

The agreement includes chapters that cover various legal and institutional issues. These are designed to ensure there are clear processes and guidelines for the ongoing governance and development of the agreement.

Legal and institutional elements

Exceptions

The General Provisions and Exceptions Chapter sets out a number of exceptions to ensure that PACER Plus does not impair each Parties' ability to make legitimate policy and undertake measures to further that policy e.g. adopting environmental measures necessary to protect human, animal or plant life or health. In the unusual situation where this would breach a PACER Plus obligation, this chapter provides a safety net to ensure that the policy would still be allowed.

The exceptions cover policy areas that are critical for New Zealand to preserve regulatory freedom, including health, environment, security, taxation, and the Treaty of Waitangi. The Treaty of Waitangi exception provides additional clarity that the Crown will be able to continue to meet its obligations to Māori, including under the Treaty of Waitangi.

Dispute settlement

The Consultations and Dispute Settlement Chapter establishes an effective, efficient and transparent process for the resolution of disputes arising under PACER Plus between the Parties. This ensures that New Zealand is able to pursue a matter to arbitration if it considers that another Party has not acted in accordance with obligations under the agreement. New Zealand may also be held to account if another Party considers that New Zealand has not fulfilled its obligations.

The chapter requires Parties to make every effort to reach a mutually satisfactory solution through consultations requesting the establishment of a panel.

PACER Plus does not contain any investor-state dispute settlement rules.

Joint Committee

The Institutional Provisions Chapter establishes a PACER Plus Joint Committee consisting of representatives of the Parties. The Joint Committee will serve as a forum for the Parties to meet to discuss the implementation and operation of PACER Plus, and to undertake a general review of the agreement to ensure it remains current and fit for purpose.

The Joint Committee will also will agree the work programme priorities and funding for the Development and Economic Cooperation Work Programme, which is part of the agreement, and review progress towards objectives.

Depositary

Tonga is the Depositary of the Agreement. As Depositary, Tonga is responsible for various tasks including notifying all Parties of signatures, acceptances, ratifications, accessions to, and withdrawals from PACER Plus.

Entry into force

Entry into force is subject to the completion of the internal requirements (i.e. domestic legal procedures) of the Parties. It will occur 60 days after the date on which at least eight Parties have notified the Depositary in writing of the completion of these requirements. Participating countries estimate it will take 18 to 24 months from the date of signature. Any Party may withdraw from PACER Plus by providing six months' notice of withdrawal.



Accession

The Agreement shall be open to accession or association by a State, separate customs territory or self-governing entity as the Parties may agree. A key requirement for accession is successfully concluding market access negotiations for goods, services and investment with the existing PACER Plus Parties.

Steps required before PACER Plus can take effect in New Zealand

PACER Plus was signed by New Zealand in Nuku'alofa, Tonga on 14 June 2017. Following signature, PACER Plus went through the Parliamentary treaty examination process. The Foreign Affairs, Defence and Trade Select Committee (FADTC) reported back to the House of Representatives on the Treaty on 4 August 2017.

The Tariff (PACER Plus) Amendment Bill will amend the Tariff Act 1988 by enabling the application of preferential tariff rates under the PACER Plus and amending the rules on “goods re-entered after repair or alteration” in the Tariff. The Bill had its first reading on 8 May 2018 and was referred to FADTC. PACER Plus will enter into force after eight signatories have completed their own domestic approval procedures.



Legal and Institutional Chapters

THE PACIFIC AGREEMENT ON CLOSER ECONOMIC RELATIONS PLUS

The Pacific Agreement on Closer Economic Relations Plus is a landmark trade and development agreement that will raise living standards, create jobs, increase exports in Pacific Island countries and provide greater certainty for New Zealand businesses trading in the Pacific.

Want to find out more?

Visit the Trade section of the Ministry for Foreign Affairs and Trade website www.mfat.govt.nz/en/trade to find out more about PACER Plus and the benefits it is designed to deliver. This website includes:

- The full text of PACER Plus
- Factsheets on key areas for New Zealand; and
- The National Interest Analysis.

Disclaimer – This document is for information purposes only, and does not constitute legal advice.

Submissions or requests for information can be sent to: PACREG@mfat.govt.nz