



Oxfam
New Zealand

**Submission on the International treaty examination of the
Exchange of Letters between New Zealand and Australia
Constituting an Agreement to Amend Article 3 of the Australia
New Zealand Closer Economic Relations Trade Agreement
("ANZCERTA")**

Submission of: Oxfam New Zealand (Oxfam NZ)
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To: Clerk of the Committee
Foreign Affairs, Defence and Trade
Select Committee Office
Parliament Buildings
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Oxfam NZ wishes to speak to the committee on the matters raised in this submission.

Introduction

Oxfam NZ works in the Pacific, Asia and Africa supporting people to access safe water and sanitation, to build sustainable livelihoods, to provide education and healthcare for their children and to live free from persecution and violence.

Oxfam believes that trade which is fair and has development at its core has the capacity to contribute significantly to the Millennium Development Goals and lift millions of poor and marginalised people out of poverty.

Oxfam NZ supports the initiative by the Australian and New Zealand governments to update the Rules of Origin (RoO) for the ANZCERTA but questions why the same attention has not been given to updating the RoO applying to exports of the 14 Forum Island Countries (FICs) that are members of the South Pacific Regional Trade and Economic Cooperation Agreement (SPARTECA).

Rules of Origin vital to the effectiveness of any trade agreement

As Commerce Minister Simon Power noted when announcing the conclusion of the review "an important aspect of [the ANZCERTA] and its success is that both countries have continued to work at it to ensure it remains a living agreement." The same could be said of any successful trade agreement, however, the attention paid to the RoO for the ANZCERTA stands in stark contrast to work done on keeping the RoO for the SPARTECA with the Forum Island Countries up to date.

Despite radical changes to the global economy, and the rapid increase in the use of integrated global commodity chains in the production of manufactured goods, the SPARTECA RoO have remained largely unchanged since the Agreement's 1981 signing. Almost since its inception there have been frequent calls from Pacific governments and exporters for changes to be made, but with little movement other than time-limited and *ad hoc* derogations. Most recently, in 2006, Forum Trade Ministers commissioned a report¹ that recommended significant amendments be made in order to contribute to the SPARTECA's objective of "achiev[ing] 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" (SPARTECA Art IIa). Since that report the ANZCERTA rules have been updated twice, while little progress has been made on the SPARTECA, and the focus has now shifted to negotiations for an entirely new agreement, dubbed PACER Plus. Meanwhile, Pacific exporters continue to face an outdated "value-added" RoO that is both technically and practically difficult to meet.

SPARTECA RoO review complementary to PACER Plus negotiations

A reason that has often been cited for not undertaking a review of the SPARTECA RoO is that the issue will be addressed as part of the negotiations for PACER Plus. Unsurprisingly the FICs have identified RoO as a priority issue for the PACER Plus negotiations. We can see no reason, however, that a review of SPARTECA RoO could not be undertaken and implemented now, and the improved rules then included in PACER Plus if and when those negotiations are concluded.

Such an initiative would be likely to overcome a significant constraint faced by many would-be Pacific exporters, and contribute to the New Zealand Government's aim of facilitating increased exports from our Pacific neighbours in order to contribute to Pacific economic development. It would also be an important confidence-building exercise with Pacific governments and reduce the uncertainty associated with *ad hoc*, time-limited derogations for some existing products.

FICs face eroding preferences

As New Zealand and Australia continue to liberalise trade with third parties the value of the SPARTECA preferences granted to the FICs are eroded, making it more difficult for Pacific exporters to compete in the New Zealand and Australian markets. We believe this makes it doubly important that the FICs have the maximum opportunity to take advantage of those preferences while they still have some value. Given that PACER Plus negotiations are likely to take some time and are not guaranteed to result in an agreement, and the RoO that apply to Pacific exports will need to be reviewed anyway, we believe that both the New Zealand and Australian Governments should work with their Pacific counterparts to implement improved RoO as soon as possible. Such a review may well be a relatively speedy process as the FICs undertook some work on the issue recently as part of their negotiations with the European Union resulting in a proposal to apply the change in tariff heading at the 6-digit level.

¹ Fessehaie, Judith, *The Review of SPARTECA Rules of Origin*, Pacific Islands Forum Secretariat, Suva, 2007.

Rules should be simple and thresholds low

Rules of origin help determine the real level of market access that is provided under trading schemes. The current SPARTECA RoO are out of date, technically challenging and restrictive, impeding take-up by Pacific exporters. The New Zealand and Australian governments should work with their Pacific counterparts to develop significantly more liberal RoO. Recent trade and development literature² on the subject suggests that RoO for developing-country exporters should:

- (a) focus exclusively on the minimum rules needed to prevent trade deflection
- (b) allow exporters to choose between a change in tariff heading and a value-added approach
- (c) set the change in tariff heading threshold at the 6-digit level
- (d) set the value-added threshold no higher than 10%

Such an approach is likely to be appropriate for the SPARTECA as the chances of trade deflection are low due to the high transport costs in the Pacific and the generally low level of New Zealand and Australia's import tariffs.

Recommendations

- 1) New Zealand should work with Australia and the Forum Island Countries to implement improved Rules of Origin as part of the SPARTECA.
- 2) The FICs should be offered new rules that are as liberal as possible while being sufficient to prevent trade deflection.

Annex: PACER Plus and its Alternatives: Which way for trade and development in the Pacific?

Included as a separate pdf file, this Oxfam report investigates New Zealand and Australia's trade with the FICs in the context of the PACER Plus negotiations, including the problem of the SPARTECA Rules of Origin.

² See for instance Commission for Africa, *Our Common Interest: Report of the Commission for Africa*, 2005 and Brenton, Paul "Rules of Origin and Development: Issues for EPA negotiations", Trade Department, World Bank, May 2006.