Big Brothers Behaving Badly

The Implications for the Pacific Islands of the
Pacific Agreement on Closer Economic Relations (PACER)

Professor Jane Kelsey

Commissioned by the Pacific Network on Globalisation
(PANG)

Interim Report
April 2004

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Foreword

NGOs and church-based groups within the Pacific started to ask questions as soon as the Pacific Islands Forum announced in 1999 the creation of a free trade area for the Pacific. At that time (and in a sense still today) many of these civil society groups were struggling to comprehend the issues of free trade and globalisation, its technicalities and politics, and more importantly the various impacts on the communities, resources and small vulnerable economies of the Pacific.

The first glaring concern was the tremendous lack of public consultation and sharing of information on the negotiations by the Forum Secretariat and our own governments. They themselves said, at that time, that the creation of a free trade area was a defining moment in the history of the Pacific Islands Forum. Why, then, were Pacific peoples denied the opportunity to be active participants and contribute to this defining moment in the region's history? What type of history was being created for us, and who was writing it, with what mandate?

Concerns about the lack of public information, and a desire to promote informed discussion and debate on the free trade issue, motivated NGOs such as the Pacific Concerns Resource Centre (PCRC), the Pacific Island Association of NGOs (PIANGO), The Development Alternatives for Women in a New Era (DAWN) - Pacific, and church based groups like the Ecumenical Centre for Research, Education and Advocacy (ECREA).

These groups were determined that the region's civil society must not be caught napping and left without a voice, knowledge or awareness of these emerging issues.

A meeting of civil society groups from across the region on 'Globalisation, Trade, Investment and Debt' in 2001 saw the beginnings of the formation of Pacific Network on Globalisation (PANG). They highlighted the need to address the lack of research from the NGO community, including analysis, information, statistics and data, which could inform our responses, actions, and campaigns on economic and trade affairs that affect our people.

This report commissioned by PANG concentrates particularly on the politics and implications of the Pacific Agreement on Closer Economic Relations (PACER). The inclusion of Australia and New Zealand is where the Pacific free trade process was being pushed, right from the beginning. More follow-up studies are needed, especially on the impacts of PACER and its links to the Cotonou negotiations with the European Union, to give Pacific peoples more information on where we could be heading and a stronger basis from which we can be heard.

PANG would like to thank our partners Kairos-Canada and the World Council of Churches-Office of the Pacific for their support towards this project.

This study aims to not only increase the literature available on free trade issues in the Pacific, but also to provoke thought, discussion and debate, and encourage people to speak out and take action regarding the issues at stake. It also reiterates a call made by Pacific NGOs ever since the free trade area process began, that our governments heed the voices and concerns of their people before they decide to negotiate on any such agreement.

Stanley Simpson
Coordinator
Pacific Network on Globalisation (PANG)

Preface

When the Forum Leaders mandated formal negotiations for a free trade agreement in 1999, they operated by consensus. But the expectations of the region's two dominant players, Australia and New Zealand (NZ), and those of the Forum's Island members were poles apart.

After two years of bruising negotiations, the proposed agreement among the Forum Island Countries was subordinated to a Pacific Agreement on Closer Economic Relations (PACER) to which Australia and NZ were full parties. This guarantees negotiations for a Forum-wide free trade arrangement if the Islands began similar negotiations with the European Union. Australia and NZ are now insisting that PACER's trigger has been pulled. They are meeting stubborn resistance that is, of necessity, couched in legal terms. But the real reasons are clear: the Forum Island governments resent the belligerent way that Australia and NZ forced PACER on them, and they increasingly understand that any agreement that includes Australia and NZ could devastate the Pacific Islands economies and the lives of their people.

This report analyses the political dynamics that led to PACER and will continue to underpin negotiations between the Forum Island Countries and Australia and NZ. It draws without attribution on forthright interviews with many people who were intimately involved in the PACER process. These are supplemented by a selection of documents, including from the historical files of the NZ Ministry of Foreign Affairs and Trade. Regrettably, the Forum Secretariat has not responded to repeated requests for copies of crucial papers and reports. I would like to thank all those who shared their insights with me and assisted in accessing documentation; they bear no responsibility for the interpretation I have placed on that information.

The picture that emerges is deeply disturbing. As one NZ government official confirmed with disarming frankness: when it comes to trade there is no 'special relationship' with the Pacific. Effectively, international trade strategy takes priority over the views of Pacific governments and the needs of Pacific peoples.

The report challenges the closed and pre-determined nature of a negotiating process that presents neoliberal globalisation as the only future for the peoples of the Pacific and that pre-empts the critical analysis and debate that should take place before such agreements are even contemplated. It explores the strategies that are currently being pursued by Australia and NZ, in competition and accord with the European Union, that treat the small and vulnerable Islands of the Pacific as pawns in their broader game plan - most recently through Australia's proposal for a Pacific Economic Community.

The final section of the report canvasses a range of legal and political exit routes that are available to the Forum Island governments, including withdrawal from and termination of PACER itself. It argues that governments will be in the strongest position ttake these steps if they are backed by parliamentary mandates based on informed and participatory public debate, and draws upon the Biketawa Declaration to suggest ways in which this might be done. Opposition is not enough. There is an urgent need for debates nationally and regionally on alternative development strategies and forms of regional cooperation. Australia and NZ need to play a truly supportive, secondary role in this process.

These proposals call for leadership from the governments of the region and a willingness to embrace a new level of openness and accountability when negotiating international treaties. They also offer new opportunities for non-government organisations, social movements, trade unions, churches, academics, local businesses and the media of all Forum countries to engage in debates that are crucial to the future.

This is an interim report of a technical nature that is timed to coincide with the April 2004 meetings of the Pacific ACP and Forum Ministers at which such issues will be discussed. A final report that is addressed more to the region's NGOs, social movements, churches and unions will be released in June at the time of the Forum Economic Ministers Meeting in Rotorua. I hope that both reports will provide a catalyst for the kind of analysis and debate that should have occurred at the time PACER was first proposed.

Dr Jane Kelsey
April 2004

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Abbreviations

ACP	African, Caribbean and Pacific Countries
ADB	Asian Development Bank
AITIC	Agency for International Trade Information and Cooperation
APEC	Asia Pacific Economic Cooperation
AUSAID	Australian Agency for International Development
CER	Australia New Zealand Closer Economic Relations Trade Agreement
DDA	Doha 'Development' Agenda
EBA	Everything But Arms
EU	European Union
FDI	Foreign Direct Investment
FEMM	Forum Economic Ministers Meeting
FICs	Forum Island Countries
FTA	Free Trade Agreement
FTMM	Forum Trade Ministers Meeting
GATS	(WTO) General Agreement on Trade in Services
GATT	(WTO) General Agreement on Tariffs and Trade
GSP	General System of Preferences
IMF	International Monetary Fund
IPPA	Investment Promotion and Protection Agreement
LDCs	Least Developed Countries
MAI	Multilateral Agreement on Investment
MFN	Most Favoured Nation status
MSG	Melanesian Spearhead Group
NAFTA	North American Free Trade Agreement
NGO	Non-Government Organisation
NZ	New Zealand
NZAID	New Zealand Agency for International Development
OECD	Organisation for Economic Cooperation and Development
PACER	Pacific Agreement on Closer Economic Relations
PACP	Pacific members of the ACP
PICs	Pacific Island Countries
PICTA	Pacific Island Countries Trade Agreement
PNG	Papua New Guinea
REPA	Regional Economic Partnership Agreement
RTFP	Regional Trade Facilitation Programme
ROOs	Rules of Origin
SPARTECA	South Pacific Regional Trade and Economic Cooperation Agreement
SPS	Sanitary and Phytosanitary
SVE	Small Vulnerable Economies
TCF	Textile, Clothing and Footwear
TEAG	Trade Experts Advisory Group
US	United States of America
USP	University of the South Pacific
VAT	Value added tax
WTO	World Trade Organisation

Overview

For more than 20 years, Pacific Island countries have come to depend on preferential trade arrangements such as SPARTECA with Australia and NZ and the Lomé Agreement with the European Union (EU). That era is now past. A sea of acronyms - WTO, APEC, FTAs, IPPAs, PICTA, PACER, the Pacific REPA – signifies an interlocking network of agreements that aim to lock all the countries of the world into a straitjacket of neoliberal policies and global markets, irrespective of their wealth, size or vulnerability. Old colonial powers, freed from their responsibilities for poor and vulnerable former colonies, are flexing their muscles and building new empires that serve their current economic, strategic and political interests. Publicly, the Pacific Island governments have been convinced by Australia and NZ to embrace this brave new world. Behind the scenes, they seem increasingly hesitant. Today, the globalisation juggernaut has stalled in the face of challenges from Southern governments and social movements and there is political space to think again.

In 1997, when the Forum Island governments endorsed the idea of a free trade area, they opened a Pandora's box. They were originally convinced to support a two-stage process, beginning among themselves and extending to Australia and NZ over a 20 year period. When told that the World Trade Organisation (WTO) would only allow 10 years if Australia and NZ were involved, they retreated into a limited arrangement among themselves that they optimistically believed they could manage. But Australia and NZ were not about to be excluded from a major economic initiative in 'their lake'. Nor would they stand by as the European Union (EU) renegotiated its relationship with the Pacific Islands and secured superior free trade commitments through the Cotonou Agreement.

There was no public debate about whether this was the best way forward for the Pacific or whether the costs might outweigh any gains. Negotiations were conducted behind closed doors. The treaty text underwent at least four major reformulations before Australia and NZ were prepared to let it be signed. Accounts of these meetings reveal a pattern of arrogance and intimidation that was led by Australia and condoned, and sometimes mirrored by, NZ. The result was an 'umbrella' Pacific Agreement on Closer Economic Relations (PACER) that promised Australia and NZ negotiations on a free trade arrangement and economic integration with a view to forming a single regional market. These would begin in 8 years time (2011), unless triggered earlier by negotiations with other countries (viz. the EU). Under PACER sat a Pacific Island Countries Trade Agreement (PICTA) that provided for free trade in goods among Forum Island Countries within 8 years (2010) for all 'developing members' and 10 years (2012) for the Small Island States and Least Developed Countries (LDCs) [Appendix 1]. This was a victory and a defeat for the Island governments. They had bought time, with a promise to Australia and NZ that might never produce an actual agreement. In political terms, however, Australia and NZ had secured enough leverage to require a further round of negotiations. That has left a deep sense of resentment. Now, less than two years later, Australia and NZ are insisting that these negotiations begin.

The consultants' reports commissioned by the Forum Secretariat to support the process were largely window dressing. Their narrow philosophy, tools and terms of reference made their findings a foregone conclusion. Keeping them confidential effectively closed down debate and allowed the fallacy that small and vulnerable islands can compete in a deregulated global economy to go unchallenged. Genuine consultation was limited to selected members of the private sector. Calls from non-government organisations for a qualitative and participatory study of the implications for Pacific peoples, their communities, the environment, culture and democracy were ignored. Instead a superficial, largely quantitative study was presented to ministers at the meeting where the agreements were signed. Hard questions about impact of inevitable business closures, loss of jobs and revenue shortfalls on the economic, social and political stability of the Islands were never properly engaged – let alone the consequences of extending such commitments to Australia, NZ and the EU.

PACER came into effect before PICTA, partly because it needed fewer Pacific Island parties and because it obliged Australia and NZ to fund trade facilitation and financial and technical assistance to the Forum Island Countries. Technically, the Regional Trade Facilitation Programme is to be agreed by consensus. But Australia and NZ hold the purse strings. Their decision to fund only half of what was asked for is viewed by some as realistic and by others as proof of how they manipulate the rules to suit themselves. Financial and technical assistance are channelled mainly through the WTO, whose programmes have been strongly criticised for promoting the positions and interests of the major powers. PACER also mandates mutual assistance in matters where the parties have common interests, especially the WTO. Yet Australia and NZ and the existing WTO members (Fiji, Papua New Guinea (PNG) and Solomon Islands) are on opposite sides on most issues. The hardline approach of Australia and NZ to the WTO accession negotiations of Samoa, Vanuatu and Tonga has fuelled the sense of anger and outrage.

PICTA provided for gradual liberalisation of trade in goods over a 10-year period. Implementation has been slow and reflects similar experiences with the Melanesian Spearhead Group. Belatedly, questions are being raised about the cost of 'adjustment'. Faced with the prospect of more complex and far-reaching agreements with Australia and NZ, and the EU, Pacific Island governments have begun developing strategies to defer the negotiations and minimise the scope and scale of any commitments. But, even if they avoid the triggers, PACER will require negotiations in 2011. Sooner or later, the Pacific Islands governments will face a re-run of the PICTA/PACER scenario. Their officials admit that they do not have the capacity to analyse the likely implications and face cultural barriers in standing up to Australian-style bullying. There is a serious danger that ministers and officials will be tempted to continue playing a game they cannot possibly win because they do not believe they can say 'no', especially if that threatens future access to aid funding. Yet withdrawal from and termination of PACER is the only way they can avoid becoming trapped in a web of enforceable obligations they cannot afford to implement.

Already the Forum Island governments are being urged to lock in further 'stepping stones'. PICTA originally deferred the complex and controversial question of 'trade in services'. Now, it seems, governments are being asked, on the basis of confidential consultancy reports, to make binding commitments within a year. Services agreements intrude deep into the traditional spheres of government policymaking and affect people's access to essential social and public services; yet the Forum Secretariat does not plan to conduct any studies into the implications. The same is happening with the even more controversial proposal for rules to protect foreign investors – despite opposition from Fiji, Solomon Islands and PNG to similar negotiations on investment rules at the recent WTO ministerial meeting in Cancun.

This is not just a power grab by Australia and NZ for control of the South Pacific. As a World Bank report spelt out in 2002, PACER aims to lock the Pacific Islands irrevocably into the neoliberal paradigm. The link to the Pacific Regional Economic Partnership (REPA) negotiations with the EU is partly defensive. But PACER and Cotonou are also flip sides of the same coin. Both swap preferential agreements for reciprocal ones that guarantee more extensive market access without having to make any additional concessions. Both promise sensitivity to the realities of poor, small and vulnerable Pacific Islands, while they treat them as pawns to advance their global strategic game plan. Both reach beyond the rapidly expanding 'trade' agenda of goods, services, investment, competition and procurement to advance the Washington Consensus policies of the International Monetary Fund (IMF) and World Bank, including labour market 'flexibility', fiscal austerity and privatisation of state assets and services. The broader and deeper the liberalisation, the more 'structural adjustment' will be required.

The current review of the Forum Secretariat, with its anticipated proposal for a Pacific Plan, could provide the Trojan horse that propels this agenda into the heart of the Pacific. Australia's vision, articulated in a series of recent reports, talks of a common currency, free movement of people, shared labour laws, harmonised tax regimes, common standards and qualifications, pooled services and a commitment to 'sound' (neoliberal) economic policies, including private property rights, an independent central bank and fiscal discipline. The implications for the region would be profound. There is a sense of déjà vu – that Australia and NZ could manipulate a seemingly benign commitment to a vaguely worded vision to impose their ideology, their neoliberal policies, their free trade agenda, their institutions and operatives, their economic interests, their political authority and their strategic influence on the Islands of the Pacific. The proposed free trade arrangement, embedded in the broader project of regional economic integration and run through a streamlined Secretariat with a strong executive, is critical to achieving that goal.

Pacific governments have so far excluded their people from debating these developments through the secretive and anti-democratic way that trade negotiations are conducted. It seems perverse that the "Biketawa" Declaration commits the region's governments to principles of accountable, participatory, democratic government - yet these are not applied to trade negotiations whose impact on people's lives will be more far-reaching than almost any decision taken by a national government and which tie the hands of governments for decades to come.

The people – NGOs, social movements, trade unions, local businesses and the media - are powerful potential allies of Pacific Island governments in rejecting the neoliberal agenda and developing their own Pacific Plan to address the urgent and serious challenges that are facing them. In the true spirit of the "Biketawa" Declaration, it is time for Australia and NZ to recognise that they risk creating a powder keg that will intensify the instability and threats to security in the Pacific, and to abandon their recolonisation agenda. Equally, it is time for the governments of all Forum countries to entrust their people with the right to determine their own future through open and participatory dialogue about the kind of development and regional cooperation they believe is good for them.

From Old Colonies...To New Empires

In 1973, when the South Pacific Forum was established with a mandate that foresaw 'the possibility of establishing a free trade area for the South Pacific Region', the world looked very different from now. Pacific Island countries were in the process of securing their political independence from Australia, New Zealand, Britain and France. The colonial powers acknowledged they had ongoing obligations, as the UN decolonisation programme required. Development theories placed the onus on wealthier countries to support poorer ones, consistent with the Keynesian-style interventionist economics and redistributive welfare state policies that prevailed at the time.

This was accompanied by paternalist rhetoric. Australia and NZ remained unrepentant for their brutal suppression of indigenous independence movements in the Pacific. They rationalised such behaviour as enhancing the welfare of the Islands and the human development of their people – just as they justified similar behaviour towards indigenous peoples in their own countries.

Colonialism created a structural inter-dependency. The colonial powers had profited from exploitation of the resources and labour of their former colonies, and were concerned to protect their residual economic interests. Colonial plantations in Fiji and Samoa had provided super-profits for Australian, British and NZ companies. By literally stripping the landscape of Nauru, Australia and NZ fertilised the pastures that made their own agriculture so profitable. While Australian interests mined PNG and Bougainville, French companies extracted New Caledonia's nickel deposits. Transport, communications and financial infrastructure were designed to serve these interests. NZ and Australia imported cheap unskilled migrants from the Pacific to fuel their economic boom, only to exclude or unceremoniously deport them when economic fortunes declined and local unemployment grew.

The Pacific Islands became politically independent nations, but they inherited institutions of government and law that had been designed to serve colonial economic and political interests. Most were rudimentary and based on patronage. Public access to basic utilities was poor, as were opportunities for paid employment. Wageworkers had few protections and attempts to organise, especially among imported labour, had not been encouraged and were periodically suppressed.

