



National Workshop on SPS &
TBT

23 May 2023

SPS & TBT in the PACER Plus Agreement

Understanding our obligations and how we can maximize the PACER Plus Agreement to increase Solomon Islands' exports and protect the country from harmful pests and diseases.



Presentation Outline

- ▶ Overview of PACER Plus
- ▶ Significance of SPS and TBT Measures to International Trade
- ▶ What is SPS and TBT?
- ▶ Purpose of SPS and TBT Measures
- ▶ Examples of SPS and TBT Measures
- ▶ Quiz
- ▶ SPS and TBT Obligations
- ▶ General exceptions to SPS and TBT Obligations
- ▶ Role of PACER Plus Implementation Unit
- ▶ Remaining SPS and TBT Activities for FY 2022/23
- ▶ Proposed Activities for FY 2023/24
- ▶ Quiz
- ▶ Evaluation

Overview: What is PACER Plus?

The **Pacific Agreement on Closer Economic Relations (PACER) Plus** is a landmark trade and development Agreement that entered into force on **13 December 2020**. It is currently in force for 10 countries; Australia, Cook Islands, Kiribati, New Zealand, Niue, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu

The Agreement covers **goods, services, and investment**. It aims to **lower barriers to trade, provide greater certainty** for businesses, raise living standards, create jobs and increase exports across the Pacific.

Once in force, the Governments of New Zealand and Australia agreed to fund a facility to assist Parties to implement the Agreement. This facility is the **PACER Plus Implementation Unit**, hosted by the Government of Samoa.

Signatories to the PACER Plus Agreement also signed the **Arrangement on Labour Mobility (ALM)**. This ALM is a commitment by all Parties to improve governance and cooperation on labour mobility in the Pacific. The secretariat for this sits within the PPIU.

The key components under PACER Plus

1. Rules of Origin and other Aspects of Implementation of Tariff Commitments

- Tariff liberalisation

2. Customs Procedures

- Modernisation, digitisation, improving efficiencies

3. Sanitary and Phytosanitary Measures

- Improved understanding and capacity for Solomon Islands producers to meet requirements

4. Technical Regulations, Standards and Conformity Assessment Procedures

- Improved understanding and capacity for Solomon Islands producers to trade (standards, labels)

5. Trade in Services

- Harmonising and improving standards and regulatory aspects to increase participation

6. Investment

- Increasing the confidence and quality of investors in SI, the investment admission process

Labour Mobility

- Improved strategies and framework to improve quality of participation and outcomes



What does PACER Plus mean for Solomon Islands?

Market liberalisation

Reduction of trade barriers (tariffs and non-tariff measures)

Non-discriminatory treatment of service providers and investors

Predictability so traders can adapt – lead time before changing any rules, regulations or standards

Improved access to information - transparency

A more level playing field for businesses

Significance of SPS & TBT to international trade

- ▶ Increasing exports of our local products is key to increasing incomes for our growers, fishermen, manufacturers and exporters
- ▶ Increased trade also increases the risks on human, animal and plant health, and environmental safety
- ▶ Countries therefore have a right to impose measures to mitigate these risks
- ▶ These measures include:
 - ▶ Sanitary and Phyto Sanitary (SPS) – e.g. Biosecurity Act 2013
 - ▶ Technical Barriers to Trade (TBT) –e.g. Consumer Protection Act 1995





Sanitary & Phytosanitary Measures

Sanitary



Human and Animal
Health (including fish
and wild fauna)

Phytosanitary



Plant Protection

Measure



Laws, decrees,
regulations,
requirements and
procedures

The **purpose** of SPS Measures is to protect the health of humans, animals, plants and territories



1. Protect human life and health against food safety and disease risks e.g: additives, toxins, contaminants in food/drinks; animal-carried diseases



2. Protect animals against disease and feed safety related risks e.g: animal diseases, disease carrying/causing organisms; additives, contaminants, toxins or disease-causing organisms in feed.



