

STATUS UPDATE ON PACER PLUS

Department of External Trade

<http://www.trade.gov.sb/>

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1 Purpose of this Workshop

It is likely that Leaders from 15 of the member countries of the Forum will consider launching the negotiation of new free trading arrangements at their meeting in Cairns in August. The purpose of this workshop is to explain the current situation with regard to these negotiations, and to ask the private sector and other stakeholders whether they would support launching such negotiations at this time. This will allow us to transmit your views to the Prime Minister so that he can better represent your interests in Cairns.

2 Background: PACER

The Pacific Agreement on Closer Economic Relations (PACER) is an economic cooperation agreement between fourteen Pacific island countries, Australia and New Zealand. It was signed in 2001. It maps out a gradual process of liberalisation between the parties, coupled with development assistance to promote exporters in the Pacific. It says that liberalisation should firstly happen within the Pacific (excluding Australia and New Zealand). This was already happening within Melanesia with the MSG Trade Agreement, but since PACER, has also been extended to all Pacific island countries through the Pacific Island Countries Trade Agreement (PICTA). The goods component of PICTA came into force in 2007.

PACER commits Solomon Islands to begin consultations with Australia and New Zealand in 2011, with a view to negotiating new free trade arrangements.

3 Fiji

Fiji is also a party to the PACER. Under the provisions of PACER, Fiji is guaranteed the legal right to participate in meetings of PACER parties, and to be included in consultations about new trading arrangements that PACER foresees. However, Forum Leaders decided in January of this year to exclude Fiji from 'all Forum meetings and events'. The Forum Secretariat interpreted this phrase to include meetings of the PACER parties, although it is not clear why it chose to interpret the Leaders' decision in this way. Various legal experts have agreed that this exclusion of Fiji is illegal under international law.¹ MSG Leaders issued a statement to this effect on 10th July.²

4 'Triggering' negotiations

There is a clause in the PACER which states that, should any Pacific country sign a free trade agreement with another developed country, that Pacific country should consult with Australia and New Zealand about the possibility of new free trade arrangements. In November 2007, Fiji and Papua New Guinea initialled a free trade agreement with the European Union (called an Economic Partnership Agreement, or EPA). Australia and New Zealand therefore believe that Fiji and Papua New Guinea have triggered their obligation to begin moving towards a free trade agreement, and have put pressure on all Pacific island countries to enter into negotiations.

¹ See, for instance, the opinion of Professor Jane Kelsey of Auckland University at http://www.pang.org.fj/doc/Fiji_Legal_Opinion.pdf

² MSG Joint Communiqué, available from the DET website: http://www.trade.gov.sb/lib/exe/fetch.php?media=090710_msg_leaders_communique_on_fiji.pdf

5 Role of the Forum Secretariat

The most recent major negotiation that the Pacific islands have been involved with has been the EPA with Europe. During that process, the Pacific Islands Forum Secretariat (PIFS) has provided support for countries, including:

1. capacity building workshops for national stakeholders in each Pacific island country to improve understanding of trade rules and the impact they have on an economy,
2. technical advice during negotiations, including expert legal and economic advice, and
3. logistical support, arranging negotiating meetings and internal meetings of the Pacific to discuss joint positions.

The European Commission initially provided €9.2 million to PIFS to pay for these functions (approximately AU\$16.2 million, or SI\$111 million at current exchange rates). This was supplemented by substantial funding from the PIFS budget.

This support proved very useful to Pacific countries, and it was recognised that the Pacific would need similar support in order to negotiate new trading arrangements with Australia and New Zealand. But Australia and New Zealand are also members of the Forum, so it was felt that PIFS would not be able to provide confidential support and advice to the Pacific islands. There have been allegations, for instance, that a senior figure was recently removed from the Forum Secretariat for supporting Pacific countries against Australia and New Zealand.³

For these reasons, the Pacific designed an 'Office of the Chief Trade Advisor' (or OCTA). This would be a new organisation to be established in Port Vila, Vanuatu. Its sole function would be to support the Pacific during negotiations. It would be independent from Australia and New Zealand, but Australia and New Zealand have offered to provide it with AU\$1 million per year. This is much less than was needed to coordinate negotiations with the European Union, but the Pacific can request additional money from other donors to meet the shortfall.

6 Events since 2008

In the 2008 Forum Leaders' Meeting, Leaders endorsed

"the need for officials to formulate a detailed road map on PACER Plus, with the view to Leaders agreeing at the 2009 Forum to the commencement of negotiations[.]"⁴

Since that meeting, officials have met four times to formulate the roadmap referred to by leaders, and also to discuss the OCTA that the Pacific had designed, and how it might be funded and established.

By the end of the fourth meeting in Apia, Samoa, officials had agreed a joint roadmap and the Pacific had endorsed a revised OCTA proposal, taking into consideration various concerns raised by Australia and New Zealand.

Pacific Ministers endorsed the revised proposal for an OCTA. A copy of this is available from the DET website: http://www.trade.gov.sb/lib/exe/fetch.php?media=octa_proposal.pdf.

It had been expected that Forum Trade Ministers would recommend this roadmap to Leaders, as they had requested. However, in Apia there was a divergence of views as to whether the roadmap had been endorsed or not. This was clearly demonstrated in the drafting committee, responsible for agreeing a list of written recommendations to be submitted to Leaders.

