



## **The Cook Islands and Free Association: Understanding the nature & practice of the special relationship with New Zealand.**

The Cook Islands and New Zealand have a special relationship founded on close historical ties, unique constitutional arrangements and a common citizenship and currency.

The close bilateral relationship is cemented through strong people to people ties, including cultural and kinship ties between the Cook Islands and New Zealand Maori people. Approximately 62,000 Cook Island Maori now live in New Zealand.

Historically, the Cook Islands became a dependent territory of New Zealand in 1901, when it was annexed from the United Kingdom. In 1965, the Cook Islands adopted a Constitution ending that dependency status and today the country is self-governing in free association with New Zealand.

Less than a month after the Cook Islands and New Zealand signed their first treaty in 1973 as separate but equal parties, the Premier of the Cook Islands, Albert Henry, and the Prime Minister of New Zealand, Norman Kirk, undertook an Exchange of Letters in which they set out their shared understanding of the relationship existing between the Cook Islands and New Zealand. In his letter, New Zealand Prime Minister Kirk made the following points:

- In the view of New Zealand, there are no legal fetters of any kind upon the freedom of the Cook Islands, which make their own laws and control their own Constitution,
- “The dependent status of the Cook Islands” ended with the act of self-determination approving the present Constitution,
- The relationship between the two countries, was one of partnership, freely entered into and freely maintained.

Free association describes a quite unique relationship between the two countries, in that it allows for the Cook Islands to maintain New Zealand citizenship, whilst at the same time making its own laws (New Zealand cannot make laws for the country unless authorized by the Cook Islands Government) and conducting its own domestic and foreign affairs.

The most recent codification of the principles underpinning the partnership between the Cook Islands and New Zealand and was set out in **the Joint Centenary Declaration**, signed by the Prime Ministers of both countries in 2001. Since that time, the two governments have established regular ministerial-level consultations to underline the special constitutional ties and progress matters of mutual interest.

## Joint Centenary Declaration (2001)

The most notable elements of this important Declaration are as follows:

- With respect to the Head of State, Her Majesty the Queen, as Head of State of the Cook Islands is advised **exclusively** by Her Cook Islands Ministers in matters relating to the Cook Islands. In all matters affecting the Realm of New Zealand, of which the Cook Islands and New Zealand are part, there will be close consultation between the Signatories.
- 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 its international rights and fulfilment of its international obligations.
- With respect to Treaties, 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 organisations.
- With respect to Diplomatic and Consular Relations, official relations between the Cook Islands and New Zealand are based on the 1961 Vienna Convention on Diplomatic Relations and the 1968 Vienna Convention on Consular Relations. The Cook Islands and New Zealand recognise the right of each other in accordance with its national interests, **to establish diplomatic relations with third parties**.
- With respect to defence and security, the Government of the Cook Islands **has full legal and executive competence** in respect of its own defence and security. Section 5 of the Cook Islands Constitution Act 1964 thus records a responsibility to assist the Cook Islands **and not a qualification of the Cook Islands statehood**.

## The Cook Islands - participation in the International Community

As described elsewhere in this summary, the responsibility of the Cook Islands to conduct its own international relations and particularly to conclude treaties has evolved substantially over the years.

In April 1973, both the Cook Islands and New Zealand signed the Agreement establishing the South Pacific Bureau for Economic Cooperation, the first treaty in which the two countries participated as separate but equal parties.

In 1984, an application by the Cook Islands for membership in the World Health Organization was approved by the World Health Assembly in accordance with its article 6, and the Cook Islands, in accordance with article 79, became a member upon deposit of an instrument of acceptance with the Secretary-General. In the circumstances, the United Nations Secretary-General felt that the question of the status, as a State, of the Cook Islands, had been duly decided in the affirmative by the World Health Assembly, whose membership was fully representative of the international community.

On the basis of the Cook Islands' membership in the World Health Organization, and of its subsequent admittance to other specialized agencies (Food and Agriculture Organization in 1985, United Nations Educational, Scientific and Cultural Organization in 1985 and the

International Civil Aviation Organization in 1986) as a full member without any specifications or limitations, the Secretary-General considered that the Cook Islands could participate in a treaty in its own right as a State. Consequently, the Cook Islands signed the United Nations Framework Convention on Climate Change and the Convention on Biological Diversity in 1992, which the UN Repertory of Practice described as "further evidence that the international community had accepted the Cook Islands as a "State" under international law." The Repertory of Practice of United Nations Organs also recorded that in 1988 New Zealand declared "that its future participation in international agreements would no longer extend to the Cook Islands...".

In 2000, the Cook Islands Government signed the Cotonou Partnership Agreement between the European Union and African, Caribbean and Pacific Group of States (ACP). Upon signature of this agreement the Cook Islands Government established a representation to the EU in Brussels. In 2002 this representation was upgraded to a full diplomatic mission with accreditation to the European Union. The Office has since closed, as the Cook Islands seeks to explore opportunities closer to home in the Asia-Pacific region. However, the establishment of this mission marked an important development in Cook Islands international relations representing the first full diplomatic mission established by the Cook Islands outside of the region.

The Cook Islands has formally established its maritime boundaries, having concluded boundary agreements with the United States (in respect of the shared boundary with American Samoa); France (in respect of the shared boundary with French Polynesia); the Republic of Kiribati; Niue and New Zealand (in respect of the shared boundary with Tokelau) and recently deposited this information along with its outer limits coordinates with the United Nations Division on Oceans and the Law of the Sea.

The Cook Islands at this time has diplomatic relations with 43 states and is a member to over 42 Organisations (including UN specialized agencies), and has signed over 100 multilateral treaties and a comparable number of bilateral treaties.

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