

28 January 2022

Minister of Foreign Affairs

For approval by

31 January 2022

## Russia/Ukraine: Aotearoa New Zealand's response to the mounting crisis

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**BRIEFING** Decision Submission

**PURPOSE** To update you on the growing risk of military conflict between Russia and Ukraine; seek your agreement to a proactive approach in support of ongoing diplomatic efforts to de-escalate the crisis including seeking calls on relevant ministerial counterparts asap; outline potential diplomatic options available to Aotearoa New Zealand in the event of further Russian aggression <sup>s6(a)</sup> and to note consular and other contingency planning under way.

### Tukunga tūtohua – Recommended referrals

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Prime Minister	For information by	1 February 2022
Minister Responsible for the NZSIS	For information by	1 February 2022
Minister of Defence	For information by	1 February 2022
Minister for Disarmament and Arms Control	For information by	1 February 2022
Associate Minister of Foreign Affairs	For information by	1 February 2022

### Taipitopito whakapā – Contact details

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NAME	ROLE	DIVISION	WORK PHONE
Janet Lowe	Unit Manager	Europe Division	s9(2)(a)
Taha Macpherson	Divisional Manager	Europe Division	

### Mā te Tari Minita e whakakī – Minister's Office to complete

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- |  |   |                                    |
|--|---|------------------------------------|
| <input type="checkbox"/> Approved            | <input type="checkbox"/> Noted                | <input type="checkbox"/> Referred  |
| <input type="checkbox"/> Needs amendment     | <input type="checkbox"/> Declined             | <input type="checkbox"/> Withdrawn |
| <input type="checkbox"/> Overtaken by events | <input type="checkbox"/> See Minister's notes |                                    |

**Comments**

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### Pito matua – Key points

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- The risk of military conflict between Russia and Ukraine is growing, with a Russian incursion or invasion of Ukraine now widely considered possible, with little or no warning.
- The deliberate use of military force by Russia in violation of Ukrainian sovereignty and territorial integrity would constitute a grave breach of international law, and military conflict in Ukraine would have real and potentially significant implications for Aotearoa New Zealand's interests in Europe and beyond.
- Intense diplomatic efforts, led by the US, aimed at de-escalating tensions continue but so far without success.
- A large focus of the diplomatic efforts has been on presenting a united US/NATO/Europe front, and making it clear to Russia that any military incursion will meet with an immediate, significant and united response.
- Officials seek your agreement that Aotearoa New Zealand take a pro-active stance in support of the ongoing diplomatic efforts to resolve the crisis in company with our partners.
- Actions taken by Aotearoa New Zealand in recent days have included: you, the Prime Minister and officials making public statements in support of Ukraine and ongoing diplomatic efforts to de-escalate the crisis, and making our views known to Ukrainian and Russian senior officials in capitals via our ambassadors.
- While the window remains open for diplomatic engagement, next steps in train or under consideration include: a phone call between you and Ukrainian Foreign Minister Kuleba (requested), likeminded Foreign Ministers, and with Russian Foreign Minister Lavrov; engagement by senior officials with the Russian Ambassador in Wellington; and further Aotearoa New Zealand statements in bilateral and multilateral settings.
- An inter-agency process has been established to consider measures Aotearoa New Zealand might employ should there be a further escalation in Russian aggression against Ukraine, drawing on our diplomatic response kete (**Annex 1**). Such measures could range from joining partners in publicly expressing support for Ukraine; lodging diplomatic protests with Russian officials; introducing travel bans, export controls, and recalling or expelling diplomats.
- s6(a)
- s6(a)
- Officials will also be engaging with Aotearoa New Zealand business interests to discuss the situation and potential impact on their activities with Russia.
- Contingency planning for the possibility of armed conflict, including consular planning and looking at the potential impact on the operation of our embassy in Moscow, is ongoing.  
s6(a)

Dawn Bennet  
for Secretary of Foreign Affairs and Trade

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## Tūtohu – Recommendations

It is recommended that you:

