Pacific Island Countries Trade Agreement (PICTA)

PACIFIC ISLAND COUNTRIES TRADE AGREEMENT (PICTA)

The Parties to this Agreement:

MINDFUL of the close historical, political, economic, geographic and cultural links that bind them;

DESIRING to foster and strengthen trade in the Pacific region;

BELIEVING that an expansion of trading links will bring economic and social benefits and improve the living standards of all the peoples of the Pacific region;

RECOGNISING the desirability of a clearly established and secure framework of rules for trade under conditions of fair competition in the Pacific region;

BEARING in mind their commitment to trade liberalisation and an outward looking approach to trade;

TAKING into account the differing economic potentials and the special development problems of some Parties to this Agreement; and

DESIRING to act consistently with their respective rights, obligations and undertakings under the Marrakesh Agreement Establishing the World Trade Organization, or other multilateral, regional and bilateral agreements and arrangements to which they are party, including the Melanesian Spearhead Group Trade Agreement and the Compacts of Free Association between the United States of America and Federated States of Micronesia, Republic of the Marshall Islands, and Republic of Palau;

IN EXERCISE of their sovereign rights;

HAVE AGREED as follows:

PART I: DEFINITION AND OBJECTIVES

Article 1

Definitions

In this Agreement, unless the contrary intention appears:

"Agreement" means the Pacific Island Countries Trade Agreement and includes any annexes or protocols to that Agreement, which shall be an integral part of that Agreement;

"Area" means the free trade area established under Article 3;

"Forum" means the Pacific Islands Forum, as referred to in the Agreement establishing the Pacific Islands Forum Secretariat;

"Forum Secretariat" means the Secretariat of the Forum;

"frontier traffic" means the non-commercial import and export of goods carried by residents of the border area;

"Least Developed Country" means any Party to this Agreement that is for the time being designated as a Least Developed Country by the United Nations;

"measure" includes any law, regulation, or administrative action or practice;

"originating goods" means goods which qualify as originating goods under the Rules of Origin set out in Annex I of this Agreement;

"Party" means a State, Territory or Self-Governing Entity which has signed and ratified or acceded to this Agreement pursuant to Article 26 or which has acceded to this Agreement pursuant to Article 27;

"Secretary General" means the Secretary General of the Forum Secretariat;

"Small Island State" means, on becoming a Party to this Agreement, the Cook Islands, Kiribati, Nauru, Niue, Republic of Marshall Islands, and Tuvalu, and any other State, Territory or Self-Governing entity that becomes Party to this Agreement and is designated as a Small Island State by agreement of the Parties;

"tariff" includes any customs or import duty and any charge imposed in connection with importing goods, including any import levy, surtax or surcharge, but does not include any:

(a) fees or charges connected with importing goods which approximate the actual cost of providing customs, quarantine and similar services provided that such fees or charges do not represent an indirect form of trade protection or a taxation for fiscal purposes; and

(b) internal duties, taxes or charges on goods, ingredients or components which do not exceed the duties, taxes or charges applied to the same goods, ingredients or components originating in the importing Party.

"territory" means a Party's land territory, internal waters, territorial waters, continental shelf, archipelagic waters and exclusive economic or resource management zones established in accordance with international law.

Article 2

Objectives

The objectives of the Parties in concluding this Agreement are to:

(a) strengthen, expand and diversify trade between the Parties;

(b) promote and facilitate this expansion and diversification through the elimination of tariff and non-tariff barriers to trade between the Parties in a gradual and progressive manner, under an agreed timetable, and with a minimum of disruption;

(c) develop trade between the Parties under conditions of fair competition;

(d) promote and facilitate commercial, industrial, agricultural and technical co-operation between the Parties;

(e) further the development and use of the resources of the Pacific region with a view to the eventual creation of a single regional market among the Pacific Island economies in accordance with the respective social and economic objectives of the Parties, including the advancement of indigenous peoples; and

(f) contribute to the harmonious development and expansion of world trade in goods and services and to the progressive removal of barriers to it.

PART II: TRADE IN GOODS

Article 3

Free Trade Area

1 The Parties shall gradually establish a free trade area in accordance with the provisions of this Agreement, with the understanding that Least Developed Countries and Small Island States may be integrated in accordance with different structures and by different time frames than other Parties. The Area shall consist of the territories of the Parties to this Agreement.

2 The Parties may agree to extend the Area to include any other State, Territory or Self-Governing Entity, subject to terms consistent with this Agreement which shall be negotiated between the Parties and the other State, Territory or Self-Governing Entity.

Article 4

Coverage of the Agreement

This Agreement shall apply to trade in originating goods exported from one Party to another Party, in accordance with the terms of this Agreement.

Article 5

Rules of Origin

1 Goods shall be treated as originating in a Party if they comply with the Rules of Origin set out in Annex I of this Agreement, hereinafter "the Rules".

2 Each Party shall establish a mechanism to provide on request a binding ruling on the originating status of goods to be imported, available at least six months in advance of shipment of such goods, and valid for a period of at least six months after the arrival of the first shipment.

3 The Parties shall establish a Rules of Origin Committee which shall consist of representatives, whether from the public or private sector, from five Parties, including at least one representative from a Least Developed Country or Small Island State. The Committee members:

(a) shall initially be the representatives appointed by each of the first five Parties to ratify this Agreement that are willing to provide such a representative, and shall meet within 60 days of the entry into force of this Agreement;

(b) shall thereafter be the representatives of the five Parties which have been decided by the consensus agreement of the Parties biannually; and

(c) may serve more than one term.

4 The Committee may act with a quorum of three, and where appropriate employ the services of expert advisers.

5 The Forum Secretariat shall provide secretariat services to the Committee.

6 The functions of the Rules of Origin Committee shall be to:

(a) regularly review the implementation of the Rules to ensure that they are applied effectively, uniformly and in accordance with this Agreement, and report its findings and make appropriate recommendations to the Parties;

(b) regularly review the Rules to ensure that:

(i) they are fully supportive of the objectives of this Agreement; and

(ii) if appropriate, they conform to the guidelines produced by bodies such as the World Customs Organisation and the World Trade Organisation;

and report its findings and recommend any desirable amendments to the Parties;

(c) in consultation with the Parties, make recommendations on the adoption of standardised operating and documentation procedures;

(d) provide technical and investigative assistance to the Parties in respect of the interpretation, implementation and operation of the Rules;

(e) receive from the parties requests for derogation, and approve as appropriate those requests in accordance with Paragraph 7;

(f) provide, as appropriate, training to Parties on the application and operation of the Rules;

(g) provide, if requested by the Parties, assistance, consultation or mediation to assist in the resolution of disputes arising from, or related to the Rules;

(h) provide binding rulings on disputes related to the Rules or derogation from them, if requested by the relevant Parties;

(i) notify the Parties of any disputes between the Parties and the results of any consultation, mediation or rulings, pursuant to sub-paragraphs (g) and (h);

(j) develop guidelines and procedures, consistent with international best practices, to be used in determining "substantial transformation" for the purposes of Paragraph 7 (c) (i), and notify these guidelines and procedures and any subsequent changes to the Parties, which may make amendments as appropriate;

(k) ensure that the Committee's operation is functional, transparent and within the resources of the Parties;

(l) establish operating procedures for carrying out its functions, including by means of remote communications where desirable, and notify these procedures and any subsequent changes to the Parties, which may make amendments as appropriate; and

(m) when making recommendations for future co-operation, have regard to the resource and capacity constraints of the Parties, in particular the Small Island States and Least Developed Countries.

7 Where origin cannot be achieved under the normal criteria, the Rules of Origin Committee may permit the Rules to be derogated from where their operation in specific cases is considered unduly restrictive of trade. Derogation from the Rules shall be permitted where it has been established on the basis of objective evidence that the derogation sought:

(a) will not have significant adverse effects, including arbitrary or unjustifiable discrimination on any Parties; and

(b) relates to goods, which are not ordinarily produced or obtained in any Party affected by the derogation; and

(c) relates to goods which,

(i) have undergone substantial transformation in the territory of the exporting Party; or

(ii) are temporarily unable to qualify as originating goods due to exceptional circumstances.

Article 6

Most Favoured Nation Treatment

1 Each Party shall accord treatment to the other Parties which is no less favourable than that accorded to any other State, Territory or Self-Governing Entity in respect of all matters concerning:

(a) tariffs imposed on, or in connection with, importing or exporting goods, or imposed on the international transfer of payments for imports or exports;

(b) the method of levying tariffs;

(c) the rules and formalities connected with importing or exporting goods;

(d) any internal taxes or charges imposed on, or in connection with, imported goods;

(e) internal sale, offering for sale, purchase, distribution or use of imported goods within its territory;

(f) restrictions or prohibitions on importing or exporting goods;

(g) the allocation of foreign exchange; and

(h) the administration of foreign exchange restrictions affecting transactions involving the importing or exporting of any goods.

