

Speaking Truth to Power

Australian and New Zealand use of power politics to launch
Pacific free trade negotiations

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Speaking Truth to Power has been prepared by Maureen Penjueli, Coordinator, the Pacific Network on Globalisation (PANG) and Wesley Morgan, Communications Officer, PANG.

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“In a world where the common lament is that there are no more heroes, too often cynicism and despair are perceived as evidence of the death of moral courage. That perception is wrong. People of great valor and heart, committed to noble purpose, with long records of personal sacrifice, walk among us in every country of the world.”

- Kerry Kennedy

Preface

Pacific island governments are facing the negotiation of several important trade agreements in coming years that will have long lasting consequences for our wellbeing and for how we relate to each other as Pacific countries. It is important that any such negotiations are managed, and a consensus obtained, in a spirit of partnership that has the interests of Pacific peoples at the forefront of concerns.

Unfortunately, our ‘big brothers’ in the region (Australia and New Zealand) are now playing power politics in discussions for a potential free trade agreement with the Pacific countries (PACER-Plus) – taking advantage of that fact that there is no clear rulebook for trade negotiations. In such cases, the political interests of these countries begin to divide our Pacific leaders and bring an element of “each for their own” into the picture. What is forgotten in the process is that there is much more to be gained in working as an alliance to defend our interests, than there is to be gained in negotiating alone. With the current trend of regional trade discussions in recent months, there is a clear threat that the Pacific island countries will lose this ability to speak as one voice. In fact, we might be spectators to the beginning of the disintegration of the Pacific region.

We must arrest this dangerous trend.

We must remain committed to the region and not accept cash diplomacy and divide and rule strategies that will lead us to our demise. This report acknowledges the important role played by island country officials who hold high places in our national life and bear the responsibility of speaking truth to the ‘power’ of the Australian and New Zealand governments, who are both Pacific Island Forum partners and key donors to the region.

It is equally vital that we recognise the power of Pacific peoples – whose values and expectations set the limits for those who exercise authority in our name, but who often remain unaware of what transpires in these negotiations in their name. We the people must revive a spirit of solidarity in pushing for the common Pacific interest to prevail over any individual country agenda.

This publication attempts to shed some light into the ongoing “corridor discussions” of our respective government officials and ministers during trade discussions, which are happening now in the lead-up to the 2009 Pacific Islands Forum Leaders’ meeting in Cairns (August 4-8).

*Fe’iloakitau Kaho Tevi
General Secretary
Pacific Conference of Churches*

Introduction

"I say this categorically, under my leadership in terms of these negotiations there will be absolutely no bullying"¹.

- 2009. Australian Minister for Trade, Simon Crean.

Bullying (noun) *intimidation of weaker person. The process of intimidating or mistreating somebody weaker or in a more vulnerable situation.*

- Encarta Dictionary

The stated aim of extending the Pacific Agreement on Closer Economic Relations (PACER) to a new trade agreement between Australia and New Zealand and the Pacific island countries (PACER-Plus) is to achieve the gradual trade and economic integration of the economies of Pacific Island Forum members² in a way that is fully supportive of sustainable development and poverty reduction within the Forum Island Countries (FICs). It also aims to contribute to their gradual and progressive integration into the international economy.

Forum Island Governments argue that for PACER-Plus to achieve the interlinked objectives of sustainable development, poverty eradication and their smooth integration into the international economy, it must be an instrument for economic development, and that the development dimension needs be reflected in all areas of negotiation and cooperation. PACER-Plus must promote the individual development objectives of each country within the region. Doing so must take into account the specific economic, social, environmental and structural constraints of the Forum Island Countries, as well as their capacity to adapt their economies to the PACER-Plus process.

In recognition of the vast imbalance in political, economic and negotiating powers between the parties (Australia and New Zealand on the one side, and the Forum Island Countries on the other), Pacific governments put forward two proposals – one for an Office of the Chief Trade Advisor (OCTA), to guide the Pacific island countries during their negotiations with Australia and New Zealand, and one for a PACER-Plus 'Road Map', to outline general principles and a timeline for negotiations. Both proposals responded directly to the imbalance between smaller Pacific countries and their big brother neighbours and aimed to assist in providing a 'level playing field' for island countries to help them to secure a pro-development trade agreement. The proposals articulated the need for island countries to be well supported in negotiations and that sufficient time should be allocated for national consultation and research to be undertaken.

In reality, the imbalance in power between parties has been so great that few governments could in practice reject the Australian and New Zealand Governments' pressure to fast-track PACER-Plus negotiations. Australia and New Zealand sit at the Forum table wearing two hats: one as members of the Forum family, the other as significant donors.

It comes as no surprise then that the Pacific Islands Forum Leaders' meeting in Cairns in August 2009 is set to conclude with the Leaders endorsing a Forum Trade Ministers' recommendation to launch the PACER-Plus negotiations four years ahead of schedule (the

¹ Crean, S. 2009. 'Interview with Australian Trade Minister Simon Crean'. *Pacific Beat*. March 13, 2009.

² Pacific Island Forum member countries are: Australia, Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Nauru, New Zealand, Niue, Palau, Papua New Guinea, Republic of the Marshall Islands, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu.

Pacific's original PACER-Plus Road map indicated negotiations might begin in 2014), without a fully funded and resourced negotiating structure that can support the island countries.

The role of the Australian government in particular, supported and sometimes mirrored by New Zealand, in securing that outcome is highlighted in this report. Accounts of meetings between Australian and New Zealand representatives and their Pacific counterparts reveal a pattern of arrogance and outright intimidation in order to secure their own political interests. These accounts expose the following assurances from the Australian and New Zealand governments as hollow rhetoric:

“The Australian Government is committed to working with our sovereign Pacific neighbours to develop genuinely shared approaches to their individual development needs.”³

And;

“The NZ government says in the Pacific, trade policy should depart from the usual “aggressive” promotion of New Zealand’s interests first and foremost, which has emerged over recent years.”⁴

The ‘insider’s view’ exposed in this report throws much needed light on a sordid process that has already, and will in the future, have serious implications for the future of the Pacific and her people. The report shows how long-held principles are being sacrificed in order to meet the political objectives of those more powerful – in this case Australia and New Zealand. In 2004, the Pacific Network on Globalisation (PANG) released an account of Australian and New Zealand approaches to negotiating the

original PACER agreement. That report, *Big Brothers Behaving Badly*, highlighted abuses of power (and process) to secure Australian and New Zealand political and economic interests during the PACER negotiations. This report, *Speaking Truth to Power*, indicates that little has changed.

The report is based on confidential ‘Forum Eyes Only’ reports, internal briefing notes, and public statements. It is supplemented by informal meetings and interviews with Forum Island Country trade officials. The report provides evidence of dirty power plays that are able to continue under a veil of secrecy in Forum trade meetings. Such behaviour appears to be condoned, if not actively facilitated, by a Forum Secretariat that many Pacific islanders increasingly regard as being in the pockets of Australia and New Zealand.

These claims cannot be dismissed as the discontents of ideologues with an axe to grind, ivory tower academics, or people who are labeled as the ‘anti-PACER-Plus’ camp. They are made by people who were there: by Pacific government trade officials, by Trade Ministers, by Ambassadors, and by advisors working within the Pacific Islands Forum Secretariat. These are the people who have been entrusted to represent and protect the interests of more than eight million people in our region.

Their words show how difficult it is to defend sustainable development and poverty reduction as key priorities for any PACER-Plus negotiations. Pacific Trade Ministers well understand that PACER-Plus has the potential to undermine their economies, so much so that the core duty of Forum Island Country Ministers was reiterated in the outcomes document of a recent meeting of Pacific Trade Ministers.

³Crean, S. McMullan, B. ‘International engagement begins in own backyard’. *Canberra Times*. 26/08/2008

⁴Wilson D. 2009. ‘PM Key leads delegation to the Islands. *Islands Business* (magazine). July, 2009.

“The duty of FIC Trade Ministers is to protect the sovereign interests of their countries in trade-related matters”⁵.

Protecting the sovereign interests of Pacific island countries is made more challenging by the environment in which PACER-Plus discussions are being conducted. Many of those that spoke to us in recent months have asked to remain anonymous out of fear of reprisal, either from their own Ministers or from Australian and New Zealand officials. Their voices bear witness to the undemocratic processes that occur during closed meetings on trade issues – where secrecy has always served Australia and New Zealand well. As one Pacific trade official put it:

“There is also a feeling of fear amongst trade officials that speaking their minds on these hosts of issues may jeopardise or even find themselves against the wishes of their Ministers and States, considering recent technical assistance and promises of more aid as orchestrated by Canberra and Wellington”.⁶

The PACER-Plus process to date should serve as a warning for Pacific island governments – against believing that Australia and New Zealand might somehow be convinced to adopt a pro-development platform, just as their experience with negotiations for an Economic Partnership Agreement with the European Union should serve as a powerful reminder of the emptiness of development rhetoric when it is trapped within a free trade agenda.

⁵ pp.9 Pacific Islands Forum Secretariat. 15 – 16th June. *Pacific ACP Trade Ministers Meeting: Outcomes Document*. Development Bank of Samoa, Apia. Samoa.

⁶ Anon. *Interview with anonymous Melanesian Trade Official*. June 2009

Chapter

**Manufacturing
consensus:
Power-play at
regional
meetings**

1

When the Pacific island governments signed up to the Pacific Agreement on Closer Economic Relations (PACER), they agreed that negotiations for an economic integration agreement (PACER-Plus) would begin no later than 2012.

The Australian Trade Minister, Simon Crean, supported by New Zealand counterpart Tim Groser, went to the 2009 Forum Trade Ministers' Meeting in Apia, Samoa, aiming to secure a political commitment to enter formal negotiations for a regional free trade agreement (to be known as PACER-Plus) much sooner than 2012. They wanted Pacific Trade Ministers to agree that PACER-Plus negotiations should be launched following the Pacific Islands Forum Leaders' meeting in Cairns in early August 2009. They got what they went for.

A majority of the Forum Island Countries (FICs), overburdened by their commitments on other negotiating fronts⁷, were (and are) not in favour of fast-tracking PACER-Plus negotiations.

In the end, the island Trade Ministers agreed to launch formal PACER-Plus negotiations following the Leaders' Meeting in Cairns – though they failed to secure the resources or time that would be needed to support island countries during negotiations.

What went on behind the scenes to allow such a significant shift in Pacific island countries' position?

⁷ FICs are involved in negotiating an Economic Partnership Agreement (EPA) with the EU, the Pacific Island Countries Trade Agreement (PICTA) among themselves. Vanuatu and Samoa are also currently in the process of acceding the WTO.

The road to Apia:

The FICs have consistently maintained that the **approach** and **pace** of trade and economic integration in the region must reflect the size, stages of development, and unique circumstances of each FIC. They have also long argued that there is a critical need for FICs to prepare well for, and be strongly supported during, PACER-Plus activities. After all we are talking about negotiations between two very unequal partners.

Ramping up the political pressure to fast track PACER-Plus negotiations:

Throughout 2008 and 2009 Australian and New Zealand trade officials met with their Pacific counterparts in a series of informal meetings to flesh out details relating to potential negotiations. The Pacific officials, many of whom are currently negotiating free trade agreements on other fronts (among themselves and with the EU), clearly had concerns that Australia was pressuring the region to launch negotiations before the FICs were ready.

The Australian Minister Simon Crean was frustrated with the progress of the informal trade officials' talks and accused FIC trade officials of deliberately delaying the launch of the negotiations. He also issued what many trade officials viewed as a veiled threat – to proceed with a 'two track' approach to PACER-Plus, one at the technical level and the other at the political level.

Many FIC trade officials regarded Minister Crean's comments as an attempt to drive a wedge between Pacific trade officials and their own Ministers. Australian Ministers and Ambassadors know that they can influence the position of Pacific trade officials by calling on senior politicians in their capitals.

Trade negotiations are incredibly complex. Political leaders often do not understand the finer details of the negotiations and rely upon under-resourced and over-stretched officials. Sometimes they speak and act without advice. It is not unusual for ad hoc diplomatic statements made by unwitting politicians to be used to challenge what their own trade officials are saying. This is a common tactic used by developed countries at the WTO, and if the past 12 months are anything to go by, it will be the approach taken by Australia and New Zealand to PACER-Plus negotiations. As Simon Crean explained in an interview with Radio Australia:

*“...Whilst we do need officials to conduct the technicalities, they won’t be determining the final outcome. That will be done at the political level. That is why I have argued that these negotiations have to proceed on a two track basis. One at technical level, the other at the political level, the political will identify what the political problems are and trying to deal with them”.*⁸

It would be unthinkable for Australian and New Zealand politicians to participate in any meeting, political or technical, without the benefit of their officials’ briefings. Yet they are apparently more than happy to enter into complex trade negotiations with often under-prepared Pacific counterparts.

Interpreting the wishes of Pacific Leaders – Australia pushes Pacific trade officials to launch trade negotiations:

Pacific Island Forum Leaders meet annually to define political and economic priorities for the region. A common tactic of Australia and New Zealand in the Pacific Forum is to gain agreement to action at one year’s meeting and make that a pressure point at the next. That happened at the Niue Forum Leaders Meeting in 2008.

At the Niue meeting, Leaders instructed “officials to formulate a detailed roadmap on PACER-Plus, with a view to Leaders agreeing at the 2009 Forum to the

commencement of negotiations”⁹. The 2009 Forum Leaders Meeting is scheduled to be held in Cairns (August 5-6). The Niue Leaders’ meeting also recorded a “strong desire and agreement to move forward with PACER-Plus by commencing work to build national negotiation capacity of Pacific Island Countries with support from Australia and New Zealand, recognizing the priority placed by Pacific Island Countries on the early appointment of the Office of the Chief Trade Advisor.”¹⁰

During 2008 and 2009, Pacific trade officials met with their counterparts from Australia and New Zealand in a series of informal meetings to discuss issues relating to potential PACER-Plus negotiations. At the third of these informal meetings, held in Adelaide in February 2009, Australia’s Simon Crean lectured Pacific officials that he felt they were dragging their feet:

*“...what worries us about progress to date is that it doesn’t meet the call of our Leaders in Niue. And the question I ask is why? And how is that going to be explained to our Leaders in Cairns at the Pacific Islands Forum Meeting later this year?”*¹¹

To speed things along Australian and New Zealand were arguing that the Niue meeting had unequivocally mandated that Forum Members should be ready to launch PACER-Plus negotiations at the 2009 Forum Leaders’ Meeting. Yet a close examination of the Leaders’ decision in Niue (regarding the commencement of negotiations in 2009) indicates that it was taken on the clear understanding that:

- a.) The Office of the Chief Trade Advisor (OCTA) would be able to

⁹ Pacific Island Forum Secretariat. 2008. *Final Communique of the 39th Pacific Leaders’ Forum*. Alofi, Niue. 19-20 August, 2008.