- |    |   |          |
|----|---|----------|
| 1  | <b>Note</b> that the risk of military conflict between Russia and Ukraine is widely assessed to be growing and could happen soon, with little or no warning;  | Yes / No |
| 2  | <b>Note</b> that the deliberate use of military force in violation of Ukrainian sovereignty and territorial integrity would constitute a grave breach of international law, and that military conflict in Ukraine will have significant implications for Aotearoa New Zealand's interests in Europe and beyond; | Yes / No |
| 3  | <b>Note</b> that diplomatic efforts led by the US are ongoing to try to de-escalate tensions and resolve the crisis, but have so far been unsuccessful;   | Yes / No |
| 4  | <b>Agree</b> that Aotearoa New Zealand should take a pro-active approach to voicing our concerns and support for ongoing diplomatic efforts to resolve the crisis, in company with our partners;  | Yes / No |
| 5  | <b>Note</b> again the kete of potential diplomatic actions Aotearoa New Zealand might take to respond to Russian aggression against Ukraine ( <b>Annex 1</b> ) and the actions that have been taken to date;  | Yes / No |
| 6  | <b>Agree</b> that the key messages outlined in this submission (page 6) be drawn on by ministers and officials as appropriate in bilateral and multilateral settings over the coming days, including the meetings listed in <b>Annex 2</b> ;  | Yes / No |
| 7  | <b>Agree</b> that you seek calls with a range of likeminded Foreign Ministers including Australia, UK, US, the EU Canada and Germany to gain their perspectives on the issue and register New Zealand's interests;  | Yes / No |
| 8  | <b>Agree</b> that you seek a call with Russian Foreign Minister Lavrov to register New Zealand's views;   | Yes / No |
| 9  | <b>Note</b> that officials are putting in place contingency plans, including consular planning in the event of Russian military action against Ukraine;   | Yes / No |
| 10 | <sup>s6(a)</sup>  | Yes / No |
| 11 | <b>Agree</b> that officials provide further advice to you on further diplomatic measures that Aotearoa New Zealand might take to respond to further Russian aggression against Ukraine, <sup>s6(a)</sup>  | Yes / No |
| 12 | <b>Refer</b> a copy of this submission to the Prime Minister, Minister Responsible for the NZSIS, Minister of Defence, Minister for Disarmament and Arms Control, and the Associate Minister for Foreign Affairs for their information.   | Yes / No |

Hon Nanaia Mahuta  
Minister of Foreign Affairs / Minita Take Aorere

Date:        /        /

## Russia/Ukraine: Aotearoa New Zealand's response to the mounting crisis

### Pūrongo – Report

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#### Latest developments

1. Intensive diplomatic efforts led by the US aimed at de-escalating the rising tensions between Russia and Ukraine continue, but so far without success.
2. Russia continues to deny it plans to invade Ukraine, but recent steps by Moscow suggest military action is becoming more likely. These include:
  - The continued military build-up of Russian forces on its border with Ukraine with scope to further increase troop numbers quickly. Well over 100,000 troops have reportedly been mobilised.
3. <sup>s6(a)</sup> some form of Russian military action (either an incursion or invasion) is widely considered possible at any time, potentially with little or no warning. The risk of miscalculation leading to conflict also remains significant.
4. Despite deepening tensions, intensive efforts aimed at finding a diplomatic path to resolve the crisis continue. The US is leading these, in close consultation with European partners and NATO allies.
5. In the most significant recent development, the US and NATO provided written responses to Russian security demands that include seeking undertakings that Ukraine (and Georgia) will never join NATO, and scaling back NATO's presence in eastern Europe. Unsurprisingly the US and NATO responses reiterated that these demands are non-starters, but US Secretary of State Blinken said the US response "sets out a serious diplomatic path should Russia choose it." Overnight, Russian Foreign Minister Lavrov said that the written responses failed to address Moscow's primary concerns over NATO expansion to the east, but acknowledged they could lead to serious discussions on "secondary issues". A further response is reportedly under consideration in Moscow.
6. A large focus of the diplomatic effort <sup>s6(a)</sup> has been on presenting a united US/Europe/NATO front, and making it clear to Russia that any incursion into Ukraine will meet an immediate, significant and united response.
7. A number of countries have taken measures to support Ukraine's preparations to counter a possible military attack. The US has approved an additional US\$200 million in military aid for Ukraine (on top of US\$450 million over the past year). The UK, EU and a number of other countries (e.g. Canada and the Baltic states) have also announced increases in their military or other assistance to Ukraine. European Commission President von der Leyen has pledged 1.2 billion euros in emergency EU loans and grants to help Ukraine address its escalating financial needs due to the crisis.

