**11th Intersessional Meeting of PACER Plus Officials**

**Apia, Samoa**

**4 to 7 August 2015**

 **Draft Chapter on Development Assistance**

**Working Document incorporating outcomes of the 10thIntersessional Meeting**

**NOTE:**

This Working Document contains clean copy draft text incorporating outcomes of the 10th Intersessional Meeting of PACER Plus Officials.

Text that is not agreed is in square brackets and attributed as follows:

* “**AU:**” for text tabled by Australia;
* “**PIC:**” for text tabled by OCTA/PICs; and
* “**NZ:**” for text tabled by New Zealand.

Text in square brackets is bolded and coded as follows:

* **blue** for text tabled by Australia;
* **red** for text tabled by OCTA/PICs; and
* **olive green** for text tabled by New Zealand.

**DEVELOPMENT AND ECONOMIC COOPERATION**

**Article 1**

**Scope and Objectives**

1. The Parties reaffirm the importance of ongoing development and economic cooperation between them, including existing bilateral and regional cooperationthrough the Australian and New Zealand Aid Programmes that supportthe Forum Island Countries’increased participation in international trade, including expansion and diversification of their exports.

2. The Parties agree to improve and complement their existing development and economic cooperative partnerships in trade and investment related areas, taking into account the needs identified by the developing country Parties and mutually prioritized and determined by the participating Parties.[[1]](#footnote-2) In elaborating areas of partnership, account shall be taken of the different levels of development and capacities of the Parties.

3.The Parties take due note of the provisions in various Chapters of this Agreement that encourage and facilitate cooperation and consultation. The Parties agree to adopt targeted measures to address the capacity constraints of the developing country Parties through cooperation and consultation as determined in the various Chapters.

4. The development and economic cooperation objectives under this chapter will be achieved through the Work Programme and broader trade and investment related assistance as set out in the ‘Implementing Arrangement for Development and Economic Cooperation under the PACER Plus Agreement’ in particular paragraph 6 thereof.

**Article 2
Definitions**

For the purposes of this Chapter:

**(a) implementing Party** or **implementing Parties** means, for each component of the Work Programme, the Party or Parties primarily responsible for the implementation of that component; and

**(b) Work Programme** means the programme of development and economic co-operation activities mutually prioritised and determined by the Parties taking into account the needs identified by the developing country Parties, under the relevant Components.

**(c)** **Development assistance coordination agency** means the agency of a Party with primary responsibility for the coordination and management of Official Development Assistance within that Party.

**Article 3**
**Resources for the Work Programme**

1. The Parties shall contribute appropriately to the implementation of the Work Programme. In that regard, the financial resources to be provided by the developed country Parties are set out in the Implementing Arrangement for Development and Economic Cooperation under the PACER Plus Agreement.

2. In determining the appropriate level of contribution to the Work Programme, the Parties shall take into account:

(a) different levels of development and capacities of the Parties;

(b) any in-kind contributions that Parties are able to make to Work Programme components;

(c) any contributions that non-Parties are able to make to Work Program components, directly and indirectly; and

(d) that the appropriate level of contribution enhances the relevance and sustainability of cooperation, strengthens partnerships between Parties and builds Parties’ shared commitment to the effective implementation and oversight of Work Program components.

**Article 4
Development and Economic Cooperation Work Programme**

1. Each Work Programme component shall:

(a) be trade- or investment-related and support the implementation of this Agreement,

(b) be specified in the Work Program;

(c) involve a minimum of two PICs, Australia and/or New Zealand;

(d) address the needs of thedeveloping country Partiesas mutually prioritised and determined by the participatingParties;

(e) wherever possible, avoid duplication in relation to, and build on and complement, existing economic cooperation activities and delivery mechanisms.

2. The description of each Work Program component shall specify the details necessary to provide clarity to the Parties regarding the scope and purpose of such component.

**Article 5
Focal Points for Implementation**

1. Each Party shall designate a focal point for all matters relating to the implementation of the Work Program and shall keep all Parties updated on its focal point’s details.

2. The focal points shall be responsible for overseeing and reporting on the implementation of the Work Program in accordance with Article 6 (Implementation and Evaluation of Work Program Components) and Article 7 (Review of Work Program), and for responding to enquiries from any Party regarding the Work Program.

3. The focal point of a Party shall coordinate on the Work Program with the development assistance coordination agency of that Party.