¹⁰ *Ibid.*

¹¹ Crean, S. 2009. *Australian Trade Minister Simon Crean - Remarks to the third informal session of PACER-Plus officials*. Institute for International Trade, Adelaide University, February 16-18, 2009.

⁸ Crean, S. 2009. ‘Interview with Australian Trade Minister Simon Crean’. *Pacific Beat*. March 13, 2009.

- assist the FICs during the entire negotiations process; and
- b.) There would be sufficient time and resources available for FICs to undertake necessary consultations and research before the actual negotiations could take place.

Pacific trade officials were well aware that issues relating to the OCTA and the timing of potential negotiations would need to be satisfactorily resolved before PACER-Plus could be formally launched.

However, armed with its re-interpretation of the Niue Leaders' decision, the Australian government in particular aggressively pursued the Cairns target date using a 'political approach' – with a lobby tour of four island countries - Vanuatu, Solomon Islands, Tonga and Samoa – in early April. The aim was to begin to 'build consensus' early so as to avoid and minimise dissent to their (dominant) position.

In addition, and to give an appearance of being genuinely considerate of smaller island countries, consultation during the tour was offered not only with trade ministries or governments in capitals, but with a broad range of stakeholders. In reality, the Australian tour of the four countries was conducted over 4 days, with so little time in each country that consultations with 'other stakeholders' were rushed and largely without meaning.

The Australian Trade Minister, Simon Crean, was accompanied on this tour by Bob McMullan, the Australian Parliamentary Secretary for Development Assistance. The linking of trade priorities and aid (the 'iron fist in the velvet glove' approach) did not go unnoticed. One senior politician objected that:

“Australian aid must not be based solely on their national, strategic and commercial interests but more on improving the capacity of small island countries to develop to a point where they can effectively participate in free-trade arrangements without undermining their ability to cope with the ensuing costs. In other words aid assistance should be focused on improving the capacity of the

country's taxpaying population to earn foreign currency and supporting a healthy service delivery system. Only then can aid assistance be seen as addressing the long-term development needs of the Solomon Islands and I must emphasise strongly that free-trade arrangements are not the way to go for Solomon Islands at this point in time.”¹²

Whilst the governments of Vanuatu and the Solomon Islands were committed to discussions regarding PACER-Plus, they publicly expressed concerns about any fast tracking of the negotiations. Vanuatu Foreign Minister Balkoa Kaltonga explained that:

“They [Australian government representatives] are coming to force Pacific Island Countries into signing the PACER agreement with the view, for example, for Vanuatu, to reducing tariffs on Australian imports. That will have a major impact on revenues, so maybe again somewhere down the line, we will have to show some form of commitment but again for the right conditions. Australia also must understand that we are losing revenues in the short term.”¹³

The Solomon Islands Director of Trade, Heinz Vaekesa, said:

“Successful negotiations means securing an agreement that will really benefit the country, and having a plan in place to minimise the negative impact. But that's not possible unless there is a real dialogue between the government and the people that will be affected by the deal.”¹⁴

Samoa and Tonga on the other hand, were openly supportive of the Australian position,

¹² Comments made by Solomon Islands Opposition Leader (and former Prime Minister) Manasseh Sogavare. See: Solomon Star, 2009. *Sogavare: We are not ready for Pacer-Plus*. Thursday, 21 May 2009.

¹³ Radio Australia. 2009. 'Australian Trade Minister faces hard sell'. *Pacific Beat*. Radio Australia, 16 April 2009.

¹⁴ Solomon Islands Department of External Trade. 2009. *Is the Pacific ready to negotiate?* Solomon Islands Government Press Release. May 21, 2009.

a clear sign that regional solidarity was being weakened.

Tonga's Trade Minister Lisete Akuola said that Simon Crean was genuine in his intent to mould a free trade agreement that took individual circumstances of island countries into account. As he explained to regional radio:

"Because you know, there are a lot of opportunities there and until we get into the nitty-gritty of negotiations, I think there's been a lot of speculation and pre-judgments that may not reflect, in all fairness, what PACER-Plus has to offer".¹⁵

The Samoan Deputy Prime Minister, Misa Telefoni, in an interview with a local newspaper, publicly defended the Australian government's motives. He said:

"What I do object to is questioning the NZ government's and Australian government's motives in putting priority on PACER-Plus. Samoa has a trade surplus with Australia in excess of \$30 million... Our merchants only buy from Australia if prices are competitive.... Mr Crean's motives are both honourable and legitimate."¹⁶

Going over the heads of officials – calling an 'informal' Trade Ministers' meeting:

In early May 2009, the New Zealand government hastily organised an informal Forum Trade Ministers' meeting in Auckland. That meeting (May 8-9) was organised to try to gain political support for PACER-Plus.

The agenda for the meeting scheduled a session for establishing a "Ministerial vision for PACER-Plus". This was important as the meeting came immediately before an already-scheduled informal meeting between Pacific and Australian and New Zealand trade officials in Port Vila, Vanuatu,

which would discuss key differences between the two sides – including the timeline for negotiations (contained in the Pacific's draft PACER-Plus Road Map) and the design and funding of the OCTA.

The letter of invitation from New Zealand Trade Minister Tim Groser indicated that:

"The discussions will serve to give high level direction to the final informal meeting of regional trade officials in May, before the annual Forum Trade Ministers' Meeting in June. I would hope that we would be in a position to recommend confidently that Leaders launch more formal engagement on PACER-Plus at their meeting in August."¹⁷

Clearly Australia and New Zealand hoped to use the meeting to secure the formal launching of PACER-Plus negotiations at the Pacific Island Forum Leaders' meeting in August.

However, the absence of a number of key Pacific Trade Ministers from the Auckland meeting, including the lead spokesperson for the Pacific islands on PACER-Plus, the Solomon Islands Minister for Foreign Affairs and External Trade William Haomae, and Trade Ministers from the islands' biggest economies Papua New Guinea and Fiji, meant it was impossible for any decisions to be made regarding PACER-Plus negotiations. No 'mandate' was arrived at that officials meeting in Port Vila would be bound by. A statement released from the meeting said participants instead noted that "it will be the decision of their Leaders to launch PACER-Plus negotiations".¹⁸

The late scheduling of the meeting meant it was impossible for Solomon Islands Trade Minister William Haomae and a number of other Pacific ACP Ministers to attend – as they were in Brussels to attend the African, Caribbean and Pacific (ACP) Trade Committee and Joint ACP-EU Trade Ministers' Committee.

¹⁵ Radio New Zealand International. 2009. *Give PACER a chance, says Tonga Trade Minister*. April 3, 2009. RNZI, April 3, 2009.

¹⁶ Ah Mu, A. 2009. 'Misa defends Aussies and NZ on PACER-Plus' *Samoa Observer*. May 18, 2009.

¹⁷ Invitation letter from New Zealand Trade Minister Tim Groser to Pacific Trade Ministers, Undated.

¹⁸ Final Statement from the Informal Forum Trade Ministers' Meeting. May 8-9, 2009. Auckland, New Zealand.

The clash of dates also highlighted a fundamental point – one of capacity. FICs have constantly explained their capacity constraints to the Australians and New Zealanders. One trade official wrote that the inability of Pacific Ministers to be at the Auckland meeting due to other commitments;

*“...could be seen as evidence to support claims that the Pacific does not have the capacity to engage with Australia and New Zealand on PACER-Plus related issues whilst continuing to negotiate with the EC. This is not the first time such a clash has happened. Australia arranged the second informal officials meeting in Tonga at the same time as the WTO Geneva Week, which six FICs would otherwise have to attend. Since FICS do not have resident representatives in Geneva, these Geneva weeks are the only way in which FIC officials can participate directly in the WTO, rather than through the PIFs [Pacific Islands Forum Secretariat]”.*¹⁹

In the weeks leading up to the Forum Trade Ministers’ Meeting in Apia, the New Zealand government arranged a lobby tour around the region to keep up the pressure on the islands. However, it remained clear that despite all the political lobbying by Australia and New Zealand, the majority of the island countries maintained a cautious view.

When Pacific Trade Ministers met separately from Australia and New Zealand in Apia, before the Forum Trade Minister’s Meeting, they again re-iterated this cautious view:

“For a number of FICS, trade with Australia and New Zealand is more important than trade with other WTO members or the European Union under the EPA and therefore PACER-Plus issues need to be considered very carefully, particularly as the implications of

*trade liberalisation are not always very clear”.*²⁰

‘Manufacturing consensus’ - Rigging the regional Trade Meetings in Apia:

In mid-June, a series of meetings were held over two weeks in Apia, Samoa. PACER-Plus discussions were central to all of these meetings.

The Pacific ACP Trade Ministers Meeting:

Pacific Trade Ministers met in Apia before their counterparts from Australia and New Zealand had even arrived. That meeting (the Pacific ACP Trade Ministers’ Meeting, June 15-16)²¹ discussed a number of issues in relation to PACER-Plus.

FIC trade officials had been working hard in the lead up to the Pacific ACP Trade Ministers’ Meeting – to try to get ‘compromised’ agreement with Australian and New Zealand officials on two important matters: the Office of the Chief Trade Advisor (OCTA) proposal (to guide the Pacific island countries during their negotiations with Australia and New Zealand) and the Draft Joint Road Map for negotiations (to outline general principles and a timeline for negotiations).

However, key issues remained outstanding in relation to the OCTA – including differences between the two sides relating to the governance of the OCTA Board and an Australian proposal for a WTO ‘seconded’ to help establish the OCTA. Australian and New Zealand officials argued that Ministers should be represented on the OCTA board. Pacific officials however felt that a board of senior trade officials *reporting to* Ministers would allow the OCTA to function better. Pacific officials also felt that the proposal for a WTO ‘seconded’ to help establish the OCTA was wholly unnecessary.

²⁰ Outcomes document. PACP Trade Ministers’ Meeting, June 2009.

²¹ Pacific ACP Trade Ministers’ Meetings arise from ongoing negotiations for an EPA with the EU. As part of those negotiations, the EU funds regular meetings of Trade Ministers from regions across Africa, the Caribbean and the Pacific (ACP). The Pacific ACP Trade Ministers’ Meeting was also an opportunity to discuss PACER-Plus without Australian and New Zealand governments present.

¹⁹ Anon. *Interview with anonymous Melanesian Trade Official.* June 2009

In the end, two separate proposals for the OCTA (one from the Pacific and the other from Australia and NZ) were put to the Pacific ACP Trade Ministers for their consideration. The FIC and Australian and New Zealand officials did however agree on a compromised Draft Road Map (which was also put to Ministers for their consideration).

The powerful role of the Chair:

At the Pacific ACP Trade Ministers' Meeting, Pacific Trade Ministers and their officials came under pressure by the Chair of the Meeting; Samoan Deputy Prime Minister Misa Telefoni.

There are no binding rules on the role or conduct of the Chair at such meetings. That can give the Chair enormous powers. The Chair effectively can decide whether or not to consider a position, or to give prominence to one or two positions over others. The Chair could also change the agenda at the last minute. In the same vein, the Chair can decide who will speak from the floor and who will not.

During the Pacific ACP Trade Ministers' Meeting, Minister Telefoni interrupted Ministers while they were speaking and refused to let the floor speak on matters that he did not approve. A particular matter that he disagreed with was discussion around Fiji's exclusion from the meeting. Questions about this were raised by Papua New Guinea's Trade Minister Sam Abal, along with other Trade Ministers²². However the Chair simply declared the subject closed.

On substantive matters such as the governance of the OCTA, the Chair accused trade officials of failing to resolve issues before they reached the Ministers. But as officials pointed out the fundamental differences on key issues relating to the OCTA could not be resolved at the technical level, and hence it came before the Ministers for necessary political guidance. Misa Telefoni repeatedly challenged them, asking:

"What have you been doing for the past year, why are these issues still unresolved at this late stage? I'm thinking I will have to meet with Australia and New Zealand in the morning to resolve some of these issues".²³

The threat by the Chair did not go unnoticed. It became clear to officials and observers at that meeting that Samoa was working closely with Australia and New Zealand.

Minister Telefoni's tone was in sharp contrast to a statement delivered by the PACER-Plus Lead Spokesman, The Solomon Islands Trade Minister William Haomae, when he delivered a speech to the Forum Trade Ministers the very next day.

"I would like us all to take a moment to reflect on what has already been achieved. Since Forum Trade Ministers met in Rorotonga last year, our officials have met three times to develop a Joint Roadmap and to discuss what support Pacific Island countries will need. As I look through the documents that have come from these discussions, I take heart in how much progress we have made, and how much our countries have agreed on."²⁴

Despite the behaviour of the Chair, Pacific ACP Trade Ministers resolved to endorse their own officials' OCTA proposal instead of the Australia and NZ proposal. The Pacific ACP Ministers "reaffirmed their March 2008 decision that the OCTA Governing Board will comprise FIC Senior Trade Officials, reporting directly to the FIC Trade Ministers". This governance structure is similar to what is currently being used by the Forum Secretariat, with their officials playing the same role and so from the islands view there was no need to change the current structure. They also accepted the compromised Draft Joint Road Map on PACER-Plus.

²³ Anon. *Interview with anonymous Pacific Trade Official*. June 2009

²⁴ Statement by PACER-Plus Lead Spokesman to FTMM. Delivered by Hon William Haomae, Minister of Foreign Affairs and External Trade, Solomon Islands. Apia, Samoa, 17th June, 2009.

²² Taga, L. 'Letter from Suva'. *Islands Business*. July 2009.

The 2009 Forum Trade Ministers Meeting:

The 2009 Forum Trade Ministers' Meeting (June 17-18) brought together Trade Ministers from the FICs and Australia and New Zealand. Decisions relating to PACER-Plus were initially scheduled to be taken on day two of the meeting. However, as it turned out the FIC Ministers were in for a surprise.

