

Israel and the Palestinian Territories

Current issue

s 22(1)(a)(ii)

Brief talking points

s 22(1)(a)(ii)

- Australia is aware of the International Court of Justice's (ICJ) ruling on provisional measures. This is an interim decision, it is not a final determination on the merits of the case.
- Australia respects the independence of the ICJ and the critical role it plays in upholding international law and the rules-based order, and facilitating the peaceful settlement of disputes between States.


• s 33(a)(iii)

• s 22(1)(a)(ii)

-
-
-

Key facts


s 22(1)(a)(ii)



Background

- *On 26 January 2024, the ICJ ruled on provisional measures on South Africa's case against Israel under the Genocide Convention.*

s 22(1)(a)(ii)



Contact Officer: s 22(1)(a)(ii)

Contact Number: s 22(1)(a)(ii)

Israel and the Palestinian Territories

Current issue

s 22(1)(a)(ii)

Brief talking points

s 22(1)(a)(ii)


- Australia is aware of the International Court of Justice's (ICJ) ruling on provisional measures. This is an interim decision, it is not a final determination on the merits of the case.
- Australia respects the independence of the ICJ and the critical role it plays in upholding international law and the rules-based order, and facilitating the peaceful settlement of disputes between States.

s 33(a)(iii)

s 22(1)(a)(ii)


Key facts

s 22(1)(a)(ii)




Background

s 22(1)(a)(ii)




s 33(a)(iii)



- *On 26 January 2024, the ICJ ruled on provisional measures on South Africa's case against Israel under the Genocide Convention.*

s 22(1)(a)(ii)



Contact Officer: s 22(1)(a)(ii)

Contact Number: s 22(1)(a)(ii)

From: [Titheridge, Dave](#)
To: s 22(1)(a)(ii)
Cc: s 22(1)(a)(ii) [Wood, Lynette](#); [Chittick, Craig](#); [International - Middle East Africa and Multilateral Issues](#)
Subject: Re: South Africa v Israel ICJ Case - Provisional Measures Decision to be delivered tomorrow (26 Jan)
 [SEC=PROTECTED]
Date: Saturday, 27 January 2024 10:43:03 AM
Attachments: s 33(a)(iii)

Hi s 22(1)(a)

A summary of the key points of the decision:

- <!--[if !supportLists]-->• <!--[endif]-->The ICJ found it **'plausible' that Israel's acts or omissions could amount to breaches of the Genocide Convention**, however it **did not order** the key measure sought by South Africa that Israel suspend all military operations in Gaza.
- <!--[if !supportLists]-->• <!--[endif]-->In finding that at least some of the acts or omissions allegedly committed by Israel fell within the scope of the Genocide Convention, **the ICJ ordered Israel to:**
 - <!--[if !supportLists]-->o <!--[endif]-->take all measures to prevent and punish genocide
 - <!--[if !supportLists]-->o <!--[endif]-->allow for the provision of humanitarian assistance
 - <!--[if !supportLists]-->o <!--[endif]-->preserve evidence
 - <!--[if !supportLists]-->o <!--[endif]-->report on compliance
- <!--[if !supportLists]-->• <!--[endif]-->The ICJ emphasised that the provisional measures orders **do not pre-empt any final decision** by the ICJ that Israel has committed any violations of the Genocide Convention. This remains to be decided during the **merits phase** of the proceedings, which may take years.
- <!--[if !supportLists]-->• <!--[endif]-->South Africa had sought an order that Israel report on compliance within one week of any decision. However, the ICJ ordered that this report be provided **within one month**, with South Africa having the opportunity to comment on it.
- <!--[if !supportLists]-->• <!--[endif]-->The ICJ also made broader remarks on the Hamas-Israel conflict not strictly relevant to the interpretation of the Genocide Convention. Specifically, the ICJ deemed it necessary to state that "all parties to the conflict are bound by international humanitarian law" and **called for the immediate release of the hostages held by Hamas** and other armed groups.

s 33(a)(iii)