2 Paragraph 1 shall not apply to:

(a) advantages accorded by a Party to any State, Territory or Self-Governing Entity to facilitate frontier traffic;

(b) tariff preferences or other advantages granted by a Party to another Party by virtue of its membership in another free trade area or customs union, or an interim agreement leading to the formation of another free trade area or customs union; or

(c) any measures that a Party may take pursuant to a multilateral international commodity agreement or arrangement.

3 If any Party commences negotiations for free trade arrangements with one or more State, Territory or Self-Governing Entity which are not party to this Agreement,

then that Party shall notify the Forum Secretariat and be prepared to undertake consultations with the other Parties to this Agreement as soon as practicable.

Article 7

Tariffs

1 Each Party shall notify the other Parties of that Party's most-favoured nation tariff rate on all goods in effect on the date of entry into force of this Agreement. The notified tariffs shall be the base tariffs.

2 Originating goods which were free of tariffs on the date of entry into force of this Agreement, or which subsequently become free of tariffs pursuant to the obligations imposed by this Agreement on each Party, shall remain free of tariffs.

3 Tariffs on originating goods shall not be increased above the levels permitted by this Agreement.

4 All ad valorem tariffs on originating goods, other than those on the Parties' respective list of excepted imports, shall without further notice be reduced and eliminated in accordance with the timetables set out in Paragraphs 1 and 2 of Annex II.

5 Specific tariffs and fixed tariffs on originating goods may be converted to ad valorem equivalent tariffs at the time this Agreement enters into force, at the option of each Party. All tariffs so converted to ad valorem tariffs, other than those on the Parties' respective lists of excepted imports, shall without further notice be reduced and eliminated in accordance with the timetables set out in Paragraphs 1 and 2 of Annex II.

6 All specific and fixed tariffs on originating goods not converted to ad valorem equivalents, other than those on goods on the Parties' respective list of excepted imports, shall without further notice be reduced and eliminated, in accordance with the timetables set out in Paragraphs 3 and 4 of Annex II.

7 Each Party undertakes to identify goods which are not ordinarily produced or obtained in its own territory and eliminate tariffs on such goods as soon as possible, consistent with the objectives to this Agreement relating to fair competition. Each Party shall notify the other Parties of any tariffs reduced or eliminated in accordance with this Paragraph.

8 Each Party may reduce or eliminate tariffs with respect to the other Parties on a non-discriminatory basis more rapidly than is provided for in this Article.

9 Unless the contrary intention appears, any reference to tariffs rates or levels in Article 9 and Annexes II to IV are to ad valorem tariffs.

Article 8

Excepted Imports

1 Upon signature, or deposit of instrument of accession, a Party may provide a list of goods to be excepted from the operation of Paragraphs 4, 5 and 6 of Article 7.

2 The Parties' lists of excepted imports and the tariffs applicable to such imports shall be attached to this Agreement as Annex III. The tariff applicable to any excepted import shall not exceed the base tariff as defined in Paragraph 1 of Article 7.

3 No Party shall list any of the following goods as excepted imports:

(a) goods exported from that Party in the usual and ordinary course of its trade;

(b) goods not ordinarily produced or obtained in that Party; or

(c) goods not ordinarily produced or obtained in any other Party.

4 When listing any goods as excepted imports, each Party shall have due regard to the objectives of this Agreement, in particular the desirability of developing fair competition in trade between the Parties.

5 Upon entry into force of this Agreement each Party shall notify the other Parties in writing of its reasons for including specific goods in its list and offer to undertake consultations with the other Parties with a view to reducing or eliminating the proposed lists of excepted imports.

6 The Parties shall reduce all tariffs on their excepted imports, as contained in Annex III, in accordance with the timetables set out in Annex IV.

7 Where goods on the lists of excepted imports are subject to ad valorem tariffs, these tariffs shall be reduced in accordance with the timetables set out in Paragraphs 1 and 2 of Annex IV.

8 Where goods on the lists of excepted imports are subject to specific tariffs or fixed tariffs, these tariffs shall be reduced in accordance with the timetables set out in Paragraphs 3 and 4 of Annex IV.

9 Each Party may reduce the tariffs on its excepted imports more rapidly than is required under this Article.

10 Where a good listed as an excepted import becomes an impermissible excepted import in accordance with Paragraph 3, that good shall immediately be removed from the list of excepted imports.

11 Each Party shall notify the other Parties when any goods are removed from that Party's list of excepted imports in Annex III.

12 Goods which have been removed from a Party's list of excepted imports in Annex III shall be treated as goods that were never listed in Annex III, and the tariffs on such goods shall be reduced and eliminated in accordance with Annex II.

13 With the exception of Paragraph 1, the provisions of Article 7 do not apply to goods covered by Chapters 22 and 24 of the Harmonized Commodity Description and Coding System. Within two years of this Agreement entering into force the Parties shall consider at the Forum Trade Ministers' Meeting or otherwise as appropriate rules to govern trade in such goods within the Area. These rules shall be contained in Annex VI.

Article 9

Trade Distorting Measures

1 All import or export prohibitions or restrictions on trade in originating goods, other than tariffs, customs duties and taxes, whether effected through quotas, import or export licences or other similar measures, shall be eliminated upon the entry into force of this Agreement. No new such measures shall be introduced.

2 No Party shall seek, take or maintain any voluntary export restraints, orderly marketing arrangements or any other similar measures on any trade in originating goods.

3 Originating goods imported into the territory of any Party shall not be subject, either directly or indirectly, to internal taxes or other internal charges of any kind in excess of those applied, directly or indirectly, to like domestic products.

4 Originating goods imported into the territory of any Party shall be accorded treatment no less favourable than that accorded to like domestic products in respect of all laws, regulations and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution or use.

5 Notwithstanding Paragraphs 1 and 2, where any measures prohibited by Paragraphs 1 and 2 restricting imports into any Party are identified that Party may within six months from the day on which this Agreement comes into force convert such measures into the equivalent tariffs. Where any Party converts import restrictions into tariffs pursuant to this Paragraph that Party shall immediately notify the other Parties of the import restriction, the equivalent tariff, and the method by which the equivalent tariff was calculated. Such tariffs shall be reduced and eliminated in accordance with the timetables set out in Annex II to this Agreement. The time periods within which such tariffs shall be reduced and eliminated shall be calculated on the basis of the dates provided in Annex II to this Agreement.

6 If any Party considers that another Party has failed to carry out its obligations under Paragraphs 1 to 5 and that failure has nullified or impaired any benefit accruing directly or indirectly to the first Party that Party may initiate consultations under Article 21.

7 The provisions of this Article shall not prevent the payment of subsidies not prohibited or countervailable under Article 12.

8 The provisions of this Article shall not apply to measures pertaining to government procurement, which shall be subject exclusively to the provisions of Article 15.

9 The Parties shall periodically review the implementation of this Article in accordance with Article 23, with a view to ensuring that all trade distorting measures in the Area have been eliminated.

Article 10

Emergency Action

1 For the purposes of Articles 10 to 13:

"domestic industry" means:

(a) the producers of a given product, or like or directly competitive products, operating within the territory of a Party, or
(b) those whose collective output of relevant products constitutes a major proportion of the total domestic production of those products;

"emergency action" means any measures taken by a Party pursuant to Articles 11, 12 or 13, and includes provisional emergency action;

"serious injury" means a significant overall impairment in the position of a domestic industry;

"threat of serious injury" means serious injury that is clearly imminent.

2 Consistent with the objectives of this Agreement, the Parties shall endeavour to avoid taking emergency action unless all other reasonable courses of action have been exhausted. No Party shall take emergency action unless it has fully complied with:

(a) the requirements set out in this Article;

(b) the requirements set out in Articles 11, 12 or 13 of this Agreement, as relevant; and

(c) any other requirements imposed on a Party by virtue of being a member of the World Trade Organization.

3 A Party shall immediately notify the other Parties upon:

(a) initiating an investigation in relation to the taking of emergency action;

(b) making a finding that emergency action is justified;

(c) deciding to take provisional emergency action; and

(d) deciding to take or extend emergency action.