The Solomon Islands Trade Minister, in his capacity as the Lead spokesperson for PACER-Plus negotiations, gave a 'hard hitting' presentation to the Forum Trade Ministers' Meeting on the morning of the 17th of June outlining the decisions of the Pacific ACP Trade Ministers. That presentation explained why the Pacific's proposal for the OCTA had been accepted over the Australian and NZ proposal. It also explained the rejection of Australia's proposed WTO secondee. This is what he had to say about the governance of the OCTA in his remarks:

"I understand that concerns have been raised by Australian officials to make sure that Pacific Ministers are able to oversee the operation of the OCTA. I would like to take this opportunity to reassure Australia that we strongly believe in the governance structure that our officials have proposed. This structure has three tiers. The Governing Board, composed of Pacific Officials, will meet regularly to oversee the work of the OCTA. It will consider the technical detail of negotiation. The Board will report directly to us, composed of Pacific Ministers, on at least an annual basis. We will provide political and strategic guidance to the Board and to the OCTA I believe that such a structure is necessary to ensure that the OCTA receives the right balance of technical and political guidance."²⁵

The Solomon Islands' Minister made a last minute appeal to Australia and New Zealand for understanding in terms of the time needed for adequate national consultations to take place and recognition of capacity issues within each country. He insisted that it was essential for the OCTA to be able to

support FIC's to ensure that PACER-Plus 'is a truly unique agreement that will provide benefits for everyone'. As he states:

"My greatest concern is the possibility that we might not be able to involve the groups that will be affected by a PACER-Plus agreement from the very start of the negotiating process. I want every one of my countrymen that will have a stake in this agreement to have a say. And I believe that this must happen before my country's position is finalised and important decisions are made..."

"But I am also aware of the limitations of my department. They are understaffed and overworked, and I have seen the extra strain that PACER-Plus discussions have placed on them over the last year... "But more than anything they are a very small team, and it is impossible for them to develop the detailed expertise in all of the specialised areas that we want to discuss in the context of PACER. This expertise will be vital to support national consultation, ... but we will need the support from our OCTA."

"I look forward to an honest and positive exchange of views on each of these subjects".

Unfortunately, the next move was anything but honest.

The Green Room Manoeuvre – the unscheduled lunch.

According to the agenda for the Forum Trade Ministers' Meeting, all discussions and decisions relating to PACER-Plus were scheduled for the second day of the meeting (June 18). However, Australia and NZ coordinated an "ambush" during the lunch break on day one.

The scheduled lunch was unexpectedly turned into a 'closed session' meeting on PACER-Plus for Trade Ministers only (though the Secretary General of the Forum Secretariat was also present). This effectively ensured that Pacific Ministers were separated from their officials, officials who had been working on the technical aspects of potential PACER-Plus negotiations for the previous 12 months, and asked to make key decisions regarding PACER-Plus. Forum Trade Ministers came

²⁵ *Ibid.*

out of the unscheduled lunch meeting five hours later with a short outcomes statement.

This ambush ran roughshod over proper diplomatic and legal processes. At the Apia meeting, three sovereign Pacific countries - Nauru, the Republic of the Marshall Islands and Vanuatu - had sent representatives in place of their Trade Ministers. Those officials were mandated to act on behalf of their sovereign governments and their people.

None of these representatives were part of the 'closed session' where key decisions were taken, although they were called in at the end to rubber stamp the outcomes.

The outcomes statement recommended to Forum leaders that PACER-Plus negotiations be launched at the 2009 Forum Leaders' Meeting. They also proposed that a deadline for completion of the negotiations, should be decided at the next Forum Trade Minister Meeting, with options for 2, 3 or 5 years. A glaring omission from the statement was any reference to the Draft Joint Roadmap for negotiations, already approved by the Pacific ACP Ministers and presented to the meeting by the Trade Minister from the Solomon Islands.

This outcomes statement also reversed some of the key decisions that Pacific ACP Trade Ministers had made at their meeting the day before.

For example, the final statement clearly indicated that the OCTA would have a governance board as proposed by Australia and New Zealand, not the FIC proposal that the Solomon Islands Trade Minister had presented to the Forum Trade Ministers' Meeting that very morning.

How democratic is consensus decision making?

Officials from the FICs and the Forum Secretariat had no warning that this would happen.

"In fact Officials were not aware of this until the so-called lunch turned out to be longer than usual. That's when officials

*suspected a major discussion was taking place over lunch."*²⁶

The Chair in his formal announcement specifically only invited Ministers for the lunch meeting. It remains unclear how the formal agenda for the Forum Trade Ministers' Meeting came to be abandoned, and an unscheduled lunch meeting was turned into the key decision making process. It also remains unclear how key decisions could be made while four countries (including Fiji) were unrepresented.

The process raised questions such as, does the Chair have the power to exclude countries' representatives from decision-making meetings? How democratic can that decision be with countries missing? Observers could be forgiven for regarding it as a deliberate attempt to exclude certain countries, perhaps especially when considering the level of experience of the trade officials who were excluded? Was the exclusion of Fiji motivated by similar considerations?

Decision-making by consensus at Pacific Islands Forum Trade Ministers' meetings often allows the Australian delegation to get away with deploying pressure tactics partly because consensus outcomes are portrayed as there having been no formal objection or dissent (by any member) to the decisions of the meeting itself.

As one official explained regarding the 2008 Forum Trade Ministers Meeting for example:

"There was quite a bit of drama at the FTMM [Forum Trade Ministers' Meeting] (2008). As expected, you won't be able to know these things from a polished press release".²⁷

In other words, dissent is not recorded. The lack of recorded dissent has another chilling consequence. At the 2008 Forum trade Ministers' Meeting for example,

²⁶ Anon. Interview with anonymous Melanesian Trade Official. June 2009

²⁷ Ibid.

Australian officials pushed hard for language in the outcomes statement that PACER-Plus negotiations should be launched in 2009. They were bitterly disappointed when they didn't get their way:

"When the final FTMM (2008) document was tabled, the Australian delegate was visibly 'outraged' and voiced his strong disappointment and dissent from the 'consensus'. He however did not want his objection be recorded in the document (as suggested by the Chair) but threatened the FIC Ministers of the likely negative consequential reactions from Canberra. The temperature in the room suddenly dropped to freezing point (the same threat was repeated to a country delegation [name withheld] the next morning during breakfast). The Chair jokingly stated that the Australian delegate was behaving like the former EC Trade Commissioner, Mr. Mandelson."²⁸

Australian government representatives would certainly not want the broader constituency to find out about their backroom threats and pressure tactics. Again the 2008 Forum Trade Ministers' Meeting provides a telling example:

"The Australian delegation said they had a mandate from the Australian Prime Minister to include certain areas of interest in the outcomes document, so as to result in concrete actions to move the PACER Plus forward. In essence, ANZ were pushing for the formal launching of PACER Plus but refusing to commit funding for a Chief Trade Advisor for the FICs as requested."²⁹

Witnesses to the behaviour of Australian and New Zealand officials during these 'closed meetings' are often too fearful to speak out and risk reprisals.

"In fact, I think the FICs need the lobbying efforts of the NGOs in resisting the bully tactics of Australia and NZ. I just

did not want to get any country or officials into trouble".³⁰

Island country representatives who cave in under pressure would also not want their own domestic constituencies to find out exactly what they gave in on, and the paltry deals they may have received in return.

The veil of secrecy around trade discussions serves to deny the very existence, extent and effect of unwanted pressure on the ability of countries to genuinely negotiate issues of importance.

Pacific officials told PANG that at least two Trade Ministers walked out of the closed session lunch meeting in Apia, while the Trade Minister from the Federated States of Micronesia made a formal intervention under "Any Other Business" to voice concerns about the decision making process.

The Cook Islands Trade Minister Wilkie Rasmussen left immediately after the lunch meeting and went on public record to state his concerns about the Apia meeting:

"Ministers at the trade meeting were concerned about the haste of the push by NZ and Australia for PACER-Plus negotiations to start and the intrusion of the agreement on the sovereign rights of each country".³¹

Following the impromptu lunch meeting, and the release of the outcomes statement containing decisions relating to PACER-Plus, Simon Crean told Radio Australia that the decisions of the meeting had been "accepted not only unanimously, but with great applause"³². This clearly was not true. For a start, four Pacific Island Forum Trade Ministers were not even present during the decision making regarding PACER-Plus, and at least two others walked out during the lunchtime meeting.

³⁰ *Ibid.*

³¹ Rasmussen, W. 2009. 'Trade talks hotting up'. *Cook Islands News*. Monday June 29.

³² Radio Australia. Interview with Australian Trade Minister Simon Crean. *Pacific Beat*. July 17, 2009.

²⁸ *Ibid.*

²⁹ *Ibid*

An anonymous Pacific trade official explained to PANG that when they heard Minister Crean's comments on the radio they were less than impressed:

*"When he [Crean] said the decisions were accepted unanimously and with great applause, I thought to myself, 'that's just a lie. I can't believe it, he's outright lying.'"*³³

Cleaning up the outcomes document.

The task of drawing up the Outcomes Document for the 2009 Forum Trade Ministers' Meeting was left to the officials. Some officials were particularly keen to ensure that the Joint PACER-Plus Road Map was included in the outcomes document. A problem that emerged rather quickly was that the short statement that Trade Ministers had agreed to at the lunch meeting did not mention the road map at all.

As one official put it to PANG, "the Pacific Ministers were under the impression the compromised PACER-Plus Joint Roadmap was signed off on". They assumed that "when it wasn't discussed during the lunch meeting, this was taken to mean acceptance of the roadmap". They were wrong, as they soon found out.

A Pacific trade official explained that:

"A sentence relating to the roadmap was inserted into the outcomes document. However the Australian officials strongly objected to this, saying that 'only what was in the outcomes document from the lunch meeting could be included..."

"One country trade official said that they were under explicit instructions from their Trade Minister to ensure that the roadmap was included in the outcomes document and that the outcomes document could not be signed off by his country until it had been included..."

*"The Australians insisted that reference to the roadmap could only be included if the full ministerial meeting was reconvened."*³⁴

³³ Anon. Interview with anonymous Pacific Trade Official. June 2009

³⁴ *Ibid.*

At this point in time, the Samoan Associate Minister for Trade and Commerce, Hans Joachim Keil, recognising the importance of the issue to island countries, sought advice from the Chair, Minister Telefoni, regarding the possibility of reconvening the full Ministerial to resolve the matter of the Road Map. An official described what happened next,

"Misa came down to the drafting meeting and instructed the officials to only include what was in the lunch outcomes statement..."

"The official who had raised the objection was advised that if he wanted to take the matter further, he would need to bring his Minister to the drafting committee meeting."

*"Around this point, NZ suggested a compromise – that the Roadmap be attached as an annex."*³⁵

The wording in the final outcomes document states "Ministers considered during closed session the draft Joint PACER-Plus Roadmap (Annex 2)".³⁶ The danger as noted by an official is:

*"There is no language of endorsing or agreeing to the roadmap – and the status of the roadmap remains unclear."*³⁷

Why did the Australian delegation fight so hard to ensure a one sentence reference to the Joint Road Map was removed from the final outcomes document?

Some trade officials believe that the Australian delegation still wants the opportunity to gain further concessions from the FICs by deferring the finalised Road Map. The agreed Road Map contains some very limited safeguards. For example, language that only two formal negotiating meetings between Australia and New Zealand and the FICs can be held during the first 18 months after the CTA is established,

³⁵ Anon. Interview with anonymous Melanesian Trade Official. June 2009

³⁶ Outcomes document. Forum Trade Ministers' Meeting, June 2009.

³⁷ Anon. Interview with anonymous Pacific Trade Official. June 2009

unless further meetings are directed to be held by all parties.³⁸

“Apparently Australia did not want to endorse the roadmap, as they may want to push PACER-Plus along even faster than the roadmap suggested.”³⁹

Another problem that emerged during the cleaning up of the outcomes document related to the governance structure of the OCTA. The Forum Trade Ministers’ meeting outcome statement reads:

“...a Board of Governors comprising the FICs Lead Spokesperson [Solomon Islands] on PACER-Plus matters as Chairman together with the two Alternate Lead Spokespersons [Tonga/ Kiribati] being the Ministerial representatives and four Senior Officials to be selected from the remaining FICs in rotation, the first four to be chosen from Vanuatu, Nauru, Palau and Samoa....”

The language of the outcomes statement does not explicitly exclude Australian and New Zealand Trade Ministers from being part of the Board of the OCTA at some point in the future – yet FIC’s have consistently maintained that Australia and New Zealand should have no role in the governance of the OCTA whatsoever.

What are the implications of the Apia meeting?

The realisation of what Pacific Trade Ministers may have signed the region up to in Apia was not lost on Pacific officials. One observed that:

“As a long time trade official who has followed and observed these trade developments in our region, the implications as well as the impact of a PACER-Plus treaty with the region cannot go un-contested as politically it will without doubt have an adverse negative impact and effect on our small economies,

³⁸ PACER-Plus Joint Roadmap. Draft for consideration by the Forum Trade Ministers, June 2009.

³⁹ Anon. *Interview with anonymous Pacific Trade Official.* June 2009

particularly those Governments who continue to rely on import duties and fiscal taxes as a source of revenue rising and collection to meet its own domestic obligations.”⁴⁰

The outcomes not only recommended that negotiations be launched at the 2009 Pacific Island Forum Leaders Meeting in August, but also that a deadline be set for completion of negotiations, with options of 2, 3 or 5 years.

Significantly Ministers have agreed to launch negotiations without a fully functional Office of the Chief Trade Advisor. The CTA is supposed to meet the expressed needs of the island countries for technical support and guidance. The ‘initial’ housing of the OCTA at Pacific Islands Forum Secretariat is also viewed as undermining the independence of the OCTA in its infant stages.

Questions around the independence of the OCTA governing board are likely to continue to be an issue for Island countries when negotiations begin.

But, as one official warns, worse is yet to come.

“Yes a number of us were obviously disappointed with the process in Apia. For me it made Peter Mandelson, former EU Trade Commissioner, a more respectful negotiator. What happened in Apia is a clear signal of things to come and it is going to be much worse.”⁴¹

Event’s following the Forum Trade Ministers’ Meeting in Apia: A flurry of Letters from Fiji and Vanuatu.

The decision by the Pacific Islands Forum Secretariat not to invite Fiji to Forum Trade meetings (the Informal Trade Ministerial in Auckland, the Informal Trade Officials meeting in Port Vila and the Forum Trade Ministers Meeting in Apia) was based on the Forum Leaders’ Port Moresby decision to

⁴⁰ Anon. *Interview with anonymous Melanesian Trade Official.* June 2009

⁴¹ *Ibid.*

'suspend Fiji from full participation in the Forum' as of May 2009.

The decision clearly stated that participation 'by the Leader, Ministers and officials of Fiji in all Forum meetings and events arranged by the Pacific Islands Forum Secretariat, including the Pacific Islands Forum Leaders meeting' was suspended indefinitely'.

In late May, PANG commissioned a legal opinion on the exclusion of Fiji from decision-making processes regarding PACER (given that Fiji is a signatory to PACER). That legal opinion, provided by Auckland Law Professor Jane Kelsey, found that "it is not lawful for the parties to PACER other than Fiji to convene their annual review, or to make a decision to launch negotiations under PACER, in the absence of the Government of Fiji".⁴² Because PACER is an independent treaty, not a Forum instrument, Fiji's suspension from the Forum has no effect on its rights to full participation under PACER.