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8. NATO Secretary General Stoltenberg has announced that NATO is reinforcing its eastern border with land, sea and air forces for "collective defence" in response to the deteriorating security situation.

### Aotearoa New Zealand's support of international de-escalation efforts

9. In our previous submission on Ukraine/Russia of 21 December 2021, you agreed that officials could indicate to likeminded partners that Aotearoa New Zealand was open to joining diplomatic efforts to deter Russian aggression in Ukraine, subject to ministerial approval.
10. We recommend that in the current phase of the crisis, we continue to focus on action points 1-3 in our diplomatic kete (**Annex 1**) i.e. join our partners in publicly expressing support for Ukraine, directly convey our concerns to Russia, and take bilateral steps to express solidarity with Ukraine.
11. In recent days Aotearoa New Zealand has: reiterated our support for Ukrainian sovereignty and territorial integrity; our deep concern over the build-up of Russian military forces on the border; our strong support for diplomatic efforts to de-escalate the current crisis; and called on Russia to act in accordance with international law, and take immediate actions to de-escalate tensions. You and the Prime Minister have commented publicly along these lines, our Ambassador in Warsaw (accredited to Ukraine) has met with Ukrainian officials in Kyiv, and our Ambassador-designate to Russia has raised Ukraine with Russian senior officials in Moscow.
12. Immediate next steps in train or under consideration include: a phone call between you and your Ukrainian counterpart; engagement by officials with the Russian Ambassador in Wellington; and further Aotearoa New Zealand statements in bilateral and multilateral settings. In this context, officials seek your agreement that Aotearoa New Zealand take a pro-active stance in support of ongoing diplomatic efforts to de-escalate tensions, in company with our partners.
13. Officials also recommend that you seek calls with your counterparts from a range of countries including Australia, the UK, the EU, Germany and Canada to gain their perspectives on the situation and to register New Zealand's interest and perspectives. Officials will work with your office regarding the sequencing.
14. Officials also recommend that you seek a call with your Russian counterpart Foreign Minister Sergei Lavrov to register New Zealand's interest and concern at the situation <sup>s6(a)</sup>
15. In terms of ministerial engagement, we recommend that calls over coming days with likeminded Foreign Ministers that are heavily engaged in efforts to de-escalate the Ukraine crisis, would be valuable, and we will remain in close touch with your office on such possibilities.
16. To date we have not been asked to sign-up to any joint statements or other joint initiatives regarding Ukraine by our partners, <sup>s6(a), s6(b)(i)</sup>

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s6(a)

17. With tensions continuing to rise and the window for international diplomacy potentially narrowing, we seek your agreement to Aotearoa New Zealand taking a more pro-active stance, and adding our voice to diplomatic efforts to de-escalate tensions.

### Key messages

18. Given the speed with which developments are moving, we seek your agreement that officials should be able to register Aotearoa New Zealand's position, if and when the Ukraine issue is raised in bilateral or multilateral settings over the coming days (including at the meetings outlined in **Annex 2**), drawing on the following key messages:
  - *Aotearoa New Zealand remains deeply concerned about the ongoing tension between Russia and Ukraine, including the continuing and unprecedented build-up of Russian military forces on its border with Ukraine.*
  - *Aotearoa New Zealand is in contact with our international partners, and strongly supports international efforts to resolve the crisis diplomatically.*
  - *We hope the ongoing discussions between the US, Russia, Ukraine and other partners will bring about an urgent de-escalation of tensions.*
  - *Aotearoa New Zealand stands ready to support the ongoing diplomatic efforts to resolve the crisis.*
  - *Aotearoa New Zealand has been consistent in our support for Ukraine's sovereignty and territorial integrity.*
  - *We call on Russia to act in a manner consistent with international law, and to take immediate steps to reduce tensions and the risk of a severe miscalculation.*
  - ***[If asked: What is the government doing, and will Aotearoa New Zealand impose sanctions against Russia?] We continue to monitor developments closely, and will respond as the situation requires.***
  - *While Aotearoa New Zealand does not have the ability to implement sanctions outside the UN framework, we are looking at other measures that we could implement.*
19. Our key messages are under constant review and will be updated in consultation with your office.
20. Officials remain in close contact with your office also about potential opportunities for you (or other relevant ministers) to reiterate Aotearoa New Zealand's key messages.
21. s6(a)



