

Interview: Duncan Kerr MP

Following the November 2007 election of the Rudd Labor Government, the man now tasked with re-shaping Australia's relations in the Pacific is Duncan Kerr MP, Parliamentary Secretary for Pacific Island Affairs. Previously a Dean of the Faculty of Law at the University of Papua New Guinea, Kerr tells *Business Advantage* how Australia's Pacific policies are changing.



'It's in our strategic interest to do what we can to make the region strong, prosperous and politically sound.'

How does the Australian Government see the Pacific as far as strategic importance is concerned?

Australia sees itself as an integrated part of the Pacific ... What happens with our neighbours, their strengths and their weaknesses, has got consequences for us, not merely economically, but also in terms of our development assistance program—and indeed *in extremis* our requirement to provide intervention, as we did in the Solomon Islands.

How do you see the change between this current Labor Government's policies towards the Pacific and the previous Liberal/National Government's?

The key to the change is that we are seeking to engage with the region as partners and with respect. We believe we can maximise our effectiveness within the region by working as cooperatively, as engaged, and as respectfully as possible with our neighbours ... we see ourselves as a country in and of the Pacific with long-term interests to work through with those countries as partners.

What are the major issues and challenges facing the Pacific?

There are a whole range of issues that affect us. The partnership framework emerging out of the Prime Minister's Port Moresby Declaration focuses on the Millennium Development Goals. We think that is a most substantial development challenge for the Pacific, with many of the countries coming from a declining base rather than an advancing base.

It's in our strategic interest to do what we can to make the region strong, prosperous and politically sound. The partnership will involve strengthening institutions so they are as robust as possible to deal with their own challenges: to deal with effective law enforcement; to deal with challenges of poor governance; and most importantly to address the needs of their citizens through meeting the benchmarks of the Millennium Development Goals. That's the first issue—development assistance.

Secondly, there are major climate-related issues. The Pacific is highly dependent on marine resources and issues as diverse as sea level change, ocean warming, the problem of ocean acidification and reef damage are front and centre. We are working to try and get good outcomes on strong collective international action to reduce carbon emissions at the March 2009 United Nations Climate Change Conference in Copenhagen.

There are also, of course, issues about health and human security around HIV/AIDS, malaria and drug-resistant TB [tuberculosis], which pose development challenges and real threats to relatively fragile health infrastructure but also challenges through the possibility of transmission in an increasingly mobile world.

Pacific regional institutions are in place but there's no doubt there are opportunities to strengthen interregional cooperation. For example, can we find solutions for bulk fuel purchasing? Can we find various ways to more effectively police the fisheries areas through cooperation? Through the

'Niue Plus' negotiations we're hoping an agreement can be reached where the various islands are able to exchange policing roles with each other.

International cooperation is also necessary in the trade area where we're trying to work through the idea of greater openness of trade—but not for Australia's national advantage. We simply believe that very few countries have reduced their aid dependency and pulled themselves out of poverty without a growing private sector and without taking the challenge of working more effectively in a free trade set of arrangements with the external world.

What is it about this region that is particularly special? Where do its competitive advantages lie?

It is special because of the difficulties in communications and transport. Some of those issues can be dealt with through opening up of markets. An example: most of the countries until the recent past had protected communications systems. Some have bitten the bullet and allowed new entrants and the effect has been quite dramatic, even spectacular. That means people are much more connected, not only to their neighbours but to opportunities external to their country.

Small and remote economies face many challenges to access international markets. But every Pacific country has some products and niche advantages that they can draw strength from. The services area, particularly tourism, offers opportunities.

How do you feel about getting the guest worker scheme off the ground? What are its prospects?

I'm very pleased about it. I was a strong advocate for it and there's no doubt in the early months of the Rudd Government it was pressed upon us by the leaders of almost every Pacific Island country. It's important that the pilot operates successfully. I'm looking forward very much to its implementation and I know so too are the Pacific Island countries.