3. Protection of plants against pests, diseases, disease causing/carrying organisms



4. Protection of the environment against other damage caused by the entry, establishment or spread of pests

The diagram features a central orange box with the title 'Technical Barriers to Trade'. To the right, four white circles are connected by a vertical red line, each pointing to a horizontal text box of a different color. The background is dark green with some faint, light-colored lines on the left side.

Technical Barriers to Trade

Measures that define specific product characteristics
e.g: size, shape, design, labelling / marking /
packaging, functionality or performance

Laws, decrees, regulations, requirements and
procedures

Affects international trade in goods
(standards relating to services or labour are
not covered)

Does not cover SPS Measures

The **purpose** of TBT Measures are related to protecting health, safety, environment and providing consumer information

Technical Regulations

- Mandatory regulations that sets out product characteristics/process and production methods e.g: terminology, symbols, packaging, marking or labelling requirements that apply to the product, process or production method

Standard

- Same as Technical Regulation but are voluntary measures approved by a recognized body that provides rules, guidelines or characteristics for products, processes and production methods e.g: ISO standards

Conformity Assessment Procedure

- Any procedure used, directly or indirectly, to determine that relevant requirements in technical regulations or standards are fulfilled



Objectives of SPS and TBT measures

□ SPS

“Members **have the right** to take sanitary and phytosanitary measures **necessary** for the protection of human, animal or plant life or health, provided that such measures are **not inconsistent** with the provisions of this Agreement”

□ TBT

Members **have the right** to adopt measures to fulfil legitimate objectives, which include national security requirements, prevention of deceptive practices, protection of human health and safety, animal or plant life or health and the environment.

TBT vs SPS

SPS measures defined according to OBJECTIVES

- ▶ NOT by products
- ▶ NOT by type of measures

TBT measures defined according to TYPE OF MEASURE

NOT by products
NOT by objectives

SPS or TBT ?

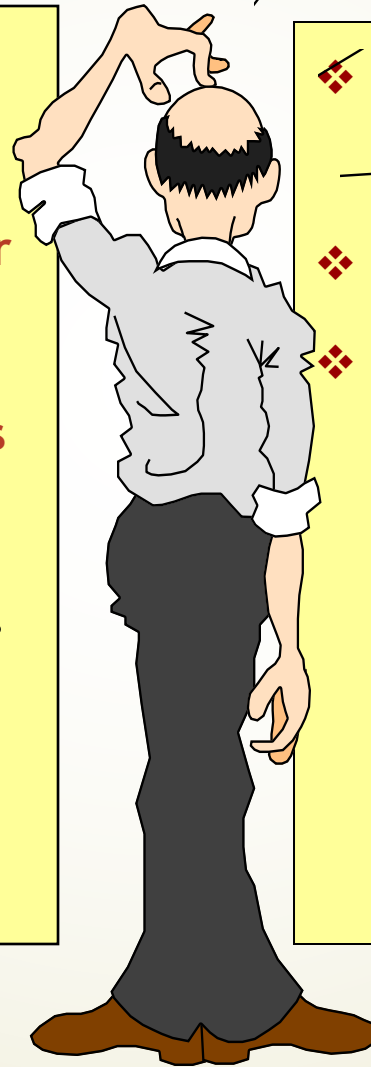
SPS Measures

- ❖ human or animal health from food-borne risks
- ❖ human health from animal- or plant-carried diseases
- ❖ animals and plants from pests or diseases
- ❖ examples:
 - ❖ pesticide residues
 - ❖ food additives