The decision at the 2009 Forum Trade Ministers' Meeting that PACER-Plus negotiations should be launched immediately after the Forum Leaders Meeting in Cairns prompted the Government of Fiji to take action.

On the 29th of June 2009, 'the Republic of Fiji Islands notified all other State Parties to the PACER that it was invoking Article 15 of the Agreement and accordingly wished to hold collective consultations regarding the unlawful denial of the rights and benefits to which Fiji is entitled to as a State Party to PACER'.⁴³

Fiji has initiated the only dispute resolution process PACER provides. Fiji is seeking a consultation as soon as possible with the

objective to nullify all decisions taken since May. The letter states:

"Article 15 requires States Parties to enter into these consultations as soon as possible and in good faith. Those obligations dictate that the Parties refrain from any further activities or exercise of powers under PACER until the unlawful exclusion of Fiji has been satisfactorily resolved. Any discussions or decisions from which Fiji is or has been excluded, including any that may be undertaken during or alongside the Forum Leaders Meeting in August 2009, would consequently not be binding on Fiji and would be invalid under the Agreement itself".

The Pacific Islands Forum Secretary General, pursuant to Article 17 of PACER, sent Fiji's note to all other Parties to the Agreement on the 8th of July, thereby initiating the obligation to hold consultations to resolve the dispute as soon as possible. This step is viewed by some trade officials to mean that the decisions of the Forum Trade Ministers' Meeting held in Apia, Samoa, in June and any other decisions taken (in the informal Ministerial in Auckland, and informal Trade Officials consultation in Port Vila), would need to be revisited at or after the consultation.

The Leaders of the Melanesian Spearhead Group⁴⁴ met in Port Vila in early July and lent support to Fiji's case regarding PACER-Plus. The MSG Leaders Communiqué⁴⁵ stated:

"Leaders recognized Fiji's right to participate in regional trade and economic co-operation agreements such as PICTA, PACER-Plus and the interim EPA. The exclusion of Fiji from discussions of these agreements would be invalid and therefore the decisions pertaining to those agreements would be null and void".

⁴² Kelsey, J. 2009. *The legality of Excluding Fiji from PACER-Plus Discussions*. Legal opinion provided for the Pacific Network on Globalisation.

⁴³ Letter from the Fiji Ministry of Foreign Affairs, International Co-operation and Civil Aviation – Office of the Permanent Secretary. "All Parties to the Pacific Agreement on Closer Economic Relations (PACER). 29th June 2009.

⁴⁴ The Melanesian Spearhead Group consists of Fiji, Papua New Guinea, Solomon Islands and Vanuatu.

⁴⁵ Special Melanesian Spearhead Group (MSG) Leaders' Retreat – Final Communiqué. Port Vila, Vanuatu. July 10, 2009.

While many observers and trade officials are supportive of the democratic process and the Forum Leaders' efforts to promote democracy in Fiji, trade officials point to the dichotomy of Australia and New Zealand's insistence on launching PACER-Plus negotiations immediately after the Forum Leaders Meeting in August this year as the trigger that forced Fiji to take such actions. As one official told PANG:

"The Joint Roadmap supported formal negotiations beginning in 2014. If Australia and New Zealand did not insist on launching formal negotiations this year, the issue regarding Fiji could have been resolved within the time frame proposed by the FICs without penalising the people of Fiji".⁴⁶

In an Open Letter to Papua New Guinea Prime Minister Sir Michael Somare, and other MSG Leaders, the Forum's former Director of Economic Governance, Dr. Roman Grynberg observed that the:

"...current situation will mean that the entire people of Fiji will be penalised by their exclusion from PACER through events not of their own making. Moreover, once democracy returns to Fiji there can be little doubt that a future democratic government will have little choice but to accept the terms of an agreement that will have been negotiated without its participation."⁴⁷

In a press release the Government of Fiji pointed to other sinister motives by Australia and New Zealand.

"Fiji's exclusion from talks to map out a new trading arrangement between the Forum Island Countries (FICs) and Australia and New Zealand, also known as PACER Plus, will also disadvantage the negotiating position of the Forum Island Countries (FICs).

"Fiji has been a lead advocate of the FICs' position of a "phased approach" to

the PACER Plus, and this includes national consultations with all stakeholders and full research and analysis to determine national interests before formal consultations and negotiations commence. Fiji has also pushed and argued for a well-resourced and adequately-staffed Office of a Chief Trade Advisor (OCTA), to give advice and coordinate FICs negotiations with Australia and New Zealand.

"In the absence of Fiji in the regional trade talks, we fear the governments of Australia and New Zealand will continue to use their dominant economic and political position and influence in the region to fast-track the commencement and the conclusion of PACER-Plus negotiations, while overlooking the long term development interests of the small island economies. Without effective national consultations and thorough needs and adjustment analysis, any attempt to commence formal negotiations would be premature and to the detriment of the vulnerable economies of the FICs."⁴⁸

At the time of the writing of this report, the status of Fiji's request for immediate consultation as a State Party to PACER remains unclear.

Letters regarding the OCTA:

On the 16th of July, the Pacific Islands Forum Secretariat advertised for a Chief Trade Advisor. The Fiji government again wrote to the Secretary General of the Forum directing the Secretary General to cease from any further activities or exercise of powers under PACER until the question of the unlawful exclusion of Fiji has been satisfactorily resolved.

It has also emerged that the Vanuatu Trade Minister James Bule wrote to the Secretary General of the Forum Secretariat informing him that Vanuatu was ready to host the OCTA in Vanuatu and therefore it was not necessary for the OCTA to be established initially as a special unit of the Pacific Islands Forum Secretariat.

⁴⁶ Anon. Interview with anonymous Pacific Trade Official. June 2009

⁴⁷ Grynberg, R. 2009. Open Letter to Papua New Guinea Prime Minister Chief Sir Michael Somare.

⁴⁸ Government of Fiji. Press Release. "Government Statement on Regional Trade Meetings" June 20th, 2009.

Despite this, the Secretary General has directed the Secretariat to follow the mandate from the Forum Trade Ministers' Meeting rather than the Pacific ACP Trade Ministers' meeting. The Secretary General has effectively ignored Vanuatu's request for the OCTA to be established in Vanuatu immediately as was always envisaged by the FICs and instead wants the OCTA established as a special unit at the Forum Secretariat.

At the time of the writing of this report, PANG was trying to establish whether Pacific ACP Ministers are aware that Vanuatu had written formally to the Secretary General. Clarification was also being sought in terms of whether the Secretary General has the powers to decide which Ministerial decisions and mandates the Secretariat itself would follow and whether he has the powers to ignore decisions taken by the Pacific ACP Trade Ministers. After all, the OCTA is set up to meet the needs of the Pacific ACP countries.

The move, regardless of its legality, once again raises issues about the impartiality of the Secretary General along with the Secretariat and its ready acquiescence to the Australian and New Zealand Governments' wishes.

**What's the
rush?
Fast-tracking the
negotiations**

Chapter

2

“Mr. Chairman, everybody around this table is aware that the Pacific island countries will need the help of a coordinating office during the negotiation of a new trade agreement. We have all agreed that Pacific island countries will need an organisation to provide technical expertise and advice. We all recognise that such an office must be independent of donors, negotiating partners and the Forum Secretariat, and must be truly owned and controlled by the Pacific”.

- Statement by PACER-Plus Lead Spokesman for the Forum Island Countries, Hon. William Haomae, Minister of Foreign Affairs and External Trade, Solomon Islands. Statement made to the 2009 Forum Trade Ministers’ Meeting.

Pacific trade officials were last year mandated by Forum Trade Ministers and Leaders to work on two proposals, namely **the Office of the Chief Trade Advisor⁴⁹ (OCTA)** and the draft **PACER-Plus Roadmap⁵⁰**. Both proposals respond to a commitment to ensure that the pace and approach to PACER-Plus negotiations reflects the unique circumstances of the region – small, vulnerable developing countries. The Road Map (which outlines the guiding principles and timelines for

⁴⁹ Pacific Islands Forum Secretariat. 2009 Establishment of the Office of the FIC Chief Trade Advisor (OCTA) for PACER-Plus related activities. For discussions at the 3rd Informal meeting on PACER-Plus Adelaide, 16 -18 February.

⁵⁰ Solomon Islands Dept of External Trade. PACER Plus Joint Roadmap. Draft for consideration by the 3rd Informal trade officials’ meeting, 16 – 18th February 2009.

negotiations) and the OCTA (which would guide the region through negotiations by providing technical expertise and facilitating research and national consultations) are integral to addressing the asymmetry that exists between the negotiating parties.

Office of the Chief Trade Advisor (OCTA)

The OCTA proposal was developed by the Pacific Islands Forum Secretariat in 2007. The core functions of the OCTA are: advice and capacity building; coordination; facilitation and representation. The total cost of the original proposal was US\$29Million over 10 years. The need for a well resourced OCTA, to guide the Pacific through negotiations, is widely understood:

“FICs have stressed that they will require extensive assistance in order to overcome the capacity constraints imposed by the small size of many FIC economies and governments and the corresponding lack of capacity for FIC’s to engage meaningfully in the PACER-Plus process as well as the constraints imposed by the simultaneous conduct of other trade-related activities eg. EPA negotiations.

“FIC participation in PACER-Plus will entail specific knowledge and coordination well beyond what is required for most other negotiations due to the probable breadth of issues to be incorporated. Also, coordination of trade policy across FIC governments is extremely weak compared to their negotiating partners. These shortcomings impede both the development of trade policy and FIC participation in trade negotiations and will require considerable resource in order to fully address these issues to allow FICs to

meaningfully engage in the PACER-Plus process".⁵¹

Australia and New Zealand were expected to be supportive of the OCTA proposal. It was a common position (shared by Australia, New Zealand and the FICs) that the Forum Secretariat needed to act as a neutral adviser to all Forum members. This however, left the FICs without appropriate (and independent) technical support, an important consideration given that 'informal' consultations were already underway. The need for an independent Office of the Chief Trade Advisor was explained by the Pacific Islands Forum Secretary General, Neroni Slade, in February 2009:

*"The Secretariat prefers not to be in a position where it is internationally seen as 'supporting' some Forum Members in negotiating with other Forum Members. That is why PIFs [the Pacific Islands Forum Secretariat] proposed the Chief Trade Advisor (CTA) concept. As of now, however, funding for the Office of the CTA has not yet been finalised and FICs feel themselves under pressure to move forward because of the informal consultations process now underway".*⁵²

However, the Australian government's grip on the purse strings gave it leverage to influence the development of the proposed OCTA – and to push the FICs to launch PACER-Plus negotiations before they are ready. For example, when FIC Trade Ministers' refused to fast-track the negotiations at the 2008 Forum Trade Ministers' Meeting in Rorotonga, disappointed Australian trade officials told Pacific media that Australia would not commit funds to set up the CTA office because "it did not regard the outcomes of the July 2008 Forum Trade Ministers' Meeting as constituting an adequate

commitment to negotiations that will lead them to fund the CTA".⁵³

In the absence of willing support from Australia and New Zealand for the OCTA proposal, Pacific ACP Trade Ministers in October 2008 directed the Forum Secretariat to continue to provide assistance to the FICs on PACER-Plus related activities until such time as the CTA is appointed. The Chair of the October 2008 Pacific ACP Trade Ministers' Meeting wrote to the Government of Australia's seeking its understanding and support in this regard.

Good Cop, Bad Cop

A background briefing note prepared for the FIC Lead Spokesperson, Solomon Islands Trade Minister William Haomae⁵⁴ and obtained by PANG reveals the intensity of the debate regarding the make-up of the OCTA and the Australian strategy to undermine the Pacific's proposed structure for the Office.

Following the second informal trade official's consultation in Tonga (November 2008) Australia and New Zealand initially had different approaches to the OCTA proposal. New Zealand played its traditional 'good cop' role, indicating that it would be willing to support a phased approach to the establishment of the OCTA with the appointment of the CTA and perhaps one other adviser in early 2009, with a view to the establishment of a full Office at an appropriate time. At the third informal consultation in Adelaide in February 2009 NZ indicated informally that it might consider committing NZ\$7million dollars towards the OCTA.

Australia did not comment on the Forum Secretariat's OCTA proposal but instead put forward its own proposal at the Adelaide informal consultation – for a working group involving officials from Australia and New Zealand and three FICs to develop a

⁵¹ Briefing for Hon. William Haomae, Trade Minister for the Solomon Islands, Forum Island Country (FIC) Lead Spokesperson for the PACER-Plus negotiations. (undated).

⁵² Secretary General's Officials Discussion with the Government of Australia. PACER-Plus: Talking points and background/ briefing notes. 2-3 February 2009.

⁵³ Islands Business. 2008. 'Pacific seeks assistance from TradeCom on Chief trade Adviser for PACER. *Islands Business*. October 23, 2008.

⁵⁴ Briefing for Hon. William Haomae, Trade Minister for the Solomon Islands, Forum Island Country (FIC) Lead Spokesperson for the PACER-Plus negotiations. (undated).

proposal which satisfied the requirements of all parties. The FICs resisted on the grounds that:

"FICs indicated that the OCTA should not be viewed as a 'standard' aid project, subject to the usual involvement and oversight of donors and there was a need for a 'more than arm's length' approach to this issue."⁵⁵

The Australian proposal also called for a review of the OCTA to take place after two years to ensure that it was providing FICs with a satisfactory service and to make any necessary adjustments. Depending on a high degree of satisfaction, then the Australian government would be prepared to further discuss mechanisms by which the OCTA services could be supplemented.

At the Adelaide informal officials' meeting Australia demanded that the remit of the Office be significantly reduced, and the capacity building and training elements of the proposed budget be eliminated in favor of using existing agencies (e.g. the Forum Secretariat) to provide this support.

The FICs, whilst welcoming funding from Australia and New Zealand, naturally had some concerns about Australia's announcement of bilateral assistance to build the capacity of trade official and to undertake research. The FIC's felt it would be important that capacity building be undertaken independent of Australia, New Zealand and the Forum Secretariat.

"FICs emphasised that there are certain elements of capacity building directly related to formulation of national negotiating positions and strategies, which due to their confidential nature, will need to be undertaken by the OCTA rather than external agencies such as PIFs [the Pacific Islands Forum Secretariat]."⁵⁶

⁵⁵ Briefing for Hon. William Haomae, Trade Minister for the Solomon Islands, Forum Island Country (FIC) Lead Spokesperson for the PACER-Plus negotiations. (undated).

⁵⁶ *Ibid.*

The governance structure that the FICs proposed for the OCTA would see FIC senior trade officials reporting directly to FIC Trade Ministers. They resisted Australia's continued insistence that it should be involved in the governance of the OCTA.

