

Pacific Agreement on  
Closer Economic Relations  
(PACER)

Done at Nauru, 18<sup>th</sup> August 2001

## **PACIFIC AGREEMENT ON CLOSER ECONOMIC RELATIONS (PACER)**

The Parties to this Agreement:

AFFIRMING the close ties that bind the Forum members, and their desire to provide a framework for the conduct of economic and trade relations among them;

CONFIRMING their commitment to sustainable development and the elimination of poverty in the Pacific region;

RECOGNISING the contribution which effective trade liberalisation and facilitation can make to the development of the Pacific region;

DESIRING to encourage trade liberalisation and economic integration in the Pacific region, with a view to the eventual full and complete integration of all sectors of their economies;

CONVINCED of the benefits of an outward-looking approach to trade and economic integration, and a clearly established and secure framework of rules for trade and economic integration;

DESIRING to promote the gradual integration of all of the Parties into the world economy, with due regard for their national circumstances and their right to regulate in accordance with national, social and economic policy objectives;

MINDFUL of the differing levels of economic development and special vulnerability of some Parties to this Agreement, and recognising that any economic integration among the Forum members should be gradual;

CONCERNED to minimise any disruptive effects and adjustment costs to the economies of the Forum Island Countries resulting from trade liberalisation and economic integration;

DESIRING to act consistently with their respective rights, obligations and undertakings under the Marrakesh Agreement Establishing the World Trade Organization, or other multilateral, regional and bilateral agreements and arrangements to which they are party;

BELIEVING that the development of an appropriate, efficient and transparent framework of trade facilitation rules will enhance the effectiveness of trade liberalisation in the region and the benefits flowing from liberalisation;

RECOGNISING that the provision of economic and technical assistance and support is essential for the Forum Island Countries to integrate into the international economy;

NOTING the desire of the Forum Island Countries to develop a basis upon which they can conduct international trade negotiations jointly;

HAVE AGREED as follows:

## **PART 1: DEFINITIONS AND OBJECTIVES**

### **Article 1**

#### ***Definitions***

In this Agreement, unless the contrary intention appears:

“Agreement” means the Pacific Agreement on Closer Economic Relations, and includes any Annexes to that Agreement;

“Forum” means the Pacific Islands Forum, as referred to in the Agreement establishing the Pacific Islands Forum Secretariat;

“Forum Island Countries” means the Cook Islands, Federated States of Micronesia, Fiji Islands, Kiribati, Republic of the Marshall Islands, Nauru, Niue, Republic of Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu;

“Forum Secretariat” means the Secretariat of the Forum;

“Least Developed Countries” means Kiribati, Samoa, Solomon Islands, Tuvalu and Vanuatu;

“Measure” includes any law, regulation, or administrative action or practice;

“non-Forum country” is a State, Territory or Self-Governing Entity which is not a member of the Pacific Islands Forum;

“Pacific Island Countries and Territories” means Forum Island Countries, American Samoa, the Commonwealth of Northern Mariana Islands, French Polynesia, Guam, New Caledonia, Tokelau, and Wallis and Futuna Islands;

“Party” means a State, Territory or Self-Governing Entity which has signed and ratified, or acceded to, this Agreement pursuant to Article 19, or which has acceded to this Agreement pursuant to Article 20;

“PICTA” means the Pacific Island Countries Trade Agreement;

“Secretary General” means the Secretary General of the Pacific Islands Forum;

“Small Island States” means the Cook Islands, Kiribati, Nauru, Niue, Republic of the Marshall Islands and Tuvalu; and

“Unit” means a section within the Trade and Investment Division of the Forum Secretariat, with its own budget, to administer the implementation of this Agreement and the PICTA.