The newly independent Island states were economically unsustainable without external support. Almost all viable enterprises were foreign owned. They had no significant indigenous economic, commercial or industrial infrastructure or domestic capital. The state was the only viable source of new economic activity and hence the primary employer. To earn foreign exchange and achieve a modicum of self-sufficiency they needed preferential access for exports to their traditional markets. Tariffs on imports were the primary source of government revenue and, coupled with aid funding, were essential to maintain public services, utilities and employment.

Cold War concerns with regional stability and security gave the Pacific Islands leverage in securing preferential arrangements from Australia, NZ and Europe. From 1981 Australia and NZ guaranteed non-reciprocal access for scheduled exports from 13 Pacific Island countries under the South Pacific Regional Trade and Economic Cooperation Agreement (SPARTECA). This was critical to the birth of the textile and garment industry in Fiji and survival of small export sectors in many of the Islands. A comparable arrangement known as the Lomé Agreement was developed between European powers and their former African, Caribbean and Pacific (ACP) colonies. After Britain joined the European Economic Community in 1973, Lomé was gradually extended to the Pacific Islands for whom protocols for bananas and sugar, and duty free entry for canned tuna, provided vital economic lifelines.

From the mid-1980s, these arrangements came under attack. Old ideas were no longer fashionable. Neoliberalism displaced Keynesian interventionism as the prevailing ideology of the 'developed' world. Once the Cold War ended in the early 1990s there was no ideological contest and no need to keep the poorer countries onside. Globalisation was portrayed as inevitable, irresistible and irreversible. Competitive self-interest replaced notions of colonial obligation. Development theorists abandoned their support for self-sufficiency and argued that poorer countries must integrate into the global economy.

A cookie cutter approach to policy emerged. It was named the 'Washington Consensus' after the nerve centre of the IMF, World Bank and United States (US) government. The aim was to create conditions where capital could maximise its profits and face the fewest possible barriers at home and internationally. That extended across fiscal, monetary, trade, privatisation,

property rights, tax redistribution, free trade and investment policies. This latest vogue in economic policies was portrayed as unquestionable, scientific and 'sound'. Any other policy agenda was intrinsically 'unsound'. Implementing 'sound' policies became the standard conditionality for debt financing to poor countries. Voluntary 'structural adjustment' allowed richer countries more flexibility to meet their domestic economic and political imperatives and take a more pragmatic approach, although some (notably NZ) chose not to do so.

The same policy template was applied across 'developed', 'developing' and 'least developed' countries. It was no longer acceptable to argue that small, poor and vulnerable nations were structurally disadvantaged and required fundamentally special and differential treatment. They just needed more time to adjust to the new 'unalterable' realities. Multilateralism and reciprocity were the new panacea. Preferential trade agreements like SPARTECA and Lomé came under attack, as governments and exporters from other countries complained that they breached the 'most favoured nation' (MFN) pillar of the multilateral trading system that requires exports from all foreign countries to be treated equally. Transnational corporations orchestrated complaints that preferential agreements discriminated against the poor countries in which they happened to operate.

These increasingly powerful transnational companies and their parent governments in North America, Europe and Asia demanded new agreements to promote and protect their interests. They argued that the free trade rules on goods under the General Agreement on Tariffs and Trade (GATT) should apply to a wide range of other international transactions. The most obvious was the rapidly growing and lucrative sphere of services, such as finance, tourism, transport, retail, entertainment and telecommunications. They also wanted to safeguard their monopolies over new technologies and innovations by requiring all countries to adopt US-style intellectual property laws. They pushed, less successfully, for multilateral rules to protect the profitability of their investments. The same governments promised to change their protectionist practices in agriculture and textiles; but the new rules allowed these practices to continue.

Overseeing the new agreements was a supra-national institution, the World Trade Organisation. It was supposedly run by a consensus of all its member countries, small and large, rich and poor. But the WTO elevated power politics to a new plane. The WTO was mandated to work with the IMF and World Bank to promote a coherent model of 'global economic policy making', based on a common 'sound' neoliberal agenda. This reached beyond strictly economic policies into social policy and the essence of government.

Simplistic generalisations accused the governments of poorer countries of corruption, bad management and/or aid dependency and blamed them for the continued poverty of their people. The solution – 'good governance' - was itself deeply undemocratic and often enforced through debt conditionalities, tied aid and multilateral regimes. Governments were encouraged to limit the role of the state and rely on the deregulated market to deliver economic and social welfare to their people, transfer the country's infrastructure to foreign investors, and bind themselves and future governments to the current fashion of neoliberal policies. Paradoxically, this created new opportunities for corruption. Binding and enforceable international trade and investment agreements were especially powerful in limiting the policy space and autonomy available to governments - and in denying their citizens the right to decide what development means and the policies by which it might best be achieved.

Australia and NZ were leaders in this transition. From 1984 NZ's radical neoliberal programme was hailed internationally as an example to the rest of the world. Australia's initially more pragmatic approach caused less drastic damage to its economy and social fabric. Both countries were free trade evangelists. They signed a groundbreaking free trade agreement covering goods in 1983 and extended it to services in 1989. Australia drove the creation of the Asia Pacific Economic Cooperation (APEC) forum in 1989 as a catalyst for regional free trade and investment, because the Uruguay Round of the GATT was faltering and the North Americans and Europeans were deepening their regional economic integration through the Canada-US Free Trade Agreement (later North America Free Trade Agreement or NAFTA) and the EU. Both countries eagerly embraced Asia as the key to the future, until the financial crisis of the late 1990s.

The Pacific was viewed as an inherited millstone - but one they were determined to keep under their control. As the multilateral regimes began to falter and a scramble for regional and bilateral deals accompanied the revival of US imperialism, Australia and NZ focused on securing their own small sphere of influence. The desire to recolonise 'their lake' now dominates their economic, political and military relationship with their Pacific neighbours.

The Negotiating Environment

A number of specific developments shaped the context in which PICTA and PACER were negotiated. They continue to affect Australia and NZ, and the Pacific Islands, collectively and individually, in different ways.

The WTO is in crisis. Tensions have divided the WTO since its first ministerial meeting in Singapore in 1996. Poorer countries wanted to revisit elements of the Uruguay Round agreements that they could not implement for technical, economic and political reasons. They also demanded proper protection for Small Island States, genuinely special and differential treatment for LDCs, and accelerated access for agriculture and textiles into protected rich country markets. Wealthy countries, led by the EU, wanted the WTO to expand into new areas that became known as the Singapore Issues: investment, competition, government procurement and trade facilitation, and to import labour and environmental standards into core agreements. At the third ministerial meeting in Seattle in 1999 these internal divisions, coupled with street protests, paralysed moves to mandate a new 'millennium' round of trade negotiations. Tenuous consent to the new round was secured in Doha in 2001, in the intimidating shadow of September 11. The terms and conduct of those negotiations further inflamed North-South tensions and opposition from social movements, and culminated in the collapse of the most recent ministerial meeting in Cancun in 2003. The solidarity and resolve of the ACP countries, including Fiji, PNG and the Solomon Islands, played a pivotal role in the ability of Southern governments to hold the line.

These dynamics infect all contemporary trade negotiations. Australia and NZ are aggressive demandeurs at the WTO, where they spearhead the Cairns Group of agricultural exporting countries. Their quest for ever-stronger commitments and 'high quality' precedents drives their global trade strategy, including in the Pacific. The Pacific WTO members are on the other side in the Doha Round. Countries that are currently in the process of accession - Vanuatu, Tonga and Samoa - have faced aggressive demands from Australia and NZ to make commitments beyond those required of existing WTO members. Non-WTO members are affected too, as any resulting free trade agreements are required to be compatible with GATT Article XXIV.

The Asia Pacific Economic Cooperation (APEC) forum has also run out of steam. The 'Bogor' commitment to free and open trade and investment by 2010 for the richer members of APEC and 2020 for the poorer ones is voluntary and non-binding. It is unlikely to be implemented by the vast majority of APEC members. That has not stopped Australia and NZ from invoking the 2010 date to justify their demands for regional free trade and unilateral liberalisation to eliminate tariffs. With PNG as a member 'economy' and the Forum Secretariat having observer status, Australia and NZ will continue to use APEC to justify radical demands and timelines.

NZ and later Australia have turned towards bilateral free trade and investment negotiations. Under NZ's original strategy, governments who champion free trade would negotiate deals with each other to create a regional patchwork that could revitalise the multilateral system (Groser, 2000). Tangible economic benefits - or costs - were a peripheral concern. More recently the breakdown of multilateralism and the revival of US imperialism has made the marriage of foreign affairs and trade more explicit, as exemplified by the Australia/US free trade negotiations. Given this combination, it is inconceivable that Australia and NZ would accept being excluded from part of the patchwork in their back yard.

Trade liberalisation by Australia and NZ has eroded the trade preferences under SPARTECA. Australia and/or NZ are significant export markets for the Forum Island Countries (FICs), except the Federated States of Micronesia, Marshall Islands and Palau that have Compacts of Free Association with the US**.** Trade preferences under SPARTECA provided vital lifelines; radical trade liberalisation by Australia and NZ is making them valueless. The most significant exception is the retention of tariffs for textiles, clothing and footwear (TCF). Fiji's short-term concessionary arrangement for TCF with Australia is due to expire in December 2004 and its continuation has been opposed by the Australian unions and affected communities.

The EU aims to replace Pacific Islands' preferential access with reciprocal free trade obligations. A successful US-led complaint to the WTO against preferential market access for ACP bananas in 1997 had implications for other commodity-specific agreements. The EU used the WTO case to support its plans to replace trade preferences under Lomé with reciprocal Economic Partnership Agreements on a regional level. The negotiating framework was established in the Cotonou Agreement between the EU and the ACP countries in June 2000. Phase I began in September 2002 and was supposed to settle

broad issues across the entire ACP group. The ACP argue that these core principles must be finalised before regional negotiations begin, but the EU has insisted that they run in parallel with Phase II negotiations at the regional level. In a classic display of divide and rule, four of the seven regional negotiations have now begun. Negotiations for a Pacific REPA are scheduled to start in mid-2004 - hence the importance to the EU of the PICTA process, which it is rumoured to have partly bankrolled. In what has become a competitive market for trade negotiations, Australia and NZ will be determined to ensure parity, if not supremacy, in their negotiations with the Pacific Islands.

The Melanesian Spearhead Group (MSG) trade agreement is symbolically important, but in trouble. The MSG was formed by PNG, Solomon Islands and Vanuatu in 1993 and focused on a small number of key products in which each country had a comparative advantage. Fiji joined in 1998. The Melanesian governments, especially PNG, have promoted the MSG as the appropriate vehicle for a smaller-scale, gradual and Island-only approach to free trade and the basis for any broader agreement with Australia and NZ. By 2000 the MSG had begun to fracture. Vanuatu and the Solomon Islands have effectively suspended their commitments, citing revenue crises. Exporters have also complained that it has not produced the benefits they expected. The failure of the MSG is blamed by some on the rush to sign an agreement when countries were in no position to comply and by others on instability and the lack of government resolve to address their domestic economic problems.

Donors require trade liberalisation. The East Asian crisis had a serious impact on exchange rates and the competitiveness of Pacific exports, yet the Asian Development Bank (ADB) diverted funding from the Pacific's concessionary financing facility to prop up the Asian economies. By 2000 the ADB had adopted a 'new' sub-regional development strategy that purported to strengthen Pacific Islands ownership of policy and reform programmes and take better account of local culture and capacities. This is old wine in new bottles. The augmented Washington Consensus policies have a strong focus on trade liberalisation; acceding to the WTO was one condition for Vanuatu's bailout from the ADB in 1998. Such conditionality provides a means of locking the Pacific Islands into the global economy and forcing consequential restructuring onto their economies. It is supplemented by a contradictory notion of 'good governance' that constrains governments' ability to respond to democratically generated demands. The worthy 'Millennium Development Goals' agreed at the UN in September 2000 – to halve the number of people in poverty and without access to safe water, universal primary education, and more – are framed within market models and private sector delivery of public services. This is reinforced by IMF conditionalities that require governments to shift from tariffs to consumption tax, cut spending and privatise. Bilateral aid has also fallen in real per capita terms and is targeted much more tightly. In line with the international trend, the governments of Australia and NZ increasingly tie their aid to 'good governance' and technical assistance to institute 'sound' (neoliberal) policies. (GAO, 2001; Teaiwa et al, 2002; AFDAT, 2003).

Relations between Australia and NZ and the Forum Island Countries are strained. Commentators have noted a new intimacy between Australia and NZ as they present a common front in the Pacific on structural adjustment, globalisation and security: '*Australia is often said to be the superpower of the South Pacific. If so, then New Zealand is certainly the second, with Wellington playing London to Canberra's Washington.*' (*The Australian*, 25 August 2003) Maintaining this regional role is vital to the NZ government, as Canberra policy-makers no longer engage them seriously on larger foreign policy matters. Their shared criticism of post-coup Fiji and corruption scandals in Vanuatu and PNG, and support for the pro-democracy movement in Tonga, were seen as unwelcome interference from former colonial powers. While their belated support for the independence of East Timor and interventions in the Solomon Islands, and NZ's constructive role in Bougainville, have been cautiously welcomed, they also deepened suspicions of a strategy to recolonise the region. This has been heightened by Australia's deployment of personnel to police both law and order and the economy of PNG, and its demands for immunity.

The power imbalance in favour of Australia and NZ as aid donors, regional police and funders has created a 'them' and 'us' division within the Pacific Islands Forum. Tensions increased after Australia refused to ratify the Kyoto Protocol, despite pleas from Islands that are threatened by global warning, and Prime Minister Howard missed several of the Forum Leaders meetings. When Ratu Sir Kamasese Mara warned the Forum Leader's in 2001 that Pacific Island countries need to be vigilant and ensure they are fully in control of their destiny because 'too often aid comes with strings attached', NZ Prime Minister Helen Clark described Mara's comments as 'unfortunate' (*OneNews*,17 August 2001). This was the meeting at which PICTA and PACER were signed.

The Origins of PICTA and PACER

The Forum Secretariat was mandated to investigate the development of free trade among Forum Island Countries (FICs) when it was established in 1991. The proposal for a Pacific Regional Trade Agreement was tabled and endorsed at the Forum Economic Ministers Meeting (FEMM) in July 1997. They instructed the Secretariat to report to the next year's meeting with options and a framework that gave '*due regard to benefits from preferential and non-preferential approaches, taking into account the need for WTO consistency, and differing speeds at which FICs could do so.'* After considerable debate, two reports were commissioned. One looked at the potential economic benefits and costs of a free trade agreement in goods and services amongst the FICs; it reported the economic gains would be minimal, but there were non-economic benefits (Scollay, 1998). The second used the same methodology to examine the benefits and costs of including Australia and NZ, which they funded; it projected substantial welfare gains to the FICs and relatively limited benefits to Australia and NZ (Stoeckel, 1998).

These reports (and a third applying the same computerised modelling to liberalisation on a non-preferential (MFN) basis (Scollay and Gilbert, 1998)) were presented to the FEMM in June 1998. Following a slick power-point presentation of the Stoeckel report and analogies with the Closer Economic Relations Trade Agreement between Australia and NZ (CER), the meeting recommended that the Leaders should endorse, in principle, a free trade agreement that included all Forum members, and convene a meeting of Forum Trade Ministers in 1999. They also instructed the Secretariat to develop a framework for an agreement. The idea was for a '10+10' approach, giving the FICs a decade to phase in free trade among themselves and another decade to phase in commitments to Australia and NZ. But lawyers warned that this would exceed the time frame of 10 years allowed for regional trade agreements involving OECD countries under GATT Article XXIV. That would be simply unmanageable. The draft legal text they prepared for the Secretariat and distributed to members attempted a compromise: a FIC-only agreement, with the option of a protocol that included Australia and NZ.

The Forum Trade Ministers Meeting (FTMM) in June 1999 recommended that the Leaders should instruct the Forum's trade officials to negotiate the details '*and measures to provide for application of the agreement to Australia and New Zealand in appropriate ways*.' They wanted the final agreement ready for consideration by Ministers and endorsement by Leaders at their 2000 Forum meetings. The Ministers also approved studies on

- the effects of extending a free trade area to the Compact States and French Territories;
- the effects of extending the free trade agreement to services;
- the longer term integration of a free trade agreement into CER;
- market access issues with the US and Japan;
- a social impact study; and
- a paper on trade facilitation.

The wording adopted at the Leaders Meeting in October 1999 instructed officials to consider '*measures to provide for the application of the arrangements to Australia and NZ*'. The FICs later insisted that, even though the Leaders had dropped the phrase '*in appropriate ways'* this did not require Australia and NZ to be included and certainly not as full parties. Australia and NZ appealed to the spirit of the instructions and the unity of the Forum to support demands for full 'parties principal' status in any regional free trade arrangement.

The Forum Secretariat was responsible for implementing these instructions and played a crucial role in interpreting the mandate. In his Opening Statement to the pre-negotiations workshop in March 2000, Secretary General Noel Levi said the Secretariat's role was merely to facilitate the task of finding appropriate ways to apply the FIC-only agreement to Australia and NZ. But members needed to take *'certain expectations contained in the Leaders decision'* on board. In particular, the measures they produced had to be 'appropriate' in terms of the original intention and objectives of the free trade area: '*to be an enabling mechanism for the developing country members of the Forum…. The challenge is for all of us to focus on that challenge and not to be sidetracked by issues that are not pertinent to the task*.'

The Forum Island governments had created a rod for their own backs by conducting these discussions in secret. Had they opened the idea of a free trade agreement to public debate back in 1997 and released the background documents to allow independent and critical scrutiny, they may have been convinced not to proceed. They would certainly have had more basis for rejecting Australia and NZ's demands. Instead, by opting to create a seemingly limited free trade agreement among themselves they opened a Pandora's box that they could not control.

What Motivated Australia and NZ?

Publicly, Australia and NZ approached these negotiations in the spirit of benevolence and regional solidarity. Australian Foreign Minister Alexander Downer told the Australia Fiji Business Council in December 1999:

> *It is better to take steps towards becoming globally competitive by firstly competing with Australian and New Zealand goods and services, where island countries will be operating in a sympathetic environment, with countries that understand the island countries' needs and requirements and are strongly committed to their development.*

But their intentions were far from benign. As Forum members, benefactors of SPARTECA and major aid donors, Australia and NZ were not about to be excluded from a free trade area in their back yard. As then Associate Foreign Affairs Minister Matt Robson observed in response to the 2001 review of NZ's aid agency, NZ had a policy 'of ensuring that our political needs are met first and foremost before the development needs of other countries'.