4 A notification under Paragraph 3 shall include, as appropriate, the proposed action, the proposed date of introduction, expected duration, timetable for progressive liberalisation of the action, and all other relevant information. The Parties may, in accordance with Article 20, request any additional information they consider necessary.

5 A Party proposing to take or extend emergency action shall provide adequate opportunity for prior consultations with other Parties, with a view to reviewing the information provided under Paragraph 4, exchanging views on the emergency action, and reaching a mutually satisfactory resolution of the situation. Where prior consultations cannot be held in cases of provisional emergency action, the Party shall enter into consultations immediately after taking provisional emergency action.

6 A Party wishing to take emergency action pursuant to Articles 11, 12 or 13 shall first conduct a public investigation to determine whether such action is justified under this Agreement. The investigation shall include reasonable public notice to all interested persons, and an inquiry where importers, exporters and other interested persons can present evidence and make submissions, respond to the presentations of other persons, and submit their views as to whether the proposed emergency action would be in the public interest.

7 In its investigation to determine whether emergency action is justified, the Party shall evaluate all relevant factors of an objective and quantifiable nature having a bearing on the situation of that industry.

8 The Party shall promptly publish a detailed report setting out its findings, the evidence on which its findings are based, and reasoned conclusions reached on all pertinent issues of fact and law.

9 In critical circumstances where delay would cause the adverse effects that justify emergency action under Article 11, 12 or 13, a Party may take provisional emergency action pursuant to a preliminary determination that there is clear evidence that emergency action is justified. The duration of such action shall not exceed 200 days, during which period the procedures set out in this Article shall be met. The duration of such action shall be counted as a part of the initial period of the emergency action and any extensions referred to in Articles 10 to 13.

10 A Party shall take emergency action only for such period of time and to the extent necessary to prevent the adverse effects that justify emergency action under Article 11, 12 or 13. In so doing, Parties shall take emergency action that minimises restriction or distortion of trade and that is, as far as possible, consistent with the objectives of this Agreement.

11 A Party may extend emergency action, provided that it has conducted a further investigation and determined, in accordance with the procedures set out in this Article, that the emergency action continues to be justified under Article 11, 12 or 13.

12 In the case of action under Articles 11 or 13, where the expected duration of emergency action is over one year, the Party taking the action shall progressively liberalise it at regular intervals during the period of application. If the duration of the action exceeds three years, the Party taking such action shall review the situation not later than the mid-term of the action and, if appropriate, withdraw it or increase the pace of liberalisation. Action extended under Paragraph 11 shall not be more restrictive than it was at the end of the initial period, and shall continue to be liberalised.

Article 11

Safeguard Measures

1 Where a Party has conducted an investigation under Article 10 and has determined that a product is being imported into its territory from another Party in such quantities, absolute or relative to domestic production, and under such conditions as to cause or threaten to cause serious injury to the domestic industry which produces like or directly competitive products, the first Party may apply a safeguard measure to that product.

2 No Party shall apply a safeguard measure unless its investigation under Article 10 demonstrates, on the basis of objective evidence, the existence of the causal link between imports of the product concerned and serious injury or threat of serious injury. When factors other than imports are causing injury to the domestic industry at the same time, the safeguard measure may only be taken proportionate to the injury caused by the imports.

3 Any provisional safeguard measures shall take the form of tariff increases. If the investigation required by Article 10 does not determine that increased imports have caused or threaten to cause serious injury to a domestic industry provisional safeguard measures shall be promptly rescinded and any increased tariffs paid shall be promptly refunded or, where agreed to by the importer, credited.

4 A Party may apply a safeguard measure to a product by imposing or increasing tariffs for the minimum period and to the minimum extent necessary to prevent the serious injury caused by imports, provided that where the Party has goods listed as excepted imports in Annex III the Party at the same time removes sufficient goods from its list of excepted imports to compensate for the increased restriction on trade provided by the safeguard measure.

5 The initial period of application of a safeguard measure shall not exceed four years. The total period of application of a safeguard measure, including any extensions, shall not exceed eight years. Safeguard measures may not be extended unless there is evidence that they continue to be necessary to prevent or remedy serious injury and the domestic industry is continuing to adjust to the situation.

6 No safeguard measure shall be applied to the import of a product before the greater of:

(a) two years; or

(b) the total period of time, including any extension, during which the safeguard measure was applied

has elapsed since a safeguard measure was in effect in relation to the same or like products.

7 Notwithstanding the provisions of Paragraph 6, a safeguard measure with a duration of 180 days or less may be applied again to the import of a product if:

(a) at least one year has elapsed since the date of introduction of a safeguard measure on the import of that product; and

(b) a safeguard measure has not been applied on the same product more than twice in the five year period immediately preceding the introduction of the measure.

8 No Party shall apply a safeguard measure to the import of a product until two years have elapsed following the completion or termination of measures taken to protect the domestic industry of that Party producing like or directly competitive goods under Article 14.

9 No Party shall apply a safeguard measure to the import of a product listed in that Party's list of excepted imports or a product removed from that Party's list of excepted imports less than two years ago.

Article 12

Dumped or subsidised imports

1 Where a Party has conducted an investigation under Article 10 and has determined that goods being imported into it from another Party, or other Parties, are being dumped, as defined in Article VI of the General Agreement on Tariffs and Trade and the World Trade Organization Agreement on Implementation of Article VI, so as to cause or threaten to cause serious injury to a domestic industry producing like or directly competitive goods or to materially retard the establishment of a domestic industry to produce like or directly competitive goods, it shall enter into consultations with the other Party or Parties, in accordance with Article 21, with a view to agreeing on measures to reduce or prevent injury or retardation which are consistent with the objectives of this Agreement.

2 Where a Party has conducted an investigation under Article 10 and has determined that goods being imported into it from another Party, or other Parties, are subsidised by the Party or Parties so as to cause or threaten to cause serious injury to a domestic industry producing like or directly competitive goods or to materially retard the establishment of a domestic industry to produce like or directly competitive goods, it shall enter into consultations with the other Party or Parties, in accordance with Article 21, with a view to agreeing on measures to reduce or

prevent injury or retardation which are consistent with the objectives of this Agreement.

3 Where a mutually acceptable solution to the problem is not achieved within 60 days of the commencement of consultations under Paragraph 1 or 2, the first Party shall give notice to the other Party, or Parties, of its intention to levy anti-dumping or countervailing duties on the goods.

4 No agreed solution shall be inconsistent with the provisions of Paragraph 2 of Article 9.

5 If further consultations between the Parties fail to resolve the issue, the first Party may, pursuant to Paragraph 10 of Article 10, no earlier than 60 days after notice was given to the other Party or Parties, levy anti-dumping or countervailing duties on the dumped or subsidised products. Such duties shall not exceed the rate of dumping or subsidisation.

6 Duties levied pursuant to Paragraph 5 shall be reviewed by the Party imposing the duties, after one year, and annually thereafter, to determine whether the conditions necessary for the imposition of anti-dumping or countervailing duties under this Article, still apply. If the review determines that dumping or subsidisation has ceased, the duties shall be immediately eliminated. If the review determines otherwise the duties may continue to be applied, but shall not exceed the rate of dumping or subsidisation found to exist at the time of the review.

7 The Parties agree to eliminate any subsidies that cause or threaten to cause serious injury to a domestic industry producing like or directly competitive goods, or to materially retard the establishment of a domestic industry to produce like or directly competitive goods, in another Party. Such Parties shall enter into consultations, in accordance with Article 21, with a view to agreeing on measures to reduce or prevent injury or retardation which are consistent with the objectives of this Agreement.

Article 13

Balance of Payments

1 Where a Party has conducted an investigation under Article 10 and has determined that:

(a) there is a serious decline or an imminent threat of serious decline in its monetary reserves; or

(b) in the case of a Party with very low monetary reserves, its monetary reserves have failed to achieve a reasonable rate of increase;

that Party may impose or increase tariffs for the minimum period necessary and to the minimum extent necessary to arrest or prevent the serious decline in reserves or to enable reserves to increase at a reasonable rate.

2 Parties applying restrictions under this Article may determine the incidence of the restrictions on imports of different products or classes of products in such a way as to give priority to the importation of those products which are more essential.

3 In applying restrictions under this Article, Parties shall:

(a) avoid unnecessary damage to the commercial or economic interests of any other Party;

(b) not prevent unreasonably the importing of any goods in minimum commercial quantities, the exclusion of which would impair regular channels of trade; and

(c) not prevent the importing of commercial samples or prevent compliance with patent, trade mark, copyright, or similar procedures.

