

No. 19995

MULTILATERAL

South Pacific Regional Trade and Economic Co-operation Agreement (with schedules). Concluded at Tarawa on 14 July 1980

Authentic text: English.

Registered by the South Pacific Bureau for Economic Co-operation, acting on behalf of the Parties, on 17 July 1981.

MULTILATÉRAL

Accord régional de commerce et de coopération économique pour le Pacifique Sud (avec listes annexées). Conclu à Tarawa le 14 juillet 1980

Texte authentique : anglais.

Enregistré par le Bureau de coopération économique pour le Pacifique Sud, agissant au nom des Parties, le 17 juillet 1981.

SOUTH PACIFIC REGIONAL TRADE AND ECONOMIC CO-OPERATION AGREEMENT¹

The Governments of Australia, the Cook Islands, Fiji, Kiribati, Nauru, New Zealand, Niue, Papua New Guinea, Solomon Islands, Tonga, Tuvalu and Western Samoa, being members of the South Pacific Forum (hereinafter referred to as "the Forum"):

Mindful of the close historic, economic, political and geographic links that bind the members of the Forum;

Recognising the special relationships and commitment of Australia and New Zealand to Forum Island countries;

Bearing in mind the desire to strengthen economic co-operation within the South Pacific;

Acknowledging the Forum's commitment to the promotion of sustained economic development of the Island countries in the region;

Aware of the crucial and vital role that trade plays in the economic development of the Forum Island countries;

Having regard to the greater dependence of Forum Island countries *vis-à-vis* other countries on the Australian and New Zealand markets;

Recognising the desirability of broadening the already extensive duty free treatment accorded by Australia and New Zealand to products of the Forum Island countries;

Taking into account the limited industrial potential of Forum Island countries *vis-à-vis* other developing countries;

¹ Came into force on 1 January 1981, the date when the Government of New Zealand, on the one hand, and the Government of a Forum Island country, on the other hand, had accepted it by depositing their instruments of ratification or accession with the Director of the South Pacific Bureau for Economic Co-operation, in accordance with article XIV (5). Instruments of ratification or accession were deposited as follows:

<i>State</i>	<i>Date of deposit of the instrument of ratification or accession (a)</i>
Cook Islands	12 November 1980
Fiji*	2 December 1980 <i>a</i>
New Zealand	1 January 1981
Papua New Guinea	31 December 1980
Tonga	24 December 1980

* See p. 79 of this volume for the text of the reservation made upon accession.

Subsequently, the Agreement came into force in respect of the following States 30 days after the deposit of their instruments of acceptance or accession with the Director of the South Pacific Bureau for Economic Co-operation, in accordance with article XIV (5). Instruments of ratification were deposited as follows:

<i>State or territory</i>	<i>Date of deposit of the instrument of ratification</i>
Niue	22 January 1981
(With effect from 21 February 1981.)	
Western Samoa	24 February 1981
(With effect from 26 March 1981.)	
Solomon Islands	15 April 1981
(With effect from 15 May 1981.)	
Tuvalu	4 May 1981
(With effect from 3 June 1981.)	

Recognising the need to foster trade in products currently produced in the region as well as trade in new products, primary, processed and manufactured; and

Mindful of the differing economic potential of Forum Island countries and the special development problems of the Smaller Forum Island countries;

Have agreed as follows:

Article I. DEFINITIONS

In this Agreement:

“Director” means the Director of the South Pacific Bureau for Economic Co-operation;

“Forum Island countries” means the Cook Islands, Fiji, Kiribati, Nauru, Niue, Papua New Guinea, Solomon Islands, Tonga, Tuvalu, Western Samoa and the countries of acceding Parties; and

“Smaller Forum Island countries” means the Cook Islands, Kiribati, Niue, Tonga, Tuvalu, Western Samoa, and such other countries, the Governments of which are Parties, as the Governments of Forum Island countries may jointly determine.

Article II. OBJECTIVES

The objectives of this Agreement are:

- (a) To achieve progressively in favour of Forum Island countries duty free and unrestricted access to the markets of Australia and New Zealand over as wide a range of products as possible;
- (b) To accelerate the development of the Forum Island countries in particular through the expansion and diversification of their exports to Australia and New Zealand;
- (c) To promote and facilitate this expansion and diversification through the elimination of trade barriers;
- (d) To foster the growth and expansion of exports of Forum Island countries through the promotion of investment in those countries;
- (e) To promote greater penetration by exports from Forum Island countries into the Australian and New Zealand markets through such measures as co-operation in the marketing and promotion of goods from Forum Island countries; and
- (f) To promote and facilitate economic co-operation, including commercial, industrial, agricultural and technical co-operation.

Article III. SCHEDULES OF CONCESSIONS

1. Subject to the provisions of this Agreement the Government of Australia shall:

- (a) Permit the duty free and unrestricted entry of goods listed in Schedule 1 to this Agreement that originate in and are imported from Forum Island countries;

(b) Permit the entry of goods listed in Schedule 2 to this Agreement that originate in and are imported from Forum Island countries, subject to the duties and quantitative limits specified in that Schedule.

2. Subject to the provisions of this Agreement the Government of New Zealand shall permit the duty free and unrestricted entry of all goods wholly obtained or partly manufactured in the territory of a Forum Island country, except those goods listed in Schedule 3 to this Agreement which shall be subject to such treatment as may be specified therein.

