

PACER Plus Joint Committee Meeting (PPJC.01) - Outcomes Summary **30-31 March 2021 – Held virtually via Zoom**

Day 1 - 30 March 2021

The inaugural meeting of the Joint Committee took place virtually and was attended by the following Parties: Australia, Cook Islands, Kiribati, New Zealand, Niue, Samoa, Solomon Islands, and Tonga. Kiribati was unable to join for some parts of the meeting due to technical difficulties. Signatories Tuvalu and Vanuatu attended as observers to the meeting after D1.2, and Nauru was unable to attend the meeting.

The meeting was chaired by Mr Keawe Woodmore, Senior Official, Trade Negotiations Division, New Zealand Ministry of Foreign Affairs and Trade.

D1.1: Official Opening

1. The Chair opened the meeting with a prayer.
2. The Chair welcomed the Short-Term Project Administrator/Manager, Ms Ida-Tifitifi Fuimaono, and advised the Committee she would circulate the draft outcomes summary to the Joint Committee for review before adoption and public release.
3. The Chair declared the Agenda adopted noting the request for an update on the draft constitution to be provided under Agenda Item D2.2.

D1.2: Formal Standing up of Joint Committee and adoption of the Rules of Procedures

Rules and Procedures (*PPJC.1/D.1 & Rules and Procedures for the Joint Committee*)

4. New Zealand, as lead drafter, noted that the draft paper had been considered by Parties 3-4 times.
5. Cook Islands sought clarity around the need to have plenary and the difference between mutual agreement and consensus to ensure it is consistent with the text of the Agreement. Clarity was further sought on the decision-making process and specifically paragraphs 15 and 16 and whether decisions could be made intersessionally.
6. New Zealand responded to comments advising it is up to the delegation to confirm if they will attend the meeting. There was discussion around consensus and mutual agreement terms only applying to those Parties present in the meeting and decisions would be circulated after meetings to those who were not present. This matter also links to paragraph 16 on ad referendum where Parties need additional time to consult. Consensus is similar to mutual agreement but the Treaty will always be paramount. New Zealand reiterated that the Rules and Procedures is a living document and can be amended by consensus.
7. With regard to paragraph 30 of the Rules and Procedures, New Zealand proposed the Implementation Unit collate and maintain contact details for Party's designated contact point.

8. Cook Islands wished to note that because the Joint Committee would normally meet in person, guidelines should be created for virtual decision-making.
9. On contact points, after discussing this issue with UNCTAD and Chapman Tripp, Tonga was informed that notifications will be transmitted via the Trade Portal. New Zealand and Australia do not have a trade portal, therefore it is important to consider how this will be done.
10. Niue noted there is an opportunity to review the Rules and Procedures as needed (formal review in three years; and then five years after that). On decisions circulated via email that require endorsement, Niue questioned whether silence is considered as approval. Niue further advised that they were unsuccessful in conveying contact points through their Internal Affairs Ministry and will thus update contact points on their trade portal.
11. New Zealand proposed to amend Paragraph 16 on *ad referendum* to 'including for situations where a Party is not present at a meeting'.
12. New Zealand proposed to make the Implementation Unit a centralized point for all contact points. The recommendation reads, "agree that the PACER Plus Implementation Unit will maintain and circulate a consolidated list of contact points referred to in paragraph 30 of the Rules and Procedures".
13. The Chair sought a decision on how the Committee would treat email communications. Australia advised that silent consent provided a good balance for such a big work agenda and suggested timeframes could be discussed if it helps Parties to be proactive in their approach in communicating delays.

14. The Joint Committee agreed:

Action Item 1: To approve the Rules and Procedures for the Joint Committee provided in the attachment to PPJC.1/D.1 with amendments noted for paragraph 4(i), 6 and 11.

Action Item 2: Implementation Unit to propose a rotational schedule for the chairing of Joint Committee and Committee meetings, to be circulated to Parties for their consideration.

Action Item 3: To declassify the meeting paper PPJC.1/D.1 and attached Rules and Procedures for public release.

Action Item 4: The PACER Plus Implementation Unit will maintain and circulate a consolidated list of contact points referred to in paragraph 30 of the Rules and Procedures.