New Zealand initially seemed relaxed about the proposal, and was prepared to let the FICs work it out among themselves, provided it did not interfere with the wider structural adjustment programme. Australian officials were much more aggressive. Once the first formal text appeared, NZ's attitude hardened and the two governments began a close collaboration to ensure their inclusion or, failing that, to ensure the project did not proceed. Downer reportedly issued instructions that nothing was to be called 'Pacific Regional' unless Australia was involved, and a free trade agreement to which Australia was not a full party was simply not an option. On numerous occasions they ridiculed the idea that a FIC-only agreement could get off the ground without them. Samoa is said to have complained formally about Australia's behaviour.

Initially, they were motivated by pique that the Island countries had dared to exclude them. Australia and NZ view the South Pacific as 'their pond', although it is impolitic to say so publicly. As founding members of the Forum (a status that still rankles with some) they were not prepared to accept their exclusion from its most significant economic initiative. Only full party status would allow them to influence the future direction of the agreement, such as the extension beyond goods into services, and the admission of new members. Their determination intensified as negotiations on the Cotonou Agreement sharpened in late 1999. According to NZ's trade files, full participation was considered necessary to prevent the EU from stealing a march on Australia and NZ in the Pacific and to ensure that both countries had a role in future negotiations between the Pacific Islands and the EU so they could pursue their trading interests.

These two principal motives were confirmed in the evidence from Australian officials on 13 May 2002 to the Joint Standing Committee on Treaties that examined the implications of PACER for Australia:

> *The first [objective] was political. We did not want the island countries, using the forum label, developing a free trade agreement between themselves which ignored Australia and New Zealand. For reasons of state we thought, "We're members of the forum; we deserve to be included in some way". Secondly, a practical or economic interest of ours was to ensure that, whatever trade liberalisation occurred between the island countries, if it were extended to other states such as the United States, Japan or the EU, it did not disadvantage our trading position.*

Australia and NZ's preoccupation with status and patch protection dominated the PICTA/PACER negotiations. At a more general level, both governments also saw free trade agreements as a means to extend and lock in neoliberal policies and commitments to globalisation by Island governments that had a mixed record on sustained restructuring. There was no question that benefits would flow.

The trade impacts of a free trade agreement itself were a marginal consideration. The Stoeckel report, which Australia and NZ had commissioned from the neoliberal Centre for International Economics to support their participation, was more a propaganda tool than a serious economic assessment (Stoeckel, 1998). The methodology guaranteed projections of much larger welfare benefits to the FICs if Australia and NZ were included, but gains to Australia and NZ were considered relatively insignificant. This was echoed in NZ government papers. Both countries had massive trade imbalances with the Pacific and the impact of removing tariffs on their exports was considered minimal. The far greater concern was the risk that tariff free competition for goods from the EU, promises of open market access and non-discrimination for European services providers, and guaranteed protections for European investors could seriously disadvantage Australian and NZ companies that lacked the same guarantees.

What Motivated the FICS?

Why would Pacific Island governments go down this path? Secretary General Noel Levi gave five reasons in a Question and Answer document prepared for the Forum Trade Ministers Meeting in 1999 (Levi, 1999).

1. The **economic rationale** saw a market of 6 million people as allowing the benefits of scale to countries with limited domestic markets and the ability to increase their production. While most of the Islands produce very little to trade with other countries, and much of that production is similar, no one could foresee the future. If Australia and NZ had benefited from an expanded market, so could the Pacific. However, Levi's optimism ignored the counter-factuals. The potential for the Island countries to expand their exports was constrained by poor technology, skills and infrastructure and vulnerability to natural disasters. Transport costs are significant. It was very likely that a 'hub and spoke' effect would attract investors from outside and within the region to one country, Fiji, from where they could export duty free across the Pacific and establish regional monopolies. The gains to Fiji might be short-lived if the other FICs reduced their tariffs unilaterally, entered into free trade arrangements with other countries or joined the WTO. Many of the Islands would be unable to compete. Those who had no alternative means of collecting revenue and depended most on tariffs could face fiscal crises from the combined effect of tariff cuts and trade diversion as more expensive imports from FICs replaced cheaper goods from other countries that still attracted duty. Anticipated gains to consumers from lower prices might just as easily become higher prices and profits for exporters. Some of these impacts were already apparent with the MSG (Cooke, 2000).

2. A **rapidly changing global environment,** and the creation of the WTO with its strong dispute settlement mechanism, meant preferential market access arrangements would not continue. The Lomé agreement was on life support with a WTO waiver that would expire in 2000, and the EU had made clear that it would only seek one more renewal. The waiver for the Compacts of Free Association would expire in 2006. The Pacific Islands faced a crossroad. '*This process is not of our making but we cannot sit there and do nothing while the foundations of our economies are being removed'.* A two-step process was identified, one based on MFN liberalisation and one involving trade and economic integration at the regional level. There was no recognition that a deeply flawed neoclassical model of comparative advantage might prove more damaging than pursuing an alternative path.

3. The '**stepping stone'** argument made a virtue of the prediction that gains from such a FIC-only agreement would be minimal, by arguing that the adjustment costs would be minimal too. A gradual approach would allow the Island countries to set their own pace and implement the transitional changes and 'sound' policies that were necessary for them to participate effectively in the global economy. There would be safety nets to ensure that local industries were not destroyed. An appropriate value added tax (VAT) could make the process fiscally neutral. The starting point would be the MSG, which would be superseded by a more inclusive regional agreement. Levi simply assumed that a gradual approach would make the economic, social and political costs of these policies, and the subsequent exposure to global markets and transnational corporations, more manageable. A 'stepping stone' also implied that the destination was identifiable, irresistible, achievable and desirable. The journey which the FICs eventually signed on to with PICTA and PACER would be none of those.

4. The **ideological justification** reinforced the belief that globalisation was inevitable and the Pacific Islands had to embrace the global economy or be left behind. '*Whether we create a regional free trade area or not, we have to adjust to a more open global economy or face stagnation and even greater marginalisation*.' The 'soundness' of neoliberal policies and the absence of alternatives were also assumed. This was the rhetoric of the moment. The WTO seemed omnipotent. There was no space to question the orthodoxy; expressing doubt was a sign of 'bad governance'. There was no recognition that this omnipotence might prove transitory, either.

5. The **political rationale** operated at two levels. There was a strong belief among FICs and the Secretariat that a free trade agreement would enable them to protect their interests more effectively in negotiations with larger powers, notably the EU, and in the WTO.

> *The real reason the free trade area should happen is that it is a strong political message that would help arrest the political and economic marginalisation. The more the region acts as a group, the more political influence it will have. A regional trade agreement will be important both economically and politically.*

More controversially, some saw a free trade area as an opportunity to streamline and rationalise the bureaucracy in the 14 Island countries and open the way to an eventual political confederation in which Australia and NZ may, or may not, be included. That rationale is now being put to the test.

Backroom Bullies

Accounts of the meetings between Australian and NZ government representatives and the officials, politicians and consultants for the Forum Island Countries reveal a pattern of arrogance and intimidation. This was led by the Australians and condoned, and sometimes mirrored, by NZ.

The teams of specialist trade officials from Australia and NZ overwhelmed the negotiators from each Island country. Only Fiji, PNG, Samoa and the Cook Islands reportedly played an active role in the meetings – and they lacked the resources to assess the legal and economic implications of a steady stream of proposals, let alone their social impacts. Even the Fiji government had no specialist trade lawyer to call on. Cultural factors were pivotal. In the Pacific Way, strong opposition to what Australia and NZ were demanding was generally expressed by silence – which Australia and NZ interpreted as consent. Those negotiators who were prepared to speak out limited their interventions because speaking too often would reflect badly on their country. Political pressure behind the scenes, and the ever-present reality of dependency on Australia and NZ, further fettered their ability to hold the line.

The FICs depended heavily on the Forum Secretariat, whose officers bore the brunt of Australia and NZ's bullying. The Secretariat faced a quandary. On one hand, its mandate required it to represent all Forum members and adopt a neutral position in what became a highly adversarial process. Technically it did that. But there is no doubt that the Secretariat's priority, or at least that of its trade division, was to service the needs and preferences of the Islands. Just before the 1999 Leaders meeting in mid-November 1999, for example, Fijian media reported Secretary General Noel Levi as saying that Australia and NZ would not be included until at least 2011. In the pre-negotiations workshop in March 2000 he urged officials not to become preoccupied with whether Australia and NZ were in or out, deeming that a distraction from the real issues.

The Secretariat's chief trade adviser Roman Grynberg relied more on the legal arguments. If Australia and NZ, as 'developed' countries, were involved the agreement would require WTO approval under Article XXIV of the GATT. This required coverage of 'substantially all trade' within a period of around 10 years. An Australia/NZ-inclusive agreement that was phased in over a much longer period was unlikely to be approved. A ten year period was beyond the capacity of the Islands to implement. If the EU then demanded MFN treatment for any concessions granted to Australia and NZ, as it was entitled to do under Cotonou, *and* the US made the same demands of the Compact States, the Forum Island Countries would be forced into a level of liberalisation that was totally unmanageable.

The Forum's consultants were also targeted. Australian officials demanded a series of meetings with the NZ academics involved in drafting the legal texts for the Forum. NZ officials seemed to tag along. These meetings reached 'a crescendo of unpleasantness' when officials from both countries flew to Auckland to express their views about a study on the proposed 'umbrella agreement' that the Secretariat had commissioned. In between, the consultants were subjected to a blitz of e-mails. One describes the experience as follows:

> *The public behaviour of the Australian officials at some of the meetings was appalling. Their anger at 'being crossed' by the Secretariat and the Pacific Island countries was palpable. The not-too-subtle implication was 'we've paid for all of this, why are you being so ungrateful in excluding us'. Their private behaviour, at its worst, descended to levels that I regard as totally unacceptable. The whole experience was stressful and demoralising for me, let alone for the Pacific Islands negotiators. There were times that I felt ashamed to be a New Zealander; I was just pleased that I was not an Australian.*

The Forum Island governments ultimately felt powerless to say 'no'. A major reason was the lack of pressure from within their home countries. Secrecy works to the advantage of powerful governments. If the bullying tactics and demands of Australia and NZ had been more widely known, negotiators and ministers could have used this to strengthen their hand. Instead, the negotiations were conducted behind closed doors. Consultation was limited to selected members of the private sector. The consultants' reports commissioned by the Secretariat were kept confidential to the Forum members and effectively remained unchallenged.

Turning the Tables on the FICS

Australia and NZ refused to accept that "'no' means 'no'". NZ Ministry of Foreign Affairs and Trade files show the text went through at least four major reformulations before they were prepared to let it be signed.

The first text produced for the Forum Secretariat (in January 1999 and refined in June) was confined to trade in goods among the Forum Island Countries. A protocol applied the same provisions to Australia and NZ, minus the flexibility to take emergency measures. That protocol provided for specific schedules of tariff cuts and exceptions that would apply to Australia and NZ. Island governments would ratify the protocol separately from the main agreement amongst themselves. Australia and NZ objected that this denied them the status of full negotiating parties ('parties principal') and rejected arguments that their proposal would contravene GATT Article XXIV.

The legal drafters produced an alternative version of the protocol for the Leaders meeting in November 1999. This promised negotiations to extend any trade liberalisation that occurred under the main agreement to Australia and NZ on a 'mutually acceptable' MFN basis. Those negotiations would begin no later than 6 months after the FIC-only agreement came into effect. Australia and NZ objected that there was no guarantee that such an arrangement would be in place before any liberalisation commitments were made to the EU. They wanted the core arrangement to be tuned to their needs, rather than negotiating an additional one.

The Leaders instructed the Secretariat to seek feedback from each Island Country on the two options. Australia and NZ were now collaborating more intensively. Australia developed an alternative text, which basically shifted the protocol into the main text and made Australia and NZ full parties principal. They tabled this jointly before the pre-negotiations workshop in March 2000. In support, they argued that the Forum needed to maintain its unity and that the Stoeckel report showed the FICs would get much greater benefits by including them. NZ indicated there were other aspects of the text they also wanted to discuss, such as the inclusion of services.

The Secretariat prepared an issues paper for the pre-negotiations workshop which was openly unsupportive of Australia and NZ's proposals. Island government officials then asked Australia and NZ to provide further clarification. NZ produced a new proposal for their inclusion as full parties. They accepted the need for separate schedules for any tariff cuts that benefited Australia and NZ and suggested the Islands could reduce their tariffs beyond that level at their own pace, with a view to eliminating them in line with APEC's 2020 timeline. Once reduced, however, they could not raise the tariffs again, unless the justification came within the emergency provisions of the agreement. Any tariff preference to any other 'developed' country would have to be immediately accorded to Australia and NZ. SPARTECA would continue to apply for those countries not immediately adopting the agreement. Full participation by Australia and NZ would also send a strongly positive message to potential investors and enhance the international profile of the agreement.

The Forum's consultants were asked to assess the two Australia/NZ proposals and the two original protocols against four criteria. They found problems with all approaches. The main reasons were:

WTO compatibility: An agreement that involved Australia and NZ would require approval under the GATT Article XXIV rules on regional free trade agreements and would not meet the requirement that it apply to 'substantially all trade' within a 10 year time frame. Even the FIC-only agreement then being proposed would be unlikely to satisfy the (lower) standards the GATT applies to a 'developing country-only' agreement.

Trade relations with other developed country partners: The Cotonou Agreement required Pacific ACP countries to extend the same commitments to the EU that it makes in a free trade agreement with any other developed country. The Compacts of Association between the US and Federated States of Micronesia, the Marshall Islands and Palau would apply the MFN rule even where the agreement was only among 'developing' countries. The FICs would not cope.

The 'stepping stone' approach: The Australia/NZ proposals would not give the Islands the time they needed to adjust to the requirements and impacts of trade liberalisation in a gradual way.

The consultants' assessment of the fourth criteria - ***the desire of Australia and NZ to participate as parties principal*** - put the politics of the negotiations unequivocally on the table. They concluded that the desire to participate was driven by political rather than economic considerations, because the economic benefits which Australia and NZ could obtain as parties principal could also be achieved through the protocol approach. The consultants also identified as an overriding concern the need to ensure that the Islands did not become locked into a trade architecture that could cause them unnecessary problems in the future.

They proposed a completely new approach of three separate agreements that used identical terms. The first would cover trade among the FICs and be signed immediately. The other two, between the FICs and Australia and between the FICs and NZ, would be negotiated within a specified period. This would avoid the requirement for immediate WTO notification and MFN extension of those commitments to the EU and US. Each country would only be a party principal to the agreement(s) involving them. This complex arrangement was a way to avoid a further problem that an agreement including Australia and NZ would need to cover 'substantially all trade' to satisfy Article XXIV. That would have to include almost all trade between Australia and NZ, which takes place duty free under the Australia New Zealand Closer Economic Relations Trade Agreement (CER). But the Rules of Origin (ROOs) being proposed for the Pacific agreement were more liberal than CER and neither Australia nor NZ was prepared to apply them to TransTasman trade.

To satisfy Australia and NZ's political objectives, a fourth 'umbrella agreement' was proposed that would eventually bring the other three together in a Forum-wide free trade area. This would guarantee that other developed countries did not get preferential treatment over Australia and NZ, and include measures on trade facilitation and economic and technical assistance.

Australia's Foreign Minister Alexander Downer objected that the proposed structure introduced two levels of Forum members and Australia continued to demand watertight commitments. New Zealand opted to massage the idea of an umbrella agreement to achieve the most favourable compromise. The end product was two agreements: an overriding 'umbrella' to which Australia and NZ were full parties, and a 'sub-agreement' that was confined to the Forum Island Countries.

The **Pacific Island Countries Trade Agreement (PICTA**) provides for free trade in goods within 8 years (2010) for all developing FICs and 10 years (2012) from the Small Island States and LDCs. Sensitive products can be protected until 2016. Alcohol and tobacco were exempted for 2 years pending an assessment on the revenue implications of including them. Rules of Origin were set at 40% of value added. Each country's schedule of tariff cuts and their negative list of sensitive industries was annexed. Only the FICs were parties principal to PICTA. The Compact States were given an additional three years to sign once they had assessed the implications of extending the same concessions to the US. Nine countries originally signed. PICTA required ratification by at least six and came into force on 13 April 2003. Current parties are the Cook Islands, Fiji, Niue, Samoa, Tonga, Solomon Islands, PNG, Nauru and Kiribati. Vanuatu and Tuvalu and the Compact States have yet to ratify.

The **Pacific Agreement on Closer Economic Relations (PACER**) merged the proposal for separate FIC-Australia, FIC-NZ and umbrella agreements. All Forum members were parties principal. PACER promised broader ranging negotiations with Australia and NZ on trade liberalisation and economic integration in 8 years time (once PICTA was in place for 'developing' FICs), or earlier if triggered by one of several mechanisms. A separate Annex set out processes for establishing trade facilitation programmes which Australia and NZ agreed to part-fund, along with less detailed commitments to provide financial and technical assistance. PACER required ratification by 6 Forum members, including Australia and NZ – a lower threshold to ensure that it was ratified before the 'subsidiary' PICTA. PACER came into force on 3 October 2002, having been ratified by Fiji, Australia, NZ, Cook Islands, Samoa and Tonga. Kiribati, Nauru, Niue, PNG and Solomon Islands have since joined.

PACER is officially portrayed as the dominant 'umbrella' agreement under which the Island-only PICTA sits. This was a victory and a defeat for the Forum Island Countries. They had bought time before they had to negotiate anything concrete, with a promise that might never produce an actual agreement. In political terms, however, Australia and NZ had forced their way into an arrangement that was not intended to include them and secured enough leverage to require a further round of negotiations, sooner or later. Their demands would be difficult to fend off a second time, especially if they were based on claims to parity with the EU - even though PACER contains no formal MFN obligation and the impacts of similar concessions to Australia and NZ would be far more severe.

