

Picking up the Pace on Pacific Trade Negotiations

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Key Points

- PACER Plus FTA negotiations are coming to a close, with some countries unsure if they will sign on.
- The FTA provides a unique opportunity for Pacific Island nations to work with Australia and New Zealand on economic co-operation, uniform IP law, FDI and labour mobility.
- The deal will liberalise a US\$1.4 trillion market creating new jobs through outsourcing of manufacture to the region while also opening smaller economies to global supply chains.

Introduction

The forty-seventh Pacific Island Forum was held early in September. The meeting brought together leaders from Pacific Island nations in order to conclude negotiations for the Pacific Agreement on Closer Economic Relations Plus (**PACER Plus**) free trade agreement (**FTA**).

What is PACER striding towards?

PACER Plus aims to include 14 Pacific Island nations with Australia and New Zealand in a wide reaching FTA that will affect economic cooperation, investment and labour mobility.¹ The ideal driving the agreement is one of “most favoured nations” where all nations are expected to be treated as though they are the preferred trading partners and will be guaranteed the best trading environment.

The FTA is an attempt to deepen ties between Pacific nations through economic cooperation. Representatives of the party states have emphasised the importance of a synchronous Intellectual Property law as an aspect of deepening economic cooperation. Trade Ministers in 2015 discussed the application of a regional trademark system and other frameworks around the registration of both traditional knowledge and intellectual property.² Previously, Forum countries have endeavoured to create blanket protections for intellectual property by publishing the *Model Law for the Protection of Traditional Knowledge 2002* which was legislated by several independent jurisdictions.³ Advocates for synchronous IP law across the Pacific argue that PACER Plus can easily create a model law that encompassing all forms of IP.⁴

¹ Ministry of Foreign Affairs and Trade, *PACER Plus* (2016) New Zealand Ministry of Foreign Affairs and Trade <<https://www.mfat.govt.nz/en/trade/free-trade-agreements/agreements-under-negotiation/pacer/>>.

² "Forum Trade Ministers Meeting" (2015) 29 October *Pacific Islands Forum Secretariat* 6.

³ <http://www.forumsec.org/resources/uploads/attachments/documents/PacificModelLaw,ProtectionofTKandExprssnssofCulture20021.pdf>

⁴ <https://www.usp.ac.fj/index.php?id=13236>

Larger economies anticipate the FTA will be an opportunity for Foreign Direct Investment (**FDI**), favouring the Pacific Islands.⁵ Australia, for example, has stated that it is conducting negotiations with the primary objective of assisting the economic development of forum countries.⁶ In line with the aspirations of the larger economies, the Forum countries resolved to allocate resources from the European Development Fund to structure an investment framework that will aid FDI in the more developing economies.⁷

There is also set to be a labour mobility framework which will reduce governance surrounding the flow of people. It has been argued by the Pacific Island Forum that this will be an important step to “strengthening connections to enhance Pacific regionalism” and to facilitate greater movement of people.⁸ It is intended that the future of labour mobility in the Pacific will be governed by a Labour Mobility Agreement and connected meetings between government officials and workers.⁹

Economic Leaps and Bounds

Both Australia and New Zealand are handling the PACER Plus FTA differently to past agreements. Australia has noted the great trade disparity between itself and the Forum nations.¹⁰ Because of this, Australia has committed funds towards researching the affects an FTA would have on individual island economies.¹¹ Similarly, New Zealand has stated that concessions may be warranted in order to promote equality between parties.¹²

The agreement would further liberalise a US\$1.4 trillion market and possibly increase the AU\$33 million in trade Australia already conducts with PACER nations.¹³ Australia’s Trade Minister, Steve Ciobo, has noted that although there are reservations among some Pacific Islands, there are benefits for small economies including access to duty free trade with Australia and access to global supply chains.¹⁴

⁵ Ministry of Foreign Affairs and Trade, *PACER Plus* (2016) New Zealand Ministry of Foreign Affairs and Trade <<https://www.mfat.govt.nz/en/trade/free-trade-agreements/agreements-under-negotiation/pacer/>>.

⁶ Department of Foreign Affairs and Trade, *Pacific Agreement On Closer Economic Relations (PACER) Plus* (2016) Department of Foreign Affairs and Trade <<http://dfat.gov.au/trade/agreements/pacer/pages/pacific-agreement-on-closer-economic-relations-pacer-plus.aspx>>.

⁷ "Forum Trade Ministers Meeting" (2015) 29 October *Pacific Islands Forum Secretariat* 3.

⁸ "Forum Trade Ministers Meeting" (2015) 29 October *Pacific Islands Forum Secretariat* 5.

⁹ Ministry of Foreign Affairs and Trade, *PACER Plus* (2016) New Zealand Ministry of Foreign Affairs and Trade <<https://www.mfat.govt.nz/en/trade/free-trade-agreements/agreements-under-negotiation/pacer/>>.

