

Commercially Sensitive and Confidential

Subject:	Meeting with Francesca Albanese, Special Rapporteur on the Occupied Palestinian Territories (United Nations Office of the High Commissioner for Human Rights)
Attendees:	Guests: Francesca Albanese, John Minto (National Chair of Palestine Solidarity Network Aotearoa), Sarah (volunteer supporter, University of the Netherlands) NZSF: Anne-Maree O'Connor (Head of Sustainable Investment), [REDACTED] 9(2)(a) [REDACTED] (Associate General Counsel), [REDACTED] (Senior Investment Strategist, Sustainable Investment).
Author:	[REDACTED]
Date:	20 November 2023

The summary is necessarily brief and focused on key aspects of the discussion; items noted should not be taken as final/formal positions or opinions of Guardians. Statements should not be taken as verified or accepted fact, and there is important wider context and additional points of detail for a number of topics that was not covered in the meeting.

Background – The meeting with Francesca Albanese was arranged following request from John Minto (JM) to Catherine Etheredge on 2 October 2023. John Minto's follow-up email said:

Francesca Albanese (FA) was appointed last year as the United National Special Rapporteur on the Occupied Palestinian Territories. Her role is to monitor the situation for Palestinians living under Israeli military occupation and report back to the United Nations.....She is visiting New Zealand on her way home from delivering the 2023 Edward Said Memorial Lecture in Australia. While here she will be speaking with media, politicians, civil society groups and at two public meetings about the situation in Palestine. Her visit here is being organised by the PACC (Palestinians in Aotearoa Co-ordinating Committee) and PSNA (Palestine Solidarity Network Aotearoa). This issue relates particularly to United Nations Security Council resolution 2334 which was passed in late 2016 after being moved by the Aotearoa New Zealand National-led government. It is bi-partisan policy in this country to support UNSC2334. In line with UNSC2334 the UN Human Rights Council has produced a list of companies which it has identified as being complicit in illegal settlement building and maintenance on occupied Palestinian land.

Discussion regarding conflict and companies in the OPT.

FA provided a high-level outline of her work as the Special Rapporteur on the Occupied Palestinian Territories (OPT). She said the position had been filled previously by eminent jurists. Israel had not allowed the Special Rapporteur to visit OPT since 2021, so her work relied on information from public sources. FA's perception was that the gravity of the situation had increased since 2022. The Special Rapporteur mandate was voluntary. FA reiterated what she had been saying in public about the situation.

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The discussion regarding business focused on the UNSC2334 requirement for a list of companies identified and published by the Office of the United Nations High Commissioner for Human Rights (OHCHR) as being involved in the construction and maintenance of settlements in the OPT. JM reiterated his public position that investors should apply the whole list as an exclusion. NZSF referred to our position, which was based on a long history of responding to this issue, with the UN Special Rapporteur office being an important source of information.

It was noted that in publishing the list the OHCHR there were certain limitations including that OHCHR did not make it clear as to how the list should be used, and JM acknowledged that the OHCHR lacked the resources to fulsomely maintain and update the lists.

AMO outlined the NZ Super Fund's approach to exclusions under its SIPSP and Sustainable Investment Framework. NZSF had taken into account the relevant OHCHR reports and UN resolutions including UNSC2334 and the OHCHR's list as part of its decision-making process over the preceding years. NZSF had a very structured approach to exclusions and made its decisions public. In broad terms, NZSF had excluded companies based on evidence of material involvement in building or development and financing illegal settlements in the OPT, as more fully set out in publicly available exclusion decisions. NZSF takes a prudent approach, as required by its mandate, to the scope of exclusions by focusing on material and direct involvement rather than indirect or peripheral involvement by investee companies in an issue of concern. In this case direct and material involvement in the development and construction of settlements rather than any form of involvement in the settlements. FA said she was working on a further report on companies where there was evidence that they were supporting the settlements through trading activity. In Norway and the United Kingdom there were local sources and NGOs that were monitoring companies doing business in the settlements. The information was investigated and verified. She was working on a further report on companies but had to stop because she was working instead on a report investigating recent events.

Internal review

The NZSF team subsequently debriefed on the meeting, and key points were:

- Much of FA's commentary understandably focussed on issues relating to the 7 October attack on Israel, the resulting military response in Gaza, the occupation of Palestinian territories and in particular the international (i.e. state level) response to these issues. This was the primary reason for her international meetings with policy makers and are matters that are better addressed with the New Zealand Government and officials at MFAT. We noted that Francesca Albanese was meeting with MFAT officials the following day. In relation to the focus on businesses and investment, there was not any substantive new information in respect of the OHCHR database of companies that it considers there are reasonable grounds to believe are involved in certain activities related to the settlements within OPT. As we have previously noted, the database does not make a determination on the legal status of any of the listed activities or companies. It does not provide guidance on how the list should be used or on the materiality of the different types of involvement.

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- The database was updated for the first time on 30 June this year, but this appears to be a limited exercise completed within limited resources so did not materially change the constituents. It was acknowledged in the meeting that there is insufficient resource dedicated to maintaining this list.
- NZ Super Fund excludes some companies on the OHCHR list and some companies that are not on the OHCHR list. FA referred to further reports/analysis she was preparing regarding companies with possible trading connections to the OPT. However, work on this has been suspended for the time being given other priorities. If any relevant reports are finalised and published by the OHCHR, we would consider these in the usual manner.