The PACER 'Triggers'

Australia and NZ succeeded in becoming parties principal to PACER and symbolically subordinating PICTA under its umbrella. That promised the future negotiation of a free trade arrangement - defined as 'at least one free trade area or customs union, or at least one agreement leading to the formation of such area or union' consistent with Article XXIV.8 of the GATT. As noted earlier, this requires an agreement to cover 'substantially all trade', which by convention must be achieved in a period of 10 years.

PACER has a gradation of triggers. The softest, in Article 14, requires each party to keep the others informed of 'the implementation of, and progress of, economic integration arrangements' in which they are involved. This allows Australia and NZ to require information on the implementation of PICTA and any Pacific REPA that comes into being.

A general notification provision applies under Article 6(2) where any party to PACER enters into negotiations for a free trade arrangement with a non-Forum country. The onus to notify is on the party entering the negotiations, so they have the initial power to define whether negotiations have begun and whether those negotiations are for a free trade arrangement; that interpretation could later become a matter of dispute. This obligation applies only to negotiations that began after PACER came into effect in October 2002, or later for countries that accede after that date.

Article 5 has several other 'soft' requirements:

- Any party to PACER can notify the Secretariat that it wants to establish a new trade and economic integration arrangement between *all* the FICs and Australia and NZ, or extend or deepen the coverage of existing arrangements. However, this requires consensus and, given the antagonism towards a free trade arrangement with Australia and NZ, seems unlikely.

- All PACER parties can agree to hold earlier negotiations as part of regular three-yearly reviews. This also requires consensus and seems equally unlikely.

- If either Australia or NZ begins formal negotiations for a free trade arrangement with any non-Forum country it is required to offer 'consultations' to each FIC, with a view to beginning negotiations for improved market access. Australia and NZ have attempted to activate this in relation to their negotiations with the US and Chile/Singapore respectively. But that 'offer' is limited to improving market access, such as more lenient Rules of Origin, and has not been taken up - presumably for fear of opening the door to wider negotiations.

The fallback position for Australia and NZ is the requirement in Article 5(1) that all parties to PACER begin negotiations with the aim of setting up reciprocal free trade arrangements eight years after PICTA came into force. This means negotiations would not begin until April 2011 – more than three years after a Pacific REPA with the EU is meant to come into effect - and falls well short of the parity Australia and NZ were demanding.

The more immediate leverage available to Australia and NZ comes from Article 6(3) and 6(4). These require Australia and NZ to be offered 'consultations' as soon as practicable, with a view to beginning negotiations for a free trade arrangement, if

- any FIC commences formal negotiations for a free trade arrangement with a developed non-Forum country;
- any FIC concludes a free trade arrangement with a non-developed country whose GDP is higher than NZ's; or
- all the FICs who are party to PICTA jointly begin negotiations for a free trade arrangement that would include at least one non-Forum country.

The obligation to negotiate ends if the negotiations that triggered them are discontinued.

Forum Island Countries that are not a party to PICTA or PACER are not affected by any of this, although they are allowed to enter into any consultations and negotiations that are triggered by Article 6(3).

Australia and NZ must continue to apply SPARTECA and any other existing market access arrangements with any FIC until they have concluded new or improved arrangements that give that country equal or better market access.

Significantly, the only enforcement mechanism for the 'triggers' is the Article 15 requirement for good faith consultations to seek a mutually satisfactory solution to any dispute.

PACER's Principles

Consistent with current orthodoxy 'special and differential treatment' of poor, small and vulnerable Pacific Islands means giving them more time to implement the rules and integrate into the global economy. PACER's Preamble makes a commitment to 'sustainable development and the elimination of poverty in the region', but this is unenforceable. It also promises 'due regard for their national circumstances and their right to regulate in accordance with national, social and economic policy objectives'; yet it allows only one permissible path for doing so - the 'eventual full and complete integration of all sectors' of their economies, a clearly established and secure framework of rules for trade and economic integration, and consistency with the WTO and all other multilateral, regional, bilateral agreements.

Only the Articles of the agreement have legal teeth – and then only words that have a 'hard' legal meaning really count. Article 7 sets the terms for an Australia/NZ-inclusive free trade arrangement. It must

- be at least as favourable as existing arrangements;
- recognise the differences in development status of the parties;
- not otherwise discriminate between the FICs, except where LDCs get special treatment; and
- not discriminate between Australia and NZ.

A new arrangement must also be consistent with PACER's objectives and general principles. The key objectives, set out in Article 2, make it clear that the FICs are locked into a one-way street. Specific objectives include

- providing a framework for cooperation that leads over time to development of a single regional market;
- increasing economic opportunities and competitiveness through effective regional trade arrangements;
- minimising '*any disruptive effects and adjustment costs to the economies of the Forum Island Countries, including through the provision of technical assistance and support … to undertake the necessary structural and economic adjustments for integration into the international economy*';
- economic and technical assistance to implement trade liberalisation and economic integration; and
- WTO compatibility.

Five 'guiding principles' are set out in Article 3. The **first** requires the objectives of 'sustainable development' to underpin all stages of the relationship. Although 'sustainable development' is not defined, it has assumed a market-driven and WTO-compatible meaning through a series of intergovernmental Summits, culminating in the World Summit on Sustainable Development in Johannesburg in 2002 (Khor, 2002; Holliday, 2002; Kelsey, 2003a).

The **second** stresses 'gradual and progressive integration'. This sets the stage for disputes between FICs that will emphasise the *gradual,* and Australia and NZ who will have their sights set on *progressive integration*, with the goal of a single regional market and backed by the APEC deadline for developing countries of 2020.

Third, the integration of LDCs and Small Island States 'in accordance with different structures and time frames' will import into these negotiations the dispute about special and differential treatment that currently divides the WTO, and on which Australia and NZ and the Pacific WTO members have taken different sides (Khor, 2003a).

Fourth, a standstill commitment intends to stop governments from raising their trade barriers, especially tariffs, even if the new level does not exceed the maximum to which the country is bound. This is one of the few revenue options available to the Pacific Islands in a fiscal emergency and has been a major point of dispute in WTO accession negotiations (eg. Gay & Joy, undated).

The **fifth**, and seemingly most innocuous, is the requirement to '*use their best endeavours to follow international best practice in formulating the rules governing the trade relations between them, taking into account the development status, capacity and resources constraints on the Forum Island Countries'.* This reaches beyond the WTO to draw on other agreements, such as NAFTA, various bilateral treaties and the extreme deregulatory guidelines and principles endorsed by APEC. In theory, the FICs could also cite provisions favourable to their interests that they find in other instruments, such as from UNCTAD, but Australia and NZ are unlikely to concede that these constitute 'best practice'.

Self-Fulfilling Consultancies

In one sense, the various reports that the Forum Secretariat commissioned from economic consultants were window dressing for negotiations that were driven by other motives. Their terms of reference and methodology meant their findings were a foregone conclusion. But the reports were also important, because they could be cited to justify the course of action being taken and close down any critical debate.

The Secretariat followed a standard process of 'consultation' that justifies trade liberalisation whatever the country or context. Consultants' reports are almost invariably commissioned from free trade economists. They apply a narrow ideological and methodological template that treats trade as a purely economic activity involving commodities and marketised services. The social and cultural relations involved in growing food, fishing or teaching are stripped away as they are redefined in abstract market terms. Countries are reduced to economic units, devoid of any national and international context, history, structural inequalities and power relations. Gains are projected using abstract general equilibrium models that operate at the aggregate level of a country or a region, and ignore distributional issues of class, gender, age, ethnicity or location – let alone the impacts on social inequality, political stability, environmental sustainability, self-determination and democracy.

The assumptions and techniques of neoclassical trade theory are applied to these abstractions as if that theory is scientific truth, instead of a highly contested view of how communities should organise their lives and use their resources. The belief that countries should exploit their comparative advantage in one product, and exit activities that other countries can do more efficiently, is treated as universal. There is no space to question whether small and vulnerable economies have the capacity to develop and sustain a competitive market economy and no recognition that their dependency on one or two export crops or products already leaves them vulnerable to a natural calamity or international market slump. These countries are advised to embrace a path that is likely to threaten their limited diversity, increase their already large trade imbalances and eliminate a vital source of tariff revenue. Sequencing and phased implementation are the only concessions to their uncomfortable realities. The theory also assumes that dynamic efficiencies will result if a process of creative destruction is set in train. The capital and labour that are 'liberated' when a Pacific Island's main economic activity becomes uncompetitive are expected to generate more efficient and lucrative new ventures in goods and services that will, in turn, find viable export markets. Empirical realities of geography, scale, infrastructure, transport costs, skills are generally ignored.

The theory is problematic enough when applied to goods. When it is transposed to services that supply vital social, cultural and environmental needs, such as water, electricity, education and health care, it is no longer about 'trade' at all. According to the theory, where foreign suppliers of services are more efficient than local ones, countries should 'import' those services. In 'services markets' whose scale cannot sustain commercial competition this is a recipe for dependency on foreign transnationals operating as private monopolies. It is assumed that countries cannot provide the quality or choice that foreign firms can offer and those firms will only invest if they are guaranteed access and non-discrimination. But there is no evidence that services commitments are a significant factor in foreign firms' decisions to invest or provide services across the border. In return, Islands are encouraged to exploit their only real comparative advantage - an abundance of labour. Yet prevailing definitions of 'services trade' limit this to skilled labour. The gains from increased remittances and promises of improved skills and networks have to be weighed against the long-term risks of depleting an already limited skill base and corresponding dependency on expatriate experts (Grynberg, 2002; Winters et al, 2003).

This neoclassical trade model is embedded within a wider neoliberal framework that is treated by consultants as objective, 'sound' and unquestionably desirable. Policies, treaties or arrangements which promote that agenda are assumed to be good for a country, because the theory says they improve efficiency and enhance aggregate economic and social welfare. The 'structural adjustments' they set in train are justified as short-term pain to secure longer-term welfare gains. The mass of contrary evidence is ignored (eg. UNCTAD, 1999; Pettifor, 2003).

Each report builds on those that went before, so flawed assumptions and disputable conclusions are constantly reinforced. Social or environmental impact studies almost always come later, are based on those of the trade economists and are often themselves written by economists. Their recommendations offer, at best, palliatives to ease the costs of adjustment. Most consultants' reports are protected from independent analysis and democratic debate because they are confidential to participants until negotiations are over. As these reports accumulate, it becomes more difficult for participating governments to question their validity. They become trapped in negotiations that have an internal logic, but no external justification.

The Scollay Report

The Forum Economic Ministers Meeting in 1997 asked the Forum Secretariat to arrange a study on the options for implementing free trade among the FICs (Scollay, 1998). This was the first of many reports on PICTA/PACER which the Secretariat commissioned from free trade economist Robert Scollay, Director of the NZ APEC Study Centre (eg. Scollay and Gilbert, 1998; Scollay and Stephenson, 2001; Scollay, 2002). The 1998 report became the reference point for every subsequent report by himself and other consultants. A shroud of confidentiality meant only those inside the negotiating circle had access to the report. This not only pre-empted challenges to its methodology and assumptions – it also shielded the extraordinary decision to proceed, given Scollay's own conclusion that such an arrangement would produce only A$5 million in aggregate economic gains, and that some countries could face negative impacts.

Applying a computable general equilibrium model, Scollay projected very small overall gains for all the FICs except the Cook Islands, Samoa, Kiribati and Palau. They, too, would gain if the agreement was extended to services and countries reduced the level of trade diversion by lowering their tariffs to the rest of the world by 25%. The benefits of scale would increase if the US and French territories were included at the earliest opportunity. Further benefits would result if a trade and investment facilitation programme helped to harmonise and improve the quality of countries' customs, sanitary and phytosanitary (SPS) and standards regimes. Non-economic benefits included a stepping stone approach to more complete liberalisation, increased attractiveness to foreign investors and greater cohesion in external relations. The report did concede that FICs would face a significant loss of tariff revenue that would have to be met through other means, such as a VAT. There would also be significant, unspecified domestic 'adjustment' costs, but these were not explored.

Given the limited benefits, Scollay said the burdens of negotiations and compliance should be minimised. In relation to goods, that meant automated steps to achieve zero tariffs, no quantitative restrictions and short, finite derogations for infant industries. He recommended a negative list approach to both goods and services, whereby governments list only what they want to exclude. While that seems simple in technical terms, it is complex and far-reaching in policy terms. Approached responsibly in relation to services, for example, a negative list requires governments to identify the potential implications of commitments on every one of the hundreds of services sub-sectors covered by the agreement, ranging from education, health and environment to retail and tourism, in every possible mode of delivery, not just at the present time but for decades ahead. If they fail to reserve certain services or aspects of them explicitly in their initial negative lists, they effectively lock those services open for all time, irrespective of the social, cultural or employment impacts of foreign control.

Scollay's methodology followed the standard pattern described above. Working from the assumption that trade liberalisation produces efficiencies, it combined computerised modelling with assessments of potential new export opportunities based on interviews with people from government and the private sector. He acknowledged that the methodology had its limitations - but only ones that *under*-estimated the likely gains.

That approach is problematic enough in relation to 'trade-related' measures. But Scollay conceded that he was talking about a move that would set in train a radical restructuring of every Pacific Island's economy, and hence their society:

> *Trade liberalisation initiatives, whether preferential or non-preferential, do not take place in a policy vacuum. Typically trade liberalisation is only one of a range of policy initiatives which are needed to improve economic performance. Depending on the circumstances of individual economies, these reforms may include correction of macroeconomic imbalances, deregulation of the domestic economy, reform of the financial system, public sector reform, reform of legal and institutional arrangements (including arrangements governing property rights to resources such as land), and the introduction of greater flexibility into labour markets. It is important to emphasise that trade liberalisation will only deliver its full benefits if other necessary reforms are also carried out. Failure to implement other necessary reforms can substantially reduce and in extreme cases entirely negate the benefits of trade liberalisation.* (p.24)

In other words, a Pacific free trade agreement would open the door to minimal improved economic performance, but even those benefits would not be achieved unless the Pacific Islands implemented the full menu of 'Washington Consensus' policies.

These criticisms do not suggest that Scollay did not care about the consequences of such an agreement – rather, that the narrow philosophy and tools he applied to the terms of reference he was given led inevitably to a pre-determined and dangerous conclusion.

The Stoeckel Report

A second report assessed the implications of an agreement that included Australia and NZ. That was produced by Dr Andrew Stoeckel, Director of the Centre for International Economics, a neoliberal think tank based in Canberra. It was funded by Australia and NZ and states that it was prepared for AUSAID and the NZ government (Stoeckel, 1998). The terms of reference required it to use the same data and methodology as the Scollay report, so the two could be compared.

Once again, the computable general equilibrium model produced an inevitable outcome. Scollay had predicted that a FIC-only agreement would produce minimal economic gains of around A$5 million. Stoeckel projected that including Australia and NZ could create welfare gains of around A$200 million. These speculative 'gains' were based on highly contestable assumptions about the lower cost of imported inputs for local producers, lower prices for consumers, improved productivity of import-competing sectors and increased international competitiveness of FIC exports.

Again, this was an aggregate figure. According to Stoeckel's calculations only three countries – the Cook Islands, Fiji and PNG - would make significant gains. The reasoning was theoretically logical, but empirically perverse: because these countries had the highest tariffs, removing them would produce the greatest efficiencies. The massive loss of revenue was not a problem, because these countries already had a VAT that they could increase to make up the shortfall. Stoeckel predicted that an Australia-NZ inclusive agreement would have little impact on Nauru, Federated States of Micronesia and Palau because their levels of trade and/or tariffs were very low. That left eight countries - Marshall Islands, Kiribati, Niue, Samoa, Solomon Islands, Tuvalu, Tonga and Vanuatu – which he conceded would suffer significant revenue losses and which did not have a VAT. Rather than saying they would lose from a free trade deal with Australia and NZ, Stoeckel euphemistically suggested that a decision to join would require 'careful consideration'.

A calculation that 8 out of 14 countries were likely to be worse off might normally be fatal to a proposal. But Stoeckel's report assumed that even they could benefit because:

> *Economic theory tells us that open, outward looking economies can deliver higher living standards than protected, inward looking economies. Increased competition, more efficient use of limited resources, new markets and opportunities, integration and harmonisation of economies, new technologies and higher returns to innovation all increase welfare. The objective of any trade agreement is to increase incomes, consumption and job opportunities for citizens of the member countries. … An FTA [free trade agreement] is but one aspect of greater economic integration. Free trade areas commonly evolve into regions of closer economic integration. From a welfare point of view the greater the economic integration of countries, the higher the economic welfare.* (pp.10, 14)

Stoeckel conceded that involving Australia and NZ would also mean greater adjustment costs. But that would also be good for the Islands, because it would force them to implement policy changes to ensure their domestic economies were sufficiently 'flexible'. Tables that accompany the text set out the 'requirements for growth' of the Forum Island Countries, based on the standard Washington Consensus agenda: low and stable trade barriers; high rates of savings and investment; clear property rights; low state intervention in production and marketing; regional business integration; low public administration and employment; and low dependence on aid (p.29). An added benefit of an enforceable trade agreement would be 'policy stability':

> *By locking in a significant regional trading arrangement with Australia and New Zealand, the Forum Island Countries would give a powerful signal to business that intervention and assistance is not likely and would be most difficult to change*. (p.29-30)

In sum, Stoeckel argued that hypothetical efficiency gains from a free trade arrangement including Australia and NZ would be concentrated in three countries, which would face very considerable adjustment costs as a result. The stated goal - to produce more prosperous and self-reliant island economies by increasing the scope for 'large scale production' and specialisation within industries – failed to engage with the real world of Fiji or PNG, let alone Niue, Kiribati or Tuvalu. Stoeckel's report was influential in the initial decision in 1998 to support a Forum-wide agreement, but was rarely invoked during the later negotiations. There is a serious risk that it will be resurrected to foreclose debate, challenges and critical enquiry on what a free trade deal and deeper economic integration with Australia and NZ might mean.

