



Unity and Discord in the Pacific: Negotiating the Pacific Agreement on Closer Economic Relations Plus

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About this publication

This research report was produced by the Griffith Asia Institute (GAI) at Griffith University, Brisbane, Australia. The brief aims to provide a vehicle for publishing research results regarding the PACER Plus trade treaty negotiations (2009–2020). The findings, interpretations, and conclusions expressed in this report are entirely those of the author and should not be attributed in any manner to Griffith University, its affiliated organisations, or members of its Board of Executive Directors.

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Cover image: Flags of Pacific island countries that signed the PACER Plus Agreement (Assembled).

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Executive Summary

The Pacific Agreement on Closer Economic Relations Plus (PACER Plus) is a trade and development treaty contained within a traditional trade framework. It was negotiated by Australia, New Zealand (A/NZ when acting together) and fourteen Forum Island Countries (FIC) and sponsored by the Pacific Islands Forum (PIF – with a Secretariat in Suva, Fiji). Negotiations commenced on 9 August 2009 in Cairns, Australia and continued until 14 June 2017 when the PACER Plus treaty was signed in Nuku'alofa, Tonga. The PACER Plus treaty entered into force on 13 December 2020. Ten of sixteen countries (PIF members) signed and ratified the PACER Plus treaty.

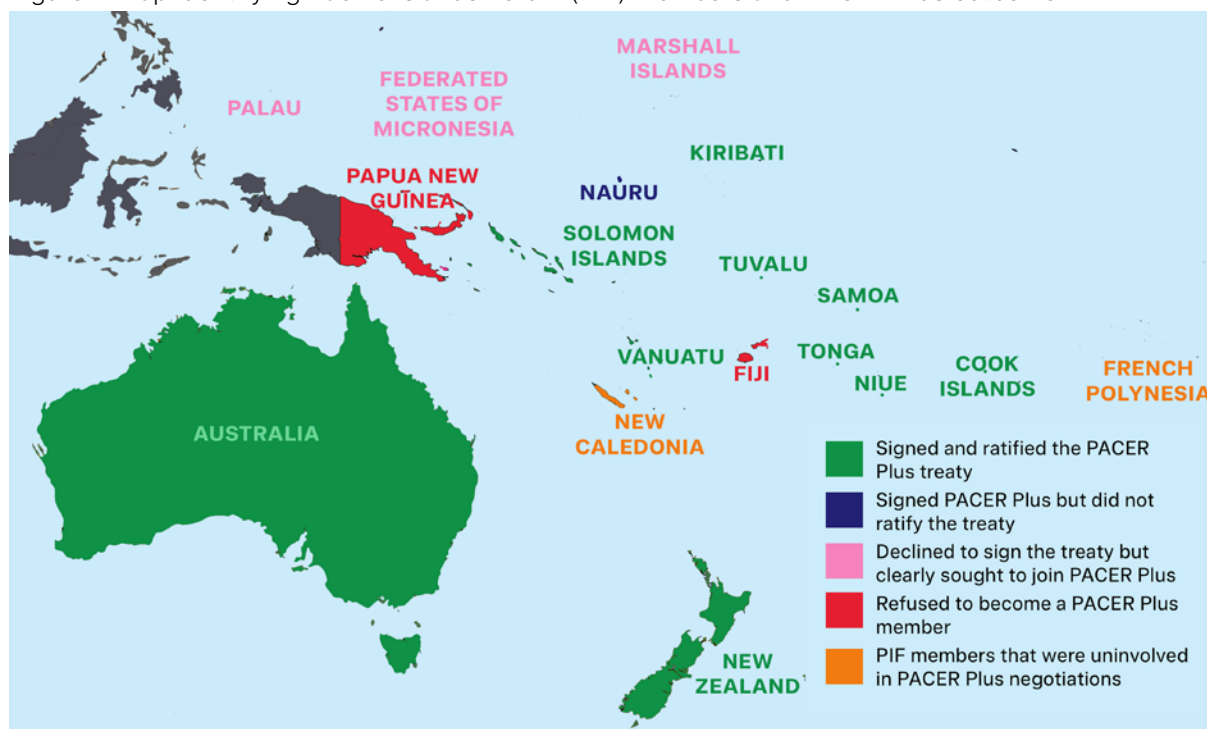
This case study begins by identifying the events that led to the commencement of PACER Plus negotiations. Primary parties, other influential parties and the negotiation structure created by these parties are introduced before a detailed examination is conducted of negotiation interests, issues and process including the negotiated end game. Special attention is directed towards civil society and its role in seeking to influence the negotiation process and outcome.

The negotiated outcome is considered from several perspectives, including (1) the ten parties that signed and ratified the treaty, (2) the single party that signed but did not ratify the treaty (Nauru), (3) those parties that declined to sign the treaty but clearly sought to

join PACER Plus (Federated States of Micronesia, Marshall Islands and Palau), (4) those parties that refused to become PACER Plus members (Fiji and Papua New Guinea), and (5) the PIF members that were uninvolved in PACER Plus (French Polynesia and New Caledonia), as they were not full PIF members for most of the negotiations. Special attention is directed towards the three countries that clearly intended to sign PACER Plus but were unable to do so and the two countries that refused to become PACER Plus members. Figure 1 offers a visual introduction to all PIF members and the PACER Plus outcome of each member.

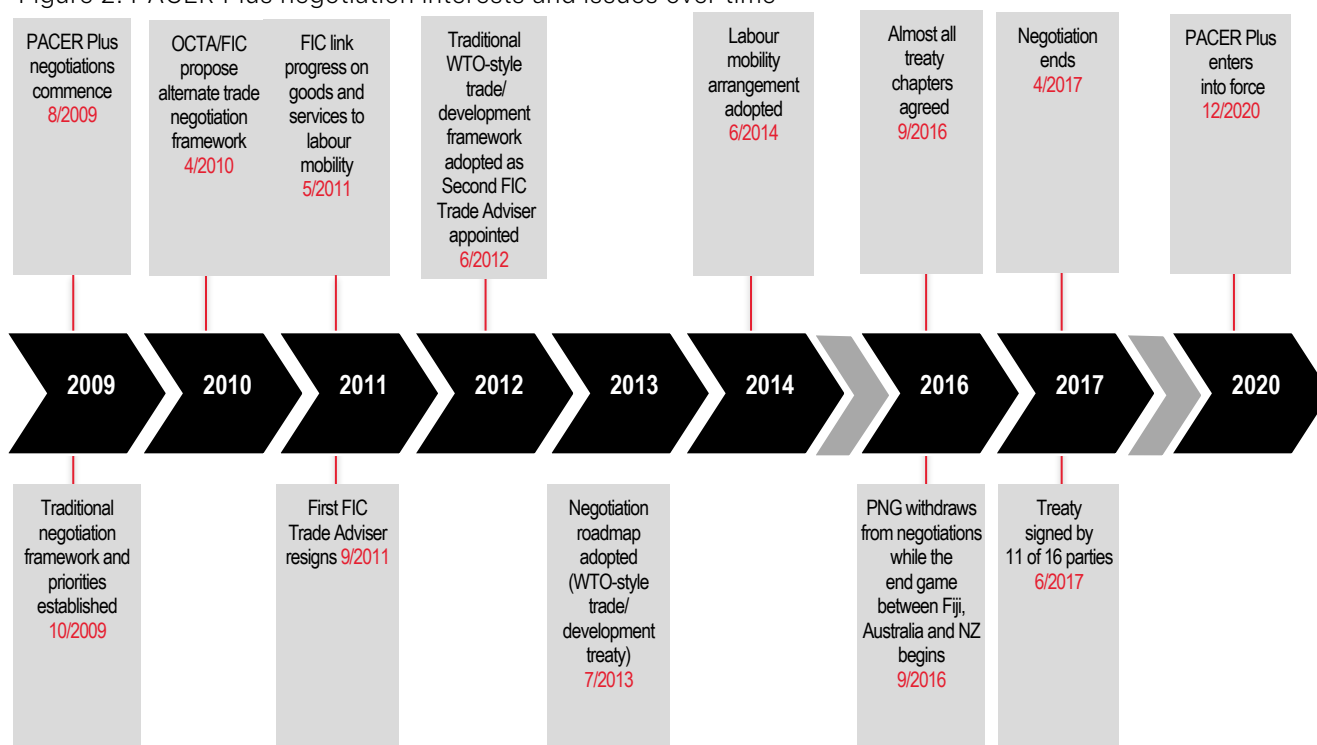
Negotiations do not conclude after an international trade treaty is signed, as each country that signs the treaty must then engage in the ratification or approval of that treaty through governmental deliberation and/or legislation. This shifts the focus from international negotiations between countries to domestic negotiations within each country that signed the treaty. This study does not examine the ratification process for each of the eleven parties that signed PACER Plus but does arrive at conclusions about the overall process. Figure 2 provides an overview of the PACER Plus negotiation process. A more complete examination of negotiation process is found in Table 3 (page 12) of this report.

Figure 1. Map identifying Pacific Islands Forum (PIF) members and PACER Plus outcome



Source: Griffith Asia Institute.

Figure 2. PACER Plus negotiation interests and issues over time



Source: Field Research

By conducting a detailed review of this complex negotiation, we seek to identify learning opportunities and key takeaways, which are derived from treaty negotiations and the ratification process. In some cases, these learning opportunities can assist others to negotiate more effectively, while in other cases the learning that may be gained is specifically relevant to the parties involved in these negotiations.

This study outlines seven key takeaways from our investigation of PACER Plus. The section of this Research Report on PACER Plus: Learning and Key Takeaways offers greater detail on the seven learning opportunities briefly outlined below.

First, a negotiation skill enhancement program, initiated by A/NZ and offered to the Forum Island Countries (FIC), is a highly unique aspect of PACER Plus negotiations. It is unusual for one side to support others in becoming more effective negotiators within the study of negotiation. This four-part program included: (1) the Pacific Islanders Trade Training Program; (2) the Office of Chief Trade Adviser (OCTA) to support FIC ability to negotiate; (3) a Readiness Package to support FIC governmental consultations with stakeholders and the public about PACER Plus prior to treaty ratification; and (4) the PACER Plus Implementation Unit, which supports FIC in gaining trade and development opportunities through PACER Plus. This four-part negotiation enhancement program – conceptualised, designed and implemented by A/NZ – provides a coherent framework that other developed countries could

consider providing in developing environments. European engagement in Africa and US engagement in Latin America come to mind as possible areas of application.

Second, PACER Plus negotiations served as an ongoing, hands-on, professional development program, aimed at fourteen FIC governments, that supported staff understanding of international relations generally and international trade policy specifically. These Pacific Island government officials enhanced their ability to participate in and conduct international meetings, build and gain agreement on a meeting agenda, build and present proposals, build and present arguments to support those proposals and learn to compromise and seek common ground both within FIC internal negotiations and externally between the FIC and A/NZ. The negotiation process was, in part, the purpose.

Third, negotiating a trade treaty requires governmental engagement and consultation with stakeholders and the general public. FIC engaged with stakeholders and the public at two specific points during PACER Plus: negotiations over a schedule of commitments on tariffs and during treaty ratification. A change in national revenue, and hence taxes, requires that the government consult key stakeholders. Many, though not all, FIC were heavily dependent on tariffs on goods in supporting national revenue and hence national budgets. National decisions to reduce tariffs, through PACER Plus Chapter 2: A Schedule of Commitments on Tariffs,

required governments to engage in stakeholder consultation.

In addition, FIC presidents or prime ministers typically consult their Cabinet and/or key ministers and then make a joint decision on important matters of state. PACER Plus could have been ratified in this manner; however, civil society succeeded in making PACER Plus so controversial that the treaty would have been seen to lack legitimacy if its adoption had been made in this manner. FIC that signed the treaty engaged in an active information-dissemination program, including public meetings that sought and answered questions and responded to stakeholder concerns. When a decision on treaty ratification was taken, this decision was made based on a record of public engagement. This program component enhanced fundamental understanding of democratic processes among FIC that ratified PACER Plus.

Fourth, collectively, the FIC clearly demonstrated the procurement of power, derived from a combination of unity and patience, and how that power could be utilised to achieve priority goals through negotiation. A 2011 decision to link progress on goods and services to progress on labour mobility resulted in the FIC receiving a labour mobility proposal from A/NZ in 2014, which led to the signing of the Labour Mobility Arrangement in 2017. The more powerful side does not always gain its preferred outcome when the other side is able to convert unity and patience into power. This instance demonstrates that there is value when developed countries listen carefully to the needs and desires of developing countries. It is arrogant to believe and act as if the other side's priorities lack importance.

Fifth, A/NZ response to an apparent deadlock that linked progress in goods and services to progress on labour mobility was one of the most significant strategic moments in the entire negotiation. This dilemma also highlights the existential challenge of understanding when to hold firm and when to offer concessions in a negotiation. In the final analysis, A/NZ held firm for way too long before finally designing a creative solution that was acceptable to all parties. Negotiation duration would have been reduced, and efficiency gained if a solution had been crafted earlier. This is particularly important from a developing country perspective, with insufficient professional staff engaging in a negotiation that seems unending.

Sixth, negotiations between the same parties in two or more separate forums can have unanticipated consequences, as such social dynamics are too complex to predict. Australia took the decision to raise

human rights concerns about Fiji before the UN Human Rights Council in Geneva in 2010 and then again in 2011, as part of Fiji's Universal Periodic Review. Regardless of the merits or justification for such action, this UN public forum was but one of many alternatives available regarding Australia's desire to address human rights in Fiji. Such actions, taken by Australia, was unlikely to support Fiji's willingness to cooperate in other forums such as PACER Plus. Reflecting on the complex social dynamics found in linked negotiations may offer valuable learning for the government of Australia and the government of Fiji.

Seven, the relationship between the United States and each of the three Compact Countries (the Federated States of Micronesia, the Republic of Marshall Islands and Palau) reminds us that parties not at the table can also greatly influence negotiated outcome. This study asks whether A/NZ should have taken action prior to the commencement of PACER Plus regarding this predictable outcome and whether action might be taken today to rectify this PACER Plus outcome, as it damages A/NZ's long-sought goal to use a trade and development framework to unify the Pacific. Why would the United States be unwilling to support unity in the Pacific that is grounded in such a framework?

Following our review of learning and key takeaways within this report, this study asks whether these negotiations were worth the effort – given the political and economic costs and the outcome – in a section on PACER Plus and the Future. Benchmarks can be established and tests conducted to determine the impact of PACER Plus over the short term, while comparative research is designed to verify achievement of economic and social goals over the long term. We ask, for example, how PACER Plus might support the '2050 Strategy for the Blue Pacific Continent', which includes goals adopted by the Pacific Islands Forum Leaders.

This study concludes by examining the A/NZ goal to enhance regional unity via a trade and development framework. In the final analysis, ten of sixteen PIF members, or 63 per cent, joined PACER Plus, which cannot be described as an outstanding outcome. If, however, the three Compact Countries could join PACER Plus, that would be thirteen of sixteen members, or 81 per cent. An outcome of 80 per cent offers a very different image of PACER Plus. This study offers recommendations in response to this challenging opportunity.

Following is Table 1, which includes a list of abbreviations, acronyms, associations, organisations and treaties.

List of abbreviations, acronyms, associations, organisations and treaties

Table 1: List of abbreviations, acronyms, associations, organisations and treaties

- A/NZ: Australia and New Zealand when observed to be acting jointly
- ANZ-Fiji: Australian and New Zealand Banking Group Limited Fiji Branch
- APIBC: Australia – Pacific Islands Business Council
- APNGBC: Australia – Papua New Guinea Business Council
- Australian Embassy, Washington DC
- Australian National University (ANU), Development Policy Centre
- Biketawa Declaration (2000)
- Blue Pacific Continent: Reframing Pacific Islands as custodians of 20 percent of the Earth’s surface
- BSP: Pacific South Bank
- CGCR: Centre for Global Cooperation Research
- COFA: Compact of Free Association (between the USA, FSM, Marshall Islands, and Palau)
- Commonwealth of Nations
- Compact Countries (Federated States of Micronesia, Marshall Islands, and Palau)
- Dev: Development
- DFAT: Australian Department of Foreign Affairs and Trade
- DFAT Pacific Regional Branch
- DFAT US, UK and Canada Branch
- FIC: Forum Island Countries (sixteen Pacific Islands Forum members that are island countries or territories although only fourteen of the sixteen engaged in PACER Plus negotiations)
- Fiji–Australia Vuvale Partnership, 2019
- Fiji–Australia Vuvale Partnership, 2023
- Fiji Ministry of Education, Heritage and Arts
- Fijian Immigration Department
- FSM: Federated States of Micronesia
- GATS: General Agreement on Trade in Services
- General Post Office, Suva Fiji
- Griffith Asia Institute
- Griffith University Human Research Ethics Committee
- HS: Harmonized Commodity Description and Coding System (see endnote 9)
- Institute for International Trade, The University of Adelaide
- Labour Mobility Arrangement, 2017
- Melanesia sub-regional grouping
- MFAT: New Zealand Ministry of Foreign Affairs and Trade / Manatu Aorere
- MFN: Most Favoured Nation (see endnote 8)
- Micronesia sub-regional grouping
- Micronesia Trade and Economic Committee
- NCC: Nauru Chamber of Commerce
- Neg: Negotiation
- NIANGO: Nauru Island Association of Non-governmental Organisations
- Non-State Actors Dialogue
- OCTA: Office of Chief Trade Adviser (which supported fourteen FIC members in negotiations)
- PACER: Pacific Agreement on Closer Economic Relations, 2001
- PACER Plus Implement Unit
- PACER Plus: Pacific Agreement on Closer Economic Relations Plus (2009–2020)
- PACER Plus Treaty: Pacific Agreement on Closer Economic Relations Plus, 2020
- Pacific Hub, Griffith University
- PALM: Pacific Australia Labour Mobility scheme
- PANG: Pacific Network on Globalisation
- PIANGO: Pacific Islands Association for Non-Governmental Organisations
- PICTAR: Pacific Inlands Countries Trade Agreement, 2001
- PIDF: Pacific Islands Development Forum
- PIF Leaders: Pacific Islands Forum Leaders (meeting annually, normally)

- PIF: Pacific Islands Forum (eighteen members currently)
- PIF Secretariat: Pacific Islands Forum Secretariat (located in Suva Fiji)
- PIPSO: Pacific Islands Private Sector Organisations
- PLMAM: Pacific Labour Mobility Annual Meeting
- PNG: Papua New Guinea
- Polynesia sub-regional grouping
- Post Fiji
- RMI: the Republic of the Marshall Islands
- ROO: Rules of Origin (see note 3)
- RSE: New Zealand Recognised Seasonal Employer scheme
- SEEP: Social Empowerment and Education Program
- SPARTECA: South Pacific Regional Trade and Economic Co-operation Agreement, 1981
- SPC: Pacific Community
- SPF: South Pacific Forum
- SPS: Sanitary and Phytosanitary measures (see note 6)
- SUNGO: Samoa Umbrella for Non-Governmental Organisations
- TBT: Technical Barriers to Trade (see note 10)
- TM: Trade Ministers, Pacific Islands Forum
- UN Conference of the Parties (UN COP)
- UN Framework Convention on Climate Change (UN FCCC)
- UN Human Rights Council, Geneva
- UN Human Rights Council Universal Periodic Review
- UN Non-Self-Governing Territories
- UPS: United Parcel Service
- US Congress
- US Embassy of the Federated States of Micronesia
- US State Department
- USP: The University of the South Pacific, School of Accounting, Finance and Economics
- WCO: World Customs Organization
- WCO Harmonized System
- World Bank



Photo: Representatives who signed the PACER Plus trade agreement in Tonga (Pacific Islands Forum Secretariat)

Case Introduction

This Griffith Asia Institute Research Report seeks to document the events that directly and indirectly contributed to the decision to accept, decline or reject the Pacific Agreement on Closer Economic Relations Plus (PACER Plus), undertaken from 2009 to 2020. This review begins by identifying the negotiating parties and the structure they created, then documents negotiation interests and issues, and the negotiation process and outcome.