4 If there is a persistent and widespread application of restrictions under this Article, indicating the existence of a general disequilibrium which is restricting international trade, the Parties shall review the Agreement to consider whether other measures might be taken to remove the underlying causes of the disequilibrium.

Article 14

Protection of Developing Industries

1 Notwithstanding Article 7, where a Party has determined that a product is being imported into its territory from another Party in such quantities and under such conditions as to materially retard the establishment of a domestic industry in like or directly competitive products in the first Party, the first Party may raise tariffs where permitted by Paragraph 2. Before raising tariffs, that Party shall notify the other Parties of its intention to do so, in accordance with Article 20.

2 No Party shall raise tariffs under this Article unless it can demonstrate, on the basis of objective evidence, the existence of the causal link between imports of the good concerned and the material retardation of the establishment of the domestic industry. Tariffs shall not be raised further than necessary to prevent the material retardation caused by the imports.

3 Subject to Paragraph 4, the initial period of action taken under this Article shall not exceed five years, or ten years in the case of measures taken by Small Island States or Least Developed Countries. This period shall not be extended unless the domestic industry has been established and there is evidence that the action continues to be necessary in order for it to adjust to competition. The total period of action taken under this Article shall not exceed ten years, or fifteen years in the case of measures taken by Small Island States or Least Developed Countries.

4 Where the expected duration of action taken under this Article is over one year, the Party taking the action shall review the necessity of such action every two years and promptly notify all Parties of the results of this review.

5 No tariffs shall be raised under this Article before the developing domestic industry has commenced production.

6 The Parties shall, in accordance with Article 23, periodically review the operation of this Article and the time limits provided therein, with a view to preventing unjustifiable restrictions on trade between the Parties and ensuring that the objectives of this Agreement on fair competition in trade between the Parties are being achieved.

PART III: GOVERNMENT PROCUREMENT

Article 15

Principles Governing Government Procurement

1 The Parties are committed to the objective of liberalising government procurement within the Area as soon as possible.

2 In order to achieve this objective, the Parties agree:

(a) to identify existing measures and practices which prohibit or restrict the achievement of the objective set out in Paragraph 1;

(b) to adopt transparent measures and practices in respect of contract valuations, technical specifications, qualification and performance requirements, tendering procedures, and invitation, selection and challenge processes;

(c) that each Party shall, as soon as possible, take appropriate measures needed to minimise and remove the measures and practices identified in Paragraph 2(a);

(d) within two years of the entry into force of this Agreement, to conclude arrangements for detailed rules on government procurement. Those rules shall be included as a protocol to this Agreement;

(e) in accordance with Article 23, to periodically review progress made in liberalising government procurement and shall endeavour to resolve any problems arising in respect of the implementation of this Article.

PART IV: GENERAL PROVISIONS

Article 16

Exceptions

1 Provided that such measures are not used as a means of arbitrary or unjustifiable discrimination between the Parties, or as a disguised restriction on trade between the Parties, nothing in this Agreement shall prevent the adoption or enforcement by a Party of measures:

(a) necessary to protect public morals;

(b) necessary to protect human, animal or plant life or health;

(c) relating to trade in gold or silver;

(d) necessary to secure compliance with laws and regulations which are not inconsistent with the provisions of this Agreement;

(e) necessary to secure compliance with laws and regulations which are not inconsistent with the provisions of this Agreement relating to the protection of patents, trade marks and copyrights, and the prevention of deceptive practices;

(f) necessary for the prevention of disorder or crime;

(g) relating to products of prison labour;

(h) imposed for the protection of national treasures of artistic, historical, anthropological, palaeontological, archaeological or other cultural or scientific value;

(i) necessary to reserve for approved purposes the use of Royal Arms or national, state, provincial and territorial arms, flags, crests and seals;

(j) necessary to protect its indigenous flora and fauna;

(k) undertaken in pursuance of its rights and obligations under a multilateral international commodity agreement or arrangement;

(l) necessary to prevent or relieve shortages of foodstuffs or other essential goods; or

(m) relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption.

2 Nothing in this Agreement shall prevent the adoption and enforcement by a Party of measures:

(a) necessary to protect its essential security interests or implement its international obligations or national policies:

(i) relating to the non-proliferation of biological and chemical weapons, nuclear weapons or other nuclear explosive devices;

(ii) relating to the traffic in arms, ammunition and implements of war, and to such traffic in other goods, materials and services as is carried on directly or indirectly for the purpose of supplying a military establishment; or

(iii) in time of war or other serious international tension.

(b) to prevent any Party from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of peace and security.

Article 17

Transparency

1 Each Party shall publish promptly and, except in emergency situations, at the latest by the time of their entry into force, all measures, including judicial decisions and administrative rulings, of general application which pertain to or affect the operation of this Agreement.

2 Each Party shall endeavour to provide as much opportunity as possible for interested parties and persons to comment on proposed measures that may affect trade or government procurement.

3 Nothing in Paragraphs 1 and 2 shall be interpreted as requiring a Party to disclose confidential information contrary to its national security or the public interest, or to prejudice legitimate commercial interests.

4 Each Party shall administer in a uniform, impartial and reasonable manner all measures of general application pertaining to trade and government procurement.

Article 18

Measures to Facilitate Trade

1 The Parties shall endeavour to implement measures which will facilitate trade within the Area and, where appropriate, shall encourage government bodies and other organisations and institutions to work towards the implementation of such measures.

2 The Parties shall examine the scope for taking action to facilitate trade within the Area by harmonising their laws, regulations and administrative practices.

3 Where possible, trade facilitation initiatives shall be co-ordinated with wider regional and international initiatives.

4 Where a Party believes harmonisation of measures, or their implementation, will facilitate trade or reduce or eliminate distortions of trade, it may notify any other Party of its wish to enter into consultations. The Party so requested shall enter into consultations in good faith, and as soon as possible, with a view to seeking a mutually satisfactory solution.

Article 19

Evolving Relationship

1 Where a Party considers it is desirable to extend the matters covered by this Agreement, or extend the territorial scope of this Agreement, or otherwise develop or deepen the relationship established by this Agreement, it may notify the other Parties of its wish to enter into consultations with a view to negotiating the terms and conditions of the extension.

2 The Parties undertake to periodically review the status of the relationship established by this Agreement, in accordance with Article 23.

Article 20

Notification

1 Each Party shall give the other Parties notice of any proposed or actual measure which might materially affect trade or government procurement in the Area.

2 The notice referred to in Paragraph 1 shall be given as soon as possible, but in any event not later than 15 days after implementing the measure or taking the action.

3 Each Party shall, on another Party's request, promptly provide information and respond to questions pertaining to any actual or proposed measure or action which might materially affect trade or government procurement in the Area.

4 The provisions of Paragraphs 1, 2 and 3 are to be interpreted as widely as possible consistent with not requiring a Party to disclose confidential information contrary to its national security or the public interest, or to prejudice legitimate commercial interests.

5 Any notice given in terms of this Agreement shall be in writing and shall be effective from the date on which it is received.

6 Where this Agreement requires a Party to notify the other Parties it shall be sufficient for that Party to notify the Forum Secretariat. The Forum Secretariat shall immediately disseminate the notice to all other Parties. Notifications which are made directly to other Parties shall also be made to the Forum Secretariat.

Article 21

Consultations

1 If a Party considers that:

(a) an obligation under this Agreement has not been, or is not being, fulfilled;

(b) any benefit conferred upon it by this Agreement is being, or may be, denied;

(c) the achievement of any objective of this Agreement is being, or may be, frustrated;

(d) a case of difficulty has arisen or may arise; or

(e) a change in circumstances necessitates, or might necessitate, an amendment of this Agreement;

it may notify any other Party of its wish to enter into consultations. The Party so requested shall enter into consultations in good faith and as soon as possible, with a view to seeking a mutually satisfactory solution.

2 For the purposes of this Agreement, consultations between the Parties shall be considered to have commenced on the day on which notice requesting the consultations is received.

Article 22

Dispute Resolution

1 The Parties shall endeavour, as far as is possible, to settle any differences concerning the interpretation, implementation or operation of this Agreement through amicable consultations in accordance with Article 21. Such consultations shall be undertaken with appropriate regard to relevant cultural values and customary procedures for resolving differences in the Pacific region.

2 Where the consultations referred to in Paragraph 1 have failed within 60 days to resolve the dispute between the Parties, any Party to the dispute may notify the Secretary General and the other Parties to the dispute of its wish to resolve the dispute by mediation. The Parties may agree on a mediator or request the Secretary General to appoint a mediator. Any costs relating to such mediation shall be borne by the Parties to the dispute in equal shares.