3. The Schedules to this Agreement shall be an integral part of this Agreement.

Article IV. AMENDMENT TO SCHEDULES

1. A Party may at any time propose in writing to the Director the amendment of a Schedule to this Agreement.

2. On receipt of such a proposal the Director shall advise all Parties of the proposed amendment, and if requested by any Party, shall arrange consultations between the Party to which the Schedule applies and other interested Parties.

3. Following the consultations referred to in paragraph 2 of this Article the Party to which the Schedule applies shall, within a reasonable period, notify the Director of the outcome of consultations. The Director shall thereupon notify all Parties of this outcome including any amendment to the Schedule and the dates of its entry into effect.

4. The Party to which a Schedule applies may amend it in order to provide improved concessionary treatment in respect of the importation of goods to which Article III (Schedules of Concessions) applies. Such amendments and date on which they shall take effect shall be notified to the Director by the Government to which the Schedule applies. The Director shall thereupon notify all Parties of the amendments to the Schedule and of the date on which they shall take effect.

Article V. RULES OF ORIGIN

1. Goods shall be treated by the Government of Australia as originating in the territory of a Forum Island country if these goods are:

(a) The unmanufactured raw products of a Forum Island country; or

(b) Manufactured goods, in relation to which:

(i) The process last performed in manufacture of the goods was performed in a Forum Island country; and

(ii) Not less than 50% of the factory or works cost of the goods is represented by the value of labour or materials both of:

(a) A Forum Island country; or

(b) A Forum Island country and one or more other Forum Island countries; or

(c) One or more Forum Island countries or Australia.

2. The following shall be the classes of goods entitled to be entered under the New Zealand tariff at the rates and exemptions provided for Forum Island countries, namely:

- (a) The following goods wholly obtained in the territory of any of the Forum Island countries:
- (i) Mineral products extracted from its soil or from its seabed;
 - (ii) Vegetable products harvested there;
 - (iii) Live animals born and raised there;
 - (iv) Products obtained there from live animals;
 - (v) Products obtained by hunting or fishing conducted there;
 - (vi) Products of sea fishing and other products taken from the sea by its vessels;
 - (vii) Products made on board its factory ships exclusively from the products referred to in sub-paragraph (a) (vi) of this Article;
 - (viii) Used articles collected there fit only for the recovery of raw materials;
 - (ix) Waste and scrap resulting from manufacturing operations conducted there; and
 - (x) Products obtained there exclusively from products specified in sub-paragraphs (a) (i) to (ix) of this Article;
- (b) Goods partly manufactured in the territory of a Forum Island country subject to the following conditions:
- (i) That the process last performed in the manufacture of the goods was performed in the territory of a Forum Island country; and
 - (ii) That in respect of the goods, the expenditure:
 - (a) In material that is the origin of one or more Forum Island countries or of New Zealand;
 - (b) In other items of factory or works cost (as defined in the New Zealand Customs Regulations) incurred in one or more Forum Island countries or in New Zealand; or
 - (c) Partly in such material and partly in such other items as aforesaid is not less than 50% of the factory or works cost of the goods in their finished state.

3. (a) In special circumstances either the Government of Australia or the Government of New Zealand may determine that the expenditure referred to in paragraph 1 (b) (ii) of this Article in the case of the Government of Australia, or paragraph 2 (b) (ii) of this Article in the case of the Government of New Zealand may be less than 50% of the factory or works cost of the goods in their finished state for particular goods or classes of goods. Any such determination may be applied to all such goods originating from the Forum Island countries or restricted to goods from individual Forum Island countries.

(b) In making a determination under this paragraph of the rules of origin, the Government of Australia and the Government of New Zealand shall take

account, *inter alia*, of the special problems of the Smaller Forum Island countries and the area content derived from all Forum countries.

4. A Government of a Forum Island country may request the Government of Australia or the Government of New Zealand to make a determination pursuant to paragraph 3 of this Article. The requesting Government shall notify the Director of its request who shall thereupon inform all the Parties. The Government requested to make a determination shall notify the Director of the outcome of the request within 3 months of receipt of that request. The Director shall thereupon notify all the Parties of that outcome.

Article VI. GENERAL EXCEPTIONS, REVENUE DUTIES
DUMPED AND SUBSIDISED GOODS

General Exceptions

1. Provided that such measures are not used as a means of arbitrary or unjustifiable discrimination or as a disguised restriction on trade, nothing in this Agreement shall preclude the adoption or enforcement by the Government of Australia or the Government of New Zealand of measures:

- (a) Necessary for the protection of its essential security interests;
- (b) Necessary to protect public morals and the prevention of disorder or crime;
- (c) Necessary to protect human, animal or plant life or health;
- (d) Necessary to protect industrial property rights, copyrights, or to prevent unfair, deceptive or misleading practices;
- (e) Necessary to secure compliance with laws or regulations relating to customs enforcement, to tax avoidance and evasion and to foreign exchange control or for the application of standards or of regulations for the classification, grading or marketing of goods, or to the operation of recognised commodity marketing boards;
- (f) Relating to trade in gold and silver; or
- (g) Relating to obligations entered into in the context of multilateral or bilateral commodity agreements whilst taking account of any special needs and interests of Forum Island countries.

Revenue Duties

2. Nothing in this Agreement shall preclude the imposition by the Government of Australia of:

- (a) Sales taxes; or
- (b) Revenue duties which are levied equally on both imports and domestic products.