**Article 6
Implementation and Evaluation of Work Programme Components**

1. Prior to the commencement of each Work Programme component, the implementing Party or Parties, in consultation with the relevant participating Parties, shall develop an implementation plan for that Work Program component and provide that plan to each Party.

2. The implementing Party or Parties for a Work Programme component shall use existing mechanisms for the implementation of that component, unless otherwise agreed by those Parties.

3. Until the completion of a Work Programme component, the implementing Party or Parties shall regularly monitor and evaluate the relevant component and provide periodic reports to each Party including a final component completion report.

**Article 7
Review and Modification of Work Programme**

1. At the direction of the Joint Committee, the Work Programme shall be reviewed withinthreeyears after its implementation, and thereafter at regular intervals to assess its overall effectiveness in terms of assisting the developing country Parties to implement their PACER Plus obligations.

2. The Joint Committee shall, where appropriate modify, renew or terminate the Work Programme taking into account outcomes of reviews and the needs of the developing countries as mutually prioritised and determined by Participating countries and available resources.

**Article 8
Non-Application of Chapter [..] (Consultations and Dispute Settlement)**

Chapter [..] (Consultations and Dispute Settlement) shall not apply to any matter arising under this Chapter.

**IMPLEMENTING ARRANGEMENT FOR DEVELOPMENT AND ECONOMIC COOPERATION UNDER THE PACER PLUS AGREEMENT**

The Governments of Australia, Cook Islands, the Federated States of Micronesia, the Republic of Fiji (Fiji), the Independent and Sovereign Republic of Kiribati (Kiribati), Republic of Nauru (Nauru), New Zealand, Niue, the Republic of Palau (Palau), the Independent State of Papua New Guinea (Papua New Guinea), the Republic of Marshall Islands, the Independent State of Samoa (Samoa), Solomon Islands, the Kingdom of Tonga (Tonga), Tuvalu, the Republic of Vanuatu (Vanuatu) (the Participants);

**ACKNOWLEDGING** the breadth of their ongoing cooperation relationship, encompassing political and security cooperation, socio-cultural cooperation, development cooperation and economic cooperation;

**FURTHER ACKNOWLEDGING** the distinct challenges faced by Pacific Island Countries (PICs) including small and dispersed populations that constrain their participation in international trade;

HAVE MUTUALLY REACHED THE FOLLOWING UNDERSTANDINGS:

**Development and Economic Cooperation Work Programme**

1. The Participants will take part in the Development and Economic Cooperation Work Programme, which has been developed for the purpose of Chapter [..] of the Agreement Establishing the PACER Plus Free Trade Area as attached to this document.
2. The Australian Government will provide AUD.... to fund the management and delivery of the Development and Economic Cooperation Work Programme.
3. The Government of New Zealand will provide AUD… to fund the management and delivery of the Development and Economic Cooperation Work Programme.

**Broader Trade and Investment Related Assistance**

1. To maximise the benefits from the expected liberalisation of the trade and investment environment that will flow from PACER Plus, the Participants will, to the extent possible, to improve the broader trade and investment-related program of assistance through their existing development and economic cooperation relationships.
2. This broader trade and investment related assistance will complement and be additional to the implementation assistance provided through the Work Programme attached to this Implementing Arrangement.
3. Taking into account the individual priorities of the PICs, the broader trade and investment related assistance will be consistent with the OECD Development Assistance Committee (DAC) definition of what constitutes Aid for Trade and may include the following areas:
	1. Trade policy and regulations
	2. Economic infrastructure
	3. Building productive capacity
	4. Trade-related adjustment.
4. This broader trade and investment related assistance will address the needs identified by the PICs and be mutually prioritised and determined by Australia and individual PICs in their Aid Partnerships; and between New Zealand and PICs in their Joint Commitments for Development.
5. The Australian Government will approve an Aid for Trade funding target for the Pacific of …
6. The New Zealand Government will approve an Aid for Trade funding target for the Pacific of…

**Consultation**

1. Any difference in interpretation or application of this Arrangement will be resolved by discussions between the Participants.

