

Nauru and Micronesia Scholarships Brief

Update provided to DS IDG for PIF, July 2014

The New Zealand Aid Programme offers up to three New Zealand Pacific Scholarships annually to citizens of Nauru for tertiary study in New Zealand at either undergraduate or postgraduate level. A further three awards are available for postgraduate level study only across Micronesia; depending on uptake from the other eligible countries (Palau, Marshall Islands, and Federated States of Micronesia), all six may be awarded to scholars from Nauru in a given year.

Priority Areas

The current priority sectors for Nauru are broad, and include health, governance, education, ICT, and media/journalism studies. In previous years, one of the three Nauru scholarships was designated for study in Fisheries. However, despite targeted marketing of this award no applications were received in consecutive years, and the award designation has now been removed. However, Fisheries remains a priority sector for Nauru.

Priority sectors for Micronesia are similarly broad, including health, governance, education, ICT, and agriculture.

Issues

- The number and quality of applications received in the previous two selection rounds is low compared to other countries in the region.
- There is low uptake of awards at the postgraduate level, with the majority of postgraduate applicants unable to meet the entrance requirements for postgraduate study at New Zealand education institutions.
- Access to English Language Testing pre-award has also been problematic. From July 2014, NZ and the Australian High Commission in Nauru will cover the cost of English language testing for shortlisted Nauruan applicants.
- Chronic health conditions among scholars have led to difficulties and delays in gaining Immigration approval for student visas, and have contributed to poor academic performance for some scholars while on award.
- The need for visas to be obtained through our Post in Honiara for Nauru can cause delays.
- Poor academic performance on award remains an issue. To help address this, we are looking to introduce bridging study as a component of their NZPS study programme.

Current Students

There are currently one scholar from Palau and ten scholars from Nauru studying in New Zealand on scholarship.

s9(2)(a)

s9(2)(a)

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Background Documents- Regional Processing Centre

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Regional Processing Centre

Background

- The Nauru regional processing centre (RPC) is an Australian detention facility established to house asylum seekers (someone claiming to be a refugee whose claim has not yet been definitively evaluated) and assess their immigration status. It is one of two offshore processing facilities, the other being on Manus Island, Papua New Guinea.
- The Nauru RPC was opened in 2001 by PM John Howard as part of Australia's "Pacific Solution". One of the aims of the Pacific Solution was to deter people smugglers (facilitation, transportation, attempted transportation of a person(s) across an international border). The Pacific Solution was a controversial policy and there were questions to its overall efficacy in reducing the number of asylum seekers and mass arrivals. Following Kevin Rudd's election success in 2007 (in which he campaigned on an end to the Pacific Solution) he announced the end of the Pacific Solution and the closure of the facility. The last detainees were transferred off the island in February 2008.
- Following increasing mass arrivals and public pressure, the RPC was reopened in August 2012 by PM Julia Gillard. It now forms a key element of Operation Sovereign Borders, a policy in effect from September 2013 under Tony Abbot.
- The facility is intended to house approximately 3200 detainees in three compounds, known as RPC 1, RPC 2, and RPC 3. Following substantial damage by fire, RPC 1 has been undergoing repairs, with RPC 3 being constructed in late 2013/early 2014. Facilities include accommodation, schooling, health and welfare, as well status processing. As of 30 September 2014, there are 1140 people detained at the RPC mostly with detainees coming principally from Iran, Pakistan and Myanmar, and from South Asia (Sri Lanka and Bangladesh). A number of detainees are identified as stateless. There are approximately 200 children housed at the complex.
- There have been a number of incidents at the RPC since its opening including a month-long hunger strike in 2003 and a large riot in July 2013. The 2013 riot had wide media coverage as it involved some 200 escapees and \$60 million worth of damage by fire. A subsequent inquiry carried out by the Australian government found it was due to frustrations around processing procedures and delays.
- The centre has received criticism from human rights groups, including Amnesty International. In December 2012, UNHCR expressed concerns that the facility did not meet international standards, with subsequent works being carried by Australia in response to this report. Ongoing reports of abuse and human rights violations have led to a further Australian Government inquiry announced in September 2014.

- As noted below, the RPC is of substantial economic importance to Nauru, with approximately 1300 staff with over 50% of these being from Nauru.

New Zealand views on the RPC

- The New Zealand government takes people smuggling very seriously. It challenges the integrity of international borders and migration systems while generating huge profits for the criminals involved.
- Like Australia, we consider that people smuggling is a regional problem that requires a regional solution. As such, we are supportive of the Bali Process as the only grouping that draws together source, transit and destination countries in a shared discussion about how best to combat people smuggling. New Zealand has provided a staff member for the Regional Support Office in Bangkok, as well as support for a number of specific projects.
- The RPC is a fundamental feature of Operation Sovereign Borders. s6(a)

This is understandably a very sensitive issue for the Australian Government, and we have a clear interest in working together constructively to try to stamp out people smuggling ventures in our region.

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Formal Message: Riot at the Refugee Processing Centre (RPC)

FORMAL MESSAGE: NAURU: RIOT AT ASYLUM SEEKER REGIONAL PROCESSING CENTRE, Honiara 21 July 2013

Summary

Rioting at the Nauru Regional Processing Centre (RPC) on Friday night has left the Centre largely destroyed and 100+ rioters imprisoned in Nauru's small correctional facility. The riot took place in the wake of the Australia PNG announcement on asylum seeker processing [s6(a)]

Report

CBA's FM of 19 July and Ramsden/Ojala email 20 July refer.