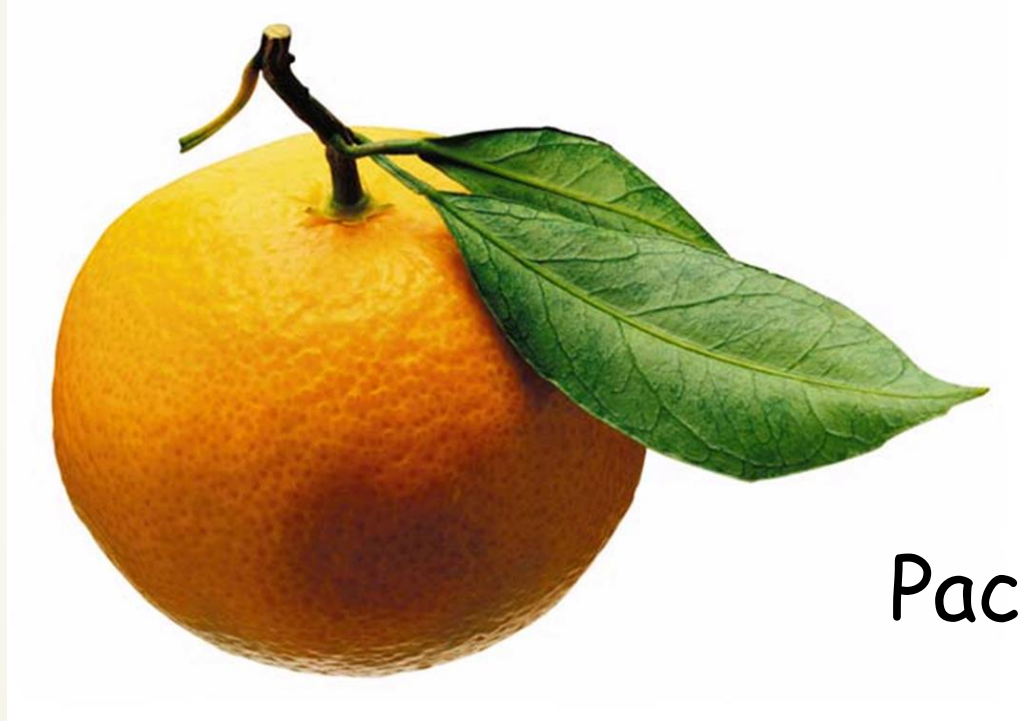


TBT Measures

- ❖ human disease control
— (unless it's food safety)
- ❖ nutritional claims
- ❖ food packaging and quality
examples:
 - ❖ labelling (unless related to food safety)
 - ❖ pesticide handling
 - ❖ seat belts



Minimum size of fruit?



Packaging?

Use of anti-pest sprays?

Use of non-toxic materials
for manufacture of bottles?



Shape ?

Nutritional
values (mineral
content)?


SPS and TBT Measures in force in Solomon Islands


- ▶ **Agriculture and Livestock Act 1935**
- ▶ **Bee industry Act 1994**
- ▶ **Biosecurity Act 2013**
- ▶ **Biosecurity Regulations 2015**
- ▶ **Commodities Exporting Marketing Authority Act 1985**
- ▶ **Consumer Protection Act 1995**
- ▶ **Dangerous Drugs Act 1941**
- ▶ **Customs and Excise Act 1960**
- ▶ **Explosives Act 1968**
- ▶ **Forest Resources and Timber Utilisation Act 1970**




What is a SPS measure?: WTO Definition

A measure taken to protect:

Human or animal health  risks arising from additives, contaminants, toxins or disease organisms in food, drink, feedstuff

Human life  plant- or animal-carried diseases

Animal or plant life  pests, diseases, disease-causing organisms

Territory of Member  other damage caused by entry, establishment or spread of pests

TBT covers: WTO definition



Technical
Regulation

Standard



Conformity Assessment
Procedures



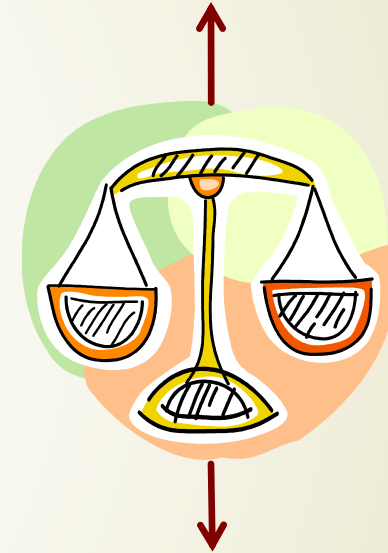
TBT covers

all technical requirements, voluntary standards and the procedures to ensure that these requirements and standards are met (ex. energy-saving devices, labelling of cigarettes)