3. Nothing in this Agreement shall preclude the Government of New Zealand from imposing at any time on the importation of any product, a charge equivalent to an internal tax imposed consistently in respect of the like domestic products or in respect of an article from which the imported product has been manufactured or produced in whole or in part.

Dumped and Subsidised Goods

4. (a) Nothing in this Agreement shall preclude the Government of Australia or the Government of New Zealand from taking action in accordance with their respective national legislation relating to dumped or subsidised goods.

(b) Before the Government of Australia or the Government of New Zealand takes action in accordance with sub-paragraph (a) of this paragraph it shall notify in writing, and if requested consult with, the Party or Parties from whose territory the goods are being exported. For the purpose of this paragraph consultations shall be deemed to have commenced on the day on which the notification was made.

(c) If a mutually satisfactory solution of the matter is not reached within a period of 60 days from the commencement of the consultations referred to in sub-paragraph (b) of this paragraph, the Party into the territory of which the goods are being imported may, after giving notice to the Party from the territory of which the goods are being exported, levy dumping or countervailing duties on the goods.

(d) Notwithstanding the provision of sub-paragraph (b) of this paragraph the Government of Australia or the Government of New Zealand may take action under sub-paragraph (a) of this paragraph provisionally without prior consultation where, in its opinion, the circumstances are so critical that delay would cause injury to a domestic industry which would be difficult to repair. A Party taking provisional action under this sub-paragraph shall immediately provide written advice of the action taken to the Director who shall notify the other Party or Parties concerned. The Parties shall then enter into consultations as soon as possible.

Article VII. VARIATION OR SUSPENSION OF OBLIGATIONS

Australia

1. The Government of Australia may vary the treatment accorded goods listed in Schedules 1 and 2 to this Agreement.

2. Before taking action pursuant to paragraph 1 of this Article the Government of Australia shall give notice in writing to the Director who shall inform the Parties of the action proposed. The Government of Australia shall afford those Governments of Forum Island countries, which have an interest as exporters of the product concerned, an opportunity to consult with respect to the proposed action. Such consultations shall be held within a period of 90 days of the receipt by the Director of the notification by the Government of Australia of the proposed action.

3. In varying the treatment accorded goods listed in Schedules 1 and 2 the Government of Australia shall apply the following procedures:

(a) For goods listed in Schedule 1 the Government of Australia may, after consulting with the Governments of Forum Island countries in accordance with paragraph 7 of this Article with respect to the level of imports of those goods which shall continue to receive duty free access, transfer those goods from Schedule 1 to Schedule 2 with an indication of the duty and/or quantitative limit of imports that it has determined with respect to those goods; or

(b) For goods listed in Schedule 2 which are being imported into Australia from any Forum Island country in such quantities or under such conditions as to cause or threaten serious injury to a domestic industry producing like or directly competitive goods, the Government of Australia may request in writing the Party or Parties or countries from which the goods are being exported to consult with it on measures to reduce or prevent that injury. For the purpose of this paragraph consultations shall be deemed to have commenced on the day on which the request was made.

4. If a mutually satisfactory solution of the matter is not reached within a period of 90 days from the commencement of the consultations referred to in paragraph 3 (b) of this Article, the Government of Australia may either remove the goods in question from Schedule 2 or increase the duties and/or reduce the quantitative limits specified in that Schedule with respect to those goods. Before undertaking this action, the Government of Australia shall ensure that:

- (a) An enquiry has been held by an Australian assistance advisory body; and
- (b) All the Governments of Forum Island countries are given notice of the terms of the enquiry.

5. The Government of Australia shall advise the Director of its decision on the matter upon which the Director shall advise all the Parties.

6. Notwithstanding the provisions of paragraph 2 of this Article the Government of Australia may take the action referred to in paragraphs 1 and 4 of this Article without prior consultation where, in its opinion, the circumstances are so critical that delay would cause severe difficulty before consultations provided for in paragraphs 2 and 3 of this Article could be held. In taking provisional action under this paragraph the Government of Australia shall provide urgent written advice of the action taken to the Director who shall notify the other Parties.

7. Any action taken under the provisions of paragraph 6 of this Article shall cease to have effect 90 days after the implementation of the action, unless, within that period, the Government of Australia has afforded the Governments of interested Forum Island countries the opportunity to consult with it on the matter and has:

- (a) Undertaken to hold an enquiry by an Australian assistance advisory body; and
- (b) Informed the Governments of the Forum Island countries of the terms of the enquiry.

New Zealand

8. If, as a result of the application of this Agreement, goods are being imported into New Zealand in such quantities or under such conditions as to cause or threaten serious injury to domestic producers of like or directly competitive goods, the Government of New Zealand may in respect of such goods, suspend its obligations to the extent and for such time as may be necessary to prevent or remedy such injury, bearing in mind the objectives of this Agreement.

9. Before taking action pursuant to paragraph 8 of this Article the Government of New Zealand shall give notice in writing to the Director who shall inform the other Parties of the action proposed. The Government of New Zealand shall afford those Governments of Forum Island countries which have an interest as

exporters of the product concerned an opportunity to consult with respect to the proposed action. Such consultations shall be held within a period of 90 days of the receipt by the Director of the notification by the Government of New Zealand of the proposed action.

10. (a) If a mutually satisfactory solution is reached through the application of the procedures provided for in paragraph 9 of this Article the Director shall notify the Parties of any decision to modify Schedule 3 to this Agreement and the date on which that modification shall take effect.

