



Cook Islands' application for membership

Background paper

Introduction

1. By letter dated 30 March 2015, the Prime Minister of the Cook Islands filed an application for membership of the International Labour Organization. In his reply, dated 24 April 2015, the ILO Director-General noted that the Government of the Cook Islands had formally accepted the obligations of the ILO Constitution and informed the Prime Minister that the application for membership would be submitted to the International Labour Conference for examination and decision. Both communications are reproduced in the Appendix.
2. Since the Cook Islands is not at present a Member of the United Nations (UN), its admission to membership of the International Labour Organization is governed by article 1, paragraph 4, which provides as follows:
 4. The General Conference of the International Labour Organisation may also admit Members to the Organisation by a vote concurred in by two-thirds of the delegates attending the session, including two-thirds of the Government delegates present and voting. Such admission shall take effect on the communication to the Director-General of the International Labour Office by the government of the new Member of its formal acceptance of the obligations of the Constitution of the Organisation.
3. The procedure for examining requests for admission under article 1, paragraph 4, of the Constitution is set out in article 28 of the Standing Orders of the Conference, which reads in relevant parts as follows:
 2. Each application for admission made to the Conference shall be referred in the first instance to the Selection Committee.
 3. Unless the Selection Committee is of the opinion that no immediate action should be taken on the application, it shall refer the application to a subcommittee for examination.
 4. Before submitting its report to the Selection Committee the subcommittee may consult any representative accredited to the Conference by the applicant.
 5. The Selection Committee, after considering the report of the subcommittee, shall report on the question to the Conference.
 6. In accordance with article 1(4) of the Constitution of the Organisation:

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- (a) a vote concurred in by two-thirds of the delegates attending the session, including two-thirds of the Government delegates present and voting, shall be necessary for the admission of a new Member by the Conference;
 - (b) the admission shall take effect on the communication to the Director-General of the International Labour Office by the Government of the new Member of its formal acceptance of the obligations of the Constitution of the Organisation.
 4. The following information is provided with a view to facilitating the examination by the Conference of the application for membership of the Cook Islands.

Geography and population

5. The Cook Islands is an island country in the South Pacific Ocean comprising 15 islands whose total land area is 240 square kilometres. The Cook Islands' Exclusive Economic Zone (EEZ), however, covers 1,800,000 square kilometres of ocean. The Cook Islands' main population centre is located on the capital island of Rarotonga, and the total population numbers approximately 15,000. The indigenous Polynesian population are Cook Islands Māori.

History

6. The Cook Islands are named after Captain Cook, who sighted them in 1770. The islands became a British protectorate in 1888. From 1901 to 1965, the Cook Islands was a dependent territory of New Zealand. In 1965, it became self-governing in free association with New Zealand, adopting its own Constitution and establishing its own government.

Government

7. The Cook Islands is a representative democracy with a parliamentary system. Executive power is exercised by the government, with the Prime Minister as head of government. Legislative power is vested in both the Government and the Parliament of the Cook Islands. The judiciary is independent of the executive and the legislature. The Head of State is Queen Elizabeth II, who is represented in the Cook Islands by the Queen's Representative.

Constitutional status

8. Since 1965 the Cook Islands is a self-governing entity in free association with New Zealand. Free association is a status distinct from that of full independence but which gives the Cook Islands full control to make its own laws and conduct its own affairs. The constitutional relationship between the Cook Islands and New Zealand provides for the exercise by New Zealand of certain responsibilities for the defence and external relations of the Cook Islands. This does not confer on the New Zealand Government any rights of control and these responsibilities may only be acted on at the request of and on behalf of the Government of the Cook Islands. Cook Islanders retain New Zealand citizenship.
9. According to the 2001 Joint Centenary Declaration of the Principles of the Relationship between New Zealand and the Cook Islands, "in the conduct of its foreign affairs, the Cook Islands interacts with the international community as a sovereign and independent state. Responsibility at international law rests with the Cook Islands in terms of its actions and the exercise of the international rights and fulfilment of its international obligations. Any

action taken by New Zealand in respect of its constitutional responsibilities for the foreign affairs of the Cook Islands will be taken on the delegated authority, and as an agent or facilitator at the specific request of, the Cook Islands.” The same document also provides that “the Government of the Cook Islands possesses the capacity to enter into treaties and other international agreements in its own right with governments and regional and international organizations.”