2 As has been widely reported, a protest at Australia's RPC on Nauru got out of hand on Friday evening, with rioting breaking out. This has been linked in the media to the PNG-Australia announcement on processing of asylum seekers. Much of the Centre was destroyed by fire and over 100 detainees were arrested and are being held in Nauru's small jail. The Canberra Times is reporting the cost of the damage at A\$60m. Calm was restored late in the evening with the help of volunteers called up by the Nauru Government (GON). There appear to have been only a handful of relatively minor injuries.

3 [s9(2)(ba), s9(2)(a)]

The RPC itself has no physical barriers to restrain the AS from leaving, other than its relative isolation on the island (our FM of 27 June, not to all, refers). Adeang suspended Britten more or less on the spot, and appointed a Nauruan as acting Commissioner.

4 [s9(2)(a)]
[s9(2)(ba)] Once it started to do so, however, Adeang ordered radio, TV and mass-SMS messages be sent out calling for "able bodied men" to be deputised to assist containing it. Reports vary as to how many turned up at the camp from 150 to 1,000; [s9(2)(ba), s9(2)(a)]

5 Order was restored late in the evening and all AS were accounted for by 2 a.m. on Saturday morning. Nauru remained calm on Saturday. [s9(2)(ba)]

6 s9(2)(ba)

7 s9(2)(ba)

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Formal Message: Re-opening of the Regional Processing Centre

FORMAL MESSAGE: NAURU: s9(2)(g)(i) 2.1, Honiara, 27 June 2013

Summary

The reopening of an Australian Regional (asylum seeker) Processing Centre on Nauru has brought with it significant economic opportunity, but also a range of challenges for Nauru's fragile economy and politics.

s6(a)

Secondary mining of phosphate has slipped down the agenda due to both world prices and the revenue from the RPC. Fisheries is the bright light and Nauru-NZ cooperation in the sector is strong, and valued by the Nauruans. President Waqa reaffirmed Nauru's support for NZ's UNSC bid. In the wake of Nauru's dismissal of (another) NZ-funded Secretary for Justice, we need to think hard about the shape of future support to the sector. The Secretary's dismissal may also stymie Australian Federal and Nauru Police investigations into corruption associated with phosphate payments.

Action: PACDEV for consideration regarding justice programme. UNHC and New York note para 8 re UNSC. PAC, Apia s9(2)(a), MPI, Defence, see para 14 re fisheries, in particular s9(2)(a) comments regarding the desirability of "200%" observer coverage. Suva note para 12. Grateful also any background Suva might have on s9(2)(a) (para 15) - by email to Ramsden and s9(2)(a) (PACDEV) if you have anything.

Report

HOM made his third and final accreditation visit to Nauru 24-26 June, calling on the President and his Cabinet, justice, education and fisheries officials, the police commissioner and a range of private sector and other contacts. The visit was welcomed by the President as the first accredited envoy to call on the new government.

The Regional Processing Centre (RPC)

2. There are obvious changes since the reopening of a RPC in September 2012. Nauru is awash with new (second-hand) cars, and whereas in days of old the Our Airline flight was full of Nauruans with a handful of expats, the reverse is now true. All Nauruans we spoke with, from President Waqa on down, regarded the RPC's return as a positive. It provided jobs and income, particularly from housing and land rental.

s6(b)

s6(b)

s6(b)

5 Despite the quality accommodation, food, medical care and other support, one could not help but feel a sense of desperation on behalf of the detainees when touring the Centre.

Politics and the economy

6 We handed President Waqa PM Key's congratulatory message.

s6(b)

7 President Waqa (whose father is Fijian, as is his wife) said his first priority was to focus on lifting Nauruans' standard of living. Re-establishing a commercial bank on the island was key to that. The lack of banking services meant Nauruans were unable to save or build capital: money into the system soon went on consumption.

s6(b)

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s6(b)

8 Unprompted, Waqa thanked NZ for its aid programme support in education, justice and fisheries. He would welcome a visit by Minister McCully, he said. He reaffirmed Nauru's support for NZ's UNSC bid (we suggested he remain in close contact with Nauru's UN Permanent Representative Marlene Moses in the lead up to the vote).

9 Optimism around revenues from secondary mining of phosphate has cooled markedly since our last visit in April 2012. The last of the primary resource is being mined and only limited secondary mining is taking place. We were unable to get figures for shipments, but got the sense these had slowed a lot. s9(2)(g)(i)

10 s9(2)(ba)

s9(2)(b)(ii)

Nauru's limited pool of labour and low government salaries however meant that GON was losing skilled workers to the RPC, drawn by the higher salaries. The mini economic boom associated with the RPC offers increased opportunity for NZ firms.

s6(a)

s6(b)

Aid Programme, and the removal of the Secretary of Justice

13 HOM met with new Minister for Education Charmaine Scotty and Secretary Dr Maria Gaiyabu. Scotty, Nauru's second-ever woman MP, has strong NZ links: she had attended Baradene College in Remuera followed by a year at Carrington Polytech, and said she remains in close touch with a number of friends in Auckland, she said.

s6(b)

Both she and Dr Gaiyabu expressed satisfaction with NZ's support to education and the delegated cooperation arrangement with AusAID. AusAID

s9(2)(a) confirmed the arrangement is working well from their point of view, but noted a looming risk with the likely departure of senior education advisor s9(2)(a), who had been highly effective.