(b) If a mutually satisfactory solution of the matter is not reached following the application of the procedures provided for in paragraph 9 of this Article the Government of New Zealand shall advise the Director of the action it proposes to take and the date from which such action shall take effect. The Director shall notify the Parties of any modification of schedule 3 and the date on which that modification shall take effect.

11. Notwithstanding the provisions of paragraph 9 of this Article the Government of New Zealand may take the action referred to in paragraph 8 of this Article without prior consultation where, in its opinion, the circumstances are so critical that delay would cause injury to a domestic industry which would be difficult to repair. If provisional action is taken under this paragraph the Government of New Zealand shall provide urgent written advice of the action taken to the Director who shall notify the Parties.

12. Any action taken under the provisions of paragraph 11 of this Article shall cease to have effect 90 days after the implementation of the action unless, within that period, the Government of New Zealand has afforded the Governments of interested Forum Island countries the opportunity to consult with it on the matter.

Article VIII. ECONOMIC, COMMERCIAL AND TECHNICAL CO-OPERATION

1. In furtherance of the objectives of this Agreement the Parties shall facilitate co-operation between their commercial and industrial organisations and firms, encourage administrative co-operation and take steps to simplify as far as practicable procedures and formalities affecting trade.

2. The Parties shall also take appropriate measures to encourage and facilitate the development of economic and technical co-operation between relevant organisations and firms of the countries concerned.

3. In addition, the Government of Australia and the Government of New Zealand shall consider appropriate forms of assistance within their bilateral and regional development assistance programmes in the South Pacific, in accordance with the developmental priorities of individual Forum Island countries. Within these priorities such assistance shall be considered in response to specific requests relating to measures and programmes in the fields of export development and trade promotion, industrial development and the development of agriculture, forestry and fisheries.

4. The Government of Australia and the Government of New Zealand shall also give appropriate support to approaches which may be made by Forum Island countries, either individually or collectively, to United Nations, Commonwealth or other international technical assistance agencies for training, research or funding support.

Export Development and Trade Promotion

5. The measures and programmes within the fields of export development and trade promotion referred to in paragraph 3 of this Article may include those which contribute to:

- (a) The establishment or the improvement of the structure of organisations and firms in Forum Island countries which contribute to the development of those countries, with particular emphasis on staffing requirements, financial management and working methods;
- (b) Basic training, management training, and vocational training of technicians in fields related to the development and promotion of domestic and international trade;
- (c) Product research, processing, quality guarantee and control, packaging and presentation;
- (d) The development of supportive infrastructure, including transport and storage facilities, in order to facilitate the flow of exports from Forum Island countries;
- (e) The development of effective marketing and promotion techniques, based on research, marketing studies and advertising;
- (f) The encouragement of co-operation between relevant organisations and firms in the establishment of schemes to promote the transfer and application of technology, the development of research, and the training of personnel;
- (g) The collection, analysis and dissemination of trade information and access, where appropriate, to existing or future information systems or bodies in Australia or New Zealand; and
- (h) Participation by the Forum Island countries in trade fairs and exhibitions.

Industrial and Agricultural Development

6. The measures and programmes within the fields of industrial development and the development of agriculture, forestry and fisheries referred to in paragraph 3 of this Article, may include those which contribute to:

- (a) Investment in industries, including agro-based industries, with particular emphasis on those of a smaller or medium size;
- (b) The transfer of resources from Australia and New Zealand to the Forum Island countries through joint ventures and other commercial arrangements;
- (c) A greater degree of processing of raw materials produced in and exported from, the Forum Island countries;
- (d) Scientific and technological co-operation and training directed towards the acquisition, adaptation and development by the Forum Island countries of skills essential to their industrial and agricultural development;
- (e) Improvement of transport and communications and other infrastructure associated with industrial and agricultural development; and
- (f) Closer co-operation, including the exchange of information, between firms and organisations contributing to the improvement and expansion of industrial and agricultural production.

Article IX. PROVISIONS FOR SPECIAL TREATMENT
FOR SMALLER FORUM ISLAND COUNTRIES

In implementing this Agreement the particular trade problems and interests of Smaller Forum Island countries shall be taken into account and special treatment and special measures may be provided by the Government of Australia and the Government of New Zealand to enable individual Smaller Forum Island countries to overcome the specific difficulties and obstacles resulting from the exceptional nature of their needs and characteristics and to take full advantage of the opportunities offered by the Agreement. This shall not be deemed to exclude the eligibility of the Governments of other Forum Island countries to receive special treatment as provided for in the Agreement to enable them to overcome special problems.

Article X. CONSULTATIONS

1. In addition to the procedures for consultation provided for elsewhere in this Agreement a Party may at any time request consultations on any matter related to the implementation of this Agreement.

2. Any such request shall be submitted in writing to the Director and shall be accompanied by a statement of the reasons for which the consultations are sought.

3. On receipt of a request for consultations the Director shall inform the other Parties accordingly and arrange for consultations between interested Parties.

Article XI. INSTITUTIONAL ARRANGEMENTS

1. For the purposes of this Agreement a Regional Committee on Trade is hereby established, which shall be composed of a representative from each Party.

2. The Committee shall have the following functions:

- (a) To review the operation of this Agreement and to make necessary recommendations to the Forum;
- (b) To consider any matter relating to the implementation of this Agreement;
- (c) To review the Schedules; and
- (d) To report annually to the Forum through the Director.

