



PACER Plus

IMPLEMENTATION UNIT

The PACER Plus Arrangement on Labour Mobility

A framework to increase effective regional labour mobility cooperation



PACER Plus Implementation Unit

12 September 2023

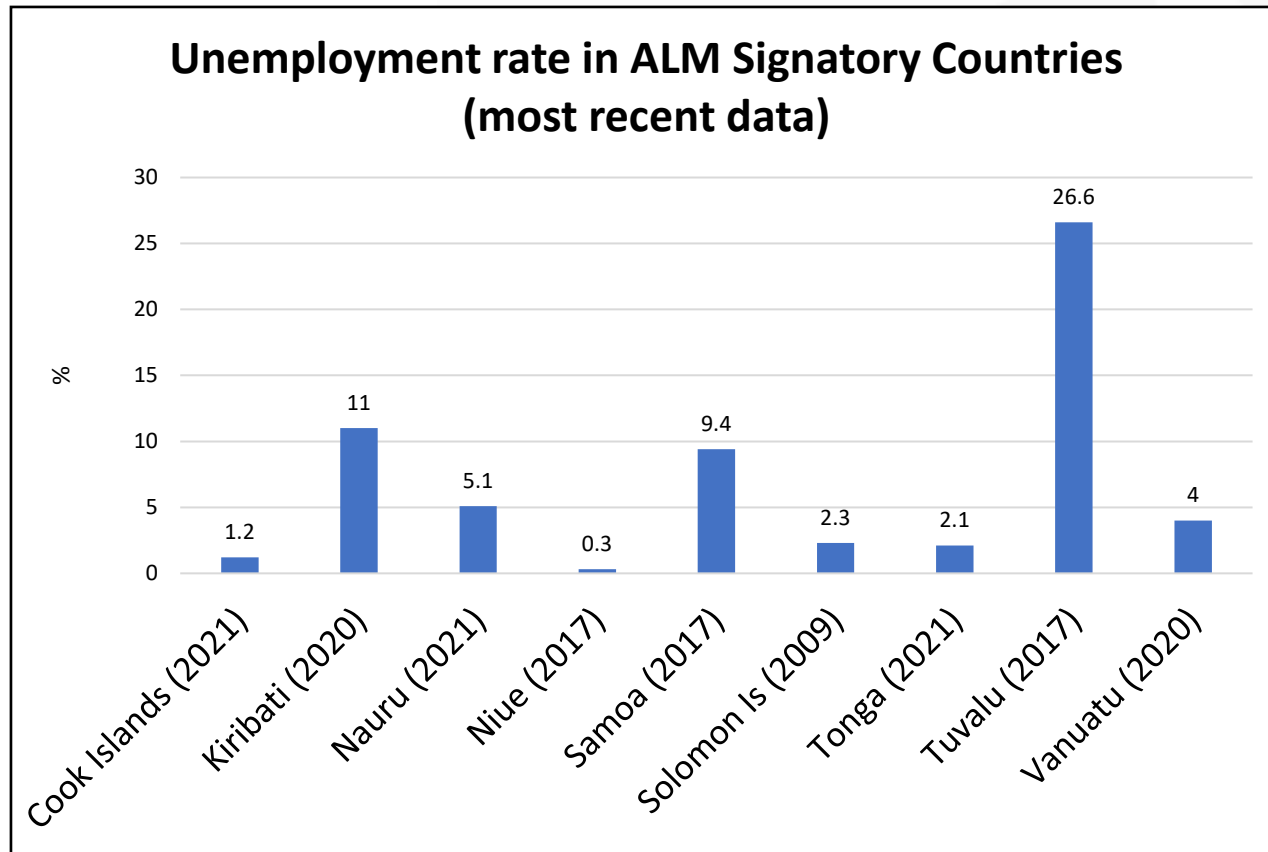


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**Why is Labour
Mobility
important for
Pacific island
countries?**