## **Article 2**

### ***Objectives***

- 1 The Parties wish to establish a framework for the gradual trade and economic integration of the economies of the Forum members in a way that is fully supportive of sustainable development of the Forum Island Countries and to contribute to their gradual and progressive integration into the international economy.
- 2 The objectives of this Agreement include the following:
  - (a) to provide a framework for cooperation leading over time to the development of a single regional market;
  - (b) to foster increased economic opportunities and competitiveness through more effective regional trade arrangements;
  - (c) to minimise any disruptive effects and adjustment costs to the economies of the Forum Island Countries, including through the provision of assistance and support for the Forum Island Countries to undertake the necessary structural and economic adjustments for integration into the international economy;
  - (d) to provide economic and technical assistance to the Forum Island Countries in order to assist them in implementing trade liberalisation and economic integration and in securing the benefits from liberalisation and integration; and
  - (e) to be consistent with the obligations of any of the Parties under the Marrakesh Agreement Establishing the World Trade Organization.

## **PART 2: PACIFIC ECONOMIC INTEGRATION INITIATIVES**

### **Article 3**

#### ***Guiding Principles***

- 1 The objectives of sustainable development of the Forum Island Countries and gradual and progressive integration of the Forum Island Countries into the international economy shall guide all aspects of all stages of the development of the trade and economic partnership established under this Agreement.
- 2 The trade arrangements established in accordance with Part 2 of this Agreement are intended to provide “stepping stones” to allow the Forum Island Countries to gradually become part of a single regional market and integrate into the international economy.

- 3 The Parties recognise that the purpose of free trade areas should be to facilitate trade between the constituent parties and not to raise barriers to the trade of other Parties to this Agreement, and shall endeavour to act consistently with that purpose.
- 4 Nothing in this Agreement shall be construed as restricting the right of the Parties to undertake an arrangement between two or more of them to regulate trade and economic relations between them as they may agree, except when necessary to achieve the objectives of this Agreement.
- 5 The Parties shall 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 resource constraints of Forum Island Countries.
- 6 Consistent with the objectives set out in Paragraph 1, Least Developed Countries and Small Island States may be integrated in accordance with different structures and by different time frames than other Parties.
- 7 This Agreement is not intended to be:
  - (a) a customs union, an interim agreement leading to the formation of a customs union, a free trade area, or an interim agreement leading to the formation of a free trade area notifiable under Article XXIV of the General Agreement on Tariffs and Trade;
  - (b) an agreement notifiable under Article V of the General Agreement on Trade in Services; or
  - (c) in derogation of any pre-existing arrangements, obligations or treaties.

#### **Article 4**

##### ***Arrangements among Forum Island Countries***

- 1 The Parties agree that it is desirable for the Forum Island Countries to commence trade liberalisation and economic integration among themselves first.
- 2 The Forum Island Countries may liberalise trade among themselves and integrate their economies at a different pace and with different priorities than those with which they liberalise trade, and integrate their economies, with the economies of Australia and New Zealand.
- 3 Any arrangements established in accordance with this Article shall:
  - (a) be consistent with the objectives and guiding principles of this Agreement; and
  - (b) confer no rights or obligations on any Party not party to that arrangement.

## **Article 5**

### ***Future Negotiation of Forum-wide Trade Arrangements***

- 1 In accordance with the objectives of this Agreement, and notwithstanding the process for further integration established in the following Paragraph, eight years after the PICTA has entered into force, unless earlier agreed as part of the general review of this Agreement under Paragraph 2 of Article 16 or otherwise triggered by the provisions of Article 6, the Parties will enter into negotiations with a view to establishing reciprocal free trade arrangements between the Forum Island Countries and Australia and New Zealand.
- 2 Where a Party considers it desirable to establish new trading and economic integration arrangements between all the Forum Island Countries and Australia and New Zealand, or to extend the matters covered by or to deepen the relationship established by such arrangements, it may notify the Forum Secretariat, which will notify the other Parties to this Agreement, of its wish to enter into consultations with a view to negotiating the terms and conditions of the new arrangement or extension.
- 3 With respect to any Forum Island Country, Australia and New Zealand shall maintain all existing arrangements relating to market access in effect at the time this Agreement enters into force, until such time as that particular Forum Island Country has concluded new and/or improved trade arrangements providing equal or better access to their markets.