Observer Guidelines (PPJC.1/D.2 & Guidelines for Observer Status)

15. New Zealand informed the Committee that the observer guidelines were discussed in Port Vila in October 2019.

16. The Chair confirmed that the Joint Committee is tasked with reviewing and approving requests for observer status to the Joint Committee and its subsidiary bodies, although ministers have signaled the importance of the Agreement being inclusive.
17. Australia and New Zealand confirmed that the Readiness Package would still be accessible by the three Signatories, Nauru, Tuvalu and Vanuatu. However, once the Readiness Package funding is used, Australia and New Zealand could consider alternative funding arrangements.
18. The Joint Committee agreed:

Action Item 5: To amend the Observer Guidelines to reflect that observer governments, including the three Forum Island Countries which have signed the Agreement, will not be entitled to funding under the Development and Economic Cooperation Work Programme.

Action Item 6: Ensure observer status applies to the subsidiary bodies, an amendment to the Guidelines was made to include “and its subsidiary bodies” in the first paragraph, and direct subsidiary bodies to consider what observers should be invited to their meetings.

Action Item 7: To grant Nauru, Tuvalu and Vanuatu observer status and note in the Guidelines that they would continue to have access to the readiness package.

Action Item 8: Invite the Pacific Island Forum Secretariat to be an observer due to their regional trade policy mandate and leadership. Task the Implementation Unit to identify relevant regional organisations, drawing their attention to the Guidelines for Observer Status.

D1.3: Formal standing up of subsidiary bodies and their rules and procedures

Establishment of Subsidiary Bodies (PPJC.1/D.3 & Subsidiary Bodies Organogram)

19. Australia presented the paper recommending that the three subsidiary bodies are created including the establishment of the Budget Subcommittee. It was further recommended that the each subsidiary body meet in 2021, establish its terms of reference and report to the Joint Committee within one year. Australia suggested that the Budget Subcommittee (as per the Implementing Arrangement) be renamed Budget Committee for consistency.
20. Referencing paragraph 32 and 33, the Chair advised that the Rules and Procedures can be amended at any time through a decision by the Joint Committee, however, there will be a formal review of the overall procedures that would look at more substantial changes that may be required.
21. The chair recommended that the word ‘permanent’ be deleted from the paper when referring to subsidiary bodies to match what is referenced in the Treaty.
22. The Joint Committee agreed:

Action Item 9: Establish the three subsidiary bodies¹ before the next Joint Committee. Establish the rules and procedures of each subsidiary body during its first respective meeting and report back to the Joint Committee by December 2021.

Action Item 10: Direct the Committee on Trade in Goods, Rules of Origin and Customs Procedures (CTG) to meet prior to the next Joint Committee to consider as part of its agenda, issues related to transposition including the procedures provided for in Article 1(2)(f) of Chapter 12 of the Agreement.

Action Item 11: Establish the Budget Committee and Committee on Trade in Goods, Rules of Origin and Customs Procedures by 30 June 2021.

Action Item 12: To declassify the meeting paper and attached organogram for public release.

Budget Subcommittee Pacific Representation (PPJC.1/D.4)

23. Samoa presented the outcome of the Pacific Caucus held prior to the Joint Committee meeting to agree on the Forum Island Country (FICs) representation on the Budget Committee (BC).

24. The Joint Committee noted the FICs decision to rotate their representation every two years and that Cook Islands, Solomon Islands and Tonga would serve for the first term of the rotational arrangement.

25. With regard to the recommendation on the FIC term, New Zealand informed the Joint Committee that Article 2 of Chapter 1 of the Agreement addressed this issue and the paper was therefore updated to confirm that Forum Island Countries (FICs) only refers to Parties to the Agreement.

26. The Joint Committee agreed to:

Action Item 13: New Zealand amending the Implementing Arrangement based on the revised composition of the Budget Committee.

Action Item 14: Confirm the increase of FIC representation on the Budget Sub-Committee to four including the Implementation Unit Host Country.

D1.4: Other formal business

WTO CRTA Notification (PPJC.1/D.5 & Draft Notification to WTO)

27. As per World Trade Organisation (WTO) requirements under the 2006 transparency mechanism for regional trade agreements, New Zealand presented the draft notification to the WTO to the

¹ “1) Committee on Trade in Goods, Rules of Origin and Customs Procedures; 2) Committee on Sanitary and Phytosanitary Measures and Technical Barriers to Trade; 3) Committee on Trade in Services, Movement of Natural Persons and Investment”, PACER Plus Implementing Arrangement.

Joint Committee for consideration and recommended that Tonga lodge the notification with the WTO Secretariat, copying in relevant WTO Missions of the other Parties.

28. Solomon Islands noted from its experience WTO notifications, that support may be needed by WTO members after accession towards the EPA. The Chair acknowledged that support may be required by WTO members when responding to queries and providing additional information to the WTO Secretariat.