Objectives of the WTO SPS & TBT Agreements

- ❑ **SPS:** ensure that food safety and animal and plant health regulations are not used as disguised barriers to international trade.
- ❑ **TBT:** ensure that technical regulations and standards, including packaging, marking and labelling requirements, and procedures for assessment of conformity with technical regulations and standards do not create unnecessary obstacles to international trade.
- ❑ It is a balancing act between the right to take a measure to protect a legitimate concern and the impact it has on international trade

Right to regulate



To the extent necessary to meet the objective

Objectives of SPS/TBT Agreements in PACER Plus

Safeguard the right of Parties to take SPS and TBT measures



...but ensure that these do not constitute unnecessary barriers to trade

□ “Plus”

- Establish a framework for cooperation on SPS/TBT issues
- Facilitate equivalence and harmonization
- Provide technical assistance to meet SPS/TBT requirements

Negotiating Objectives

What were the objectives of the FICs in the negotiations:

- Recognition of the inability of FICs to benefit from trade agreements such as SPARTECA is because of their inability to satisfy, *inter alia*, the stringent SPS and TBT measures, of A/NZ
- Assistance will be required by the FICs to meet the applicable standards of A/NZ

SPARTECA

Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Nauru, Niue, Papua New Guinea, Republic of The Marshall Islands, Samoa, Solomon Islands, Tonga, Tuvalu, Vanuatu



Duty free & Quota free in ANZ for FICs originating products

Australia & New Zealand

Negotiating Issues – SPS/TBT

What were the main negotiating issues:

- Recognition of the right of countries to impose SPS and TBT measures, but they should not be arbitrary or discriminatory and be a disguised restriction on trade.
- Parties must base their measures on international standards where they exist or carry out appropriate risk assessments – scientific evidence (SPS) or legitimate purposes (TBT)
- FICs to be assisted by A/NZ to comply with relevant SPS and TBT measures. Significant compliance costs for small suppliers/exporters



Negotiating Issues – SPS/TBT

What were the main negotiating issues?

- Should all the Parties apply WTO disciplines? FICs' view was that it should only be the WTO Parties and that the non-WTO FIC Parties should only be required to do so to the extent of their capacity. Agreement among the Parties on this threshold issue.



SPS/TBT
Agreements

FICs WTO Members

FICs non-WTO
Members



Negotiating Issues – SPS/TBT

What were the main negotiating issues?

- Development assistance: Recognition that the FICs would require assistance to implement the provisions of these Chapters and also put in place the necessary mechanisms to ensure the compliance of their products with A/NZ SPS/TBT measures. Key component of the Development Assistance Work Programme



Negotiating Issues – SPS/TBT

What were the main negotiating issues?

- Simplification of procedures, eg., equivalence-how to expedite the process of recognition? Should there be a [list of priority FIC products](#) to receive special attention?





Discussion Points

Do the Chapters on SPS and TBT impose any new obligations on the FICs?

The Chapters do not impose any new substantive obligations on the WTO Parties. With respect to the non-WTO FIC Parties, they will have to base their measures on the SPS and TBT Agreements to the extent of their capacity.

Will assistance be provided by Australia and New Zealand to the FIC to meet their SPS/TBT standards?

SPS and TBT are among the core components in the Work Programme that will be attached to the Development and Economic Cooperation Chapter. A number of FICs have indicated that they will need assistance to comply with the SPS and TBT requirements of A/NZ. Some are seeking assistance with heat treatment facilities; fumigation plants, testing laboratories, assistance to negotiate equivalence/ mutual recognition agreements etc. Some have requested for the expansion of the successful PHAMA programme to include more FICs and the scope of the programme broadened



Discussion Points

Will the FICs be flooded with unhealthy foods?

