

Trade Justice Now!

An update from the Pacific Network on Globalisation
January 2009



PANG is a regional fair trade organization based in Suva, Fiji. *Trade Justice Now* is a monthly e-newsletter providing analysis on trade and globalisation issues in the Pacific. See www.pang.org.fj for further information.

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" AS we face the New Year of 2009, it is time to reassess our perceptions and the reality of our economic and political reform programs.

Economically, we were convinced that the reforming of Tonga's economy by adopting a new Customs Duty Tariff and a new taxation system, and becoming a member of the World Trade Organisation (WTO) would open up a door of opportunity for Tongan companies to negotiate deals with multi-national companies and attract a flow of foreign investment to Tonga.

By being a member of the WTO and a party to an international Free Trade Regime enabled us to have access to an international market, in return for, of course, the free access of overseas products and services to our small market.

The reality of our WTO commitment is that our local market can't compete with overseas goods and services, and today local manufacturers and industries are up against big international companies flooding the market with their products. Examples are our local brewery against the influx of overseas beers, and other industries such as local water purification and locally produced eggs. "

- *Matangi Tonga (Editorial)*
Pesi Fonua
January 2, 2009

2009 – A big year for trade negotiations in the Pacific

2009 will see major developments in trade negotiations across the Pacific that will have implications for Pacific economies and people's livelihoods.

Pacific Island Countries are preparing to open their service sectors to competition from other Island countries under the Pacific Island Countries Trade Agreement. Under the same agreement, PICs are also negotiating to allow the free movement of workers across Island countries.

Countries across the region face the possibility of changing their own rules that govern trade in a range of areas (from removing restrictions and taxes on exports, to relaxing rules for foreign investors and enforcing new intellectual property rights) if they sign on to an Economic

Partnership Agreement (EPA) with the European Union. This will especially be the case if Pacific governments choose to sign an EPA similar to the one that was signed by the Caribbean states in September 2008.

Samoa and Vanuatu will continue to discuss their accession to the World Trade Organisation during the year (while discussion in Tonga will centre on the negative consequences of Tonga's own decision to join the WTO).

But the biggest development in trade this year will undoubtedly be the push by Australia and NZ to begin formal negotiations for a free trade agreement under the Pacific Agreement on Closer Economic Relations, to be called PACER-Plus.

A free trade agreement with the region's 'big brother' neighbours could lead to dramatic losses in government revenue for PICs, business closures and job losses, and a reduction in the supply and quality of social services.

Because of these potential outcomes, Pacific trade ministers have stressed the need for careful preparations in the lead up to any negotiations with Australia and NZ. However, ANZ officials have made every indication they will rush the process to allow negotiations to begin in mid-2009. Australia will host the 2009 Pacific Leaders Forum in Cairns in August and Rudd's Labor government is very keen to secure agreement at that meeting to commence negotiations on PACER-Plus.

PANG will provide updates on all of these developments throughout the year, and along with our partner organisations around the region will continue to advocate for trade justice – for policies that place trade at the service of human development.

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FTA Update

An update on all the major free trade negotiations facing the Pacific Island Countries (PICs) – including trade negotiations among the PIC's under the Pacific Island Countries Trade Agreement (PICTA), for an 'Economic Partnership Agreement' (EPA) with the European Union, and with Australia and NZ under the Pacific Agreement on Closer Economic Relations (PACER).

PICTA: The Pacific Island Countries Trade Agreement

Pacific Island Countries are currently negotiating the extension of PICTA to include trade in services (under a Protocol on Trade in Services). PICs engaged in consultations with government and private sector stakeholders at the national level in late 2008 and January 2009, with a view to finalising offers and requests for trade in services by the end of January - for a final round of negotiations in March 2009. PANG prepared a submission for the Fiji Ministry of Trade on including services under PICTA, see *Tread Carefully: PANG policy submission on PICTA trade in services* below.