3. Annual meetings shall be convened by the Director. Special meetings may be convened by the Director or by the Director at the request of the majority of the Parties. The Committee shall hold its first meeting not later than one year after the entry into force of this Agreement.

4. The Committee shall appoint a Chairman at its first meeting. The chairmanship shall rotate every year as decided by the Committee.

5. Decisions of the Committee shall be by consensus.

6. The Committee shall establish its own rules and procedures and may appoint sub-committees to assist in performing its functions.

7. The Director shall be responsible for the secretariat services for the Committee and other duties as specified in this Agreement.

Article XII. BILATERAL ARRANGEMENTS

The provisions of this Agreement shall be without prejudice to bilateral commitments or arrangements which the Government of Australia and the Government of New Zealand have entered into with Forum Island countries, within the framework of special historical, constitutional or economic bilateral relationships.

Article XIII. AMENDMENT OF THE AGREEMENT¹

1. Without prejudice to the amendment of the Schedules to this Agreement which may be effected only in accordance with Articles IV and VII of this Agreement, this Agreement may be amended at any time by the unanimous agreement of all the Parties. The text of any amendment proposed by a Party shall be submitted to the Director who shall transmit it to the other Parties.

2. If three or more Parties request a meeting to discuss the proposed amendment the Director shall call such a meeting.

Article XIV. ACCEPTANCE, ACCESSION AND ENTRY INTO FORCE

Acceptance and Accession

1. This Agreement shall be open for acceptance by signature subject to ratification or by accession by the Governments of Australia, the Cook Islands, Fiji, Kiribati, Nauru, New Zealand, Niue, Papua New Guinea, Solomon Islands, Tonga, Tuvalu and Western Samoa.

2. Any Government which from time to time becomes a member of the Forum may apply to become a Party by submitting a request for accession to this Agreement to the Director who shall notify all Parties. A Government may accede to this Agreement after receipt of an invitation to do so issued by the Director with the approval of all the Parties.

3. Acceptance of or accession to this Agreement shall not be taken as extending the rights and obligations set forth in this Agreement to fully self-governing countries freely associated with the accepting or acceding Government, or to territories named by the accepting or acceding Government for whose international relations that Government is responsible.

4. Instruments signifying acceptance, or accession shall be deposited with the Director.

5. This Agreement shall enter into force when either the Government of Australia or the Government of New Zealand and the Government of a Forum Island country have accepted it. For each other Government it shall enter into force on the thirtieth day following the date of acceptance of, or accession to this Agreement by that Government.

6. The original of this Agreement shall be deposited with the Director who shall transmit to each Party a certified copy thereof and of each amendment thereto pursuant to Article XIII, and a notification of each acceptance thereof or accession thereto pursuant to this Article, and of each withdrawal therefrom pursuant to Article XV.

7. This Agreement shall be registered by the Director in accordance with the provisions of Article 102 of the Charter of the United Nations.

¹ For subsequent amendments to this Agreement, see United Nations, *Treaty Series*, vol. 1287, No. A-19995.

Article XV. WITHDRAWAL AND TERMINATION

1. If a Party wishes to withdraw from this Agreement, that Party shall give notice in writing of its wish to the Director, who shall thereupon inform the other Parties. The Party giving notice shall cease to be a party to this Agreement 30 days from the date on which the Director receives the notice, unless:

- (a) In the meantime the notifying Party has withdrawn its notice, in which event that Party shall continue to be a Party to the Agreement; or
- (b) The notifying Party is either the Government of Australia or the Government of New Zealand, in which event that Party shall cease to be a Party to this Agreement 180 days from the date on which the Director receives that Party's notice.

2. This Agreement shall terminate 180 days after the date on which the Director receives notification of withdrawal from this Agreement from:

- (a) The government of Australia and the government of New Zealand; or
- (b) All other Parties.

IN WITNESS WHEREOF the undersigned, duly authorised by their respective governments, have signed this agreement.

DONE at Tarawa, Kiribati, this 14th day of July one thousand nine hundred and eighty (1980).

[MALCOLM FRASER]¹
Prime Minister
For the Government
of Australia

[Dr. THOMAS R. A. H. DAVIS]

For the Government
of Cook Islands

.....
For the Government
of Fiji

[JEREMIA T. TABAI]
For the Government
of Kiribati

.....
For the Government
of Nauru

[ROBERT MULDOON]
For the Government
of New Zealand

[ROBERT REX]
For the Government
of Niue

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

[PETER KENILOREA]
For the Government
of Solomon Islands

[FATAFEHI TU'IPELEHAKE]
For the Government
of Tonga

[TOARIPI LAUTI]
For the Government
of Tuvalu

[LETIU TAMATOA]
For the Government
of Western Samoa

¹ Names of signatories appearing between brackets were not legible and have been supplied by the South Pacific Bureau for Economic Co-operation — Les noms des signataires donnés entre crochets étaient illisibles et ont été fournis par le Bureau de coopération économique pour le Pacifique Sud.

DONE at Suva, Fiji this 4th day of December one thousand nine hundred and eighty (1980).

[Dr. AKO TOUA]
For the Government
of Papua New Guinea

[Publication of schedules 1, 2 and 3 effected in accordance with article 12 (2) of the General Assembly regulations to give effect to Article 102 of the Charter of the United Nations as amended in the last instance by General Assembly resolution 33/141 A of 19 December 1978.]