**Amendment**

1. The Arrangement may be amended at any time by the mutual written consent of all the Participants.

**Commencement and duration**

1. This Arrangement and accompanying Work Programme will commence on the date of signature (on a date mutually agreed by the Participants), noting that the commencement date is subject to the Pacific Agreement on Closer Economic Relations (PACER) Plus Free Trade Area entering into force. The Arrangement and accompanying Work Programme will operate for a period of [xx] years from the date of signature of the Arrangement and accompanying Work Programme, at which point they will be reviewed by the Joint Committee and may be renewed for a further [xx] years. Any renewal of the Arrangement and accompanying Work Programme will be subject to the mutual consent of the Participants.

**SIGNED** at this day of two thousand , in three copies in the English language.

For the Government of Australia:

For the Government of Cook Islands:

For the Government of the Federated States of Micronesia:

For the Government of Fiji:

For the Government of Kiribati:

For the Government of Nauru:

For the Government of New Zealand:

For the Government of Niue:

For the Government of Palau:

For the Government of Papua New Guinea:

For the Government of the Republic of Marshall Islands:

For the Government of Samoa:

For the Government of Solomon Islands:

For the Government of Tonga:

For the Government of Tuvalu:

For the Government of Vanuatu:

**Appendix I: Pacific Agreement on Closer Economic Relations (PACER) Plus Development and Economic Cooperation Work Programme**

***Introduction***

This document is the Development and Economic Cooperation Work Programme (*Work Programme*) for the Pacific Agreement on Closer Economic Relations (PACER) Plus (*the Agreement*). It outlines the assistance that will be provided to the participants to implement the Agreement, has six components linked to different aspects of the Agreement, identifies the expected outcomes for each of the six components and provides a broad description of activities that will be implemented. The Work Programme provides flexibility for emerging and changing priorities to be addressed through development and economic cooperation, as they are identified during the implementation of the Agreement.

Two elements important for the effective implementation of the Work Programme and of the Agreement are the support for a PACER Plus Implementation Unit in its role in the implementation of the Agreement; and in the management of the Work Programme.

### *Establishment of a PACER Plus Implementation Unit in the* ***[AU/NZ: Pacific Islands Forum Secretariat]******[XXX****] to assist implementation of the Agreement*

A PACER Plus Implementation Unit will be established in the **[AU/NZ: Pacific Islands Forum Secretariat] [XXX]** to assist the Joint Committee and the participants to implement the Agreement. A Budget subcommittee will also be established and will comprise of representatives from Participants: two from Australia, one from New Zealand and two from the FICs; and two officers from the Unit.

The Unit working with the Budget subcommittee will manage the day-to-day expenditure of the Work Programme budget and resources while utilising the corporate infrastructure of the Pacific Islands Forum Secretariat. Participants will be able to second staff directly into the Unit.

The PACER Plus Implementation Unit will undertake the following functions:

* provide information to the Joint Committee to assist in decision making and implementing decisions;
* provide regular financial reporting on the work programme budget and expenditure;
* assist with the preparation and hosting of meetings, including coordinating dates and logistics, and organising agenda and papers, and reporting outcomes;
* coordinate the development of the work programme, including liaising with the subsidiary bodies and national focal points;
* develop and maintain a Monitoring and Evaluation Framework for the Joint Committee’s approval
* assist participants to monitor, report and evaluate progress of the Agreement’s implementation against objectives and the Monitoring and Evaluation Framework, including identifying successes to build upon and problems that need to be addressed
* support capacity development of national institutions of participants to operationalise the Agreement and address regional implementation gaps;
* assist the development of regional mechanisms for effective collaboration and cooperation in the execution of the provisions of the Agreement; and
* support participants in the promotion of the Agreement to key stakeholders such as business and industry, including through development of communications strategies, tools and resources.

***Management structure***

Critical to the implementation and effectiveness of the Work Programme is the development of a management and implementation structure. The figure below illustrates the relationship between the management and implementation structure within the PACER Plus Implementation Unit and the Joint Committee, its subsidiary bodies, national focal points, and the contributing and recipient participants. The structure also features the importance of private sector engagement at the national level for the successful implementation of the Work Programme and the Agreement.

***Annual Programmes***

The PACER Plus Implementation Unit in consultation with the Parties will develop annual programmes that will be submitted to the Joint Committee for approval. The Joint Committee will refer the Annual Programme to the Budget subcommittee to advise the Unit on any aspect relating to financial approval. Where required technical working groups could be set up to help develop activities under the Work Programme.

The Joint Committee will meet during the annual Forum Trade Officials Meeting but in exceptional circumstances activities may be approved by email in between annual meetings. Annual Programmes may outline multi-year activities.