PIC trade ministers have also agreed to include temporary movement of natural persons (TMNP) under the PICTA agreement as well. In October 2008, trade ministers agreed that a two-tiered approach should be taken to TMNP within the PICs – allowing professionals to move freely among the PICs, while semi-skilled professionals will be subject to a quota mechanism. It was also decided that commitments made on TMNP under PICTA will be extended to PIC nationals regardless of whether or not they are resident in a PIC. Finally, it was decided that a study would be commissioned by the PIFS into "the modality and framework of a PICTA TMNP scheme". The terms of reference for that study were released in December 2008 *but they have been re-advertised*. Individuals interested in applying for this consultancy should see:

<http://www.forumsec.org/pages.cfm/about-us/employment-opportunities/consultancies/study-on-picta-tmnp-re-advertised.html>

PIC trade ministers decided at their October meeting that a Social Impact Assessment of liberalising trade in services among the PICs shall be completed after the final round of negotiations, scheduled for March 2009. The ToR for that SIA will be released following the

completion of negotiations. It is unlikely that this SIA will have any impact on the choice of which service sectors will be liberalised (as the study will come *after* negotiations are completed), but will instead focus on “identifying potential social implications” of extending PICTA to include services and “providing mitigating policy measures” to cushion any likely negative impacts.

Economic Partnership Agreement (EPA): A free trade agreement with Europe

In October 2008 Pacific ACP Trade Ministers decided that the Pacific ACP states would continue to negotiate with the EU as a regional bloc based on existing negotiating positions. The Pacific has put forward a proposal for a full EPA that contains an agreement on goods, plus development cooperation, a chapter on fisheries, social and environmental issues and competition. The Pacific has proposed a ‘rendezvous clause’ to revisit issues such as services, investment, government procurement and intellectual property in the future (this is primarily because the EU has not offered useful market access for Pacific workers under a services agreement). The European Commission for its part continues to ignore the spirit of the Pacific’s proposal, and is instead pushing for individual countries within the region to make commitments on services and investment.

It is possible that a ‘full EPA’ containing the areas the Pacific negotiators have proposed will be completed during 2009, though there seems to be little formal interest from most Pacific countries. There has been no official indication that countries other than PNG and Fiji will table market access offers on goods – though the EU may relax its Rules of Origin relating to fisheries products in an effort to induce other Pacific countries to sign onto a full EPA.

PNG and Fiji initialed an interim EPA (in late 2007), in haste and to protect their market access to the EU for exports of tuna and sugar. During 2008, Pacific trade ministers have requested (on many occasions) revisiting elements of the interim EPA – especially the provisions banning the use of export taxes or restrictions, and the extremely poor ‘infant industry safeguards’. The European Commission has refused to revisit any elements of the interim EPAs. There have been some slightly more promising signs from the European Parliament, where EU Parliamentarians have been calling for the Commission to allow a revisiting of contentious clauses. However, it seems the EU will only allow revisiting these clauses if Pacific countries sign on to a full EPA.

As things currently stand, the European Commission’s proposal to sign interim-EPAs with Fiji and PNG has been transmitted to the EU Council for approval. Translation is complete and the Council Secretariat is preparing the final documents for approval and signature. The provisional timetable agreed with the EU Presidency and Council aims for PNG and Fiji to initial the interim-EPAs in May 2009.

For the latest update on the negotiations from the European Commission, see:

http://trade.ec.europa.eu/doclib/docs/2009/january/tradoc_142192.pdf

PACER-Plus: Pacific Agreement on Closer Economic Relations

In late 2008 (November) Pacific trade officials met again with their counterparts from Australia and NZ for another ‘informal’ meeting regarding progress towards PACER-Plus negotiations. This meeting was held in Tonga. Discussions at the Tonga ‘informal’ meeting centred around the Pacific’s proposal for an Office of the Chief Trade Advisor (CTA) and the establishment of a “roadmap” for PACER-Plus negotiations (as agreed at the 2008 Forum Leaders’ meeting).

The Australian and NZ governments formally responded to the Pacific’s CTA proposal later in November, though it remains unclear what that response was – for example whether it approved in-principle the establishment of a CTA or not, and whether there were suggestions for changes to the *role* of the CTA. The PIC’s have re-drafted another CTA proposal that will be submitted at the next ‘informal’ meeting, scheduled to be held in Adelaide (February 16-18).

