



Second report of the Selection Committee

Application by the Cook Islands for admission to membership of the International Labour Organization

1. The Conference has before it a request from the Cook Islands for admission to the International Labour Organization (ILO). In accordance with article 28 of the Standing Orders of the Conference, the Selection Committee appointed a Subcommittee to examine this request. The Subcommittee was composed of Ms Jody Anderson (Government, Australia); Mr Suzhong Gao (Government, China); Mr Hiroyuki Matsui (Employer, Japan); Mr Kamran Rahman (Employer, Bangladesh); Mr Felix Anthony (Worker, Fiji); and Ms Toni Moore (Worker, Barbados).
2. The Subcommittee considered a background paper (*Provisional Record* No. 3-1) containing the letter of application, relevant ILO procedures, and summary information on the history, geography, government, constitutional status, diplomatic relations, economy and industrial relations of the Cook Islands.
3. The Subcommittee consulted the members of the tripartite delegation of the Cook Islands accredited to the Conference, composed of Mr Joshua Mitchell, Director, United Nations and Treaties Division, Ministry of Foreign Affairs and Immigration; Ms Patricia Tuara Demmke, Director, Labour and Employment Relations Office, Ministry of Internal Affairs; Ms Nathalie Rossette-Cazel, Cook Islands Chamber of Commerce; and Mr Anthony Turua, Cook Islands Workers Association (CIWA).
4. The Subcommittee considered that, notwithstanding the small size and population of the Cook Islands, the relevant criteria for admission were ability and readiness to endorse the values of the Organization and to comply with the obligations of membership, in particular: (a) the financial obligations; (b) the participation of full tripartite delegations in ILO meetings, and (c) constitutional obligations relating to Conventions and Recommendations.
5. The representatives of the Cook Islands confirmed that freedom of association was respected in their country, that free employers' and workers' organizations existed and that the Government and the social partners were committed to giving full effect to the eight fundamental ILO Conventions, with ILO technical assistance. The Subcommittee noted that, with regard to the international labour Conventions declared applicable to the Cook Islands under article 35 of the ILO Constitution, the Government confirmed that it continued to be bound by all up-to-date and relevant Conventions. The delegation was

fully aware of the reporting obligations of ILO Conventions and Recommendations and of the ILO supervisory system and was committed to complying with those obligations on a tripartite basis.

6. Where the Government's capacity to meet the financial obligations arising from ILO membership was concerned, the Government representative informed the Subcommittee that the Prime Minister had made a commitment to meet all those obligations, including covering the costs of tripartite delegations to sessions of the Conference and to Regional Meetings. He acknowledged, however, that attendance at ILO meetings presented logistical and practical challenges, including from a financial and human resources perspective.
7. The representatives of the Cook Islands stated their expectations regarding the possibility of obtaining technical cooperation from the ILO. That could include the establishment of a permanent tripartite body for consultations on labour issues. In addition, the Government explained that, in spite of the ageing of the population in the Cook Islands as a consequence of youth emigration (60,000 Cook Islanders were living abroad), the workforce was growing as the country was also a destination for migrant workers in the tourism industry. Labour legislation had to be adapted as the country's main economic activity had shifted from agriculture to tourism. Technical assistance was also needed in the fields of occupational safety and health.
8. The Subcommittee noted the strong support of the full tripartite delegation of the Cook Islands in favour of joining the ILO, which was considered particularly relevant to the country's current needs.
9. The Subcommittee concluded that the Cook Islands' tripartite constituency was committed to meeting the requirements imposed by membership.
10. The Subcommittee noted that the Cook Islands had a unique free association relationship with New Zealand. Following the recognition of the Cook Islands' treaty-making power by the international community in the mid-1980s, New Zealand and the Cook Islands had codified the principles underpinning their partnership in the Joint Centenary Declaration of the Principles of the Relationship between the Cook Islands and New Zealand, signed by the Prime Ministers of both countries in 2001. Under clauses 4 and 5 of the Joint Centenary Declaration, it was recognized that "[i]n the conduct of its foreign affairs, the Cook Islands interacts with the international community as a sovereign and independent state" and also that "[t]he 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 organisations".
11. Addressing the Subcommittee at a separate meeting held at its request, the Government of New Zealand, represented by Mr Michael Woodhouse, Minister for Workplace Relations and Safety, and Mr Carl Reaich, Deputy Permanent Representative of New Zealand in Geneva, expressed full support for the initiative undertaken by the Cook Islands and indicated that it stood ready to assist the Cook Islands with its application. The Government representatives expressed the view that the admission of the Cook Islands would not only increase the representation of the Pacific region but would also represent a real opportunity for the Organization. In that connection, the role played by the ILO Country Office for Pacific Island Countries in Suva was of particular importance.
12. Regarding the constitutional status of the Cook Islands, they explained that self-government had evolved since 1965, when the free association arrangement had been introduced, and that, although the population of the Cook Islands continued to enjoy New Zealand citizenship, the Government of the Cook Islands was now in a position to establish

