

8 April 2024

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OIA 29119

Tēnā koe Tim Herewini

I refer to your email of 13 February 2024 in which you request the following under the Official Information Act 1982 (OIA):

- 1. Public statements made by MFAT on the issue of the United States recognition of Cook Islands and Niue in the period 1 February 2023 to 30 September 2023.*
- 2. Correspondence to the US Embassy in New Zealand from MFAT on the issue of the United States recognition of Cook Islands and Niue and NZ's constitutional relationship with the Cook Islands and Niue in the period 1 February 2023 to 30 September 2023.*
- 3. Advice received by MFAT from other New Zealand Government Agencies on the issue of the United States recognition of Cook Islands and Niue in the period 1 February 2023 to 30 September 2023.*
- 4. The explanation of the constitutional relationship between New Zealand and Cook Islands and Niue provided to the US Embassy in New Zealand by MFAT.*
- 5. Information that establishes the date on which MFAT was made aware of the United States intention to recognise Cook Islands and Niue.*

On 11 March 2024, the timeframes for responding to your request were extended by an additional 20 working days due to the consultations necessary to make a decision on your request (section 15A(1)(b) of the OIA refers).

Question One

The Ministry of Foreign Affairs and Trade (the Ministry) did not proactively make public statements on the issue of the United States recognition of the Cook Islands and Niue. However, the following talking points were prepared, and used, by the Ministry when approached for comment following the United States (US) establishing diplomatic relations with the Cook Islands and Niue:

- Aotearoa New Zealand welcomes the establishment of diplomatic relations between US, Cook Islands, and Niue.
- Aotearoa New Zealand is supportive of increased US engagement with Niue and Cook Islands and expects that the establishment of diplomatic relations will better enable close engagement.
- The Cook Islands and Niue are self-governing states in free association with New Zealand. Consistent with these constitutional arrangements, New Zealand works in a relationship of partnership with the Cook Islands and Niue. We are supportive of their efforts to conduct their own international relations.

- New Zealand supports the Cook Islands and Niue establishing diplomatic relations with third countries. The Cook Islands has diplomatic relations with 61 countries, and Niue has diplomatic relations with 21 countries. The process of the Cook Islands or Niue establishing diplomatic relations with third countries does not change the constitutional relationship Aotearoa New Zealand has with either the Cook Islands or Niue.

Question Two

In relation to the second part of your request, we have identified a small number of emails and documents in scope and are withholding these in full under the following sections of the OIA:

- 6(a): to avoid prejudicing the security or defence of New Zealand or the international relations of the New Zealand Government;
- 6(b)(i): to protect the passing of information from another government on a confidential basis;
- 7(b): to protect relationships between the Governments of New Zealand and the self-governing states of the Cook Islands, and Niue;
- 7(c): to protect the international relations of the Government of the self-governing states of the Cook Islands, and Niue;
- 9(2)(a): to protect individuals' privacy;
- 9(2)(ba): to protect the supply of confidential information by another party; and
- 9(2)(h): to maintain legal professional privilege.

Where the information has been withheld under section 9 of the OIA, we have identified no public interest in releasing the information that would override the reasons for withholding it.

Question Three

We do not hold information in scope of the third part of your request. Therefore, this part of your request is refused under section 18(e) of the OIA, as the information you requested does not exist.

Question Four

This part of your request is refused under section 6(a) of the OIA, to avoid prejudicing the security or defence of New Zealand or the international relations of the New Zealand Government. There is a publicly available document which contains information that outlines New Zealand's constitutional relationship with the Cook Islands and Niue on the Ministry website at: <https://www.mfat.govt.nz/assets/OIA/OIA-2023/OIA-28505-US-recognition-of-Cook-Islands-and-Niue-30-March-2023.pdf>. We direct you to pages 18 and 19 in particular.

Question Five

In relation to the fifth part of your request, the Ministry was made aware of the United States' interest in potentially establishing diplomatic relations with the Cook Islands in August 2022, following a senior US official's visit to the Pacific region. We discovered one email in scope which is withheld in full under the following sections of the OIA:

- 6(a): to avoid prejudicing the security or defence of New Zealand or the international relations of the New Zealand Government; and
- 6(b)(i): to protect the passing of information from another government on a confidential basis.

Please note that it is our policy to proactively release our responses to official information requests where possible. Therefore, our response to your request (with your personal information removed) may be published on the Ministry website: www.mfat.govt.nz/en/about-us/contact-us/official-information-act-responses/

If you have any questions about this decision, you can contact us by email at: DM-ESD@mfat.govt.nz. You have the right to seek an investigation and review by the Ombudsman of this decision by contacting www.ombudsman.parliament.nz or freephone 0800 802 602.

Nāku noa, nā

A handwritten signature in black ink, appearing to be 'SC', written in a cursive style.

Sarah Corbett
for Acting Secretary of Foreign Affairs and Trade