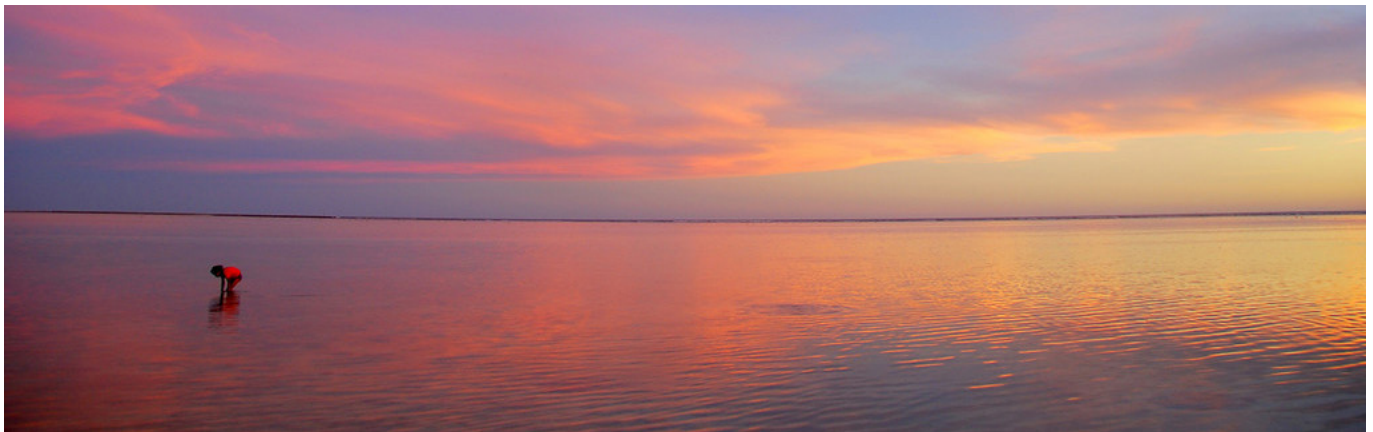


THE PACIFIC AGREEMENT ON CLOSER ECONOMIC RELATIONS PLUS

Legal and Institutional Chapters

The Pacific Agreement on Closer Economic Relations Plus is a landmark trade and development agreement that will lower barriers and provide greater certainty for New Zealand businesses, while raising living standards, creating jobs and increasing exports in Pacific Island countries.

The agreement includes chapters that cover various legal and institutional issues. These are designed to ensure there are clear processes and guidelines for the ongoing governance and development of the agreement.



Legal and institutional elements

Exceptions

The General Provisions and Exceptions Chapter sets out a number of exceptions to ensure that PACER Plus does not impair each Parties' ability to make legitimate policy and undertake measures to further that policy e.g. adopting environmental measures necessary to protect human, animal or plant life or health. In the unusual situation where this would breach a PACER Plus obligation, this chapter provides a safety net to ensure that the policy would still be allowed.

The exceptions cover policy areas that are critical for New Zealand to preserve regulatory freedom, including health, environment, security, taxation, and the Treaty of Waitangi. The Treaty of Waitangi exception provides additional clarity that the Crown will be able

to continue to meet its obligations to Maori, including under the Treaty of Waitangi.

Dispute settlement

The Consultations and Dispute Settlement Chapter establishes an effective, efficient and transparent process for the resolution of disputes arising under PACER Plus between the Parties. This ensures that New Zealand is able to pursue a matter to arbitration if it considers that another Party has not acted in accordance with obligations under the agreement. New Zealand may also be held to account if another Party considers that New Zealand has not fulfilled its obligations.

The chapter requires Parties to make every effort to reach a mutually satisfactory solution through consultations requesting the establishment of a panel.

PACER Plus does not contain any investor-state dispute settlement rules.

Joint Committee

The Institutional Provisions Chapter establishes a PACER Plus Joint Committee consisting of representatives of the Parties. The Joint Committee will serve as a forum for the Parties to meet to discuss the implementation and operation of PACER Plus, and to undertake a general review of the agreement to ensure it remains current and fit for purpose.

The Joint Committee will also will agree the work programme priorities and funding for the Development and Economic Cooperation Work Programme, which is part of the agreement, and review progress towards objectives.

Depositary

Tonga is the Depositary of the Agreement. As Depositary, Tonga is responsible for various tasks including notifying all Parties of signatures, acceptances, ratifications, accessions to, and withdrawals from PACER Plus.

Entry into force

Entry into force is subject to the completion of the internal requirements (i.e. domestic legal procedures) of the Parties. It will occur 60 days after the date on which at least eight Parties have notified the Depositary in writing of the completion of these requirements. Participating countries estimate it will take 18-24 months to complete these processes.

Any Party may withdraw from PACER Plus by providing six months' notice of withdrawal.

Accession

The Agreement shall be open to accession or association by a State, separate customs territory or self-governing entity as the Parties may agree.

A key requirement for accession is successfully concluding market access negotiations for goods, services and investment with the existing PACER Plus Parties.

Steps required before PACER Plus can take effect in New Zealand

Tonga is planning to host the signing of PACER Plus in Nuku'alofa on Wednesday 14 June 2017. Signature marks the end of the negotiating process although substantive conclusion was reached on 20 April 2017, when intending signatories finalised the text of the Agreement and finished negotiating market access with each other.

At signature, a treaty is agreed but not yet legally binding. PACER will not enter into force for New Zealand until domestic procedures have been completed, and this includes consideration by Parliament. As with all New Zealand FTAs, once PACER Plus is signed it will go through the Parliamentary treaty examination process. This process requires that the final text of the agreement and a National Interest Analysis be presented to Parliament for examination by the Foreign Affairs, Defence and Trade Select Committee (FADTC). FADTC is likely to seek public comment and hear submissions during this process.

Legislative changes required in order to implement PACER Plus will also need to go through normal Parliamentary procedures, including select committee scrutiny and passage through Parliament. Only when these steps have been completed, and other countries have completed their own domestic approval procedures, will PACER Plus be able to enter into force.

Want to find out more?

Visit the Trade section of the Ministry for Foreign Affairs and Trade website www.mfat.govt.nz/pacer to find out more about PACER Plus and the benefits it is designed to deliver. This website includes:

- The full text of PACER Plus;
- Factsheets on key areas for New Zealand; and
- The National Interest Analysis.