In doing so, we seek to further understand international relations within the Pacific while providing insight into the strategies that support the negotiated outcome. We also seek to identify key takeaways and the learning gained via this trade treaty negotiation, and to understand what PACER Plus might achieved over the short and long term.

This Introduction outlines the research methods used to produce this detailed case study, then provides an overview to the five events that led to the commencement of PACER Plus negotiations.

Research Methodology

The research plan to study PACER Plus negotiations included field visits to Canberra in Australia, Suva and Nadi in Fiji, and Wellington and Auckland in New Zealand in 2022.¹

Semi-structured interviews were conducted with 46 government officials, trade specialists, regional specialists, diplomats, ambassadors and high commissioners who were directly involved in these negotiations or who were informed observers given their organisational position during negotiations. Professionals involved in the annual PACER Plus Non-State Actors Dialogue were also interviewed, including academics with regional expertise, leaders of business associations, who generally supported the negotiations, and civil society leaders, who generally opposed the negotiations. Regional association leaders were also interviewed, including officials at the Pacific Islands Forum Secretariat and former officials of the PACER Plus Office of Chief Trade Adviser.

Information gained from interviews is noted within the case study text using numbers. For example, interview number 44 is listed as a source within the next section. The reader will find that interview 44 (listed with all field interviews on page 39 of this report) is a Papua New Guinea High Commissioner, who was interviewed for this research project on 19 October 2022.²

Case Background

Multilateral negotiations emerge from the past – they are path dependent. Following are the events that established that path. First, the South Pacific Forum, established in 1971, began with Australia, New Zealand and five island countries: Cook Islands, Fiji, Nauru, Tonga and Western Samoa (later renamed Samoa).

Second, this regional association added members and concluded further negotiations, in 1981; the outcome was known as the South Pacific Regional Trade and Economic Cooperation Agreement (SPARTECA 1981). SPARTECA is a non-reciprocal treaty providing duty free access into Australia and New Zealand (A/NZ) for virtually all products originating from ten Forum Island Countries (FIC). Unfortunately, SPARTECA was not so useful for multiple reasons: the rules of origin (ROO)³ were restrictive, Pacific parties generally lacked the capacity to utilise a trade treaty and there was a lack of investment in Pacific Island countries to support SPARTECA utilisation (SPARTECA 1981; PIF 2023a; Interviews 1, 2, 5, 7, 21, 36, 44).

This treaty was followed by two other agreements: third, the Pacific Agreement on Closer Economic Relations (PACER) in 2001. PACER contained no substantive trade provisions but was a framework agreement to establish the foundation for future regional relations – PACER Plus – through a step-by-step process. Fourth, the Pacific Islands Countries Trade Agreement (PICTA), which is an FIC treaty only (excluding A/NZ) that established provisions for trade in goods between island countries. This treaty was also finalised in 2001.

Fifth, A/NZ and fourteen FIC reorganised the South Pacific Forum into the Pacific Islands Forum (PIF) in 2005. PIF decision-making occurs through several high-level multilateral meetings, including the PIF Leaders' Meeting and the PIF Trade Ministers Meetings. These are supported by the PIF Secretariat (PIF 2005). French Polynesia and New Caledonia (both French territories) became full PIF members in 2016, which established an eighteen-member association at the time the PACER Plus agreement concluded. These two new members never became involved in PACER Plus negotiations (PIF 2023a; Interviews 1, 12, 21, 36, 44).

Negotiation Parties and Structure

Australia, led by Prime Minister Kevin Rudd, and New Zealand, led by Prime Minister John Key, initiated the 16-party PACER Plus negotiations – sponsored by the Pacific Islands Forum (PIF). Table 2 lists all PIF members along with relevant information about each party.

Primary Parties

PACER Plus primary parties – national governments with the right to sign the PACER Plus treaty – demonstrate substantial diversity in terms of country size, with Australia the largest by population with 25.5 million people and Niue the smallest with 1626 people. A country's population often reflects the size of a national economy, which can impact economic development. Some of these parties are rather wealthy and others are impoverished. Kiribati, the Solomon Islands and Tuvalu are each identified as Least

Developed Countries by the United Nations, while Samoa and Vanuatu graduated in 2014 and 2020 respectively. In addition, sixteen parties were once occupied by colonial powers (Tonga was never fully colonised, although it was once a UK protectorate), while French Polynesia and New Caledonia are currently overseas territories of France. These colonial relationships establish formal ties that can impact negotiation processes and outcomes. The citizens of Cook Islands and Niue, for example, are in free association with New Zealand, which provides these citizens with a New Zealand passport and the right to live and vote in New Zealand. Finally, substantial differences exist in trade negotiation expertise, as reflected in WTO involvement. Ten of the eighteen primary parties are not WTO members. Respondents note that party diversity, especially trade expertise and governmental resources available for an international negotiation, further contributed to negotiation complexity (see UN Conferences: Least Developed Countries 2023; WTO Members 2023; Interviews 1, 5, 10, 11, 27, 36, 42).



Photo: PACER Plus Implementation Unit (PACER Plus <https://pacerplus.org/resources/media-portal/press-releases/pacific-officials-receive-training-on-blmas>).

Table 2. Pacific Islands Forum members and PACER Plus primary parties

Official name (colonial power relinquishing control and year of "independence")	Sub-regional grouping	National population	WTO member
The Commonwealth of Australia (UK-1986)	Caucasian/Multicultural	25,499,884	1995
Cook Islands (Self-governing state in free association with NZ)	Polynesia	17,564	n/a
Federated States of Micronesia (US-1979)	Micronesia	548,914	n/a
Republic of Fiji (UK-1970)	Melanesia	896,445	1996
* French Polynesia (Autonomous French overseas territory)	Polynesia	280,908	n/a
Republic of Kiribati (UK-1979)	Micronesia	119,449	n/a
Republic of the Marshall Islands (US-1986)	Micronesia	59,190	n/a
Republic of Nauru (UK-1968)	Melanesia	10,824	n/a
* New Caledonia (Autonomous French overseas territory)	Melanesia	285,498	n/a
New Zealand (UK-1947)	Caucasian/Polynesia	4,822,233	1995
Niue (Self-governing state in free assoc. with NZ)	Polynesia	1,626	n/a
Republic of Palau (US-1994)	Micronesia	18,094	n/a
Independent State of Papua New Guinea (Australia-1975)	Melanesia	8,947,024	1996
Independent State of Samoa (NZ-1962)	Polynesia	198,414	2012
Solomon Islands (UK-1978)	Melanesia	686,884	1996
Kingdom of Tonga (UK-1970, although never fully colonised)	Polynesia	105,695	2007
Tuvalu (UK-1978)	Polynesia	11,792	n/a
Republic of Vanuatu (Joint French/UK 1980)	Melanesia	307,145	2012

Note including Source: Each party is listed by its legal (official) name and common name (in bold type). Pacific sub-regional groupings have ethnic or indigenous roots, and geographic relevance. UN estimate of country population is listed followed by the year a country joined the World Trade Organization (WTO) – 'n/a' indicates that a country is not a WTO member. The colonial power that relinquished control (or maintains some control) and the year each country became "fully independent" is also listed (Google Search by Country 2023; PIF 2023b; UN Worldometer 2020; WTO Members 2023).

*French Polynesia and New Caledonia were uninvolved in these negotiations but have the right to join PACER Plus via their Pacific Islands Forum membership.

Party Inclusion and Exclusion

Fiji's PIF membership was suspended in May 2009, just prior to the August 2009 commencement of PACER Plus. Consequently, Fiji was excluded from PACER Plus negotiations and most other PIF meetings and activities until Fiji's suspension was rescinded in October 2014. Following is a summary of the background to these events.

PIF members negotiated and signed the Biketawa Declaration in 2000, which includes a commitment to good governance. Later, Fiji's military removed the prime minister and took control of the government in a bloodless coup in December 2006. The PIF utilised the 2000 Declaration to encourage and support Fiji's return to democratic rule by establishing a Roadmap to Democracy, which included a plan to conduct national elections, but without initial success. Finally, PIF Leaders gave Fiji a deadline to announce an election date and hold elections. Fiji declined, so PIF Leaders suspended Fiji's membership in May 2009. Fiji was also suspended from the Commonwealth of Nations in September 2009 and denied the opportunity to lead the Pacific Community (SPC) in 2010. Respondents and DFAT documents confirm that Australia led these initiatives, including a strong statement regarding Fiji at the UN Human Rights Council in Geneva in February 2010 and again in June 2011. These hearings were part of the recently established Universal Periodic Review conducted by the UN Human Rights Council. A/NZ did not always agree on how to proceed regarding Fiji, as Australia is much more strident in its international approach and strategy, while New Zealand government officials said their focus was on long-term relations (Biketawa Declaration 2000; Latu 2009; PIF Forum Communiqué 2009; DFAT Annual Report 2009–2010 and 2010–2011; UN Rights Council 2010; Fiji End Rights Abuses 2011; Smith 2012; PIF 2023c; Interviews 22, 29, 33, 42, 45).

Excluding Fiji from the PIF is external to PACER Plus negotiations, but such action had an impact upon negotiation process and outcome. Furthermore, among all PIF members, Fiji plays a unique role by serves as an economic and transportation hub in the Pacific, while Suva, Fiji's capital and home to the PIF Secretariat, is a Pacific hub for international affairs.

Other Parties

Many other parties also influenced the negotiation process and outcome. The Pacific Islands Forum (PIF) played an important role, as the PIF Leaders (prime ministers and presidents) adopted the Cairns Compact in August 2009, stating that, 'Leaders agreed there was an urgent need to establish a new development compact for the Pacific' (PIF Forum Communiqué 2009; Cairns Compact 2009), which initiated PACER Plus negotiations – a decision that

was based on a recommendation made by PIF Trade Ministers at a June 2009 meeting.

On the other hand, the PIF Secretariat played a limited role in these negotiations, as PIF Trade Ministers recommended that PACER Plus negotiations be separated from the Secretariat. Some negotiators felt the Secretariat could have been more involved in providing administrative support for PACER Plus negotiations; however, such engagement could have been perceived as a conflict of interest. The PIF Secretariat is equally responsible to all member countries, while one side could have used information distributed by the Secretariat unfairly against the other side. The PIF Secretariat generally remained outside of PACER Plus negotiations, although it did assist in organising several PACER Plus Non-State Actors Dialogue meetings that included academics, the business community, church associations and civil society (Interviews 1, 3, 9, 12, 16, 26, 30, 36, 42, 43).

A regional association, its institutions and members, are to be expected in a regional trade negotiation, but there are other parties that do not often appear, which provides insight into cooperative and competitive behaviour within this negotiation.

Prior to the start of negotiations, for example, the Australian government organised a trade policy training program for FIC officials. Once negotiations began, A/NZ provided funding for the Office of the Chief Trade Adviser (OCTA), which included a senior official with substantial trade policy expertise (the Chief Trade Adviser) who led a professional team that supported the FIC in identifying negotiation goals and priorities, studying negotiation issues, establishing positions – either jointly or separately among the fourteen FIC – and then building and implementing a negotiation strategy. OCTA was also involved in providing administrative support for these negotiations and worked with the PIF Secretariat in organising Non-State Actors Dialogue meetings. Although funded by A/NZ, the OCTA operated independently, as it was established to support FIC engagement in PACER Plus. An apparent or real conflict of interest would have been immediately seized by the media or civil society to discredit these negotiations. This potential disaster never occurred (Interviews 3, 5, 6, 9, 10, 11, 12, 16, 20, 26, 30, 33, 36, 37, 39, 43).

Solomon Islands (a Melanesia representative) was selected by the FIC to serve as chair/spokesperson and coordinator throughout the negotiations (initially, the role was to rotate among FIC, but the rotation never occurred). Kiribati (a Micronesia representative) and Tonga (a Polynesia representative) served as FIC vice chairs for PACER Plus negotiations.

The Office of Chief Trade Adviser (OCTA) advocated on behalf of the FIC as a collective, although each FIC was assigned to lead issue-focused working groups and participate in negotiations as necessary (Interviews 5, 10, 16, 36).

The regional business community actively supported these negotiations, including the Pacific Islands Private Sectors Organisations (PIPSO 2023), the Australia–Pacific Islands Business Council (APIBC 2023) and related business Councils in the Pacific region, while several civil society organisations robustly opposed PACER Plus. The Fiji-based Pacific Network on Globalisation (PANG 2023) led the opposition by taking disparate strategic action, while the Pacific Islands Association for Non-Governmental Organisations (PIANGO 2023), a consortium of organisations representing nineteen island states, cooperated with PANG. Together, they were actively involved in many venues and actions throughout the region (Interviews 10, 11, 17, 19, 26, 27, 28, 29, 30, 33, 38, 45).

The Pacific Islands Development Forum (PIDF 2023), a regional association created by the Fijian Prime Minister, emerged as PACER Plus negotiations unfolded. The PIDF had no direct involvement in PACER Plus negotiations, although the PIDF initially appeared to compete for the attention of the sixteen FIC members and the geographical and philosophical space occupied by the Pacific Islands Forum. The PIDF played a symbolic, or emblematic, role, conducted via a linked 'macro-game' of inclusion and exclusion within Pacific power politics, which contributed to negotiation dynamics.

Finally, action taken by the State Department of the US government resulted in the withdrawal of three FIC just prior to the treaty being signed, which contributed to end-game dynamics (APIBC 2023; PANG 2023; PIANGO 2023; PIDF 2023; PIPSO 2023; Interviews 1, 2, 10, 12, 22, 25, 28, 34, 35, 38, 40, 45). All these parties and their actions are examined in our review of negotiation process.

Negotiation Structure

From one perspective, the structure of this negotiation was multilateral, but appears bilateral (A/NZ ↔ FIC), as developed countries (A/NZ) formed a coalition against, or in support of, developing countries (FIC). Australia and New Zealand rarely disagreed and often reach a common view through pre-negotiation

consultations. A/NZ supported each other at the negotiation table although occasionally one party would remain silent, as the other party advanced their independent position or strategy (Interviews 3, 10, 39, 43).

From another perspective, this multilateral negotiation was driven by Australia, New Zealand, the OCTA and the FIC Lead Spokesperson. The day-to-day structure of the negotiation included leaders who generally met annually, trade ministers who met quarterly or as necessary, negotiation rounds that had A/NZ–FIC senior officials in attendance, and inter-sessional meetings that included A/NZ–FIC working groups assigned to specific topics or treaty chapters. However, these negotiations went on for so long, and were so structurally convoluted and chaotic, that the distinction between a negotiation round and an inter-sessional meeting became meaningless. Much happened at the negotiation table, but often these were quite scripted exchanges, known in advance by all parties.

Informal opportunities to persuade and influence also resulted in shifts in positions, which would occur on the sidelines of PACER Plus meetings but could also occur at meetings unrelated to PACER Plus, as A/NZ and FIC negotiators juggled multiple responsibilities in various settings. Negotiation progress often occurred in such side meetings.

A/NZ and OCTA remained focused on moving the process towards a negotiated agreement over an eight-year period. Part of that was going slowly (it was called Pacific time) and building trust. A large A/NZ team – 40 to 60 negotiators per country is a typical number in bilateral negotiations – would have overwhelmed the FIC, so A/NZ teams were purposely kept small. New Zealand had six negotiators and Australia had a similar number, although not all came to every meeting. Each FIC member would have a team of one or two (Interviews 1, 3, 6, 7, 37, 38, 39, 42, 43, 45). The PACER Plus negotiation process presents a unique competitive–cooperative balance.

Negotiation Process: Commencement

Curiously, PACER Plus negotiations commenced because some FIC began negotiating a trade agreement with the European Union (EU) in 2001, although these negotiations eventually collapsed over the EU desire to fish in Pacific waters, the FIC desire to secure labour mobility provisions (Pacific worker access to EU employment markets) and other issues. Nevertheless, EU–FIC negotiations triggered the following PACER (2001) condition:

'If any Forum Island Country which is Party to this Agreement: commences formal negotiations for free trade arrangements which would include one or more developed non-Forum country, then that Forum Island Country shall offer to undertake consultations with Australia and New Zealand – with a view to the commencement of negotiation of free trade arrangements.' (PACER 2001: Article 6, Item 3a)

When A/NZ reminded the FIC about this previous agreement, the FIC said they were not prepared to conduct another major negotiation. Civil society (PANG) injected itself into this matter by seeking a legal opinion about PACER Article 6, which concluded that there was no requirement to commence PACER Plus; rather, A/NZ had an option and A/NZ chose to exercise that option (Duncan 2008; Interviews 5, 12, 16, 36, 29, 45). Australia and New Zealand proceeded to push the FIC into PACER Plus negotiations.

Negotiation Rationale

What is the rationale for conducting trade negotiations with partners that resist such negotiations? First, PACER Plus is not just a trade agreement but a trade and development agreement – an economic development strategy built on a trade platform. A/NZ are united in promoting economic development and the wellbeing of the region. Second, PACER Plus supported FIC to learn how to negotiate and later implement a trade treaty – the process was, in part, the purpose. Third, commercial interests were not the sole or predominant A/NZ motivation to engage in PACER Plus. Opening PNG and Fiji markets to exports was a meaningful A/NZ goal, although these opportunities disappeared towards the end of the negotiations. Nevertheless, A/NZ did not undertake PACER Plus for financial gain. Fourth, some said geopolitical and security goals drove PACER Plus, as A/NZ was seeking unity in the Pacific. Others said this point of view would have been developed after PACER Plus was concluded, not before and not during. In any event, PACER Plus was a long-sought A/NZ institutional priority for Pacific engagement (Interviews 1, 2, 3, 8, 9, 12, 36, 43, 45, 46).

Concurrently, it is useful to understand the rationale for civil society's strong objections to PACER Plus. Civil society leaders are not against development, but they are against the kind of development that grows out of a trade treaty. Many Pacific islanders live on customary land in village settings, while trade seeks to open up this informal sector by shifting villagers into the formal sector through employment. Civil society leaders believe the informal sector of society is much more resilient than the formal sector. Civil society leaders believe a trade treaty is not in the long-term interest of Pacific Islanders, especially when considering a changing climate (Interviews 15, 17, 29, 33, 36, 45). Disagreement between civil society and A/NZ is based in differing world-views and values.