14 CEO of Nauru's Fisheries Agency Charleston Debye was highly complimentary about NZ's support to fisheries, both through the FFA and directly to Nauru. Nauru's fisheries revenue was a success story: it was tracking to receive AUD14m in licence fees this year, up from around \$3-4m four years ago. Debye was positive about the PNA observer programme, but noted that single observers on tuna boats were vulnerable to abuse and found it hard to be effective; he wondered whether we should be looking at "200% coverage" (ie two observers per boat) rather than one. Debye was positive about the proposal for a VSA coastal fisheries adviser (provided via FFA) and said they would find accommodation s9(2)(ba) also offered to assist). Debye said they were to build a new fish market with Japanese support s9(2)(b)(ii) so the coastal fisheries adviser was very timely. (Comment: with three freight flights a week to Nauru to service the RPC, a new fish market and Nauru's extraordinarily rich inshore fishery it strikes us that there is plenty of scope to begin small-scale, high-value fish exports to Australia.) Debye also noted his appreciation for RNZAF's NORPAT flights. On FFA, Debye said he was very impressed with the organisation's performance under the new management team of Movick and Norris.

15 Support to the justice sector has become far less straightforward under the Waqa government. Late on 21 June, NZ-funded Secretary for Justice Lisa Lopicollo was informed by her Minister and the Chief Secretary that her position was to be localised; we understand the appointee is Lionel Aingimea, a Nauruan lawyer formerly with SPC's RRRT programme in Suva. Aingimea had returned to Nauru to stand for Parliament, but had been unsuccessful. The Chief Secretary has informally advised Lopicollo that GON will agree to waive her notice period, meaning it would have to pay 3 months' contractual entitlements to fulfil obligations. Lopicollo was to have been a key player in designing the next phase of NZ's justice assistance programme

s9(2)(g)(i), s9(2)(ba)

16 s6(b), s9(2)(ba)

s9(2)(g)(i)

s9(2)(g)(i)

s6(b), s9(2)(g)(i), s9(2)(ba)

Comment

18 The RPC represents an economic opportunity for Nauru not seen since the lengthy height of the phosphate boom, or perhaps the original operation of a Centre on the island under the Howard government.

s9(2)(g)(i)

s6(a)

s9(2)(g)(i)

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Background Documents – Justice Sector

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Media Release: Nauru appoints three new judges

Nauru Government Information Office, 1 August 2014

Nauru appoints three new judges to oversee nation's court

The Government of Nauru has announced the appointment of a new Chief Justice and two new justices to oversee court cases on the island nation.

The appointments form part of a major reform process undertaken by the Government of President Baron Waqa, which came to office just over a year ago. For the first time, more than one judge has been appointed, removing the limitation of only one justice making all decisions.

Justice Minister David Adeang said the Government was elected with a mandate for change.

"Our Government is determined to uphold a transparent legal process and to enact the reform that best serves the people of Nauru," Mr Adeang said.

In welcoming the appointments, Mr Adeang said that all three justices had wide international experience and a reputation for independence.

"Nauru is fortunate that jurists of such high calibre have offered their services to the country.

"Our Government's agenda is to strengthen the integrity of our legal system, and these appointments are the next step in that process."

The justices will take up their positions over the next few weeks.

Details are as follows:

Chief Justice Mr Joni Madraiwiwi from Fiji – Justice Madraiwiwi is currently a Law Lord and Privy Councillor of the Kingdom of Tonga. He is a former Vice President of Fiji. Chief Justice designate Madraiwiwi was a judge of the High Court of Fiji (1997-2000); Member of the Sugar Industry Tribunal (1992 – 1997); Permanent Arbitrator for trade disputes (1991-1997); member of the Solomon Islands Truth and Reconciliation Commission (2009-2011).

He is highly respected as a jurist, intellectual and lawyer and is well known in the Pacific region and beyond. He has more than 10 years' experience as a judge or judicial officer of equivalent rank.

Justice Mr Mohammed Shafi Khan from Australia – Justice Mohammed Khan has over 30 years legal experience. He was admitted as a barrister and solicitor of the High Court of Fiji in 1979, admitted as a barrister and solicitor of the High Court of the Australian Capital Territory (ACT) in 1987, admitted as a solicitor of the High Court of Queensland in 1988 and admitted as a barrister and solicitor of the High Court of Victoria in 1988.

He has more than 17 years' experience as a magistrate in Fiji and the Solomon Islands.

Justice Ms Jane Elizabeth Hamilton-White from Australia – Justice Hamilton White has more than twenty years' legal experience having worked in the Caribbean and the Pacific as a senior lawyer.

She has served as a Principal Magistrate in the Solomon Islands where she spent time also as a senior state prosecutor in the office of the Director of Public Prosecutions. She is a barrister of the Supreme Court of Queensland, Australia - Admitted to practice 17th December 1998.

Ms Hamilton White will be the first female appointee to the Bench of the Supreme Court of Nauru.