No; the SPS Agreement will not affect the right of countries to ban unhealthy foods, insofar as they have the scientific evidence.

Possible for Parties to impose provisional measures while they go about getting the evidence to support the ban

Let's
Practice!

Which of the
following fall
under SPS
and TBT
Measures?


Requirement to label amounts of fat and sugar on foodstuffs to combat obesity

Minimum size of fruit accepted to be imported

Import restrictions due to detection of salmonella in poultry

Prohibition to import wood furniture to prevent the introduction of a wood-boring pest that is hazardous to both cultivated plants and wild forests

Restrictions on possible toxic paint on children's toys



Another
one!

- ▶ Country A adopts a marketing restriction on tobacco products, aiming to protect and promote public health. The purpose of the measure is to safeguard consumers from health risks. Accordingly, it falls within the scope of the SPS Agreement


TRUE OR FALSE?

Agencies involved in SPS and TBT?

SPS

- Agencies that work on biosecurity matters – including those that develop import health standards, and those that enforce those standards at the border; agencies involved in setting and enforcing standards for food safety

TBT



Objectives of the PACER Plus SPS & TBT Agreements

Facilitate trade while:

- Protecting human, animal and plant health
- Ensuring environmental protection, safety, consumer information

Ensure that SPS and TBT measures do not create unnecessary obstacles to trade

Provide greater transparency, understanding and cooperation amongst PACER Plus Participants

PACER Plus SPS Obligations:

Basic
Obligations

Provisional
Measures

International
Standards &
Scientific
Justification

Equivalence &
Regionalism

Special &
Differential
Treatment

Transparency

Technical
Discussions

Application of
WTO SPS
Agreement

Basic Obligations:

PACER Plus allows countries to take SPS measures necessary to protect human, animal or plant life or health. The measures must be:

applied only to the extent necessary to protect human, animal or plant life or health

based on scientific principles -they are derived from scientific methods or have an exact, objective, factual, systemic or methodological basis

not maintained without sufficient scientific evidence - there is enough scientific evidence to allow a country to arrive at a sufficiently objective conclusion in relation to risk

not arbitrarily or unjustifiably discriminate - a country should not treat two products differently if the products present the same level of risk





Equivalence & Regionalism:

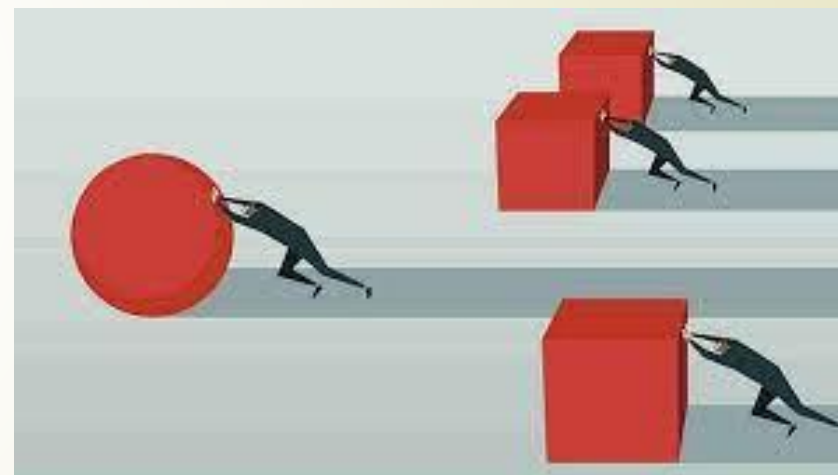


Special & Differential Treatment

When preparing SPS measures, all PACER Plus countries, whether developed or developing, are **required to take into account the development, financial and trade needs of developing country members of PACER Plus**

Given that the majority of PACER Plus countries are developing, the question of how to implement this obligation is likely to be part of an **ongoing conversation amongst countries**