## **Article 6**

### ***Consultations between Forum Island Countries and Australia and New Zealand relating to the negotiation of free trade arrangements***

- 1 For the purposes of this Article:
  - (a) “free trade arrangements” means at least one free trade area or customs union, or at least one agreement leading to the formation of such area or union, as defined in Article XXIV:8 of the General Agreement on Tariffs and Trade;
  - (b) “developed country” means any member of the Organisation for Economic Cooperation and Development as at 1 January 2001; and
  - (c) “least developed country” means any country that is for the time being designated as a least developed country by the United Nations.
- 2 If any Party enters into negotiations for a free trade arrangement with a non-Forum country, that Party shall notify the Forum Secretariat, which, in turn, shall notify all other Forum members.
- 3 Subject to Paragraph 10, if any Forum Island Country which is Party to this Agreement:

- (a) commences formal negotiations for free trade arrangements which would include one or more developed non-Forum country, then that Forum Island Country shall offer to undertake consultations as soon as practicable with Australia and New Zealand, whether individually or jointly, with a view to the commencement of negotiation of free trade arrangements; or
  - (b) concludes free trade arrangements which would not include any developed non-Forum country, then that Forum Island Country shall offer to undertake consultations with Australia and New Zealand as soon as practicable after such arrangements are concluded. In cases where such arrangements involve a country which has a higher per capita GDP than the lowest per capita GDP of a developed Forum member, then the Forum Island Country shall offer the opportunity for negotiation of free trade arrangements with Australia and New Zealand, whether individually or jointly, following the consultation.
- 4 Subject to Paragraph 10, if all the parties to the PICTA jointly commence negotiations for free trade arrangements which would include one or more non-Forum country, they shall offer to undertake consultations, as soon as practicable, with Australia and New Zealand, whether individually or jointly, with a view to the commencement of negotiation of free trade arrangements.
- 5 Any Forum Island Country not party to the negotiations with a country referred to in Paragraph 3 may participate in any resulting consultations and negotiations with Australia or New Zealand.
- 6 If Australia or New Zealand commence formal negotiations for free trade arrangements with any non-Forum country, then Australia and New Zealand shall offer to undertake consultations, as soon as practicable, with each Forum Island Country with a view to the commencement of negotiations for improved market access.
- 7 In undertaking any negotiations under Paragraphs 3, 4 or 6, the relevant Parties shall endeavour to negotiate arrangements which are mutually beneficial, provide equal or better market access for the Parties, and are consistent with the relevant provisions of the Marrakesh Agreement Establishing the World Trade Organization.
- 8 Where more than one consultation or negotiation is required under this Article, the relevant Parties shall consider how best to coordinate their consultations and negotiations.
- 9 The obligation to consult under Paragraphs 3, 4 or 6 shall cease if the negotiation with a non-Forum country or countries is discontinued without producing an agreement.
- 10 The obligations in Paragraphs 3 and 4 do not apply to:
  - (a) the accession of any Pacific Island Country or Territory to the PICTA, provided that the PICTA rules of origin do not discriminate between Australia and New Zealand and other developed countries; or

- (b) the negotiation of any bilateral or plurilateral free trade arrangements between or among countries each of which is a Forum Island Country, or a Pacific Island Country or Territory, or a least developed country, provided that the rules of origin of such bilateral or plurilateral free trade arrangements do not discriminate between Australia and New Zealand and other developed countries.
- 11 Nothing in this Article shall be construed so as to undermine or impede the ability of any Party to effectively and independently negotiate a free trade arrangement with a third country.
  - 12 Trade negotiations under this Agreement should be independent of other aspects of the relationship between Parties, including the provision of aid or technical assistance, outside that provided under this Agreement.