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Nauru Justice Update

Brief Provided to DS IDG for PIF, 16 July 2014

Update

- The **Justice Sector Support programme** funded by New Zealand is progressing well:
 - Recruitment to date to fill the seven long-term and two short-term roles funded by New Zealand have been open and transparent. Nauru has provided evidence of sound processes in advance of appointments.
 - We understand the Resident Magistrate and the Solicitor General recruitment is well underway. We expect to receive details of the successful candidates in August.
 - A Legal Aid office has been established and is providing professional legal services to both Nauruan citizens and to detainees for the first time. As of June 2014 the Legal Aid office has 80 Nauruan cases before the court – and a further 21 cases involving transferees. (Transferee cases are supported by Australian lawyers).
 - The first ever sector strategic planning and human rights training has been completed. Corrections staff training by a New Zealand supplier is underway.
 - Reporting is on time and increasingly comprehensive and we are being informed of potential performance issues in advance of Government of Nauru action.
- **Chief Justice role.** Advice from the Nauru Secretary for Justice's office (14 July) is that the Minister for Justice (Adeang) has made a recommendation to the President following an open recruitment process. As this is not a NZ-supported role we have not been informed about applicants, but believe the appointee may be Australian or Sri Lankan. Two supporting judges will also be appointed with Nauru funding.
- According to media reports, **five of the eight opposition MPs in Nauru have been suspended** for a range of allegations, including bringing Nauru into disrepute and suggestions of treason, and their parliamentary allowances suspended. At this stage we are not in a position to make an assessment on the validity of the allegations. The wife of one of the MPs, Roland Kun, had her Nauruan residency suspended and we understand Kun has now resettled his family in Wellington.

Media Talking Points

- We have been following developments in Nauru closely.
- New Zealand does not fund the Chief Justice position but I understand that an appointment to the office of Chief Justice is imminent following an open recruitment process.
- We understand other judicial appointments are also imminent.

- New Zealand continues to work with Nauru to increase professionalism and transparency of Nauru Justice Sector services and is pleased with progress to date. Our work with Nauru in the justice sector will continue.
- We understand several Opposition Members have been suspended.
- While we have expressed our views on good governance to Nauruan Government representatives, we do not interfere in the domestic politics of other nations.

Background

- Status of recruitment of New Zealand-supported roles are as follows:

Long-term:

- *Resident Magistrate* (funding currently on hold pending completion of open procurement – appointment due end August.) Nauru has funded an interim Resident Magistrate.
- *Solicitor General* (funding currently on hold pending completion of open procurement – appointment due end August.) Likely to be filled by well-respected Fijian lawyer
- *Director of Public Prosecutions* (funding commenced) Fijian lawyer;
- *Secretary for Justice* (localised) (partial top up of GoN salary only – A\$30k/annum)
- *Legal Aid Director/Public Defender* (funding commenced – Fijian Lawyer)
- *Public Prosecutor* (funding commenced)
- *NLJS Activity Coordinator* (funding commenced) – Australian Project Manager

Short-term:

- *Registrar, District Court* (not yet recruited).
- *Corrections Advisor* periodic draw-down facility (recruited but not yet contracted) – New Zealander.

Background Documents – Trust Fund

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Nauru Trust Fund Submission, May 2014

(PDF to be inserted)

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NEW ZEALAND
FOREIGN AFFAIRS & TRADE

5 May 2014



For action by: 7 May 2014

NEW ZEALAND INVOLVEMENT IN NAURU INTERGENERATIONAL TRUST FUND

SUBMISSION Issue

PURPOSE To seek your views on possible New Zealand involvement in the proposed Nauru Intergenerational Trust Fund.

Recommended referrals

Contact details

NAME	ROLE	DIVISION
David Nicholson	Director	PAC DEV
s9(2)(a)	Deputy Director	PAC DEV

Minister's Office comments

Signed / Referred

Date: 13 / 5 / 2014

INTD-105-275

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POSSIBLE NEW ZEALAND INVOLVEMENT IN NAURU
INTERGENERATIONAL TRUST FUND

Key points

- The Government of Nauru (GoN) plans to establish an Intergenerational Trust Fund ("Fund") to save windfall revenues from phosphate, fisheries and the Australian-funded Regional Processing Centre (RPC) for future budgetary needs. This year, domestic revenues will more than double to A\$99m, up from A\$40m in 2012/13.
- There is a strong macroeconomic case to save the current windfall gains to finance future consumption and investment and to reduce donor dependence. We therefore support the principle of establishing a Fund.
- The GoN is seeking New Zealand engagement in the finalisation of the Fund structure and as a Non-contributing Board Member. We have received an invitation from the GoN to attend the second formal technical Fund meeting in Nauru to take place early May. The Asian Development Bank (ADB), Australia and Taiwan plan to attend.
- We have had limited engagement to date, other than providing technical comment on the design of the Fund. As the establishment of the Fund is now gaining momentum, we seek your views as to the level of New Zealand involvement.

s6(b)

sb(b)

s9(2)(g)(4)

- Sound governance of the Fund will be crucial.

s6(a)

Safety measures for the proposed Fund include three donor board members to one Nauru representative, a technical advisory committee, reputable financial investment advice and post 2033 binding spending decisions.

- Participation on the board would contribute to sound economic management and strengthen our engagement in the Northern Pacific. It would however require a very long term commitment. The cost to New Zealand of governance engagement would be relatively low, in the order of \$100,000 per year and provision could be made in future bilateral aid allocations.
- Our support as a Non-contributing Board Member should be subject to satisfactory progress on technical design issues, a full risk assessment, level of GoN

POSSIBLE NEW ZEALAND INVOLVEMENT IN NAURU
INTERGENERATIONAL TRUST FUND

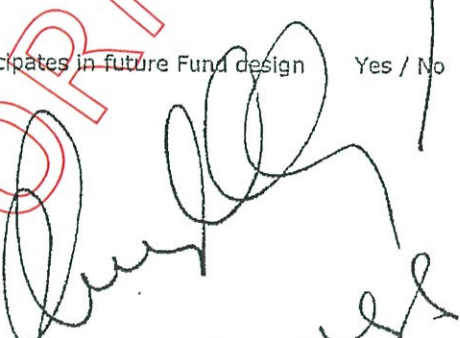
contribution and conditional on appropriate definition of our role as "Non-Contributing" in documentation as well as on Australian board membership.

