in the occupied Palestinian territory, including East Jerusalem, and that it fully respect all of its legal obligations in this regard;

3. *Underlines* that it will not recognize any changes to the 4 June 1967 lines, including with regard to Jerusalem, other

than those agreed by the parties through negotiations;

4. *Stresses* that the cessation of all Israeli settlement activities is essential for salvaging the two-State solution, and calls for affirmative steps to be taken immediately to reverse the negative trends on the ground that are imperilling the two-State solution;

5. *Calls* upon all States, bearing in mind paragraph 1 of this resolution, to distinguish, in their relevant dealings, between the territory of the State of Israel and the territories occupied since 1967;

6. *Calls* for immediate steps to prevent all acts of violence against civilians, including acts of terror, as well as all acts of provocation and destruction, calls for accountability in this regard, and calls for compliance with obligations under international law for the strengthening of ongoing efforts to combat terrorism, including through existing security coordination, and to clearly condemn all acts of terrorism;

7. *Calls upon* both parties to act on the basis of international law, including international humanitarian law, and their previous agreements and obligations, to observe calm and restraint, and to refrain from provocative actions, incitement and inflammatory rhetoric, with the aim, inter alia, of de-escalating the situation on the ground, rebuilding trust and confidence, demonstrating through policies and actions a genuine commitment to the two-State solution, and creating the conditions necessary for promoting peace;

8. *Calls upon* all parties to continue, in the interest of the promotion of peace and security, to exert collective efforts to launch credible negotiations on all final status issues in the Middle East peace process and within the time frame specified by the Quartet in its statement of 21 September 2010;

9. *Urges in this regard* the intensification and acceleration of international and regional diplomatic efforts and support aimed at achieving, without delay a comprehensive, just and lasting peace in the Middle East on the basis of the relevant United Nations resolutions, the Madrid terms of reference, including the principle of land for peace, the Arab Peace Initiative and the Quartet Roadmap and an end to the Israeli occupation that began in 1967; and *underscores* in this regard the importance of the ongoing efforts to advance the Arab Peace Initiative, the initiative of France for the convening of an international peace conference, the recent efforts of the Quartet, as well as the efforts of Egypt and the Russian Federation;

10. *Confirms its determination* to support the parties throughout the negotiations and in the implementation of an agreement;

11. *Reaffirms* its determination to examine practical ways

and means to secure the full implementation of its relevant resolutions;

12. *Requests* the Secretary-General to report to the Council every three months on the implementation of the provisions of the present resolution;

13. *Decides* to remain seized of the matter.

10 June 2024

John Minto
Palestine Solidarity Network Aotearoa
[REDACTED]

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Tēnā koe Mr Minto,

Thank you for your letter of 3 May 2024 requesting we urgently reassess NZ Super Fund investments in connection with Israel/Palestine.

The NZ Super Fund is invested in five of the 97 companies on the updated United Nations Human Rights Council list (Airbnb; Booking.com; Expedia Group; General Mills; Motorola Solutions Israel). In our assessment, none of these five companies currently meets the exclusion threshold under our Sustainable Investment Framework.

When considering these issues, as previously communicated to you, one of the many factors we evaluate is the proximity or importance of a company's actions to the relevant activities. We draw a distinction between a company being directly and materially involved in an activity, versus being a supplier of materials in the normal course of business. So, for instance, when in March 2021 we excluded five banks on responsible investment grounds, one important factor was that the companies were, from the information available, central to the actual development and construction of the settlements. Leaving aside any other factors that may be relevant under our Sustainable Investment Framework, we do not see the same level of connection in respect of the above five companies.

As we have noted previously, the list of companies published by the Office of the United Nations High Commissioner (OHCHR) in response to the United Nations Human Rights Council's request is one of a number of sources of information considered by us. The list provides a database of companies assessed be involved in a number of specified activities, but does not provide detail about the extent of a company's involvement or express a view as to the legality or otherwise of the activities of the companies on the list.

Thank you again for your continued engagement on this important issue. The Fund's current exclusions remain in place, and we will continue to review the portfolio against the criteria in our Framework, considering information from a broad range of sources.

