

PACER PLUS

OUTCOMES: INSTITUTIONAL ARRANGEMENTS AND FORWARD AGENDA



Joint Committee

All PACER Plus members are represented in the Joint Committee. The Committee has broad functions, including on all matters relating to the implementation and operation of the Agreement and supervision of subsidiary bodies. The Agreement creates three subsidiary bodies:

- + Committee on Trade in Goods, Rules of Origin and Customs Procedures,
- + Sanitary and Phytosanitary and Technical Barriers to Trade Committee, and
- + Services, Movement of Natural Persons and Investment Committee.

The Joint Committee will also identify the needs and priorities of partners in relation to development assistance.



Consultation and dispute settlement

Like Australia's other free trade agreements (FTAs), PACER Plus includes member-to-member consultations and a dispute settlement mechanism. This builds on chapter-specific consultations provisions in the Agreement.

Similar to other Agreements, consultation and dispute settlement provisions in PACER Plus are structured around a framework that contains member-to-member consultations in the first instance, followed by a formal binding dispute settlement process if consultations do not identify a mutually satisfactory outcome.

For the first time in an Australian FTA, sanitary and phytosanitary measures will be subject to the Consultations and Dispute Settlement Chapter. This innovation reflects the fact that some of the Pacific island countries (such as Cook Islands, Kiribati, Nauru, Niue, Tuvalu) are not Members of the World Trade Organization (WTO), and therefore do not have recourse to the WTO dispute settlement system.

PACER Plus does not include Investor-State Dispute Settlement provisions.



General exceptions to obligations and commitments

PACER Plus imposes no new obligations on government procurement, competition policy, state owned enterprises, global trade remedies, domestic subsidies, export subsidies or export duties. Nor does it impose new obligations on non-discrimination in internal taxation and regulation, fees and charges for services rendered, quantitative import and export restrictions, import licensing, customs valuation, sanitary and phytosanitary measures, other standards and conformance issues, trade-related investment measures, and intellectual property protection.

Provisions on general exceptions to obligations and commitments in PACER Plus will permit members to adopt or enforce measures that would otherwise be inconsistent with the Agreement. These exceptions

include actions taken by members that are necessary to protect public morals or protect human, animal or plant life or health or that conserve exhaustible natural resources.

PACER Plus also includes an exception for security-related reasons, including for measures a member considers necessary to fulfil its obligations to maintain or restore international peace and security, or to protect its essential security interests, and where disclosure of information would be contrary to those interests.



Entry into effect

The Final Provisions Chapter governs the way in which PACER Plus operates as a treaty. It sets out:

- + the processes through which the Agreement will enter into effect. The Agreement enters into effect 60 days after at least eight members have ratified,
- + how the Agreement may be amended, and
- + how a member may withdraw from the Agreement.

The Chapter provides clarity on the operation of the South Pacific Regional Trade and Economic Cooperation Agreement (SPARTECA) – an early regional agreement in which Australia and New Zealand provide tariff-free entry to Pacific island country goods on a non-reciprocal basis – and PACER Plus. In the event of any inconsistency between rights and obligations under PACER Plus and SPARTECA, provisions under PACER Plus will prevail.



New members

The Final Provisions Chapter sets out accession arrangements to PACER Plus. The Agreement is open to accession by non-parties subject to satisfactory negotiations with the members on Schedules of Commitments on tariffs, services, movement of natural persons, and investment commitments.

The Agreement provides for Pacific island countries that participated in PACER Plus negotiations but were unable to sign at the time the Agreement entered into effect to accede through an expedited process following satisfactory negotiations with existing members.

Members commend the Agreement to all members of the Pacific Islands Forum.