formal diplomatic relations with other countries, sign international treaties in its own name, and join United Nations specialized agencies and other international organizations as a fully-fledged member. The 2001 Joint Centenary Declaration confirmed the capacity of the Cook Islands to develop and manage its international relations as a sovereign and independent State.

13. The Subcommittee was satisfied that the Cook Islands had the international status necessary to enable it to discharge the obligations involved arising from ILO membership. It accordingly recommended that the Cook Islands be admitted as a Member of the Organization.
14. In presenting the conclusions of the Subcommittee to the Selection Committee, Ms Jody Anderson (Australia), Chairperson of the Subcommittee, recalled that the last time a country which was not a member of the United Nations had applied for membership of the ILO had been in 1982. The members of the Subcommittee had therefore been honoured to have been entrusted with such a unique task. They had undertaken a thorough examination of the matter and held three sittings to that effect. The Subcommittee had been impressed by the level of commitment shown by the tripartite delegation of the Cook Islands to the values and requirements necessary for membership of the ILO. It also believed the country could greatly benefit from the development cooperation and support it could receive as an ILO member.
15. Following the presentation of the Subcommittee's report to the Selection Committee, a question was raised by a Government representative of Germany who indicated, while offering his Government's support to the resolution concerning the admission of the Cook Islands to membership of the ILO, that there had been some discussion within the Industrialized Market Economy Countries group (IMEC) as to the sovereignty of the Cook Islands, and its Government's capacity to conduct an independent external foreign policy. Clarification from the Office was requested.
16. The Legal Adviser of the ILO responded by pointing out that the Cook Islands was a self-governing entity in free association with New Zealand. This association was defined most recently in Clauses 4 and 5 of the 2001 Joint Centenary Declaration of the Principles of the Relationship between New Zealand and the Cook Islands as follows: "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 fulfillment 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." Section 5 of the Cook Islands Constitution Act, 1964, thus records a "responsibility to assist the Cook Islands and not a qualification of Cook Islands' statehood".
17. The Cook Islands had established diplomatic relations with 43 States; it was a member of tens of international organizations, including Specialized Agencies of the United Nations (such as WHO, FAO, UNESCO); it had signed over 100 multilateral treaties and a comparable number of bilateral treaties, including the United Nations Convention on the Law of the Sea and the Rome Statute of the International Criminal Court. It had also concluded maritime boundary agreements with a number of countries.
18. The Selection Committee endorsed the conclusions of the Subcommittee and accordingly submits the following resolution to the Conference for adoption:

The General Conference of the International Labour Organization,

Having received an application from the Government of the Cook Islands for admission to membership of the International Labour Organization,

Decides to admit the Cook Islands to membership of the International Labour Organization with the same rights and obligations as the other Members of the Organization;

Authorizes the Governing Body of the International Labour Office to make the necessary arrangements with the Government of the Cook Islands with regard to its financial contributions;

Takes note of the fact that the Government of the Cook Islands has already communicated to the Director-General of the International Labour Office its formal acceptance of the obligations of the Constitution of the International Labour Organisation and that, accordingly, the admission of the Cook Islands to membership of the International Labour Organization will take effect on the adoption by the Conference of the present resolution.

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