Yours sincerely

Jo Townsend
Chief Executive Officer

Palestine Solidarity Network Aotearoa

12 September 2024

Jo Townsend
Chief Executive
NZ Superfund
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Kia ora Ms Townsend,

Request for NZ Superfund to divest from companies on the United Nations list of companies complicit in the building and maintenance of illegal Israeli settlements in Palestine

With you taking up your appointment as the new Chief Executive of the Superfund we are renewing the call made in our letter of 25 July 2024 as summarised in the heading above. We hope you will bring a fresh pair of eyes to this issue which results in a change in policy.

On 15 August we received a response to our letter from the acting chief executive indicating the Superfund had noted and filed the July 2024 advisory opinion of the International Court of Justice although the letter failed to address or respond directly to my 25 July 2024 letter.

Our letter provided you with a finite list of specific companies found by the United Nations Human Rights Council to be directly complicit in the building and maintenance of the illegal Israeli settlements and asked that NZ Superfund divest in respect of any of those companies in which it holds investments.

A direct response to our divestment request is accordingly requested. Specifically, please advise whether NZ Superfund currently has investments in any of the companies on the United Nations list. If so, please identify the companies in question and confirm that NZ Superfund will take immediate steps to fully divest its investments in those companies.

We look forward to hearing from you shortly.

Ngā mihi.

Nā,

John Minto
National Chair
Palestine Solidarity Network Aotearoa



John Minto

by email, [REDACTED]

2 October 2024

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Dear John,

Request for NZ Superfund to divest from companies linked to the Occupied Palestinian Territories

Thank you for your letters of 12 September and 29 September. Our CEO Jo Townsend has asked me to respond to you.

Your letter of 12 September asks that the New Zealand Super Fund exclude companies on the OHCHR list in which it is invested. The list to which you refer is published by the Office of the United Nations High Commissioner (OHCHR) in response to UN Human Rights Council (HRC) resolution (31/36).

In addition, your letter of 29 September refers to the most recent UN General Assembly resolution of 13 September 2024 reaffirming the illegality of the settlements following the opinion of the International Court of Justice.

The Guardians of New Zealand Superannuation has long considered the issues raised by the United Nations General Assembly and Security Council on illegal settlements in the Occupied Palestinian Territories (OPT). The New Zealand Super Fund (Fund) has excluded a number of companies directly and materially involved in the construction and development of illegal settlements in the OPT.

We take our responsibilities under our Act seriously. Our sustainable investment policies and practices align with international best practice and meet the requirements of our Act, as confirmed by Statutory reviews and by legal review.

Our sustainable investment process is guided by international standards of best practice for investors, in particular the United Nations-supported Principles for Responsible Investment. The process by which we exclude companies from the NZ Super Fund on sustainable investment grounds is explained in detail on our website at: <https://nzsuperfund.nz/how-we-invest/sustainable-finance/exclusions/>.

International guidelines on business and human rights recognise that institutional investors with large portfolios of holdings cannot address environmental, social or governance issues with all companies on their portfolio where concerns arise but need to focus their efforts by prioritising companies and issues.

The Guardians has excluded a number of companies on the basis that in our view, based on the information available to us, there was an unacceptable risk that those companies were in severe breach of human rights standards due to a direct and material involvement in the development and construction of illegal settlements in the OPT, and that engagement would not be a successful course of action.

The OHCHR list provides a database of companies that OHCHR assesses are involved in a number of specified activities in settlements in the Occupied Palestinian Territories, to be reported to the HRC. The OHCHR report and database does not provide detail of the extent or materiality of those companies' involvement or make a determination on the legal status of any of the listed activities or companies, or provide guidance on how the list should be used. A number of companies we exclude are on the OHCHR list, but a number are not.

The NZ Super Fund is invested in three of the 97 companies on the current OHCHR list (Airbnb; Booking.com; Expedia Group; General Mills). In our assessment, none of these three companies currently meets our criteria for exclusion from the Fund.

Given the breadth of activities and number of companies involved, it would not be prudent, nor in line with our Sustainable Investment Framework, to base actions solely on inclusion on the OHCHR list or apply an automatic exclusion to the list. The Guardians must also manage the Fund in a prudent and commercial manner.

The Fund's current exclusions remain in place, and we will continue to review the portfolio against the criteria in our Sustainable Investment Framework, considering information from a broad range of sources which includes the OHCHR list.

Thank you again for your continued engagement on this important issue.

Best Regards



Anne-Maree O'Connor

Head of Sustainable Investment

Guardians of New Zealand Superannuation