3 Where the mediation process referred to in Paragraph 2 has failed within 60 days, or such time period as agreed to by the Parties to the dispute, to resolve the dispute between the Parties, any Party to the dispute may notify the Secretary General and the other Parties to the dispute of its decision to submit the dispute to arbitration, pursuant to the provisions of Annex V.

4 The Secretary General in consultation with the Parties, shall develop, maintain and, from time to time, amend a list of individuals who may be designated as Arbitrators for the purpose of this Article and Annex V. The Parties, in consultation with Secretary General, shall establish the criteria for individuals to be included in the list of potential arbitrators.

5 The list described in the preceding Paragraph shall identify each individual, including that individual's nationality, and briefly describe the individual's experience with respect to both international trade and international arbitration, the individual's training or qualifications for services as an arbitrator, and any areas of special expertise which the individual possesses.

6 Where a Party fails to comply with the arbitrator's award, any Party affected by this failure may enter into consultations with the other Parties with a view to persuading the defaulting Party to comply. Where such consultations are unsuccessful within 60 days, any affected Party may suspend the application to the defaulting Party of concessions or the performance of any other obligations under this Agreement, until such time as the defaulting Party complies with the arbitrator's award. The level of the suspension of concessions or performance of other obligations by the affected Party shall be equivalent to the level of nullification or impairment of benefits under this Agreement to that Party caused by the defaulting Party.

7 Once the defaulting Party complies with the decision of the Arbitrator, all action taken under the preceding Paragraph shall be terminated.

Article 23

Review

1 The Parties shall meet at the time of the Forum Trade Ministers' Meeting or otherwise as appropriate to review relevant aspects of the implementation and operation of this Agreement.

2 The Parties undertake to conduct a general review of the operation of this Agreement no later than five years after it enters into force, and thereafter at no later than five-yearly intervals. Under the general review, the Parties shall:

(a) monitor progress made in implementing this Agreement, and in particular, progress made in:

(i) ensuring the effectiveness and appropriateness of the Rules (Article 5);

(ii) implementing timetables for reduction and elimination of tariffs (Article 7);

(iii) removing goods from the lists of excepted imports (Article 8);

(iv) eliminating measures distorting trade in goods (Article 9);

(v) liberalising developing industries (Article 14);

(vi) liberalising government procurement (Article 15);

(vii) implementing measures to facilitate trade and harmonise business laws and other measures (Article 18); and

(viii) broadening and deepening the relationship established by this Agreement (Article 19);

(b) assess whether the Agreement is operating effectively;

(c) evaluate the need for additional measures or modifications to increase its effectiveness;

(d) endeavour, in the spirit of this Agreement, to identify ways to accelerate the time frames for liberalisation, including the removal of items from their lists of exempted imports; and

(e) consider any other matter relating to the implementation of this Agreement or trade within the Area or in the Pacific region.

PART V: FINAL PROVISIONS

Article 24

Effect on other Agreements

1 This Agreement shall not exempt any Party from its obligations, or abrogate the rights of any Party, under any existing international agreements to which it is Party.

2 Nothing in this Agreement shall prevent Parties from entering into any other agreements relating to the maintenance or establishment of customs unions, free trade areas or arrangements for frontier trade to the extent that those agreements are consistent with the terms and objectives of this Agreement.

Article 25

Amendments

1 With the exception of the lists of excepted imports in Annex III which may be amended only in accordance with Articles 8 and 11 and the rules governing trade in alcohol and tobacco products which may be agreed in accordance with Paragraph 13 of Article 8, this Agreement may be amended at any time by the unanimous agreement of the Parties.

2 Unless a contrary intention appears, amendments shall enter into force 30 days after acceptance by all the Parties has been notified to the Secretary General.

Article 26

Signature, Ratification and Accession

1 This Agreement shall be open for signature, subject to ratification, or accession by the Governments of the Cook Islands, Federated States of Micronesia, Fiji Islands, Kiribati, Republic of the Marshall Islands, Nauru, Niue, Republic of Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu.

2 This Agreement shall remain open for signature for one year from 18 August 2001 to 17 August 2002.

3 Notwithstanding Paragraph 2, provided the Governments of Federated States of Micronesia, Republic of the Marshall Islands and Republic of Palau make reasonable efforts to secure a waiver of their obligation to provide most-favoured nation treatment to the United States of America, this Agreement shall remain open for signature at the Forum Secretariat in Suva by these Governments for a period of up to 3 years following entry into force of this Agreement.

4 If a Forum Island Country ratifies this Agreement after it enters into force, that Party shall reduce and eliminate tariffs to the same extent as if that Party had been a Party at the time this Agreement entered into force.

5 Instruments of ratification or accession shall be deposited with the Secretary General.

6 The Parties shall accept this Agreement in its entirety and no reservations shall be permitted.

Article 27

Accession by Other States, Territories or Self-Governing Entities

1 By unanimous agreement the Parties may permit any State, Territory or Self-Governing Entity not listed in Paragraph 1 of Article 26 to accede to this Agreement.

2 The terms of such accession shall be negotiated between the Parties and the State, Territory or Self-Governing Entity desiring to accede to this Agreement pursuant to Paragraph 1 of this Article.

Article 28

Duration, Withdrawal and Termination

1 This Agreement is of a perpetual nature.

2 Any Party wishing to withdraw from this Agreement shall give notice of its intention to do so to the Secretary General, who shall notify the other Parties accordingly. The Party giving notice shall cease to be a Party to this Agreement 180 days from the date on which notice is given to the Secretary General, unless the Party has withdrawn its notice in the meantime, in which case it shall continue to be a Party to this Agreement.

3 This Agreement shall terminate 180 days after all the Parties have given notice to the Secretary General of their intention to withdraw from this Agreement.

Article 29

Entry into Force

1 This Agreement shall enter into force 30 days after the date of deposit of the sixth instrument of ratification or accession, and thereafter for each Party 30 days after the date of deposit of its instrument of ratification or accession.

2 Subject to the terms of accession, a State, Territory or Self-Governing Entity acceding pursuant to Article 27 shall become a Party to this Agreement 30 days after the date of the deposit of an instrument of accession.

Article 30

Functions of the Pacific Islands Forum Secretariat

1 The Parties agree that Pacific Islands Forum Secretariat shall provide secretariat services for this Agreement.

2 Subject to the direction of the Parties, the functions of the Forum Secretariat in respect of this Agreement shall include:

(a) the preparation and transmission of documentation, including annual reports, required under this Agreement, including the transmission of communications between the Parties to this Agreement;

(b) the provision of administrative support for meetings convened to review this Agreement or conduct negotiations or consultations under this Agreement;

(c) the provision of administrative support for the operation of financial and technical assistance;

(d) liasing, as appropriate, between the Parties or with any other organisation;

(e) the provision of technical support to the Parties in the gathering and dissemination of information relevant to this Agreement;

(f) the provision of technical support to the Parties in the implementation of their obligations under this Agreement; and

(g) the provision of other administrative or technical support as determined by the Parties in respect of matters that relate to trade facilitation.

Article 31

Depositary Functions

1 The Secretary General shall be the Depositary of this Agreement and any protocols thereto.

2 The Secretary General shall:

(a) register this Agreement and its protocols pursuant to Article 102 of the Charter of the United Nations;

(b) transmit certified copies of this Agreement and its protocols to all of the Parties to this Agreement and its protocols; and

(c) notify all the Parties to this Agreement and its protocols of signatures, acceptances, ratifications and accessions to the Agreement and its protocols.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed this Agreement.

DONE at Nauru this 18th day of August 2001 in a single original in the English language.

For the Government of the Cook Islands: .....

this 16th day of August 2001

For the Government of the Federated States of Micronesia: .....

this 5th day of April 2006

For the Government of the Republic of the Fiji Islands: .....

this 18th day of August 2001

For the Government of Kiribati: .....

this 18th day of August 2001

For the Government of Republic of Nauru: .....

this.....day of .....

For the Government of Niue: .....

this.....day of .....

For the Government of the Republic of Palau: .....

this.....day of .....

For the Government of Papua New Guinea: .....

this.....day of .....

For the Government of the Republic of the Marshall Islands: .....

this.....day of .....

For the Government of Samoa: Tuilaepa L. Sailele Malielegaoi

this 18th day of August 2001

For the Government of the Solomon Islands:

this 6th day of August 2002

For the Government of Tonga:

this 18th day of August 2001

For the Government of Tuvalu:

this 18 day of August 2001.