"FICs have persistently raised concerns regarding the Australian Government's proposed involvement in the governance of the OCTA. They repeatedly expressed their desire to determine how they engage in PACER-Plus negotiations, which includes FIC oversight in the functioning of the OCTA and the ability to determine how they are represented throughout consultations and negotiations."⁵⁷

The FICs also resisted the Australian and New Zealand proposal for the establishment of a 'virtual office' as a way to meet the FICs' insistence that a CTA must be in place as one of the preconditions for negotiations to begin.

"FICs also indicated that they did not support the establishment of a 'virtual office', and would prefer that the full office, including physical presence, be in place as soon as is practicable."⁵⁸

By the fourth 'informal' consultation in Port Vila in May 2009, Australia had agreed to increase funding from its initial offer of AUD\$250,000 to AUD\$500,000 per annum for three years; New Zealand had reduced its initial offer from NZD\$7M to match the Australian offer of AUD\$500,000 per year over three years. There were strings attached. Their offers were contingent on several key demands, as explained by an official.

"Australia and New Zealand's offer is conditional on (a) the announcement of negotiations in August (b) the design of the offer following their preference (c) the office not engaging in "capacity building" (d) no other donors permitted to contribute."⁵⁹

⁵⁷ *Ibid.*

⁵⁸ *Ibid.*

The last demand was highly controversial amongst island countries. As the Director of Trade for the Solomon Islands, Heinz Vaekesa, explained:

“Every country has limited funds, including Australia and New Zealand. We understand why they cannot provide all of the support that we need. That is the reason that we will need to accept support from other donors. We have spoken to several agencies who understand the constraints we face and have shown an interest in supporting us. We hope that Australia and New Zealand will support this idea rather than oppose it.”⁶⁰

With the FICs not shifting their position on the OCTA, Australia introduced a new twist: it proposed to fund a secondee from the World Trade Organisation to help the Forum Secretariat to establish the OCTA. The proposal was considered by trade officials at the fourth informal trade officials’ meeting in Vanuatu in May 2009. The FIC countries responded to Australia’s proposal with a firm ‘thanks but no thanks’. At the Forum Trade Ministers’ Meeting in Apia, the FIC’s Lead Spokesperson on PACER-Plus explained this to the Australian Trade Minister Simon Crean:

“I would like to thank my colleague, Minister Crean, for his kind offer, but I must report that the Pacific Ministers have decided that a secondee will not be necessary. We have every faith that the Forum Secretariat has the necessary expertise, and enough understanding of the Pacific, to do an excellent job of recruiting a CTA and helping to establish his or her office. We would, however, encourage Australia to consider allocating this funding contribution to the core budget of the OCTA. I am sure that my colleagues Ministers from Australia and New Zealand will understand the reasons

⁵⁹ Anon. *Interview with anonymous Pacific Trade Official*. May 2009

⁶⁰ Solomon Islands Department of External Trade. 2009. *Is the Pacific ready to negotiate?* Solomon Islands Government Press Release. May 21, 2009.

that we are anxious to select our advisors for ourselves, rather than relying on external organisations such as the WTO to identify them for us.”⁶¹

On the issue of the governing board, Australian officials had insisted that Trade Ministers should sit on the board of the OCTA. Hon. William Haomae explained why the Australian proposal was rejected:

“I would like to take this opportunity to reassure Australia that we strongly believe in the governance structure that our officials have proposed. ... I believe that such a structure is necessary to ensure that the OCTA receives the right balance of technical and political guidance.”⁶²

By the close of the Forum Trade Ministers’ Meeting in June 2009 the agreed outcomes regarding the OCTA were significantly different from what the Pacific had fought long and hard for.

The remit of the office of the OCTA was significantly reduced. That means Pacific island countries will not be able to access independent capacity building and research assistance in preparation of their country positions. Both capacity building and research will be funded bilaterally and therefore open to influence by donor governments. The independence of the governance of the OCTA from control and influence of negotiating partners (Australia and New Zealand) is not guaranteed.

The Draft Joint Roadmap:

The 2008 Forum Island Leaders’ meeting in Niue directed officials to formulate a detailed Road Map on PACER-Plus.

Headings for the draft Road Map were agreed in accordance with that mandate, at the trade officials’ second informal PACER-Plus discussions in Tonga in November 2008. It was noted that the Road Map needed to provide sufficient direction without being overly prescriptive. The meeting gave

⁶¹ Statement by PACER-Plus Lead Spokesman to FTMM. Delivered by Hon William Haomae, Minister of Foreign Affairs and External Trade, Solomon Islands. Apia, Samoa, 17th June, 2009.

⁶² *Ibid.*

the Solomon Islands the responsibility to draft a Road Map based on the discussions and headings identified at the Tonga meeting.

Trade officials from the Solomon Islands presented a Draft PACER-Plus Road map for consideration at the third informal PACER-Plus discussions in Adelaide, Australia. A key feature of the Draft was a phased approach to negotiations, with progression between phases based on the satisfactory completion of milestones in each FIC (such as the completion of research studies and national consultations) rather than time limits. The entire process was estimated to take seven years.

The four phases were:

- (1) Informal consultations;
- (2) National consultations and research;
- (3) Formal consultations; and
- (4) Negotiations.

An underlying theme throughout the roadmap was the principle of special and differential treatment and the need for the individual circumstances of each Forum Members to be taken into account in both the negotiating process and the eventual agreement.

The draft was clear that national consultations are the appropriate mechanism to determine the structure of a PACER-Plus Agreement. It also articulated that PACER-Plus would “preserve and improve existing preferential access into the markets of Australia and New Zealand” under the existing South Pacific Regional Trade and Economic Cooperation Agreement (SPARTECA).

The possible structure of a PACER-Plus agreement dominated the discussions at the third informal trade officials’ meeting in Adelaide. New Zealand, in particular, was pushing for any final agreement to be comprehensive in nature – with any FIC that became a party to the agreement being required to participate in all its elements.

The FICs’ response was unequivocal. Here is an account on what transpired in the final two informal consultations:

“FICs raised concerns regarding the proposed structure as outlined by New Zealand and Australia. FICs themselves had not agreed to such an approach and have repeatedly stated the necessity to use the process of national consultations to determine how best to structure the agreement in a way that suits the needs of the FICs.

“FICs also emphasized the need for a PACER-Plus Agreement to have flexibility in structure to allow each Member to choose the chapters/ protocols they wish to sign up to, in line with their own capacity and development needs.”⁶³

Both Australia and New Zealand unsurprisingly also rejected the timing and phasing of negotiations as proposed in the draft Road Map. Australia had clearly indicated that it wished to launch formal negotiations at the Leaders’ Meeting in Cairns. FICs resisted and explained why they supported the milestone approach contained in the roadmap. As explained in the briefing note referred to earlier:

“FICs also emphasised that a shorter time frame or an early commencement of formal negotiations is likely to be detrimental to the quality of the eventual agreement. This was in direct response to Australian Governments’ proposed timeframes.

FICs had consistently maintained that they are not ready yet to engage in substantive negotiations given the lack of preparation and capacity constraints that they currently operate under (particularly the demands of ongoing EPA negotiations and PICTA Trade in Services negotiations).

FICs also supported a distinctly national consultation phase, noting that national consultations will be an ongoing part of the negotiation phase. The need for a phased approach is justified by the need for FICs to be fully prepared and to have the necessary support available for progression.”⁶⁴

⁶³ *Ibid.*

⁶⁴ *Ibid.*

The FICs have also maintained that significant progress through the four phases depended on several key activities being carried out and conditions satisfied, namely;

- Involvement of the private sector and Non-State-Actors from the very beginning in both the development of policies and the design of initiatives to remove barriers to trade; and
- Sufficient time to conduct studies to address the full spectrum of issues, including practical and hands-on advice drawing more fully on national expertise.

After all FIC governments will one day have to stand to answer to their own people.

“At the end of the day, Presidents and Prime Ministers will need to stand before their respective legislatures and defend the PACER-Plus Agreement they have negotiated in the face of public scrutiny, both by national stakeholders and outside trade analysts. All Leaders will want to be in a position to argue that the PACER-Plus they negotiated is of great benefit to their country, was based on careful study of national interests and reflect the needs and aspirations of the country.”⁶⁵

With the governance and funding of OCTA still unresolved and under political pressure to accept a launch of negotiations at the 2009 Forum Leaders’ Meeting in Cairns, island countries compromised on the Road Map in order to get leverage on the OCTA issues.

Solomon Islands Trade Minister William Haomae justified the compromise in his statement to the 2009 Forum Trade Ministers’ Meeting.

“Almost everything in the Joint Roadmap has already been accepted by all Forum Members. We have all approached these discussions in a spirit of good faith and have been willing to compromise, and I believe that that approach has paid dividends. I also believe that the progress

⁶⁵ *Ibid.*

that we have made demonstrates the commitment that we all have to make PACER-Plus a truly unique agreement that will provide benefits for us all”⁶⁶.

The compromised Road Map that went before the Trade Ministers was changed significantly from the Pacific’s original proposal for the Road Map. Key elements that were *removed* from the final Joint Road Map included:

- (1) Reference to the preservation of preferential market access to Australia and New Zealand under SPARTECA; and
- (2) Tentative timing of progression between each phase;

Interestingly, one sentence that read; “...all Forum Island Countries participating in the PACER-Plus process will be unambiguously better off following the negotiations,” was also removed from ‘Guiding Principles’ of the compromised Road Map.

The new version of the Road Map, whilst radically fast-tracking the pace of negotiations, did contain some limited safeguards (which were supported by New Zealand). They include:

- (1) Once Leaders have agreed to the commencement of negotiation process, and the OCTA has been established, the first meeting should be held without delay and will address procedures.
- (2) Forum members recognize that this process of national consultations will require a significant resource commitment which could be undermined by an intensive meeting schedule. Members envisage holding no more than two meetings in the first 18 months following the establishment of the OCTA, unless members agree that additional meetings would be useful.

These clauses mean that formal PACER-Plus consultations cannot be held until the

⁶⁶ Statement by PACER-Plus Lead Spokesman to FTMM. Delivered by Hon William Haomae, Minister of Foreign Affairs and External Trade, Solomon Islands. Apia, Samoa, 17th June, 2009.

OCTA has been fully established, and that only two meetings should be held in the first 18 months after the OCTA has been established “unless members agree that additional meetings would be useful”.

In any case, the Joint Road Map contained compromises regarding the potential timeline of PACER-Plus negotiations that failed to guarantee adequate time for the completion of national-level research on the implications of PACER-Plus, or for the satisfactory completion of national consultations with all stakeholders.

The exclusion of the Joint Road Map from the outcomes document of the 2009 Forum Trade Ministers’ Meeting (see *Chapter 1: Manufacturing consensus* above), whether deliberate or not, means that even the limited safeguards agreed to in the compromised document are not guaranteed. The potential speed of any PACER-Plus negotiations could still be determined by political pressure brought to bear on the FICs by Australia and New Zealand.

What is clear regarding the Joint Road Map for PACER-Plus, is that the Pacific island countries, whilst pursuing PACER-Plus discussions in good faith, were hamstrung by Australia and New Zealand’s insistence on fast-tracking the negotiations – a situation that is likely to undermine the quality of any final agreement.

**Removing
dissent:
Control at the
Forum
Secretariat**

Chapter

3

The Pacific Islands Forum, formerly the South Pacific Forum, was founded in 1971 and comprises 16 independent and self-governing states in the Pacific (Australia, New Zealand and the 14 Forum Island Countries). The Forum is the region's premier political and economic policy organisation, facilitating collective responses to regional issues across the Pacific Island Countries.

The Pacific Islands Forum Secretariat, based in Suva, is the administrative arm of the Forum, and is tasked with implementing the decisions of Pacific Leaders (who meet on an annual basis to set regional priorities). The majority of funding for activities of the Forum Secretariat comes from Australia and New Zealand, and other foreign donors such as the European Union. The Forum Secretariat receives an annual budget of over AUD \$30 million.

In recent years, regional commentators have noted the increasing influence of Australia and New Zealand over the Pacific Islands Forum. University of the South Pacific academic Sandra Tarte suggests that Pacific Island 'ownership' of the Forum is increasingly at risk. She writes that 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)".⁶⁷

⁶⁷ Tarte, S. Penjueli, M. Maclellan, N. Teaiwa, T. 2002. *Turning the tide: The need for a Pacific solution to counter conditionality*. Prepared for Greenpeace Australia/Pacific.

The Forum Secretariat has increasingly played a key role in facilitating regional economic restructuring – acting as the principal implementing agency for an externally driven programme of reforms.

From 1999, the work of the Forum Secretariat has increasingly focused on trade liberalisation in the Forum Island Countries, and on compliance with WTO principles and trade rules. It is through the Forum Secretariat the Forum Island Countries have negotiated the Pacific Island Countries Trade Agreement (PICTA) amongst them, and continue to negotiate a new Economic Partnership Agreement (EPA) with the European Union. Australia and New Zealand have been adamant that any regional trade liberalisation should include them as well, and that any trade liberalisation with other developed countries (the EU for example) must include them. It is through the Forum Secretariat that the Pacific Agreement on Closer Economic Relations (PACER) and decisions relating to PACER-Plus have thus far been managed.

Forum policy is made by Ministers from all Forum countries, on advice from their officials, and is then endorsed by Forum Leaders. In reality the Australian and New Zealand governments take a lead role in defining policy at the Forum Secretariat – largely because they have the capacity needed to engage in policy making at the regional level. As the former Director of Economic Governance at the Pacific Islands Forum Secretariat, Dr Roman Grynberg, explained earlier this year:

"Where does actual policy come from? The answer is very simple. In theory it is

*the technical people at the Forum Secretariat who prepare the papers and the advice. In reality however, there is simply no capacity within the Forum Secretariat to establish independent policy on most economic issues. The policy either comes directly or indirectly from Canberra and Wellington or through their 'multilateral cover', that is the IMF the World Bank and the Asian Development Bank. If you look at almost every study undertaken in the region by international financial institutions you will find a thank you on page 2 or 3 for the funding provided by AusAID or NZAID. These organisations have Australian and New Zealand staff seconded to them and Canberra and Wellington jealously control their trust accounts.*⁶⁸

And further:

*"Who sets the Forum agenda? In the Forum as in all international bodies, a draft agenda for every meeting is sent out to all members and they must all agree. In reality in most cases only Australia and New Zealand have the capacity to review these documents and make substantive comments and hence they very largely set the Forum's agenda. Not one Pacific Island country, not even PNG, the largest, has one dedicated official whose sole job is to work only on Pacific Island affairs. Australia and New Zealand have scores of officials and desk officers in Canberra and Wellington with experts on each Forum Island Country. Pacific island officials work on so many areas they have to be a 'jack of all trades', but because they are so busy they rarely have time to read the meeting papers prior to an international meeting. As a result they are almost invariably outgunned by their Australian and New Zealand counterparts at any meeting.*⁶⁹

Dr Grynberg, who has lived and worked in the Pacific for 25 years, is not a popular figure amongst developed country governments – who saw him as a key

stumbling block for advancing their trade priorities. Dr Grynberg 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. His advice to developing countries has previously incurred the wrath of the governments of Australia, New Zealand and Britain.

