

Proactive Release

Date: 19 May 2020

The following Cabinet paper and related Cabinet minute have been proactively released by the Minister of Foreign Affairs:

***Oral Item: New Zealand's Border Settings and Proposed Transit Agreements
(CAB-20-MIN-0156 refers)***

Some parts of this information release would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the Act). Where this is the case, the relevant sections of the Act that would apply have been identified. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Key to redaction codes:

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

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Cabinet

Minute of Decision

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Additional Item: New Zealand's Border Settings and Proposed Transit Agreements

Portfolio **Foreign Affairs**

On 6 April 2020, Cabinet:

- 1 **noted** that on 25 March 2020, the COVID-19 Ministerial Group agreed to close the borders to incoming transit passengers, with exemptions made in the case where passengers departing from New Zealand are disembarking at an overseas port where there is a Government to Government agreement that those passengers will be accepted as part of repatriation;
- 2 **noted** that New Zealand has a reciprocal agreement with Australia to enable Australian citizens and permanent residents returning home to transit New Zealand, but that no other Government to Government agreements have been entered into to date;
- 3 **noted** the increasing number of requests from foreign governments to allow the transit of their nationals, including those currently stuck in Pacific countries, via Auckland, for the purposes of catching evacuation flights or connecting to commercial options to return them to their home countries;
- 4 s6(a)
- 5 **agreed** that transit through New Zealand should continue to be allowed where there is a Government to Government agreement to support repatriation of stranded people, where the following conditions are met:
 - 5.1 passengers remain airside (do not enter New Zealand) and do not exceed 10 hours in transit;
 - 5.2 health requirements have been met; and
 - 5.3 there is a formally documented Government to Government undertaking that all passengers will be either accepted at the port of disembarkation and/or allowed to transit that port in order to travel onwards to a third country.

Michael Webster
Secretary of the Cabinet

Office of the Minister of Foreign Affairs

Chair, Cabinet

Oral Item: New Zealand's Border Settings and Proposed Transit Agreements

Purpose

- This paper:
 - a. discusses the issues surrounding transit settings at the New Zealand border, primarily Auckland International Airport, for foreign nationals who are stranded in the Pacific and other locations, who need to transit New Zealand to connect with commercial or evacuation flights to their home countries;
 - b. discusses the transit issues facing New Zealanders, particularly in South America; and
 - c. seeks agreement from Ministers on a proposed course of action that would allow for transits by third country nationals through Auckland under carefully managed settings and backed by formally documented government to government undertakings secured by the Ministry of Foreign Affairs and Trade.

Background

- Due to significant pressures being encountered at the New Zealand border and in light of the move to alert Level Four, Covid-19 Ministers confirmed on 25 March a number of policy settings in relation to transit provisions. The policy objective behind the settings is to ensure that foreign nationals do not get 'stranded' in New Zealand, while travelling to other destinations and undermining the Level Four settings.
- Broadly the policy settings closed off transit to third country nationals, with some limited exemptions:
 - for Australian citizens and permanent residents returning home to Australia (a reciprocal agreement); and
 - any other government-to-government agreement that may be entered into (no other such agreements have been entered into to date) to confirm transit arrangements.
- On 30 March 2020, Cabinet agreed to maintain the existing border restrictions indefinitely, with reconsideration to be aligned to consideration of the COVID-19 Alert Level [CAB-MIN-20-0142 refers]. Previously, border restrictions were time-limited (i.e. were set to expire unless extended by Cabinet). The decisions made by Cabinet on 30 March 2020 did not repeal the transit settings noted above, as the decisions made on transit on 25 March 2020 were not time-limited. As such, our current policy setting is to prevent transit to New Zealand unless a Government-to-Government agreement has been entered into.

- MFAT has received a number of representations from foreign governments seeking agreement to allow their nationals to transit Auckland to be repatriated to home countries both via remaining commercial means and also to catch evacuation flights. The Government of Chile ^{s6(a)}
New Zealanders transiting Santiago to return to New Zealand. ^{s6(a)}
- There are also a number of third country nationals (estimated at around 500 pax in Polynesia) still in Pacific countries who need to transit New Zealand to link up with evacuation flights. This includes Americans and European nationals, ^{s6(b)}

Given the continued pressures on the ^{s6(a)} health care facilities in Pacific countries there would be value, from a foreign affairs perspective, in seeking to support arrangements that would reduce this burden. Both Pacific partners and governments with stranded foreign citizens have asked New Zealand put such an arrangement in place.

Proposed way forward

- With arrivals of New Zealanders into Auckland now more stable, officials consider that it would be timely to consider how to manage the transit issue, within the current policy settings set out above, in an orderly fashion that would support evacuation of foreign nationals (alongside repatriation of New Zealanders) whilst remaining calibrated against our Level Four settings. This would also address and mitigate concerns of partner countries and allow for a focus on managing transits as part of wider border and movements processes.
- MFAT proposes to pursue a course of seeking formally documented undertakings via Third Person Notes with a group of key partners to support this approach, ^{s6(a)}
that transits are permitted to and from New Zealand for the purposes of evacuation. Allowing limited transits may also act as an incentive to foreign carriers to maintain or reinstate services that would be important to us both for repatriation and supply chain reasons.
- Transit movements at the border would be calibrated against our public health requirements at Level Four. This would include a requirement that all transiting passengers would need to remain airside only and not enter New Zealand. It has been proposed by the Ministry of Health that, for operational reasons, airside transits should be no longer than ten hours in duration with efforts made to better align transits with onward connections and departures.
- The Ministry of Health has indicated that same-day airside transits within a ten hour maximum window be permitted to facilitate movement and evacuation under the following conditions:
 - Self-declaration at check in of no close contact with a suspected or confirmed Covid-19 case;

- no Covid-19 symptoms, especially no fever (temperature check may be undertaken);
- passengers are not awaiting a Covid-19 test result;
- airline will permit boarding for the full journey; and
- confirmation prior to boarding that destination country will permit arrival.

Recommendations

The Minister of Foreign Affairs, in consultation with the Minister of Immigration, recommends that Cabinet:

1. **Note** that on 25 March 2020, Cabinet agreed to close the borders to incoming transit passengers, with exemptions made in the case where passengers departing from New Zealand are disembarking at an overseas port where there is a Government to Government agreement that those passengers will be accepted as part of repatriation.
2. **Note** that New Zealand has a reciprocal agreement with Australia to enable Australian citizens and permanent residents returning home to transit New Zealand, but that no other Government to Government agreements have been entered into to date.
3. **Note** the increasing number of requests from foreign governments to allow the transit of their nationals, including those currently stuck in Pacific countries, via Auckland, for the purposes of catching evacuation flights or connecting to commercial options to return them to their home countries.
4. s6(a)
5. **Agree** that transit through New Zealand should continue to be allowed where there is a Government to Government agreement to support repatriation of stranded people, where the following conditions are met:
 - a. passengers remain airside (do not enter New Zealand) and do not exceed 10 hours in transit;
 - b. health requirements have been met; and
 - c. there is a formally documented Government to Government undertaking that all passengers will be either accepted at the port of disembarkation and/or allowed to transit that port in order to travel onwards to a third country.

Authorised for lodgement

Rt Hon Winston Peters
Minister of Foreign Affairs