In the final analysis, PACER Plus intends to build a partnership between Australia, New Zealand and its Pacific neighbours through a trade framework that contributes to FIC economic development, which may shift the informal sector into the formal sector of society.

Negotiation Preparation

FIC resistance to commencing PACER Plus did inform A/NZ, which contributed to their decision to assist FIC in learning how to organise and conduct trade negotiations, including trade issue analysis. Australia took the initiative by conducting a country-based needs assessment relevant to trade policy in the Pacific, while seeking views on the most effective way to build capacity and provide technical assistance.

Eventually, the Institute for International Trade at the University of Adelaide was retained to conduct the Pacific Islanders Trade Training Program, which included ten training modules and almost 50 days of seminar training between September 2008 and April 2010. Over 20 trade policy experts, academics and others were retained to provide training to Pacific government officials. Seventeen government officials from fourteen FIC attended a five-day seminar on labour mobility and trade agreements in May 2009⁴ (Pacific Training Modules 2008; Evaluation Report, Module Five: Labour Mobility in Trade Agreements 2009; Interviews 3, 4, 6, 11, 33, 36). It is very interesting to note that Australia offered training to the FIC on managing a negotiation issue – labour mobility – that Australia sought to exclude from the PACER Plus agenda.

The key parties that contributed to negotiation process include the Pacific Islands Forum (PIF) Leaders, Trade Ministers (TM), Australia and New Zealand (A/NZ), the Office of the Chief Trade Adviser (OCTA) and the Forum Island Countries (FIC). Other parties will be addressed as the process unfolds.

Negotiation Process: Significant Events

A detailed list of the events that pushed PACER Plus towards a conclusion is found in Table 3.

Table 3. Detailed list of PACER Plus negotiation events

Date	Event
6/2009	Trade Ministers (TM) recommend PACER Plus negotiations
8/2009	Pacific Islands Forum (PIF) Leaders agree with TM – negotiations commence
10/2009	Initial negotiation framework and priorities established by TM
3/2010	Office of Chief Trade Adviser (OCTA) established to provide negotiation guidance to Forum Island Countries (FIC) with appointment of the first FIC Trade Adviser
4/2010	TM elaborate on priority issues, which coincides with First Negotiation Round
4/2010	OCTA/FIC propose alternative trade negotiation framework
5/2011	TM links goods/services discussion to progress on labour mobility
9/2011	First FIC Trade Adviser resigns
6/2012	Traditional WTO-style trade and development framework adopted in conjunction with the appointment of the second FIC Trade Adviser
7/2013	TM endorsed Roadmap leading toward a WTO consistent treaty – labour mobility and development assistance remain as FIC priorities
5/2014	Fiji re-engages with the FIC by attending OCTA meetings
6/2014	NZ proposes a solution for labour mobility before it becomes a deal-breaker
9/2014	Fiji re-joins PIF and negotiations after returning to democratic rule in 9/2014 but Fiji Prime Minister boycotts PIF Leaders' meetings (until 8/2019)
12/2014	Seventh Negotiation Round with six treaty chapters concluded
9/2015	PIF leaders note considerable progress with deadline set for 6/2016
12/2015	Substantial progress at Eighth Negotiation Round held in conjunction with the 13 th Inter-Sessional Meeting and the 5 th Non-State Actors Dialogue
8/2016	TM approve all text except market access for goods
9/2016	PIF Leaders note the conclusion of almost fifteen chapters, PNG withdraws from negotiations, while Fiji expresses reservations about text
9/2016	Fiji end-game begins with Australia and New Zealand
4/2017	Australia announces conclusion of PACER Plus negotiations without Fiji
5/2017	Legal verification of treaty concluded and text released to the public
6/2017	PACER Plus signed by eleven of sixteen negotiating parties and later these parties sign an accompanying Labour Mobility Arrangement
10/2018	New Zealand is the first country to ratify PACER Plus
10/2020	PACER Plus ratification by eight of eleven national governments that signed treaty
12/2020	PACER Plus enters into Force 60 days after eight members ratify – per treaty rules
2021-2022	Tuvalu and Vanuatu ratify treaty – extending PACER Plus to ten members

Source: Field Research.

TM, OCTA, the Trade Epistemic Community and the Agenda

The October 2009 Trade Ministers (TM) meeting reported on planning for the Office of the Chief Trade Adviser (OCTA), including an annual financial commitment of A\$500,000 from Australia and NZ\$650,000 from New Zealand (combined, over US\$900,000 at 2010 exchange rates). The TM also began to delineate the role and responsibility of the PIF Secretariat and the OCTA, with the latter responsible for keeping Fiji officials briefed. Solomon Islands, as lead spokesperson for the FIC, was asked to brief Fiji until OCTA became operational – although later we learned that Fiji declined to participate in these briefings. The TM agreed to meet three times annually for PACER Plus negotiations in addition to their regular annual TM Meeting. The TM also agreed that national consultations with non-state actors should be wide-ranging and include many communities (PIF Trade Ministers Outcome Document 2009).

The TM also began to establish a negotiation agenda for the preliminary negotiation stage (the first year) based on the following priority issues: rules of origin, regional labour mobility, development assistance, and trade facilitation including sanitary and phytosanitary measures, technical barriers to trade, and standards and customs procedures. Other issues noted for discussion, but not identified as part of the preliminary agenda, included services (health, education, telecommunications, shipping and aviation), investment, economic cooperation and the environment, including renewable energy (Noonan 2011a, 2011b; PIF Trade Ministers Outcome Document 2009).

This trade negotiation agenda is typical of most contemporary trade treaties, except for the inclusion of labour mobility, rather than movement of natural persons (which have similarities). Trade in goods is not mentioned but initially establishing commitments for a reduction in tariff revenue is too complicated for national governments that depend on tariff revenue to support their national budget (it is best to postpone discussions on trade in goods until later). It is clear that, through consensus, A/NZ secured a traditional trade negotiation framework at the October 2009 TM meeting. The final treaty chapters (discussed later) do not deviate far from this initial negotiation agenda.

Shortly thereafter, the Office of the Chief Trade Adviser was established in Port Vila, Vanuatu in March 2010 and led by Dr Chris Noonan, a trade law specialist, who previously worked with the PIF and the FIC in negotiations with the EU and with PICTA. Noonan served as the PACER Plus Chief Trade Adviser from March 2010 to September 2011. In this role, Noonan took the view that PACER Plus should not produce a traditional trade agreement, while the

process should be structured as a policy dialogue not a trade negotiation: 'Rather than start with preconceived ideas, based on previous preferential trade agreements, the development plans and needs of the FIC's should be the starting point' (Noonan 2011a: 23). Concurrently, Noonan acknowledged the priority issues or trade agenda that had been adopted just prior to his OCTA arrival (Noonan 2011b: 2).

Alternative approaches to formalised trade relations had been evolving in the Pacific for over fifteen years through the emergence of a trade epistemic community that included PIF trade specialists and others. In the beginning, this community concluded that global trade liberalisation would have negative implications for island states given their isolation, market size, inability to achieve economies of scale, lack of resources and related matters. These views shifted as this informal community evolved: trade liberalisation would be difficult to avoid and could best be pursued within the Pacific via a 'trade and development agreement' – or, if that framework were not possible, a traditional trade agreement that includes 'pro-development' policy. Partner selection would be critical for achieving such agreements and/or policies. Respondents and Noonan's own academic work indicate that he gravitated to such alternatives during his time at OCTA (Noonan 2011a, 2011b; Morgan 2014a, 2014b; Interviews 5, 16, 36, 39).⁵

Initially, negotiations between OCTA, which represented the FIC, and A/NZ focused on the fundamental purpose, structure and process of PACER Plus. A TM meeting, which coincided with the first PACER Plus negotiation round in April 2010, conducted discussions on the importance of air and sea transport, telecommunications, and water supply infrastructure along with increasing trade in goods and services. Concurrently, OCTA presented legal text that offered an alternative approach to regional integration that would not initially focus on the negotiation of a comprehensive trade agreement (Noonan 2011b: 2–3).

Negotiations and Public Consultation Begin

Inter-sessional meetings followed that conducted discussions on labour mobility, development assistance, trade facilitation (including sanitary and phytosanitary measures, technical barriers to trade, rules of origin and standards and customs procedures). These issues had been agreed to at the 2009 TM meeting, while OCTA and the FIC now recognised these issues as priorities. The PIF leaders welcomed progress made on PACER Plus at their August 2010 meeting although no common text had emerged at that point (DFAT PACER Plus Update 2010; PIFS Annual Report 2010; Noonan 2011b).

Later, the First Annual Non-State Actors Dialogue on PACER Plus was held in Solomon Islands in October 2010, organised by the PIF Secretariat in cooperation with the Pacific Islands Association of Non-Governmental Organisations (PIANGO 2023) and the Pacific Islands Private Sector Organisation (PIPSO 2023). This gathering included senior trade officials from PIF members plus a diverse group of national and regional non-state actors from over fifteen organisations.

A trade officials meeting followed immediately after the first Non-State Actors Dialogue. Negotiators continued discussions on the priority areas. Initially, when discussion turned to sanitary and phytosanitary (SPS) measures,⁶ for example, the Australia team began with a 'hardball tactic' (a very ambitious opening offer), which is a normal approach in negotiations. The Australian negotiation team observed that the FIC could not comprehend what they were doing, nor could they provide a rational response. This was valuable learning for Australia. From that point, Australia's negotiation strategy changed with the aim of helping the FIC understand what they needed to know and how to proceed (DFAT PACER Plus Update 2010; PIFS Annual Report 2010; Noonan 2011b; SPS 2023; Interviews 17, 26, 28, 29, 30, 33, 36, 38).

Incompatible Goals and Interests Emerge

Trade Officials met in Palau in March and TM met in Tonga in April and again in May 2011. In this setting,

'Forum Island Country Trade Ministers agree the PACER Plus discussions of market access on goods and/or services should be conditional on significant progress being made on the priority issues, in particular a commitment from Australia and New Zealand to discuss commitments on labour market access and the broad parameters of that access is agreed' (FIC Trade Ministers Outcome Document 2011).

Essentially, the FIC linked their primary goal to A/NZ's overall goals and took a position: one could not be achieved without the other. PACER Plus would not move forward unless A/NZ included labour mobility for Pacific unskilled, semi-skilled, skilled and professional labour. Traditional trade treaties include skilled and/or professional labour in a chapter titled 'Movement of Natural Persons', but other groups are rarely included.

A/NZ were not against labour mobility, and each were experimenting with various programs, with New Zealand further advanced than Australia; however, A/NZ were very concerned about the precedent created by including unskilled and semiskilled labour within a trade treaty. If included in PACER Plus, Australia (more so than New Zealand) was fearful that

other countries that currently have trade treaties with Australia (e.g. Chile, China, Malaysia, Thailand and others) would demand equal access to the Australian labour market next time these treaties were scheduled for review. The other party's precedents are a valuable source of power in most negotiations, so AN/Z expected to produce a trade treaty within a traditional framework (chapters). Inclusion of unskilled and semi-skilled labour within a trade treaty is well outside traditional parameters (Noonan 2011a, 2011b; Crump and Moon 2017; Interviews 3, 4, 6, 7, 11, 15, 16, 20, 24, 28, 39, 43, 44, 45, 45).

Overall, AN/Z sought to negotiate a trade and development treaty, while the FIC Chief Trade Adviser sought an approach to regional integration that would not focus on the negotiation of a comprehensive trade agreement initially. Moreover, linking progress on goods and services to progress on labour mobility was not appreciated by A/NZ. The goals of these parties were too dissimilar and over time common ground could not be found. Chris Noonan resigned as the PACER Plus Chief Trade Adviser in September 2011, citing personal reasons for his sudden departure. Noonan immediately channelled his energy into two papers that are especially valuable in any PACER Plus archive (Noonan 2011a, 2011b; PIF Annual Report 2011).

Others directly engaged in these negotiations reported that Australia and New Zealand did not appreciate Noonan's contribution to the FIC. In addition, it was reported that some FIC – especially Tonga – raised questions about OCTA's approach to PACER Plus negotiations. One FIC senior trade negotiator observed that eventually Noonan said he had had enough and resigned before another OCTA Adviser was appointed. Noonan was palpably frustrated with Australia and New Zealand. These trade officials made life difficult for Noonan, which probably played a role in his departure (Morgan 2014a; Interviews 3, 5, 6, 15, 16, 21, 28, 39, 45).

Stabilising OCTA and Building a Negotiation Roadmap

Chris Noonan's resignation did not stop negotiations, but they slowed down as the PIF sought another Chief Trade Adviser for the FIC. Meetings of PIF Leaders, trade ministers and trade officials, as well as inter-session meetings and non-state actors dialogue meetings, continued into 2012 and beyond, but without any significant progress. Australia was not interested in finding a labour mobility solution and the FIC were not interested in working to conclude negotiations without one. Furthermore, the FIC also sought Aid for Trade to build trade capacity, including infrastructure, in order to trade effectively (Interviews 3, 8, 20, 39).

The post of Chief Trade Adviser in the OCTA was filled by Dr Edwini Kessie, a talented WTO career diplomat on a five-year secondment to OCTA, in June 2012.

There are, in fact, many talented trade policy experts in A/NZ and the Pacific. Selecting someone from the WTO demonstrated, more than any other decision, that an alternative trade treaty was highly unlikely. The PACER Plus framework would be based on a traditional trade agreement, and these were the terms if A/NZ and FIC negotiations were to continue.

Just prior to Kessie's arrival, 'Trade Ministers lamented the slow progress on PACER Plus negotiations and instructed Trade Officials to increase engagement and make rapid progress on the six priority issues at inter-sessional meetings and agree on a Roadmap for the remaining negotiation issues' at a Marshall Islands meeting in May 2012 (PIFS Annual Report 2012: 40–41). FIC meeting minutes confirm a unanimous agreement to move forward on the six priority issues; curiously, though, there is no mention of a Roadmap.

Nevertheless, the following year a 'Roadmap to Progress PACER Plus Negotiations' was pushed through and adopted at a TM meeting in Samoa in July 2013. This Roadmap states that PACER Plus will be consistent with WTO obligations for FIC who are WTO members and include realistic commitments for FIC who are not WTO members. The FIC level of economic development, however, will be a consideration in providing appropriate trade policy flexibility on a country-by-country basis. Moreover, PACER Plus should be comprehensive in scope and facilitate progressive and substantial liberalisation for trade in goods, services and investment. The Roadmap notes that substantial progress had been made on the six priority negotiation issues (PIF Trade Ministers Outcome Document 2012, 2013). A Roadmap can be an important development within a complex negotiation if key parties have a commitment to apply it. That commitment did not arrive until 2014.

Negotiation Linkage and the Context Influencing the Deadlock

Summary to date: Following is a four year 'snap-shot' of PACER Plus negotiations from the perspective of quotes taken from annual PIF Leaders Meetings who 'agreed that PACER Plus would progress as a matter of priority' (PIF Forum Communiqué 2011: 3), 'FIC should make rapid progress on priority trade issues' (PIF Forum Communiqué 2012: 6), 'trade officials should actively build on substantial progress made in PACER Plus negotiations' (PIF Forum Communiqué 2013: 4), while trade is not mentioned at the 2014 PIF Leaders meeting (PIF Forum Communiqué 2014: 1–6).

Claims made by Trade Ministers in 2013, and echoed by PIF Leaders, that 'substantial progress' had been achieved is an overstatement. Those at the table knew otherwise. The 2009 trade agenda, the establishment of OCTA in 2010 and the 2013 Roadmap do not constitute 'substantial progress' when negotiations had drifted into a deadlock over labour mobility.

Furthermore, some were starting to ask why PACER Plus negotiations were taking so long, and why substantial FIC governmental resources were required of underfunded governmental departments with overworked professional staff. Many parties began rotating their trade negotiators into other posts while new negotiators, with a fresh outlook, began appearing at the table – although often these new negotiators required a period of orientation to trade policy and the task (Interviews 5, 6, 9, 37, 38, 41, 43, 46). It is reasonable to assume that, after five years, A/NZ senior officials were asking questions of those responsible for managing PACER Plus negotiations.

The solution to this predicament was proposed at a PACER Plus meeting in Adelaide in June 2014, but this meeting was conducted within the context just described and a larger 'macro-game' of inclusion and exclusion within Pacific power politics that became linked to PACER Plus negotiations. This latter issue is addressed now.

The second Pacific Islands Development Forum (PIDF) international conference was scheduled to meet the week after this Adelaide PACER Plus meeting, on 19 June 2014. This second meeting was not nearly as successful as the first, but those in Adelaide did not yet know what the second PIDF conference would bring. These circumstances would create uncertainty among PACER Plus negotiators, especially the A/NZ teams – countries that were specifically excluded from joining the PIDF.

These negotiators clearly understood that the inaugural PIDF international conference, held in Nadi, Fiji from 5–7 August 2013, was an enormous success by any standard. That first conference attracted around 300 delegates from 30 countries from Africa, Asia, Europe, Latin America, North America and the Pacific. Five Pacific Island countries sent their head of state or their deputy/vice president, while the other FIC sent ministers and diplomatic representatives. Only four FIC were absent from the inaugural meeting and, of the four, only one – the government of Samoa – publicly criticised the inaugural meeting.

Australia, New Zealand, the United States and other developed states engaged with the Pacific were not offered PIDF membership – and did not attend that first meeting. Pacific-based international organisations (civil society, business, etc.), some based in Australia and New Zealand, were invited to join the PIDF – unlike the PIF that had a history of only working with national governments and international and regional organisations.

The meeting was planned, organised and hosted by the Fiji government, and evolved directly out of its 2009 PIF membership suspension. At that time, the Fiji government issued a press statement indicating that conference funding came from the governments of China, Kuwait and the UAE (totalling US\$689,000), plus some funding from the Fiji business community. The aim of the conference was to form a Pacific

Island-controlled association that advanced a united, distinctive and sustainable Pacific vision of society. Some observed that the PIDF was an idea that resonated with many, as there was no formal venue or institution where Pacific Islanders could speak privately about matters that uniquely concerned them, such as economic development, the environment and climate change (Angelo 2013; Aqorau and Batley 2019; PIDF 2023; Tarte 2015; Wallis 2017; Interviews 1, 2, 12, 22, 26, 28, 38, 40).

There is no direct link between the PIDF and PACER Plus negotiations, as these are clearly separate events. However, separate events that involve the same parties addressing similar issues constitutes a 'linkage-rich environment' (Crump 2007, 2010). Concurrent and consecutive linkages are well-developed areas of negotiation theory and practice – with precedents as the most common type of linkage that contains strategic potential (Crump 2007, 2010, 2011, 2019; Crump and Moon 2017; Watkins and Passow 1996).

PIDF's success in the Pacific regional space in 2013 pushed the PIF to demonstrate its value in that same space, as the PIDF had emerged as a new and energised PIF competitor. Within trade, the single issue preventing PIF members from clearly demonstrating their value in the Pacific space was a solution to the labour mobility deadlock. Something had to give, as PACER Plus was not on track to deliver an agreement.