Developing PACER Plus countries may adopt SPS measures to **preserve indigenous technology and production methods, and processes compatible with their development needs**



Notification Requirements

- A PACER Plus country must notify other PACER Plus countries of any proposed or actual SPS measure that may have a significant effect on trade

Publication

- Once a SPS measure has been adopted, there is an obligation to promptly publish it enabling interested Parties and persons to access them easily and get familiar with it

Information exchange

- Each PACER Plus country must respond to all requests for information or clarification about their SPS measures

Contact Points

- Each country has to name a Contact Point who will be responsible for answering enquiries on matters related to services.



Transparency:

Technical Discussions:

- ▶ Technical discussions are opportunities for PACER Plus countries to learn more about other countries' SPS measures
- ▶ Countries may request technical discussions on SPS measures which affect their trade (preferably virtual)
- ▶ Clear procedures are provided in the SPS Chapter
- ▶ PACER Plus countries engaged in the discussion can invite another PACER Plus country or a relevant international/regional organization to participate for the purpose of providing advice

Application of WTO SPS Agreement:

- ▶ Countries who are WTO members must apply the obligations set out in Articles 1-8 of the WTO SPS Agreement
- ▶ Topics covered under these articles include:
 - ▶ Playing a part in international organisations e.g: Codex Alimentarius Commission
 - ▶ Risk Assessments
 - ▶ Determine appropriate level of SPS protection
 - ▶ Adaptation to regional conditions
 - ▶ Transparency
 - ▶ Observe Control, Inspection and Approval Procedures

PACER Plus TBT Obligations:

Non-discrimination

Special & Differential
Treatment

Transparency

Technical Discussions

Compliance with
WTO Obligations



Non-
discrimination:

MFN

Products from PACER Plus countries are entitled to treatment that is **no less favourable than the treatment accorded to like products from any other country, whether or not that country is a member of PACER Plus**

National Treatment

Products from other PACER Plus countries are entitled to treatment that is **no less favourable than the treatment a country provides to like products of national origin**

Transparency:

Notification Requirements

- A PACER Plus country must notify other PACER Plus countries of any proposed or actual TBT measure that may have a significant effect on trade

Publication

- Once a TBT regulation or conformity assessment measure has been adopted, there is an obligation to promptly publish it enabling interested Parties and persons to access them easily and get familiar with it

Timing of entry into force

- PACER Plus countries are obliged to allow at least six months between the publication of a TBT measure and its entry into force