For the Government of Vanuatu:

this 18 day of August 2001

ANNEX I

RULES OF ORIGIN

1 In this Annex, unless the contrary intention appears:

"Factory" means the place in the territory of a Party where a process of manufacture occurs.

"Factory cost" means the total cost of the goods in their finished state following a process of manufacture, excluding any profit, marketing costs, taxes and Other duties.

"Inner containers" includes any container or containers into which, or on which, any goods are packed for sale, but excludes any shipping container, pallet or similar article used for the purposes of carriage on any ship or aircraft.

"Labour costs" means:

(a) salaries, wages, bonuses, productivity payments and other employment related benefits incurred in connection with a process of manufacture in the territory of a Party; and

(b) other labour costs incurred at a Factory in connection with the manufacturing process in the territory of a Party, including:

(i) management of the process of manufacture;

(ii) receipt of Materials;

(iii) storage of Materials;

(iv) supervision of the process;

(v) training in relation to the manufacture of goods;

(vi) quality control;

(vii) packing into inner containers; and

(viii) handling the storage of goods in the Factory.

"Material" means all inputs, other than labour and overheads, into a process of manufacture in the form they are received at a Factory, including:

(a) an input that is itself a result of an earlier process of manufacture;

(b) natural elements that are used in that process of manufacture; and

(c) inner containers.

"Originating Material costs" in relation to any process of manufacture means:

(a) the total cost of Wholly produced or obtained goods used in that process of manufacture; or

(b) the cost of Material used in that process of manufacture that is wholly produced or obtained in the territory of a Party, excluding Labour costs and Overhead costs from an earlier process of manufacture if:

(i) that earlier process of manufacture has taken place outside the territory of a Party; or

(ii) the total expenditure on Material that is wholly produced or obtained, and on labour and overhead that is incurred, in the territory of that Party, is less than 40 per cent of the factory cost of that process of manufacture.

"Other duties" includes goods and services taxes, sales taxes, value added taxes, excise taxes, anti-dumping duties and countervailing duties.

"Overhead costs" includes any of the following costs where incurred in connection with the final process of manufacture in the territory of a Party:

(a) inspecting and testing Materials and goods;

(b) insuring real property, plant, equipment and Materials used in the production of the goods, work in progress and finished goods;

(c) liability insurance, accident compensation, and insurance against consequential loss from accident to plant and equipment;

(d) dies, moulds, and tooling, whether or not these items originate within the territory of a Party;

(e) depreciation, maintenance and repair of plant and equipment;

(f) interest payments for plant and equipment;

(g) research, development, design, engineering and creative work;

(h) rent, leasing, mortgage interest, depreciation on buildings, maintenance, repair, rates and taxes for real property used in the production of the goods;

(i) leasing of plant and equipment, whether or not these items originated within a territory of a Party;

(j) Materials and supplies utilised in the manufacturing process, but not directly incorporated into the manufactured goods, including energy, fuel, water, lighting, lubricants and rags, whether or not these items originated within the Party;

(k) storage of Material and goods at the Factory;

(l) royalties, licences or fees in respect of patented machines or processes used in the manufacture of the goods, or in respect of the right to manufacture the goods, or intellectual property rights;

(m) subscriptions to standards institutions and industry and research associations;

(n) Factory security, provision of medical care, including first aid kits and medical supplies, cleaning services, cleaning materials and equipment, training materials, disposal of waste, safety and protective clothing and equipment, and the subsidisation of a Factory cafeteria to the extent not recovered by returns;

(o) computer facilities allocated to the process of manufacture of the goods;

(p) contracting out part of the manufacturing process within the territory of a Party;

(q) employee transport and Factory vehicle expenses; and

(r) any tax in the nature of a fringe benefit tax payable on a cost in respect of labour or overheads.

"Overhead costs" does not include:

(a) costs for telephone, mail and other means of communication;

(b) the cost of shipping and airfreight containers;

(c) the cost of conveying, insuring, or shipping the goods after their manufacture is completed;

(d) royalty payments relating to a licensing agreement to distribute or market the goods;

(e) rent, mortgage interest, depreciation on buildings, property insurance premiums, maintenance, repair, taxes and rates for real property used by personnel charged with administrative functions;

(f) international travel expenses, including fares and accommodation;

(g) manufacturer's profits, or the profit or remuneration of any trader, agent, broker or other person dealing in the goods after their manufacture;

(h) costs relating to the general expense of doing business, such as the cost of providing executive, financial, sales, advertising, marketing, accounting and legal services, and insurance;

(i) any other costs and expenses incurred after the completion of the manufacture of the goods.

"Wholly produced or obtained goods" means:

(a) live animals born and raised in the territory of a Party;

(b) animals obtained by hunting, trapping, fishing, gathering or capturing in the territory of a Party;

(c) products obtained from live animals born and raised in the territory of a Party;

(d) plants and plant products harvested, picked or gathered in the territory of a Party;

(e) products of sea fishing and other products taken from the sea outside the territory of a Party, where the Party is the country of registration of the vessel that carries out those operations;

(f) minerals and other naturally occurring substances extracted from soil, the waters, the seabed, or beneath the seabed of the territory of a Party;

(g) scrap and waste derived from manufacturing operations in the territory of a Party which are only fit for disposal or for the recovery of raw Materials;

(h) scrap and waste derived from articles collected or consumed in the territory of a Party which are only fit for the recovery of raw Materials;

(i) products taken from the area of the seabed outside the territory of that Party, pursuant to rights held by that Party and recognised under international law; or

(j) goods produced in the territory of a Party exclusively from products referred to in sub-paragraph (a)-(i).

2 For the purposes of Paragraph 3 of this Annex, goods are indirectly exported if the goods do not enter the commerce of a State, Territory, or Self-Governing Entity which is not a Party. Goods do not enter the commerce of a non-Party if:

(a) a transit entry is justified for geographical reasons or transport requirements; and

(b) the goods have only undergone an operation required for unloading or reloading, or any operation required to keep them in good condition.

3 Goods exported from one Party to any other Party, whether directly or indirectly, shall be treated as goods originating in the territory of the first Party if these goods are:

(a) wholly produced or obtained in the territory of that Party; or

(b) the result of the final process of manufacture performed in the territory of that Party, and the total expenditure on Originating Material costs, Labour costs and Overhead costs is not less than 40 per cent of the total expenditure on Material, labour and overheads, whether or not incurred in the territory of that Party.

4 If difficulties arise, from unforeseen circumstances of a short term nature, resulting in an individual shipment of goods failing to qualify for origin under Paragraph (3)(b), then the exporting and importing Parties may agree to apply a margin of tolerance of up to 2% of the qualifying expenditure. These Parties shall apply this tolerance for a limited period of time only.

5 Minimal operations or processes that are only performed to:

(a) ensure the preservation of goods in good condition for the purposes of transport or storage;

(b) facilitate shipment or transportation; or

(c) package or present the goods for sale;

shall not, alone or in combination with each other, confer origin on goods under any other rule.

ANNEX II

TIMETABLES FOR REDUCTION AND ELIMINATION OF TARIFFS

1 Ad valorem tariffs on originating goods which are imported into Parties, other than Small Island States and Least Developed Countries, shall be reduced and eliminated according to the following timetable:

	Maximum tariff on goods from:				
Base tariff on goods on the entry into force of this Agreement	Entry into force of this Agreement	1.1.2004	1.1.2006	1.1.2008	1.1.2010
more than 20%	20%	15%	10%	5%	0%
more than 15% but not more than 20%	15%	10%	5%	0%	
more than 10% but not more than 15%	10%	5%	0%		
not more than 10%	0%				

2 Ad valorem tariffs on originating goods which are imported into Small Island States and Least Developed Countries shall be reduced and eliminated according to the following timetable:

	Maximum tariff on goods from:				
Base tariff on goods on the entry into force of this Agreement	1.1.2004	1.1.2006	1.1.2008	1.1.2010	1.1.2012
More than 25%	25%	17.5%	10%	5%	0%
More than 20% but not more than 25%	20%	15%	10%	5%	0%
More than 15% but not more than 20%	15%	10%	5%	0%	
More than 10% but not more than 15%	10%	5%	0%		
Not more than 10%	5%	0%			

3 Specific tariffs or fixed tariffs on originating goods which are imported into Parties, other than Small Island States and Least Developed Countries, shall be reduced and eliminated according to the following timetable:

Maximum specific or fixed tariff on goods, as a percentage of base tariff (value), from:					
	Entry into force of this Agreement	1.1.2004	1.1.2006	1.1.2008	1.1. 2010
% of Base Tariff (value)	80%	60%	40%	20%	0%