Regarding the “roadmap”, PIC and ANZ trade officials discussed issues such as the timing and structure of negotiations, the coverage of negotiations (which areas are to be included under

PACER-Plus), special and differential treatment for the PICs, timeframes for commitments etc. Discussions regarding the roadmap will be ongoing during the February 'informal' meeting in Adelaide.

Australia will host the Pacific Leaders' Forum in 2009, and is very keen to use the occasion to launch formal free trade negotiations under PACER-Plus. It is clear that the PICs view the ongoing 'informal' process as pressure to move forward on PACER-Plus. Pacific Trade Ministers have said for some time that careful consideration of PACER-plus is needed well before negotiations begin, and that the CTA must be established as well. These tensions are likely to be ongoing.

Trade advisor removed from PIFS

It appears that the axe has fallen on one of the region's most respected trade advisors, Dr. Roman Grynberg, whose contract with the Forum is not being extended. Those that follow international trade negotiations will know Dr. Grynberg is not a popular figure amongst trade officials from developed countries, who often see him as a key stumbling block for advancing their trade priorities. In 2003, *The Guardian* newspaper highlighted a letter between the NZ Ministry of Foreign Affairs and Trade and the British Government colluding to get rid of "unsympathetic" trade officials within the Commonwealth Secretariat. One such unsympathetic trade official was Dr. Grynberg – whose work advocating on behalf of poor developing countries was seen as derailing free trade discussions. Reasons for his contract not being extended with the Forum Secretariat were based on a performance review that found him to 'lack leadership' and not being 'client focused'. The question that begs to be asked is, which client(s) is unhappy with Dr. Grynberg's work? Whatever the reasons for his removal, his absence means that the PIC's have lost an important critical voice prior to going into negotiations for a free trade agreement with the Islands' most important trading partners.

Civil society engagement in PACER-Plus

NZ announced in May 2008 the funding of a study to assess the capacity of Non-State Actors to engage PACER-Plus discussions. Tenders have been sought for the initial 'programme design' of a programme of trade policy capacity development for non-state actors in the Pacific. The tender for this study was awarded to Peter Gallagher, Rukmani Goundar and Julie-Anne Lee. Peter Gallagher is the "primary author" of the AusAID commissioned *Research Study on the Benefits, Challenges and Ways Forward for PACER-Plus*, completed mid-2008.

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PANG in the Media:

Australia and NZ bulldoze ahead on PACER-Plus (*Islands Business*).

Australia and NZ are pushing hard for negotiations under PACER-Plus to begin in mid 2009 – assuring the region that the deal will be a 'development' deal for the region. However, officials from both countries have pursued aggressive strategies (mainly behind closed doors) to stack the deck in their favour even before negotiations even start.

At the 2008 Forum Trade Ministers' Meeting, Australian officials (and allies from NZ, Tonga and Nauru) pushed for negotiations under PACER-Plus to begin in August 2009. Most PIC trade ministers resisted this however, and agreements to begin negotiations were not secured. Some officials present at that meeting reported bullying tactics by Australian officials and explicit threats to remove key Forum Secretariat staff.

Australian and NZ officials took their case to the 2008 Forum Leaders' Meeting in Niue, where favourable language was secured, and Forum leaders directed trade officials to "formulate a detailed road map on PACER Plus, with the view to Leaders agreeing at the 2009 Forum to the commencement of negotiations".

Throughout 2008 PIC trade officials met with their Australian and NZ counterparts in a series of “informal” meetings to discuss issues of timing, modality and coverage of potential negotiations. These meetings – which have now turned to establishing a “roadmap” on PACER-Plus – have been held in secret, and Pacific trade officials have reported that they amount to pressure to begin PACER-Plus negotiations before PICs are ready.

Australia and NZ continue to resist Pacific proposals for the establishment of an Office of the Chief Trade Advisor (CTA) to help establish regional Pacific negotiating positions and undertake research as to the implications of PACER-Plus. Instead, Australia has offered to fund national-level research and train national-level officials on issues relating to PACER-Plus. This will have the effect of reducing the region’s critical analysis and negotiating power.

PANG coordinator Maureen Penjueli, penned an article for *Islands Business* magazine covering these, and other, issues. That article is available at <http://www.pang.org.fj/doc/090126-IB-PurgingtheforumANZ.pdf>

The next ‘informal’ meeting of trade officials from Australia, NZ and the PICs to discuss PACER-Plus will be held in Adelaide (February 16-18).