A Feasible Compromise is Crafted

Australia was completely against the inclusion of labour mobility, and simply ignored FIC demands in the hope that they would go away. Australia was not searching for a compromise solution to this impasse. New Zealand and the OCTA recognised that negotiations had deadlocked over labour mobility. Negotiators were not listening to each other; rather, they were saying their lines in formal meetings and side-meetings, then moving on. PACER Plus meetings demonstrated neither creative thinking nor forward movement. FIC members believed Australia's concern about the creation of a 'trade precedent' lacked legitimacy and was just an excuse. No FIC member was prepared to establish a Schedule of Tariff Commitments for Trade in Goods (Chapter 2) unless a positive deal on labour mobility emerged (Interviews 3, 7, 10, 11, 15, 16, 36, 39, 43, 46). AN/Z could push through a trade agenda and a Roadmap, and even succeeded in appointing a WTO career diplomat to the OCTA – eventually. But AN/Z could not engineer national tariff commitments for each FIC. Without FIC tariffs commitments, these negotiations were absolutely doomed.

First, A/NZ sought a solution on Aid for Trade by consulting with each other and then making a proposal at the Sixth Inter-session meeting in Vanuatu in April 2014. A/NZ explained that a specific

development assistance program should not be part of trade treaty, but rather negotiated on a bilateral basis – between donor (A/NZ) and recipient (FIC). However, A/NZ was prepared to commit to a target dollar amount within PACER Plus as follows: Australia and New Zealand governments would each approve an Aid for Trade funding target of 20 per cent of their annual Official Development Assistance budget (Implementing Arrangement for Development of Economic Cooperation 2017: 2, items 8 & 9). After FIC questions were asked and answered, the overall proposal was acceptable to the FIC, but the final issue revolved around the form of agreement. The FIC wanted this commitment included in PACER Plus Chapter 10: Development and Economic Cooperation, but eventually agreed to having it attached to the treaty as an Implementing Arrangement, which became a precedent that supported a labour mobility solution shortly thereafter (Interviews 3, 8, 10, 20, 39).

The real sticking point, since May 2011, had been the lack of progress on labour mobility. The New Zealand negotiation team began by approaching senior officials within the MFAT Pacific Division and then the Trade Division. Eventually Tim Groser, New Zealand's Trade Minister, was consulted (under Prime Minister John Key), then the New Zealand PACER Plus team was prepared to engage Australia. The Australia PACER Plus team agreed that they could not keep saying no to the FIC on labour mobility, but what next? It took some time. DFAT had to talk about it internally first. DFAT is much larger than MFAT, with more layers that make it less nimble. Eventually, New Zealand and Australia jointly prepared a draft that became the Arrangement on Labour Mobility (2017) with plans for it to be signed, as a separate document, but included with PACER Plus as a non-legal arrangement.

New Zealand presented the proposal at the Seventh Inter-session meeting in Adelaide on 11 June 2014, which included the temporary movement of workers from one participant country to another (Paragraph 1) in an employer-driven scheme that would be subject to labour market demands (Paragraph 5:1). Seasonal labour is mentioned (Paragraph 5:4.b) but nowhere does it address the question of level of skill or professional status. It can be assumed that all skill-levels can participate, subject to labour market demands, as none were included or excluded. Recognition of qualifications appears throughout the Arrangement, while one key objective is to 'support efforts to build the labour supply capacity of the developing country Participants through the provision of relevant education and training opportunities for their nationals' (Arrangement on Labour Mobility 2017: Paragraph 1.g). This Arrangement is managed as a work program and not a training program.

Naturally, the FIC wanted this proposal included in PACER Plus Chapter 8: Movement of Natural Persons, as then it would be part of a legally binding treaty rather than a non-legally binding arrangement. The

FIC had many questions and found that A/NZ were listening. Eventually, the FIC realised that this was probably the best that could be achieved and that trust in a partnership was more meaningful than written words in a legally binding treaty (Interviews 3, 7, 10, 11, 15, 16, 36, 39, 43, 46). This moment was the most significant turning-point in the entire negotiation. With labour mobility finally resolved, the negotiations moved on to conclude market access policies for goods and services, and investment provisions between June 2014 and August 2016.

Forward Movement Resumes

Summary update: The Annual Reports of the PIF Secretariat provides a 'snapshot' of PACER Plus progress at the end of 2013 and at the end of 2014. The difference is remarkable – 2013 follows. 'Officials considered and noted discussions from inter-sessional meetings on the common priority issues including [a list of negotiation issues with no clear statement of progress or accomplishments] ... Officials were encouraged to engage in negotiations, taking into account the Roadmap to progress PACER Plus negotiations' (PIFS 2013: 28). However:

'By the end of 2014, negotiations on Customs Procedures, Sanitary and Phytosanitary (SPS), Technical Barriers to Trade (TBT), Initial Provisions, Final Provisions and Transparency Chapters were concluded. Trade in Services (TIS) negotiations are close to being concluded with only few outstanding issues remaining. More discussions are required regarding Labour Mobility and Development before the countries can conclude negotiations' (PIFS 2014: 33).

Breaking the deadlock contributed to the development of trust, which translated into real progress on the ground and at the negotiation table.

Fiji Becomes (Almost) Fully Engaged

Fiji's PIF membership was finally arriving at a resolution. Originally suspended from the PIF and excluded from PACER Plus in 2009, PIF members quickly had 'second thoughts' about the implications of that decision – some actually said PACER Plus made no sense without Fiji, given its central role as an economic, transportation and political hub within the Pacific, and combined with Fiji's empowering performance on the international stage, initially through the PIDF (Interviews 7, 22, 42, 36).

Invitations to attend PACER Plus meetings had been extended repeatedly by the PIF Secretariat, but Fiji had declined almost all invitations. Finally, Fiji announced that national elections would be held in September 2014 and decided to accept a PIF invitation to become more involved in PACER Plus by attending the eighth Inter-sessional meeting in New

Zealand in September and October 2014 – much had already been achieved within the negotiations at that point. Concurrently, Tommy Remengesau, President of Palau and PIF Chair, 'wrote to the Prime Minister of Fiji conveying the Forum Leaders' decision to fully lift the suspension of Fiji so that it can participate in all Forum activities, including the meetings of the Forum Leaders'. Frank Bainimarama, Prime Minister of Fiji, ignored this invitation (PIFS 2014: 22; Interviews 1, 10, 11, 29, 43, 45).

Fiji continued its involvement in PACER Plus at the Inter-sessional, Trade Officials and Ministerial level from 2014 to the conclusion of PACER Plus negotiations, but the Fijian Prime Minister boycotted the PIF Leaders meeting held in Papua New Guinea (PNG) in September 2015, where the 'Leaders warmly welcomed the participation of Fiji at the Leaders meeting' (PIF Forum Communiqué 2015: 2; PIFS 2015: 47). Mr Bainimarama did, however, send Inoke Kubuobola, Fiji's Minister of Foreign Affairs, with a personal letter to Peter O'Neill, PNG Prime Minister, stating,

'I regret that I am not able to attend myself because of the refusal of Australia and New Zealand to step back and allow the Pacific Island nations to determine their own future free from outside interference' (Siekiera 2015: 147).

Fiji's Global Game Shifts Regional Power Relations

Often, astute negotiators will conduct strategic activities in settings unrelated to the venue where negotiations are convened (trade in the present case) as a strategy to accumulate power, apply power or manage issues that can be linked. Fiji's shift into international climate change can be understood in this context, so this section – although unrelated to PACER Plus – is very much related to Fiji's goal of securing political strength while seeking to weaken its two primary adversaries: Australia and New Zealand.

The fight about inclusion and exclusion in the Pacific had not ended: 'Australia and New Zealand took the approach that if they could marginalise Fiji from the global stage, if they could cut off their aid support ... they could hopefully bully them back to a democratic process' (Walsh 2019: 3, quoting Jonathan Pryke, Director of the Lowy Institute's Pacific Islands Program). Fiji eventually returned to a democratic process on its own schedule, but along the way Fiji strengthened its international standing in a manner that would be unbelievable if it were not clearly documented.

Fiji's attempt to strengthen its international standing began with the United Nations Sixth Committee (Legal), which adopted a draft resolution to provide 'Observer status for the Pacific Islands Development Forum in the General Assembly' (PIDF) at its 31st

meeting on 4 November 2016 (UN Draft Resolution A/C.6/71/L.8 2016).

Working with the United Nations to recognise the PIDF may have established a foundation that supported Fiji's nomination by the Asia-Pacific region (which rotates annually among five regional groups) to serve as the 2017 President of the UN Framework Convention on Climate Change at the Twenty-Third session of the Conference of the Parties in Bonn, Germany from 6–18 November 2017 (UN Report of the CoP FCCC 11-2017).

Former Fiji military Commodore, revolutionary, coup leader and Prime Minister Frank Bainimarama served as president of COP 23 by first presenting 'Fiji's Vision for COP23' as incoming president, at a UN FCCC COP planning conference in Bonn in May 2017 (a month prior to PACER Plus being signed), and later welcomed COP 23 officials, negotiators and observers by providing opening remarks after becoming the COP 23 president, again in Bonn, in November 2017, among other responsibilities (Bainimarama 2017a; 2017b).

Prime Minister Bainimarama notched up many impressive achievements during that period, but he failed to push A/NZ out of the PIF by boycotting PIF leaders' meetings. Bainimarama attended his first PIF leaders' meeting (following Fiji's 2009 suspension) in Tuvalu in August 2019 (PIF Forum Communiqué 2019: 2; PIFS 2019: 51). He was invited to provide the opening speech at a 'Climate Crisis Summit' in Tuvalu the day prior to the Leaders' meeting, but otherwise remained relatively subdued at the 2019 PIF Leaders Forum. In an interview following the 2019 PIF Leaders' meeting, Bainimarama was rather critical of Australian Prime Minister Scott Morrison regarding Australia's commitment to responding to the climate crisis (Lyons 2019a).

Bainimarama's views may have been influenced by a 'fierce debate' between Morrison and the PIF host, Tuvalu Prime Minister Enele Sopoaga, that focused on the climate crisis. Strong differences in national interests obstructed and almost derailed the final agreement, the Kainaki II Declaration for Urgent Climate Action Now (Annex 1 2019: 12–15; DFAT Annual Report 2019–2020: 34; PIF Forum Communiqué 2019: 2; Interviews 13, 11, 14, 22, 40).

Climate change has been a standing item on the annual PIF leaders' agenda for a long time. 'Pacific Leaders' Call to Action on Climate Change' (Annex A 2009: 12–13) is just one of many examples of agreements reached at PIF Leaders Forums since PACER Plus began. As PACER Plus progressed, however, the urgency of climate action became more apparent to the FIC, even if not to the Australian government. By the time PACER Plus was signed and then ratified, climate action had become a prominent issue that was damaging A/NZ–FIC relations, as Australia continued to be the world's largest coal exporter and during that period planned to establish

more coal mines. New Zealand, on the other hand, has a significant agriculture industry that contributes to climate change. Perhaps, Tuvalu Prime Minister Sopoaga's comment to Australia's Prime Minister Morrison best captures the situation: 'You are trying to save your economy, I am trying to save my people' (DFAT Annual Report 2019–2020: 44; Lyons 2019b: 2; Interviews 1, 9, 11, 13, 14, 15, 18, 22, 27).

It is not unusual that conflicting attitudes in one domain, such as climate change, can cross into and influence another domain such as trade during multiple but separate negotiations. On the other hand, a willingness to trust the other side is not domain specific, but rather transcends the entire relationship.

Delays and Deadlines

The tenth Inter-session PACER Plus meeting was scheduled for Vanuatu about the same time as Cyclone Pam, a Category 5 cyclone (the second most intense tropical cyclone on record in the South Pacific basin), hit Port Vila in mid-March 2015. The meeting was postponed to early May 2015 with the focus on converting negotiating notes into draft legal text (Handmer and Iveson 2017: 61; PIFS Annual Report 2015; Interviews 6, 15, 27, 43).

The Forty-sixth Pacific Islands Leaders Forum, held in Papua New Guinea in September 2015, 'recognised that considerable progress had been made ... with negotiations on most chapters close to conclusion and continuing positive engagement and flexibility shown by all parties'. The leaders requested that their trade ministers conclude a high-quality trade and investment treaty by June 2016 (PIF Forum Communiqué 2015: 6; DFAT Annual Report 2015–2016: 26, 32). The PIF Leaders also adopted the Pacific Islands Forum Leaders Declaration on Climate Change Action at this meeting (Annex 1 2015: 8–10) in advance of the forthcoming critical UN COP meeting in Paris in December 2015.

Substantial progress was also achieved at the eighth PACER Plus Officials Meeting, which took place in Fiji in December 2015. Negotiations were focused on trade in goods, temporary movement of natural person, rules of origin, product-specific rules, and general provisions and exceptions. The meeting also reviewed and approved text concluded at previous inter-session meetings, including SPS measures, technical regulations, standards and conformity assessment procedures, customs procedures, transparency, dispute settlement, development assistance, institutional provisions, investment and, finally, arrangements on labour mobility (PIFS 2015: 19).

There are many distributive issues within this list, with interests and goals dictated by level of economic development, WTO membership and the economic, political and personal idiosyncrasies of those who make national decisions; however, trust had emerged and was sustained, which supported a cooperative approach overall.

The 2015 PIF Secretariat Annual Report offers insight into negotiation dynamics. Prior to 2015, PIFS annual reports would mention PACER Plus a couple of times and then devote a couple of paragraphs to the status of the negotiations – typically, confirming discussions at annual PIF Leaders' meetings. The 2015 Annual Report also reviews comments and decisions from the PIF Leaders (pages 9 and 50), but we also find PACER Plus mentions under regionalism (page 11), non-state actors' engagement (page 33) and a large section on PACER Plus accomplishments under economic integration (page 18). The 2015 Annual Report is remarkable in its attention to PACER Plus (PIFS 2015). Clearly, the Pacific Island community (apart from some within civil society) had begun to embrace PACER Plus as its own.

Civil Society's Resolute Approach

A/NZ and the civil society network opposing PACER Plus have differing world-views about what development means. A/NZ believed they were promoting a trade and development treaty, while civil society strongly believed development via an international trade treaty was unsuitable for the Pacific islands. As such, civil society's overall goals and strategies were aimed at stopping, derailing or stalling these negotiations. Network members said those involved felt passionate about this work and had a sense of urgency about the issues.

The Fiji-based Pacific Network on Globalisation (PANG 2023) is primarily a research organisation with an ability to mobilise a large advocacy network. PANG was recognised by others as the leading civil society agent in the fight against PACER Plus. PANG worked closely with the Fiji-based Pacific Islands Association for Non-Governmental Organisations (PIANGO 2023), a consortium of NGOs based on nineteen island states, and the Social Empowerment and Education Program (SEEP 2023), which is also a Fiji-based organisation that is founded on social justice and promoting people-centred development.

PANG operates on the principle that trade treaties marginalise the rights of Indigenous island people and contribute to the destruction of their environment, while concurrently shifting Pacific islanders out of the informal economy and into the formal economy. PANG believes the informal economy is more resilient than the formal economy. PANG was able to motivate and compel many others to work to achieve this overarching goal.

PIANGO was very involved in Non-State Actors Dialogue meeting by serving as co-chair along with the Pacific Islands Private Sector Organisations (PIPSO 2023) – in cooperation with OCTA and the PIF Secretariat. Perhaps, PIANGO did not realise that its organisation provided legitimacy to PACER Plus by serving in this capacity, while PANG was completely focused on delegitimising PACER Plus negotiations.

PANG did attend two or three Non-State Actors' Dialogue meetings but reported that it did not find

these meetings useful. PANG unsuccessfully sought material from OCTA prior to these dialogues, then expressed the view that discussions would have been better informed if the material sought had been distributed to everyone in advance. PANG further complained that OCTA was unwilling to work together in shaping the meeting agenda. For example, PANG asked OCTA whether it could present its Social Impact Assessment of PACER-Plus (2016) at a Non-State Actors Dialogue meeting and was allocated just five minutes to speak about this detailed 70-page study. PANG concluded that the dialogues lacked flexibility and ultimately were not designed to be effective.

PANG sought other engagement mechanisms by developing an advocacy message through research and analysis, then convening a space to share that message. PANG had a standard presentation on PACER Plus that it would present to various public forums. PANG also sought out the media and would organise side-events, such as panel discussions, that would raise questions about the value of PACER Plus. Such events would not only coincide with PACER Plus meetings but could be conducted at the same time as, and in the same venue where, PACER Plus negotiations were held.

During PACER Plus public hearings, PANG would ask an NGO member from PIANGO or SEEP to speak at that hearing and even provided analysis or written text that could or should be presented. PANG was said to be overbearing and pushed boundaries, which sometimes created pushback within the civil society network, but concurrently PANG is respected in the Pacific for being firm, consistent and uncompromising.

PANG and PIANGO built relationships with the media, the PIF Secretariat, PACER Plus negotiators and FIC government officials in their capital cities – especially in Fiji, PNG and Vanuatu. PANG referred to these relationships as friendships and would ask its friends for information, and even negotiation text, to publish an analysis of that text. Often, PANG was told that its analysis was based on old text as negotiations had moved on. Nevertheless, PANG continued to use its network of academics and experts to build counter-arguments against negotiation positions and then feed these arguments to friends inside PACER Plus negotiations.

Most of this work was conducted in Suva, Fiji, which is home to many NGOs and international organisations, given its role as a regional hub. The Republic of Fiji is not a benign place to conduct robust advocacy. Some advocates reported that the local police would visit a PIANGO or PANG member at their home and question them about their advocacy work – there are no reports of arrests, however. Some civil society advocates have well-developed social and communication skills that they used in their fight against PACER Plus, but they also used these skills to build rapport with the local Fiji police – sometimes drinking kava together – so the police

would feel a sense of alignment on a personal level with these advocates.

PACER Plus negotiators, as well as other relevant government officials, offered varying views on the civil society organisations that advocated against PACER Plus. Some were negative about the civil society network, while others offered a balanced view. The Solomon Islands government published an indirect rebuttal to the civil society network with an introduction that stated,

'PACER Plus is a landmark trade and development agreement that aims to create jobs, raise standards of living and encourage sustainable economic development in the Pacific region'
(Solomon Islands 2019: 1).

More than one respondent said there was a lot of media about PACER Plus that was not positive. PACER Plus is not perfect, as there are some legitimate issues, but there was also a lot of 'fake news' published about PACER Plus. The Samoa Umbrella for Non-Governmental Organisations (SUNGO 2023), a PIANGO member, opposed PACER Plus and was assertive but not aggressive. But SUNGO's media release on the total loss of government revenue and the total increase in taxes was not accurate. Samoan trade negotiators observed that SUNGO sometimes exaggerated or offered misinformation.

Representatives of Cook Islands observed that civil society objections were not relevant, as the country exports pearls, imports goods and manages tourism. PACER Plus does not threaten these local industries. The Nauru Island Association of Non-governmental Organisations (NIANGO 2023), also a PIANGO member, and the Nauru Chamber of Commerce (NCC 2023) agreed that local companies would not be able to compete if A/NZ companies arrived, as they are much larger and have stronger competitive advantages.