A Social Impact By-Pass

Non-government organisations in the Pacific began asking for a social impact study as soon as they became aware of the PICTA/PACER negotiations. What they wanted was a qualitative and participatory assessment of what a free trade agreement could mean in real terms for the lives of people and their communities, and for the environment, culture and democratic government of each of the Islands. They knew that the binding nature of trade agreements would make it very difficult for their governments to withdraw even if the impacts proved catastrophic, so they wanted the study completed before governments committed themselves in any negotiations.

The idea of a Social Impact Assessment was endorsed at the pre-negotiation workshop in March 2000, after Fiji had said that it could not proceed without one. But it was not completed until negotiations were over, according to one source because of delays in Australia and NZ providing the funds. The terms of reference were limited to PICTA, because PACER was viewed narrowly as a commitment to negotiate an agreement sometime in the future; they also assumed that PICTA would proceed. The study was presented to Ministers at the same meeting as they signed the agreements, making a nonsense of its stated goal to *'provide individuals, community groups, local and national government authorities, as well as regional and international agencies, with the fullest possible understanding of the social ramifications'* of the agreement (Forsyth & Plange, 2001: iii).

The study was conducted by economist David Forsyth, with assistance from sociologist Nii-K Plange. They repeatedly cited, in bold type, Scollay's prediction that PICTA would have a minimal economic impact and used that to dismiss all apprehensions about its impact as 'groundless' (pp. iv, 3, 8). This assessment relied primarily on quantitative indicators that were described as '*simple, speedy, yet effective means of assessing the social impact of membership of the FTA – while … being readily adaptable for use at a future date to examine the effects of any significant broadening of the FTA*' (p. vii). These were supplemented by limited qualitative data and some disorganised empirical observations. The result was a series of unconnected insights from functionalist sociology injected into a positivist economic framework.

From this they predicted the likely gains from PICTA would be less unemployment, rising incomes, better living standards and improved status for women. Any negative outcomes would be identified through the proposed monitoring process and addressed if and when necessary. So would the impact of the 'collateral non-trade policies' that they assumed were necessary to secure the benefits of trade liberalisation - including labour market deregulation, fiscal discipline, downsizing the public sector, guaranteed property rights and commercial deregulation. There was no attempt to evaluate the experience of the Melanesian Spearhead Group, where the impacts on some industries in some countries had serious consequences for employment and economic stability. Nor was there any discussion of the risks that the loss of tariff revenue might create a fiscal crisis and deepen the uneven social impact that unemployment and a heavier VAT would have on the poor - let alone that 'adjustments' might provoke a cultural backlash, social upheaval and political instability. It was as if PICTA was being implemented in a social and political vacuum.

The report set out to develop an analytical framework, with social indicators and data sets to be used for *'later quantitative studies of the actual, observed, social impacts'* (p.iii). This template would form the basis for all future studies, effectively predetermining which social impacts would be examined, how they could be analysed in an 'economical yet effective way', who would conduct that analysis, when, how often and what policy responses might be considered. They suggested the Forum Secretariat should conduct these reviews in 2, 4, 7, 10 and 15 years' time to '*help prepare the way for dealing with the larger and more robust social impact of fuller liberalisation'* (p.95). While they conceded that expanding PICTA would have significant implications, they claimed that this framework was flexible enough to accommodate those changes. In other words, the impacts of a regional agreement with Australia and NZ and a parallel agreement with the EU, which cover services, investment and economic integration, could be assessed by the crude quantitative monitoring regime they had developed in relation to PICTA.

The Forsyth/Plange study has been strongly condemned by Pacific social movements as grossly inadequate (PANG, 2002). Yet few lessons have been learnt. The Forum Secretariat is currently commissioning a further report, which they explained would prepare a predominantly quantitative framework to monitor the impact of *all* free trade and investment agreements in *all* Pacific Islands countries – again, after they have been signed.

Real World Risks

The President of Nauru, Rene Harris, said in his Opening Address to Forum Leaders Meeting in August 2001: '*Our approval of these two agreements will be a legacy to our people*'. That is true. But the people are unlikely to thank them for it. A genuine socio-economic impact assessment of PICTA and PACER, based on broad-based empirical studies and international experience, would have alerted them at least to the following cumulative implications:

- Most FICs will face a serious loss of revenue from tariff cuts and trade diversion (as tariff-attracting imports are replaced by tariff-free imports from other FICs).
- Replacing that tariff income, often on luxury imports, with a VAT on everyday items and necessities, redistributes the tax burden from the rich to the poor, increasing their dependence on monetary income, especially wages, and will be unreliable at times of economic downturn.
- Products that use imported inputs and fall below the threshold of PICTA's Rules of Origin (ROOs) will become uncompetitive with products that use locally made inputs and are tariff free. Production is likely to shift to countries whose products do meet the ROOs, especially if they have other advantages of size, technology and transport systems. This means significant closures and loss of jobs in some Islands.
- Concentration of production and investment by firms to take advantage of the economies of scale is likely to produce regional monopolies that are difficult to regulate nationally. Monopoly pricing will reduce the chance that cheaper import prices are passed on to consumers, which is the supposed trade off for higher VAT.
- New investment in new enterprises and creation of new jobs will occur in the 'hub' countries under the protection of the free trade area. These are unlikely to be sufficiently large or robust to survive competition if those protections are eroded through MFN liberalisation or removed through an expanded free trade agreement. The risk of profiteering will increase if monopolies anticipate this short life expectancy.
- As factories and producers in some FICs go out of business, unemployment and associated secondary impacts may provoke a recession. Governments will face demands to provide better safety nets from falling revenue. Raising VAT to compensate would increase the tax burden on the poor, including the unemployed and subsistence workers. If governments fail to respond by imposing tariffs, and drastically cut public spending instead, on the basis that these policies are locked in through a free trade agreement they risk creating serious social unrest and political instability.
- These impacts will initially be felt hardest in smaller Islands whose producers become uncompetitive and where wage work depends on those enterprises. Once free trade extends to Australia and NZ, with larger more efficient producers, these impacts could engulf them all and provoke even greater regional instability.

Many of these prospects were spelt out starkly in a well-regarded study by University of the South Pacific (USP) economist Wadan Narsey on the implications of removing the alcohol and tobacco exclusion from PICTA. Although the Forum has not released the study, Narsey has outlined his argument elsewhere (Narsey, 2004). Alcohol and tobacco are significant sources of production and employment in a number of FICs, although Fiji and PNG dominate. British American Tobacco owns all tobacco production. Solomon Islands, PNG and Samoa rely on imported inputs and would not meet the ROO threshold. Because Fiji uses locally grown product, the company is likely to shift its production and operate a regional monopoly from there. If the free trade area includes Australia and NZ, however, the company is likely to exit Fiji.

Likewise, the largest and most efficient breweries in Fiji and PNG, and possibly Samoa, are expected to displace beer production in Vanuatu, Tonga, Palau and Cook Islands. Australian brewers Carlton and United Breweries own controlling interests in the Fiji and Samoan breweries. Initially, the company may issue franchises to some of the other breweries and create a short-term increase in production and employment. But once an agreement is signed with Australia and NZ, the company is likely to service all Pacific consumption from there.

Narsey suggests that similar arguments can be made for almost all manufacturing. He questions whether FIC governments should be encouraging the expansion of firms to take advantage of a PICTA if they will not survive when those preferences disappear - especially if their increased importance to the economy and jobs makes it harder for governments to let them close.

Fiji's TCF sector exemplifies this dilemma (EAU, undated). It grew under the protection of SPARTECA. The dramatic reduction of tariffs in Australia and NZ left Fiji exposed to cheaper competition from China. This was neutralised temporarily by an arrangement with Australia that applies a lower effective ROO. That will expire in December 2004. Industry players are divided about the industry's long-term prospects even if a new deal is struck, given Australia's commitment to eventual tariff elimination. As Fijian diplomats and factory owners point out, this is not just about economics. It poses a threat to political stability. If Australia allows the Fijian industry to collapse, some 14,000 predominantly Indo-Fijian women will lose their jobs - a recipe for social and political disaster.

Surrendering Services

The initial Scollay report claimed that all countries would gain from a PICTA if both services and goods were included. It provided no analysis of what this might mean in practice. None of the international controversy surrounding 'trade in services' was acknowledged, let alone addressed (WDM, 2003; Kelsey, 2003b).

Barriers to 'free trade in services' involve 'behind the border' policies, regulations and practices of central and local governments. Eliminating these 'trade barriers' means a government can no longer freely choose how to regulate those services, what limits to place on foreign investors, how to guarantee long-term access to those services and which providers can receive public subsidies. It must also maintain competitive 'markets' in these services, even though monopolies are almost inevitable in small island states. This results in greater dependence on foreign transnationals and increased vulnerability to asset stripping, profit gouging, minimal reinvestment and threats of capital flight when the corporations do not like the policies and regulations that governments propose or governments reject their demands.

As noted above, this is not about 'trade' at all. Services commitments are a way to guarantee foreign firms the right to dominate the provision of a country's services and take their profits out of the country. Governments sign away the right to build their country's own capacity through preferential treatment of local providers or give priority to the social, cultural, employment, economic, infrastructural, environmental dimensions of those services. Once a commitment is made, it ties the hands of future governments that are elected with a mandate to promote social and cultural values or build up their local services capacity - or even when 'market failure' requires the government to step back in. For example, NZ's Labour government was elected in 1999 on a policy to introduce compulsory local content quotas to the fully commercialised broadcasting system, as part of its nation-building agenda. Trade officials said implementing the policy would be illegal under both the WTO and CER because NZ's 'trade in services' commitments promised never to limit foreign access to its broadcasting market.

The frequent claim that public services are protected in these agreements is not true. The standard exemption for 'services provided in the exercise of governmental authority' only applies if the service is not commercial (eg there are no school fees or water charges) *and* there is no competing provider of like services (eg no private fee paying school or water provider). Very few social services or utilities meet both those requirements.

It would be encouraging to believe that the omission of services from PICTA in 2001 showed an appreciation of these risks. But Forum Trade Ministers were already working towards their incorporation and assumed their eventual application to Australia and NZ. This was based on consultants' reports by Scollay and Stephenson that remain secret, although they apparently take the same abstract and uncritical approach as a similar published report (Scollay & Stephenson, 2001). Seven sectors have been targeted for liberalisation - education, health, tourism, telecommunications, financial, shipping and air services. At the April 2004 Forum meeting, FIC governments will apparently be asked to endorse 'modalities' for these negotiations and agree to commit at least four of these services in schedules that are to be finalised at the Forum Trade Ministers meeting in mid-2005. Even though services schedules are notoriously complex, intrude deeply into traditional spheres of government policy making and impact on people's everyday existence, the Forum Secretariat does not plan any studies of the real world ramifications of making commitments in these sectors.

There are two likely reasons for this move. One is to force the pace on regional integration of aviation and shipping, which is proving difficult to address in sector-specific discussions, and on which Australia is currently funding studies. The problem is pressing, but this tactic is unlikely to resolve the underlying tensions.

The second purpose is to create a further 'stepping stone' for PACER and Cotonou. Australia and NZ are on the record as advocating free trade in services across every sector – that means tourism, education, health, retail, the professions, telecommunications, transport, electricity, construction, environmental services, fishing and forestry-related services, even gambling. They have reportedly made aggressive demands of Samoa and Vanuatu (and presumably Tonga) in their WTO accessions. Compliance with Article V of the General Agreement on Trade in Services (GATS) will require substantial sectoral coverage and the 'standstill' and 'rollback' of existing discriminatory measures. This guarantees that services commitments to Australia and NZ will not stop at four. In return, the Island governments will ask Australia and NZ to guarantee unskilled Pacific Islands services workers the right of repeated entry on a temporary basis. This raises a crucial and complex development debate, which has recently produced some interesting pilot proposals in Australia that are supported by the Australian Council of Trade Unions. It should not become a bargaining chip in the coercive game of free trade negotiations.

A Bill of Rights for Foreign Investors

PICTA does not explicitly refer to foreign direct investment (FDI). There is no obvious reason why it should. There is minimal cross-investment among the Forum Island Countries and much of that is sourced externally. Governments appreciate the sensitivity of communal land ownership and the desire to protect key resources and sectors from foreign control. Claims that Investment Protection and Promotion Agreements (IPPAs) increase the flows of FDI into developing countries and LDCs are highly contested; factors such as isolation, skills, size and proximity of markets, and quality of infrastructure are much more significant (UNCTAD, 1998; Hallward-Driemeier, 2003; World Bank, 2003). The ACP countries recognised this at Cancun, when they blocked demands from the EU, Japan and South Korea for negotiations on a multilateral investment agreement in the WTO (Khor, 2003b). They insisted that formal negotiations were, at best, premature, because the implications had not been fully investigated.

It is puzzling, then, that approval 'in principle' of IPPAs is apparently also on the agenda for the April 2004 Forum meeting. The background paper, reportedly by David Forsyth (author of the PICTA 'social impact study'), is still secret, so it is impossible to evaluate the methodology and critique the argument. Presumably IPPAs are being promoted as yet another 'stepping stone'. The Secretariat says it does not intend conducting impact assessments to enable governments to make informed decisions about what an IPPA might mean before they commit their countries to this path. Once a timetable is established, the process will be very hard to derail.

The consequences of getting this wrong are very serious. International investment treaties are effectively a bill of rights for transnational companies. The standard definition of 'investment' extends to land, privatised state enterprises, mining or fisheries licences and intellectual property rights. In their pure form these agreements can guarantee foreign investors

- unrestricted rights of entry, subject to no or minimal vetting procedures and thresholds;
- treatment at least as good, if not better than, local investors receive, including subsidies and government procurement;
- the right to take profits out of the country without exchange controls or requirements to reinvest;
- protection against expropriation, not only by nationalisation, but also when the host government's policies, laws, decisions or administrative actions reduce the profitability or value of the investment; and
- the right to enforce the agreement in an international arbitration forum that is private, expensive and increasingly accused of pro-investor bias.

Attempts to secure a 'high quality' Multilateral Agreement on Investment (MAI) along these lines in the OECD collapsed in 1998 after the draft text was leaked internationally and governments came under massive pressure from outraged citizens. The MAI was based on the 'best practice' example of Chapter 11 of NAFTA. Disputes initiated by investors under NAFTA have challenged, for example, Canada Post's monopoly, US anti-pollution regulations and a Mexican regional government's refusal to permit a toxic dump. Awards have run to tens of millions of dollars (Public Citizen, 2001). Elsewhere IPPAs have opened the door for transnational water companies to demand massive damages from governments, such as Bolivia and Argentina, who terminated their contracts because price hikes had put water beyond the reach of local people and the companies failed to invest in the infrastructure. Even though Argentina won its case, the cost was enormous and the challenge has had a 'chilling effect' on future policy decisions (Choudry, 2003).

In theory, IPPAs allow some flexibility. Governments can soften their terms. They can also reserve certain measures or aspects of investment from coverage. But, as with services, this depends on their negotiating power. It is difficult to assess the present-day implications even under a 'positive list' approach; with a 'negative list' it becomes virtually impossible. No government can predict the consequences of such commitments into the future.

Once the Forum Island Countries endorse a model IPPA, it will be very difficult to refuse demands from Australia and NZ, and the EU, for investment protections. When those rules are applied to mining and forestry companies, tourism operators, private education providers, retail chains, construction firms or fishing factories the Pacific Islands could face huge fetters on their choice of what kind of foreign investment they want to attract, on what terms and how it should be regulated. They also risk the chilling effect from threats of expensive litigation, and massive liabilities if they are found to have breached the rules.

A Helping Hand

The only immediate and concrete obligations under PACER involve funding for trade facilitation and financial and technical assistance. These exist for three main reasons. First, they provided a cash incentive for the Forum Island Countries to give in to Australia and NZ's demands; some officials say access to this funding is why PACER came into effect before PICTA. Second, it improves the ability of Forum Island Countries to meet the customs, product labelling, SPS and standards demanded by Australia and NZ, and hence most other countries. Third, it advances the entry of these countries into the WTO and other free trade arrangements.

Trade facilitation sounds deceptively benign. Biosecurity and food safety are legitimate concerns for any country. Yet the nature of the rules, and the complex and costly procedures involved, are far from neutral. Trade facilitation is one of the four Singapore Issues. Opposition to negotiations in the WTO reflects concerns that the standards of advanced industrialised countries with high-tech facilities are beyond the reach of poor countries, especially the LDCs.

Recent experience also suggests that Pacific Island countries are vulnerable to challenge if they adopt measures for legitimate health, cultural or conservation reasons, but are powerless when bigger players impose similar measures. New Zealand banned corned beef from Fiji until it was tested for mad cow disease; yet when Fiji tried to ban mutton flap imports because of health concerns, NZ warned of strong retaliation. The EU banned kava and related products in 2002 on the basis of speculation about health risks. This decimated kava exports from Fiji, Tonga, Samoa and Vanuatu. In March 2004 the ACP/EU Parliamentary Assembly agreed that the ban should be reversed, but it is still up to health authorities in Germany and Britain to let kava back into their markets. The US continues to insist that its chicken is safe, despite a ruling from Fiji's quarantine authority to the contrary.

PACER requires Australia and NZ *along with other unspecified donors* to help fund detailed programmes to develop, establish and implement trade facilitation measures. These are expected to dovetail as far as possible with other regional and international trade facilitation agreements and initiatives. Programmes to help the FICs take advantage of new trading opportunities in Australian and NZ markets, and among themselves, are meant to take priority. Within a year of PACER coming into effect in 2002, all parties were to begin formulating trade facilitation programmes to cover SPS matters, customs procedures, and standards and conformance. That has been (predictably) slow, as the procedural requirements are onerous and a low priority for a number of Island countries.

The procedure set down in the Annex to PACER requires the Secretariat to report on areas where trade facilitation will be most beneficial. The regional trade facilitation programme (RTFP) is then formalised in a Memorandum of Understanding. The parties meet periodically to set up, modify or terminate the programmes, review their implementation and success, and make any necessary decisions. Decisions about the RTFP are based on consensus. In theory the FICS, Australia and NZ, can all raise and reject proposals. In practice, Australia and NZ hold the purse strings and can determine which proposals they are prepared to fund and by how much. They were apparently concerned throughout the negotiations to ensure that no commitments were made that would require them to provide substantial new funds.

