

Indigenous Peoples Economic and Trade Cooperation Arrangement (IPETCA)

Partnership Council

Terms of Reference

1. Introduction

- 1.1 In accordance with paragraph 9(e) of the Indigenous Peoples Economic and Trade Cooperation Arrangement (IPETCA), which directs the Interim Body to establish the governance of and Terms of Reference for the IPETCA Partnership Council (the Partnership Council), the Interim Body hereby adopts the following Terms of Reference for the Partnership Council.

2. Purpose

- 2.1 Paragraph 9(a) of the IPETCA provides that the purpose of the Partnership Council is to coordinate the implementation of the IPETCA in a manner consistent with its General Understandings and General Dispositions.
- 2.2 To foster a collaborative and progressive partnership, the Partnership Council will be guided by the principles and understandings contained in paragraph 1 of the IPETCA. Each participating economy will uphold and recognise these principles.

3. Primary Functions

- 3.1 The Partnership Council will:
- (a) develop and approve a work programme to determine, organise, and facilitate activities under the IPETCA;
 - (b) decide the priorities for shared cooperation activities, based on the interests and available resources of each participating economy;
 - (c) consider encouraging appropriate multilateral and regional organisations to support projects that enable Indigenous businesses as it relates to trade and investment, while emphasizing the important contributions made by Indigenous women-owned businesses in the export of goods and services;
 - (d) where appropriate, invite relevant experts, Indigenous leaders, elders, knowledge keepers, or organisations to Partnership Council meetings to provide information and advice, including with respect to the development and implementation of cooperation activities;
 - (e) perform other functions that it may decide upon; and
 - (f) at the request of a participating economy or a participating Indigenous representative, consider any matter related to the implementation and operation of the IPETCA.

4. Composition

- 4.1 The Partnership Council will coordinate the implementation of the IPETCA in a manner consistent with its General Understandings and General Dispositions.

- 4.2 The Partnership Council will be composed of:
- (a) up to two government representatives of each participating economy; and
 - (b) up to two Indigenous Peoples' representatives from each participating economy.
- 4.3 Notwithstanding paragraph 4.2, each participating economy may appoint at its sole discretion, in accordance with paragraph 9(b)(ii) of the IPETCA, more than two Indigenous Peoples' representatives to the Partnership Council to ensure representation of Indigenous Peoples, including where there is a constitutional basis to do so.
- 4.4 Each participating economy may appoint alternate representatives should an appointed representative under paragraphs 4.2 and 4.3 be unable to attend a Partnership Council meeting.
- 4.5 For continuity and to facilitate the timely establishment of the Partnership Council, each participating economy may, if required, nominate Interim Body representatives to undertake the functions of Partnership Council representatives for a period of up to three months.

5. New Participating Economies

- 5.1 The IPETCA is open to any Asia-Pacific Economic Cooperation (APEC) Member Economy, World Trade Organization (WTO) member, or other economy interested in pursuing inclusive trade and investment approaches for Indigenous Peoples.
- 5.2 The process to become a new participating economy is outlined in Annex A of the Partnership Council Terms of Reference.

6. Role of Participating Economies

- 6.1 All participating economies have an active role within the Partnership Council and are encouraged to participate in its decision making.
- 6.2 All participating economies will uphold and commit to the IPETCA's General Understandings and General Dispositions.
- 6.3 Each participating economy will determine to what extent it will participate in activities approved by the Partnership Council.
- 6.4 Each participating economy has the discretion to manage its own funding and costs associated with its participation in the Partnership Council.

7. Observers

- 7.1 The primary role of Observers is to observe the work of the Partnership Council.

- 7.2 Observer status in the Partnership Council is open to:
- (a) any APEC Member Economy, WTO member, or any other economy that is interested in pursuing inclusive trade and investment approaches for Indigenous Peoples through the IPETCA;
 - (b) Indigenous Peoples, groups, businesses, associations, or representatives from any APEC Member Economy, WTO member, or any other economy; and
 - (c) Non-Indigenous businesses and non-business entities from any APEC Member Economy, WTO member, or any other economy interested in pursuing inclusive trade and investment approaches for Indigenous Peoples through the IPETCA.
- 7.3 The Partnership Council will consider all expressions of interest seeking observer status in accordance with Annex B of the Partnership Council Terms of Reference.
- 7.4 Subject to approval being granted, those seeking observer status will be invited to attend meetings and other activities of the Partnership Council.

8. The Chairing Economy

Roles

- 8.1 The Chairing Economy is expected to chair, lead, and foster robust discussions and to manage the implementation of the IPETCA work programme.
- 8.2 The Chairing Economy is also responsible for setting, coordinating, and implementing the agenda, and will seek concurrence from the participating economies when developing the agenda.
- 8.3 The Chairing Economy will provide secretariat support to the Partnership Council. Secretariat support includes the organisation of meetings, development of agendas, maintenance of records, and coordination of the work programme and the relationship between the Partnership Council and its Working Groups.