29. The Joint Committee agreed to:

Action Item 15: Tonga as Depositary for the Agreement to lodge the notification with the WTO Secretariat and revert back to Joint Committee on progress.

Action Item 16: Parties with WTO Missions to provide their contact details to Tonga.

Action Item 17: Note that further assistance may be needed by WTO members when providing additional information to and responding to queries of the WTO Secretariat.

Amendments to the Implementing Arrangement (PPJC.1/D.6 & Amendments to the Implementing Arrangement)

30. New Zealand presented the updated Implementing Arrangement document reflecting decisions made by the Senior Officials. The document was further updated to reflect the Joint Committee's decision to alter the composition of the Budget Committee.

31. The Chair instructed New Zealand to provide an update on the draft Constitution on the second day of the Joint Committee meeting.

32. New Zealand provided an oral update on the drafting of the Constitution of which comments were received by Australia, Samoa and Tonga. New Zealand proposed to have a final draft ready by end of April and to hold a virtual video conference with interested Parties to go through comments received on the draft. New Zealand recommended that the Joint Committee consider approving the final draft of the Constitution intersessionally as it would delay Samoa's cabinet approval of the constitution if the draft is not approved until the next Joint Committee meeting at the end of June. There is a need to engage labour mobility colleagues from the governance group to consider the constitution given time constraints.

33. On feedback from Samoa and Tonga, the Chair confirmed that the term 'participants' is language that is appropriate to use in a non-Treaty document such as the Implementing Arrangement, whereas 'Parties' is language to be used specifically in treaty text.

34. Samoa advised that once the constitution is completed the host country agreement can be finalized.

35. The Joint Committee agreed to:

Action Item 18: Note the importance of finalizing the IU Constitution in a timely manner.

Action Item 19: Task New Zealand to schedule a video conference for the week beginning 19 April to review the comments received on the draft Constitution.

Action Item 20: As agreed intersessionally by Parties in March, the PACER Plus Implementation Unit will be established as an International Organisation under Samoan law.

Action Item 21: Task Samoa to contact the Labour Mobility Working Group to consider additions to the Constitution.

Transparency (PPJC.1/D.7)

36. New Zealand presented the draft guidelines on the transparency of official documentation PACER Plus documentation. The guidelines proposed three classification levels.

37. The Joint Committee agreed:

Action Item 22: To adopt the Guidelines on the Transparency of Official PACER Plus Documentation.

D1.5: Meeting Closure

38. The delegate from Solomon Islands closed the meeting with a prayer.

DAY 2, 31 March 2021

D.2.1 Opening and Prayer

39. The second day of the Joint Committee meeting was opened by the Chair and the delegate from Niue provided the opening prayer.

Update on Transposition work

40. Australia provided a verbal update on the transposition process. Most countries have submitted their schedules to the OCO which are available on the website. Australia and New Zealand are reviewing these currently. The general process is that each country needs to approve the schedule of commitments for each Party. Samoa suggested key comments by Parties on schedules could be shared. CTG to consider this at the next meeting.

41. Australia noted the Product Specific Rules schedule also needed to be transposed. New Zealand had undertaken this work and Australia had agreed to its proposed changes. Other parties now needed to consider and agree to these proposed changes.

42. Tonga recommended that methods used to transpose schedules be discussed at the CTG meeting given that most countries are working on their respective HS2022 update which can be implemented from 1 January 2022. Australia noted that the CTG will need to determine a process and timeframe for submission of HS2022 and suggested that an informal meeting of tariff officers is convened before the CTG.

43. The Joint Committee agreed:

Action Item 23: The Chair directed the Committee on Trade in Goods, Rules of Origin and Customs Procedures (CTG), chaired by Australia, to meet prior to 30 June to discuss transposition work done thus far by Parties.

Action Item 24: To schedule an informal meeting of tariff experts to engage on technical aspects of the tariff schedules prior to the CTG meeting.

D2.2: Implementation Unit and Interim Arrangements

Implementation Unit Set Up and Interim Arrangements (PPJC.1/D.8)

44. New Zealand advised that the evaluation panel is considering two candidates for the IU Head. The preferred candidate will be endorsed by the JC once identified by the panel along with the draft contract.

45. Australia has executed a contract with DT Global as the Contract Services Provider. Principles under which discussions on the funding arrangement for the IU are outlined in the paper.

46. The Chair requested that Solomon Islands and any other signatories send their contribution to the Communications and Digital Strategy to New Zealand MFAT.