### **Article 7**

#### ***Terms of Trade Arrangements between Forum Island Countries and Australia and New Zealand***

The terms of any new trade arrangements between Forum Island Countries and Australia and New Zealand established pursuant to Articles 5 or 6 shall:

- (a) be consistent with the objectives and guiding principles of this Agreement;
- (b) provide Forum Island Countries with no less favourable treatment than exists under the arrangements referred to in Paragraph 3 of Article 5;
- (c) recognise the differences in development status of the Parties by the inclusion of appropriate measures providing for special and differential treatment of developing countries;
- (d) not discriminate between any Forum Island Country which is a Party to this Agreement, unless the discrimination is to provide special and differential treatment for Least Developed Countries or Small Island States; and
- (e) not discriminate between Australia and New Zealand.

### **Article 8**

#### ***Voluntary Tariff Liberalisation***

- 1 The Parties acknowledge the importance of gradual reduction of their tariffs as part of their overall trade strategy, and welcome all such tariff reductions by any Forum member.
- 2 Each Party shall periodically review its tariff schedule with a view to making voluntary unilateral reductions to its tariffs.

## **PART 3: TRADE FACILITATION AND ECONOMIC AND TECHNICAL ASSISTANCE**

### **Article 9**

#### ***Trade Facilitation***

- 1 The Parties believe that the development of an appropriate, efficient and transparent framework of trade facilitation measures in the Pacific region will enhance the effectiveness and benefits of trade liberalisation among Forum members.
- 2 The Parties shall establish detailed programmes for the development, establishment and implementation of trade facilitation measures in accordance with Annex I.
- 3 To assist the integration of Forum Island Countries into the international economy, trade facilitation programmes shall, to the extent practicable, be consistent with other regional and international trade facilitation agreements and initiatives.
- 4 The design of trade facilitation programmes, including the level of financial commitment and other resources required for the implementation of the programme, shall take into account the special needs and resource and capacity constraints of Least Developed Countries and Small Island States.

### **Article 10**

#### ***Application of certain World Trade Organization Rules by WTO members to All Parties***

Each Party which is a member of the World Trade Organization undertakes to provide no less favourable treatment in relation to sanitary and phytosanitary matters, customs procedures, and standards and conformance to all other Parties than it is required to provide to other members of the World Trade Organization by virtue of its membership in that organisation.

### **Article 11**

#### ***Financial and Technical Assistance***

- 1 The Parties recognise the need for significant additional resources for the development of a programme of work to support the objectives of this Agreement.
- 2 The Parties, and other Pacific Islands Countries or Territories as agreed, in conjunction with the Forum Secretariat, shall develop a programme of work for financial and technical assistance in areas such as trade facilitation and promotion,

capacity building, and structural adjustment, which may include fiscal reform measures.

- 3 This programme of work, administered by a Unit within the Forum Secretariat, should be incorporated into the Forum Secretariat's "Budget Summary and Work Programme" without diverting resources from other Forum Secretariat programmes.
- 4 This programme of work shall be supported by an adequate level of funding from Australia and New Zealand and other interested donors to promote the timely implementation of the objectives of this Agreement, including trade facilitation programmes to be established in accordance with Annex I.

## **Article 12**

### ***Mutual Assistance in International Fora***

- 1 The Parties shall provide mutual assistance in international trade and economic fora, in particular in the World Trade Organization, in all matters related to the terms and objectives of this Agreement, and in other matters where the Parties have common interests in international economic and trade cooperation.
- 2 The Parties agree on the importance of effective implementation of special and differential provisions designed to take account of Parties' differing levels of development and vulnerability in international trade and economic agreements and arrangements.
- 3 Australia and New Zealand shall continue to assist the Forum Island Countries in their efforts to become active members of international trade and economic organisations by developing the necessary capacity to negotiate, participate effectively in, monitor and implement these agreements.

## **PART 4: GENERAL PROVISIONS**

### **Article 13**

#### ***Effect on Other International Agreements***

- 1 This Agreement shall not be regarded as exempting any Party from its obligations, or abrogating the rights of any Party, under any existing international agreements to which it is a party.
- 2 Each Party retains the sovereign right independently to conduct trade and economic relations, either individually or in concert with other Forum members.
- 3 Nothing in this Agreement shall prevent Parties from entering into any other agreements relating to the maintenance or establishment of customs unions, free

trade areas or arrangements for frontier trade, to the extent that those agreements are consistent with the terms and objectives of this Agreement.