Chairing Arrangements

- 8.4 The term of the Chairing Economy will be on a biennial rotational basis.
- 8.5 The Chairing Economy will nominate at least one Indigenous representative and one government representative to be Chairs of the Partnership Council, unless decided otherwise by the participating economies.
- 8.6 The four founding participating economies of the IPETCA (Aotearoa New Zealand, Australia, Canada, and Chinese Taipei) will fulfil the role of Chairing Economy over the first eight-year period of the IPETCA in an order they may decide.
- 8.7 The method for selecting the Chairing Economy will be decided by the Partnership Council. The Chairing Economy will be selected by consensus amongst the participating economies of the Partnership Council no later than the end of the last meeting of the incumbent Chairing Economy.

9. Decision Making

- 9.1 Each participating economy recognises that achieving mutual objectives requires a relationship of transparency and trust and that decision-making is collective, participatory, and accountable.
- 9.2 The Partnership Council will make decisions by consensus.
- 9.3 Where there are differing views, the Chairing Economy will work with the participating economies to find consensus and a way forward. This could include moving the item for discussion to the agenda of the subsequent Partnership Council meeting for further deliberation.
- 9.4 For greater clarity:
- (a) it is for each participating economy to determine if it will participate in activities approved by the Partnership Council; and
 - (b) each participating economy will individually determine its own procedures for establishing its position during decision making.
- 9.5 In the spirit of goodwill and cooperation, all participating economies will strive for resolution by implementing an approach that is underpinned by Indigenous values, customs, and protocols.

10. Working Groups

- 10.1 At the discretion and direction of the Partnership Council, Working Groups may be established for the purpose of addressing specific topics.
- 10.2 Upon the creation of a Working Group, the Partnership Council will provide the Working Group with its objectives and expected results, and will set out the duration of the Working Group. The Partnership Council may also provide guidance on how the work will be done and how success will be measured.
- 10.3 Working Groups may be composed of Indigenous Peoples and working level government representatives from participating economies, and other entities including Indigenous and non-Indigenous businesses and organisations.
- 10.4 Each participating economy will determine its level of engagement within a Working Group.

11. Review and Amendments to the Terms of Reference

- 11.1 Any amendments to the Partnership Council Terms of Reference will be made by a joint decision of the participating economies.
- 11.2 Amendments will come into effect on such date or dates as may be jointly decided by the participating economies.

11.3 The Partnership Council will periodically review these Terms of Reference in conjunction with the review of the operations of the IPETCA as outlined under paragraph 12 of the IPETCA.

11.4 Subsequent reviews of these Terms of Reference by the Partnership Council will take place on an as needed basis as jointly decided by the participating economies.

12. Withdrawal

12.1 Paragraph 19 of the IPETCA outlines the process for participating economies who may wish to withdraw from the IPETCA.

13. Contact Points

13.1 To assist with institutional continuity, the building of corporate memory, and to facilitate communication between the participating economies, each participating economy will make available a contact point for that participating economy.

14. Administration of Meetings

14.1 The Partnership Council will endeavour to meet quarterly to assess, discuss, and report on, as relevant, matters relating to the implementation and operation of the IPETCA. To maintain positive momentum, in lieu of the full Partnership Council meeting, subsets of the Partnership Council may be convened. Participating economies may jointly decide to hold additional meetings of the Partnership Council.

14.2 The Partnership Council will endeavour to meet at least once per year in-person.

14.3 The requirement for in-person meetings or cooperation activities will be considered by the Partnership Council and will be decided upon by those participating economies directly involved in the meetings or activities.

14.4 While the participating economies acknowledge the importance of in-person meetings to participating Indigenous representatives and will engage with them on requests to hold in-person meetings, the requirement for in-person meetings or cooperation activities will be considered by the Partnership Council and will be decided upon by those participating economies directly involved in the meetings or activities.

14.5 Electronic platforms will serve as the preferred mechanism for meetings of the Partnership Council, as well as cooperation activities under the IPETCA.

14.6 Participating economies will endeavour to submit requests for items to be placed on the agenda to the Chairing Economy no later than thirty working days prior to the next meeting; otherwise, it will be placed on the agenda of the subsequent meeting.

14.7 Any documentation related to an agenda item will be submitted to the Chairing Economy at least twenty-five working days prior to the next meeting for distribution to all participating economies.

- 14.8 The Charing Economy will distribute meeting agendas and supporting documentation no later than fifteen working days prior to the meeting.
- 14.9 The Charing Economy will distribute minutes from the meeting to all participating economies no later than ten working days following the meeting.
- 14.10 Consistent with paragraph 9(i) of the IPETCA, the processes of the meeting of the Partnership Council, including the distribution of relevant documentation, will ensure that participating Indigenous representatives have adequate time to engage appropriately with those to whom they are accountable.

15. Working Language

- 15.1 English will be the working language of the Partnership Council.
- 15.2 The representatives of any participating economy may speak in a language other than English; and in such cases, that participating economy will arrange for interpretation into English.
- 15.3 A participating economy may volunteer to provide interpretation into languages other than English and vice versa.