¹⁰ Department of Foreign Affairs and Trade, *Pacific Agreement On Closer Economic Relations (PACER) Plus* (2016) Department of Foreign Affairs and Trade <<http://dfat.gov.au/trade/agreements/pacer/pages/pacific-agreement-on-closer-economic-relations-pacer-plus.aspx>>.

¹¹ Department of Foreign Affairs and Trade, *Pacific Agreement On Closer Economic Relations (PACER) Plus* (2016) Department of Foreign Affairs and Trade <<http://dfat.gov.au/trade/agreements/pacer/pages/pacific-agreement-on-closer-economic-relations-pacer-plus.aspx>>.

¹² Ministry of Foreign Affairs and Trade, *PACER Plus* (2016) New Zealand Ministry of Foreign Affairs and Trade <<https://www.mfat.govt.nz/en/trade/free-trade-agreements/agreements-under-negotiation/pacer/>>.

¹³ Department of Foreign Affairs and Trade, *Pacific Agreement On Closer Economic Relations (PACER) Plus* (2016) Department of Foreign Affairs and Trade <<http://dfat.gov.au/trade/agreements/pacer/pages/pacific-agreement-on-closer-economic-relations-pacer-plus.aspx>>.

¹⁴ Garrett, Jemima, *Australia Reaffirms Benefits Of PACER Plus Deal* (2016) ABC News <<http://www.abc.net.au/news/2016-08-31/australia-reaffirms-benefits-of-pacer-plus-deal/7802692>>.

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The intent of PACER Plus is that the Pacific Islands will be able to achieve access to larger markets by working more closely with Australia. Unlike previous agreements, such as, SPARTECA that only gave the Pacific Island nations rights to duty free exportation to Australia and New Zealand, PACER Plus would allow the movement of capital, business and finance. For example, small businesses will be able to import cheaply from larger markets while also contributing to larger supply chains. Alternatively, the liberalisation of trade could stimulate growth in outsourcing of, for example, manufacture and supply of services.

Moreover, the removal of government regulations alongside the labour mobility schemes will allow for a better connected Pacific region, where employment is no longer tied to nationality. Freedom of movement and an increase in foreign investment will improve the capacity for employment across the Pacific Islands.

Other key PACER Plus developments, such as the introduction of a uniform patent and IP law, would directly reduce the amount of red tape impeding the development of new products and services across the region.

Although PACER Plus presents a unique opportunity to increase employment and provide better services in the Pacific, some NGOs have voiced concerns regarding PACER Plus. These concerns include the agreement's failures to guarantee a right to food, to look at lifestyle health issues in the Pacific, and to create clear development goals.¹⁵

To address these concerns, the Forum Secretariat has released a series of its own reports. The reports sets forward the continued ability for Pacific states to function with reduced tariffs and regulation, specifically noting case studies of the Cook Islands and Samoa who have transitioned to non-tariff revenue raising mechanisms.¹⁶ Moreover, the reports have stressed the ability for small economies to compete and disproportionately grow compared to larger economies after trade liberalisation.¹⁷

The Next Steps

Although early support for the FTA was an apparent indication of the negotiations' future success, the weeks leading up to the latest meetings have questioned the future of PACER Plus. Specifically, Fiji and PNG both have put forward major criticisms of the deal and published media that they will not be continuing with the negotiations.¹⁸

The fallout has not slowed attempts to have the FTA signed by the end of the year. However, questions still remain on the exact wording of the document. Whether the Pacific Islands go ahead with PACER Plus will depend on the balance between risk and reward, as well as further assessment on the unique domestic effects of the agreement and public reactions to the final documents.

¹⁵ Valemei, Ropate, *PACER-Plus Petition - Fiji Times Online* (2016) Fijitimes.com <<http://www.fijitimes.com/story.aspx?id=368317>>.

¹⁶ Batley, James, *HOM Speech On Pacer Plus* (2007) Fiji.embassy.gov.au <<http://fiji.embassy.gov.au/suva/pacer.html>>.

¹⁷ Batley, James, *HOM Speech On Pacer Plus* (2007) Fiji.embassy.gov.au <<http://fiji.embassy.gov.au/suva/pacer.html>>.

¹⁸ Nasokia, Waisea, *Koya: Fiji Won't Endorse PACER Plus Legal Text | Fiji Sun* (2016) Fijisun.com.fj <<http://fijisun.com.fj/2016/09/10/koya-fiji-wont-endorse-pacer-plus-legal-text/>>; Kisselpar, Joy, *PNG Trade Minister Says No To PACER Plus Trade With Australia* (2016) ABC News <<http://www.abc.net.au/news/2016-08-05/png-says-no-to-pacer-plus/7695538>>.

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