10. In so far as the ILO is concerned, the Cook Islands was long considered to be a non-metropolitan territory of New Zealand within the meaning of article 35 of the ILO Constitution. Consequently, the Government of New Zealand has in the past made declarations under article 35, paragraph 4, of the Constitution extending the application of ratified Conventions to the Cook Islands. Eleven ILO Conventions were declared applicable to the Cook Islands, the last declaration having been communicated in 1973 with regard to the Abolition of the Forced Labour Convention, 1957 (No. 105). By letter dated 21 April 2015, the Government of New Zealand confirmed that it does not consider the Cook Islands a “non-metropolitan territory” and that the Cook Islands could qualify for membership under article 1, paragraph 4, of the ILO Constitution. The Government also indicated that it has no objections to Cook Islands membership and urged the Office to ensure that the application is examined by the Selection Committee at the 104th Session of the International Labour Conference.

Diplomatic relations, membership of international organizations, treaty-making power

11. As of 2014, the Cook Islands had established diplomatic relations with 43 countries. It has a full diplomatic mission accredited to the European Union (EU) following signature of the Cotonou Partnership Agreement between the EU and the African, Caribbean and Pacific Group of States (ACP).
12. The Cook Islands is not yet a United Nations member State, but is a member of the following specialized agencies of the UN: United Nations Food and Agriculture Organization (FAO); International Civil Aviation Organization (ICAO); International Fund for Agricultural Development (IFAD); International Maritime Organization (IMO); United Nations Educational, Scientific, and Cultural Organization (UNESCO); Universal Postal Union (UPU); World Health Organization (WHO); and World Meteorological Organization (WMO).
13. The Cook Islands is also a member of: the ACP; the Asian Development Bank (ADB); the Alliance of Small Island States (AOSIS); the International Red Cross and Red Crescent Movement and the International Federation of Red Cross and Red Crescent Societies; the International Mobile Satellite Organization (IMSO); the International Olympic Committee (IOC); the International Seabed Authority (ISA); the Intergovernmental Panel on Climate Change (IPCC); the Organization for the Prohibition of Chemical Weapons (OPCW); the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization (CTBTO); the Pacific Islands Forum (PIF); the South Pacific Regional Trade and Economic Cooperation Agreement (Sparteca); the Secretariat of the Pacific Community (SPC); and an associate member of the Economic and Social Commission for Asia and the Pacific (UNESCAP).
14. The treaty-making capacity of the Cook Islands is recognized by the United Nations Secretariat. To date, the Cook Islands has signed over 100 multilateral treaties and a comparable number of bilateral treaties, including the United Nations Convention on the Law of the Sea, the Vienna Convention for the Protection of the Ozone Layer (and

Montreal Protocol), and the United Nations Framework Convention on Climate Change (and Kyoto Protocol). The Cook Islands has also accepted the jurisdiction of the International Criminal Court. Moreover, the Cook Islands has concluded boundary agreements establishing its maritime boundaries with the United States (in respect of shared boundary with American Samoa), France (in respect of shared boundary with French Polynesia), New Zealand (in respect of shared boundary with Tokelau) and the Republic of Kiribati.

Economy – Labour force

- 15.** Tourism is the main sector of the economy of the Cook Islands (60 per cent of GDP) with approximately 120,000 visitors per year. Other economic activities include fishing, agriculture, mining and offshore banking. The Cook Islands also operate an open register for ships and yachts. Despite recent growth, the economic base is narrow and vulnerable to shifts in tourist preferences to competing markets, or any economic slowdown that may occur in New Zealand or Australia. Reliance on imports, large distances between the islands and costs of transport make the economy fragile and susceptible to external price shocks, natural disasters, such as drought, and environmental damage. The residency rights of Cook Islanders in New Zealand and Australia have resulted in considerable outward migration. Population decline is recognized as a major concern with mainly young adults, aged 15–40 years, leaving to pursue education and economic opportunities overseas. Over recent years, there has been an influx of foreign labour into the Cook Islands. About 16 per cent of the labour force is from New Zealand, Fiji, Philippines, other Pacific islands and Australia, brought in to address labour shortages.
- 16.** Just over half the population (7,700) make up the labour force. Around 70 per cent of men and 60 per cent of women aged 15 and above are in some form of employment, or available for work. Unemployment is not generally a concern in the Cook Islands, and the estimates based on the 2011 census show 8.2 per cent for men and 8.1 per cent for women. The private sector, with around 4,500 employees, is the main employer in the Cook Islands, providing almost two-thirds (65 per cent) of the jobs. The private sector is most dominant on the main island of Rarotonga (71 per cent of jobs) and is strong in the southern group of islands (55 per cent). In the more isolated northern group of islands the private sector plays a minor role, with over three quarters (78 per cent) of jobs being in the public sector.