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Tread Carefully: PANG policy submission on PICTA trade in services

Pacific Island Country trade departments held consultations with government and private sector stakeholders in late 2008 and January 2009 regarding PICTA trade in services – with a view to finalizing each country’s offers and requests by the end of January.

PANG prepared a submission for the Fiji Ministry of Trade outlining a series of concerns regarding the extension of PICTA to include trade in services. See below for the key policy recommendations from that submission. A full copy of *Tread Carefully: Implications of opening Fiji service sectors to foreign competition under PICTA* is available at

http://www.pang.org.fj/doc/090123PANG_Policy_Submission_PICTA_TIS.pdf

Key Policy Recommendations – PICTA Trade in Services

1.) *The Fiji Government should maintain the ability to regulate the provision of services to ensure all Fiji citizens can access essential services, and to meet national development priorities. This includes undertaking a review of current regulations governing a sector (such as finance) **before** a sector is liberalised.*

2.) *The Fiji Government should exclude essential services from commitments that it makes under free trade negotiations. Essential services represent basic human rights, and the Fiji Government has a responsibility to extend essential services to all Fiji citizens. Free trade commitments could make this more difficult. In some cases, there is a place for foreign providers of services like healthcare and education. However, there is no need to sign free trade agreements to secure their presence, and there are serious risks from doing so.*

3.) *The Fiji Government should ensure that the results of any social impact assessment are made known, and discussed publicly, before commitments to liberalise new service sectors are made binding. NGOs and civil society organisations should have the opportunity to be involved in the design and scope of any SIA. The Fiji Government should also indicate publicly, as soon as possible, which sectors are most likely to be subject to PICTA trade in services commitments to allow for more detailed policy input.*

4.) *The Fiji Government should ensure that any final PICTA trade in services agreement contains an effective review mechanism – allowing for problematic areas to be re-visited if required.*

5.) *The Fiji Government should be wary that commitments made to liberalise service sectors under PICTA could set a precedent for free trade negotiations with bigger trading partners like Australia and NZ.*

6.) *In assessing the implications of liberalising services under PICTA, the Fiji Government must acknowledge, and take into account, the disproportionate impact that service liberalisation will have on women.*

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Upcoming events:

February 16 – 18. ‘Informal’ meeting of trade officials from Australia, NZ and the PICs Adelaide, Australia

PIC trade officials will meet with their Australian and NZ counterparts for the next round of ‘informal’ discussions on PACER-Plus. These discussions will focus on the Pacific’s CTA proposal, as well as the structure, coverage and timing of PACER-Plus negotiations.

The location of the informal meeting is noteworthy as Adelaide is the home of the Institute for International Trade. The IIT completed an AusAID commissioned report on advancing PACER-Plus in mid 2008, and the Australian government has provided funding for the Institute to provide ‘capacity building’ for Pacific trade negotiators (see below).

February 9-13. ‘Capacity building’ for Pacific trade officials Adelaide, Australia

In the lead up to the next ‘informal’ PACER-Plus meeting, Pacific trade officials will sit through the second of 10 one-week training programs designed by the Institute for International Trade to “target *upcoming negotiators* from all 14 Pacific Forum Island Countries”.

During the first module of this training (held in September 2008), Pacific trade officials engaged in “relevant debates” with “Australian negotiators who will be part of future PACER-Plus negotiations” as well as discussing some of the Pacific’s “key negotiating priorities”.

For more information on the Institute for International Trade and the ‘training’ of Pacific trade officials, see: <http://www.iit.adelaide.edu.au/hot/>

For more information on upcoming events, email: coordinator@pang.org.fj

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Further information:

Please note that further resources on trade and economic justice issues in the Pacific are available at www.pang.org.fj.

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The Pacific Network on Globalisation (PANG) plays the role of the Pacific regional “peoples’ watchdog on trade issues”. PANG was established in 2000 by regional NGOs concerned that Pacific civil society was being left out of the debate on trade liberalisation and that the free-trade agenda lacked a focus on key goals of human development and poverty reduction. PANG is a research, education, and advocacy organisation.

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