Recommendations

It is recommended that you:

- | | | |
|---|--|----------|
| 1 | Note the Government of Nauru's intention to establish an Intergenerational Trust Fund and their strong interest in New Zealand involvement as a Non-contributing member of the Governing Board, and the strong Australian support for New Zealand involvement. | Yes / No |
| 2 | Agree that New Zealand signals its interests in the Fund and possible inclusion as a Non-contributing Board Member, subject to satisfactory progress on the structure and governance arrangements, level of GoN contribution, Australian involvement as a board member and an acceptable final risk assessment. | Yes / No |
| 3 | Agree that, where relevant, MFAT participates in future Fund design meetings. | Yes / No |


Craig Hawke
for Secretary of Foreign Affairs and Trade


Duncan

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POSSIBLE NEW ZEALAND INVOLVEMENT IN NAURU
INTERGENERATIONAL TRUST FUND
Report

The Government of Nauru is finalising plans to establish an Intergenerational Trust Fund ("Fund") in order to reserve a portion of the dividends from phosphate, fisheries and from the Australian-funded Regional Processing Centre (RPC). GoN is actively seeking New Zealand engagement in the finalisation of the Fund structure and as a Non-contributing Board Member. Australia and Taiwan are likely to be involved as board members and donors to the Fund.

The Fund

2 Current proposals are for proceeds of the Fund to be drawn down from 2033 when revenue from secondary phosphate reserves is forecast to end. Funds would then be used as a source of budget revenue for investments in education, health, environment and infrastructure and to smooth fluctuating income streams.

3 Nauru is now well-positioned to establish the Fund. Work with ADB since 2009 is reaching fruition and Nauru is in a comfortable fiscal position and able to make substantial contributions. Significant future windfalls are expected as a result of Australia's investment in the RPC and ongoing phosphate revenue. This year, domestic revenues will more than double to A\$99m, up from A\$40m in 2012/13. Establishment of a fund to reserve this windfall is seen as essential to present and future economic stability. Savings would provide a viable source of future revenues.

4 Nauru is anxious to develop full protections for the Fund following the failure of the previous Nauru Phosphate Royalties Trust in the 1990s. ^{s6(a)} Related fraud cases against expatriate lawyers are still pending.

5 The structure of the fund is likely to resemble that of the Tuvalu International Trust Fund with fund management advice provided through a technical advisory committee and further independent financial investment advice employed. The proposal is for one Nauru representative board member and three donor representatives on the Board (e.g. Australia, New Zealand and Taiwan). After 2033 the technical advisory committee would make objective recommendations to the Board on use of dividends. The Board decisions regarding expenditure would then be binding on Government of Nauru, thus ensuring sound financial and governance advice.

6 GoN would welcome New Zealand and Australia involvement in the Governance Board in order to signal full accountability and transparency to the public. There has been an initial Aus/Taiwan/GoN Fund meeting (3 March) and a second is planned for early May, expected to result in a final Fund design.

Donor Involvement to date

7 The ADB has supported the design of the Fund including the 2009 launch of a prospectus at which New Zealand signalled support for the concept but made no

POSSIBLE NEW ZEALAND INVOLVEMENT IN NAURU INTERGENERATIONAL TRUST FUND

commitments. GoN has not formally engaged since then but has in the margins of meetings taken soundings as to New Zealand's views.

8 MFAT did not attend the first formal Fund meeting convened at short notice in March this year but provided some technical comment. At that time New Zealand's priority focus was on Nauru's management of existing funding arrangements in the justice sector.

s6(a)

10 s6(b)

Taiwan is also interested in being a partner, dependant on A/NZ involvement. In view of the large windfalls that are already accruing to GoN, all potential participants have expressed strong views that Nauru contributions should be a significantly greater proportion of their current revenue, with some flexibility to adjust future contributions subject to changes in the economic and fiscal environment.

New Zealand Position

11 There is a strong macroeconomic case to save the current windfall gains to finance future consumption and investment in Nauru and to minimise donor dependence. In the short-term, Nauru is unlikely to be able to spend such large overnight revenue increases productively given the lack of absorptive capacity within the economy. In the medium to long-term, the secondary phosphate resources will be depleted and the Fund could replace this revenue stream.

12 Some technical design issues still need to be worked out at the second Fund meeting: the size of the fund capital, relative proportion of contributions, timing of draw-down, and the governance structure.

s6(a), s9(2)(g)(i)

14 While there is potentially some reputational risk for New Zealand, this is reduced by the design which is based on the proven Tuvalu Trust Fund model with external financial

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POSSIBLE NEW ZEALAND INVOLVEMENT IN NAURU
INTERGENERATIONAL TRUST FUND

management advice and protections s6(a)

are working with ADB to ensure best possible controls. Membership of Australia and Taiwan, with New Zealand on the Board, would provide significant controls on GoN decision-making about investment and expenditure of dividends. A full risk assessment would need to be carried out once the design is finalised, against which New Zealand's ongoing involvement should be determined.

s6(a)

s9(2)(g)(i)

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Formal Message: Proposal to establish a Nauru Trust Fund

Proposal to establish a Nauru Trust Fund, IDG SED, 13 June 2014

Summary

The Government of Nauru hosted a technical meeting to discuss the establishment of an intergenerational trust fund to save the large increases in fishing and immigration processing windfall revenue. Australia and Taiwan announced their intention to participate as contributing board members

s6(a)

New Zealand participation is likely to be confined to board membership

Background

2. The Government of Nauru (RONGOV) hosted a second technical meeting to discuss the establishment of the proposed Nauru Intergenerational Trust Fund (NTF). The meetings were held between the 12th and 14th of May. The Asian Development Bank, Australia, Taiwan and New Zealand (s6(2)(a) IDG SED) attended the meeting, which was chaired by Minister of Finance and Justice, David Adeang.