***Component 1 – Rules of Origin and other Aspects of Implementation of Tariff Commitments***

This component supports the implementation of the Agreement’s Chapter on Rules of Origin (ROO) and other aspects of implementation of tariff commitments.

**Objective**

To facilitate effective utilisation of the Agreement’s commitments through efficient and transparent administration of ROO associated requirements and procedures and other aspects of implementation of tariff commitments.

**Expected Outcomes**

The key indicative outcome for this Component is the efficient and transparent implementation of the Agreement’s ROO Chapter, associated requirements and procedures and other aspects of implementation of tariff commitments. These will be reflected in ready availability to business of the substantive ROO requirements and procedures; introduction and improvements in legislation, regulation and attendant processes and procedures for certifying compliance and ensuring that all goods which meet ROO receive the relevant preferential tariff treatment; and full transposition of tariff schedules from HS 2012 (or other classification) to HS 2017 for all participants. The outcomes of this Component are also relevant to the other chapters of the Agreement such as the Trade in Goods chapter.

While all Participants will benefit from cooperation activities on ROO and on other aspects of implementing tariff commitments, it is expected that Pacific Island Country Participants will benefit the most from this Component.

**Indicative Activities**

A program of support will be set up, including the following:

* educate the private sector to enable compliance with the Agreement, including documentary evidence of origin requirements, to increase trade and cooperation;
* develop and/or improve legislation, regulations and attendant processes and procedures to ensure the smooth implementation of ROO requirements and procedures;
* assist PIC governments to develop procedures to administer documentary evidence of origin provisions, including to undertake verification of origin; and
* ensure timely transposition of tariff schedules from HS 2012 (or other classification) to HS 2017.

(*Need to provide examples of practical activities/workshops …PICs to nominate based on their needs assessment*).

**Component 2 – Customs**

This Component supports the implementation of the Agreement’s Chapter on Customs Procedures

**Objective**

To promote cooperation among Customs administrations of the Parties and support Customs cooperation activities related to the implementation of the Agreement.

**Expected Outcomes**

The key indicative outcome is the effective and efficient implementation of the Agreement’s Chapter on Customs Procedures. The Chapter aims to promote cooperation among Customs administrations in the Participants. This will be reflected in improved predictability, consistency and transparency in the application of Customs laws and regulations; efficient and economical Customs administration and expeditious clearance of goods; and simplified and harmonised Customs procedures. The outcomes in this Component are also relevant to other chapters, for example on Rules of Origin.

**Indicative Activities**

Activities under this Component will build on the existing extensive arrangements for regional and international cooperation on Customs matters.

*(Virtual Working Groups to provide concrete examples of activities required to address needs of PICs in this area.)*

***Component 3 – Sanitary and Phytosanitary Measures[[2]](#footnote-3)***

This Component supports the implementation of the Agreement’s chapter on Sanitary and Phytosanitary (SPS) Measures and aims to complement activities undertaken separately by the WTO.

**Objective**

To help build capacity of agencies responsible for implementation of SPS policies and procedures; build business awareness of the application of SPS measures consistent with the principles in the SPS chapter; and strengthen cooperation between authorities responsible for dealing with the matters covered in the chapter.

**Expected Outcomes**

The key indicative outcome for this Component is the effective and efficient implementation of the Agreement’s chapter on SPS measures. This will be reflected in:

* greater transparency in, and enhanced understanding of, the application of each Participant’s SPS measures;
* measures that are science-based and do not create unnecessary obstacles to trade;
* strengthened cooperation between the Participants on SPS matters;
* enhanced practical implementation of the WTO SPS Agreement by Participants that are WTO Members, complementing the activities undertaken separately by the WTO; and
* increasing application, where applicable, of the requirements of the WTO SPS Agreement by Participants that are not WTO members.

All Pacific Islands Country Participants will benefit from this Component, particularly those with less developed capacities in this area.

**Indicative Activities**

The Component will build capacity in Pacific Islands Country Participants with respect to various functions associated with efficient implementation of SPS measures to facilitate trade while pursuing science based bio-security objectives. This stream could cover cooperation with regard to WTO SPS Agreement obligations for notification (SPS Competent Authorities and Contact Points), emergency response management for animal and plant pests and diseases, SPS awareness training and pest and disease diagnostic training and biosecurity capacity building.