4 Specific tariffs and fixed tariffs on originating goods which are imported into Small Island States and Least Developed Countries shall be reduced and eliminated according to the following timetable:

Maximum specific or fixed tariff on goods, as a percentage of base tariff (value), from:					
	1.1.2004	1.1.2006	1.1.2008	1.1.2010	1.1.2012
% of Base Tariff (value)	80%	60%	40%	20%	0%

ANNEX III

LISTS OF EXCEPTED IMPORTS AND APPLICABLE TARIFFS

Country	Description	Tariff Code (Harmonized System) [1]	Current Tariff Rate[2]
Cooks Islands			
	No Products on List		
Federated States of Micronesia			
	To be submitted at time of signature		
Fiji Islands			
	No Products on List		
Kiribati			
	Chickens, whole or in pieces, fresh, chilled or frozen	0207.0011	40%
	Bird's eggs, in shell, preserved or cooked	0407.0000	65%
	Cooking Oil - Coconut	1513.0000	30%
	Cabin Biscuits	1905.9010	75%
	Noni Juice	2009.8000	10%
	Soap (Toilet Soap)	3401.1100	50%
	Soap (Laundry)	3401.2000	50%
	Foot wear with upper straps or thongs (Flip Flops)	6402.2000	75%
	Nails	7317.0000	10%
Republic of the Marshall Islands			
	To be submitted at time of signature		
Nauru			
	No Products on List		
Niue			
	Natural Honey	0409.0000	20%
	Noni Juice	2009.8000	20%
	Coconut Oil	1513.0000	10%
Republic of Palau			
	No Products on List		
Papua New Guinea			
	Birds' eggs, in shell, fresh, preserved or cooked	0407.0000	1.50 Kina per dozen
	Potato chips or slices	0712.1010	35%

Country	Description	Tariff Code (Harmonized System) [1]	Current Tariff Rate[2]
PNG (Continued)	Potatoes whether or not cut or sliced but not further prepared	0712.1090	35%
	Wheat or maslin flour	1101.0000	25%
	Cereal flours other of wheat or maslin	1102.0000	25%
	Flour, meal, powder, flakes, granules and pellets of potatoes	1105.0000	25%
	Flour meal and powder of leguminous vegetables (except coconut milk powder)	1106.0000	25%
	Sugar beet	1212.9100	25%
	Sugar cane	1212.9200	25%
	Other - Sugars	1212.9900	25%
	Vegetable saps and extracts of opium	1302.1100	50%
	Cane or beet sugar and chemically pure sucrose, in solid form	1701.0000	76%
	Molasses resulting from the extraction or refining of sugar	1703.0000	25%
	Sugar confectionery, not containing cocoa	1704.0000	35%
	Prepared food obtained by the swelling or roasting of cereals or cereal products in grain form or other worked grain	1904.1000	25%
	Flakes	1904.2000	35%
	Other prepared food obtained by the swelling or roasting of cereals or cereal products in grain form or other worked grain	1904.9000	35%
	Potatoes chips or French fries, prepared or preserved, frozen	2004.2000	35%
	Potatoes, prepared or preserved, not frozen	2005.2000	35%
	Vegetables, fruits, nuts, fruit-peel and other parts of plants, preserved by sugar (drained,glace, crystallised)	2006.0000	35%
	Jams	2007.1020	35%
	Marmalades	2007.1040	35%
	Ground-nuts (peanuts)	2008.1110	35%
	Peanut butter	2008.1120	35%
	Pineapples – Prepared or preserved	2008.2000	35%
	Citrus fruits – Prepared or preserved	2008.3000	35%
	Concentrated fruit juices in the form of crystals of powder	2009.9020	35%
	Preparations of a kind used in animal feeding	2309.9090	35%
	Paints and varnishes, including enamels and lacquers (Oil Based)	3208.0000	25%
	Paints and varnishes, including enamels and lacquers (Water Based)	3209.0000	25%
	Paper, of size A3 or under	4810.1210	25%
	Light-weight coated paper, of size A3 or under	4810.2110	25%
	Paper, printed	4811.2110	25%

Country	Description	Tariff Code (Harmonized System) [1]	Current Tariff Rate[2]
PNG (Continued)	Bleached paper, printed	4811.3110	25%
	Wallpaper and similar wall coverings; window transparencies of paper	4814.0000	25%
	Carbon or similar copying paper, size A3 or under	4816.1010	25%
	Self-copy paper, size A3 or under	4816.2010	25%
	Envelopes, printed and personalised	4817.1020	25%
	Letter cards, plain postcards and correspondence cards	4817.2000	25%
	Boxes, pouches, wallets and writing compendiums, of paper	4817.3000	25%
	Tablecloths and serviettes	4818.3000	25%
	Articles of apparel and clothing accessories (Paper)	4818.5000	25%
	Others – as defined in heading 4818	4818.9000	25%
	Sacks and bags (having a base width less than 40cm)	4819.4000	25%
	Registers, account books, note books, order books, receipt books, letter pads, memorandum pads, diaries, exercise books; binders, folders and file covers; manifold business forms and inter-leaved carbon sets; albums for samples or for collections (except 4820.2000 Exercise Books & Computer Stationery)	4820.0000	25%
	Labels, printed	4821.1000	25%
	Other paper and paperboard	4823.0000	25%
	Picture postcards	4909.0030	25%
	Other cards	4909.0090	25%
	Calendars of any kind, printed, including calendar blocks	4910.0000	25%
	Other printed matter	4911.0000	25%
	Made up fishing nets	5608.1100	25%
	Other nets (except 6608.9010)	5608.9000	25%
	Articles of yarn, strip or the like of heading 54.04 or 54.05, twine, cordage or cables, not elsewhere specified or included.	5609.0000	25%
	Embroidery in the piece, in strips or in motifs	5810.0000	25%
	Men's or boy's Trousers, bib and brace overalls, breeches and shorts, knitted or crocheted	6103.4000	35%
	Dresses	6104.4000	35%
	Skirts and divided skirts	6104.5000	35%
	Men's or boy's Shirts, knitted or crocheted	6105.0000	20%
	Women's or girl's blouses, shirts or silk blouses knitted or crocheted	6106.0000	20%
	T-shirts, singlets and other vests knitted and crocheted	6109.0000	20%
	Jerseys	6110.0000	35%
	Tracksuits	6112.1000	35%
	Other garments knitted or crocheted of cotton	6114.0000	35%
	Other similar garments of cotton	6115.9000	35%

Country	Description	Tariff Code (Harmonized System) [1]	Current Tariff Rate[2]
PNG (Continued)	Men's or boy's Suits, Ensembles, Jackets, Blazers, Trousers, bib and brace overalls, breeches, and shorts (other than swimwear)	6203.0000	20%
	Women's or girl's suits, ensembles, jackets, blazers, Dresses, skirts, divided skirts, trousers, bib and brace overalls, breeches, and shorts (other than swimwear)	6204.0000	20%
	Men's or boy's shirts	6205.0000	20%
	Women's or girl's blouses, shirts or silk blouses	6206.0000	20%
	Other men's or boy's garments	6210.4000	35%
	Other women's or girl's garments	6210.5010	35%
	Other men's or boy's garments	6211.3000	35%
	Other women's or girl's garments	6211.4000	35%
	Bed Linen, table linen, toilet linen and kitchen linen	6302.0000	25%
	Bed Spreads, and other furnishing articles, excluding those of heading 9404.0000	6304.0000	25%
	Sails	6306.3000	25%
	Pneumatic mattresses	6306.4000	25%
	Other made up articles including dress patterns	6307.0000	35%
	Footwear parts of wood	6406.9100	25%
	Prefabricated structural components for building or civil engineering	6810.9100	35%
	Articles of Jewellery	7113.0000	50%
	Goldsmiths' or silversmiths' wares	7114.0000	50%
	Other articles of precious metal	7115.0000	50%
	Articles of natural or cultured pearls	7116.0000	50%
	Imitation jewellery	7117.0000	50%
	Aluminium structures (except 7610.1000)	7610.0000	25%
	Knives of spring type loading	8211.9390	50%
	Sign-plates, name plates, address-plates and similar plates, numbers, letters and other symbols of base metal	8310.0000	35%
	Prefabricated buildings (except 9406.10 of wood components only sourced from within)	9406.0000	50%
Samoa			
	Paints and varnishes, including enamels and lacquers (Oil Based)	3208.0000	20%
	Paints and varnishes, including enamels and lacquers (Water Based)	3209.0000	20%
	Mineral waters and aerated waters in sealed containers holding 2.5 litres or less.	2201.1010	ST$1.00 per litre
	Bird's eggs, in shell, preserved or cooked	0407.0000	20%
	Building blocks and bricks of cement or concrete	6810.1100	10%
Solomon Islands			
	Frozen Poultry	0207.1200	20%
	Flour from Wheat	1101.0000	20%
	Mixes and dough for Bakers ware	1901.2000	20%