In July 2003 the FIC Trade Ministers approved a wide range of strategic and inter-related trade facilitation activities. Australia and NZ suggested they think again. When the Forum trade officials met in December 2003 they approved a much-reduced five-year package with a total cost of around F$8.1 million. Australia and NZ still committed less than half of that. New Zealand's Trade Minister had previously announced a contribution of NZ$1 million, comprising NZ$250,000 already paid to the Secretariat and NZ$750,000 over the next 3 years. New Zealand had also established a customs position specifically to deal with FIC trade. Australia moved more slowly. At the December 2003 meeting it committed A$2.5 million at A$500,000 per annum for 5 years, in addition to A$150,000 already provided for such activities and support to the Secretariat for implementation of the programme.

This left a shortfall of some F$4 million. Forum Island ministers would have to reprioritise their activities before a Memorandum of Understanding could be formalised in April 2004, and seek support for the remainder of the package from the ADB, EU and other donors. Some of those interviewed believe the amount pledged is realistic, given limited capacity to implement the programme. For others, it was confirmation that Australia and NZ are untrustworthy and manipulate the rules to suit themselves.

The financial and technical assistance provisions of PACER are less concrete, but have greater potential to intrude into areas of national economic and social policy. The parties and the Forum Secretariat are required to develop a work programme for financial and technical assistance in areas such as capacity building and structural adjustment, including fiscal reform. The obligation to provide an 'adequate' level of funding is shared between Australia, NZ and other donors, again in an unspecified way. Australia and NZ are also mandated to assist the FICs to become members of international trade and economic organisations, such as the WTO and APEC, by developing their capacity to negotiate, participate in and implement these agreements.

This sounds eminently reasonable, given the daunting prospect that officials in Pacific Island countries may soon be required to conduct complex legal negotiations under PACER and Cotonou. Some have to cope with Doha Round negotiations and accessions to the WTO as well. But technical assistance is an intensely political matter. Who provides the assistance and what approach they take can significantly affect the direction of a country's economic policy and its negotiating strategy and goals. There is an obvious temptation for donor countries and sponsoring organisations to push their ideology and economic and strategic interests onto recipients. Countries that have no access to alternative information, analysis and strategic advice can become locked into damaging long-term policies and treaty obligations. There is no space in these programmes to question the underlying agenda, which led one Geneva-based analyst to protest that: '*No amount of technical assistance in implementing policies that, in effect, handicap and shackle developing countries in the WTO can improve gains towards development*' (Sharma, 2003).

There is little tolerance for those who offer conflicting advice. Roman Grynberg, the key adviser to the Forum Secretariat during the PICTA/PACER negotiations, has authored a number of reports that document the risks to Small Island States from accession to the WTO, and the downsides of multilateral regimes for the Pacific (eg. Grynberg, undated; 2002). His advice to developing countries has incurred the wrath of NZ, Britain and Australia. On 31 October 2003 *The Guardian* newspaper revealed correspondence between a senior British trade official and a diplomat in NZ's London High Commission that discussed plans to monitor Grynberg's activities at the WTO ministerial in Cancun, and ways to ensure that his contract as deputy head of trade at the Commonwealth Secretariat was not renewed. Another Commonwealth Secretariat official working in Geneva was also targeted for giving 'unhelpful' advice to the LDCs. Grynberg is currently a member of the Forum Secretariat's Trade Experts Advisory Group for the Cotonou negotiations, which may give rise to interesting, ongoing tensions.

Most technical assistance provided by AUSAID and NZAID is funding for Pacific participation in the WTO technical assistance programme. In July 2003, for example, Australia announced A$500,000 'to assist small nations, including Pacific Island states to develop sufficient institutional capacity to further their trade interests at the WTO'. Australia had already provided initial funding of A$176 million in 2002 for the Agency for International Trade Information and Cooperation (AITIC), described as '*an inter-government organisation that provides personalized information, advice and technical assistance to small states to facilitate their active participation in the WTO*.' According to the responsible Ministers:

> *'Australia has a long history of providing development assistance to Pacific Island nations. Our support for AITIC, along with the ongoing efforts of the WTO, will help small Pacific Island nations to enhance their trade engagement with the international community through the World Trade Organisation'* (Downer & Vaile, 2003).

The WTO's Strategy for Technical Cooperation for Capacity Building, Growth and Innovation has been heavily criticised as a vehicle for propagating the ideology and goals of the Northern-dominated WTO Secretariat and the major donors. Its programmes target capital city politicians and officials to ensure that this approach is mainstreamed into their countries' domestic policies. Southern governments and their social movements object that the Secretariat decides the priorities for these programmes and denies them, as the intended beneficiaries, the right to decide who provides the assistance, in what form and on what subjects. For example, a disproportionate number of seminars since 2001 have focused on the Singapore Issues, which those countries are known to oppose. Likewise, national and regional seminars and symposia funded by the Doha Development Agenda Trust Fund are designed and run from Geneva. Pacific trade officials have echoed these criticisms, except for rare occasions when they secured the country-specific technical advice they asked for.

Un-Common Interests

PACER further obliges all parties to provide mutual assistance in international trade and economic forums, especially the WTO, and in other matters where they have 'common interests'. This assumes that they have common interests. That is certainly the image NZ and Australian government representatives are keen to portray. But the Pacific Island governments seem not to share that view. Nor did one frank NZ official who confirmed that, when it comes to trade there is no special relationship with the Pacific. Instead, the negotiators 'do a group hug, then put their Geneva hats on'.

Such behaviour has compounded the anger felt over the PICTA/PACER coup. This has been most evident in the WTO accessions involving Vanuatu, Samoa and Tonga (Gay & Joy, undated; Hayashi, 2003; Grynberg et al 2002). There are no clear rules for gaining entry to the WTO. A country must secure consensus support from a self-nominated Working Party of existing WTO members, which gives each of them an effective veto. This encourages each Working Party government to make demands that exceed those required of existing WTO members to gain tangible benefits and to establish precedents that further their generic negotiating positions. Under the MFN rule, what a country agrees to in these bilateral negotiations must then be made available to all WTO members.

Australia and NZ have acquiesced in the US's refusal to extend 'special and differential treatment' for LDCs to Vanuatu and Samoa during their accession negotiations, on the grounds they are not yet members and those rules do not apply. They also sought to advance their Cairns Group demands by insisting that Vanuatu bound its tariffs to zero and eliminated all export price supports. Vanuatu's negotiators reluctantly agreed. The US, backed by WTO Director General Mike Moore, behaved even more badly and bullied Vanuatu into making commitments on retail and telecommunications services. Vanuatu's government thought again and put the formal accession on hold in late 2001. New Zealand is apparently making similarly outrageous demands of Samoa, insisting that it binds all tariffs to zero and surrenders one of the few revenue-raising options Samoa can call on in a fiscal crisis. New Zealand also wants Samoa to lock open its education, health and environmental services. It seems likely that similar forces were at work in NZ's bilateral negotiation on Tonga's accession, which was completed in March 2004.

There is no evidence that Australia or NZ has championed the cause of those Forum Island Countries who are already WTO members (Fiji, Solomon Islands and PNG) either in Geneva or the invitation-only 'Green Room' at WTO ministerial meetings. When a FIC Trade Committee was established in early 2000 to help develop a position in relation to the WTO, Australia and NZ were not invited and Australian officials were reportedly ordered from the room. At Doha in 2001 the 'common interests' of the Pacific members lay with the LDCs and ACP countries. Although they bought into the rhetoric of a Doha 'Development' Agenda (DDA), they were disillusioned by the time of the Cancun ministerial meeting in 2003. Speaking on behalf of the newly established group of Small Vulnerable Economies (SVEs), Fiji's Trade Minister Kaliopate Tavola expressed disappointment that discussions under the Doha mandate had still not sensitised the bigger WTO members to their unique circumstances and size of the Islands, or to the minimal cost of making meaningful concessions:

> *The WTO claims to be a multilateral trading organization, which addresses the circumstances of all its Members, and whose rules provide a balance of advantages for all its constituents. However, this is unfortunately not true for the small, vulnerable economies whose limited negotiating capital and small size limit their ability to cope with the complex multilateral rules, does not allow for effective bargaining to secure specific measures which address our development needs, and thus has prevented us from participating effectively in the negotiation of WTO provisions more suited to enhancing our welfare* (Tavola, 2003).

Despite enormous pressure, the governments of small and poor nations dared to say 'no' to the major powers at Cancun. The break point was the sustained demand for negotiations on the Singapore Issues, but it could equally have been over food systems, cotton, industrials or the right to special and differential treatment for the LDCs. The response from Australia, NZ and the EU showed little sympathy for those concerns. In the NZ Parliament on 16 September 2003 Prime Minister Helen Clark blamed the collapse on inflexibility among the smaller and lesser-developed countries, calling it 'very, very unfortunate'. Australian Trade Minister Mark Vaile said it was *'so disturbing to hear … so much political and ideological north-south rhetoric, a corrosive and unhelpful development for the WTO, which must remain focused on its economic and trade work'* (*AFP*, 16 September 2003). European Trade Commissioner Pascal Lamy labelled the WTO process 'medieval', proposing reforms that would further marginalise poor and small vulnerable countries and ensure that richer countries have their way (*Guardian*, 16 September 2003).

Stepping Stones to Where?

Stepping stones imply a destination. A vivid picture of where this process is ultimately meant to lead can be found in the World Bank's 2002 report *Embarking on a Global Voyage: Trade Liberalization and Complementary Reforms in the Pacific* (World Bank, 2002). Four messages stand out and reinforce the dangers of allowing these reports to go uncontested.

First, once the Pacific Islands begin down this path, the 'stepping stone' of PICTA should lead them to complete unilateral liberalisation.

> *In sum, PACER and the Cotonou Agreement have set in motion a process of negotiation of [FTA] between the PICs [Pacific Island Countries] and the EU and Australia and New Zealand, and for providing the United States with similar preferential treatment. The widening of preferential trading arrangements beyond PICTA is inevitable. Only the timing, extent and benefits are uncertain.*(p.23)

But the process should not stop there. Even if PACER brings benefits of technology transfer, cheaper inputs and locking in of free market 'reforms', it also invites inefficiencies, revenue loss through trade diversion and the 'hub-and-spoke' effect where economic activity is concentrated in Australia and NZ. The larger powers will also protect their own interests at the expense of the Islands when they negotiate these regional agreements. The solution to those problems, and the high transaction costs of multiple negotiations, is to liberalise on an MFN basis. This could be done by accession to the WTO. But the expected benefits - financial and technical assistance and access to dispute settlement – may well be outweighed by the transaction costs of WTO membership. So the Islands should simply lower their trade barriers unilaterally against all countries. Dynamic econometric modelling confirms that the larger and more comprehensive the liberalisation, the greater the aggregate welfare gains.

Second, trade and investment liberalisation are ineffective without supporting policies that allow foreign firms to have real penetration – trade facilitation, investment, service sector liberalisation, labour mobility and deregulation, deeper integration, harmonised tax policies. Both PACER and Cotonou reach well beyond trade to embrace this agenda. The broader and deeper the liberalisation, the greater the level of structural adjustment the Islands will have to undertake. The list of targets includes wage rigidities, the large state sector, unskilled labour markets, uncompetitive public infrastructure, excessive and inappropriate regulations, unproductive land use and the lack of secure land titles for raising credit. The state should be stripped back to its neo-liberal core. That means providing a stable macro-economic environment and improved institutional infrastructure such as property rights and law and order, alongside basic education and healthcare, an economically viable physical infrastructure and protection for the environment. An actual or impending fiscal crisis caused by revenue loss from large-scale tariff cuts could provide the trigger for such radical cuts. In other words, trade liberalisation offers a way of forcing Island governments to implement the full Washington Consensus agenda.

Third, even if the model does not work, there is no alternative. The report concedes that exporters and the import-competing private sector might not survive the removal of protections and subsidies. New job-creating industries might not automatically develop to replace them and absorb the newly unemployed, even if real wages are forced down. Public sector 'rightsizing' might fail too:

> *In the best case, public sector reform would tend to improve the flexibility of the labor market, reduce the cost of public utilities, and by creating the right conditions for the private sector to develop, provide employment opportunities for the displaced labor. The best case may, however, not materialize* (p.77).

To date: '*Public sector reforms have not met with the expected success*' (p.76). That is blamed on cost cutting at the expense of public sector effectiveness, the assumption that the private sector had the capacity to respond and the failure to neutralise resistance. There was also a risk that opposition to public sector reforms could spill over into trade liberalisation, even among those most likely to benefit: '*it is quite possible that workers in protected industries would attach a higher weight to the downside risk of not finding a job than the upside potential of alternative employment*' (p.78). Their solution is to buy-off the middle class through redundancy payments or retraining, and provide below-subsistence public work schemes to support families through the period of short-term pain as they wait for the market-driven recovery.

Fourth, the coercive nature of trade agreements stops governments from turning back even if the model fails:

> *[The] credibility of reforms may be increased if they are locked-in with a regional or multilateral agreement. For this mechanism to be effective, a high-income partner should be ready to reward good policies, but also, importantly, to impose sanctions in the event of backsliding. While PICTA may not be able to serve as the lock-in mechanism, this role could be played by the EU, Australia and New Zealand in [Regional Trade Agreements] with the PICs* (p.84).

PIC Pawns in a Power Play

The future of a Pacific free trade arrangement that includes Australia and NZ is inextricably bound up with the Pacific Regional Economic Partnership (REPA) negotiations under the Cotonou Agreement.

Their interests in the Pacific are very different. For the EU, Cotonou is essentially about renegotiating its relationship with Africa. It is not interested in the Pacific, aside from fisheries. That might mean it is prepared to strike a minimalist deal with the Pacific ACP countries in a few areas of genuine mutual benefit. If so, it will also want to minimise its ongoing aid obligations. Alternatively, the EU might adopt a uniform position across the ACP to avoid creating any 'soft' precedents, advance its quest for binding international rules on investment and competition, and secure compromises that weaken the ACP bloc at the WTO.

For their part, Australia and NZ are determined that the EU does not steal a march on them, politically and economically, in their only real sphere of influence. Any access the EU gets, they will want too. But they will not want to be limited to that if the EU agrees to settle for very little.

While they appear to be competitors, Australia and NZ and the EU are playing the same game. Both PACER and Cotonou reach beyond traditional free trade agreements to the broader realm of economic policy, in the name of 'economic integration' and 'economic and trade cooperation' respectively. WTO-compatibility extends the ideological and practical hegemony of WTO rules to non-members. It also justifies swapping preferential agreements for reciprocal ones that give them more extensive market access without having to make any additional concessions. The power imbalance allows them to establish precedents that advance their own negotiating agendas, while they protect elements that might be more at risk under a multilateral deal. In particular, the GATT Article XXIV requirement that agreements cover 'substantially all trade' means they can probably protect their most sensitive sectors for as long as they want to.

The parallels between the rhetoric of PACER and Cotonou are striking. Cotonou

- invokes the term 'partnership' and the 'fundamental principle' of 'equality' despite the glaring inequalities of economic weight, aid dependency and negotiating resources between the EU and ACP;
- promises 'poverty eradication, sustainable development and gradual integration into the world economy' by imposing a model of trade liberalisation and structural adjustment that has deepened poverty and debt in a majority of ACP countries;
- insists that states will remain fully sovereign in determining their own 'development principles, strategies and models for their economies and societies' while it aims to bind them to neoliberal policies in a legally enforceable treaty;
- promises a 'stable and democratic political environment' when those same policies are shown to have created instability and conflict in numerous ACP countries;
- provides for the selective engagement of 'non-state' actors in the REPA process in ways that allow governments to exclude critical social movements, NGOs and trade unions; and
- limits the subsequent role for an 'active and organised civil society' to implementing the market-driven development agenda.

As with PACER, Cotonou proposes close cooperation between the EU and ACP in 'identifying and furthering common interests' and assistance with WTO accession, when they have been in direct conflict over almost every issue in the Doha Round. While the EU promises to be sensitive to the needs of developing countries, especially Small Vulnerable Economies and LDCs, its Trade Commissioner Pascal Lamy bluntly told the European Parliament 'Kangaroo Group' in January 2004:

> *Our view remains that the WTO remains fundamentally fair and pro-development, and indeed that the Uruguay Round was not an unfair deal. The DDA should therefore not aim at removing all responsibility from all developing countries. Indeed, developing countries should also consider quickly how they can contribute to successful market-opening and better rules including the important dimension of improved 'south-south' trade. The DDA needs to further the integration of developing countries into the world economy, rather than leaving them on the sidelines. The biggest developmental gains will, after all, come from both ambitious trade opening and the strengthening of multilateral rules and it is here that the most significant potential for fulfilling the development dimension resides* (Lamy, 2004).

The power politics of the PICTA/PACER process are also mirrored within Cotonou. From 1996 when the Green Paper first proposed the renegotiation of Lomé (Grynberg, 1997), the EU has manipulated the process and the pending expiry of the Lomé waiver to achieve a negotiating framework that promotes its objectives and marginalises ACP concerns. By replacing preferential arrangements with reciprocity under coercive negotiating conditions, the EU stands to gain increased market access with no obligation to compensate. The 'economic integration and trade' agenda explicitly includes commitments on intellectual property, services, environmental rules, standardisation of SPS and competition that the EU has been unable to secure in the WTO.

The complex matrix of LDCs, developing, small island and landlocked countries, negotiating in regional and sub-regional groupings, is seen as a deliberate move to undermine ACP solidarity and strengthen the European Commission's role vis-à-vis the ACP Secretariat (SEATINI, 2003; Hormeku, 2003). There is almost a positive disincentive for the LDCs to participate, with the promise of duty free access on 'essentially' all products from 2005 under the 'Everything But Arms' (EBA) arrangement. There is a catch - 'essentially' allows the EU to exclude products of greatest domestic sensitivity that may be of greatest significance to the LDCs. Some LDCs may also face the risk of reclassification. Developing ACP countries can also choose not to participate, before negotiations begin, and rely on the WTO-consistent General System of Preferences (GSP) that will provide Lomé-style concessions on an MFN basis. This means competing with larger developing countries and accepting the ongoing erosion of preferences through trade liberalisation. Or they can try for specific agreements on sectors and commodities, rather than a full-fledged REPA. The main incentive to participate is the prospect of ongoing aid funding; but there are no guarantees how long that will last and the EU will want tangible benefits in return.