It is unclear what the consequences of this will be. The roadmap has not officially been recommended to Leaders, although Leaders of the Melanesian Spearhead Group (except Fiji, who is currently suspended from attending Forum meetings) have agreed that they will table it in Cairns. It is possible that Leaders

³ See, for instance, <http://www.radioaustralia.net.au/pacbeat/stories/200903/s2510728.htm> or http://solomonstarnews.com/index.php?option=com_content&task=view&id=6462&change=103&channel=89&Itemid=45

⁴ Forum Communiqué, 19–20th August, 2008, PIFS(08)6 p12.

will endorse it, but likely that Australia will oppose it, given their position at the Forum Trade Ministers' Meeting in Samoa.

7 Roadmap

The draft roadmap as agreed by officials from 15 Forum members (excluding Fiji) in June 2009 is available from the DET website: http://www.trade.gov.sb/doku.php?id=pacer_plus_roadmap.

There are several features of the roadmap that officials from Pacific island countries felt were particularly important:

1. The roadmap guarantees 18 months of consultations at the national level, to discuss what Pacific island countries would like to ask for under new free trading arrangements, and what areas they might be willing to liberalise. Many Pacific countries do not have well established trade policies, making this phase much more important than it would be for a more developed country. In particular, during these 18 months:
 - a. Australia and New Zealand would commit to meet with Pacific officials no more than twice, and
 - b. officials would not make any significant decisions, and would not discuss any legal text.

This would give government officials enough time at home to commit to this consultation process properly. They would be supported with expertise and finance from the OCTA.

2. The roadmap stresses the importance of special and differential treatment for least developed countries like Solomon Islands.
3. The roadmap recognises that Pacific countries may determine for themselves how they will be represented (which Australia has, at times, opposed).
4. The roadmap suggests an agreement structure similar to that adopted in the EPA, which is important to ensure that the Freely Associated States can participate.

If the roadmap is not endorsed by Leaders in Cairns, or if it is changed substantially by them, it may not guarantee that Pacific countries will have the time and resources to fully consult with stakeholders at the national level. Australia has made it clear that they are seeking to push the negotiation of a new free trade agreement forward as quickly as they can. Realistically, it is difficult for Pacific islands — many of whom are highly dependent on aid from Australia — to resist this pressure. Australia has proposed that negotiations begin before November (probably in October), with a ministerial-level meeting in the Federated States of Micronesia. They have suggested that this would be a good opportunity for ministers to write a new roadmap, and have suggested that it might commit the Pacific to completing negotiations within two years.

8 What might new 'free trade arrangements' encompass?

There has been little discussion of what new free trade arrangements might include. Australia and New Zealand have suggested a very broad range of subjects that they would like to be discussed during negotiations, including "trade in goods, trade in services, labour mobility, investment, competition, government procurement, intellectual property (including traditional knowledge), the environment, labour standards, rules of origin, Sanitary and Phytosanitary Standards and Technical Barriers to Trade (SPS and TBT), dispute settlement mechanisms, economic cooperation and development, development assistance and capacity building."⁵

8.1 How might Solomon Islands benefit from a new agreement?

Possible benefits for Pacific countries are not yet clear. There has been some speculation as to what Pacific countries might ask for 'in return for' trade liberalisation. Some have suggested that Pacific countries could benefit by binding a labour mobility scheme into a free trade agreement. This might prevent Australia and New Zealand offering fewer jobs to the Pacific during a global recession, which is

⁵ Joint Roadmap, paragraph 13. http://www.trade.gov.sb/doku.php?id=pacer_plus_roadmap

the time when Pacific economies are most in need of this type of opportunity. It could also prevent the use of labour mobility quotas as a tacit or explicit threat for political purposes. Others have suggested that the benefit for Pacific countries could come in the form of large-scale development assistance, such as a substantial commitment to upgrade infrastructure (eg roads, airports, wharves, Internet infrastructure). So far Australia and New Zealand have made fairly vague suggestions about what the benefits will be for Pacific countries. Australia has mentioned quarantine cooperation and investment in Pacific training institutions. The Pacific's key demands should be formulated during national consultations.

8.2 How might Solomon Islands be hurt by a new agreement?

According to the most detailed report available,⁶ Solomon Islands is likely to lose 4 per cent of its total government revenue from a goods agreement with Australia and New Zealand, approximately US\$18 million. When government revenue is lost in this way, countries typically take action to increase other taxes to compensate for the loss. When developed countries do this, they are able to replace all of the lost revenue. But according to the IMF, when low income countries (such as Solomon Islands) attempt to do the same thing, on average they are only able to replace 30 per cent of the lost revenue by other means.⁷ This is because low income countries usually lack the capacity to implement new and more complex forms of taxation effectively, even with substantial technical assistance. This is true even for countries that already have an established value added tax (VAT).

Any possible benefits from lowering import duties could be achieved by unilaterally lowering tariffs against all countries. This approach would preserve the flexibility to increase tariffs in response to a severe loss of government revenue, such as the present crisis.

⁶ Nikunj Soni, Belinda Harries and Betty Zinner-Toa, 2007, *Responding to the Revenue Consequences of Trade Reforms in the Forum Island Countries*, PIFS(07)FTOM.10/FTMM.16.

⁷ Thomas Baunsgaard and Michael Keen, 2005, *Tax Revenue and (or?) Trade Liberalization*, IMF Working Paper WP/05/112.