On 31 October 2003, *The Guardian* newspaper revealed correspondence between a senior British trade official and a diplomat in New Zealand'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. The British Government has since apologised for this incident.

Dr Grynberg was later appointed by the Forum as lead technical negotiator for Pacific Island Countries' EPA negotiations with the EU, and Australian and New Zealand government officials were clearly concerned that he might play a role in negotiating PACER-Plus as well.

When Australian and New Zealand officials met with their Pacific counterparts to discuss PACER-Plus at the 2008 Forum Trade Ministers' Meeting in Rarotonga, trade officials from [country name withheld] overheard New Zealand officials making explicit threats that Dr Grynberg should be prevented from taking a role in PACER-Plus discussions. An anonymous official reported to PANG that:

*"New Zealand officials were visibly frustrated and commented in private that 'we need to get rid of the [Forum] Secretariat, in particular Roman and [name removed to protect the identity of another official]. This comment was overheard by an island country delegate who was sitting next to the NZ delegation.*⁷⁰

⁶⁸ Grynberg, R. 2009. 'Who controls the Forum Secretariat?', *Samoa Observer*. March 1, 2009.

⁶⁹ *Ibid*

⁷⁰ Anon. *Interview with anonymous Pacific Trade Official*. May 2009

As it turns out, the axe did fall on Dr Grynberg in March this year, when his contract with the Forum Secretariat was not renewed. The formal reasons were based on a performance review that found him to 'lack leadership' and that he was not 'client focused'. This begs the question of which client(s) were unhappy with Dr. Grynberg's work? Dr Grynberg himself was not in any doubt as to why his contract had been renewed. As he explained to his colleagues in an email dated March 3, 2009:

"Some of you may be aware that I have had my contract non-renewed as director at the Forum. This was largely at the behest of the Australian and New Zealand governments because I was supporting the developing countries in the Pacific Islands Forum during their negotiations. I make no apologies. This was not an error of judgement on my behalf but for those of you know me well it is a persistent habit of my behaviour. I continue to believe that to support those who are weak is honorable even if it costs you your job as it has for me on more than one occasion. You will also no doubt recall I have had similar experiences at Comsec [the Commonwealth Secretariat] and even prior to that."⁷¹

The Australian and New Zealand governments predictably denied having anything to do with Grynberg's dismissal. As Australian Trade Minister Simon Crean told Radio Australia journalist Jemima Garrett on March 15, 2009:

"GARRETT: Dr Grynberg says that Australia's negotiating strategy is not as Australia says, about improving development and regional integration, but purely about Australia's economic self interest. How do you respond to that?"

CREAN: Well, I reject that and I've had no discussions with Mr Grynberg, so how he would know what my intentions are is a bit beyond me. And to misrepresent our position, I think, clearly isn't helpful to try to get sensible dialogue.

GARRETT: The allegations do come about in a context in which he says Australia pressured the Pacific Islands Forum Secretariat not to renew his contract. Did Australia pressure the Pacific Islands Forum Secretariat?"

CREAN: Look, this was a decision of the Pacific Island [Forum] Secretariat, not of the Australian Government. I mean, Mr Grynberg can look for all sorts of conspiracy... I've never met the person. So, you know, I don't know where he's getting this sort of nonsense from. But that's a decision of the Pacific Island [Forum] Secretariat and not the Australian Government."⁷²

Whatever the reasons for his removal, Dr Grynberg's absence from the Forum Secretariat means that the Forum Island Countries have lost an important critical voice prior to going into negotiations for a free trade agreement with the Islands' most important trading partners. Many trade officials from around the Pacific are feeling this loss keenly. On Grynberg's departure from the Forum Secretariat, one of the island delegations [name withheld] penned a letter to him expressing their regret at his departure. The letter, dated March 2nd and signed by the entire Department, reads in part:

"We were deeply saddened to learn of your premature departure from the Forum Secretariat... You have provided the region with a unique and invaluable source of advice and encouragement, and have never been afraid to tell countries exactly what they needed to hear. Your departure will leave an enormous gap in the Pacific, both professionally and personally, and you will be sorely missed.

It is particularly troubling to learn of the regrettable circumstances which led to your departure. Then again for someone that is quick to speak his mind openly and who strives to defend the weak against the strong, the news did not come us a

⁷¹ Personal email correspondence, March 3, 2009.

⁷² Radio Australia, 2009. 'Interview with Australian Trade Minister Simon Crean, Subject: PACER-Plus. Pacific Beat. March 15, 2009.

*complete surprise to us; nor, we suspect, to you.*⁷³

Following Grynberg's departure from the Forum Secretariat he issued a series of 'think pieces' to regional media in the Pacific. In one of these articles, he left a warning for Pacific negotiators that Australia and New Zealand would pursue their economic interests with determination during any PACER-Plus negotiations:

"Following a bruising encounter with [EU Trade] Commissioner Mandelson last year one Pacific Island Minister came up to me, obviously deeply offended by the typical rudeness shown by EU Commissioner Mandelson and said: "at least when we negotiate with Australia and New Zealand we will be negotiating with friends".

I reminded him of what former Australian Prime Minister John Howard said when he was asked by the Australian press why his close American friends had negotiated what was widely seen as a very bad trade agreement for Australia. He replied: "in trade, friendships don't matter for very much."

*Anyone naive enough to believe the words of Australian Trade Minister Simon Crean that PACER will be about 'development and regional integration' would do well to remember that Australian and New Zealand national commercial interests don't change just because there is a new government.*⁷⁴

Dr Grynberg also warned the Australian and New Zealand governments about the risks of pursuing an aggressive trade agenda through PACER-Plus. As he told Radio Australia:

"Pushing them [the Pacific Countries] into something that is going to breed bitterness in the long term - that's not an answer. And that's what they're doing now I can assure you. They're breeding bitterness. They're breeding a view of

*Australia that is different from in the past. In the past, Australia was viewed as a country that gave aid. When it comes to trade that is not how Australia and New Zealand are being viewed and they really need to step back and rethink their policy and take some of the Rottweilers who are running trade negotiations out of there and bring in a much more development orientation than they have now...*⁷⁵

Throughout Dr Grynberg's tenure as Director of Economic Governance at the Forum Secretariat (and as the lead technical negotiator for the Pacific during EPA negotiations with the Europeans), the Australian and New Zealand governments were firmly opposed to having the Forum Secretariat manage formal PACER-Plus negotiations between Australia and New Zealand and the Forum Island Countries.

Australia and New Zealand consistently argued that as they are also members of the Pacific Islands Forum, the Forum Secretariat must play a 'neutral' role in PACER-Plus discussions (instead of advocating for the FICs alone), and that a regional Office of the Chief Trade Advisor (to coordinate the FIC negotiating positions) could not be based at the Forum Secretariat.

This attitude forced Pacific Island Trade Ministers, in October 2008, to *direct* the Forum Secretariat "to provide assistance to the Forum Island Countries in PACER-Plus activities until such a time as the CTA is appointed"⁷⁶.

The Ministers also wrote formally to the Australian Government to explain that they had *directed* the Forum Secretariat to attend informal PACER-Plus talks that were scheduled to be held in Tonga in December 2008 "to provide technical support to the Forum Island Countries".

Essentially, the Pacific Trade Ministers had to plead to the Australian Government for its understanding that the Forum Secretariat

⁷³ Letter from an island country [name withheld]– (External Trade Division) to Dr Roman Grynberg, Dated March 2, 2009.

⁷⁴ Grynberg, R. 2009. 'Negotiating with 'friends': A free trade agreement with Australia and New Zealand?', *Samoa Observer*. March 1, 2009.

⁷⁵ Radio Australia, 2009. 'Sean Dorney radio interview with Dr Roman Grynberg, Subject: PACER-Plus'. *Pacific Beat*. March 9, 2009.

⁷⁶ Outcomes document. PACP Trade Ministers' Meeting, October 2008.

should continue to provide technical advice to them regarding PACER-Plus in the absence of the OCTA.

Astonishingly, the Australian Government had a change of heart following Dr Grynberg's removal from the Forum Secretariat. At the 2009 Forum Trade Ministers' Meeting in Apia in June, Australian Government officials indicated they now wanted the CTA to be based "as a special unit of the Pacific Islands Forum Secretariat."⁷⁷

The outcomes statement from the Apia meeting indicated that the CTA would be based "initially" at the Forum Secretariat "prior to the establishment of the permanent office in Vanuatu", though one trade official told Pacific media they doubted the move to Port Vila would eventuate⁷⁸.

A possible explanation for the change of heart by the Australian government is the hope that Dr Grynberg will be replaced by someone more conducive to Australian interests. At the time of writing the position has not been filled. Many Pacific trade officials will view any offer to an Australian or New Zealand candidate as an attempt by Australia and New Zealand to influence the Forum Secretariat during any potential PACER-Plus negotiations.

Perhaps the Australian and New Zealand governments feel, as principle donors to the Forum Secretariat, that the organisation *should* work to further their interests in the region. Tales of pressure to remove dissenting officials as outlined here, and the leaking of Forum reports to the Australian and New Zealand Governments, discussed in the next chapter, certainly lend themselves to this view. As Dr Grynberg explains, there are various ways in which Australia and New Zealand are able to exercise power through the Pacific Islands Forum Secretariat, and over the Island countries more generally.

"It takes a courageous official to question Canberra and Wellington when Australia and New Zealand provide two-thirds of the income of the Forum Secretariat and a very large part of their (respective) national aid budget. Careers of officials can be terminated. Prime Ministers will receive letters of complaint about recalcitrant ministers and pressure can be brought to remove governments where they are too strident. All this is part of the normal use of power to retain effective control of countries in Australia and New Zealand's lake."⁷⁹

⁷⁷Pareti, S. 2009 Australia Getting the Plus in PACER. Is Canberra a bully? Or are island ministers softies? *Islands Business* July 2009.

⁷⁸ *Ibid.*

⁷⁹ Grynberg, R. 2009. 'Who controls the Forum Secretariat?', *Samoa Observer*. March 1, 2009.

Chapter

**Thought control:
Training Pacific
officials and directing
'Pacific' studies on
PACER-Plus**

4

In December 2007, Papua New Guinea and Fiji initialed interim Economic Partnership Agreements (EPAs) with the European Union. The Australian and New Zealand Governments claimed this decisively triggered an obligation for consultations between Australia and New Zealand and the Forum Island Countries (FICs) with a view to extending the Pacific Agreement on Closer Economic Relations (PACER) to a new free trade agreement (PACER-Plus)⁸⁰.

Right from the outset, Australia and New Zealand's have attempted to manage the Pacific's own approach to PACER-Plus negotiations by funding and directing their capacity building and impact studies.

In May 2008, Pacific trade officials met with their counterparts from Australia and New Zealand in Auckland for the first of a series of 'informal' meetings to discuss PACER-Plus.

Australia announced a 'trade fellowship' programme that would see trade officials from each of the FICs attend a capacity building program (on negotiating new FTAs) at the Institute for International Trade (based

⁸⁰ Under the terms of the original PACER agreement, Forum Island Countries are obliged individually or collectively to enter into consultations with Australia and New Zealand, with a view to commencing free trade negotiations, in various circumstances. One such trigger involves the start of formal negotiations for a free trade agreement with any other developed country although that obligation ceases if negotiations are discontinued without an agreement being concluded. That is not (yet) the case with the Pacific ACP/EU negotiations.

at the University of Adelaide). Australia also announced funding for studies into the impacts of PACER-Plus on each of the FICs.

For its part, New Zealand said it would fund capacity building for Pacific civil society, to enable civil society organisations and the private sector to engage in the PACER-Plus negotiations.

These announcements sound like a reasonable enough approach to growing capacity in the Pacific, especially given the daunting complexity of extensive legal negotiations under PACER-Plus. However, 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 (in this case Australia and New Zealand) to push their economic and strategic interests onto recipients. That point was not lost on island countries.

"FICs have emphasised that certain elements of capacity building directly related to the formulation of national negotiating positions and strategies which, due to their confidential nature, will need to be undertaken by the OCTA rather than either by external agencies or

PIFs [Pacific Islands Forum Secretariat].⁸¹

Training the islands' officials

The first training module as part of Australia's 'trade fellowship' was held in September 2008. According to the Institute for International Trade website the training "targets upcoming negotiators from all 14 Pacific Forum Island Countries". At the training, Pacific trade officials;

*"...engage in relevant debates with senior trade policy practitioners, experienced trade negotiators and with Australian trade negotiators who will be part of future PACER-Plus negotiations."*⁸²

It is highly unusual for Pacific trade officials to be trained by negotiators with whom *they will then be negotiating*. Free trade negotiations are, by nature, an adversarial process, with parties on each side seeking to gain market advantages from the other without giving too much away themselves. A programme where future Pacific negotiators are being trained by, and "engaging in relevant debates" with, the Australian negotiators who will later be their adversaries can only help to strengthen Australia's negotiating position.

The Institute for International Trade is headed by Andrew Stoler, a former Deputy Director General of the World Trade Organisation, and principle trade negotiator for the United States during the Uruguay Round of multilateral trade negotiations. Mr Stoler also currently sits on the board of directors of the Australian Services Roundtable – a business lobby organisation established to represent Australian service industries. It should be noted that the Australian Services Roundtable has already undertaken a 'stocktake' of restrictions and regulations in the Pacific that Australian

service providers want to see removed to enable them to better enter into FIC services markets⁸³. Clearly, training at the Institute for International Trade is likely to be geared, first and foremost, toward opening Pacific markets to Australian goods and companies.

The training in Adelaide is ostensibly a program of "independent" technical advice to equip Pacific trade officials with the skills needed to engage free trade negotiations. However, it is also an opportunity for the Australian government to sell the 'benefits' of PACER-Plus, and try to convince Pacific officials that opening their markets to Australian and New Zealand goods and services would be good for Pacific economies.