Some A/NZ representatives acknowledged that civil society had some legitimate arguments against PACER Plus for being too comprehensive and taking up too much FIC governmental time when that time could have been used to deal with more pressing matters. However, civil society also held misinformed views combined with a bit of conspiracy theory. A/NZ did not have an agenda to 'rip-off' the FIC; rather, if some aspects of PACER Plus went wrong it was due to governmental incompetency. Other A/NZ representatives said civil society was entitled to its views and the government was obligated to take in what was said, but that did not mean the government must agree with everything civil society said. Competent governments expect and plan to include civil society within the negotiation process – not at the table, but by providing updates and briefings and seeking comments (NCC 2023; NIANGO 2023; PANG 2023; PIANGO 2023; PIPSO 2023; SEEP 2023; SUNGO 2023; Interviews 3, 7, 8, 17, 19, 27, 28, 29, 30, 37, 38, 43, 45).



Photo: A group photo of participants at the Seventh Non-State Actors Dialogue on PACER Plus with Minister of Climate Change Ham Lini (seated centre). (Daily Post [Gov't to sign PACER Plus | News | dailypost.vu](https://www.dailypost.vu/news/govt-to-sign-pacer-plus))

Negotiation Process: End Game

PACER Plus began shifting towards a conclusion in early 2016, as Forum Leaders had set a June deadline – which would not be achieved. Trade negotiators had addressed some of the more challenging issues at Inter-sessional meetings and shifted difficult issues and decisions up to the PIF trade ministers. A critical meeting was chaired by the New Zealand Trade Minister in Christchurch in August 2016. This meeting included sixteen trade ministers or their representatives plus the OCTA and the PIF Secretariat. This section considers the end game from three perspectives including A/NZ ↔ FIC, PNG and Fiji.

A/NZ ↔ FIC End Game

Trade ministers sought to examine outstanding PACER Plus issues, as well as recommendations received from OCTA and the Pacific Labour Mobility Annual Meeting (PLMAM), and to agree on modalities or a method for concluding negotiations and signing the treaty, followed by treaty ratification by each signatory country. First, ministers provided directions to their trade negotiators for concluding Chapter 2 (Trade in Goods) in seeking resolution to (1) provisional measures, (2) most favoured nation policies and (3) industry development policies (e.g. infant industries). Furthermore, the ministers agreed that market access issues found in the Schedules of Commitments on Tariffs and prepared by each FIC⁷ would be an Annex to Chapter 2 (Trade in Goods).

Second, the TM were pleased to learn that the PACER Plus legal team had been hard at work resolving all outstanding legal text issues. Fifteen Treaty chapters plus the Preamble had been concluded. A timetable to complete negotiations for the Annex to the Trade in Goods chapter was established with a deadline set for October. Legal verification of the entire PACER Plus text would then be concluded by November 2016.

Third, TM noted that A/NZ would provide appropriate resources for PACER Plus implementation. The PLMAM would be established under the Labour Mobility Arrangement to provide program development guidance. The TM thanked the A/NZ for providing funds for PLMAM as part of PACER Plus implementation.

Fourth, the Ministers endorsed the recommendations and conclusions contained in the Sustainable Impact Assessment, on possible economic, social and environmental impacts of trade liberalisation under PACER Plus. This study had been prepared by OCTA in consultation with relevant stakeholders, including via Non-State Actors Dialogue meetings.

Fifth, the PACER Plus Trade and Development Treaty was expected to be signed by the end of 2016. Ministers welcomed the A/NZ announcement that they would jointly provide A\$7.7 million for a

'Readiness Package' for those PIF members that signed the treaty. These funds would only be used to assist national governments in managing legislative, administrative and communication commitments during each country's treaty-ratification process (PIF Trade Ministers Outcome Document 2016: 1–3).

The PIF Forum Leaders met two weeks later, in September 2016, in Pohnpei, Federated States of Micronesia (FSM). One of many agenda items at this meeting was to review the recommendations of their Trade Ministers. The leaders wanted PACER Plus to contribute to regional integration in the Pacific and to assist FIC to achieve robust economic growth and sustainable development. They endorsed all the work undertaken by their TM (PIF Forum Communiqué 2016: 6; PIFS 2016: 36–37). In addition, 'Leaders accepted French Polynesia and New Caledonia as full Members of the Pacific Islands Forum' (PIF Forum Communiqué 2016: 5), which made each eligible to sign the PACER Plus treaty, although neither member became engaged in PACER Plus negotiations.

Tariffs, Taxes and Government Revenue

The link between labour mobility and market access for goods and services, established by the FIC in May 2011, had finally been resolved, as the FIC believed labour mobility and its implementation had been addressed in a meaningful manner at the trade ministers' meeting in Christchurch in August 2016. The FIC were now prepared to make compromises on tariffs but so was the A/NZ. Within a trade treaty, for example, tariff liberalisation for a specific good is normally phased-in over three to five years – with full liberalisation (little or no tariffs) at the end of the phase-in period – but the FIC wanted longer phase-in periods. Initially, Australia was against extended phase-in periods, but eventually agreed to periods of up to 35 years. Such extended phase-in periods are unheard of in the negotiation of trade treaties (Interviews 1, 5, 6, 45).

Tariffs were a prominent issue in the Sustainable Impact Assessment that was prepared by OCTA for the Christchurch meeting. Tariffs on goods and services are an important source of governmental revenue in many countries, while also serving as a way to protect politically sensitive and/or commercially valuable sectors of the economy. This relationship between tariffs, governmental revenue and economic protection is normally addressed when a country joins the WTO, as all WTO members approve a country's WTO accession through negotiation (WTO Accessions 2023).

The task of restructuring a national government's revenue stream and balancing its national budget can

be a complicated and painful political task. PACER Plus, Trade in Goods, Chapter 2, Annex 2-A lists 12 FIC who each established their Schedule (detailed plan) of Commitments on Tariffs (PACER Plus Tariffs 2017). This was a complicated task for those four FIC who were WTO members, but it was an especially complicated and painful task for the eight FIC who were not WTO members.

OCTA made the task manageable by providing an Excel-based Data Tool that produced tables to support analysis of tariff reductions. This Data Tool could manage 5000 tariff lines (each tariff line constitutes a specific product type in a tariff classification system) that would identify if a good or good category were to be included or excluded. If included, then what was the current tariff and how many years would be allowed to fully liberalise a particular good or good category. This tool could also be used to determine the impact of tariffs on national taxes, and hence government revenue, over time. Conducting such analysis required each national government to consult with industry to identify sensitive products or sectors that required protection. After analysts conducted such work, they would present their findings to their government and/or their national Tax Board so policy decisions could be made for managing government revenue that was lost via tariff reductions due to PACER Plus trade liberalisations (Interviews 3, 9, 27, 37, 38, 43).

PNG's End Game

Peter O'Neill, the Prime Minister of Papua New Guinea (PNG), first mentioned that he may not sign the PACER Plus treaty in a 2015 keynote address presented at an Australia–Papua New Guinea Business Council meeting, although privately (that same evening after the speech) he told an Australian assistant trade minister to ignore that comment, as he planned to sign the treaty. O'Neill offered greater clarity the following year by announcing that his country would withdraw from PACER Plus at the PIF Forum Leaders Meeting in September 2016 (PIF Forum Communiqué 2016: 6; Interviews 5, 9, 11, 33, 44).

There were, however, earlier signs regarding PNG's commitment to PACER Plus. Initially, when the OCTA invited FIC members to prepare a list of offensive interests/goals (what I want) and defensive interests/goals (what I don't want to give), PNG's defensive list was so long that other FIC members agreed that PNG might as well stop negotiating then and there. In addition, negotiators reported that PNG did not attend meeting regularly and, over time, PNG junior governmental officials were more likely to attend. Furthermore, tariffs are an important part of the PNG governmental budget, while agriculture is the backbone of PNG society with tariffs that protect this sector. Subsistence and small land-holding farmers could not survive if tariffs were removed on agriculture products. But the elephant in the room is the corporations that control the PNG economy – many

from Australia and New Zealand – who are politically powerful and wish to minimise competition (Interviews 5, 7, 9, 11, 13, 29, 33, 42, 43, 44).

Fiji's End Game

Early on, A/NZ came to realise that a treaty without Fiji was far from ideal. A/NZ government officials are still searching for a strategy to secure Fiji's signature on the PACER Plus treaty. Many wonder why Fiji declined to sign PACER Plus, while some wonder why A/NZ decided to close negotiations without Fiji. Some respondents said it was personal (Fiji's senior government officials felt deep resentment towards A/NZ), given the way Australia bullied and humiliated Fiji in 2009–2011. Some said Fiji's rejection of PACER Plus could have been a face-saving act. Some said it was political, as Fiji actively sought a Pacific Forum that excludes A/NZ. Some said Fiji negotiated in good faith and would have signed the treaty if A/NZ had made sufficient compromises – especially around the most favoured nation clause within PACER Plus. Some said that they still wonder whether Fiji actually had a real intention to agree or simply sought to prolong and/or undermine these negotiations and the treaty.

Perhaps former Fiji Attorney-General Aiyaz Sayed-Khaiyum understands Fiji's true institutional motives, as it is said that he and Frank Bainimarama typically made all high-level decisions within Fiji. Bainimarama, however, was preoccupied in Germany as the 2017 incoming COP president during the PACER Plus end-game. Perhaps the former Fiji Attorney-General is the only one who really understands Fiji's motives for rejecting PACER Plus, as he most likely made the final decision (Interviews 1, 6, 7, 11, 13, 19, 20, 26, 33, 37, 38, 45). It is likely that we will never know.

We do, however, know the issues that were negotiated, the positions that were taken and the process that unfolded, so this is what we will review now. Negotiations between A/NZ and the FIC, except Fiji, were pretty much concluded by the end of 2016, as FIC members used the Data Tool provided by OCTA to establish a Schedule of Commitments on Tariffs (PACER Plus Tariffs 2017).

Fiji expressed reservations about the current legal text at a Forum Leaders Meeting in September 2016 (PIF Forum Communiqué 2016: 6), but Fiji agreed to work out its concerns about the treaty through negotiation. Fiji was justified in seeking such changes, as it had not been involved in framing the negotiations in the beginning.

Some reported that Fiji had already prepared its tariff commitment, but Fiji said it would not disclose its commitments until after changes were made to the treaty text. Initially, Fiji produced a long list of issues involving goods, services and market access issues. Some A/NZ negotiators thought several items on Fiji's list were actually non-issues. However, Fiji's two primary negotiation issues were (1) the most favoured nation (MFN) provisions and (2) industry development

policies (e.g. infant industries). Fiji wanted these two issues resolved before talking about tariffs.

MFN⁸ provisions are a fundamental part of the WTO rules that Fiji adopted when joining the WTO in 1996. However, in the case of PACER Plus, Fiji did not want MFN included in the PACER Plus treaty. MFN is mentioned throughout the treaty and specifically listed under Trade in Services, Chapter 7, Article 3 and at Annex 1 (PACER Plus Final Agreement 2017: 98 and 753–806). If MFN were to remain in the treaty, Fiji wanted an exception – although it would be difficult to offer an exception to Fiji without extending an exception to other FIC. Fiji's rationale was that they might later secure something valuable from a third partner – the United States or European Union, for example – by giving away something valuable (Fiji receives something valuable in exchange for giving something valuable). MFN, within PACER Plus, would require that Fiji give to A/NZ whatever Fiji gave to a third country (United States or European Union, for example), but without receiving something valuable from A/NZ in return. Essentially, in practice MFN limits a nation's policy space, as MFN policy asserts that a nation cannot discriminate against its trading partners. Apparently, Fiji wanted to maintain the right to discriminate, as Fiji continued to argue that it did not want PACER Plus to constrain its policy space when conducting future trade negotiations.

Other FIC cooperated with Fiji in pushing back on MFN. New Zealand was more flexible than Australia on the issue, but neither country was willing to relax MFN provisions very far. Eventually the FIC recanted, Fiji was run over and the A/NZ prevailed, but not without

several eleventh-hour phone calls between Fiji and Australia. Some observed that negotiations became emotionally charged at the point when the FIC abandoned Fiji on MFN (Interviews 6, 13, 20, 36, 43, 45).

The second issue involved infant industries, which is one part of an industry development policy found in Chapter 2, Article 9 (PACER Plus Final Agreement 2017: 20–22). This policy establishes a framework that allows an FIC to request the establishment of a Joint Committee to approve an industry development measure to support (1) the establishment of a new industry or (2) a new branch of production in an existing industry. The policy goes on to identify the conditions under, and the time period in which this provision can be applied and when it would conclude. Fiji said that the provisions for protecting infant industries were insufficient, but Fiji never proposed specific changes. OCTA believed that if Fiji had presented a proposal, then A/NZ would have considered that proposal. In the end, Fiji said the Industry Development framework to protect infant industries was not sufficient.

Australia's Trade Minister, Steven Ciobo, announced that PNG and Fiji had elected not to sign PACER Plus in April 2017, and several days later Fiji's Trade Minister, Faiyaz Koya, said his country did not pull out of PACER Plus trade negotiations; rather, Fiji was excluded (Interviews 10, 13, 15, 22, 26, 36, 43). In the end, it appears that Fiji and A/NZ each reached their resistance point, or bottom line, and their negotiation deadlocked.



Photo: PACER Plus Rules of Engagement Workshop June 2024 (Solomon Islands Government Press Release).

Negotiated Outcome

Following a PIF trade ministers' meeting in Brisbane, Australia, OCTA released an announcement entitled 'PACER Plus – a Landmark Trade and Development Agreement for the Pacific Region' on 20 April 2017, that lists fourteen of sixteen PIF members who contributed to the conclusion of PACER Plus negotiations. The agreement includes trade in goods, services and investment in support of regional economic growth. The agreement removes trade

barriers, including lowering tariffs, while considering the varied levels of development and unique vulnerability of small island developing states through tariff reductions that occur over a 25- to 30-year period in some cases. The entire PACER Plus treaty is 806 pages. Table 4 provides an overview of the treaty by listing the Preamble and all fifteen chapters (PACER Plus Final Agreement 2017).

Table 4. Treaty chapters: Pacific Agreement on Closer Economic Relations Plus

Chapter	
	Preamble
1	Initial Provisions and General Definitions
2	Trade in Goods (and schedule of commitments on tariffs)
3	Rules of Origin and Verification Procedures
4	Customs Procedures
5	Sanitary and Phytosanitary Measures
6	Technical Regulations, Standards and Conformity Assessment Procedures
7	Trade in Services
8	Movement of Natural Persons
9	Investment
10	Development and Economic Cooperation
11	General Provisions and Exceptions
12	Institutional Provisions
13	Transparency
14	Consultations and Dispute Settlement
15	Final Provisions

Source: Australian Government, Department of Foreign Affairs and Trade (<https://www.dfat.gov.au/trade/agreements/in-force/pacer/documents>) New Zealand Government / Te Kawanatanga o Aotearoa Ministry of Foreign Affairs & Trade / Manatu Aorere (<https://www.mfat.govt.nz/assets/Trade-agreements/PACER-Plus/PACER-Plus-consolidated-legal-text.pdf>)

This is not the alternative trade agreement that some sectors of civil society sought, but it is clearly a trade and development treaty within a traditional trade framework, as development-oriented policies are included throughout the treaty along with a specific chapter devoted to development and economic cooperation (see PACER Plus, Chapter 10).

A/NZ negotiated three important financial commitments that remain in the final draft. First, A/NZ would provide A\$7.7 million to support FIC in make legal changes necessary for treaty ratification including updating customs and clearances systems. These funds eventually established the 'Readiness Package' program (more on this under Treaty Ratification). Second, A/NZ would also provide A\$25.5 million in development assistance, following treaty ratification, to support a

comprehensive work program including strengthening biosecurity, improving quality standards and promoting trade in services and investment (later, establishing the PACER Plus Implement Unit in Apia Samoa). Third, A/NZ agreed to increase their spending commitments for Aid for Trade to enhance FIC engagement in international trade, with Australia targeting 20 per cent of its Pacific official development assistance budget and New Zealand targeting 20 per cent of its total overseas development assistance budget for Aid for Trade purposes. Finally, separate from the PACER Plus Agreement is a stand-alone Labour Mobility Arrangement that established a broad framework for labour cooperation throughout the Pacific to build labour supply capacity in FIC while responding to unmet labour demand in A/NZ (OCTA Media Release 2017; Interviews 1, 3, 5, 10, 19, 20, 27, 39, 42, 43, 45, 46).

After negotiations concluded, parties prepared and converted the agreement into legal text, which was achieved on 24 May 2017. Once prepared, the treaty text was released to the public on 31 May 2017 – the same day as the seventh and final Non-State Actors Dialogue meeting, held in Port Vila, Vanuatu.

Shortly thereafter, FIC sent representatives to a ceremony to sign the Pacific Agreement on Closer Economic Relations Plus (PACER Plus) on 14 June 2017. Ten PIF members signed this trade and development treaty in Nuku'alofa Tonga. Four other PIF members were expected to sign the treaty later, although only Vanuatu signed later – making a total of eleven PIF members that signed PACER Plus (PACER Plus Final Agreement 2017: 751–752; DFAT Annual Report 2016–2017: 32; New Zealand Annual Report, MFAT 2016–2017: 23; PIF Forum Communiqué 2017: 6; PIFS 2017: 14).

Tonga serves as the Depositary for the treaty which required Tonga to 'notify all the Parties of signatures, acceptances, ratifications, accessions to, and withdrawals from this Agreement' (PACER Plus Final Agreement 2017: Article 10.2b).

Treaty Ratification

With the PACER Plus treaty signed, the focus shifted from regional to domestic negotiations as each country followed its own constitutionally defined path for ratification of an international treaty. A/NZ helped through a Readiness Package, which supported FIC to engage in the ratification process by addressing several key technical and political issues. The Readiness Package helped FIC that signed PACER Plus to: (1) become familiar with the harmonised system (HS) established by the World Customs Organization;⁹ (2) support FIC governments and the private sector to understand how to apply Rules of Origin (ROO), which are used to determine

the country of origin for each export product; (3) support FIC to understand how to adjust tariffs, while managing losses in national revenue; and (4) assist FIC in understanding how to consult with stakeholders to assure policy transparency, as business, civil society and church groups must be consulted and participate in the treaty-ratification process so buy-in and a sense of national legitimacy occur.

In conducting treaty ratification, all national governments require some kind of formal review followed by a ratification decision. The two most common types of decisions occur within a parliament/legislature setting or within a cabinet setting. Larger, more complex countries tend to require approval by a parliament/legislature, while smaller countries tend to require Cabinet approval, but there is no firm rule on such matters (Interviews 3, 4, 6, 7, 15, 18, 19, 21, 24, 27, 28, 33, 37, 38, 40, 41, 43, 46).

The treaty 'shall enter into force 60 days after the date on which no fewer than eight negotiating Parties have notified the Depositary [Tonga] in writing of the completion of their international requirements' (PACER Plus Final Agreement 2017: Article 8.1).