RESERVATIONS MADE UPON ACCESSION

FIJI

The accession by the Government of Fiji was made subject to the understandings, assurances and agreements as recorded in the following documents:

(a) Annex 6 to the Record of the Third Meeting of the Senior Officials Committee—South Pacific Forum Trade Negotiations—which was held at Canberra from 28 April to 2 May 1980 a photocopy whereof is attached hereto as Appendix A.

(b) Concerning Fiji's trading relationship with Australia with reference to the entry conditions into Australia for Fiji timber and timber products:

- (1) Letter 253/4/4 dated 6 August 1980 addressed to Mr. J. Kotobalavu, the Secretary for Fiji Foreign Affairs, by His Excellency Mr. R. J. Greet, the Australian High Commissioner,
- (2) Letter 1420/33-5 dated 7 August 1980 addressed to His Excellency Mr. R. J. Greet, the Australian High Commissioner by Mr. J. Kotobalavu, the Secretary for Fiji Foreign Affairs,
- (3) Letter dated 30 August 1980 addressed to the Rt. Hon. Ratu Sir Kamisese Mara, the Prime Minister of Fiji, by the Rt. Hon. Malcolm Fraser, the Prime Minister of Australia,
- (4) Letter dated 6 September 1980 addressed to the Rt. Hon. J. M. Fraser, the Prime Minister of Australia, by the Rt. Hon. Ratu Sir Kamisese Mara, the Prime Minister of Fiji,

photocopies of all of which documents being attached hereto as Appendix B.

(c) Concerning Fiji's trading relationship with New Zealand with reference to the entry conditions for Fiji Orange Juice into New Zealand:

- (1) Letter dated 5 November 1980 to the Rt. Hon. Ratu Sir Kamisese Mara, the Prime Minister of Fiji, from the Rt. Hon. L. R. Adams-Schneider, the New Zealand Minister of Trade and Industry,
- (2) Letter dated 25/11/80 addressed to the Rt. Hon. L. R. Adams-Schneider, the New Zealand Minister of Trade and Industry, by the Rt. Hon. Ratu Sir Kamisese Mara, the Primer Minister of Fiji,

photocopies of such letters being attached hereto as Appendix C.

APPENDIX A

Annex 6 to the Record of the Third Meeting of the Senior Officials Committee—South Pacific Forum Trade Negotiations—which was held at Canberra from 28 April to 2 May 1980

STATEMENT FOR INCLUSION IN FORUM COMMUNIQUÉ

The Eleventh South Pacific Forum had before it for consideration a Report by the Committee of Senior Officials on the negotiation of a comprehensive non-reciprocal trade Agreement in favour of Forum Island countries. These negotiations were called for in a Resolution of a meeting of Trade or Economic Affairs Ministers of the Forum coun-

tries in Nuku'alofa, Tonga in June 1979 and subsequently endorsed by the Tenth South Pacific Forum. The objective of the Agreement was to achieve progressively duty free and unrestricted access to the markets of Australia and New Zealand over as wide a range of products as possible taking account of:

- (i) The industrial development and trading needs of the Forum Island countries;
- (ii) The particular trade problems and interests of the smaller Forum Island countries;
- (iii) The domestic and international implications of such an Agreement for Australia and New Zealand;
- (iv) The existing bilateral trading arrangements within the region.

2. Attached to the Report of the Senior Officials was the draft text of such an Agreement.

3. In the discussions on the text by the Forum, reference was made to the rules of origin provisions in Article IV. Representatives of the Forum Island countries raised in particular the minimum Forum Island content requirement of 50 per cent. They also raised the fact that Australia and New Zealand would not allow as a general rule the content of the other to be counted towards this 50 per cent requirement in relation to their imports. The Forum Island countries consider that these requirements could in some instances lead to the loss of investment in their countries.

4. The Australian and New Zealand delegations explained the origin rules required by their countries and noted international implications for them of a variation in the 50 per cent content figure. They also noted the difficulties they could face in their bilateral trade relationship, were a regional content concept given expression in the Agreement at this stage.

5. The Australian and New Zealand delegations indicated they appreciated the views put forward by the Forum Island countries and it was in light of considerations of this kind that Australia and New Zealand had proposed the inclusion of paragraph 4 in Article IV. This would allow for flexibility to be exercised by Australia and New Zealand in relation to both these elements so as to take account of the particular circumstances of the Forum Island countries.

6. The Forum also noted the importance to Forum Island countries of commodity trade and the difficulties that could arise should the terms of this trade be eroded by instability of export prices and by escalation in transportation and import costs. In this regard the Forum noted that the question of regional arrangements for export earnings stabilisation is currently under consideration and a joint SPC/SPEC feasibility study on such arrangements is currently under way. It was understood that this study would be submitted to the Forum for consideration on completion. Following consideration of the study the Forum would determine the appropriate action to be taken.

7. Reference was also made to the crucial and vital role that trade plays in the economic development of Forum Island countries and the greater dependence of Forum Island countries *vis-à-vis* other countries on the Australian and New Zealand markets. In view of this Australia and New Zealand said that they would bear in mind any special interests and needs of Forum Island countries in concluding trade Agreements with third parties.

8. On the basis of these understandings the Forum accepted the text for signature by member countries of the Forum.

APPENDIX B

I a

AUSTRALIA
AUSTRALIAN HIGH COMMISSION
SUVA

6 August 1980

253/4/4

Dear Mr. Kotobalavu,

Following the discussions which took place in Suva on 5 August on the question of export by Fiji to Australia of timber and timber products under SPARTECA, I have been instructed to write to you in the following terms.

