

Pacific Free Trade a Big Plus

Written by Damian Kelly

Key Points

- Australia, Cook Islands, Kiribati, Nauru, New Zealand, Niue, Samoa, Solomon Islands, Tonga, and Tuvalu have all signed the PACER Plus free trade agreement (**FTA**), signifying the commencement of the largest FTA in the South Pacific's regional history.
- The agreement tailors concessions for each country based on their economic strengths and needs. This means tariff changes will occur incrementally at different paces and rates.
- PACER Plus is creating a new regional business climate conducive to greater trade in goods and services, Foreign Direct Investment (**FDI**), labour mobility, and domestic regulation.
- Modernised procedures and practices present new opportunities for companies and entrepreneurs to enter new markets, global supply chains and compete in a larger international arena.

Introduction

After months of negotiations ten countries have finally signed the PACER Plus agreement, creating a new era of economic cooperation in the South Pacific. On 14 June 2017 in Nuku'alofa, the capital of Tonga Australia, Cook Islands, Kiribati, Nauru, New Zealand, Niue, Samoa, Solomon Islands, Tonga, and Tuvalu all signed, making the agreement international law. Marshall Islands, Micronesia, and Palau have also resolved to be signatories to the agreement, however, were unable to make it to Tonga for the ceremony due to transportation issues.¹ This means the agreement will help businesses and individuals across 13 countries gain far greater access and more opportunities in a US\$1.4 trillion market.²

New Business Opportunities

PACER Plus will open businesses in the region to new commercial opportunities in exporting and investing across the region. Barriers against trade, such as tariffs and regulations, will gradually be removed or improved. This will coincide with the removal of governmental red tape increased transparency, labour mobility, and development assistance across the region. This multipronged approach will collectively create a better financial climate for business in the Pacific

Given the differing economic makeups and needs of each signatory, PACER Plus has adopted a variable approach in both its reduction in tariffs for each jurisdiction (which will fall between 85% and 99% of all imports) and the timeframes for implementation. For larger and more liberal economies, the reduction on tariffs will take less than three years to implement, while smaller jurisdictions which are much more reliant on developmental assistance will incrementally reduce tariffs over the next 25-35 years. This means businesses will have opportunities to access new markets at different times, and rates. The flexibility of the agreement and its tailoring to each of the unique island economies is unlike other FTAs meaning that local businesses will be able to compete and enter into larger global supply chains with international standards.

¹ <http://www.radionz.co.nz/international/pacific-news/333024/pacer-plus-trade-deal-signed-in-tonga>

² <http://dfat.gov.au/trade/agreements/pacer/pages/pacific-agreement-on-closer-economic-relations-pacer-plus.aspx>

PLN Australia

Pacific Legal Network

One of the major long term goals of PACER Plus is to modernise the current governmental processes that accompany trade, bringing domestic regulation in line with World Trade Organisation (**WTO**) rules. Modernisation will include systemised and more efficient trade procedures that will reduce the cost and quicken the process of trading goods between jurisdictions. PACER Plus will also restate the WTO sanitation rules, requiring economies, such as Kiribati, Nauru and Cook Islands, to introduce modern procedures promoting human hygiene and protect biodiversity. This modernisation will also include standardised rules on quality control, which will ensure member states are producing products and services at an international standard. To help facilitate this, governments and businesses will have access to a Development and Economic Cooperation Work Programme.

Alongside other modernisation procedures, PACER Plus is making it easier for businesses to know their rights and have access to government information through the introduction of new transparency requirements. Governments will now be required to promptly publish laws, regulations, procedures and administrative rules of general application to the agreement in an online format, giving businesses and individuals access to resources from anywhere in the world. This will fundamentally change the way FDI occurs across the Pacific, with businesses now having access to government documentation outlining changes ideally ahead of the time they take effect, meaning businesses will be able to plan and take advantage of new opportunities.

In line with creating an effective investment environment, signatories have committed to five major areas of investment opportunities:

- agriculture, hunting and forestry;
- mining;
- fishing;
- manufacturing; and
- electricity, gas and water.

In these sectors foreign and new businesses will be treated equal to local established businesses, meaning entrepreneurs will have priority access to the biggest infrastructure, industrial and public-private partnership projects across the region.

Businesses will also be able to access the best skills across the region, with PACER Plus creating better rules for skilled labour visas. Businesses will be able to supplement their seasonal and longer-term labour needs with reliable workers, which will help to alleviate one of the problems of conducting business in a highly isolated region. Additionally, employees will have access to new upskilling training and higher incomes. Although the agreement does not deal with semi-skilled and unskilled labour movement, the signatories have committed to creating a new labour mobility framework that will close the gap between countries and enhance Pacific regionalism.

Australia and New Zealand have committed to assisting island nations with a Readiness Package and an Implementation Package, which will support the smaller Island economies in achieving ratification. They have also committed to assist with the general administrative requirements as PACER Plus rolls out. Funds will also be directed to trade facilitation through Pacific Trade and Invest (**PT&I**) and private sector development through the International Finance Corporation (**IFC**) and Asian Development Bank (**ADB**). Private sector development will increase investment funds available for modernising business practices enabling companies to compete and enter into larger global supply chains with international standards.

Next Steps

Palau, Micronesia and Marshall Islands are still yet to sign the document after difficulties in transport organisation left their representatives at home while the signing ceremony occurred in Tonga. Once these countries sign, PACER Plus will open opportunities in an additional three economies.

Once additional countries have completed signing, there will most likely be continued diplomatic

PLN Australia

Pacific Legal Network

emphasis on obtaining support from countries currently refusing to join. The New Zealand Minister for Trade, Todd McClay, has stated that the agreement is “about partnership and [other countries] will see over time the benefits of the agreement, and for any country that’s not ready the door remains open for them to sign when they are.”³ However, PNG Trade Secretary, John Andrias, has stated that PNG is not ready to make commitments under PACER Plus.⁴ Fiji and Vanuatu have also decided to maintain distance from the agreement meaning diplomats will be busy bringing more countries on board with PACER Plus and the benefits to the business community it will bring.

While PACER Plus is the next step in the development of a truly inclusive and singular regional framework for Pacific trade, the exclusion of major economies will have an impact on the ability of the agreement to achieve its outcomes. Until these economies join PACER Plus, a majority of trade occurring in the Pacific will continue to attract tariffs. Moreover, trade with these jurisdictions will continue to function outside the realms of the agreement, meaning it will not be affected by the benefits of new transparency and regulatory requirements.

Contact

For more information please contact:

Damian Kelly
Paralegal
T +61 424 067 184
E d.kelly@pln.com.au

³ <http://www.looppng.com/business/nz-not-worried-about-absences-pacer-plus-60796>

⁴ <http://www.pngindustrynews.net/pngindustrynews/news/1143308/png-firmly-pacer-plus>