#### **Article 14**

##### ***Notification of Measures Affecting Trade among Forum Members***

- 1 The Parties shall keep each other informed of the implementation of, and the progress of, economic integration under all trade and economic integration arrangements operating among the Parties, including the arrangements established pursuant to Part 2 of this Agreement.
- 2 The Parties shall notify the Forum Secretariat of any substantive changes to their measures materially affecting trade relations between the Parties, including the conclusion of economic integration arrangements with non-Forum countries.

#### **Article 15**

##### ***Consultations***

If a Party considers that:

- (a) an obligation under this Agreement has not been, or is not being, fulfilled;
- (b) any benefit conferred upon it by this Agreement is being, or may be, denied;
- (c) the achievement of any objective of this Agreement is being, or may be, frustrated;
- (d) a change in circumstances necessitates, or might necessitate, an amendment of this Agreement;

it may notify any other Party, through the Forum Secretariat, of its wish to enter into consultations. The Party so requested shall enter into consultations in good faith and as soon as possible, with a view to seeking a mutually satisfactory solution.

#### **Article 16**

##### ***Decision-Making and Review***

- 1 The Parties shall meet at least once per year, at the time of the Forum Trade Ministers' Meeting or otherwise as appropriate, to review the implementation and operation of this Agreement and all aspects of trade and economic cooperation between the Parties.
- 2 The Parties undertake to conduct a general review of the operation of this Agreement no later than 3 years after it enters into force, and thereafter at 3 yearly intervals, or as otherwise agreed to by the Parties.

- 3 The purpose of the reviews shall be to:
- (a) make decisions, as required, on the opening and timetabling of negotiations for agreements or arrangements to provide for the broadening and deepening of the economic integration of the Parties, and to monitor the progress of those negotiations;
  - (b) reach agreement on actions necessary to harmonise and coordinate the trade and economic integration arrangements of the Parties;
  - (c) reach agreement, as required, to establish or modify trade facilitation programmes, review the implementation and success of established programmes, and make any decisions necessary for the development, establishment and implementation of trade facilitation programmes and specific trade facilitation measures;
  - (d) examine the implementation of the programme of work under Paragraph 2 of Article 11 and identify any issues which should be taken into account in subsequent development of the programme of work; and
  - (e) consider any other issue agreed to by the Parties.

## **Article 17**

### ***Functions of the Pacific Islands Forum Secretariat***

- 1 The Parties agree that the Forum Secretariat shall provide secretariat services for this Agreement and other international agreements established pursuant to Part 2 of this Agreement.
- 2 Subject to the direction of the Parties, the functions of the Forum Secretariat in respect of this Agreement shall include:
- (a) the preparation and transmission of documentation, including an annual report, required under this Agreement, including the transmission of communications between the Parties;
  - (b) the provision of administrative support for meetings convened to review this Agreement or conduct negotiations or consultations under this Agreement;
  - (c) the provision of administrative support for the operation of financial and technical assistance under Article 11;
  - (d) liaising, as appropriate, between the Parties or with any other organisation;
  - (e) the provision of technical support to the Parties in the gathering and dissemination of information relevant to this Agreement;
  - (f) the provision of technical support to the Parties in the implementation of their obligations under this Agreement;

- (g) the provision of other administrative or technical support, as determined by the Parties, in respect of matters that relate to trade facilitation covered by this Agreement, including as required under Annex I; and
- (h) ensuring the smooth and orderly functioning of the Unit referred to in Article 11.

## **PART 5: FINAL PROVISIONS**

### **Article 18**

#### ***Amendments***

- 1 This Agreement may be amended at any time by the unanimous agreement of the Parties.
- 2 Unless the Parties agree otherwise, amendments shall enter into force 30 days after all Parties have accepted the amendments and notified such acceptance to the Secretary General.