Industrial relations

- 17.** There are a number of workers' organizations which include the Public Service Association, the Cook Islands Workers Association (CIWA), the Nurses Association and the Teachers Association. The largest union is the CIWA which is affiliated to the International Trade Union Confederation and consists of 1,200 members. The President of the CIWA is current Chairperson of the South Pacific Oceania Council of Trade Unions (SPOCTU). The CIWA also represents workers' interests on the Cook Islands Superannuation Board, the Minimum Wage Committee and the Judiciary Advisory Board.
- 18.** The private sector interests are represented by the Cook Islands Chamber of Commerce, which is a voluntary organization of individuals and businesses aiming at advancing the commercial, financial and industrial interests of the Cook Islands. The Cook Islands Chamber of Commerce is also a member of the Pacific Islands Private Sector Organization (PIPSO).

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- 19.** Industrial relations in the Cook Islands are governed by a new Employment Relations Act 2012, which replaced the Industrial and Labour Ordinance (1964). The new legislation was developed with ILO support and the active engagement of the CIWA and the Cook Islands Chamber of Commerce. It covers both public and private sector employees and provides enhanced protection in matters such as freedom of association rights for employees and employers, collective agreements and individual agreements, discrimination, sexual and racial harassment, termination and redundancy and dispute resolution process.

Appendix

Office of the Prime Minister



Rarotonga

Cook Islands

30 March 2015

Mr. Guy Ryder
Director General
International Labour Office
4, route des Morillons
CH-1211 Geneva
Switzerland

Dear Director General,

I have the honour to apply, on behalf of the Government of the Cook Islands, for membership of the International Labour Organisation under paragraph 4 of article 1 of the Constitution of the International Labour Organisation and request that this application be laid before the General Conference of the International Labour Organisation.

The Government of the Cook Islands hereby formally accepts the obligations of the Constitution of the International Labour Organisation and solemnly undertakes fully and faithfully to perform each of the provisions thereof.

The Government of the Cook Islands will bear its share of the expenses of the International Labour Organisation in accordance with the provisions of the Constitution of the Organisation.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Henry Puna', written over a large, stylized flourish.

Hon. Henry Puna,
Prime Minister
Cook Islands



International Labour Office

The Director-General

24 AVR. 2015

Dear Prime Minister,

I have the honour to acknowledge receipt of your letter dated 30 March 2015, by which you applied on behalf of the Government of the Cook Islands for membership of the International Labour Organization, in accordance with Article 1, paragraph 4, of the ILO Constitution, and requested that this application be considered by the forthcoming 104th Session of the International Labour Conference.

I note that the Government of the Cook Islands has formally accepted the obligations of the Constitution of the International Labour Organisation and that it will bear its share of the expenses of the Organization in accordance with the Constitution of the Organisation.

I also wish to advise that as the status of the Cook Islands within the International Labour Organization used to be that of a non-metropolitan territory of New Zealand within the meaning of article 35 of the ILO Constitution, the Office has considered it appropriate to consult the Government of New Zealand and has received confirmation that it no longer considers article 35 to be applicable to the Cook Islands and sees no legal impediment to the Cook Islands applying for ILO membership.

Consequently, I am pleased to inform you that the application for membership will be submitted to the International Labour Conference, which opens in Geneva on 1 June 2015, and will be examined by the Conference in accordance with Article 1, paragraph 4, of the Constitution, and Article 28 of the Standing Orders of the Conference.

Hon. Mr Henry Puna
Prime Minister of the Cook Islands
RAROTONGA

To this end, I would be grateful if you could communicate to the International Labour Office (jur@ilo.org or credentials@ilo.org) the names and position of the members of your tripartite delegation to be accredited to the Conference, who will be present for the consideration of the application for membership.

Yours sincerely,

A handwritten signature in cursive script that reads "Guy Ryder". The signature is written in black ink and is positioned above the printed name.

Guy Ryder

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