The Fiji Government sought clarification from the Australian Government of the definition of "exotic non-competitive species only" included against certain timber products in Schedule I of the South Pacific Regional Trade and Economic Cooperation Agreement (SPARTECA).

The Australian Government assures the Fiji Government that the species listed in the attachment to this letter fall within the meaning of "exotic, non-competitive species" and that imports of timber products listed in Schedule I of SPARTECA which are made from those species would be accorded duty free and unrestricted entry into Australia. Such entry would be on the understanding that Fiji and Australia would reach agreement on the terms provided under SPARTECA.

I have sent a copy of this letter to the Permanent Secretary for Commerce and Industry.

Yours sincerely,

[Signed]

R. J. GREET
High Commissioner

Mr. J. Kotobalavu
Secretary for Foreign Affairs
Department of Foreign Affairs
Prime Minister's Office
Government Buildings
Suva, Fiji

I b

7/8/80¹

1420/33-5

Your Excellency,

I refer to the discussions between our trade officials over the last few days on outstanding issues between our Governments on SPARTECA.

We are grateful to your Government for the very helpful attitude it has taken in these talks. I am pleased to note that we have reached an understanding on most of the issues involved. In this connection we find the assurances contained in your letter 253/4/4 dated 6 August 1980 acceptable.

¹ 7 August 1980 — 7 août 1980.

As you know, the remaining outstanding issue concerns our request for your Government's agreement to further concessions on the entry conditions for plywood and blockboard. You are, of course, aware that forestry is one of the most important fields in which Fiji has a promising potential for long term development, and out of the products of immediate interest to Fiji under the SPARTECA, plywood and blockboard are two of the very few which can be developed and expanded given the opportunity to enter the Australian market on favourable terms.

If Fiji is to develop its plywood industry it must find an develop export markets for its products. The domestic market is very small and it is essential to develop overseas markets especially in respect of thin, high quality interior grades of plywood.

The present Australian Customs tariff make it impossible for Fiji plywood to be competitive, and in order to develop this export trade, it will be necessary for this product to be allowed duty free access into the Australian market. As was indicated to your trade officials, at this stage our main interest is in an initial supply of 2,000 m³ per annum free of duty and other restrictions.

With respect to blockboard, Fiji is in the process of establishing a blockboard plant as part of its improved forest utilization and forest industry development programme. However, in view of the small size of the domestic market for panel products, it is essential to the development of this product that Fiji finds and develops export markets.

We understand that Australia no longer manufactures blockboard but that there is demand for it in the high quality furniture manufacturing industry and it is this small sector of the Australian market that would be the target for Fiji's exports.

As in the case of plywood, the Australian Customs tariff is very high for this product to compete in the Australian market and, therefore, without special concessions available under Schedule I of SPARTECA, it will not be possible for Fiji to develop this product. Again, as for plywood, we would ask for your Government's assistance in agreeing to allow into the Australian market up to 2,000 m³ per annum on a duty free basis.

You will note that all we are asking is for your Government's agreement to extend to us the same treatment you are already providing to Papua New Guinea on a bilateral basis, although the quantity involved for Fiji is much lower than that you are allowing from Papua New Guinea. Our request is, therefore, in keeping with the broad objective for which both the South Pacific Forum and SPEC were set up, and this is the development of trading links within our region, which offer equal and fair opportunity for all countries.

Your Government's sympathetic consideration of this request would be greatly appreciated.

Accept, Your Excellency, the assurances of my highest consideration.

J. KOTOBALAVU
Secretary for Foreign Affairs

H.E. Mr. R. J. Greet
Australian High Commissioner
Suva

II a

PRIME MINISTER
CANBERRA

30 Aug. 1980

My dear Prime Minister,

During our discussions at the recent South Pacific Forum in Tarawa, Kiribati, I gave you an assurance that consultations between our officials would be held as soon as

possible to resolve the various matters of concern to you in relation to the inclusion of timber products in the Australian Schedules of the South Pacific Regional Trade and Economic Co-operation Agreement (SPARTECA).

As you know, our officials met on 5-7 August in Suva. During these consultations an assurance was given to Fiji that the range of timber species that are currently utilised for the manufacture of the timber products listed in Schedule 1 of SPARTECA are exotic and non-competitive species and that products listed in Schedule 1 of SPARTECA made from these species would be accorded duty free and unrestricted entry to Australia. I understand that this assurance is acceptable to you.

We have now examined Fiji's requests for duty free entry of 2,000 cu metres of plywood under 5.5 mm thickness and 2,000 cu metres of blockboard per annum under SPARTECA. Australia can agree to meet your requests. Accordingly, the two products will be included in Schedule 2 of SPARTECA with duty free entry up to the agreed quantities.

I trust that the matters of concern to you in regard to Australia's schedules of SPARTECA have now been satisfactorily resolved and I hope that Fiji will be in a position to sign the Agreement in the near future. Australia regards the Agreement as an important step forward in our overall relations with all Forum Island countries and when the Agreement comes into effect, we would like to see all Forum Island countries take advantage of the range of market access concessions offered by both Australia and New Zealand.

I look forward to our forthcoming discussions during CHOGRM II at New Delhi.