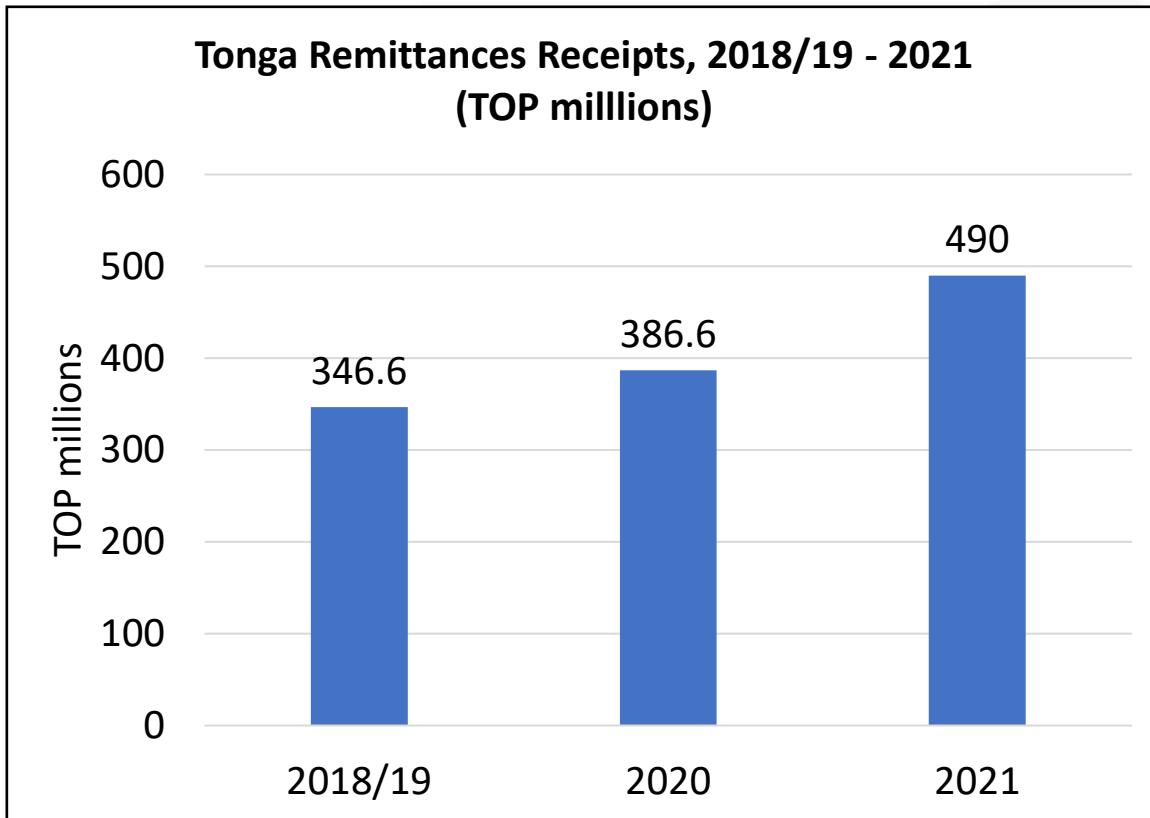
1. Employment Creation



Source: ADB, 2023

- Unemployment and underemployment (vulnerable employment without cash incomes), exists as critical development challenges for the Pacific. Solomon Is in 2018 – 80.3% of labour force in vulnerable employment
- The total population of Pacific Island Countries is growing faster than the world average of 1.1%; Vanuatu (2.3%), Solomon Is (2.3%) and PNG (2.2%) are growing at more than double the world average
- The region has not been able to generate its youth bulge dividend due to countries' small and nascent private sectors
- Labour mobility provides an employment creation strategy that is built on the region's strengths and not restricted by its geographic disadvantages
- Important to recognise different levels of supply capacity