3. Nauru's domestic revenues have nearly quadrupled since 2010, rising from just over \$20 million to about \$100 million. There has been a significant increase in windfall revenue as a result of higher fishing revenues from the Vessel Day Scheme (VDS), and from fees related to the Australian Department of Immigration's Offshore Processing Centre (OPC). The windfall, particularly from the OPC, offers a remarkable second chance for a country whose citizens have suffered devastating negative shocks to their living standards due to the mismanagement of the previous phosphate-linked trust fund.

A promising idea in theory...

4. The NTF is the proposed savings mechanism, and will be built up for 20 years before investment incomes are used to finance Nauru's budgetary expenditures. The proposed design envisages Nauru and development partners jointly contributing to the build-up. Australia and Taiwan have indicated their participation as contributing members of the Fund, subject to legal processes. The ADB is unlikely to participate in governance, but propose to provide contributions to the fund through disbursements to RONGOV.

s6(a)

s6(a)

s6(a)

s6(b)

s6(a)

New Zealand's role

8. This is the first time that New Zealand has formally participated in discussions, with a caveat that no formal decisions had been made about participation in the fund, or attendance at future meetings. NZ is still developing its position with regard to participation. s6(a)

RONGOV's large windfall and contributions from Australia, Taiwan and (indirectly) ADB would be sufficient to build up the fund. The case for NZ financial contributions may change in the future if economic conditions were to worsen significantly.

9. Two factors, however, may influence NZ's participation as a **non-contributing** board member:

- RONGOV has noted NZ's strong institutions and economic governance as a relative advantage that it believes could provide stronger public confidence in the Fund.

• s6(b)

Next steps

10. RONGOV has submitted a revised proposal to partners at the end of May, and has called for the next technical meeting for early July 2014. In the interim, DFAT has begun to seek legal advice on how to formalise their participation in the Fund.

Comment

s6(a)

12. There is significant momentum and urgency within RONGOVI to progress with the creation of the NTF, as it is one of the key pillars of the current government's reform agenda, and there have already been large delays in getting the NTF started.

s6(b)

13. The nature of New Zealand's participation remains to be determined

s6(b)

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Background Documents- Recent Meetings

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Report of MFA Bilateral Meeting with President Waqa, PIF 2014

DRAFT FILE NOTE - MFA bilateral with Baron Waqa, President, Nauru

Detention Centre and Justice Sector Issues

Minister McCully observed that the partnership with Australia seemed to be working well for both parties. President Waqa said that Nauru and Australia had a very long relationship and Nauru was willing to help them; no issue was too complicated to resolve.

Minister McCully stated that New Zealand was clear that our involvement (funding the Justice Sector) was a very small role. DS Hawke confirmed this area was faring well. Minister McCully advised that the New Zealand media was told that we were there to help. The justice sector was important for a country like Nauru, and Nauru had given us good assurances

s6(b)

[A statement release on the appointment of judges was released on 1 August.] Nauru had met its commitments and made improvements in a number of areas, although more work was needed

s6(b)

Suspension of MPs

s6(a)

Economic Direction and Nauru Trust Fund

Minister of Finance and Sustainable Development (Hon David Adeang) advised that revenues had increased by 60% in 2013. Nauru paid a lot of public debt this year and maintained a small surplus. The hundreds of millions of dollars in public debt as a result of the failure of the Bank of Nauru and mismanagement of the previous Trust Fund would take a long time to bring back in balance. President Waqa said that Nauru aimed to pay off the old Trust Fund debt by the end of the year. Nauru's Phosphate and Fisheries corporations were doing well.

On the new Nauru Trust fund, Minister Adeang advised that they had \$5 million in an Australian bank, and would add a further \$5 million this year, while they worked through the governance structure (which New Zealand was engaging in). Minister McCully mentioned that Nauru had asked for a New Zealand trustee, which he supported.

Phosphate

Nauru was at the end of its Phosphate resource now. There was an option to undertake secondary mining, but this was more costly and involved accessing land (which was the Supreme Court's domain).

UNSC

Minister McCully thanked Waqa for Nauru's support for our campaign.

Secretary General

Minister McCully outlined New Zealand's position, that Melanesia members should resolve it amongst themselves.

s(b)

Action: PAC/PACDEV to follow up on the request for a New Zealand trustee.