### **Article 19**

#### ***Signature, Ratification and Accession***

- 1 This Agreement shall be open for signature, subject to ratification, or accession by the Governments of Australia, the Cook Islands, Federated States of Micronesia, Fiji Islands, Kiribati, Republic of Marshall Islands, Nauru, New Zealand, Niue, Republic of Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu.
- 2 This Agreement shall remain open for signature for one year from 18 August 2001 to 17 August 2001 at the Forum Secretariat in Suva.
- 3 Instruments of ratification or accession shall be deposited with the Secretary General.

### **Article 20**

#### ***Accession by Other Pacific Island Countries Or Territories***

- 1 By unanimous agreement the Parties may permit any Pacific Island Country or Territory to accede to this Agreement.
- 2 The terms of such accession shall be negotiated between the Parties and the Pacific Island Country or Territory desiring to accede to this Agreement pursuant to Paragraph 1.

## **Article 21**

### ***Withdrawal and Termination***

- 1 Any Party wishing to withdraw from this Agreement shall give notice of its intention to do so to the Secretary General, who shall notify the other Parties accordingly. The Party giving notice shall cease to be a Party to this Agreement 180 days from the date on which notice is given to the Secretary General, unless the Party has withdrawn its notice in the meantime, in which case it shall continue to be a Party to this Agreement.
- 2 This Agreement shall terminate 180 days after all the Parties have given notice to the Secretary General of their intention to withdraw from this Agreement.

## **Article 22**

### ***Entry into Force***

- 1 This Agreement shall enter into force 30 days after the date of deposit of the seventh instrument of ratification or accession, and thereafter for each Party 30 days after the date of deposit of its instrument of acceptance, ratification or accession.
- 2 Subject to the terms of accession, a Pacific Island Country or Territory acceding pursuant to Article 20 shall become a Party to this Agreement 30 days after the date of the deposit of an instrument of accession.

## **Article 23**

### ***Depositary Functions***

- 1 The Secretary General shall be the depositary for this Agreement.
- 2 The Secretary General shall:
  - (a) register this Agreement pursuant to Article 102 of the Charter of the United Nations;
  - (b) transmit certified copies of this Agreement to all of the Parties; and
  - (c) notify all the Parties of signatures, acceptances, ratifications, accessions to, and withdrawals from, this Agreement.

## **Article 24**

### ***Headings***

For the purposes of interpreting or construing this Agreement, headings shall be deemed merely descriptive and shall not create or modify any obligations or rights set forth in the text of this Agreement.

**IN WITNESS WHEREOF** the undersigned, being duly authorised thereto by their respective Governments, have signed this Agreement.

DONE at Nauru this 18<sup>th</sup> day of August 2001 in a single original in the English language.

For the Government of Australia: .....

this.....day of .....

For the Government of the Cook Islands: .....

this.....day of .....

For the Government of the Federated States  
of Micronesia: .....

this.....day of .....

For the Government of the Republic of the  
Fiji Islands: .....

this.....day of .....

For the Government of Kiribati: .....

this.....day of .....

For the Government of the Republic of Nauru: .....

this.....day of .....

For the Government of New Zealand: .....

this.....day of .....

For the Government of Niue: .....

this.....day of .....

For the Government of the Republic of Palau: .....

this.....day of .....

For the Government of Papua New Guinea: .....

this.....day of .....

For the Government of the Republic of the  
Marshall Islands: .....

this.....day of .....

For the Government of Samoa: .....

this.....day of .....

For the Government of the Solomon Islands: .....

this.....day of .....

For the Government of Tonga: .....

this.....day of .....

For the Government of Tuvalu:

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this.....day of .....

For the Government of Vanuatu:

.....

this.....day of .....