New Zealand was the first to ratify the PACER Plus agreement on 24 October 2018, followed by Australia (December 2018), Samoa (July 2019), Kiribati (July 2019), Tonga (March 2020), Solomon Islands (June 2020), Niue (July 2020) and the Cook Islands on 14 October 2020. With eight treaty ratifications, the PACER Plus treaty entered into force on 13 December 2020. Later, Tuvalu (April 2022) and Vanuatu (August 2022) ratified PACER Plus and have since joined the others in its implementation. Of the eleven countries that signed PACER Plus, only Nauru has yet to ratify the treaty (DFAT PACER Plus News 2023). Table 5 provides a list of all PIF member and their status relative to PACER Plus.

Table 5. Negotiated outcome: PACER Plus

Signed and ratified treaty prior to entry into force on 13/12/2020	Signed treaty but ratified after entry into force	Signed but treaty not ratified	Declined to sign treaty but clearly sought to join PACER Plus	Refused to become a PACER Plus member
Australia Cook Islands Kiribati New Zealand Niue Samoa Solomon Islands Tonga	Tuvalu Vanuatu	Nauru	FSM (Micronesia) Marshall Islands Palau	Fiji PNG

Source: Field Research.

Outcome Analysis

We will begin by examining that single country that signed but has not ratified PACER Plus, followed by FIC that declined to sign PACER Plus, and conclude with those countries that were uninvolved in PACER Plus negotiations although they have the legal right to sign the treaty.

Signed but Declined to Ratify PACER Plus

To engage in trade liberalisation, Nauru (a country of around 10,000 people) would be required to reduce its import tax, which is a major source of governmental revenue and perceived to be problematic by the Nauru national government. Ratification of an international treaty in Nauru first requires that the Nauru Ministry of Foreign Affairs and Trade conduct an assessment and provide a recommendation to the Nauru President, who is the Cabinet chair, for Cabinet discussions and a decision. The ministry has not conducted that assessment as there is no political or practical urgency within Nauru to follow up with PACER Plus (Republic of Nauru 2023; Interviews 6, 7, 19, 28, 33, 41, 46).

FIC that Declined or Refused to Sign

Fiji and Papua New Guinea's rationale for declining to join PACER Plus was examined in the section on the Negotiation End Game, which leaves the three Compact Countries – the Federated States of Micronesia (FSM), the Republic of the Marshall Islands (RMI) and the Republic of Palau.

FSM, RMI and Palau each hold a Compact of Free Association (COFA) with the United States, based on an international treaty governing a relationship of free association that became law in November 1986. These three countries are each sovereign nations – and UN members – but that does not mean they can independently conduct their own international affairs. Each country traded its national sovereignty for significant benefits offered by the United States.

It is useful to note that the three Compact Countries are not WTO members, although each submitted its PACER Plus Schedules of Commitment on Tariffs (Chapter 2, Annex 2-A), which is a very ambitious task for any government that has not previously conducted this kind of national analysis. The Compact Countries reported that they collaborated in establishing their individual Schedule of Tariff Commitments.

The Compact Countries were serious about joining PACER Plus, as they reported that they believed the knowledge and skill gained through the treaty would help them to export agricultural goods more effectively to the United States – and may assist in opening A/NZ markets, which are not currently accessible.

COFA requires that the three Pacific members consult with the United States if any of them intend to sign a trade treaty. The Micronesia Trade and Economic Committee, a committee of the three Compact Countries, drafted and delivered a letter to the US Embassy on Pohnpei Island in FSM. The letter raised many issues, including a request to

meet with the US State Department to discuss the possibility of relaxing the Most Favoured Nation (MFN) clause within the COFA agreement. The MFN clause was seen to complicate their entry into PACER Plus.

Four government officials working for the Compact Country were interviewed for this research project. One representative said that they never received a US response (as of September 2022) after delivering the 2017 letter. Another representative said the US had advised strongly against joining PACER Plus because of the MFN clause. Perhaps the formal communication channel offered no response, while the informal communication channel strongly advised the Compact Countries against joining PACER Plus.

The Compact Countries would not be required to offer trade benefits to A/NZ that are currently being offered by the United States, but these countries would be required to offer to the United States benefits received from PACER Plus.

The decision to withdraw from PACER Plus after so much work was not a group decision. Each Compact Country made an individual decision not to travel to Tonga to sign the treaty based on its own national analysis. The Marshall Islands, for example, declined to sign PACER Plus because of complications with the COFA MFN provisions. The FSM concluded that reducing import tariffs would result in a significant loss of government revenue by joining PACER Plus. The FSM was offered 30 years to adjust the government's revenue stream from tariffs, although the challenge was felt to be too difficult. The FSM also concluded that its labour force was not fully prepared to engage in international trade – the government was fine, but industry lacked accounting expertise and manufacturing competency among other skills (Interviews 1, 3, 6, 7, 10, 13, 14, 25, 34, 35, 45).

PIF Members Uninvolved in Negotiations

French Polynesia and New Caledonia (not listed in Table 5) were PIF Associate Members until 2016, when they became PIF Full Members. This transition provides each with legal standing to sign the PACER Plus agreement, but there are complications. Each is recognised as a French overseas territory, and listed as an UN Non-Self-Governing Territories (United Nations and Decolonisation 2023). French Polynesia and New Caledonia are not independent countries. Second, engagement with PACER Plus would require these two territories to gain French approval, as each lacks authority over its foreign affairs and international relations.

It was reported that the French government had advised each territory to examine PACER Plus and arrive at its own decision about its relevance and then consult with France. There were reports that some political will to become involved with PACER Plus did exist, although several domestic businesses controlling certain sectors of the New Caledonia economy do not desire the competition that trade liberalisation would bring. These two FIC members were not engaged with OCTA or the negotiations and were never expected to sign the treaty (Interviews 1, 6, 10, 21, 32, 33, 36, 43).



Photo: Customs administrators and stakeholders from the Pacific met at the PACER Plus Implementation Unit in Apia, Samoa, for the five-day Regional Workshop on Harmonised System in 2023. (PACER Plus Implementation Unit <https://pacerplus.org/resources/media-portal/press-releases/workshop-strengthens-regional-customs-administrations>)

Treaty Implementation

Much can be said about treaty implementation, but the primary focus of this case is on unpacking the negotiation dynamics that established the negotiation outcome. Treaty implementation is beyond the parameters of the current study; nevertheless, it is useful to offer a brief overview of the PACER Plus implementation process as treaty implementation is being conducted in a manner that is quite unique within the field of international trade.

Typically, nations that sign treaties are solely responsible for treaty implementation, although prior experience with SPARTECA (1981) – the first South Pacific regional trade agreement – demonstrated that generally FIC were unable to gain economic benefits from a trade treaty. Fiji's textile industry and Samoa's auto accessory production may be the only economic sectors in the Pacific that gained economic benefit through SPARTECA. This time, A/NZ agreed that they were obligated to take complicated trade treaty language and support each FIC to internalise that treaty language so that it could convert into policy (Interviews 1, 2, 5, 7, 36, 39, 45, 44). Essentially, PACER Plus implementation is a policy and administration exercise that is

coordinated at the regional level and executed at the national level.

Planning for PACER Plus implementation began in late 2019 and was followed by a trade ministerial meeting in early 2020. Shortly thereafter, COVID forced planning for treaty implementation online, but planning did continue. Initially concerns involved the physical location of the PACER Plus Implementation Unit (Samoa submitted the proposal that was most consistent with established criteria), who the Implementation Unit would report to, budget and finance issues, staffing issues and other matters. In terms of trade issues, DFAT again retained the University of Adelaide to conduct a rapid trade-related needs assessment. Labour mobility was a thorny issue within PACER Plus implementation, as the non-binding Arrangement on Labour Mobility (2017) was not formally a part of the treaty, although the Arrangement grew out of PACER Plus negotiations. This issue was resolved to the point where labour mobility is now an important part of Implementation Unit's work.

Cook Islands, Samoa and Vanuatu provided leadership in implementation planning, while smaller FIC such as

Kiribati, Nauru and Tuvalu were also engaged. There was substantial disagreement initially about building a budget, based on the A/NZ contribution of A\$25.5 million (A\$19 million from Australia and NZ\$7 million from New Zealand) over five years to December 2025, but eventually national interests were discussed, unpacked and put aside, and consensus was achieved. Otherwise, reports indicate that planning to establish the PACER Plus Implementation Unit was based on a collaborative partnership and at times robust consensus-building.

Several working groups and committees have been established within the Implementation Unit; these include FIC members that signed and ratified the treaty, while the one FIC member that has not yet ratified the treaty – Nauru – holds observer status on these committees. There is an annual trade ministers meeting devoted to the Implementation Unit and Senior Officials Meetings that are normally convened twice a year. The

Budget Committee meets at least twice a year and various technical committees (e.g. customs, rules of origin, technical barriers to trade, SPS measures, investment) also meet at least twice a year or as necessary. All these efforts support the development of an annual plan plus a five-year plan (Implementing Arrangement for Development of Economic Cooperation 2017; Interviews 4, 19, 20, 21, 39, 41, 46).

Current activities of the Implementation Unit can be observed on their website. In the most recent fiscal year, the Implementation Unit organised a Joint Committee Meeting in Niue that achieved substantial advancement in trade in goods, services, investment, labour mobility and measures to enhance the long-term impact of PACER Plus. The Joint Committee also adopted the Annual Plan and a Roadmap for the next financial year along with a General Review process to assess overall effectiveness and areas for improvement (PACER Plus Implementation Unit 2023).



Photo: The seventh PACER Plus Joint Committee Meeting brought together high-level government officials from the ten PACER Plus member countries in Apia, Samoa. (Courtesy of Samoa Government)

PACER Plus: Learning and Key Takeaways

As a negotiation case, the Pacific Agreement on Closer Economic Relations Plus offers a rich database of social interactions that highlight learning opportunities and key takeaways for managing social conflict in complex settings. Some of these key takeaways are specifically relevant to the parties involved in this negotiation, but some have more general relevance. The following discussion briefly outlines the key takeaways and the social dynamics that support these learning opportunities.

Essentially, this sixteen-party negotiation quickly evolved into a bilateral structure, as the two sides aligned around interests that are fundamentally grounded in levels of economic development, as follows: A/NZ ↔ FIC. Aligning around shared interests is to be expected, while it is rather uncommon to actively provide support to the other side to learn to negotiate more effectively.

Negotiation Skill Enhancement Program

Historically, colonial powers have been known to assist their former (or current) colonies in various sectors, including trade. The four-part negotiation enhancement program that was conceptualised, designed and implemented by A/NZ, however, is a unique and coherent framework that other developed countries could consider providing in developing environments. European engagement in Africa, and United States engagement in Latin America come to mind as possible areas of application.

This four-part negotiation skill enhancement program developed by A/NZ was structured as follows:

1. *Training.* A 50-day Pacific Islanders Trade Training Program was implemented, which included ten training modules offered to all FIC.
2. *Trade Adviser.* The Office of Chief Trade Adviser (OCTA) was established in Vanuatu followed by the recruitment of knowledgeable and skilled trade advisers, and professional staff, which offered essential support to the FIC throughout these negotiations.
3. *Readiness Package.* Once signed, treaty approval is not a simple process, as national ratification requires that multiple actors engage in multiple negotiations to reject or accept an international treaty (conducted separately by each country that signed PACER Plus). The A/NZ Readiness Package offered support to FIC national governments in engaging with stakeholders and the public about PACER Plus prior to the decision to seek treaty ratification.
4. *Implementation Unit.* Trade treaties are so complicated that expertise and skill are required to apply and gain benefits from treaty provisions. The PACER Plus Implementation Unit, based in Samoa, provides support for countries that ratified the treaty.

This four-part A/NZ enhancement program is a demonstration-of-concept that supports meaningful engagement between developed and developing countries. This framework has relevance beyond trade negotiations and could be used to pursue negotiations in other sectors throughout the world.

An Ongoing Professional Development Program

PACER Plus serves as an ongoing professional development program, aimed at professional staff employed by fourteen national governments, to enhance understanding about international relations generally and international trade policy specifically.

PACER Plus negotiations existed as a tangible, hands-on staff development program that invited many Pacific Island government officials to enhance their ability to participate in and conduct international meetings, build and gain agreement on a meeting agenda, build and present proposals, build and present arguments to support those proposals, and learn to both compromise and seek common ground within FIC internal negotiations, and externally between the FIC and A/NZ.

The 50-day Pacific Islanders Trade Training Program was not the end of training but just the start; this continued throughout engagement in PACER Plus negotiations and now continues through the Implementation Unit. Essentially, PACER Plus was a negotiation and management training program, which converted hands-on experience into professional knowledge and skills for those FIC government officials assigned to engage in this long-term project. This structured learning experience was developed and offered by A/NZ at substantial financial and political cost.

Practising Democracy

Treaty ratification requires government engagement and consultation with stakeholders and the public. Reinforcing fundamental democratic principles and learning to manage democratic processes strengthens a nation and the overall region as a result. There is significant value in building a framework to support governmental consultation with stakeholders and the public when negotiating a trade treaty. In addition to OCTA-sponsored Non-State Actor Dialogues, FIC engaged with stakeholders and the public at two specific points during PACER Plus: during negotiations over a schedule of commitments on tariffs and during treaty ratification.

A change in national revenue, and hence taxes, requires that the government consult key stakeholders. Many, although not all, FIC were heavily

dependent on tariffs on goods or customs duties in supporting national revenue and hence national budgets. Generally, the PACER Plus timeframe for tariff reduction is postponed 20+ years into the future in many cases, but that does not mean that national budget planning can simply be ignored today. Painful national decisions to reduce tariffs, through PACER Plus Chapter 2–A Schedule of Commitments on Tariffs, required governments to engage in stakeholder consultation.

Second, FIC presidents or prime ministers typically consult their Cabinet and/or key ministers and then make a joint decision on important matters of state. PACER Plus could also have been treated in this manner; however, civil society succeeded in making PACER Plus so controversial that the treaty would have been seen to lack legitimacy if a decision had been made in this way. In this case, the Readiness Package provided funding to those nations that signed the treaty, to support information dissemination about the treaty and to conduct meetings to seek and respond to questions and concerns about the treaty. When a decision on treaty ratification was taken, this decision was made based on a record of public engagement. The Readiness Package supported FIC governments in both understanding and practising the democratic process, which could carry over into future endeavours.

Power Derived from Unity and Patience

Asymmetrical bilateral negotiations are never easy for the side with less power. It is not at all unusual that the more powerful side simply 'runs over' the other side, or 'engineers' preferred outcomes. The FIC expressed resistance to starting PACER Plus negotiations, for example, after A/NZ pointed out that PACER 2001 (Article 6, Item 3a) established conditions that required its commencement. The FIC were against becoming involved in another complicated trade negotiation at that moment in time. Would it have damaged A/NZ objectives to patiently wait a year? PACER (2001) always assured that PACER Plus negotiations would occur – the only question that remained unanswered was when. Nevertheless, PIF trade ministers recommended that PACER Plus negotiations begin and somehow PIF leaders adopted that recommendation in 2009. Such social dynamics are not surprising given the power relations that exist between the two sides.

On the issue of labour mobility, however, the FIC took a position to link discussions on goods and services to progress on labour mobility in 2011 and maintained FIC unity for three years. In the beginning, A/NZ hoped this demand would simply go away, but it did not, while FIC unity on labour mobility could not be broken. Eventually, it became clear that these negotiations were moving towards a deadlock. First New Zealand and then Australia conducted internal negotiations that sought a viable solution – eventually accepted by all – that would shift away from impending doom. This

important moment in the negotiation process demonstrates the power of unity and patience when negotiating from a weaker position.

This aspect of the negotiation also demonstrates the utility of linking together "deal-breaking" issues. The successful labour mobility program, operating as a result of PACER Plus negotiations, may have never emerged if Chris Noonan, the first FIC Chief Trade Adviser, had not advised the FIC to link labour mobility to progress on goods and services.

Over-Extending Negotiation Engagement

The PACER Plus process was much too long at eight years (2009–2017). At some point, A/NZ apparently adopted an unrealistic strategy by believing that the FIC would individually prepare a detailed Schedule of Commitments on Tariff without any assurance about gains in labour mobility. Australia and New Zealand were 'sleepwalking' for over a year – perhaps two. New Zealand awoke first and took action to build a compromise strategy. One wonders whether the overall duration of negotiations could have been reduced substantially if action had been taken much earlier to break an apparent deadlock.

Although A/NZ clearly demonstrated concern about FIC negotiator effectiveness, they appear less sensitive about the extended burden that PACER Plus imposed upon governments with limited resources and insufficient professional staff that confront too many demands.

Actions in One Venue May Contribute to Consequences in Another

Negotiation issues may be venue specific, but relationships are not. Relationships tainted in one venue can have repercussions in another unrelated venue. The world is not full of isolated events. A 'linkage-rich environment' exists when the same parties negotiate over the same issues in different forums, while hostility or strong emotions can also contribute to linkage dynamics. This latter principle is best illustrated through the A/NZ relationship with Fiji, especially the Fiji–Australia relationship. Valuable learning is gained by connecting the dots via linkage analysis.

Field research did report human rights violations in Fiji around the time Fiji was suspended from the PIF in 2009. Perhaps Australia demonstrated both wisdom and initiative by making strong statements regarding Fiji at the Human Rights Council in Geneva in 2010, and before the UN Human Rights Council in 2011 (DFAT Annual Report 2009–2010 and 2010–2011). We only know these facts, while Australia's purpose or motives are unclear as those interviewed had no knowledge or hesitated to discuss such matters. Australia's international engagement in Fijian human rights appears to be a sensitive political topic.

Fiji could have arrived at those same forums with the Australian Royal Commission into Aboriginal Deaths in Custody (1991) and the Australian Institute of Criminology report *Deaths in Custody in Australia to 30 June 2011: Twenty Years of Monitoring by the National Deaths in Custody Program Since the Royal Commission into Aboriginal Deaths in Custody* (Lyneham and Chan 2011), but that is not how Fiji played the game.

First, Fiji organised the Pacific Islands Development Forum (PIDF) – by far the most thought-provoking initiative within the Pacific in 2013 – which briefly succeeded in directly competing for the political space occupied by the PIF, while excluding developed countries such as Australia and New Zealand from membership. Second, Fiji became a leader in the UN Framework Convention on Climate Change (FCCC), while the Fiji Prime Minister served as the president of COP 23 in Bonn in 2017. The climate emergency is an A/NZ Achilles heel and an issue of paramount importance to Pacific islanders. Third, when Fiji was finally admitted back into the PIF, well into the PACER Plus endgame, Fiji placed so many demands, sought so many changes to provisions – previously agreed upon – and had so many ‘redlines’ while refusing to submit a Schedule of Tariff Commitments until after its concerns were addressed. Some who negotiated directly with Fiji during this period wondered whether Fiji was negotiating in good faith, as there were larger political issues between Fiji’s prime minister and A/NZ. Fourth, Australia finally announced that PACER Plus negotiations had arrived at a conclusion without Fiji’s cooperation, but not before A/NZ had agreed to make modifications to the treaty based on Fiji’s multiple demands.

An Australian initiative to publicly question Fiji’s human rights record may have seemed like a strategy that could provide some kind of utility in 2010–2011, although in hindsight it is interesting to wonder whether that strategy actually produced the desired result from Australia’s perspective.