2. Financial capital flows: Remittances and Worker Savings



Source: Tonga National Reserve Bank, 2022

- Volume of remittance flows are larger than other capital flows e.g: Tonga 2020 data: FDI = 9% of GDP; Exports = 19% of GDP; Remittances = 39% of GDP. Remittances also exceeded ODA (TOP209.6m in 2021)
- Remittances from SWP workers to Tonga 2012-2017 estimated to have reached AUD94million
- Remittances are relatively more stable, countercyclical and resilient during times of economic downturn, including COVID-19
- Remittances are private transfers and can therefore directly contribute to poverty alleviation
- In addition to remittances, many workers also return with substantive savings
- Worker superannuation earnings also flow back to Pacific countries

3. Generation of Net-Skills Gains



- Labour mobility can become a process of human capital formation
- Opportunities for skills development at pre-departure, on the job and upon return
- Opportunities for investment and transfer of skills upon return for local development
- To generate net-skills gains, the skills acquired and transferred must be greater than the skills outflow/initial level of skills
 - Are the skills development opportunities sufficient and are they aligned to development priorities?
 - Are the skills acquired transferable and are there opportunities for the transfer of skills for local development?



The Triple Wins



PHOTO: WORKERS' programme (right) - Business training is vital for young women, says an international expert speaking before an audience. (12/11/2018) - LPH/STP

Workers' programme opening business-to-business opportunities

The Women's Enterprise Programme is looking at encouraging businesses to form partnerships between them and identify their greatest sources of skills and knowledge transfer, including training and mentoring the workforce to ensure they provide the best environment for women to flourish in the private sector. (12/11/2018)

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Labour mobility a triple win: Treasurer

Businesses are also offering to train and employ women who have the relevant skills from women's training hubs.

It means that the UK has been successful in providing women with the skills they need to flourish in the private sector.

Women have been successful in their training hubs, including those in London, Manchester, Bristol, Exeter, Milton Keynes and New York, to name a few.

The skills they have gained help them to flourish in the private sector, voluntary and not-for-profit sectors.

These skills are being provided to women who are looking for work.

It is a win-win-win for women, businesses and the economy.

The Women's Enterprise Programme is already helping to provide women with the skills they need to flourish in the private sector.

These skills are being provided to women who are looking for work.

Weighing the Wins against the Losses



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1. Country of Origin

Remittances
Skills development
Increased savings and financial inclusion
Increased business investments and private sector growth
Reduced strain on wage employment
Poverty alleviation and improved standards of living
Local community development
Eases pressure on government services
Reduced tensions and social problems amongst unemployed youths
Increased international trade and investment with ANZ

Increased cash dependency
Skills loss – social and economic impacts
Increased aid dependency
Increased consumption of imported products
Increased social problems amongst worker households resulting in increased pressure on social services



2. Country of Destination

Improved industry viability
Increased responsiveness to labour shortage in rural areas
Increased responsiveness to employer demand
Closer relations with Pacific countries
Rural development - increased ancillary services to meet worker demands

Increased reliance on imported labour while maintaining high unemployment in rural areas
Reduced incentive for employment by locals in rural areas
Political backlash for reliance on Pacific migrant workers
Increased pressure on departments facilitating labour mobility

Weighing the Wins against the Losses



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3. Workers and their households

Increased income

Increased skills (including certified training)

Improved standard of living

Sustainable livelihood opportunities (education, business investments, savings, higher skilled employment)

Personal exposure and self-development

Opportunity cost of duties at home and in community not delivered

Reduced quality of parenthood and wholesome care of children

Increased marital issues due to separation

Increased domestic violence

Increased health risks (unhealthy diets, diseases and transmission to household, deaths)



How to maximise
wins and
minimise losses?

Development Dilemma



PACER Plus Arrangement on Labour Mobility (ALM)

- The Arrangement on Labour Mobility was signed alongside the PACER Plus Agreement in July 2017
- An Annex to the PACER Plus Agreement
- Signatories to the ALM can gradually progress to later ratification of the PACER Plus Agreement





What is the Arrangement on Labour Mobility?