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Interview: John Ridgway

Sydney-based lawyer John Ridgway is founder of the Pacific Legal Network (PLN), which has representation in 13 Pacific countries and territories. He is also Immediate Past President of the Australia-Pacific Islands Business Council. *Business Advantage* caught up with him to discuss a new PLN initiative, and the region's business environment.

In 2008, PLN announced a new venture with international law firm Davis Wright Tremaine LLP (DWT) to provide specialist legal advice to companies that invest and operate across the Pacific. What can PLN achieve with DWT that it can't on its own?

The venture, named DWT Pacific, offers the only unified, trans-Pacific legal and business advisory team in the market. This configuration of the PLN affiliates and DWT stakeholders provides commercial legal expertise that covers a third of the world's surface with one phone call.

Businesses and investors are increasingly starting to realise the opportunities open to regional businesses in the Pacific. In fact, companies such as ANZ, Westpac and Western Union have long been working in multiple jurisdictions.

In a sense we are extending what PLN already does by tying in China and the USA—and it is probably much easier for us to do it than anybody else. Almost everyone involved in DWT Pacific has lived and worked in the Pacific, including David Cohen, who will lead the initiative in the USA.

What have you identified as the main business opportunities as far as DWT Pacific is concerned?

DWT Pacific is keenly eyeing potential areas such as an expected take off in the Pacific's telecommunication markets, investment interests in alternative energy projects, infrastructure projects, resort development, and the anticipated US military build-up in Guam.

The DWT Pacific is also focused on Chinese investment in the Pacific. It's a perfect opportunity for Pacific Island countries as well as DWT's Shanghai office. We believe helping manage the existing investment in the region is also important; making sure that clients maintain confidence in the Pacific, even when there are difficulties in some parts. It's also important to try to retain the big business names in the Pacific because that helps build external business confidence.

How would you assess business and investment conditions in the Pacific today, and what is the outlook for the region?

The Pacific is a great market for large and small investors alike. Many exporters both in Australia and throughout the USA and China are realising the capacity of the region as a whole.

The region is now moving ahead so quickly, with the provision of new telecommunications services in several countries, via Digicel, and reduced airfares brought about by aviation competition. Five years ago these two important issues hindered effective business. Five years from now the regional business market of the Pacific will have advanced so much further again.

This, combined with an abundance of natural resources, growing populations and rising GDPs collectively means that the region will remain ripe with business opportunities.



PLN's John Ridgway, Andrew Kidu and Kim Ralston launching the DWT Pacific initiative at the DWT LLP conference in Phoenix, Arizona.

'Businesses and investors are increasingly starting to realise the opportunities open to regional businesses in the Pacific.'

ENTERPRISE CHALLENGE FUND UPDATE

Nature's Way Cooperative (Fiji) Ltd has become the first company in Fiji to benefit from the Australian Government's Enterprise Challenge Fund (ECF) program during the handover ceremony in October 2008.

Nature's Way runs the heat treatment facility at Nadi airport that helps meet quarantine standards for the export of fruit and vegetables. The ECF grant of FJ\$350,000 will help the company expand its treatment facility, with the aim of facilitating the export of more fresh produce from Fiji.

The ECF operates in four Pacific Forum countries: Fiji, PNG, Solomon Islands and Vanuatu. Through open competition, matching grants of between FJ\$125,000 and FJ\$2 million are awarded to private sector business projects which improve livelihoods and incomes and which generate better access to vital goods and services for the people.

For more details go to www.enterprisechallengefund.org.

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Seasonal workers scheme set to promote regional harmony

Business Advantage reports on the Australian Government's decision to make 2500 visas available to Pacific Island workers.

In response to strong lobbying and a positive assessment of New Zealand's Recognised Seasonal Employer (RSE) initiative, in August 2008 the Rudd Government launched a three-year pilot scheme that will enable regional labourers to work in the Australian horticulture sector.