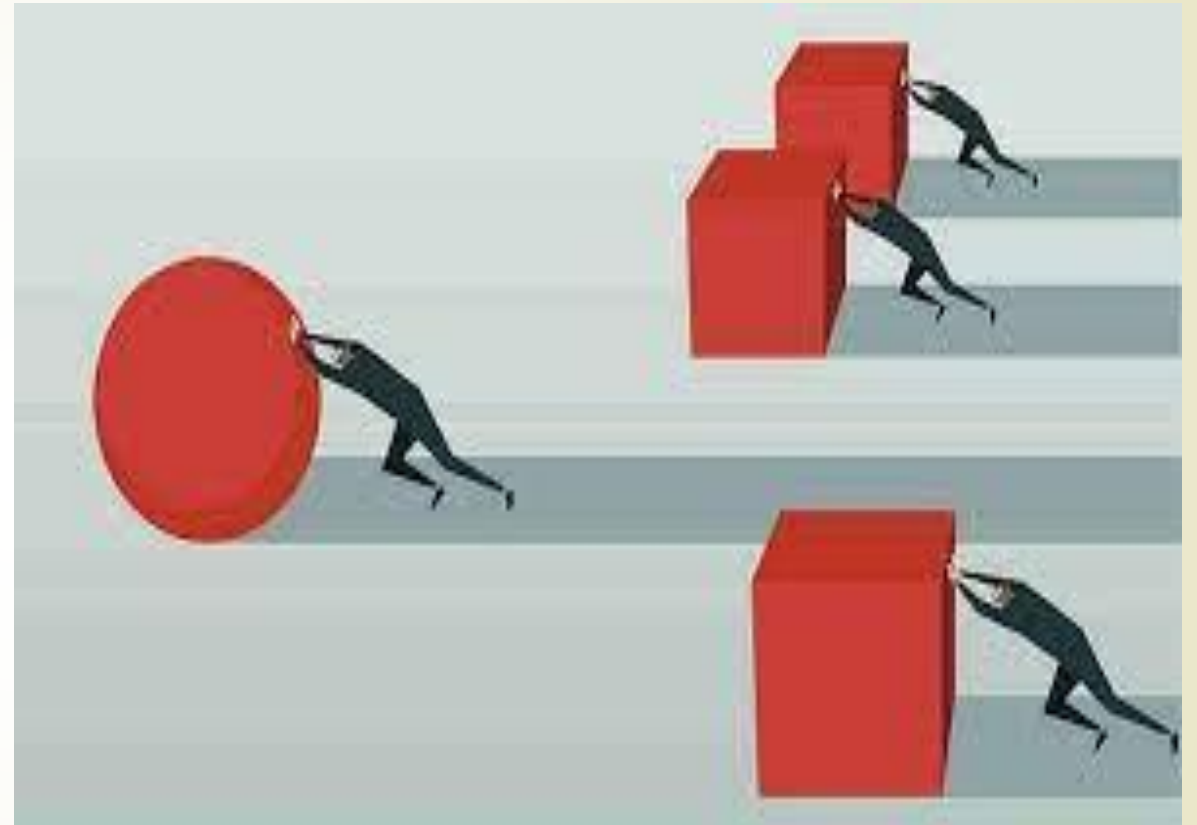
Information exchange

Special & Differential Treatment

When preparing TBT measures, all PACER Plus countries, whether developed or developing, are **required to take into account the development, financial and trade needs of developing country members of PACER Plus**

Given that the majority of PACER Plus countries are developing, the question of how to implement this obligation is likely to be part of an **ongoing conversation amongst countries**

Developing PACER Plus countries may adopt TBT measures to **preserve indigenous technology and production methods, and processes compatible with their development needs**



Technical Discussions:

- ▶ Technical discussions are opportunities for PACER Plus countries to learn more about other countries' TBT measures
- ▶ Countries may request technical discussions on TBT measures which affect their trade
- ▶ The countries involved in the discussions must make **every effort to reach a mutually satisfactory resolution** through electronic technical discussions within 90 days from the date of the request or within a timeframe mutually agreed upon by them.
- ▶ PACER Plus countries engaged in the Discussion can invite another PACER Plus country or a relevant international/regional organization to participate for the purpose of providing advice

Compliance with WTO Obligations:

- ▶ Countries who are WTO members must apply the TBT Agreement rules set out in Articles 1-10 of the WTO TBT Agreement
- ▶ Obligations include:
 - ▶ Preparation, Adoption and Application of Technical Regulations by Central Government Bodies, Local Government Bodies and Non-Governmental Bodies
 - ▶ Procedures for Assessment of Conformity by Central Government Bodies
 - ▶ Recognition of Conformity Assessment by Central Government Bodies, Local Government Bodies and Non-Governmental Bodies
 - ▶ International & Regional Systems

General Exceptions to the SPS & TBT Obligations:

- ▶ Exceptions allow countries to justify actions that would otherwise be a breach of the obligations in the SPS & TBT Chapters. The description of the exceptions is very general, and **advice should be sought on the application of the exceptions in any given situation.**
- ▶ Measures taken for these reasons must not constitute unjustifiable or arbitrary discrimination, or exist as disguised restrictions to international trade
- ▶ **General Exceptions:**
 - ▶ necessary to protect public morals
 - ▶ necessary to protect human, animal or plant life or health
 - ▶ necessary to secure compliance with laws or regulations that themselves are consistent with the obligations, such as those relating to customs enforcement
 - ▶ related to the conservation of exhaustible natural resources (whether living or not)
 - ▶ imposed for the protection of national treasures of artistic, historic or archaeological value (including protection of “creative arts of national value” such as dance and music, indigenous traditional practice, and contemporary cultural expression).
 - ▶ National security