A Regional Framework for Labour Mobility Cooperation

Purpose

- To strengthen Pacific labour mobility cooperation between the Participants

Scope

- Temporary movement of workers of a Participant to another Participant for the purpose of temporary employment
 - ✓ Low-Skilled, Semi-Skilled and Skilled LM
 - ✓ Not restricted to existing labour mobility programmes
 - ✓ Can include intra-Pacific labour mobility programmes

What is the Arrangement on Labour Mobility?



Key Objectives:

- (a) establish a **broad regional framework for labour mobility cooperation**, including through establishing a **PLMAM to advance areas of cooperation identified in this Arrangement**;
- (b) **enhance labour mobility schemes**, including Australia's SWP and New Zealand's, RSE to **maximise the development benefits for all participating countries**;
- (c) **promote the utilisation of other labour mobility opportunities in Australia and New Zealand** for the Developing Country Participants;
- (d) **strengthen the legislative, regulatory and institutional frameworks for labour mobility in the participating countries**;
- (e) **facilitate the circulation of temporary workers amongst the Participants**;
- (f) **consider the social issues** associated with the circular migration of workers from Developing Country Participants to Developed Country Participants;
- (g) **support efforts to build the labour supply capacity of the developing country Participants through the provision of relevant education and training opportunities for their nationals**; and
- (h) **explore opportunities to facilitate the recognition of qualifications** throughout the region **by encouraging competent bodies within their territories to cooperate with each other**

What can we understand from the objectives?



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Goes beyond MNP Objectives

- Not limited to market access

Development Focus

- Maximise development benefits
- Skills development to build labour supply capacity
- Consideration of social issues
- Strengthen legislative, regulatory and institutional frameworks

Increase opportunities beyond LM schemes (at the time)

- Utilisation of other labour mobility opportunities in Australia and NZ
- Circulation amongst Participants



Flexibility to impose immigration and employment measures

2. These objectives are without prejudice to the right of each Participant to impartially and fairly establish, administer and enforce its immigration, workplace and employment policies and laws, including eligibility criteria.

- As with the MNP - Parties can retain broad flexibility to impose immigration measures
- ALM also provides flexibility for Parties to impose workplace and employment policies and laws including eligibility criteria



Unpacking the ALM

How aligned are the provisions to the objectives?

**Paragraph 4:
PLMAM**

- a mechanism to advance the areas of cooperation identified in the ALM
- comprise representatives from each of the Participants; meet once a year; establish own procedures for its meetings and decision making
- A consensus report on the discussions and any recommendations conveyed to the FTMM
- responsible for reviewing progress against the objectives of the ALM
- complement and support other meetings and forums
- Developed Country Participants will fund the holding of the PLMAM

Objective:

a) establish a broad regional framework for labour mobility cooperation, including through establishing a PLMAM to advance areas of cooperation identified in this Arrangement;

- Is PLMAM delivering on this objective?
- What needs to be improved?

**Paragraph 5:
Enhancement of
Labour Mobility**

- Participants **recognise that the operation of the existing labour mobility schemes is employer-driven and subject to labour market demand** in the receiving country Participants
- workers from the sending country Participants **should not undercut wages and employment conditions in the receiving country Participants**
- **Explore possibilities of operational improvements and expanding labour mobility opportunities to new occupational areas where there are labour shortages**
- Re-enforces accountabilities in the bilateral MOUs
- **Labour sending countries** – quality work ready pools, inclusive selection processes, support to workers while working overseas including appointment of Liaison Officers, government department to administer labour mobility schemes
- **Labour receiving countries** – assistance for improving selection and recruitment processes in sending countries, promotion to employers, offer training programmes – pre-departure, on the job and reintegration, explore opportunities to reduce tax and improve health insurance arrangements

Objectives:

- (b) enhance labour mobility schemes, including Australia's SWP and New Zealand's, RSE to maximise the development benefits for all participating countries;
- (c) promote the utilisation of other labour mobility opportunities in Australia and New Zealand for the Developing Country Participants;

- Market access is contingent on conditions in labour receiving countries (labour demand, does not impose risks to local labour market)
- Are accountabilities still relevant to current MOUs and labour mobility landscape?
- Are these sufficient to maximise development benefits?