47. Australia advised that point 1.3.2² in the paper refers to developing an appropriate funding mechanism or contractual arrangement between the PPIU and future Parties who wish to make financial contributions to the Agreement.

48. All recommendations in the paper were adopted by the Joint Committee.

Update on Rapid Needs Assessment (PPJC.1/D.9)

49. Australia presented the update. Samoa has conducted its introductory stakeholder consultation session with the University of Adelaide's Institute for International Trade (IIT) and were advised that a consolidated Aid-for-Trade Priority document for Samoa will be presented by IIT in late April for stakeholders to consider and validate. Niue noted that the RNA should align with work that is occurring particularly with the private sector.

² "1.3.2 Enables financial contributions by new parties to the Agreement", IU Funding Arrangements, PPJC-01-D.8

50. New Zealand suggested that the results of the RNA are shared with Ministers to provide guidance on how to take the results forward.

51. The Joint Committee agreed:

Action Item 25: Australia to advise IIT to ensure documentation is sent to Parties early to provide sufficient time to consider and review.

Action Item 26: Senate SHJ to provide a general communications update on the PACER Plus Agreement, to share with stakeholders during the process of developing Parties respective Rapid Needs Assessment.

Action Item 27: To ensure the RNA results are shared with Ministers.

Update on Readiness Package (PPJC.1/D.10)

52. Australia presented the update on the readiness package which the Joint Committee noted. The paper was agreed to be declassified and made available for public release.

D2.3: PACER Plus Ministers' Meeting

53. The Chair invited the Joint Committee to consider the next PACER Plus Ministers' meeting. The Chair advised that it would be helpful to have a Joint Committee meeting in advance of the Ministerial meeting.

54. The Joint Committee further suggested that the agenda of the Ministerial meeting could include updates and progress of the work thus far particularly with regard to the Implementation Unit, issues of membership, labour mobility, the work of the subsidiary bodies, Rapid Needs Assessment results, draft work programme and how PACER Plus can assist with the economic recovery due to COVID-19.

55. Cook Islands confirmed its interest to chair the Ministerial Meeting as indicated at the December 2020 Senior Officials Meeting.

56. The Joint Committee agreed to:

Action Item 28: PPIU prepare proposed schedule of dates as follows:

- The PACER Plus Ministers' meeting during the week of 28 June.
- Joint Committee Meeting on 22-23 June.
- SPS and TBT to meet early June (not urgent and can meet later in the year)
- Budget Committee to meet early June.
- CTG to meet in May.
- PPIU informal experts meeting for CTG in early May prior to CTG meeting.
- Propose a potential date on the week of 19 April for video conference on the IU Constitution.

Action Item 29: Samoa to determine when the labour mobility governance group is to meet and if they are required to meet with the Joint Committee in advance of the ministerial meeting.

Action Item 30: Parties to consult internally on the participation of Signatories in the Ministerial Meeting given that Ministers have noted the importance of inclusion.

D2.4: Ratification and Accession

Ratification Update from Signatories

57. Tuvalu advised their ratification is on hold as Cabinet wishes to see what will be rolled out to the Parties, and then they will reconsider their ratification status. There is no definite timeline of next steps towards ratification.
58. Vanuatu advised that their Government met with Australia and New Zealand to discuss assistance particularly at the high level. Their Government's position is not clear as yet.
59. The Joint Committee took note of the ratification updates provided by Tuvalu and Vanuatu during the meeting and note that written updates will be circulated to Parties after the meeting.

Accession (*PPJC.1/D.11 and Accessions Approach*)

60. The Joint Committee agreed to:

Action Item 31: Note the need to develop guidelines to address procedures for accessions including in relation to how observership will be managed.

Action Item 32: Note the desire to prepare information for aspirants and direct the PPIU to take this forward.

Action Item 33: Maintain a classification of 'For Official Use Only' for the meeting paper as the issue remains under consideration by Parties.

D2.5: Meeting Closure

61. The Chair noted that the Rules and Procedures need to be considered virtually and ad hoc given that there was no decision made on the silent consent arrangement over email communications.
62. The Joint Committee agreed:

Action Item 36: To encourage the PPIU to proactively reach out to Parties to confirm their position on intersessional decisions.

Action Item 37: For all Parties to convey their contact points list for all subsidiary bodies to the PPIU (Ida), to assist in scheduling the subsidiary body meetings.

Action Item 38: For the Chair to consult on 22-23 June date for the next Joint Committee meeting to take place, and for the PPIU to propose a rotational arrangement for chairing the Joint Committee for approval by the Joint Committee.

63. The representative from Tonga closed the meeting with a prayer.