



**PACIFIC ISLANDS FORUM SECRETARIAT**  
*Excelling Together for the People of the Pacific*

# PACER Plus: Qualification Criteria/Provisions and Preferential Treatment

**Technical Workshop on International Merchandise Trade Statistics:  
*Focusing on goods traded under the preferential trade agreements***

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# Key Elements of the Chapter

## • Scope of the MFN Clause (Article 3:2)

- MFN obligation applies to preferences initially effective after the entry into force of PACER Plus

## Number of Exceptions

- Preferences in favour of LDCs pursuant to WTO Decisions **(Art3.2.a)**
- All regional trade agreements exclusively involving PICs (e.g., PICTA, MSG), also including with PICs that are not parties to PACER Plus\* **(Art3.2.b)**
- Regional trade agreements exclusively involving developing economies, with the share of world merchandise trade of no individual party more than 1%. **(Art3.2.c.i)**
- Regional trade agreements exclusively involving developing economies, with the collective share of world merchandise trade of all PACER Plus non-parties not more than 4% **(Art3.2.c.ii)**
- FSM's, Palau's and RMI's preferences granted within the framework of their respective Compacts of Free Association with the US **(Art3.2.3)**

\* Pacific Island Territories: American Samoa, French Polynesia, Guam, N.C, Northern Mariana Islands, Pitcairns, Tokelau, Wallis & Futuna, FICs and former Pacific Island Territories

# Key Elements of the Chapter

## Modification/Withdrawal of Tariffs *(Art3.7-9)*

- Where a FIC has difficulties in implementing its tariff commitments, it may modify or withdraw its tariff concessions
  - upon agreement with all interested Parties and the payment of compensation *(Art3.7.a)*
  - Where there is no agreement among the Parties within 60 days of the request being made, the FIC seeking to withdraw the concession may refer the matter to the Joint Committee (JC)
  - The JC will have 30 days to determine the level of compensation and then authorize the FIC to withdraw or modify its concessions *(Art3.8)*
  - FICs can have access to this provision after the expiry of the transitional period (3 year period from entry into force of PACER Plus or staged elimination for that good) – *(Art3.8.e)*

# Key Elements of the Chapter

## Trade Remedies

- Possibility for Parties to impose antidumping and countervailing duties as well as global safeguard measures on a Party's product if the relevant conditions are satisfied
- Transitional safeguards also possible where a product is being imported into a Party's territory in such increased quantities and under such conditions as to cause or threaten to cause serious injury to the domestic industry that produces a like or directly competitive good.
- Remedy: Party can suspend tariff reductions or increase the level of its tariff to the MFN applied rate of duty or the general non-preferential applied rate of duty (the lesser of the two). Distinction between WTO Parties and non-Parties
- Provisional remedy available in special cases
- Compensation payable – mutually agreed or procedure under Article 3.7

# Key Elements of the Chapter

## Industry Development

- Possibility for Parties to impose measures for purposes of industry development
- Measure could take the form of a suspension of tariff reductions or an increase in the level of tariffs to the MFN applied rate of duty (for WTO Parties) or to the general non-preferential applied rate of duty (for non-WTO Parties) at the time request is made.
- Measure(s) in force should not affect more than 8 % of the affected Party's exports to the requesting Party and more than 3% of tariff lines.
- Duration: Can be imposed for an initial period of 7 years, which can be extended for a further 3 years by the Joint Committee
- Compensation payable after 3 years of the imposition of the measure.

# Key Elements of the Chapter

## Industry Development

- Application of a new industry development measure on the same product possible after the lapse of 2 years.
- Possibility for Parties to have recourse to the modification/ withdrawal of tariffs article after the expiry of an industry development measure.
- Measure can be applied only during the transitional period for the reduction of tariffs. Agreement among the Parties to re-visit this provision.
- Special treatment of Kiribati owing to the fact that all its tariffs are currently zero rated.

# Tariff Commitments in PACER Plus: Annex 2-A

- All Parties in compliance with the WTO requirement to **liberalise** ‘**substantially all of their trade**’ with the other Parties in the Agreement.
- No formal definition of ‘substantially all trade’.
- **Australia and New Zealand** to bind all **(100%)** of their tariff lines at **0% (duty-free)** upon entry into force of the agreement
- Eligible products must satisfy the relevant Product Specific Rules (PSR)
- Each **FIC** negotiated its tariff commitments with the other Parties.
- Formal announcement of the conclusion of market access negotiations on 20 April 2017.
- Most FICs **excluded** (basket D/E) less than 5% of tariff lines in their Schedules
- FICs liberalized on the average **90%** of the recent exports of AU and NZ to their countries.



# Rules of Origin Criteria

## ❑ PSR Rules of Origin Determination

Substantial Transformation - methods:

### 1. Change in Tariff Classification (CTC)

- Requirement that the final good comes under a different tariff classification than the one of the inputs used in its production
- Based on the Harmonized System of Product Classification (HS)
- E.g. Chapter 02 (Meat and edible meat offal): CC (Change in Chapter)

### 2. Regional Value Content (RVC)

- Sets requirements in terms of the domestic content that is included in the finished product – usually set by way of a percentage.
- E.g. Chapters 61 and 62 (clothing): RVC (40)

### 3. Specific Process Operations

- Requires identification of all the processes carried out in the territory that will confer origin to that product
- A specific process of production must be followed to confer origin
- E.g. for headings 0306–0308 (crustaceans and molluscs and other aquatic invertebrates): smoking, drying or production of flours, meals or pellets.