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### An Aotearoa New Zealand response in the event of further escalation

22. Armed conflict in Ukraine would have significant implications for Aotearoa New Zealand's interests in Europe and our values more broadly. The deliberate use of military force in violation of Ukrainian sovereignty and territorial integrity would be an act of aggression and constitute a grave breach one of the most fundamental rules of international law. A flagrant and deliberate act of this nature by a permanent member of the UN Security Council would seriously undermine the foundations of collective security as provided for in the UN Charter.
23. <sup>s6(e)(vi)</sup>
24. Armed conflict in Ukraine could potentially have prolonged security, political and economic implications for Europe, and/or lead to a major humanitarian crisis
25. The impacts of armed conflict in Ukraine would have the potential to spill over beyond the region. Such conflict would be destabilising at a time when geostrategic uncertainty is already high, the global rules-based order is under pressure, and the global economy remains fragile, compounded by the impacts of COVID-19.
26. Short of armed conflict, there are also a range of grey-zone activities (such as cyber attacks), which Russia could use to inflict further harm on Ukraine, which could escalate the situation, and weigh in favour of developing the international diplomatic response.
27. A number of countries are considering a range of sanctions against Russia in the event of further aggression against Ukraine. These potentially include greater restrictions on Russian financial institutions and the energy sector, export controls and travel bans. We are not aware of any country looking at declaring Russian diplomatic staff *persona non grata* as part of their measures at this stage.
28. <sup>s6(a)</sup>
29. In the absence of a United Nations Security Council resolution (as Russia is a P5 member so has veto power), and given Aotearoa New Zealand does not have an autonomous sanctions regime, we are limited in the type of sanctions we can impose within existing policy and legal frameworks.
30. There are nevertheless a range of actions that Aotearoa New Zealand could take in response to further Russian aggression towards Ukraine. These actions are set out in ascending order of significance and severity in our diplomatic kete (**Annex 1**).
31. In response to Russia's annexation of Crimea in March 2014, New Zealand suspended FTA negotiations with the Russia/Belarus/Kazakhstan Customs Union; issued a number of public statements; passed (unanimously) a motion in Parliament denouncing Russian actions in Crimea; summoned the Russian Ambassador to MFAT to receive a diplomatic rebuke; announced the imposition of travel bans on selected individuals; delivered interventions in multilateral fora (UN, ASEAN Regional Forum); co-sponsored resolutions in the UNSC and UNGA; and signed up to a joint statement in the Human Rights Council. <sup>s6(a)</sup>

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32. In anticipation that military action could potentially occur at short notice officials have begun looking into the measures set out in points 4 and 5 of our kete. An interagency process has started to consider potential options, beginning with:

- *Calling in the Russian Ambassador:* Either you or officials could call in the Russian Ambassador to express Aotearoa New Zealand's concerns. This is an effective means of substantively registering New Zealand's concerns in a way that will have resonance with Russia given the formality of diplomatic exchanges of this nature. This may also be made public via a statement or tweet.
- *Travel bans:* New Zealand imposed travel bans on selected senior Russian officials as well as additional Ukrainian officials in 2014 in response to the invasion of Crimea and unrest in Eastern Ukraine. The proposed travel bans would be an expansion to the 2014 list and would be taken in conjunction with likeminded partners taking similar action and drawing on their lists as we did recently with Belarus. A separate submission is being prepared for you on this option.
- *Reducing our bilateral diplomatic engagement with Russia:* Our bilateral relationship with Russia is already characterised as "subdued" with Ministerial engagement already minimal. An option, however, could be to suspend all high level political engagement.