Activities will require further design and interaction between relevant authorities in the Participants to determine the scope and timing of activities, some of which will build on existing or prospective regional and bilateral cooperation programmes, as well as those developed under the control of the WTO and other international organisations.

***Component 4 – Technical Regulations, Standards and Conformity Assessment Procedures[[3]](#footnote-4)***

This Component supports the implementation of the Agreement’s Technical Regulations, Standards and Conformity Assessment Procedures chapter.

**Objective**

To support joint efforts in the fields of technical regulations, standards and conformity assessment procedures; assist in promoting mutual understanding of each Participant’s Technical Regulations, Standards and Conformity Assessment Procedures; and strengthen information exchange and cooperation among the Participants.

**Expected Outcomes**

The key indicative outcome for this Component is the effective and efficient implementation of the Agreement’s Chapter on Technical Regulations, Standards and Conformity Assessment Procedures. This will be reflected in

* the maintenance of measures that are trade facilitative and do not create unnecessary obstacles to trade;
* enhanced transparency and mutual understanding of each Participant’s technical regulations, standards and conformity assessment procedures;
* a strong regional information exchange and cooperation (between and among the Participants) in the areas of technical regulations, standards and conformity assessment procedures; and
* good practice in regulation and good practice in the preparation, adoption and application of standards by standard-setting bodies in the territory of each Participant.

**Indicative Activities**

A suite of activities will be developed to help achieve the above indicative outcomes. Partner countries will work together to help identify priority areas for cooperation and appropriate delivery mechanisms.

***Component 5 – Trade in Services***

This Component supports implementation of the Agreement’s Chapter on Trade in Services, including the Chapter on the Temporary Movement of Natural Persons.

**Objective**

To facilitate increased cross-border flows of services among the Participants, by assisting them to adapt and improve regulations affecting services trade building on the reductions in barriers to trade in services embodied in the Agreement.

**Expected Outcomes**

The key indicative outcome is the effective and efficient implementation of the Agreement’s Chapter on Trade in services that facilitates greater participation in the service sectors of the Participants. This will be reflected in streamlined and harmonised regulatory arrangements that facilitate trade in services, and stronger institutions.

**Indicative Activities**

Activities in this Component may provide support to strengthen agencies responsible for trade in services in participating countries. The activities will build on the work that commenced in participating countries during the market access negotiations on commitment schedules for the Agreement. There is expected to be assistance for the relevant agencies in participating countries to better understand trade in services, including assessment of the effects of laws and regulations on trade in services.

***Component 6 – Investment***

This Component supports the implementation of the Agreement’s Chapter on Investment.

**Objective**

To facilitate the flow of investment across participating countries, by deepening and broadening linkages and assisting them to address impediments to expanding investment in response to the opportunities created by the Agreement.

**Expected Outcomes**

The key indicative outcome is the effective and efficient facilitation of investment between and among participating countries. This will be reflected in increased awareness of potential investors to new opportunities arising from the Agreement; identification and resolution of impediments to; and improvements in investment climate in participating countries directly and indirectly attributable to the Agreement.

**Indicative Activities**

Activities under this may include cooperation aimed at facilitating inward investment and analysing the impacts of the regulatory environment and developing strategies for further improving the investment climate.

The activities under this Component will provide assistance to:

* allow participating countries to assess the overall climate for investment and identify areas of concern for consideration by the Joint Committee and relevant domestic agencies;
* apprise potential investors of opportunities arising from the Agreement including through public-private policy dialogues;
* provide a forum for potential investors to inform policy makers of their concerns, including aspects of the regulatory environment for investment;
* assess environmental and other potential impacts of investment; and
* develop a mechanism for promoting partnerships between companies of developing and developed countries.

The delivery of these activities would involve:

* working with a group of experts from participating countries;
* combining Work Programme-supported meetings with existing investment conferences; and building on these by promoting a range of workshops on specific investment opportunities and issues;
* workshops and meetings supported by preparation of issues papers that will help to focus attention on key issues; and
* establishing website reference sources to support existing and potential investors.
1. Fiji to reflect on it. [↑](#footnote-ref-2)
2. **Some PICs have indicated their interest in being provided with assistance to negotiate mutual recognition, equivalence and conformity assessment agreements.** [↑](#footnote-ref-3)
3. *Ibid*. [↑](#footnote-ref-4)