Regards,

Dave

//

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

Sent: Saturday, 27 January 2024 7:41 AM

To: Titheridge, Dave <Dave.Titheridge@pmc.gov.au>

Cc: s 22(1)(a)(ii) @pm.gov.au; Wood, Lynette <Lynette.Wood@pmc.gov.au>; Chittick, Craig <Craig.Chittick@pmc.gov.au>; s 22(1)(a)(ii) @pm.gov.au; International - Middle East Africa and Multilateral Issues s 47E(d) @pmc.gov.au

Subject: Re: South Africa v Israel ICJ Case - Provisional Measures Decision to be delivered tomorrow (26 Jan) [SEC=OFFICIAL]

Hi Dave

What was the crux of the interim decision?

Sent from my iPhone

On 27 Jan 2024, at 3:03 am, Titheridge, Dave <Dave.Titheridge@pmc.gov.au> wrote:

s 22(1)(a) the ICJ handed down its decision on provisional measures a few hours ago (<https://www.icj-cij.org/sites/default/files/case-related/192/192-20240126-ord-01-00-en.pdf>).

Notable omissions from the measures South Africa had proposed:

- The ICJ did not call on Israel to suspend military operations
- nor suspend the forceable displacement of Gazans.

DFAT, AGD, PM&C agreed talking points that have been sent to FMO are below.

Regards, Dave

//

- Australia is aware of the ICJ's ruling on provisional measures.
 - This is an interim decision – it is not a final determination on the merits of the case.
- Australia respects the independence of the ICJ and the critical role it plays in upholding international law and the rules-based order, and facilitating the peaceful settlement of disputes between States.

s 22(1)(a)(ii)

s 22(1)(a)(ii)

- We call on all parties to uphold their international legal obligations.
 - All parties must respect international humanitarian law and protect civilian lives.

s 33(a)(iii)

Sent from my iPhone

On 25 Jan 2024, at 5:51 pm, Titheridge, Dave
<Dave.Titheridge@pmc.gov.au> wrote:

OFFICIAL

Hi s 22(1)
() (ii)

As you are likely aware, the ICJ has indicated that it will shortly issue a decision on South Africa's request for provisional measure orders in its case against Israel. By way of update:

Provisional measures

<!--[if !supportLists]-->1. <!--[endif]-->The ICJ will deliver its orders **tomorrow** (Friday 26 January) **at 1pm The Hague time (11pm Canberra time)**. The hearing will be public and **The Hague Post will attend**.

<!--[if !supportLists]-->2. <!--[endif]-->DFAT, AGD and PM&C have drafted contingency talking points based on anticipated provisional measures orders.

<!--[if !supportLists]-->3. <!--[endif]-->Following the handing down of the decision, DFAT, PM&C and AGD will revise the talking points. DFAT is intending to send these talking points to FMO **first thing on Saturday morning** and have confirmed that **FMO will liaise with PMO**.

Next Steps

<!--[if !supportLists]-->1. <!--[endif]-->In the Ukraine v Russia case, the ICJ notified states parties of the right to

intervene two weeks after delivering its decision on orders. If the ICJ follows a similar timing pattern in this case, we estimate the ICJ could notify states parties of their right to intervene from **9 February 2024**.

s 33(a)(iii)

Regards
Dave

Dave Titheridge | Assistant Secretary, Global Interests Branch
Department of the Prime Minister and Cabinet
p. s 22(1)(a)(ii) | m. s 22(1)(a)(ii)
Ngunnawal Country, One National Circuit Barton ACT 2600 |
PO Box 6500 CANBERRA ACT 2600
e. dave.titheridge@pmc.gov.au w. pmc.gov.au
EA: s 22(1)(a)(ii) | s 22(1)(a)(ii)
s 22(1)(a)(ii) [@pmc.gov.au](mailto:s 22(1)(a)(ii)@pmc.gov.au)

<image001.jpg> <image002.png>

The Department acknowledges and pays respect to the past, present and emerging Elders and Traditional Custodians of Country, and the continuation of cultural, spiritual and educational practices of Aboriginal and Torres Strait Islander peoples.