Yours sincerely,

[Signed]

MALCOLM FRASER

Rt. Hon. Ratu Sir Kamisese Mara
Prime Minister of Fiji
Suva, Fiji

II b

PRIME MINISTER
SUVA, FIJI

6th September 1980

My dear Prime Minister,

I am most grateful to you and your Government for the very helpful way in which you have readily accepted our request for further assurances on the free and unrestricted entry into the Australian market of exports of timber products from Fiji within the framework of the South Pacific Regional Trade and Economic Co-operation Agreement (SPARTECA).

On the basis of the assurances given in your letter dated 30th August, 1980 and during the meeting of our officials on 5-7 August in Suva, I am pleased to inform you that the Government of Fiji is now prepared to enter into an arrangement with your Government for the application between our two countries of the provisions of SPARTECA.

As consultations with New Zealand on outstanding issues between us are still continuing, I hope your Government will understand why Fiji cannot sign SPARTECA itself at this stage. However, with your agreement, our officials could perhaps consider the possibility of an exchange of letters or other bilateral arrangement through which we would bring into operation between our two countries the provisions of SPARTECA as amplified by the additional assurances which your Government has now given.

We look to your country as an important trading partner. My Government is, therefore, most appreciative of the positive measures which your Government has agreed to provide to allow Fiji to expand the export trade with your country.

Yours sincerely,

K. K. T. MARA
Prime Minister

The Rt. Hon. J. M. Fraser
Prime Minister of Australia

APPENDIX C

I

OFFICE OF THE MINISTER OF TRADE AND INDUSTRY WELLINGTON 1

5 November 1980

My Dear Prime Minister,

I have now returned from my visit to Fiji and Papua New Guinea and I want to take the opportunity to thank you and the people of Fiji for the kindness and hospitality shown to me and my wife during the celebrations of 10 years of Fiji independence. My wife and I enjoyed our visit immensely and we are most grateful to have had the opportunity to take part in an occasion that must be regarded as a most important milestone for Fiji.

When I saw you on 11 October we were able to talk about SPARTECA and I undertook to confirm what I said to you about access into New Zealand for orange juice. At our meeting we agreed that in 1982, when Fiji's orange juice from the Batiri project comes on stream, there should be a review of the detailed access arrangements under the consultative machinery of SPARTECA with a view to ensuring that the necessary access for this juice to the New Zealand market is available. I can now confirm my assurance that in view of the expected growth in consumption of orange juice in New Zealand and the likely level of production in the Cook Islands, there will be market opportunities in New Zealand for this orange juice (provided it is of acceptable quality) and import licences will be available accordingly. As we agreed, the specific arrangements need not be sorted out until 1982 and subsequently there would be annual reviews of the situation (under SPARTECA) to ensure continued access.

In the 1982 review and subsequently we will of course have to take account of Cook Island export production. I am confident we can develop arrangements that will meet the needs of both Fiji and Cook Island exporters to the New Zealand market.

The New Zealand Government is pleased that on the basis of the above assurances Fiji can sign SPARTECA and that you have announced your intention to do so.

May I conclude by reiterating my personal congratulations on the occasion of the 10th Anniversary of Fiji's independence.

Yours sincerely,

[Signed]

L. R. ADAMS-SCHNEIDER
Minister of Trade and Industry

Ratu Sir Kamisese Mara K.B.E., M.A.
Prime Minister
Fiji

II

My dear Minister,

Thank you very much for your message which the New Zealand High Commissioner in Suva conveyed to me on 5 November 1980 and in which you confirmed the undertaking which you had given at our meeting on 11 October 1980 in regard to the entry into the New Zealand market of orange juice exports from Fiji.

The Government of Fiji has noted with satisfaction your assurance on behalf of your Government

- (1) That New Zealand would take Fiji orange juice and the necessary import licences would be issued; and
- (2) That in 1982 and annually thereafter there would be a review of the quantity Fiji wished to sell to the New Zealand market, so that as production in Fiji developed, Fiji would be assured of access into the New Zealand market for the increased quantities involved.

With the above undertaking by your Government, I am pleased to confirm the agreement of the Government of Fiji to sign and to ratify the Forum Regional Trade Agreement (SPARTECA).

May I take this opportunity to convey to you on behalf of the Government of Fiji and personally, our sincere gratitude to you personally and to your Government for the very positive and helpful manner in which you have contributed to the agreement we have now reached.

With kind regards,

Yours sincerely,

K. K. T. MARA
Prime Minister

The Rt. Hon. L. R. Adams-Schneider
Minister of Trade and Industry
Wellington, New Zealand

ATTACHMENT

LIST OF SPECIES

<i>Local name</i>	<i>Botanical name</i>
Bauvudi	Palaquium fidjiense + Palaquium sp.
Dakua makadre	Agathis vitiensis
Dakua salusalu	Podocarpus vitiensis
Damanu	Calophyllum leucocarpum Calophyllum vitiense
Kaudamu	Myristica
Kaunicina/Kaunigai	Canarium
Kauvula	Endospermum macrophyllum
Rosarosa	Heritiera ornithocephala
Sacau	Palaquium hornei
Vesi	Intsia bijuga
Yaka	Dacrydium elatum
Yasiyasi	I. Syzygium nidie Eugenia effusa
	II. Acicalyptus longiflora Acicalyptus eugenioides Acicalyptus elliptica Syzygium curvistylum Syzygium fijiense Syzygium brackenridgei