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Briefing for Minister McCully's meeting with Minister Adeang, May 2014

Key points

- s6(a), s9(2)(g)(i)
- In February Nauru removed their Resident Magistrate, Peter Law (funded by New Zealand), and effectively removed their Chief Justice, Geoffrey Aimes, through the revoking of his visa. New Zealand expressed its concerns about the impact on the effective functioning of law and order and sought an explanation from the Government of Nauru. Funding to affected roles was temporarily suspended. (Eames eventually resigned on 13 March, criticising Australia and New Zealand for trivialising this issue as he did so.)
- You met with Minister for Justice David Adeang and Minister for Home Affairs Charmaine Scotty in Wellington on February 11. While defending their reasons for the removal of Law and Eames, they acknowledged the importance of following transparent process and the need to rebuild confidence in the justice sector.
- Agreement was reached to continue New Zealand support provided Nauru follows credible appointment and severance processes and the funding arrangement was strengthened accordingly. Nauru also committed to continuing the reforms initiated by Eames. New Zealand's paramount objective is to see a functional justice sector.
- Since this meeting the Nauru Department of Justice has demonstrated an increasing level of organisation and commitment to meeting the terms of our new Justice Sector Improvement initiative. Reporting has been provided as scheduled. Three months into the programme the Legal Aid Office has been established and fully staffed, improving access to legal services for the general population. The capacity development programme has been established based on a sound needs assessment, with four Nauruans enrolled in legal qualifications for 2014 and in-country training planned for June onwards.
- Recruitment for the replacement New Zealand-funded Resident Magistrate is currently underway. While there is some interest, potential applicants have expressed reservations on the salary package. The Government of Nauru is considering a top-up from their own resources. They have a well-respected Interim Resident Magistrate in place.

Background

On 19 January the Nauru Resident Magistrate, Peter Law, an Australian citizen, (funded by New Zealand), was dismissed by the President of Nauru and then deported from the

country. At the same time, Chief Justice Geoffrey Eames (funded by Australia) had his visa revoked and was unable to return to Nauru. Solicitor General Steven Bilim (also funded by New Zealand) resigned in protest as did other expatriate legal staff. The Government of Nauru defended these actions on grounds of inappropriate behaviour by the two judges, including failure to manage conflicts of interest and thus their loss of confidence in these two office holders.

2 Since your meeting with Adeang and Scotty in Wellington in February, Nauru has provided documentation related to all new appointments funded by New Zealand and background documentation on HR processes. A robust process has been followed for new appointments and the calibre of appointments appears appropriate.

3 As required by our funding arrangement, the Secretary for Justice informed us of a minor HR issue and has provided documentation of the performance management process that resulted. This process meets sound international practice.

4 We understand that applications for a new Chief Justice have closed and that Nauru is working with the Commonwealth Secretariat to short-list 30 applicants from a wide range of countries. Minister Adeang and then the President will approve the shortlist prior to interview. A replacement is likely to be in place by mid-June. We are seeking clarification of the source of funding for this new appointment.

5 On a separate issue, Nauru is seeking New Zealand's involvement in a new Intergenerational Trust Fund (ITF), ideally as a board member. The ITF's purpose is to provide Nauru with a source of budget revenue post-2033 for investment in education, health, environment and infrastructure. We have provided feedback on the design

sg(a)

As the ITF now looks to be more viable with the backing of the ADB, Australia and probably Taiwan, we have provided a submission seeking your advice on engagement in the Fund. Pending your advice we may send an economist to attend a technical meeting on 12 May.

PAC/PACDEV
Ministry of Foreign Affairs and Trade
May 2014

Formal Message: MFA Meeting with Nauru Ministers of Justice and Home Affairs

FORMAL MESSAGE: Nauru Justice Sector, PACDEV, 28 February 2014

Summary

Agreement was reached at a meeting on 11 February in Wellington between Minister McCully and Nauru's Ministers of Justice and Home Affairs on continued New Zealand support to the justice sector on the basis of the Nauru Government's undertaking to follow credible appointment and severance processes in future. While GoN defended their decisions to dismiss and deport the Resident Magistrate (NZ-funded) and bar the re-entry of the non-resident Chief Justice on the grounds of inappropriate behaviour, including conflict of interest, they also acknowledged the importance of following transparent process and the need to rebuild confidence in the justice sector. These strengthened processes have been signed up to under a revised funding arrangement. MFA also raised the hike in business and media visa fees (to AUD6000 and AUD8000 respectively) and the need to consider the role transparency plays in rebuilding public confidence.

Report

2 New Zealand has been engaged as the main donor in the Nauru justice sector since its budget crisis in 2003. Funds go to the Department of Justice and Border Control for key positions. GoN recruits and manages all NZ-funded positions. Under the new Funding Arrangement for 2014–2018 support is set to increase to up to nine in-line roles, and boost skills development for Nauru staff. An annual contribution of \$1.2m has been allocated for this.

3 Events in January culminated in the dismissal and deportation of the Resident Magistrate (Australian Peter Law, funded by New Zealand) and prevention of the Chief Justice (CJ) Geoffrey Eames (funded by Australia) from carrying out his responsibilities by cancelling his visa. The New Zealand-funded Solicitor-General (Steven Bliim) resigned in protest as has a GoN-funded senior lawyer. These events followed GoN decisions to rescind visas for four long term expatriate residents. Law and then Eames had intervened to temporarily stay these orders.

s6(a)

5 New Zealand responded to the removal of the Resident Magistrate by temporarily suspending funding to affected roles and writing to express concerns about the impact of events on the effective functioning of law and order and the failure of Nauru to adhere to

the terms of our funding arrangement. Written clarification was requested.

s6(a)

4 This was followed up by a visit to Nauru in the week of 26 January by MFAT officials from Pacific Development Division s9(2)(a) and Pacific Division 9(2)(a). Officials met with the Minister for Justice (David Adeang) and Secretary (Lionel Angimea) among a range of others to seek clarification of the government's position and outline New Zealand concerns and interests in supporting a strong functional justice system in Nauru.

