



TERMS OF REFERENCE

Activity Title:	Enhancing Investment Frameworks in Tuvalu through Policy and Legislative Reforms
Estimated Duration:	May – December 2024
Estimated No. of Days:	65 days
Activity No. & Budget:	Act.084_Investment Policy Review, AUD \$100,000 (inc of travel and all project related costs)
Location:	Remote, with travel to Tuvalu as required
Estimated Start Date:	May 2024
Reporting to:	Trade in Services and Investment Adviser

I. BACKGROUND

The Pacific Agreement on Closer Economic Relations (PACER) Plus (the Agreement) is a landmark trade and development Agreement that was signed in 2017 by the following countries: Australia, Cook Islands, Kiribati, Nauru, 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. PACER Plus entered into force on 13 December 2020, and has now been ratified by ten countries: Australia, Cook Islands, Kiribati, New Zealand, Niue, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu.

Tuvalu is poised to significantly enhance its investment environment, leveraging the provisions of the Agreement to bolster both foreign and domestic investment. This initiative aims to review and reform key investment-related legislations, namely the Foreign Direct Investment Act and the Partnership Act, alongside developing a comprehensive National Investment Policy. These efforts are crucial for aligning with international best practices, attracting investment, and fostering economic growth. Additionally, this initiative is aligned with Tuvalu's National Development Plan, ensuring that investment enhancement efforts contribute to the broader goals of national development and prosperity.

II. OBJECTIVE & SCOPE

The main objectives of the consultancy are to:

1. Conduct a thorough review of Tuvalu's Foreign Direct Investment Act and Partnership Act, identifying gaps and areas for improvement.
2. Draft appropriate amendments to the existing investment legislation.
3. Undertake consultations and analysis to Develop the Tuvalu National Investment Policy.

To achieve the above objectives, the Consultant/cy is required to:

4. Engage with national and regional stakeholders for insights on best practices and lessons learned, ensuring the legislative amendments and policy reforms are grounded in practical realities and expertise.
5. Work closely with the Tuvalu Ministry of Foreign Affairs, Labour and Trade to deliver



community awareness on proposed legislative amendments and investment policy details.

6. Collate and analyse investment related data to ensure proposed legislative amendments and policy development is grounded in evidence and contextually fit-for-purpose.
7. Consider the provisions and commitments of PACER Plus ensuring legislative amendments and policy recommendations align with these obligations.
8. Ensure outputs consider gender, disability and social inclusion as key elements of the legislative amendments and investment policy.

A proposed work plan:

May 2024: Initial assessment and analysis of Tuvalu investment regime, including review of critical documents, preliminary stakeholder consultations.

June-July 2024: Review and drafting of proposed amendments to Foreign Direct Investment Act and the Partnership Act, (potential) in-country visit, data collation and analysis.

August 2024: Presentation of legislative amendments and briefing for key stakeholders. Preparations for submission of amended legislation to relevant authorities. Commence formulation of the investment policy.

September-October 2024: Finalised amendments for the Foreign Direct Investment Act and Partnership Act. Finalise consultations for development of National Investment Policy, commence drafting policy.

November-December 2025: Validation and feedback of draft investment policy, presentation of final draft of legislation to key stakeholders. Preparations for submission of policy to relevant authorities.

III. DELIVERABLES

The Consultant will deliver the following outputs, to be approved by the Activity Supervisor according to the timelines detailed below:

1. **Inception Report** that details proposed work plan, approximate dates for in-country inputs, key stakeholders for consultation, potential risks and mitigation strategies.
 2. **Recommendations Report** on legislative amendments required to the Foreign Direct Investment Act and the Partnership Act, summary of consultations and data analysis.
 3. **Drafting instructions** for Foreign Direct Investment Act and the Partnership Act as per Tuvalu Legislative Drafting Guideline, or as per advice from Tuvalu Attorney Generals office.
 4. **Draft Tuvalu National Investment Policy**
 5. **Final Report and Investment Policy** including high-level action plan for policy implementation
- All outputs shall be provided in relevant Microsoft Office formats or in the format agreed with the PPIU.

IV. TIME AND PAYMENT SCHEDULES



The Activity shall be expected to be completed within a maximum of 65 days according to the indicated timeframes below. Exact dates of beginning and completion stages as well as scope of work may be amended in discussion with the PPIU.

Payments will be made as provided in the payment schedule below, upon the completion and approval of each deliverable.

Nr.	Deliverables	Indicative Time Frame (delivered by)	Payment Schedule
1.	Inception Report	24 May 2024	30%
2.	Draft Foreign Direct Investment Act and the Partnership Act	16 August 2024	20%
3.	Draft National Investment Policy	18 October 2024	20%
4.	Final Report and National Investment Policy	13 December 2024	20%

All project related travel requires prior approval from Activity Supervisor. Expenses will be reimbursed to consultant(s) according to policies and procedures detailed in the PPIU Operations Manual.

V. REPORTING:

- The Activity will be supervised by the Trade in Services and Investment Adviser, and will hold responsibility for guiding progress and technical advice on delivering the activity.
- The Consultant is required to report to the Trade in Services and Investment Adviser who will ensure that the deliverables are submitted according to the indicated timeframes and quality standards.
- Regular discussions with the PPIU and <partner government/beneficiary agency> will also be carried out during the consultancy period to monitor progress and constraints, support required and proposed solutions.

VI. QUALIFICATIONS, SKILLS AND EXPERIENCE REQUIRED OF CONSULTANT(S)

Preference will be given to Pacific-based consultants who possess the following qualifications, skills and experience, and personal specifications:

1. Qualifications:

- Postgraduate qualifications in Finance, Economics, Business Administration, International Trade, Law or in any other relevant area.

2. Skills & Experience:

- Understanding and experience of working in small island developing states and their investment regimes.
- Experience working with a range of stakeholders (including government officials and local communities) in undertaking legislative review and policy development in the Pacific context.
- Demonstrated contemporary knowledge of international best practice in international trade relations and promotion of foreign direct investment.



PACER Plus

IMPLEMENTATION UNIT

- Demonstrated experience in ensuring that gender and vulnerability considerations are integrated into the legislative review process and investment policy development.
 - Ability to proactively identify potential risks and develop strategies to mitigate them.
 - Demonstrated ability to manage large-scale projects under a well-defined consultancy framework, to deliver high quality products.
3. **Personal Specifications**
- Excellent command of English (oral and written)
 - Ability to work independently and as part of a multi-disciplinary team in a cross-cultural environment.