Country	Description	Tariff Code (Harmonized System) [1]	Current Tariff Rate[2]
	Prepared food obtained by the swelling or roasting of cereal or cereal products	1904.1010	20%
	Bread, pastry, cakes and other Bakers ware (excluding biscuits)	1905.0000	20%
	Water, including artificial mineral water	2201.0000	20%
	Non-alcoholic beverages (soft drinks)	2202.1000	20%
	Swine Feed	2309.9000	20%
	Paint and varnishes (oil based)	3208.0000	20%
	Paint and varnishes (water based)	3209.0000	20%
	Soap -laundry bar, cakes, or powder	3401.0000	20%
	Surface active agent (detergent)	3402.0000	20%
	Men's or boy's suits, ensembles, jackets, trousers and shorts	6203.0000	20%
	Women's or girl's suits, ensembles, jackets, dresses, skirts, divided skirts, trousers, breaches and shorts	6204.0000	20%
	Men's or boy's shirts	6205.0000	20%
	Women's or girls blouses, shirts and shirt blouses	6206.0000	20%
Tonga			
	Bird's eggs, in shell, preserved or cooked	0407.0090	50%
Tuvalu			
	Coconut Oil	1513.0000	20%
	Sausages (Pork)	1601.0000	40%
	Sausages (Fish)	1604.2000	40%
	Soap - laundry bar, cakes, or powder	3401.0000	30%
	Surface active agent (detergent)	3402.0000	30%
Vanuatu			
	Meat and edible offal of the poultry of heading No 0105, fresh, chilled or frozen	0207.0000	50%
	Birds eggs, in shell, fresh, preserved or frozen	0407.0000	50%
	Canned beef	1602.5000	25%
	Fruit juices	2009.0000	50%
	Ice cream	2105.0000	50%
	Paints and varnishes, including enamels and lacquers (oil based)	3208.0000	350 Vatu per litre
	Paint and varnishes, including enamels and lacquers (water based)	3209.0000	350 Vatu per litre
	Other Paints and Varnishes, including enamels and lacquers	3210.0000	350 Vatu per litre
	Pigments used to manufacture paint; and dyes	3212.0000	350 Vatu per litre
	Fibreglass tanks exceeding 300 litres	3925.1000	30%
	Toilet Paper	4818.1000	50%
	Fibre glass boats	8903.9900	35%
	Wooden furniture – Offices	9403.3000	35%
	Wooden furniture – Kitchen	9403.4000	35%
	Wooden furniture – Bedroom	9403.5000	35%

Country	Description	Tariff Code (Harmonized System) [1]	Current Tariff Rate[2]
	Wooden furniture – Other	9403.6000	35%
	Plastic Furniture	9403.7000	35%
	Pre fabricated buildings	9406.0000	30%

1. Harmonized Commodity Description and Coding System 1996 version to 6 digits. The last two digits are local options and may vary from country to country.
2. The tariff rate noted is the rate applicable at Signature, and is used for information purposes only. The "base rate" tariff will be determined when the Agreement enters into force for each Party. See Article 7.1 for more information.

ANNEX IV

TIMETABLES FOR ELIMINATION OF TARIFFS ON EXCEPTED IMPORTS

1 Ad valorem Tariffs on goods listed by Parties, other than Small Island States and Least Developed Countries, as excepted imports shall be eliminated according to the following timetable:

Maximum ad valorem tariffs on goods from:									
Entry into force of this Agreement	1.1.2007	1.1.2008	1.1.2009	1.1.2010	1.1.2011	1.1.2012	1.1.2013	1.1.2014	1.1.2016
Base Tariff	40%	35%	30%	25%	20%	15%	10%	5%	0%

2 Ad valorem tariffs on goods listed by Small Island States and Least Developed Countries as excepted imports shall be eliminated according to the following timetable:

Maximum ad valorem tariffs on goods from:										
Entry into force of this Agreement	1.1.2007	1.1.2008	1.1.2009	1.1.2010	1.1.2011	1.1.2012	1.1.2013	1.1.2014	1.1.2015	1.1.2016
Base Tariff	50%	40%	35%	30%	25%	20%	15%	10%	5%	0%

3 Specific tariffs and fixed tariffs on goods listed by Parties, other than Small Island States and Least Developed Countries, as excepted imports shall be eliminated according to the following timetable:

Maximum specific or fixed tariff on goods, as a percentage of base tariff (value), from:										
	Entry into force of this Agreement	1.1.2007	1.1.2008	1.1.2009	1.1.2010	1.1.2011	1.1.2012	1.1.2013	1.1.2014	1.1.2016
% of Base Tariff	100%	85%	70%	60%	50%	40%	30%	20%	10%	0%

4 Specific tariffs and fixed tariffs on goods listed by Small Island States and Least Developed Countries as excepted imports shall be eliminated according to the following timetable:

Maximum specific or fixed tariff on goods, as a percentage of base tariff (value), from:										
	Entry into force of this Agreement	1.1.2007	1.1.2008	1.1.2009	1.1.2010	1.1.2011	1.1.2012	1.1.2013	1.1.2014	1.1.2015	1.1.2016
% of Base Tariff	100%	90%	80%	70%	60%	50%	40%	30%	20%	10%	0%

ANNEX V

ARBITRATION PROCEDURE

1 Unless the Parties to the dispute referred to arbitration in accordance with Article 22 of this Agreement otherwise agree, the arbitration procedure shall be conducted in accordance with the provisions of this Annex.

2 The claimant Party shall notify the Secretary General and the other Parties to the dispute of its decision to submit the dispute to arbitration and shall include in its notice a brief statement of claim setting out the subject matter and issues in dispute. The Secretary General shall forward this notice to the other Parties to the Agreement.

3 The relevant Parties shall agree upon and name an individual to serve as arbitrator to their dispute. If the relevant Parties cannot agree on an individual to serve as an arbitrator, the Secretary General shall select an arbitrator from the list of potential arbitrators maintained pursuant to Paragraph 4 of Article 22 of this Agreement. In selecting an arbitrator, the Secretary General shall give due consideration to the special expertise any potential arbitrator may have regarding the subject matter of the dispute and any possible conflicts of interest which the potential arbitrator may have.

4 Not later than the first meeting of the Parties under Paragraph 1 of Article 23 of this Agreement, the Parties shall adopt governing principles for the rules of procedure to be applied to any arbitration under this Annex and Article 22 of this Agreement. Such principles shall be consistent with relevant international law, due process, and the objectives of this Agreement.

5 Upon being named, and before undertaking substantive consideration of the dispute, the arbitrator shall adopt and inform the relevant Parties of rules of procedure to be followed over the course of arbitration. The rules so adopted shall be consistent with the principles set by the Parties to this Agreement pursuant to Paragraph 4 of this Annex.

6 After consultation with the Parties to the dispute, the Secretary General shall appoint an appropriate arbitrator within 30 days of receiving the claimant Party's notice. The arbitrator shall not be a citizen of, or be ordinarily resident in, any of the Parties to the dispute, nor be employed by any of them, nor have dealt with the dispute in any other capacity.

7 The arbitrator may take all appropriate measures in order to establish the facts. The arbitrator may, at the request of one of the Parties, recommend essential interim measures of protection. The Parties to the dispute shall provide all facilities necessary for the effective conduct of the proceedings. The absence or default of a Party to the dispute shall not constitute an impediment to the proceedings.

8 The arbitrator may hear and determine counter-claims arising directly out of the subject matter of the dispute.

9 The arbitrator shall keep a record of all costs and shall furnish a final statement thereof to the Parties.

10 Any Party that has an interest of a legal nature in the subject matter of the dispute which may be affected by the arbitrator's decision may intervene in the proceedings with the arbitrator's consent.

11 The arbitrator shall render his or her award within 180 days from the date of his or her appointment, unless it is necessary to extend this time limit for a further period which shall not exceed 180 days.

12 The arbitrator's award shall be accompanied by a statement of reasons, and shall be final and binding on the Parties to the dispute.

13 Any dispute which may arise between the Parties concerning the interpretation or execution of the award may be submitted by any Party to the dispute to the arbitrator who made the award or, if the arbitrator cannot be seised thereof, to another arbitrator appointed for this purpose in the same manner as the first.