5 The Minister for Justice defended GoN's decisions, citing a loss of confidence as grounds for their actions in respect to Law and Eames. They contended that both Laws and Eames had failed to manage conflicts of interest. Adeang indicated their strong interest in retaining New Zealand engagement in the sector and offered to visit New Zealand to meet with Minister McCully. This meeting took place on 11 February preceded by a meeting with MFAT officials to iron out details of a strengthened funding arrangement. The four person Nauru delegation also included the Minister for Home Affairs (Charmaine Scotty) their media spokesperson, MP Cyril Buraman and Secretary for Justice (Lionel Angimea) in addition to the Minister for Justice.

6 The Ministerial level meeting was constructive. While the GoN maintained their earlier stated position they acknowledged the need to rebuild confidence in Nauru's justice sector and to follow credible appointment and severance processes. Adeang reaffirmed GoN's commitment to the rule of law and confirmed GoN's desire for New Zealand to remain engaged.

7 Minister Adeang advised that the relationship with the Chief Justice had broken down irretrievably and there was no prospect of reinstatement. The CJ had made inappropriate public comment damaging confidence including that of the Bank of Bendigo which is in the process of finalising arrangements to establish the sole bank on Nauru.

s6(b)

GoN would offer to make a joint (with Eames) statement committing to continuing the reforms initiated by the Chief Justice.

8 MFA made clear that NZ does not wish to interfere in the appointment and management of New Zealand-funded positions but requires transparent process and credible appointments as well as fair management of appointees. The Nauru delegation agreed to more strengthened processes around recruitment and management. These focus on provision of documentation and approval of processes related to recruitment or termination prior to release of funds, advance notification of emerging issues and means to manage these. New Zealand may immediately suspend or terminate funds where commitments are not satisfied. A Letter of Variation has since been signed by the GoN.

9 Both MFA and GON agreed to draw a line under this situation and to continue funding on the basis of assurances from GoN that New Zealand taxpayer dollars will be used to fund open, transparent and credible selection and contract management processes in future. MFA urged GoN to ensure a good flow of communication going forward.

Visa Fee Increases.

10 Turning to other issues, MFA raised the imposition of AUD 6,000 visa charges for business visas.

s6(b)

Regional Processing Centre

11 The Ministers also discussed the Regional Processing Centre. Numbers currently stand at 1,014 and will increase to around 3,000. Nauruans have been trained to assess refugee applications and this work is continuing uninterrupted by the recent events.

s6(a)

Comment

13 New Zealand wishes to see a strong independent justice sector operating in Nauru. It is in our interest s6(a) to stay engaged to support a functional justice system. Continuing involvement under a strengthened funding arrangement will allow closer oversight however the real test will be GoN's actions over the period ahead.

Background Documents- Fisheries and the Nauru Budget

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Nauru Fisheries

Background Brief Provided to DS IDG for PIF, 16 July 2014

- Nauru's offshore fishery is based in purse seine fishing, where skipjack and yellow fin are caught by foreign fishing vessels and processed at foreign canneries.
- In 2013 the **catch from Nauru offshore fisheries was 154,000 tonnes** (a significant increase on previous years), about 10% of the total from Pacific Island waters and 6% of the total from the Western and Central Pacific region.
- The **artisanal fishery caught 20,000 tonnes** (principally tuna) in 2013, and is a major source of fish protein for Nauru's populace. This fishery contributes 2% to Nauru's gross domestic product.
- Nauru is a member of FFA, the SPC and the Western and Central Pacific Fisheries Commission. Nauru is a party to Palau Arrangement's vessel days scheme, which has been instrumental in lifting foreign licenced access returns to participating countries (mostly equatorial Pacific Island countries – called the Parties to the Nauru Agreement (PNA) countries).
- **New Zealand** has supported Nauru fisheries management and development through:
 - regional programme investment in fisheries training (e.g., fisheries extension officers, observers), availability of Ministry for Primary Industries' technical expertise, and through the range of fisheries management, development and compliance advice and services provided through the FFA and SPC (to which NZ provides substantial support).
 - A **New Zealand coastal fisheries adviser** is also working in NFMRA, placed by NZ Volunteer Service Abroad (VSA) and overseen by FFA. The adviser is funded via the MFAT's arrangement with VSA.
 - One-off bilateral programme support in 2011, including in-country training for artisanal fishers and National Fisheries and Marine Resource Authority (NFMRA) staff in coastal waters navigation and safety, refurbishment of the Nauru recompression chamber to support scuba fishers and maintenance of fish aggregation devices as well as initial design and plumbing works for the reestablishment of the milkfish fishery.
- **Australia** is currently running Phase Two of its Nauru Fisheries Management Institutional Strengthening Project. Phase One emphasis was on strengthening oceanic fisheries management, particularly the foreign exchange-earning aspects of the fishery. This revenue has been significantly and sustainably increased. The Phase Two emphasis is on strengthening coastal fisheries management, particularly local food security and conservation but will continue to assist NFMRA in consolidating the strengths acquired in oceanic fisheries and to implement the

major institutional restructuring that was designed during the first phase of the project.

- At the Forum Fisheries Committee Ministerial meeting in early July 2014, Nauru ratified the **Niue Treaty Subsidiary Agreement**. This agreement aims to enhance regional coordination and cooperation in fisheries surveillance and law enforcement, and to increase the ability of PICs to effectively enforce their fisheries laws through, for example, the sharing of fisheries data and intelligence, and the cross-vesting of fisheries enforcement powers amongst parties. (The Agreement subsequently entered into force at the Pacific Island Forum in Palau with the submission of the required fourth ratification.)

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Nauru Budget Analysis, 2014-15

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Persona Non Grata, by Michael Green – Excerpt on Nauru

To be inserted

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