Annex A: New Participating Economies

1. Consistent with paragraph 16(c) of the IPETCA, the Partnership Council will consider all expressions of interest by economies who intend to participate in the Arrangement (“candidate economies”).
2. Paragraphs 3, 4, 5, 9(c) and 9(d) of the IPETCA will guide the decision making of the Partnership Council when it considers whether to accept a new participating economy.
3. The government of a candidate economy will submit an expression of interest to New Zealand contact agency Te Puni Kōkiri and the Chairing Economy of the Partnership Council notifying its interest in joining the IPETCA as a participating economy. The expression of interest may, among other matters, include references in which the candidate economy:
 - (a) affirms the need to honour, respect, and promote the rights of Indigenous Peoples as reflected in the United Nations Declaration on the Rights of Indigenous Peoples and other relevant international instruments and constructive arrangements;
 - (b) commits to moving forward in partnership between government and Indigenous Peoples to support Indigenous Peoples in building relationships and enabling international trade and cooperation;
 - (c) acknowledges, accepts, and supports the values, objectives, and work of the IPETCA;
 - (d) demonstrates its interest in, and a political willingness to contribute to, the work of the IPETCA; and
 - (e) demonstrates an interest and ability to support the work of the Partnership Council, including through partnerships with participating economies within APEC, the WTO, or other international or multilateral entities.
4. Consistent with paragraph 16(c) of the IPETCA, a letter of acknowledgement confirming receipt of the candidate economy’s expression of interest will be sent by New Zealand contact agency Te Puni Kōkiri on behalf of all participating economies within thirty working days of receipt.

Annex B: Observer Economies, Observer Entities, and Other Participants

Observer Economies

1. Consistent with paragraph 7.2(a) of the Terms of Reference, the Partnership Council will consider all expressions of interest by economies seeking Observer Economy status on the IPETCA Partnership Council.
2. Paragraphs 3, 4, 5, 9(c) and 9(d) of the IPETCA will guide the decision making of the Partnership Council when it considers whether to accept a new Observer Economy.
3. Consistent with the IPETCA's General Understandings, any economy seeking Observer Economy status will do so in partnership with Indigenous representatives from that economy.
4. Consistent with paragraph 11 of the IPETCA, each Observer Economy will bear its own costs relating to attending the Partnership Council and any shared cooperation activities in which it directly participates and, where reasonable and appropriate, the costs associated with the participation of Indigenous representatives from that Observer Economy.
5. In Partnership Council meetings to which an Observer Economy has been invited to attend, that Observer Economy may, at the discretion of the Chairing Economy, make statements, submit relevant documents, and provide views on the issues under discussion.
6. The Partnership Council will review those economies that have been granted Observer Economy status biennially. However, a review may immediately be conducted if the Partnership Council considers that an Observer Economy may be engaging in activities that are inconsistent with the IPETCA's General Understandings.
7. When reviewing those economies that have been granted Observer Economy status, the Partnership Council will consider an Observer Economy's contributions to the Partnership Council and to the Working Groups in which they have participated, in addition to any other relevant information.
8. After completing its review, the Partnership Council may decide to retain, suspend, or revoke the status of an Observer Economy.
9. Costs associated with the attendance of an Observer Economy at meetings of the Partnership Council will be borne by that Observer Economy.

Observer Entities

10. Consistent with paragraph 7.2(b) and (c) of the Terms of Reference, the Partnership Council will consider all expressions of interest from entities seeking Observer Entity status on the IPETCA Partnership Council.
11. In line with the IPETCA's General Understandings, entities seeking Observer Entity status are encouraged to do so in partnership with Indigenous Peoples from economies in which the entity operates.

12. The expression of interest may, among other matters, include references in which the candidate entity:
 - (a) supports Indigenous Peoples in building relationships and enabling international trade and cooperation;
 - (b) acknowledges, accepts, and supports the values, objectives, and work of the IPETCA; and
 - (c) has demonstrated interest and financial ability to support its participation in the Partnership Council.
13. Those with Observer Entity status may attend Partnership Council meetings at the discretion of the Partnership Council.
14. The Partnership Council will review those entities that have been granted Observer Entity status on an annual basis. However, a review may immediately be conducted if the Partnership Council considers that an Observer Entity may be engaging in activities which are inconsistent with the IPETCA's General Understandings.
15. When reviewing those entities that have been granted Observer Entity status, the Partnership Council will consider an Observer Entity's contributions to the Partnership Council and to the Working Groups in which they have participated, in addition to any other relevant information.
16. After completing its review, the Partnership Council may decide to retain, suspend, or revoke the status of an Observer Entity.
17. Costs associated with the attendance of an Observer Entity at meetings of the Partnership Council will be borne by that Observer Entity.

Other Participants

18. In accordance with paragraph (9)(f)(iv) of the IPETCA, the Partnership Council may, where relevant and appropriate, invite experts, Indigenous leaders, elders, knowledge keepers, or organisations to participate in meetings of the Partnership Council or Working Groups.
19. Invitations to experts, Indigenous leaders, elders, knowledge keepers, or organisations will be issued by the Charing Economy, following a consensus decision by the participating economies.
20. Costs associated with the attendance of an individual or organisation listed in paragraph 18 at meetings of the Partnership Council or Working Groups will be borne by that individual or organisation, as the case may be.