## ANNEX I

### TRADE FACILITATION

#### Article 1

##### *Establishment of Trade Facilitation Programmes*

- 1 Pursuant to Article 9 of this Agreement the Parties shall establish detailed programmes for the development, establishment and implementation of trade facilitation measures.
- 2 Each trade facilitation programme shall contain:
  - (a) a statement of objectives;
  - (b) a statement of outcomes to be achieved;
  - (c) a detailed plan of action and timeframe; and
  - (d) an annual budget sufficient to achieve the objectives of the programme, including the provision for technical assistance.
- 3 The Parties shall endeavour to coordinate and integrate trade facilitation programmes with the work of other regional organisations, including the Oceania Customs Organisation and the Pacific Plant Protection Organisation, with the objective of avoiding unnecessary duplication of existing work programmes and maximising the benefits from the resources devoted to trade facilitation. Where appropriate, trade facilitation programmes may authorise, encourage or require:
  - (a) sharing of information between the Parties, the Forum Secretariat, and other regional and international organisations and their members;
  - (b) utilisation of the expertise and resources of other regional or international organisations;
  - (c) the Parties to cooperate with and within other regional and international organisations;
  - (d) cooperation with other regional and international organisations in the development, establishment and implementation of international agreements on harmonised standards and procedures, or the establishment of new regional organisations;
  - (e) participation of other regional organisations, and their members, in trade facilitation programmes; and
  - (f) any other form of cooperation, coordination or integration of activities the Parties deem appropriate.

## **Article 2**

### ***Procedure for the Development of Trade Facilitation Programmes***

- 1 The Forum Secretariat, and any other person or organisation commissioned by the Parties, shall from time to time prepare reports for the Parties identifying areas where trade facilitation programmes would be most beneficial, and suggest appropriate objectives, outcomes, plans of action and budgets for such programmes, and review existing programmes.
- 2 Where a Party believes harmonisation of any measure, or the implementation of any measure, will facilitate trade or reduce or eliminate distortions of trade, the Parties shall consider the matter at the next review under Article 16 of this Agreement. The Parties shall decide what, if any, further action is desirable.
- 3 The Parties shall periodically meet, in accordance with Article 16 of this Agreement, to:
  - (a) establish, modify or terminate trade facilitation programmes;
  - (b) review the implementation and success of established programmes; and
  - (c) make any decisions necessary for the development, establishment and implementation of trade facilitation programmes and specific trade facilitation measures.
- 4 All decisions made under the previous Paragraph shall be made by consensus.
- 5 Without limiting the subject matter of trade facilitation programmes, the Parties, acting through their Ministers responsible for trade or the nominees of such Ministers, shall as soon as practical, but in any event no more than one year after the entry into force of this Agreement, begin work to formulate trade facilitation programmes which cover sanitary and phytosanitary matters, customs procedures, and standards and conformance.
- 6 Trade facilitation programmes shall be formalised in Memoranda of Understanding between Parties.
- 7 In identifying trade facilitation programmes which would be most beneficial, the Parties agree that priority shall be given to trade facilitation programmes, and specific elements of such programmes, designed to enhance the ability of the Forum Island Countries to take advantage of trading opportunities in Australian and New Zealand markets, and to enhance trade among the Forum Island Countries.

### **Article 3**

#### ***Participation in Trade Facilitation Programmes***

- 1 Where, in light of resource and capacity constraints and the trade volumes likely to be affected, particular trade facilitation programmes or aspects of programmes would be unduly onerous or potentially disadvantageous to a Forum Island Country, that Country may elect not to participate in that trade facilitation programme.
- 2 By unanimous agreement, the Parties may permit a non-Forum Pacific Island Country or Territory to participate in trade facilitation programmes under this Annex in accordance with terms to be negotiated.

### **Article 4**

#### ***Consultations***

The Consultation provisions of Article 15 of this Agreement shall also apply to trade facilitation programmes established under this Annex.

### **Article 5**

#### ***Dispute Resolution***

Where Parties agree that the subject matter of a trade facilitation programme, contained in a Memorandum of Understanding pursuant to this Annex, is such that provisions for the resolution of disputes are necessary, appropriate dispute resolution provisions shall be included in the Memorandum of Understanding.