**Paragraph 6:
Support for
Institutions**

- Participants **recognise the importance of strong institutions and good governance** to support positive labour mobility outcomes
- **Developed country members may assist** developing country participants in:
 - (a) **institutional capacity building** with respect to agencies in the developing country Participants dealing with Labour mobility;
 - (b) developing **coherent national policies on labour mobility and on visa and immigration procedures** in the developing country Participants;
 - (c) implementing **programmes to strengthen the collection and harmonisation of labour market statistics** in the Developing Country Participants, **with a view to improving labour market planning and strategising labour export**; and
 - (d) **working with relevant private institutions to optimise the benefits of labour mobility at the individual, community and national levels**, including through the **reduction of bank transfer costs and speeding up the transfer process.**

Objective:

(d) **strengthen the legislative, regulatory and institutional frameworks for labour mobility in the participating countries:**

- Focused on support for institutions in Pacific participating countries
- Support for institutions should be led and informed by Pacific countries

**Paragraph 7:
Facilitation of
Circulation**

- The Participants **will comply with each other's visa and work permit arrangements.**
- The Participants **will endeavour to promote greater use of existing visa categories by nationals of the other Participants, including by making information publically available on their respective visa and work permit arrangements.**
- **Where appropriate, the Participants will consider requests by the Developing Country Participants to simplify visa procedures and process visa applications as expeditiously as possible.**

Objective:

(e) facilitate the circulation of temporary workers amongst the Participants

- Is this sufficient to facilitate intra-Pacific labour mobility?
- Was the intention of the ALM focused only on labour mobility to Australia and NZ?

**Paragraph 8:
TVET and other
Tertiary
Education**

- Participants **recognise the importance of further enhancing TVET and other tertiary education programmes that build the labour supply capacity** of the Developing Country Participants and respond to domestic and regional labour market demand
- **Where available**, the Participants will **endeavour to share information on areas of current and projected skill shortages in their respective labour markets**, including through the PLMAM.

Objective:

(g) support efforts to build the labour supply capacity of the developing country Participants through the provision of relevant education and training opportunities for their nationals; and

- Provision encourages recognition of TVET and tertiary education to labour supply capacity and seeks to facilitate information sharing on skills shortages.
- How well aligned is paragraph to the objective? Does it foster skills development for labour supply development?

**Paragraph 9:
Facilitation of
Recognition of
Qualifications and
Registration of
Occupations**

- The **Participants acknowledge the importance of the recognition of qualifications** throughout the region and will consider the opportunities offered in this area by their accession to the **Revised Asia-Pacific Regional Convention on the Recognition of Qualifications in Higher Education 2011**.
- **Developed Country Participants will to the extent possible, support the Developing Country Participants to increase their capacity to assess qualifications and facilitate the development, accreditation and registration of qualifications and recognition of those qualifications.**
- **For licensed and registered occupations, the Participants will endeavour to make publically available the regulations and processes to be followed by applicants to achieve licensing or registration by the accredited boards**
- **The Participants will encourage their relevant qualification and occupation assessment and accreditation bodies to consult with each other** and with relevant regional bodies with a view to exploring possibilities of recognition of qualifications within a reasonable period of time following the commencement of this Arrangement.

Objective:

(h) explore opportunities to facilitate the recognition of qualifications throughout the region by encouraging competent bodies within their territories to cooperate with each other

Trade in Services — no requirement to recognise qualifications / experience gained in another Party; if Party agrees on MRA with another country — must give other Parties opportunity to negotiate comparable MRA; recognition must not be discriminatory or disguised restriction on trade; Parties required to encourage professional bodies to explore possibility of recognition

- ALM provisions are much broader with stronger emphasis on facilitating recognition

**Paragraph 10:
Transparency and
Enquiry Points**

- Each Participant will endeavour to make publically available its laws, regulations, procedures and administrative rulings of general application relating to any matter covered by this Arrangement, as well as notify Participants of any draft measures which may significantly have an adverse impact on the operation of this Arrangement.
- Each Participant will endeavour to designate one or more enquiry points to address inquiries from interested persons concerning labour mobility matters and will make information concerning procedures for making enquiries available online.