The first module of the training was opened by the Australian Parliamentary Secretary for Pacific Island Affairs, Duncan Kerr. He explained to Pacific trade officials that:

*"The more the Pacific nations are integrated into the wider global community, and the freer the flow of goods, services and investments within the Pacific, the better the prospect of genuine, stable and long-term economic growth in Pacific communities."*⁸⁴

And further:

"Australia is determined over time to establish genuine regional economic integration in the Pacific of the type already enjoyed by Australia and New Zealand. We are also determined that PACER-Plus will have a strong development focus. A key objective in concluding the agreement will be to build economic self-sufficiency in the Pacific through trade. Our development assistance will be tailored towards improving the infrastructure and capacity necessary to take advantage of trade opportunities. Enhanced trade

⁸¹ Briefing for Hon. William Haomae, Trade Minister for the Solomon Islands, Forum Island Country (FIC) Lead Spokesperson for the PACER-Plus negotiations. (undated).

⁸² Institute for International Trade, 2009. *Inaugural Pacific Trade Training Module*. Accessed at: www.iit.adelaide.edu.au/hot/

⁸³ See: PDP Australia Pty Ltd. 2007. *Stocktaking of Limitations and Restriction Applying to Trade in Services in the Pacific*. Pacific Islands Forum Secretariat. Sydney.

⁸⁴ Kerr, D. 2008. *Address to Pacific Trade Fellowship Participants*. Adelaide University, September 22, 2008.

*liberalisation throws up some challenges but the benefits will far outweigh the costs.*⁸⁵

The Australian Government has consistently argued that there is little commercial benefit for Australia in negotiating a PACER-Plus agreement, and that PACER-Plus is simply aimed at encouraging 'development' in the Pacific. Australia's Parliamentary Secretary for Development Assistance Bob McMullan told Radio Australia earlier this year:

*"Look this is not about Australia, there's nothing in this for us. We think this is good for the region. And it's an initiative that we want to extend because it's beneficial to reduce poverty in the region. It's not part of Australia's long-term economic strategy. It doesn't have any economic significance for us. It's just good for the region as a whole and that's why we are doing it."*⁸⁶

However, there clearly are commercial benefits to Australia from increased access to Pacific markets. Australian (and New Zealand) exports to the region are already worth more than \$AUD5 billion per annum, and tariff reductions in the Pacific could add considerably to that figure (Pacific countries have much less to gain as their exports to Australia and New Zealand are already largely duty-free).

Under PACER-Plus, Australia will also want to secure unfettered access to Pacific service 'markets' for Australian companies, and to reduce or remove regulations on Australian investment in the region that restrict their profitability or impose unwelcome responsibilities to host nations and people.

Island countries are fully aware that PACER-Plus does have the potential to seriously damage Pacific economies and could have serious social implications as well.

⁸⁵ *Ibid.*

⁸⁶ Radio Australia, 2009. 'Interview with Australian Parliamentary Secretary for Development Assistance, Bob McMullan'. *Pacific Beat*. April 1, 2009.

There is a major risk with Australia running the training of Pacific trade officials and future negotiators that some of these negative implications may be overlooked or downplayed. As Dr Roman Grynberg, explains:

*"Trade officials from Canberra and Wellington are desperately trying to convince Pacific island officials of the benefits of PACER-Plus, assuring them that their citizens will have access to ever cheaper lamb flaps and vegemite. Their campaign has not quite worked yet, but AusAID is funding what the wags are calling 're-education camps' for Pacific Island trade officials at the University of Adelaide and after the ideologues there have finished with them they will no doubt see the error of their ways."*⁸⁷

Directing 'Pacific' studies on PACER-Plus

The next component of the Australian government's strategy, also announced in May 2008, is to provide funding for each FIC to undertake studies to allow them to prepare for PACER-Plus negotiations. \$AUD65, 000 would be provided for each Pacific country. However, access to the funds was conditional on Pacific governments choosing from one of six selected institutions to carry out the research.⁸⁸ Pacific governments must submit a proposal to AusAID to receive the funding.

While the offer of assistance for Pacific studies on PACER-Plus seems reasonable enough, the strings attached to the funds limit the ways Pacific countries can use the studies to defend their interests during PACER-Plus negotiations.

Speaking points prepared for the Secretary General of the Forum for a meeting with

⁸⁷ Grynberg, R. 2009. 'Negotiating with 'friends': A free trade agreement with Australia and New Zealand?', *Samoa Observer*. March 1, 2009.

⁸⁸ The six institutions from which Pacific countries can solicit research are: Adelaide University (Institute for International Trade), the National Research Institute (Papua New Guinea), and the Pacific Institute of Public Policy, the University of the South Pacific, the University of PNG and the University of Samoa.

Australian government representatives in February 2009, explain that:

“While the offer by Australia to provide funding of \$AUD65, 000 for each FIC to undertake studies to assist them prepare for negotiations was potentially useful, there was no guarantee that the results of those studies would not find their way to ANZ. As a consequence, such studies could not be utilized to prepare detailed negotiating positions with ‘red lines’ etc.”⁸⁹

Research studies relating to PACER-Plus, and its implications for the Pacific, are of great political importance. The Australian and New Zealand governments understand this well. Australia in particular has a history of attempting to control research studies commissioned by the Forum Secretariat.

At the 2005 Forum Trade Ministers’ Meeting, the Ministers agreed that a study should be undertaken to investigate “the potential impacts of a move towards a comprehensive framework for trade and economic cooperation between Australia, New Zealand and the FICs”. They also agreed that a ‘gap analysis’ should examine capacity-building, trade promotion and fiscal reform in the FICs. At the time, Australia attempted to limit the scope of the study.

“The commissioning of the study was delayed by Australia who insisted that the study only consider five FICs as a representative sample of the regions’ needs’. PIFS in response pointed out that each of the PICs was unique, their conditions are significantly different and because of the great importance of the study it was essential for it to consider all FICs. The study finally proceeded with an examination of the situation of all FICs.”⁹⁰

The study and gap analysis were undertaken by Washington-based consultants Nathan Associates, who

completed the report in 2007. The Nathan Associates’ report was given to the Australian and New Zealand governments before it was released to any of the FICs. Apparently Australian and New Zealand officials were unhappy with the findings of the report and attempted to have some of them changed. Dr Roman Grynberg writes that at the 2007 Forum Trade Ministers’ Meeting in Port Vila:

“...the major chapters of a key report [the Nathan Associates’ report] were given to Australia and New Zealand before other Forum members. Following this, Australia and New Zealand demanded that the development chapters, amongst others, be substantively changed.”⁹¹

A member of the Fiji delegation to the Trade Ministers’ Meeting told *Islands Business* magazine that Fiji formally complained about this during the meeting:

“Fiji raised it in a form of a question during the session. As to why the report was first given to Australia and New Zealand and then circulated to the rest of the Forum member countries later. As far as we know this was a departure from the usual practice about reports that are commissioned by the Secretariat. It is our view that all the members of the Forum should be treated equally.”⁹²

In fact, the findings of the Nathan Associates’ report did not give a glowing endorsement for PACER-Plus. The report found that there were a number of very serious risks for the FICs associated with PACER-Plus, including serious government revenue loss (upwards of 10% of government revenue in many FICs), burdensome costs associated with the negotiations themselves, payments imbalances arising from a dependence on imports, business closures and unemployment.⁹³

⁸⁹Internal Forum Secretariat document. *Secretary-General’s discussion with the Government of Australia (2-3 February 2009) PACER-Plus. Talking points and background/briefing notes.*

⁹⁰ Pareti, S. ‘PACER Report was not leaked: Urwin. *Islands Business*. September 2008.

⁹¹Grynberg, R. 2009. ‘Who controls the Forum Secretariat?’, *Samoa Observer*. March 1, 2009.

⁹²Pareti, S. ‘PACER Report was not leaked: Urwin. *Islands Business*. September 2008.

⁹³ Nathan Associates. 2007. *Pacific Regional Trade and Economic Cooperation – Joint Baseline and Gap*

The Nathan Associates' report indicated that PACER-Plus would be unlikely to contain great benefits for the FICs and that the one thing the Pacific most wants, access to Australian and New Zealand labour markets, is an unlikely prospect under PACER-Plus.

*"FIC priorities include the free movement of skilled and unskilled labour, however we believe it is unlikely that PACER-Plus negotiations will encompass free movement of unskilled labour. PACER-Plus does not have significant precedents to draw on..."*⁹⁴

The Forum Secretariat did not deny giving Australia and New Zealand a prior look at the Nathan Associates' report, but denied any changes were made to the development chapters. The (then) Secretary General of the Forum Secretariat, Greg Urwin, explained that;

*"The Secretariat felt it necessary to do this to solicit support from Australia and New Zealand should recommendations need extra resources for their successful implementation."*⁹⁵

In response to the Nathan Associates' report, AusAID commissioned its own report (*Benefits, Challenges and Ways Forward on PACER-Plus*)⁹⁶. That report, released in-2008, found that PACER-Plus could lead to a significant increase in trade volumes (up to 30%) in the region. The report was produced by the Institute for International Trade (University of Adelaide) – the same institution tasked with providing training for

Analysis. Pacific Islands Forum Secretariat, November 2007.

⁹⁴ Nathan Associates. 2007. *Pacific Regional Trade and Economic Cooperation – Joint Baseline and Gap Analysis.* Pacific Islands Forum Secretariat, November 2007.

⁹⁵ Pareti, S. 'PACER Report was not leaked: Urwin.' *Islands Business.* September 2008.

⁹⁶ Institute for International Trade (University of Adelaide). 2008. *Research Study on the Benefits, Challenges and Ways Forward for PACER-Plus – Final Report.* Institute for International trade, June 2008.

Pacific officials and potential future negotiators (see above), and one of the approved organisations that the FICs may commission research into the potential impacts of PACER-Plus (using the \$65,000 grants from the Australian government).

The Australian Government wielded the Institute for International Trade report during the 2008 Forum Trade Ministers' Meeting as 'evidence' that PACER-Plus would be good for the FICs. As one anonymous trade official related to PANG:

"Australia attempted to introduce a PACER-Plus study (180 pages) [to the meeting]. This was rejected by FICs on procedural grounds and the fact that most of the FICs were not given copies of the study or time to consider the contents of the document..."

*The consultant highlighted that with PACER-Plus in place, the study finds an estimated 30% growth in trade among the 16 Forum Island Countries. [name protected] queried the direction of the trade flow and received the answer that the model could not indicate the direction of trade flow. When further pressed by [name protected], he acknowledged that the bulk would most probably benefit Australia and NZ but insisted that the consumers of the FICs would benefit from cheaper imports."*⁹⁷

The AusAID study also recommended a 'roadmap' that would see a hasty completion of PACER-Plus negotiations – i.e. two years for preparatory work, the conclusion of negotiations by 2011 and 10 years for implementation. A timetable for free trade amongst the 16 Forum countries by 2021 would coincide with the PICTA timetable for free trade among the Island countries, achieving the original goal of Australia and New Zealand when the agreements were first proposed in the late 1990s.

The tactics of the Australian government over the release of the AusAID report shows just how important research studies relating to PACER-Plus are from a political

⁹⁷ Anonymous meeting notes. Delivered to PANG. October 2008.

perspective. In recent months Australian Trade Minister Simon Crean and other Ministers and officials of the Australian government have repeatedly highlighted the finding that PACER-Plus could lead to an increase in trade volumes of up to 30%, but they fail to mention that the vast majority of this increase would be in *Australian and New Zealand exports* to the Pacific.

Most of the findings of the AusAID report are difficult to accept as a sound basis for making policy decisions, as the theoretical assumptions used to project welfare gains from a PACER-Plus agreement are not likely to be true for most or all of the Pacific island countries⁹⁸.

The importance of independent training, research, and community consultations

The Australian and New Zealand Governments have, to date, attempted to control the nature of studies into trade liberalisation in the Pacific. They have also attempted to control the training of Pacific trade officials and future trade negotiators, and have even attempted to set limits on the region's own Office of the Chief Trade Advisor and influence the governance of that Office (see *Chapter 1: Manufacturing Consensus* above).

Whether Australia and New Zealand are primarily motivated by obvious commercial interests in concluding a free trade agreement with the FICs, by an ideological commitment to free trade in all circumstances, or even by a neocolonial attitude to the region is a little unclear.

What is clear is that Australia and New Zealand are attempting to control how Pacific countries view PACER-Plus and, having overcome their reluctance to embark formally on the PACER-Plus process, they want to limit the way that the FICs can shape any potential negotiations to their own strategic, commercial and political advantage.

By controlling the research, studies and training around PACER-Plus, Australia and New Zealand ensure that there is no space to question whether small and vulnerable economies in the Pacific have the capacity to develop and sustain a market economy in open competition with Australian and New Zealand exports and companies. There is no space to recognise that FIC dependency on a limited range of export crops and products leaves Pacific countries vulnerable to natural disasters and international market slumps, as is being witnessed at the moment with respect to the global economic downturn. Nor is there any recognition that different approaches may provide sustainable services and use of natural resources that meet the needs of all Pacific peoples. The FICs are being advised to embrace a path that is likely to threaten their limited economic diversity, increase their already large trade imbalances and eliminate a vital source of tariff revenue.

All of this highlights the vital need for independent studies to be undertaken regarding PACER-Plus, including detailed impact assessments of any free trade deal, for capacity building of Pacific trade officials to be directed by independent parties and for civil society and the private sector to be actively engaged in the decision making around PACER-Plus.

⁹⁸ See: Rosenberg, B. 2009. *Notes on Appendix 1 of "Benefits, Challenges and Ways Forward for PACER-Plus": A Quantitative Analysis of Potential Benefit and Cost of a PACER-Plus agreement.*

**An alternative
roadmap:
A people-centered
approach to trade
policy**

Chapter

5

Rethinking the development paradigm in the Pacific:

It is widely recognised that the current international financial crisis is the result of weaknesses in the neoliberal model that has largely shaped global economic policies in the last three decades – weaknesses that have been magnified by policy failures and lax regulation in the advanced countries. The costs of the crisis in terms of the bailouts and recapitalisation of banks has already reached unprecedented levels. However, adverse impacts on the real economy and costs in terms of lost output and employment are now of greatest concern.

On the 16th of July, 2009, the United Nations Conference on Trade and Development (UNCTAD) released its latest Least Developed Countries report. That report argues that the impact of the global financial crisis is likely to be so severe for Least Developing Countries (LDCs) that 'business as usual' is no longer possible and that the global financial crisis necessitates a need to rethink the 'development paradigm' for the world's smaller and vulnerable economies. Coping with the impact of the crisis in LDCs, it argues, will require an innovative and informed policy design in response.⁹⁹

The report focuses specially on LDCs, of which there are five in the Pacific region, namely Kiribati, Samoa, Solomon Islands, Tuvalu and Vanuatu. The findings of the report are also highly relevant and applicable to the other developing island countries in the region, particularly as

guidance for discussions around trade cooperation between the islands and their major trading partners Australia and New Zealand.

The Asian Development Bank's recent gloomy forecasts for Pacific economies, as a result of recession in major neighboring economies (Australia, New Zealand and the US), indicates both the necessity and the opportunity for a change in direction in the region.