The EU's insistence on beginning the regional and sub-regional negotiations while the ACP-wide issues remain unresolved is seen as a further exercise in divide and rule. Four of the seven regional negotiations have now begun. Negotiations for a Pacific REPA are scheduled for mid-2004. Pacific ACP countries are under pressure to decide whether to negotiate on a bilateral, sub regional or regional basis, if at all. The only real trade issues are fisheries and sugar, and possibly tourism. The cost in jobs of losing the 24% margin of preference for canned tuna could be devastating. The EU might be prepared to do a separate deal on fish, although that is complicated by the bilateral arrangements that some of the most fisheries-rich Islands have entered into. The critical question is what the EU might pay for a fisheries deal, and to whom. Fiji is primarily interested in the fate of the Sugar Protocol. The price it receives depends on the EU retaining its sugar subsidies. Those subsidies are currently under challenge at the WTO from countries that include Australia, and seem likely to be quarantined from the REPA negotiations at least until the dispute is resolved.

Assuming that any REPA negotiations go first, Australia and NZ will be watching what commitments the FICs are enticed to make across industrial and agricultural commodities, services, competition and intellectual property, and treat this as the floor from which to start their own negotiations. They may welcome any investment protection that Europe secures, but will be nervous about any precedent on temporary entry for unskilled services workers when few Pacific Islanders are likely to travel to Europe. They will also be concerned to see how aid packages and 'compensation' are tied, implicitly or directly, to concessions. A final point of interest is the symbolic and strategic role of the Council of Ministers and the Joint Parliamentary Assembly, vis-à-vis the Forum and the envisaged Pacific Economic Community, both as a competitor and a precedent.

Two factors ensure that the Cotonou negotiations will take priority. First is the threat that non-reciprocal access rights, quotas and guaranteed prices will end in January 2008 when the WTO's temporary waiver for Lomé expires. The second is the E20 million special programme funding available to the ACP to finance seminars, impact studies and technical assistance, in addition to the 9th European Development Fund allocations.

Preparations are already underway, with the Forum Secretariat coordinating the Pacific ACP response. An earlier consultant's report by Scollay (Scollay, 2002) is being supplemented by sector specific studies on fisheries, tourism, investment, sugar, trade facilitation, rules of origin, export capacity, agriculture, services and fiscal reform. A handpicked Trade Experts Advisory Group (TEAG) has been meeting to advise ministers on appropriate responses and strategies. In line with EU requirements, national workshops of 'non-state actors' were held in late 2003 to discuss the sector specific studies; attendees describe the discussions as superficial. TEAG then met to draft a regional strategy paper for the ACP Trade Ministers to consider in April 2004. All the relevant documents remain secret, inhibiting any broader public debate. Much to their frustration, Australia and NZ are effectively excluded as well, despite demands under PACER for consultations on the basis that negotiations between the EU and Pacific ACP have already begun.

Disarming the Trigger

Australia and NZ believe that formal negotiations between the EU and Pacific ACP began on 27 September 2002 and the Forum Island Countries should now set in train the process of consultations leading to negotiations for a free trade arrangement. The FICs insist that negotiations have not formally begun, so there is no need for notification or an offer of consultations. To avoid a prolonged war of legal words, Australia and NZ have appealed to the spirit of PACER and the spirit of the Forum to secure a two-phase negotiating process similar to Cotonou. That would start with preliminary consultations to establish probable coverage, content, procedures and administrative aspects of future negotiations. Discussions to set out a process for consultations would be followed by preliminary negotiations on fisheries, tourism, investment and trade facilitation, safeguards, dispute settlement and rules of origin. Market access issues could then be dealt with in a second, later stage of negotiations, in parallel with the EU time frame.

If and when this gets underway will depend on how the Forum Island governments manipulate the configurations of parties, timing and scope that PACER's triggers provide. A number of permutations offer temporary escape routes:

A. The trigger is activated under Article 6(3) when countries that have ratified PACER commence formal negotiations with an OECD country other than Australia or NZ (or conclude negotiations with a non-developed country whose GDP is higher than NZ's). At present, this only affects

- the Cook Islands, Fiji, Kiribati, Nauru, Niue, PNG, Samoa, Solomon Islands or Tonga,
- if that country enters negotiations with the EU *and*
- they have reached the stage of formal negotiations *and*
- the negotiations are for a free trade arrangement.

1. FICs that are parties to PACER do not commence negotiations with the EU under Cotonou.

There is no obligation under Cotonou to negotiate with the EU. As discussed earlier, there are no obvious trade benefits in doing so for most of the Islands. The lure of aid funding needs to be weighed against the likely amount, the potential impact of such a deal and the far greater consequences of extending similar commitments to Australia and NZ.

2. FICs that are parties to PACER and enter negotiations with the EU do not negotiate for a free trade arrangement

Under the PACER definition, a free trade arrangement is one that meets the standards of GATT Article XXIV: it covers 'substantially all trade' within a period (conventionally) of 10 years. As discussed, Cotonou offers various alternatives to this. As LDCs, Kiribati and Samoa have access to the Everything But Arms arrangement. If the Cook Islands, Fiji, Kiribati, Nauru, Niue, PNG, Solomon Islands or Tonga decide to negotiate, they can seek specific agreements on commodities of mutual interest with the EU. Alternatively, they can opt for the General System of Preferences on a MFN basis with all other developing countries.

3. FICs that are parties to PACER and enter negotiations with the EU for a free trade arrangement do not have to offer consultations to Australia and NZ until they commence formal negotiations with the EU.

Article 6(3)(a) explicitly refers to commencement of *formal* negotiations. The ACP countries have insisted that Phase I should be completed before Phase II regional and sub-regional negotiations begin. Even though the EU has rejected that and commenced formal negotiations with several sub-regions, those with the Pacific ACP countries are not scheduled to begin until mid-2004. Even if PACER parties do opt to negotiate a free trade arrangement with the EU, they have no obligation to offer consultations to Australia and NZ until at least then - or arguably later, if the scope and modalities of the formal negotiations remain unresolved.

4. FICs that are parties to PACER and enter negotiations with the EU for a free trade arrangement can insist that it is not practicable to offer to undertake consultations to Australia and NZ until they have concluded formal negotiations with the EU.

The offer to undertake consultations must be 'as soon as practicable'. In capacity terms, it is not practicable for these countries to be engaged in detailed and complex negotiations with the EU and consultations with Australia and NZ at the same time. That is even more so for WTO member governments that are dealing with the Doha Round negotiations or those involved in complex WTO accessions. On this argument, the initial consultations should be delayed until after negotiations with the EU have been concluded. It would also be impracticable to enter such consultations without knowing the content of any free trade arrangement with the EU; however, as the obligation under Article 6(3) arises at the commencement of negotiations, that argument is more difficult to sustain.

5. If FICs that are parties to PACER do offer consultations to Australia and NZ they could argue that no free trade arrangement can be consistent with PACER's principles.

A free trade arrangement with the EU that meets the Article XXIV requirement to cover 'substantially all trade' would require the FICs to import some 90% of products from the EU duty free. Their currently low level of imports from the EU and limited risks of trade diversion suggest this would have a minimal fiscal and economic impact. The risk is higher in relation to services and investment, although those commitments might be minimised. Whatever, offering parity to Australia and NZ, as major trading partners, could have a devastating impact on any of these countries. That would demonstrably breach the preambular 'commitment to sustainable development and the elimination of poverty in the Pacific region'. However, the enforceable objectives and principles in the text refer only to 'sustainable development'. To rely on that it would be necessary to displace the prevailing global market-driven definition of sustainable development in favour of one based on genuine social and ecological principles, backed by strong and credible impact reports.

B. The trigger is activated under Article 6(4) when all the parties to PICTA jointly commence negotiations for free trade arrangements with an OECD country other than Australia or NZ. At present, this only affects

- the Cook Islands, Fiji, Kiribati, Nauru, Niue, PNG, Samoa, Solomon Islands and Tonga,
- if all of them commence negotiations with the EU *and*
- they all negotiate jointly *and*
- those negotiations have commenced *and*
- the negotiations are for free trade arrangements.

6. FICs that are parties to PICTA do not all commence negotiations with the EU.

It would take just one party to PICTA to decide not to engage in negotiations with the EU to defeat this trigger.

7. All FICs that are parties to PICTA do not commence negotiations with the EU jointly.

Even if all the parties to PICTA decide to negotiate with the EU, they defeat the trigger if they operate in several blocs, such as LDCs and developing countries, or if one or more of them negotiates separately.

8. All FICs that are parties to PICTA commence negotiations with the EU jointly, but do not negotiate for a free trade arrangement

As with 2 above.

9. All FICs that are parties to PICTA decide to negotiate with the EU jointly for a free trade arrangement, but refuse to offer consultations to Australia and NZ until they have commenced formal negotiations with the EU.

This is more difficult to argue than point 3 above, because Article 6(3) refers to 'commence negotiations' without the word 'formal'. It is still arguable that the obligation to offer consultations to Australia and NZ only arises when the scope and modalities of formal negotiations with the non-Forum party have been resolved.

10. All FICs that are parties to PICTA and commence negotiations with the EU jointly for a free trade arrangement insist that it is not practicable to offer consultations to Australia and NZ until they have concluded formal negotiations with the EU.

As with 4 above.

11. All FICs that are parties to PICTA commence negotiations with the EU jointly for a free trade arrangement and offer consultations to Australia and NZ, but insist that no free trade arrangement can be consistent with PACER's principles.

As with 5 above.

C. Both Article 6(3) and 6(4) require negotiations with Australia and NZ to commence. However, they do not require, or set a deadline for, the conclusion of agreement or its subsequent ratification.

While PACER requires the offer of consultations with a view to commencing negotiations, and under the Vienna Convention such consultations must be conducted in good faith, there is no requirement that consultations do result in formal negotiations, or that those negotiations result in a free trade arrangement. The ability of FIC governments to reject Australia and NZ's demands will be greatly enhanced by domestic consultation and debate that is conducted in accordance with the obligations of the Biketawa Declaration, discussed below. This would include genuine empirical assessments of the impact on poverty, inequality, democracy and security in individual countries and the region as a whole.

Even if Australia and NZ succeed in securing a free trade arrangement there is no obligation on any country to ratify that arrangement, other than their good faith obligations at international law. Again, that will be more achievable where their position is backed by extensive domestic debate and formal decisions of their Parliament.

All these options involve prolonged legalistic engagements with Australia and NZ over a problem that lies in the agreements themselves. There are three other options which provide a more definitive solution.

12. Do not ratify PACER or PICTA

This option is available to Tuvalu and Vanuatu, and should have special appeal to the Federated States of Micronesia, Marshall Islands and Palau given their MFN obligations to the US in the Compacts of Free Association.

13. Withdraw from PACER and PICTA

Despite the rhetoric, no country is irrevocably tied to PACER or PICTA. A Party to either agreement can withdraw by giving 180 days notice to the Secretary General of the Forum Secretariat. As with 9 and 10, that will be easier to justify if it is based on a democratic parliamentary mandate that is backed by informed public debate.

14. Force the termination of PACER and PICTA

The Agreements terminate if all Parties give notice of their intention to withdraw. The FICS can do that on their own with PICTA. If a significant number of Forum Island governments indicated their intention to withdraw from PACER and showed the solidarity and resolve that the African, Caribbean and Pacific countries maintained at Cancun, they would deprive the agreement of any credibility and legitimacy, and could force Australia and NZ's hand. That could be justified through a public inquiry convened by the Pacific Islands governments into the coercive behaviour of Australia and NZ in the PACER negotiations.

Averting risks to aid funding would involve a parallel political battle, even though PACER says that trade negotiations *should* be kept independent of other aspects of the relationship between the parties, such as aid or technical assistance. The withdrawal of funding for the RTFP would be a small concession to avert a much bigger disaster, especially when little of that seems to be genuinely new funding. The challenge then falls to the people of Australia and NZ to hold their own governments to account for their unconscionable behaviour and to pressure those governments into providing the level of aid funding that is expected of responsible members of the OECD.

These options may sound radical and beyond what Pacific Islands governments are prepared to contemplate. Yet implementation of PICTA alone is already moving slowly. It may prove both unmanageable and undesirable. The tactical ploy of minimising additional commitments to Australia and NZ and the EU may not work. If so, the Pacific Islands will be faced with enforceable obligations that they are technically, economically and politically unable to implement.

An identical dilemma already confronts developing countries and LDCs in the WTO, where they are finding it impossible to achieve any serious reconsideration of those commitments because the agreements only provide for further liberalisation. This realisation is now spawning important debates amongst governments, intellectuals and social movements about the need for new international rules which are based on development models that truly meet the needs of poorer countries and their peoples. The tide is turning as neoliberal globalisation is no longer seen to be irresistible and inevitable.

Capturing the Secretariat

When the parties engage under PACER they do so primarily through the Forum Secretariat. Article 17 sets out the Forum's responsibilities in narrow administrative terms, reflecting Australia and NZ's criticism of the Secretariat during the negotiations. Its main opportunity for influence is the preparation of an annual report. This presumably forms the basis for the annual and three-yearly reviews of PACER's implementation and operation and 'all aspects of trade and economic cooperation between the parties' under Article 16. These reviews are where Forum Island governments will face regular pressure to broaden and deepen their integration.

The Secretariat also provides technical support to implement PACER. Presumably that extends to negotiation of the proposed agreement under Articles 5 and 6. PACER explicitly allows the parties to decide how they coordinate these consultations and negotiations. Australia and NZ are likely to collaborate closely, as they did with PICTA/PACER. How the FICs decide to proceed may depend on how they approach the negotiations with the EU. Whatever form this takes, it is obvious that none of them is in a position to handle simultaneous and comprehensive economic integration negotiations with Australia, NZ and the EU – on top, for some, of the Doha Round or WTO accession. They will require the services of the Secretariat. This poses a familiar dilemma. It would seem improper for the Secretariat to provide exclusive analysis and advice to the Forum's Island members in preparation for negotiations with other Forum countries. Yet it is already doing that for them as the Pacific ACP countries in the Cotonou negotiations. That analysis and strategic thinking will be inextricably entwined with their approach to negotiations with Australia and NZ.

The Forum Secretariat will be in a pivotal position. That makes the current review process critically important. Staff within the Secretariat welcomed the review as an opportunity to reflect on its capacity to meet a rapidly expanding array of demands referred to it by Leaders and Ministers and to rationalise its structure and operations. Instead, it has apparently become a review of the Forum itself, which promotes a lofty vision and proposes to vest extensive executive authority in the Secretary General to address the practicalities. As the current Chair of the Forum, NZ Prime Minister Helen Clark offered the Ministry of Foreign Affairs and Trade as the Secretariat for the Eminent Persons Group; trade officials in Wellington helped to write the report. Those who were already suspicious of Australian and NZ intentions described the review as a further step to gut the Secretariat, at a time when those same countries are taking an increasingly intrusive role in regional security and demanding greater access to Pacific markets. Instead the anticipated recommendations to establish a Working Party to address organisational issues may end up strengthening the potential for the Secretariat to promote Australia and NZ's agenda.

Paradoxically, this would address the complaint of former Secretary General Noel Levi that the restructuring of the Secretariat as a policy advisory body in 1995 gave its Chief Executive no authority to initiate policy debates and coordinate activities. That authority will now vest in the new Australian-anointed Secretary General Greg Urwin. Levi has described Urwin's appointment as changing the politics of the Pacific, where unwritten conventions of consensus decisions and Island leadership were ousted by a written process for elections that is open to all 16 countries. The outcome remains a sore point with many Forum Island governments, even though they allowed it to happen by running competing candidates. There is particular anger that Australian Prime Minister Howard gatecrashed a caucus of Small Island States at the Forum Leaders meeting at which the election was held. USP academic Sandra Tarte suggests that ownership of the Forum itself is increasingly at risk.

> *This sense of ownership has been eroded in recent years as economic, political and security initiatives of the Forum seem to be increasingly driven by Australia and New Zealand (who also control the purse strings). The appointment of an Australian to the Secretary General position will make it harder to reverse this trend, especially if he is expected by his sponsors to be more proactive and lead a major overhaul of the organization* (Tarte, 2003).

Urwin's appointment creates particular problems for the negotiations. The EU has made it clear that it will not operate through a Secretary General who comes from a country that is neither part of the ACP nor a party to the Pacific REPA. On paper, this could enhance Urwin's neutrality in the negotiations between the FICs and Australia and NZ. In practice, the backdrop to his appointment, the dependency of the FICs on the Secretariat to service their needs and the tensions that have already infected those negotiations are likely to reinforce reservations about Urwin's independence.

Recolonising the Pond

Since Australia, with NZ, began reshaping the Forum Secretariat in 1995 it has become increasingly clear that they intend to recolonise 'their pond'. As the WTO declines in importance and both countries become more isolated their regional trading markets, the profitability of their major companies, and their ability to dump low quality exports in the Pacific assume a new significance. This may be dressed up in talk of a Pacific Economic Community; but the goal is to impose their ideology, their 'sound' neoliberal policies, their free trade agenda, their institutions and operatives, their economic interests, their political authority and their strategic influence on the islands of the Pacific. The proposed free trade agreement is central to this, embedded in the broader project of regional economic integration and run through a streamlined Secretariat with a strong executive. It will be accompanied by a further blurring of security and economic interventions, under the rubric of 'good governance'. Already, the dispatch of Australian police to PNG in December 2003 has been complemented by a cadre of economists to police its Treasury. As Australia's Foreign Minister Alexander Downer explained to a seminar at Australian National University on 14 October 2003:

> *Governance is now at the centre of all our programs in the region, with a strong focus on law and order and economic and financial management. Australia and PNG have agreed on a framework for taking our partnership to a new level of shared commitment. In the rest of the region our engagement will be based on an increasingly robust dialogue on reform.*

The current review of the Forum Secretariat could provide the Trojan horse that propels this agenda into the heart of the Pacific. The rumoured proposal for a Pacific Plan with three pillars – economic, social and environmental – and modelled on the European Union will be seductive, especially when promoted by eminent and respected elders. The devil will be in the detail. A series of reports in 2003 have signalled Australia's intentions. In May, the neoliberal Centre for Independent Studies published an assault by Dr Helen Hughes on Australian aid to the Pacific and advocated a market-driven regional community (Hughes, 2003). In July, *The Age* newspaper disclosed Prime Minister Howard's plans for a Europe-style Pacific Community. In August, the Senate Foreign Affairs Committee said the idea of a Pacific Economic and Political Community should be advanced through public debate (AFDAT, 2003: 69-79). Within a week, at the same Forum Leaders meeting where he secured Urwin's election as Secretary General, Howard circulated a confidential briefing paper that endorsed a range of options for regional consolidation, including a single (Australian) currency and a regional central bank, alongside regional service delivery and legal and administrative structure to respond to law and order breakdowns. Howard rejected the description 'neo-colonialism', preferring to call it 'common sense' (*The Age*, 15 August 2003).