Role of the PACER Plus Implementation Unit (PPIU):

► PPIU Results Framework for SPS & TBT

Intermediate Outcome

SPS

Performance improved in Participant countries' application of SPS measures and compliance with international rules, standards, and best practices to enable facilitation of trade and increase efficiency and transparency

TBT

Performance improved of Participant countries' application of technical regulations, standards and conformity assessment procedures (TBT) to enable facilitation of trade and increase transparency and efficiency

Short-Term outcome

STO1: Participant countries' policy and regulatory reforms to facilitate application of WTO-compliant SPS measures improved

STO2: Information systems to support efficient and transparent monitoring of SPS application utilised

STO3: Knowledge among public sector actors on SPS measures increased

Knowledge among private sector actors on compliance with SPS requirements and international standards

STO4: SPS-related equipment and infrastructure installed or upgraded to meet market access requirements

STO1: Regulatory and policy reforms on regulations, standards, and conformity assessment procedures improved

STO2: Knowledge of public sector actors to implement TBT obligations and apply international standards increased
Knowledge of private sector on TBT obligations and international standards increased

STO3: TBT-related equipment and infrastructure installed or upgraded to meet market access requirements

SPS & TBT Outputs

OU1: Technical assistance on policy and regulatory reforms to facilitate application of SPS measures delivered

OU2: Technical assistance to improve information systems to support SPS measures delivered

OU3: Capacity building programmes delivered to public and private sector representatives

Information generated and disseminated to public and private sector on SPS measures

OU4: SPS-related equipment and infrastructure secured
Capacity building delivered to utilise equipment / infrastructure for SPS compliance

OU1: Technical assistance on regulatory and policy reforms on regulations, standards, and conformity assessment procedures delivered

OU2: Capacity building programmes delivered to public and private sector to implement international standards
Information generated and disseminated to public and private sector on TBT

OU3: Procurement of TBT-related equipment and infrastructure secured; Capacity building delivered to entities to utilise equipment/infrastructure to facilitate market access requirements and application of TBT

SPS & TBT Activities in PPIU FY2022-2023 Annual Plan

Component	Activity	Delivery Partners
SPS	Productive Capacity Building on SPS - Training and Awareness Programs	Australia's DAWE and NZ MPI and SPC
SPS	Sea Container Hygiene	PHAMA Plus, Department of Agriculture, Water and Environment, Ministry for Primary Industries
SPS	Export Crops Promotion	PHAMA Plus, PT& I
SPS	Capacity building assistance for ePhyto - training and equipment	Engagement of STA's, potential procurement of equipment
SPS	Broader trade related assistance - Equipment	SPC, PHAMA Plus, DAWE and NZ MPI
TBT	Capacity building Testing and Food Safety	HACCP Australia, SPC, Standards Australia, UNIDO, JAS-ANZ, NATA
SPS & TBT	Legislative reforms	PPIU

- Improved coordination with key stakeholders will increase efficiency gains
- Activities are to respond to national challenges and needs

SPS & TBT Activities proposed for FY2023-2024

Component	Activity	Delivery Partners
SPS	E-Phyto – Capacity building, training and equipment	SPC, STAs
SPS	Export Treatment Facilities	PHAMA Plus, DAFF, MPI, SPC
SPS	SPS Training, workshops and technical assistance	PHAMA Plus, SPC
TBT	TBT legislation, policy and research	PQI, STAs
TBT	Testing, labelling and quality infrastructure support	PQI, Standards Australia and laboratories

- The Joint Committee will be meeting on 30th May 2023 to approve these activities



Tangio tumas!