Nevertheless, in an effort to move forward, Australia and Fiji negotiated the Fiji–Australia Vuvale Partnership agreement in 2019, which was revised in 2023. *Vuvale* is the word for ‘family’ in the Fijian language, while the first key principle in each partnership is to ‘engage each other with trust, respect, and understanding’ (Fiji–Australia Vuvale Partnership, 2019, 2023: 1). These two documents were signed by Fiji’s Prime Minister Bainimarama and Australia’s Prime Minister Morrison in September 2019, then revised and signed again by Fiji’s Prime Minister Rabuka and Australia’s Prime Minister Albanese in October 2023. The 2019 version of the Fiji–Australia Vuvale Partnership states: ‘Australia welcomes Fiji’s ongoing consideration of joining the Pacific Agreement on Closer Economic Relations Plus’ (2019, Pillar Four, pages 4–5). The 2023 version states: ‘We commit ... to discussing Fiji’s possible participation in the Pacific Agreement on Closer

Economic Relations (PACER) Plus’ (2023, Pillar Two, page 2).

Concurrently, the Australia–Fiji Business Council reports that the ‘Fijian government recognises the importance of a comprehensive assessment of the fairness and effectiveness of the PACER Plus agreement before committing to join it’ (Australia–Fiji Business Council 11 October 2023). This statement is similar to the concerns raised by Fiji at the end of PACER Plus negotiations. More recently, news reports have stated that Ewen McDonald, Australian High Commissioner to Fiji, and Manoa Kamikamica, Fiji Deputy Prime Minister and Trade Minister, have held many discussions on trade and the Australia–Fiji partnership. There has been no mention of PACER Plus (Prakash 2024).

On balance, it appears that Fiji is not currently prepared to join PACER Plus, although the Australia–Fiji relationship is fluid. Cooperation may be achieved through threats, public humiliation and/or acts of hostility, but there is no assurance that either side will acquiesce, as demonstrated by continual Australia–Fiji engagement. The takeaways from this string of events appear ambiguous, but clearly Australia and Fiji should have gained valuable insights through such complicated interactions, which will continue to guide future relations.

Influence of Powerful Parties Not at the Table

Much more learning and many other takeaways could be outlined, but we will conclude with what we can learn from A/NZ experience with the Federated States of Micronesia, the Republic of Marshall Islands and the Republic of Palau – which are known as the three Compact Countries because of their treaties (compacts) with the United States. A/NZ were so eager to kick-off PACER Plus that they apparently failed to consult the most important party not at the table: the United States.

Would A/NZ have pursued their goal to create unity in the Pacific through a trade and development framework if they had known that three of the fourteen (over 20 per cent of potential PACER Plus members) would be dissuaded from signing PACER Plus by the United States. If A/NZ had considered that possibility in the beginning, might they have taken action initially?

A key takeaway from this negotiation is to recognise the primary parties in a negotiation and then identify any significant relationship maintained by each party and how that relationship might influence negotiation process and the negotiated outcome. The story of the three Compact Countries and their desire to join PACER Plus appears to be a missed opportunity – a significant disappointment within this complicated negotiation.

PACER Plus and the Future

Was this eleven-year project – with all the coordination, distractions, disagreement, and consensus – worth the effort? At the economic and social level, benchmarks or tests can be established and data gathered to determine the impact of PACER Plus over the short term. In addition, comparative research can be conducted over the long term to evaluate PACER Plus economic goals against several social and economic variables.

Much can be said – and there are various perspectives – about PACER Plus economic and social goals, but for now the PIF Forum Leaders September 2016 statement captures some essential features: 'The Leaders reiterated the need for PACER Plus to promote regional integration in the Pacific, and to assist the Forum Island Countries to achieve robust economic growth and sustainable development' (PIF Forum Communiqué 2016: 6).

Someday, this diverse group of countries could achieve regional integration, but it will not be built on economic integration. The Pacific trade epistemic community concluded – years prior to the commencement of PACER Plus – that several factors unique to a collection of island nations prevent economic integration, given their isolation, market size, inability to achieve economy of scale, lack of resources and related matters (Morgan 2014a, 2014b; Noonan 2011a; 2011b; Interviews 5, 16, 36, 39). PACER Plus does not remove any of these factors from the economic reality of the Pacific. It is unlikely that PACER Plus will support significant trade between island countries, but it could support trade between an island country and a much larger economy such as Australia, China, Europe, New Zealand or the United States. Regional integration will continue to be a political exercise in the Pacific.

PACER Plus: Short-Term Impacts

It is possible to identify the contribution of PACER Plus to economic growth and sustainable development. The fundamental question is: How have PACER Plus members developed the capacity to implement and control a range of technical standards and policies that support the efficient and effective management of international trade?

Goods

Some of the most complicated standards involve sanitary and phytosanitary measures, technical barriers to trade and other standards fundamental to trade in goods (Chapters 2–6, see Table 4). The critical question for goods is: Has each PACER Plus member developed and effectively applied relevant trade policy at the national level that allow for the

efficient and effective flow of goods between PACER Plus members?

Governmental cooperation between PACER Plus members – especially Customs – could also be employed to identify early signs that demonstrate the impact of PACER Plus on economic growth and sustainable development. For example, are customs authorities in each member nation engaging with each other to facilitate the efficient and effective movement of goods. This is especially important as Pacific island nations have some of the highest customs costs in the world – given the unique nature of island economics.

Customs Duty: Example of a Fiji Chokepoint

The unique, and even peculiar, nature of contemporary trade between PIF members – and the need for a more rational system – is illustrated via the following example that occurred as an unexpected benefit of this PACER Plus field research program.

Conducting field research in Fiji in 2022 required approval by the Fiji Ministry of Education, Heritage and Arts (including a 35-page application plus a fee of F\$500 or A\$340), followed by approval from the Fijian Immigration Department (including a 47-page application plus a fee of F\$632 or A\$430) for securing a Fijian Research Visa.

It is not unusual to pay one or more governmental fees to conduct international business, even when that business involves university-level field research. However, I have never previously been required to submit an application or pay a fee to gain governmental approval to conduct research in over 20 countries that are located in Asia, Europe, Latin America, North Africa and North America during the past 30 years of active field research.

Nevertheless, Fiji's research visa applications and its F\$1132 (A\$770) governmental fees are not especially surprising. However, what I did find highly unusual was the fact that the Fiji postal service (Post Fiji) treated my 47-page immigration application as if I were exporting documents to the Fijian Immigration Department. An unnamed Fiji Customs Officer established that a 'Clearance and Accounting Fee' of F\$5.50 (less than A\$4.00) must be paid before my parcel could be released. Post Fiji sent a "Parcel Notification and Duty Entry" dated 26 May 2022 to the Director of the Fijian Immigration Department, who kindly emailed a copy of that document to me – but only after I contacted Immigration about the status of my Visa application.

In communicating with Fiji Immigration, I was asked whether my passport was included with my application. I assured Immigration that it was not. I was, however, told of a Canadian Researcher who

foolishly sent his Canadian passport with his application, which created substantial personal problems for this researcher that may be best understood through my own engagement with Post Fiji.

The General Post Office in Suva Fiji would not release my application for a research visa until the F\$5.50 fee was paid. Post Fiji would only accept cash – certainly not a credit card. Naturally, I began contacting banks about the possibility of transferring these funds to the Fiji General Post office. Fiji's largest bank, with a 40 per cent market share, is a subsidiary of the Australian and New Zealand Banking Group Limited Fiji Branch (ANZ-Fiji). I approached ANZ Bank in Australia and was surprised to learn that ANZ was unwilling to transfer funds from Australia to Fiji. I was advised that an intermediary bank, willing to accept Australian dollars and convert them into Fiji dollars, would be required. This was a financial service that ANZ and ANZ-Fiji did not offer. I could not learn why.

The largest Pacific-based bank is the Pacific South Bank (BSP Financial Group of PNG). BSP also has extensive operations in Fiji and a relationship with the National Australia Bank (NAB), but the NAB-BSP financial partnership was also unable to transfer funds to Post Fiji. BSP kindly engaged me in an exchange of emails on this matter.

It does not end there. Of even greater surprise, if this clearance fee were paid, then I was advised that Post Fiji would not actually deliver my visa application to the Fijian Department of Immigration. Post Fiji explained that they do not deliver parcels – only letters (this was 47 pages in a standard A4 envelope). The Fijian Immigration Department would be required to collect the document at the Suva General Post Office.

If I were able to pay the fee from Australia, and if Fijian Immigration were willing to pick up my parcel, then I would be required to sign a document authorising a specific Immigration Department official 'to act as my agent to open the parcel in the presence of a Customs Officer for the assessments of Customs Duty and to sign and receive the parcel on my behalf' (Post Fiji, Parcel Notification and Duty Entry, Number: 9538, 26 May 2022).

The F\$5.50 cash payment was such a formidable barrier without an agent in Suva that I never asked Immigration if they would visit the Suva General Post Office on my behalf (the distance between the Suva General Post Office and Immigration is about 2 kilometres). But I did wonder how helpful the Fijian Immigration Department would be, as they would not accept an emailed PDF of my 47-page application (unlike the Ministry of Education, which did accept an emailed PDF of my 35-page application).

In the end, I was left with three choices: Give up my desire to conduct field research in Fiji, fly in and conduct field research outside Fiji law (unlawful

behaviour violates Griffith University research policy) or reprint and sign my 47-page visa application and ship it via United Parcel Service (UPS) for A\$95. UPS delivered my application directly to the Fijian Immigration Department within a week.

Essentially, Post Fiji utilises customs rules for processing visa applications. This arrangement, created by Post Fiji, is a technical barrier to trade (TBT).¹⁰ The World Customs Organization (WCO) Harmonized System does not list 'Visa Application', although it does list 'Printed Documents' under Chapter 49, which is part of Section X (Pulp of Wood or Other Fibrous Cellulosic Material), which includes printed books, newspapers, pictures and products of the printing industry, manuscripts, typescripts and plans (WCO 2023). It does not appear that a single visa application is included as part of Section X, Chapter 49 (WCO Advanced Search 491199 2023). I am not in the business of exporting visa applications.

In addressing this trade issue, the schedule of commitments on member tariffs found in PACER Plus, Chapter 2, would solve this problem, as PACER Plus would not include a tariff schedule for visa applications. Unfortunately, Fiji is not a PACER Plus member, so it is likely that Post Fiji will continue to operate in this manner.

Others wishing to conduct research in Fiji should benefit by learning about Fiji's current customs policies and how they are applied by Post Fiji. Researchers will also benefit by learning about the substantial amount of work required to prepare an application for the Fiji Ministry of Education, Heritage and Arts and an application for the Fijian Immigration Department. The substantial fee involved in gaining a research visa is also a consideration.

Services

Of particular relevance are services Chapters 7–8 and the investment Chapter 9. It is important to note that international trade in some Pacific Island economies is primarily about services – especially tourism. The WTO General Agreement on Trade in Services (GATS) was established for WTO members; nevertheless, GATS offers a four-part framework that is relevant to all forms of trade in services. GATS' four 'modes' of service include cross-border trade, consumption abroad, commercial presence and the presence of natural persons (WTO GATS 2023). Tourism, for example, is generally a part of GATS mode two: the supply of a service in the territory of one member for the service consumer of another member. The GATS framework is useful for examining how PACER Plus members addressed trade in services to create a credible and reliable system of trade rules that ensures fair and equitable treatment among all PACER Plus members.

Labour mobility is also relevant to GATS and is generally a part of GATS mode four: an individual service supplier moves temporarily to another country

for the purpose of supplying a service. Although not part of the PACER Plus agreement, labour mobility was a fundamental part of PACER Plus negotiations and continues to be an essential program component within treaty implementation. A whole range of economic and social indicators can provide understanding about the impact that labour mobility is having on economic growth and sustainable development.

Labour Mobility Programs

How have the Pacific Island employee, the family, the village, the community and society in general been impacted by the labour mobility program that grew out of PACER Plus negotiations? While economic gains are apparent, concerns have been raised about the impact on families where one spouse becomes engaged in a labour mobility program and the other spouse remains at home. What impact does this have on their relationship, the children, the family unit and the extended family? What impact does labour mobility have on the community and overall society, as some who engage in the labour mobility program are skilled workers. There have been concerns, for example, that Pacific Island police, teachers, nurses and other professionals and tradespeople might be travelling to A/NZ to pick fruit.

Recent research conducted by the World Bank and the Development Policy Centre at the Australian

National University is the first comprehensive collection of data since the implementation of the Labour Mobility Arrangement (2017). This recent study focused on the Pacific Australia Labour Mobility (PALM) scheme and the New Zealand Recognised Seasonal Employer (RSE) scheme. During 2022–2023, approximately 30,300 workers found jobs under PALM and 17,400 under RSE. The study surveyed 2000 of these workers plus 4200 households (about 25,600 household members) in Kiribati, Tonga and Vanuatu.

The study concluded that overall participation in PALM or RSE strengthens family relationships, empowers women and shifts gender-related norms. Four out of five workers who were interviewed reported improved relationships with their children, and two-thirds reported improved marital relationships – often thanks to increased income and material goods, which contributes to decreasing arguments between partners where money stress was previously a source of conflict.

Income gains varied widely by country but were significant in all cases. Overall, Pacific workers engaged in PALM or RSE increased their income (compared with local Pacific island wages) by three or four times for Tongan workers, and up to nine to ten times for workers from Vanuatu. Importantly, remittances supported more than just the workers' immediate families but also relatives.



Photo: Workers from Vanuatu working on a New Zealand vineyard (Courtesy Ceres Wines)

Half of Tongan households, a quarter of those in Vanuatu and 10 per cent in Kiribati reported receiving remittances from someone outside of their household. On average, 60 per cent of the income received through PALM or RSE can be saved and sent back home.

About 7 per cent of the PALM or RSE workers reported dissatisfaction with their experience in the host country, often due to earnings not meeting expectations, while 10 per cent expressed dissatisfaction with accommodation, overcrowding and the lack of amenities. At a community and society level, there have been reports of localised labour shortages in those Pacific islands participating in PALM and RSE – especially in physically demanding work such as construction and subsistence gardening (Doan, Dornan and Edwards 2023a, 2023b).

The labour mobility programs that grew out of PACER Plus negotiations will continue to serve as a rich source of data for understanding individual, family, community and village resilience. Eventually, a framework should be created that balances positive and negative labour mobility outcomes in a meaningful manner.

Investment

Investment is also part of the PACER Plus treaty, which includes inward and outward flows of investment, although the former have greater significance for developing countries. Are training programs at the national level and regionally, through the Implementation Unit, being conducted to develop human capital that has the capacity to attract foreign investment? Have inward-flowing investments increased among FIC PACER Plus members and, if so, in what economic sectors and in what amounts? International investment outcomes are much easier to measure than social impacts that occur through the labour mobility program.

PACER Plus is very much about building capacity to increase value-added opportunities for its members. Do PACER Plus FIC trade more with each other, do they trade more with A/NZ and do they trade more with third countries? Has such activity contributed to

increasing value-added opportunities for PACER Plus members, and economic growth and sustainable development? Much can be done to secure answers to such questions.

PACER Plus: Long-Term Implications

Robust economic growth and sustainable development are possible over the long-term, but how will we know that PACER Plus was the instrument that supported this growth and development? Ten years after implementation began (2030) is probably too soon, but after fifteen years (2035), and certainly after twenty years (2040), we should find that PACER Plus has made a difference – if it has. Data to investigate such questions would need to be obtained via a comparative study that seeks to eliminate intervening or extraneous variables.

We have countries that joined PACER Plus and countries that did not. Data from these two categories should be compared, but if the study is to provide data with a degree of validity, then we will need to remove certain countries from the data set.

WTO membership is sufficiently significant that we will not be able to say with any degree of certainty that PACER Plus is the primary factor that supported economic growth and sustainable development in the Pacific. WTO membership is an intervening variable unless all members in each group are WTO members or all members are not WTO members.

Fiji and Papua New Guinea are the only two countries that are not included in PACER Plus that are WTO members, while Samoa, Solomon Islands, Tonga and Vanuatu are members of both PACER Plus and the WTO (see Table 2). Removing the WTO as an intervening variable creates the two groups shown in Table 6. We might, with some degree of certainty, be able to conclude that PACER Plus had a significant or marginal impact if we gather and compare economic growth and sustainable development data on PACER Plus members (Group A) and PACER Plus non-members (Group B).

Table 6. Comparative analysis of PIF members who are not WTO members

PACER Plus Members (Group A)	PACER Plus Non-Members (Group B)
Cook Islands	Federated States of Micronesia
Kiribati	French Polynesia
Niue	Marshall Islands
Tuvalu	Nauru
	New Caledonia
	Palau

Source: Case Analysis

These two groups are not an ideal match because, when matching, we seek to create groups with many similarities except for the independent or causal variable (members/non-members). For example, Group A is primarily Polynesian, while Group B is a mix of Melanesian, Micronesian and Polynesian. Perhaps more important are differences in population (which contribute to the size of a national economy and hence economic opportunity). Half the members in Group B have over a quarter million in population, while the country with the largest population in Group A is Kiribati, with 119,449 members (see Table 2). However, if the data did indicate that Group A had greater economic growth and sustainable development, as compared to Group B, then we could say – with some degree of certainty – that it is due to PACER Plus, as the smaller economies (with, we assume, less economic opportunity) would have greater economic growth and sustainable development.

It would also be interesting to isolate data from the three Compact Countries (Federated States of Micronesia, Marshal Islands and Palau) in Group B and compare these with data from Group A to observe the significance of an economic relationship with the United States compared with an economic relationship with A/NZ. Citizens of the three Compact Countries, for example, have access to the US labour market, while the members in Group A have access to the A/NZ labour market.

Over the short term, data can be gathered that will indicate the contemporary impact of PACER Plus, while more time is required before data can confirm the actual impact of PACER Plus on long-term economic growth and sustainable development.

PACER Plus and the 2050 Strategy for the Blue Pacific Continent

Developing a future study to examine the impact or benefits for PACER Plus members also motivates us to ask whether PACER Plus has relevance to the '2050 Strategy for the Blue Pacific Continent' (2050 Strategy 2022; Annex A 2050 Strategy 2022). The 2050 Strategy was endorsed at the 51st Pacific Islands Forum Leaders meeting in Suva in 2022. The 2050 strategic plan was adopted five years after PACER Plus was concluded; nevertheless, PACER Plus is fundamentally a forward-looking project that seeks to secure future benefit.

The 2050 Strategy establishes Ten Action Steps (2050 Strategy 2022: 10), while the 2023–2030 Implementation Plan outlines goals and identifies seven outcomes to be achieved by 2030 (Annex A 2050 Strategy 2022: 13). This discussion will consider the seven outcomes that are found within the Implementation Plan, starting with the first: Political Leadership and Regionalism (Annex A 2050 Strategy 2022: 15).