The NZ government is likely to concur, not only because it shares Australia's ideology, but also because this may be the only way it can entice a reluctant Australia into deepening their economic integration under CER. In 2002 NZ's Foreign Affairs, Defence and Trade Select Committee recommended an Australia New Zealand Economic Community (NZFDAT, 2002). While both Leaders played up the prospects of further integration at their recent annual meeting, Australia has kept a studied distance from NZ as it pursues its relationship with the US and other major powers.

The implications of a Pacific Community cannot be overstated. It may be built on three economic, social and environmental pillars but the economic will set the parameters for the social and environmental, as it does within the EU. The implications when applied to South Pacific will be very different from Europe. A common currency, free movement of people, shared labour laws, harmonised tax regimes, common standards and qualifications, pooled services and a commitment to 'sound' economic policies, including private property rights, an independent central bank and fiscal discipline are all potential time bombs that will intensify Australia's dominance in the region (Kelsey, 2003c). It would be reckless for governments even to consider such a model without engaging in extensive empirical analysis and public debate at national and regional levels.

There is a risk of déjà vu. The Leaders may be convinced to endorse the idea of a Pacific Community that is long on vision and short on detail, and suppress their fundamentally different understandings of what this means in the interests of Forum unity. Ideologically sympathetic consultants are then appointed to flesh out the ideas. Island governments quietly assert their interpretation against the dogmatic arguments of Australia and NZ, who control the flows of trade and aid. A barrage of behind-the-scenes manoeuvres and frontal attacks are deflected by concessions that in isolation seem controllable, but progressively erode the ground of opposition. Negotiations are reduced to fiddling with the detail. Final capitulation is rationalised by promises that the bullies will act with sensitivity and good faith. Everyone saves face by owning the outcome. All this takes place in secret with a gross imbalance of personnel and expertise. Only then do the citizens of all Forum countries find out what their governments have done. It happened with PICTA/PACER. It could happen again - but this time the Forum Secretariat that implements, and subtly shapes, the mandate will be led by a Secretary General who was handpicked by Australia and is perceived - fairly or not - as being on the side of the bullies.

Revisiting 'Good Governance'

It is timely for all Forum governments to draw back the veil of secrecy and engage in open, informed, participatory debate about these negotiations. When regional NGOs challenged the lack of transparency and 'civil society' input in the PICTA/PACER process (PANG 2001), Secretary General Levi sought refuge in tired old excuses: governments had been encouraged to consult; the sensitivity of intergovernmental negotiations meant extensive details could not be released to the general public; background social impact studies had been commissioned. Moreover:

> *In most countries, in order to be ratified, the trade agreement must go through Parliament or its equivalent, and will therefore be subject to the normal constitutional process of public debate, and discussion. This is of course right and proper, and is in line with the eight principles of accountability endorsed by Forum Leaders in Kiribati last year. This process will take place over the coming year* (Levi, 2001).

As the following analysis shows, the principles of the Biketawa Declaration of October 2000 are not applied to international 'trade' negotiations – even though their impact on people's lives will be more far-reaching than almost any decision taken by a national government and tie the hands of governments for decades to come. Nor, it appears, do most Pacific Parliaments get to vote on a trade treaty, even after the deal is done.

(i) Commitment to good governance which is the exercise of authority (leadership) and interactions in a manner that is open, transparent, accountable, participatory, consultative and decisive but fair and equitable. The story of PICTA/PACER is one of secret negotiations, conducted under conditions of ignorance and coercion, which lock governments into economic policies that abandon the wellbeing of Pacific people, their cultures and environment, to the vagaries of the global market place. Far from reining in corrupt governments and the vested interests of powerful elites, this process of Executive treaty making places even greater unaccountable power in the hands of the Executive and fundamentally disempowers their citizens.

(ii) Belief … in the individual's inalienable right to participate by means of free and democratic political process in framing the society in which he or she lives. PICTA/PACER/Cotonou/REPA/WTO aim to lock Pacific Island Countries, Australia and NZ irreversibly into neoliberal policies and deregulated global markets that are *designed* to deny the people of all those countries, now and in the future, the right to decide their own future.

(iii) Upholding democratic processes and institutions which reflect national and local circumstances... The profoundly anti-democratic institutions of the WTO, IMF, World Bank and ADB are mandated to pursue a process of global economic policymaking that requires Pacific governments to adopt a universalist policy template and denies their democratic processes and institutions the policy space to reflect national and local circumstances. Requirements of WTO compatibility mean this becomes embedded in agreements such as PACER.

(iv) Recognising the importance and urgency of equitable economic, social and cultural development to satisfy the basic needs and aspirations of the peoples of the Forum. PACER is premised on a bankrupt ideology that claims neoliberal globalisation can eliminate poverty, despite abundant evidence that it has increased inequality and deepened poverty. Governments are prevented from abandoning these policies when they fail to satisfy the basic needs of their people or are contrary to their aspirations, and measures they adopt to promote social and cultural development that conflict with the trade rules are deemed illegal.

(v) Recognising the importance of respecting and protecting indigenous rights and cultural values, traditions and customs. PACER is based on an individualised, competitive, self-maximising and exploitive model of free market capitalism. That is philosophically, spiritually and culturally irreconcilable with indigenous values, traditions and customs and traditional indigenous models of development. An attempt to include recognition of indigenous rights in the Objectives Article of PACER failed – even though NZ insisted in its bilateral agreement with Singapore on a provision that allows it to take measures to implement the Treaty of Waitangi and promote Maori development, and exempts their assessment of what that means from the dispute settlement mechanism.

(vi) Recognising the vulnerability of member countries to threats to their security, broadly defined . . . and (vii) Recognising the importance of averting the causes of conflict . . . The massive economic and social upheaval which the implementation of these agreements will require poses a potent threat to national and regional security and stability – one that may be surpassed only by the explosive response when people are told there is no way out.

Positive Climate Change

This report is more than an exposé of the Australian and NZ governments' unacceptable behaviour. It canvasses a range of strategies that would enable the governments of the Pacific to reassert their sovereign authority in relation to Australia and NZ and to draw back from PACER and PICTA. Pacific people – NGOs, social movements, trade unions, local businesses, the media and ordinary citizens – will be their governments' most powerful allies in legitimating such decisions. It is their lives and livelihoods that are at stake. They can only perform that role if they are presented with timely information prior to and during any negotiations, provided the opportunity to engage in open and meaningful dialogue, and given the responsibility for preparing comprehensive impact assessments that are then opened to analysis, critique and debate – and if their governments make themselves accountable for the decisions they make.

At the same time, it is not enough just to say 'no' to PACER, a Pacific REPA or the WTO. Some other ways forward must be found. There *are* serious and urgent challenges that face the Pacific Islands. The removal of trade preferences *will* have a potentially catastrophic effect on fragile export industries. Securing access to foreign markets for products such as fish, timber, coconuts or fruit *is* vital. Loans and foreign investment *are* necessary to add value to those resources and help sustain the essential utilities and infrastructure on which the Islands depend. There *is* a role for foreign providers of services, ranging from health and education to tourism and banking, where local capacity is constrained. Regional cooperation *is* essential if airline and shipping routes are to remain open and affordable, without draining the state of its already limited revenue. Remittances from those who work abroad *are* a critically important part of that revenue flow, and rights to entry *are* essential to maintaining that lifeline. But there are also many Pacific people whose daily lives are only remotely affected by such considerations.

If the Eminent Persons Group proposes the development of a Pacific Plan, as anticipated, that could provide the opportunity to define a new direction that reflects a genuinely Pacific Vision for the future, rather than the one seemingly pre-determined by Australia and NZ. People may conclude that a cooperative Pacific Community that pools resources and creates economies of scale makes sense, provided it respects the uniqueness of diverse identities and the rights of self-determination, and is not driven by the ideology of neoliberalism and the self-interest of the region's dominant powers. Given Australia and NZ's record on PACER, however, there are grave risks in conducting these discussions within a framework that is determined by and accountable to the Forum.

There is nothing to stop the Pacific people and governments from initiating those discussions among themselves, in the same way as other developing and least developed countries who now reject the claim that 'there is no alternative' to the market-driven model of development and its anti-democratic approach to 'good governance'. As social movements, NGOs and some mainstream economists are insisting, this model has already caused too much damage. A new balance is needed. 'Free trade' rules exclude considerations of social justice, cultural integrity, ecological sustainability, food security, self-determined economic development, indigenous rights and participatory democracy. Genuinely good governance means governments must retain the right - and accept the responsibility - to give priority to these considerations.

Parallel debates are needed within Australia and NZ. Several decades of neoliberal globalisation have taken their toll on the people of both countries. Structural poverty and inequality, and festering racial divisions, promise an uncertain future. Australia's unreserved endorsement of US imperialism has made it a target for revenge attacks. New Zealand's publicly reserved position is repeatedly undermined by indirect support for US-led initiatives, motivated by a desire not to be exiled completely from the US-Australian relationship and an ideologically-driven quest to emulate what some are calling the 'treaty of economic surrender' that Australia has just signed with the US. This is compounded by growing pressure from those who seek to integrate NZ even more deeply into a reluctant Australia. Proposals for a common currency and monetary regime, investment rules and taxation levels would be hard to sell to a sceptical public, who fear that NZ will become just another state of Australia. A Pacific Economic Community may be promoted as a less threatening and subtler means for achieving that goal.

If the Australian and NZ governments remain determined to lock their countries and people, as irreversibly as possible, into the straitjacket of neoliberal globalisation at multilateral, regional and bilateral levels they will leave nowhere to move if the contradictions within that model produce economic crises, social dis-ease and political instability, as has occured in countries such as Argentina.

Their bullying of the Pacific Islands into following that example reflects the bankrupt state of contemporary international 'diplomacy'. In doing so, they risk constructing a platform for social and political chaos and chronic instability in their – our - Pacific backyard.

In the Spirit of the Biketawa Declaration:

the Governments of the Forum Islands Countries are respectfully urged to

1. Receive the report of the Forum's Eminent Persons Group and release it for thorough analysis and public debate before reaching any decisions on the desirability and method of proceeding with the preparation of any Pacific Plan.

2. Convene their own inquiry to document the behaviour and demands of Australian and NZ governments in negotiations on PICTA/PACER and WTO accessions and publish that report.

3. Freeze decisions relating to
- proposals to accede to PICTA or PACER;
- proposals to accede to the WTO; and
- extending PICTA to services and investment.

4. Take no action that could trigger PACER Article 6.

5. Tell the EU to wait for a decision under Cotonou until the issues surrounding PACER are resolved.

6. Instruct the Forum Secretariat to
- release all documentation relevant to past, present and proposed negotiations;
- abandon the proposed contract to develop a mechanism to monitor the impacts of free trade agreements;
- commission comprehensive empirically based studies of the economic, social, cultural, environmental and democratic implications of free trade commitments on food, manufacturing, natural resources, services, labour markets, investment and cultural knowledge, to be conducted by local groups at national levels;
- convene a region-wide public inquiry into the proposal for a Pacific Economic Community.

7. Hold fully open and participatory national hearings to consider their withdrawal from, and the termination of, PICTA and PACER and act on the outcome.

the Governments of Australia and New Zealand should

8. Stop exploiting their dominant economic power and capacity and pursuit of ideological and economic self-interest by bullying the Pacific Islands into commitments they do not want.

9. Agree to terminate PACER if requested.

10. Abandon their demands for similar regional and multilateral arrangements that would lock Pacific Island governments into inequitable and anti-democratic neoliberal policies.

11. Engage in genuine dialogue about regional economic cooperation, including between Australia and NZ, based on the above participatory processes of decision making and in accordance with genuine principles of democracy and good governance.

12. Make economic and political commitments based on these processes that reflect their historical and contemporary obligations to the poor, small and vulnerable Pacific Island countries that are their closest neighbours and that would bring both countries closer to the level of aid funding expected of OECD countries.

Appendix 1: Designations and Membership of Trade Arrangements

	FIC	LDCs	Small Island States	PICTA	PACER	WTO	APEC
Australia					x	x	x
Cook Islands	x		x	x	x		
Federated States of Micronesia	x						
Fiji Islands	x			x	x	x	
Kiribati	x	x	x	x	x		
Republic of Marshall Islands	x		x				
Nauru	x		x	x	x		
New Zealand					x	x	x
Niue	x		x	x	x		
Republic of Palau	x						
Papua New Guinea	x			x	x	x	x
Samoa	x	x		x	x	a	
Solomon Islands	x	x		x	x	x	
Tonga	x			x	x	a	
Tuvalu	x	x	x				
Vanuatu	x	x				a	

a=in process of accession

Appendix 2: People Interviewed

AUSTRALIA
Adrian Morrison, First Secretary, Australian High Commission, Suva
Dr Andrew Stoeckel, Executive Director, Centre for International Economics, Canberra

COMMONWEALTH SECRETARIAT
Roman Grynberg, Deputy-Director, Trade Divison, Commonwealth Secretariat and member of Forum Secretariat Trade Experts Group

FIJI
Felix Anthony, National Secretary, Fiji Trade Union Congress and General Secretary, Fiji Sugar & General Workers Union
Prof Rajesh Chandra, Acting Vice-Chancellor, University of the South Pacific
Mark Halabe, Managing Director, Mark One Apparel
Virginia Horscroft, Senior Economic Planning Officer, Ministry of Commerce
Lailun Khan, CEO, Fiji Islands Trade and Investment Bureau
Major General J.K. Konrote, High Commissioner for Fiji, Canberra
Prof Wadan Narsey, Professor of Economics, USP and member of Forum Secretariat Trade Experts Group
Dr Biman Prasad, Department of Economics, USP and member of Forum Secretariat Trade Experts Group
Tupou Raturaga, Chief Economist [WTO], Ministry of Foreign Affairs and External Trade
Robert Keith Reid, Editor, Islands Business
Ken Roberts, CEO, Fiji Employers Federation
Rajeshwar Singh, Assistant National Secretary, Fiji Trade Union Congress and General Secretary, Fiji Public Service Association
Sekove Tamanitoakula, Economic Planning Officer, Ministry of Commerce
Susana Tuisawau, Regional Pacific Coordinator, Education International and CEO, Council on Pacific Education
Tupou Vere, Executive Director, Pacific Concerns Resource Centre and member of Forum Secretariat Trade Experts Group
Akuila Waradi, Counsellor, Fiji High Commission, Canberra

EUROPEAN UNION
Taeke Cnossen, Trade Policy Adviser, Delegation of the European Commission for the South Pacific, Suva
Mfanwe Van de Velde, Counsellor for Trade and Economic Integration, Delegation of the European Commission for the South Pacific, Suva

FORUM SECRETARIAT
Mere Falemaka, Trade Policy Advisor, Pacific Islands Forum Secretariat
Dr James Gosselin, Multilateral Trade Policy Advisor, Pacific Islands Forum Secretariat
Jaindar Kumar, Director of Trade and Investment, Pacific Islands Forum Secretariat
Dr Helen Tavola, Senior Policy Adviser, Pacific Islands Forum Secretariat

NEW ZEALAND
Paul Ash, Senior Policy Officer, Pacific Division, New Zealand Ministry of Foreign Affairs and Trade
Don Clarke, Director Global Group, New Zealand Agency for International Development
Mike Ingpen, Coordinator, South Pacific Council of Trade Unions
Kate Lackey, High Commissioner for New Zealand, Canberra
Jennifer MacDonald, Deputy High Commissioner for New Zealand, Samoa
Nicky McDonald, First Secretary, New Zealand High Commission, Suva
Ross MacFarlane, Pacific Regional Policy, New Zealand Agency for International Development
Daniel Mellsop, Policy Officer, Trade Negotiations Division, New Zealand Ministry of Foreign Affairs and Trade
Paul Myburgh, Senior Lecturer in Law, University of Auckland
Guy Redding, Programme Manager Trade and Development, New Zealand Agency for International Development
Robert Scollay, Associate Professor of Economics, University of Auckland
Paul Willis, Deputy Director (Regional Policy), Pacific Division, New Zealand Ministry of Foreign Affairs and Trade

PNG
Hon. Renagi Lohia, High Commissioner for Papua New Guinea, Canberra

SAMOA
Tuala Falani Chan Tung, Trade Consultant, Ministry of Foreign Affairs and Trade
Fiu Mata'ese Elisara-Laulu, Executive Director, O Le Siosiomaga Society and President, Samoa Umbrella for Non Governmental Organisations
Auelua Samuelu Enari, Assistant Chief Executive Officer (Trade), Ministry of Foreign Affairs and Trade
Hon Hans Joachim Keil, Minister of Trade
Solimana Papali'i, President, Samoa Public Service Association
Hinauri Petana, Chief Executive Officer, Ministry of Finance
Hon Misa Telefoni Retzlaff, Deputy Prime Minister and Minister of Finance
Tia F Siaosi, President, Samoa Manufacturers Association
Nella Tavita-Levy, Principal Trade Officer, Ministry of Foreign Affairs and Trade

SOLOMON ISLANDS
Hon Milner Tozaka, High Commissioner for Solomon Islands, Canberra

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