The external slow-down is predicted to affect tourist activity and the flow of remittances for Pacific island countries, and the recent gains from high commodity prices in some countries, namely Papua New Guinea, the Solomon Islands and Vanuatu are now vanishing. Economic conditions in the Solomon Islands are rapidly deteriorating and contractions are expected over 2009 in the Fiji Islands, Samoa, Palau and Tonga. Balance of payments across the Pacific are coming under stress due to a fall in exports and in foreign aid, investment and migrants' remittances.¹⁰⁰

Since the mid 1980's, Pacific island countries have followed economic reform programmes which have severely reduced government involvement in promoting development. However, these programmes have failed to successfully address the key structural constraints which Pacific island countries face, including: (a) a scarcity of domestic resources (b) acute shortages of skilled manpower (c) a lack of adequate economic infrastructure (d) geographical isolation from main trading partners and,

⁹⁹ UNCTAD. 2009. *The Least Developing Countries Report 2009: The State and Development Governance*. United Nations Geneva and New York. 16th July 2009

¹⁰⁰ Asian Development Bank. 2009. *"Pacific Economic Monitor"*. May 2009.

hence, high transportation costs.¹⁰¹ These constraints are further compounded by the region's susceptibility to natural disasters and climate change factors that hinder wide economic diversification.

The current financial crisis exposes deeper, longer-term development problems facing the FICs and highlights the need for immediate discussion around an appropriate socially-based development model for the Pacific.

As PACER-Plus discussions are currently conceived, they are confined to a vision of a 'classic' reciprocal free trade deal. The effects of the global financial crisis have scarcely altered the policy recommendations from Australia and New Zealand – that embracing open competition will encourage economic growth in the FICs. Pacific countries are being encouraged to embrace negotiations that will see them pushed to open their markets to competition from Australian and New Zealand exports, service companies, and investors – with penalties to be imposed on Pacific countries if they want to make policy decisions in the future that contravene the terms of the agreement.

If conceived as a reciprocal free trade agreement, PACER-Plus will have the effect of *forcing* Pacific governments into a particular development model (a model that is increasingly being called into question) and tying their hands if something went wrong or they wanted to change their policies as circumstances change.

In recent years, Pacific governments have had to intervene directly in the market following major natural disasters (as when Samoa paid farmers to replant crops following cyclones in the 1990s), or when the privatisation of a government service has gone wrong (as happened when Tonga decided to re-nationalise elements of its electricity services). PACER-Plus could remove some of this important policy flexibility.

It is of vital importance that Pacific Leaders do not sign away the ability for Forum Island Countries to pursue development policies that are appropriate for the Pacific – particularly given the impacts of the global financial crisis. Toward that end, it is important that an alternative to a trade deal based narrowly on opening Pacific markets to Australian and New Zealand competition is articulated by Pacific Leaders.

As the General Secretary of the Pacific Conference of Churches, Fe'iloakitau Kaho Tevi, explains:

"A new World Trade Organisation compatible Free Trade Agreement with Australia and NZ could potentially be a disaster for the Pacific, trade arrangements with Australia and NZ should be based on justice and should enhance social development in the Pacific."¹⁰²

Pacific churches have long held concerns about the shift towards unregulated markets in the Pacific. In a report produced in 2001, the World Council of Churches (Office for the Pacific) produced a report called *Islands of Hope – An Alternative to Economic Globalisation*. That report argued that economic growth based solely on the free flow of capital and the allocation of resources and goods through the market mechanism, does not serve the common good. It rather aggravates existing inequality and unequal distribution of power and leads to massive exclusion and environmental destruction. This, the churches argued, is why the need for an alternative approach to development in the Pacific is urgent.

An alternative approach must be one that will ensure:

- there is adequate support for the poor, unemployed and other vulnerable groups;
- environmental protection,
- transparency and accountability in government and

¹⁰¹ pp. 101 – 102. UNESCAP. 2002. *Bulletin on Asia-Pacific Perspectives: Global and regional economic developments: implications and prospects for the ESCAP region 2002/ 2003*.

¹⁰² 2008 'Pacific Civil Society Statement on Trade Justice'. Statement from Pacific civil society organisations, churches and trade unions. August 2008.

- effective participation by civil society groups.¹⁰³

An alternative roadmap: A people-centered approach to PACER-Plus

The decision to launch PACER-Plus negotiations immediately after the Forum Leaders' meeting in Cairns, represents a clear and present danger to sovereign democratic processes that need to take place in each Pacific island country. National consultations and independent research are needed to properly evaluate a free trade agreement with Australia and New Zealand, and to determine if such an agreement represents an appropriate development model for the Pacific, so as to protect the economic and social wellbeing of its people. Being rushed into negotiations in 2009 in the absence of national consultations poses a serious threat for Island economies and the well being of Pacific peoples.

The need to consult widely with church groups, civil society organisations, trade unions, the private sector and all sectors of Pacific society before proceeding with PACER-Plus is a concern shared by the Pacific's Lead Spokesperson PACER-Plus - the Solomon Islands Minister for Foreign Affairs and External Trade, William Haomae. As he explained to the 2009 Forum Trade Ministers' meeting;

"As for the Solomon Islands, my greatest concern is the possibility that we won't be able to involve the groups that will be affected by a PACER-Plus agreement from the very start of the process. I want everyone of my countrymen that will have a stake in this agreement to have a say. And I believe that this must happen before my country's position is finalised and important decisions are made."¹⁰⁴

¹⁰³ World Council of Churches (Office for the Pacific) 2001. *"Islands of Hope: An Alternative to Economic Globalisation*. Dossier No. 7.

¹⁰⁴ Statement by PACER-Plus Lead Spokesman to FTMM. Delivered by Hon William Haomae, Minister of Foreign Affairs and External Trade, Solomon Islands. Apia, Samoa, 17th June, 2009. View on:

The insistence of the Australian and New Zealand governments on launching PACER-Plus negotiations early, on defining PACER-Plus as a narrowly defined free trade deal, and on fast-tracking the anticipated negotiating processes highlight the need for an 'alternative roadmap' for PACER-Plus discussions.

Civil society organisations, church groups, and trade unions from across the Pacific Island Countries (and increasingly Australia and New Zealand as well) have argued that a phased approach should be taken to PACER-Plus negotiations, to allow FIC's the ability to decide *how* they are to proceed with PACER-Plus. In June 2009, civil society organisations, churches and trade unions from across the Pacific presented a statement on PACER-Plus negotiations to Pacific Trade Ministers. That statement was supported by 32 different organisations from across the Pacific Island countries and Australia and New Zealand. The *2009 Statement to Pacific Island Forum Trade Ministers regarding deliberations on potential PACER-Plus negotiations* reads in part:

"PACER-Plus negotiations must not begin in 2009 – to allow for national consultations and independent research to take place. National consultations are the appropriate democratic process to determine whether negotiations should proceed (if at all) and how they should proceed."

And further, that;

"Discussions on the future trade relations between the Pacific Island Countries and Australia and New Zealand should be wide ranging and focus on utilising trade to reduce poverty. To this end, all alternatives to a WTO-compatible free trade agreement should be investigated."¹⁰⁵

¹⁰⁵ 2009 'Statement to Pacific Island Forum Trade Ministers regarding deliberations on potential PACER-Plus negotiations'. Statement from Pacific civil society organisations, churches and trade unions. June 2009.

Civil society organisations from across the region argue that a phased approach to PACER-Plus, as proposed in the draft Road Map put forward on behalf of the FICs by the Solomon Islands Government (with formal negotiations beginning only once certain milestones have been satisfactorily completed – including the establishment of country positions based on national-level research and consultations) is appropriate for the Pacific context.

The Pacific's initial Draft Joint PACER-Plus Road Map tentatively suggested formal negotiations might begin in 2013. A phased approach based on national consultations would allow democratic processes to determine when PACER-negotiations should proceed, if at all. FICs have repeatedly raised the necessity of using the process of national consultations to structure the agreement in a way that suits the needs of the FICs.

As the Solomon Islands Director for Trade points out:

*"If PACER-Plus is going to be successful, we need to involve a wide range of people and organisations from the onset, so that the agreement – if we sign one – reflects the needs and the views of the country."*¹⁰⁶

FIC governments also maintained that significant progress will need to depend on a number of activities being carried out and conditions satisfied; namely;

- The need for the private sector and other non-state actors to be involved from the beginning in both the development of policies and design of initiatives to remove barriers to trade. And;
- That sufficient time is allocated to conduct studies to address the full spectrum of issues, including practical and hands-on advice drawing more fully on national expertise.

Civil society, and government representatives from the Pacific, have clearly articulated the need for appropriate time, and care, to be taken to ensure PACER-Plus will serve the interests of Pacific peoples.

The way PACER-Plus discussions have progressed at the official level over the past 12 months (particularly given the Australian and New Zealand government's insistence on fast-tracking the negotiations) clearly indicate the need for the region to develop an 'alternative roadmap' to PACER-Plus negotiations – a roadmap that *does* allow for broad and transparent discussion about future trade relations between the Pacific and Australia and New Zealand.

Pacific Trade Ministers, and Pacific Leaders, must take Australian and New Zealand government officials to task if they continue to pressure the region to enter into hurried, and narrowly defined, trade negotiations.

Pacific civil society organisations welcome the recognition for the need for non-state actors to be involved in the design and assessment of PACER-Plus. However, to date civil society involvement in both the development of trade policies and designing of initiatives has been virtually non-existent. Every effort must be made to ensure the involvement of diverse non-state actors, including the churches, non-government organisations and trade unions and not just the business sector, especially given the potential implications of any such free trade arrangements for Island economies and peoples.

Civil society organisations should be involved in the development of trade policy in the Pacific Island countries. Governments in the region need to ensure that international trade is placed at the service of social development and is also ecologically sustainable. Pacific civil society organisations can play a key role in making sure that trade is placed at the service of those goals.

¹⁰⁶ Solomon Islands Department of External Trade. 2009. *Is the Pacific ready to negotiate?* Solomon Islands Government Press Release. May 21, 2009.

Conclusion

The development aspirations of more than eight million people in the Pacific islands, are now being held to ransom by the power politics of the Australian government (in particular) supported by the New Zealand government. As highlighted in the 2004 *Big Brothers Behaving Badly* report (into the negotiation of the initial PACER agreement) and further supported in this report, Australia and New Zealand rely on three complementary levers in their trade dealings with the island countries: legalism, money and pressure.

In December 2007, Papua New Guinea and Fiji initialed interim Economic Partnership Agreements (EPAs) with the European Union. The Australian and New Zealand Governments claimed this legally triggered the obligation of consultations between Australia and New Zealand and the Forum Island Countries (FICs) with a view to extending the Pacific Agreement on Closer Economic Relations (PACER) to a new free trade agreement (PACER-Plus)¹⁰⁷. Pacific island trade officials and their Australian and New Zealand counterparts met to begin informal consultations regarding PACER-Plus from May 2008.

The details of PACER-Plus discussions are often hidden behind well-meaning euphemisms like 'sustainable development and poverty reduction'. This serves to reinforce deep and well-founded cynicism about claims that Australia and New Zealand are acting in the best interests of the islands. Depictions of an agreement that replaces trade preferences for small, vulnerable economies with reciprocity for the exports of Australia and New Zealand as a viable (and uncontroversial) development strategy is rightly greeted with concern.

The real agenda is not lost on many in the Pacific. PACER-Plus will provide corporations from Australia and New Zealand access to markets of the Forum Island Countries. The importance of securing this market access was highlighted by former New Zealand Trade Minister Phil Goff in 2007, when he admitted that PACER is intended to "ensure New Zealand is not disadvantaged by preferential access to Pacific markets being given to the European countries"¹⁰⁸.

Meanwhile the anti-democratic decision making processes of Forum Trade meetings continue to fail to address the needs and interest of the Forum Island Countries. Two key proposals put forward by the Pacific: for the Office of the Chief Trade Advisor and for the Draft Joint PACER-Plus Roadmap are integral to addressing the asymmetry that exists between the negotiating parties. Under enormous pressure and acting in good faith, island countries compromised on the Draft Road Map in the hope of gaining concessions for their demands around the OCTA. It turned out this strategy was in vain. In the end, the Islands conceded to beginning PACER-Plus negotiations immediately after the Forum Leaders meeting in Cairns (in August 2009) in the absence of a fully functional and resourced OCTA to assist small, vulnerable island economies during negotiations.

¹⁰⁷ Under the terms of the original PACER agreement, Forum Island Countries are obliged individually or collectively to enter into consultations with Australia and New Zealand, with a view to commencing free trade negotiations, in various circumstances. One such trigger involves the start of formal negotiations for a free trade agreement with any other developed country although that obligation ceases if negotiations are discontinued without an agreement being concluded. That is not (yet) the case with the Pacific ACP/EU negotiations.

¹⁰⁸ Goff, P. (2007) 'Preliminary Discussions on Pacific Trade Agreement' *Ministerial Press Release New Zealand Minister of Trade, 12 June 2007*. New Zealand Government.

PACER formally separates trade negotiations from other aspects of the relationship between Australia and New Zealand and the Forum Island Countries, including aid. Yet, as this report demonstrates, the realities of aid politics accompanied by diplomatic heavying in the Island capitals is destined to breed bitterness and will begin to divide Pacific Leaders and intensify already fractious regional politics. The current trend of regional trade discussions over the last two years exposes a clear threat that the Pacific Island countries will lose their ability to speak as one voice. The exclusion of Fiji from negotiations is likely to add another dimension to fractious regional politics.

One way the FICs might redress the compromises they have been bullied into during the PACER-Plus process so far would be to support Fiji's call for a moratorium on any decisions under PACER (or PICTA) until consultations over its unlawful exclusion have produced a satisfactory outcome, and use this opportunity to renegotiate the OCTA and the Joint PACER-Plus Roadmap to seek better outcomes for island countries. This is a high risk strategy. But so is a WTO-Plus free trade agreement negotiated on terms dictated by Australia and New Zealand.

The PACER-Plus process to date should serve as a warning for Pacific island governments against believing that Australia and NZ might somehow be convinced to adopt a pro-development platform, just as their experience with negotiations for an Economic Partnership Agreement with the European Union should serve as a powerful reminder of the emptiness of development rhetoric when it is trapped within a free trade agenda.

Who is the Pacific Network on Globalisation?

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. PANG provides considered research and analysis on trade issues, and regular media input – on trade and human development – across the region. PANG also plays a very important campaigning role, lobbying to have the concerns of Pacific civil society heard in fora where the Pacific’s economic future is increasingly determined.

Ultimately, PANG aims to improve effective and democratic governance in the Pacific, by empowering Pacific civil society and private sectors to engage the decision making process around trade and economic planning.