s6(a)

- *Export controls:* <sup>s6(b)(i)</sup> Aotearoa New Zealand to look into increasing our export control regime on all military and dual use goods going to Russia should a military incursion occur in line with sanctions action they are preparing. Officials are looking into this option

33. s6(a)

34. s6(a)

s6( )



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35. <sup>s6(a)</sup>

36. <sup>s6(a)</sup>

37. Our economic interests vis-à-vis Russia, could also be impacted in the event of conflict in Ukraine. Russia is New Zealand's 25<sup>th</sup> largest trading partner – an important but not hugely significant market for Aotearoa New Zealand. Two way trade in the year ending December 2020 totalled NZD746.5 million. Dairy accounts for over half of our exports (worth approx. NZD200 million per annum) with butter a key component. <sup>s6(a)</sup>

Effects on Aotearoa New Zealand's economy could also be driven by second-order effects from the conflict, such as disruption to global supply chains. Officials will be engaging with Aotearoa New Zealand business interests to discuss the situation and potential impact on their activities with Russia.

## Consular and broader contingency planning

38. Given the rising risk of armed conflict, officials have started preparing a consular contingency plan for Ukraine. There are presently 23 Aotearoa New Zealand nationals registered on SafeTravel in Ukraine. We assess that there are others in-country who have not registered (e.g. dual nationals).

39. MFAT has updated its SafeTravel advice for Ukraine in the light of the deteriorating security environment <sup>s6(b)(i)</sup>

40. SafeTravel now advises New Zealanders in Ukraine to monitor local and international media as the security situation could change at short notice. SafeTravel also advises New Zealanders whose presence in Ukraine is not essential to consider leaving by commercial means if it is safe to do so, noting that the government's ability to provide consular assistance to New Zealanders in Ukraine is very limited.

41. <sup>s6(d)</sup>

42. <sup>s6(a)</sup>

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Annex 1: Kete of Potential Diplomatic Actions and Associated Risks

Set out below, in ascending order of significance and severity, are a range of possible diplomatic options to respond to increased Russian hostility towards Ukraine, ranging from ongoing destabilisation to a possible territorial incursion. We propose to move up and down this scale, based on the level of Russian aggression. There are other potential non-diplomatic options that might be requested by partners in the event of a serious conflict (e.g. military). These are not considered below.

In the absence of a United Nations Security Council resolution, Aotearoa New Zealand is very limited in the type of sanctions we can impose within existing policy and legal frameworks.

	Potential Actions	Rationale	Possible bilateral consequences
1	Join partners in publicly expressing support for Ukraine, by adding Aotearoa New Zealand's name to collective statements, including in multilateral fora.	Clearly communicates our position to Russia and internationally, and demonstrates Aotearoa New Zealand acting in good company in support of its foreign policy principles and values.	s6(a)
2	Demarching Russian officials in Moscow; summoning the Russian Ambassador in Wellington; delivering formal protest via a Third Person Note. These actions could be made public via a statement or tweet.	Allows Aotearoa New Zealand to directly convey our concerns to Russia – clearly articulating our position, while potentially mitigating the risk of public retaliation.	s6(a)
3	Taking bilateral steps to express solidarity with Ukraine, by calling their Foreign Minister, or issuing a ministerial statement or tweet.	Demonstrates to Russia and internationally Aotearoa New Zealand's willingness to act unilaterally in defence of its foreign policy principles and values; and reaffirms our position of support for Ukraine's sovereignty and territorial integrity.	s6(a)
4	Taking specific actions to impose costs on Russia such as limiting bilateral contacts, introducing travel bans on individuals or exploring other domestic policy actions.	Demonstrates to Russia, and internationally, that Aotearoa New Zealand is willing to act unilaterally in defence of its foreign policy principles and values. Reaffirms, in strong terms, our position of support for Ukraine's sovereignty and territorial integrity.	s6(a)

s6(a)