Consistent with transparency commitments in the PACER Plus

**Paragraph 11:
Technical
Discussions**

- **Participant may request in writing technical discussions** with any other Participant concerning **any measure which may impact significantly on the implementation, interpretation, application or operation of this Arrangement (measures must not be related to immigration, workplace or related measure)**
- The **Participants will make every effort to arrive at a mutually satisfactory solution** of the matter through technical discussions under this paragraph. Where mutually determined by the relevant Participants, the results of technical discussions may be shared more widely with other Participants.

- Reenforces flexibility granted to countries to impose immigration and employment measures

Paragraph 12: Entry into Effect, Withdrawal and Termination of the Arrangement

- This Arrangement will enter into effect on the date of its signature. **It will remain in effect for a Participant until such Participant serves a notice of withdrawal** in accordance with subparagraph 3, or **when the Participants collectively decide to terminate** it in accordance with subparagraph 4.
- **An independent evaluation will be commissioned to assess whether the objectives of this Arrangement are being met** within five years of its signature.
- A **Participant may withdraw** from this Arrangement by giving notice in writing to the other Participants not less than six months before the proposed date of withdrawal.
- This **Arrangement may be amended or terminated at any time by mutual agreement between the Participants.**

- Provision for the ALM Review
- Flexibilities for Participants to withdraw and for Arrangement to be amended or terminated upon mutual agreement



Which objective was not covered in the paragraphs?

- (f) consider the social issues associated with the circular migration of workers from Developing Country Participants to Developed Country Participants;

Is the ALM non-legally binding?



- A legally binding agreement provides agreed rules, obligations and commitments that are enforceable by law – the case of the chapters in the PACER Plus Agreement
- The ALM is a side-arrangement that is considered non - legally binding
 - It is a consolidation of mutual “understandings” that are guided by agreed objectives.
 - It does not include commitments or impose obligations on any Party

Why is it non-legally binding?

Insights into PACER Plus negotiations

- Pacific countries wanted an agreement that went beyond the bilateral labour mobility schemes
- They saw the need for binding commitments to ensure that the region's gains from labour mobility are safeguarded
- Such binding commitments have not been given by Australia and New Zealand in any of their FTAs and required a substantial departure from their labour mobility commitments in both the GATS and FTAs
- Australia and NZ's Mode 4 commitments are traditionally limited to **highly-skilled intra-corporate transferees, independent executives, business visitors, and contractual service suppliers**
- The most outstanding departure for Australia and NZ from GATS commitments was in the Australia New Zealand Closer Economic Relations Trade Agreement (ANZCERTA), where free labour migration was granted to citizens of both countries.

Why is it non-legally binding?



- Non-discrimination principle of the trading system
- The MFN obligation requires all members to extend immediately and unconditionally to services or services suppliers of all other members “treatment no less favourable than that accorded to like services and services suppliers of any other country.”
- Derogations or exceptions from the MFN are allowed but under strict conditions
 - Regional Trade Agreements
 - Flexibilities for developing countries
- Limited scope and ambiguities in these conditions plus difficulties in measuring trade in services makes it difficult to comply with conditions

Benefits of a non-legally binding framework



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- Enables greater flexibility
- Broader scope
- Regional framework
- Reinforces accountabilities in bilateral MOUs
- Provisions exceed both bilateral MOUs and FTAs



Where to from here?

- Focus should not be on the non-legally binding nature of the ALM
- Focus should be on how we can maximise the benefits of a non-legally binding arrangement to increase development benefits and mitigate losses



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