Political Leadership and Regionalism

This study argues that PACER Plus generally contributed to political leadership and regionalism through the four-

part A/NZ program that included: (1) the Pacific Islanders Trade Training Program; (2) establishment of the Office of Chief Trade Adviser to support FIC ability to engage in complex negotiations; (3) a Readiness Package to support FIC governmental consultations with stakeholders and the public about PACER Plus prior to treaty ratification; and (4) the PACER Plus Implementation Unit, which supports FIC in gaining opportunity through PACER Plus.

From one perspective, this four-part program is a political leadership training program with economic and political engagement components. Trade policy training was offered followed by trade negotiation training and practice, followed by a program in stakeholder and public engagement involving treaty ratification – which is democracy in action – and concluding with an implementation program, which requires that abstract concepts and policy be put into action within a governmental framework. Please see the section on learning and key takeaways for further discussion on each of these topics.

People-centred Development

The second Implementation Plan Outcome is focused on people-centred development, which is aimed primarily at improved health and well-being for all Pacific peoples (Annex A 2050 Strategy 2022: 18). PACER Plus Chapter 5, on Sanitary and Phytosanitary Measures (SPS), is primarily about exporting and importing safe and healthy goods, especially agricultural or plant-based products. Institutions, organisational knowledge, policies, procedures and the expertise to manage this entire process will contribute to enhanced disease-prevention programs and health-promotion programs via a mastery of SPS.

PACER Plus Chapter 9 on Investment may also support improved health and well-being by facilitating an influx of investment in health and medical services. PACER Plus makes this possible, but its likelihood is dependent on many other factors unrelated to foreign direct investment. However, if the stars align and medical investment becomes a reality in the Pacific, then PACER Plus Chapter 8 on the Movement of Natural Persons will be a key component, as it will provide the legal infrastructure required to support the arrival of medical and technical professionals.

Peace and Security

The third Implementation Plan Outcome is focused on peace and security and aims to establish a region that remains peaceful, inclusive, gender equal, safe and secure (Annex A 2050 Strategy 2022: 22). PACER Plus does not address peace and security directly, although increased public wealth should increase national revenue via national goods and services taxes, which can be used to support peace and security programs at the national level. Otherwise, the contribution of PACER Plus to peace and security is from the perspective of achieving economic growth and stability.

During 2022–2023, almost 50,000 Pacific Islanders participated in A/NZ Labour Mobility programs, and each increased their annual wages from three times (Tonga) to ten times (Vanuatu). The study reports that 60 per cent of the funds earned are sent home, which should contribute to increase governmental revenue via national goods and services taxes (Doan, Dornan and Edwards 2023a, 2023b).

Resource and Economic Development

The fourth Implementation Plan Outcome is focused on resource and economic development and aims to improve socioeconomic wellbeing and prosperity for all Pacific peoples through inclusive, resilient and sustainable economic development (Annex A 2050 Strategy 2022: 24). PACER Plus is a trade and development treaty by both purpose and design. Labour mobility is just one example of economic development at the family, village, community and societal levels. There are many other components within PACER Plus that could continue this movement towards positive economic development.

Climate Change, Ocean and Environment

The fifth Implementation Plan Outcome is focused on climate change and the sixth is focused on ocean and environment. These two Implementation Outcomes seek to provide all Pacific people with a safe, secure and prosperous life that is resilient to the impacts of climate change and disaster. These Implementation Outcomes also seek to support Pacific people to live in a sustainably managed Blue Pacific Continent, while steadfastly

maintaining resilience to environmental threats (Annex A 2050 Strategy 2022: 26–29). PACER Plus is a trade and development treaty without a chapter on the environment. An increase in national revenue, though a tax on goods and services, will strengthen the ability of governments to respond to the challenges presented by the climate crisis, while providing some resources to manage this Pacific Blue Continent.

Technology and Connectivity

The seventh Implementation Plan Outcome is focused on technology and connectivity. It seeks to support Pacific Peoples in gaining benefits from access to affordable, safe and reliable land, air and sea transport and ICT infrastructure, systems and operations, while ensuring culturally sensitive user-protection and cyber security (Annex A 2050 Strategy 2022: 30). PACER Plus primarily offers market-based development solutions. Regions that contain small islands countries – all over the world – often confront the same fundamental challenges: small markets and substantial distances between these markets. Small markets often result in increased costs because of the cost-benefit balance in serving these markets. Physical distances between markets complicate solutions based on technology so long as the technology is based on physical infrastructure as the primary tool for connectivity (e.g. cables, container ships, ports, airplanes, airport). Benefits can be secured with reasonably priced technology that is not wholly dependent on physical infrastructure as the primary tool for connectivity (e.g. satellite communication).



Photo: Deputy Director of Trade, Jenny Barile handing over IT equipment to the Director of Biosecurity, Francis Tsatsia. Looking on are Solomon Islands PACER Plus Coordinator, Tristein Zutu (far left) and staff of the Biosecurity Office. (Solomon Islands Government Press Release)

Concluding Observation: Enhancing Pacific Unity

In 2009, Australian Prime Minister Kevin Rudd and New Zealand Prime Minister John Key acted upon a long-sought joint governmental goal to enhance unity in the Pacific through a trade and development framework. 'Pacific unity' has multiple aspects and many paths, of which seeking unity through a trade and development treaty is just one.

A/NZ would have achieved outstanding success in pursuing their long-sought political goals through a trade and development path if all sixteen parties had signed and ratified PACER Plus. As it stands, only ten of sixteen countries are PACER Plus members. About two-thirds of them are inside this regional framework and one-third are outside the framework – an outcome that is a long way from creating unity in the Pacific. Multiple respondents in this study observed that PACER Plus has not yet contributed to Pacific unity.

If, however, the three Compact Countries had joined PACER Plus, it would mean thirteen of sixteen members, or 81 per cent, were members. An outcome of over 80 per cent would provide stakeholders and the informed public with a very different image of the PACER Plus outcome.

Curiously, our perception of the negotiated outcome rests more with our American friends than the withdrawal of Fiji and PNG from negotiations or the unwillingness of Nauru to ratify the PACER Plus treaty.

There are reports that DFAT was 'blindsided' by the absence of the three Compact Countries at the PACER Plus treaty signing ceremony in Tonga. Citing the 2017 Australian National Interest Analysis, 'The Australian Government expects the following countries to also sign PACER Plus in the near future: Federated States of Micronesia; Palau; and Republic of the Marshall Islands' (Joint Standing Committee on Treaties 2018). This Australian view is easy to understand, as the three Compact Countries each submitted their PACER Plus Schedules of Commitment on Tariffs (Chapter 2, Annex 2A), which is a very ambitious task for any government that has not previously conducted this kind of national analysis.

How did A/NZ react to the absence of the three Compact Countries at the Tonga signing ceremony? There are reports that the DFAT Pacific Regional Branch responded by first consulting the three Compact Countries, then consulting with the DFAT branch responsible for managing Australia's relationship with the United States, followed by consultations with MFAT in New Zealand. Only after wide-ranging consultations would the Pacific Regional Branch contact Joe Hockey, Australian Ambassador to the United States, in Washington, DC. DFAT representatives and the Australian Ambassador would examine and seek to understand the US perspective on the question of the three Compact Countries signing PACER Plus and any complications that might occur due to the Compact of Free Association

(COFA). This diplomatic exchange is not a national security issue, but it is highly political, so this research program could not confirm the details of negotiations held between Australia and the United States. Nevertheless, it is possible to arrive at some factually based informed assumptions.

First, in their letter to the US State Department, the Compact Countries asked whether it would be possible to relax the most favoured nations (MFN) clause within COFA, as any benefit gained through PACER Plus must be transferred to the United States via MFN. It is possible that relaxing MFN through COFA would require US Congressional action and/or approval, which would complicate matters significantly if a way could not be found to avoid involving the US Congress. In addition, if approved, this MFN request – or other requests made by the Compact Countries – could establish an undesirable precedent that the US government would naturally seek to avoid (Interviews 1, 3, 6, 7, 12, 14, 10, 25, 34, 35, 45).

What followed after Australia's Ambassador made representations to the US State Department regarding the PACER Plus COFA issue (how hard to push or to drop the matter) would depend on how the State Department responded to the issues and arguments presented by Australia. In any event, the US link to PACER Plus, via the three Compact Countries, is a significant factor that denies A/NZ outstanding success in the PACER Plus project.

It might now be useful to re-examine all three COFA treaties (signed by the United States and separately by each country) to determine whether Congressional engagement is required when MFN treaty rules are not observed. It might also be useful for A/NZ to make inquiries with the three Compact Countries to ask whether they are still interested in signing PACER Plus, although it might require transferring any MFN benefits derived via PACER Plus to the United States. If this were the case, then a formal cost-benefit analysis on a country-by-country basis would be useful. Based on such analysis, each Compact Country could then confirm or refute their willingness to sign PACER Plus if the United States were willing to advise each that it did not object to their joining PACER Plus.

If one or more of the three Compact Countries were willing to proceed, then the Foreign Ministers of Australia and the New Zealand might consult with their respective Ambassadors based in Washington DC in seeking to reopen this issue. Eventually, a meeting with the US State Department might be held to review the possibility of including the Compact Countries in PACER Plus. Why would the US be unwilling to support enhanced unity in the Pacific that is based on a WTO-style trade and development framework? The US should be invited to review their 2017 decision since the Pacific geopolitical environment has changed dramatically since.

List of Field Interviews

- 1 Australian Department of Foreign Affairs and Trade (DFAT): Former senior trade negotiator. Canberra, 6/06/2022.
- 2 Development Policy Unit, Australian National University: Professor. Via phone, 06/06/2022.
- 3 DFAT: Trade negotiator. Canberra, 7/06/2022.
- 4 Samoa: High Commissioner. Canberra, 7/06/2022.
- 5 Solomon Islands: Former senior trade negotiator representing the Forum Islands Countries. Canberra, 7/06/2022.
- 6 DFAT: Trade official. Canberra, 9/06/2022.
- 7 New Zealand: Diplomat. Canberra, 9/06/2022.
- 8 DFAT: Former trade official with aid for trade expertise. Canberra, 13/06/2022.
- 9 Papua New Guinea National Research Institute: Senior research fellow. Via Zoom, 29/06/2022.
- 10 Office of the Chief Trade Adviser: Senior official and negotiator. Via Skype, 12/07/2022.
- 11 Institute for International Trade, University of Adelaide: Pacific trade manager. Via Zoom, 25/07/2022.
- 12 Pacific Islands Forum Secretariat: Senior official. Suva, 3/08/2022.
- 13 Fiji Consul General and Trade Commissioner: Former senior trade official and negotiator. Suva, 3/08/2022
- 14 Federated States of Micronesia: Diplomat. Suva, 4/08/2022.
- 15 Vanuatu: Diplomat. Suva, 4/08/2022.
- 16 Solomon Islands: Former senior trade negotiator representing the Forum Islands Countries. Suva, 5/08/2022.
- 17 Pacific Islands Association for Non-Governmental Organisations (PIANGO): Former secretariat staff and activists. Suva, 5/08/2022.
- 18 Tuvalu: Diplomat. Suva, 8/08/2022.
- 19 Samoa: Diplomat. Suva, 10/08/2022.
- 20 Australia: Diplomat. Suva, 11/08/2022.
- 21 Pacific Islands Forum Secretariat: Official. Suva, 12/08/2022.
- 22 Pacific Islands Development Forum: Senior official. Suva, 12/08/2022.
- 23 Lami Kava: Senior manager. Via phone, 17/08/2022.
- 24 Kiribati: Diplomat. Suva, 22/08/2022.
- 25 Marshall Islands: Diplomat. Suva, 23/08/2022.
- 26 The University of the South Pacific: Non-state actor dialogue participant. Suva, 23/08/2022.
- 27 Cook Islands: Former senior trade negotiator. Suva, 24/08/2022.
- 28 Nauru: High Commissioner. Suva, 25/08/2022.
- 29 Pacific Network on Globalisation (PANG): secretariat leader and activists. Suva, 25/08/2022.
- 30 Pacific Islands Private Sector Organisations (PIPSO): Senior official. Nadi, 28/08/2022.
- 31 Association of South Pacific Airlines (ASPA): Senior official. Nadi, 28/08/2022.
- 32 New Caledonia: Diplomat. Via phone, 12/09/2022.
- 33 Australia–Pacific Islands Business Council: Senior official. Brisbane–Wynnum 13/09/2022.
- 34 Federated States of Micronesia: Trade official. Via Zoom, 14/09/2022.
- 35 Federated States of Micronesia: Senior official and negotiator. Via Skype, 16/09/2022
- 36 Office of the Chief Trade Adviser: Senior official and negotiator. Auckland, 22/09/2022
- 37 Samoa: Former trade official. Wellington, 27/09/2022.
- 38 Cook Islands: Former trade negotiator. Wellington, 27/09/2022.
- 39 New Zealand Ministry of Foreign Affairs and Trade (MFAT): Senior trade negotiator. Wellington, 27/09/2022.
- 40 Solomon Islands: High Commissioner. Wellington, 28/09/2022.
- 41 MFAT: Trade official. Wellington, 29/09/2022.
- 42 MFAT: Former senior Pacific islands specialist. Wellington, 2/10/2022.
- 43 MFAT: Former trade negotiator. Via MS Teams, 5/10/2022.
- 44 Papua New Guinea: High Commissioner. Via Zoom, 19/10/2022.
- 45 MFAT: Trade negotiator. Via MS Teams, 2/12/2022.
- 46 DFAT: Senior trade negotiator. Via MS Teams, 10/02/2023.

Note: Field interviews are listed in chronological order. The organisation and/or country of representation appears first, followed by an assessment of the role played during the negotiation, the interview location, or the electronic venue, and the interview date. Interviews were face to face if a city is listed. DFAT is the Australian Department of Foreign Affairs and Trade, and MFAT is the New Zealand Ministry of Foreign Affairs and Trade. All respondents were assured confidentiality and assigned a number, which is used when referencing interview data within the case study.

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Notes

- ¹ I would like to thank the many professionals who agreed to be interviewed for this project and especially the five who provided detailed feedback on an earlier draft of this Griffith Asia Institute (GAI) Research Report. I am grateful to the Centre for Global Cooperation Research (CGCR – Germany) for inviting me to serve as a Senior Fellow and for supporting this research program. This study would not have been conducted without CGCR inspiration, encouragement and financial support. I am also grateful to the GAI, especially Caitlin Byrne, former GAI Director, for inviting me to serve as a GAI Senior Fellow, and to Christoph Nedopil Wang, current GAI Director, for valuable comments on an earlier draft of this GAI Research Report. The Pacific Hub at Griffith University was especially helpful in conducting field research, while Professor Tess Newton Cain, Pacific Hub Project Lead, continually offered valuable support. Professor Neelesh Gounder, Deputy Head of the School of Accounting, Finance, and Economics at The University of the South Pacific (USP) was also helpful in arranging for my appointment as a USP Visiting Research Scholar, which was instrumental for conducting field research in Fiji. The Griffith University Human Research Ethics Committee approved my research plan entitled: Unpacking PACER Plus Negotiations (Application: 2022/130). These professionals, scholars and organisations supported my field research and the preparation of this study, however, any errors or omissions found in this report are solely my responsibility.
- ² Detailed Information on Research Methodology: This field research included interviews with representatives of fourteen of the eighteen Pacific Islands Forum members. In total, 46 interviews were conducted with 35 face-to-face and eleven online interviews that produced 146 pages of typed interview notes. Thirty interviews offered a Pacific Island or regional perspective, nine provided an Australian perspective and seven offered a New Zealand perspective. Feedback was sought on an earlier draft of this Research Report. Comments were sought from fourteen of 46 professionals interviewed, or about one-third, including two professionals with an Australian governmental perspective, two with a New Zealand governmental perspective, five with a Pacific Islands perspective, one with a civil society perspective, one with a business perspective, plus both Chief Trade Advisers within OCTA. Responses and valuable feedback were received from five respondents, which greatly enhances the validity of the case study in this report. Each person interviewed was assured of confidentiality prior to conducting an interview, except in a couple of cases where it was impossible to obscure the identity of a particular respondent. Information for this case report was also gained from documents, which are cited in the text and listed in the References. Interview notes were organised into 38 negotiation themes such as case background, negotiating parties, external factors, negotiation issues, negotiation process, negotiated outcome and so on. These 38 thematic documents serve as the basis for the case study that follows.
- ³ Rules of Origin (ROO) are the criteria required to determine the national source of a product. Their importance is derived from the fact that duties and restrictions in several cases depend on the source of an import (see WTO ROO 2023 in the references).
- ⁴ The author is grateful to the Institute for International Trade at The University of Adelaide for providing a detailed overview to the 2008–2010 Pacific Islanders Trade Training Program that was offered to those government officials who received the Australian Leadership Award Trade Fellowship.
- ⁵ An excellent review of the development and evolution of the Pacific trade epistemic community was prepared by Wesley Morgan as a PhD thesis, which was submitted to the School of Political and Social Sciences at The University of Melbourne (see Morgan 2014a, 2014b in the references).
- ⁶ Sanitary and phytosanitary measures (SPS) are quarantine and biosecurity trade policies that are applied to protect human, animal or plant life or health from risks arising from the introduction, establishment and spread of pests and diseases, and from risks arising from additives, toxins and contaminants in food and feed (see SPS 2023 in the references).
- ⁷ Australia and New Zealand were not required to prepare a Schedule of Commitment on Tariffs, as the SPARTECA (1981) treaty provided FIC with duty-free access for their goods into Australia and New Zealand via a non-reciprocal trade arrangement. PACER Plus makes trade reciprocal as a method to help FIC join the global economy and hopefully gain economic development benefits by engaging in the process.
- ⁸ Most favoured nation (MFN) is so fundamental to the WTO that it is the first article in the GATT – the General Agreement on Tariffs and Trade. MFN means that countries cannot discriminate between trading partners. A country that grants another country a special favour (such as a lower customs duty or rate for a particular good or service) is required to do the same for all other countries that are WTO members under MFN provisions (see WTO, Principles of the Trading System 2023 in the references).
- ⁹ The Harmonized Commodity Description and Coding System generally referred to as the 'Harmonized System', or simply 'HS', is a multipurpose international product nomenclature developed by the World Customs Organization (WCO). It comprises more than 5000 commodity groups, each identified by a six-digit code, arranged in a legal and logical structure. It is supported by well-defined rules to achieve uniform classification (see WCO 2023 in the references).
- ¹⁰ The regulation of Technical Barriers to Trade (TBT) aims to ensure that technical regulations, standards and conformity assessment procedures are non-discriminatory and do not create unnecessary obstacles to trade. TBT policies strongly encourage transparent provisions that aim to create a predictable trading environment (see TBT, 2023 in the references).

About the Author



Larry Crump is currently a Senior Research Fellow within the Griffith Asia Institute, while previously serving the Griffith Business School for 25+ years – lecturing in both international negotiation and comparative management and serving as Deputy Director of the APEC Study Centre at Griffith University. Larry conducts research on bilateral, regional and multilateral negotiations to support theory that examines negotiation strategy, closure, deadlocks, linkages, turning points, and negotiation framing. In building such theory, Larry has conducted field research in diverse settings including many bilateral (governmental) trade negotiations, numerous regional associations (APEC, EU, Mercosur, Pacific Alliance,

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