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## Annex 2: Potential multilateral opportunities to raise Ukraine

<b>Timing</b>	<b>Body</b>	<b>Comment</b>
24-29 Jan 2022	<b>World Health Organisation Executive Board (WHO EB)</b>	WHO leads the health strand of the international humanitarian response in Ukraine, catering to 3.4 million people in need of humanitarian assistance due to the conflict. Ukraine also accesses its COVID vaccines gratis through COVAX (the WHO co-led global mechanism on equitable vaccine access). There is an opportunity at the WHO EB meeting to remark on the potential health and humanitarian impacts of conflict if Russia were to invade Ukraine (e.g. impacts on WHO and COVAX programmes), potentially under agenda item 15.3 (WHO's work in health emergencies). There may also be opportunities to make statements at the World Health Assembly meeting in May (WHA75).
May 2022	<b>World Health Assembly (WHA75)</b>	
28 Feb to 2 March 2022	<b>Conference on Disarmament</b>	The high level segment runs from 28 February to 2 March with Minister for Disarmament and Arms Control delivering a national statement that could include reference to Ukraine.
Feb 2022	<b>Possible UNSC event</b>	Russia will hold the UN Security Council Presidency in February. They have yet to circulate a Programme of Work – even among Council members – but we are aware that a Ukraine-related event is likely (potentially focused on the Minsk Agreement). If this event is an open debate, there is an opportunity for Aotearoa New Zealand to deliver a national statement or jointly with CANZ partners.
28 Feb – 1 Apr 2022	<b>Human Rights Council 49<sup>th</sup> Regular Session (HRC49)</b>	There is an opportunity for MFA to deliver a pre-recorded statement in the High Level Segment of HRC49 that could include content on the Ukraine situation. The organisational session on 14 February will finalise the agenda/timings and modalities.
March 2022	<b>UN cyber negotiations</b>	s6(a)
March 14-25 2022	<b>Commission on the Status of Women (CSW)</b>	There would potentially be a side event on Ukraine during CSW. This would have a focus on women and girls.

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Other options (timing TBC)		
	<b>UN Office for the Coordination of Humanitarian Affairs (OCHA), ICRC</b>	Both OCHA and ICRC are active in Ukraine, supporting people impacted by the conflict. It is likely that these agencies would convene dedicated meetings on Ukraine if the situation deteriorated, providing an opportunity for Aotearoa New Zealand to comment.
	<b>United Nations General Assembly (UNGA)</b>	<p>On 23 Feb 2022, there will a regular plenary formal debate on "the situation in the temporary occupied territories of Ukraine". This will be an opportunity for Aotearoa New Zealand to deliver a statement alone, or as CANZ. (We delivered a CANZ statement in 2021.)</p> <p>There could be calls for an UNGA Emergency Special Session in response to a deterioration in the situation that Aotearoa New Zealand could support. We could also deliver a statement or comments at such a session.</p> <p>It is also possible that there may be a UNGA resolution put forward by Ukraine and we could make a statement in the context of such a resolution, either individually or as a CANZ statement.</p>
	s6(a), s6(b)(i)	s6(a), s6(b)(i)
	<b>Human Rights Council (HRC)</b>	There could be calls for a HRC Special Session in response to a deterioration in the situation where we could speak.
	<b>International Atomic Energy Agency (IAEA)</b>	Russian occupation of Ukraine raises questions over management of Ukrainian nuclear reactors. We can also expect general spill over in terms of tensions between the US/Russia that will need carefully navigation. <sup>s6(a)</sup>
	s6(a)	s6(a)

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		s6(a)
	<b>Organization for Security and Co-operation in Europe (OSCE)</b>	OSCE's mandate is to address east/west issues and Ukraine is front and centre. Aotearoa New Zealand is not a formal observer but can attend – possibility to join statements with other Asia Pacific countries who are formal observers such as Australia and Japan.
	<b>NATO</b>	There may be options to join statements or make comment as a non-NATO member.