'I'm very pleased about it. I was a strong advocate for it and there's no doubt in the early months of the Rudd Government it was pressed upon us by the leaders of almost every Pacific Island country,' Duncan Kerr MP, Parliamentary Secretary for Pacific Island Affairs told *Business Advantage* in September 2008. 'It's important that the pilot operates successfully. It's modest in scale but that is not surprising given that it reflects a changed policy position and the reality that there will be some people observing with the intent of taking advantage of any frailties or weaknesses to say "I told you so".'

Seasonal workers will be eligible for up to seven months employment in any 12-month period with the first group set to arrive this year—Swan Hill, Victoria, and Griffith, New South

'It may indeed become the single most important issue in Australia's relations with the Pacific, so strongly are the Pacific Island governments supporting this.'

Wales, being mooted as likely trial locations. The scheme will be reviewed in 18 months when it could be expanded from Kiribati, Tonga, Vanuatu and Papua New Guinea to other eligible countries.

'A careful approach so that the scheme as a whole operates successfully, is proved and established, and any hiccups are worked through is pretty important,' notes Kerr. (For more from the interview with Duncan Kerr, turn to page 12.)

BUILDING A RELIABLE & STABLE WORKFORCE

Federal Agricultural Minister Tony Burke, who made the announcement, insisted to the *Sydney Morning Herald* that it would not be a cheap labour option for farmers, saying it would probably cost slightly more since they must prove there are no local workers available, and continue to meet Australian awards

and rates, as well as pay half the cost of return airfares for seasonal workers. Many growers themselves have emphasised they have a genuine interest in building and training up a more reliable, stable workforce.

Similar to the existing scheme across the Tasman, a number of conditions will be placed on participating employers—including responsibility for ensuring employees meet the requirements of their permits. (Although employers are fined for those who don't make their flights home, experts argue workers are unlikely to overstay their visas if there's a likelihood of their returning for more work the following year.) Pacific Island countries will bear responsibility for effective recruitment processes, preliminary training and appropriate screening procedures, while Islanders will need to meet normal immigration health and background checks.

WHAT'S IN IT FOR AUSTRALIA?

The Australian National Farmers' Federation (NFF) has long advocated a seasonal guest-worker scheme, stating in April 2008 that the industry would need an additional 100,000 agricultural workers over the coming years to fill vacancies created by growing productivity and a declining number of willing local workers. Such a labour shortfall could cost the economy as much as AUD\$1.1 billion in lost tax revenue, while the horticulture industry has asserted that its estimated shortfall of 22,000 seasonal workers means up to AUD\$700 million of fresh produce is being left to rot.

While unions have traditionally opposed such schemes, the Australian Workers' Union (AWU) has expressed its support for the proposal as long as appropriate measures are in place to protect Australian jobs and prevent the exploitation of both local and foreign workers. This position reflects findings from the New Zealand trial that suggest incoming labour actually has the potential to create more employment opportunities for locals.

Convinced of the benefits of such a scheme, the Australia Papua New Guinea Business Council (APNGBC) lobbied the previous government and opposition for many years. Executive committee member Scott Roberts, principal of specialist recruitment firm Cadden Crowe for the Asia Pacific region, says the APNGBC is 'very pleased with the new Government's change in attitude ... We know very little about how the scheme is likely to work [but] see few risks. We are happy to work with both governments and related sector interests to ensure the scheme works for all.'

SPECIAL FEATURE: GUEST WORKERS

HOW THE REGION WILL BENEFIT



Cadden Crowe's Scott Roberts.

As well as being supported by the NFF, the AWU and Oxfam Australia, the scheme has the backing of World Bank senior economist and expert in Pacific labour mobility, Dr Manjula Luthria. 'All the money we will ever give to poor, small, remote Pacific Islands will never equal what the islanders themselves will contribute from hard, honest work,' Dr Luthria has

written. 'At the moment, remittances comprise 39% of GDP for Tonga, 36% for Tuvalu and 14% for Samoa.'

Remittances are of huge importance for the region. As Roberts says, 'people from PNG and other Pacific nations will jump at this opportunity ... The scheme offers [a chance] to take home savings that can feed, clothe and house a family. I expect people to return regularly and invest the money earned and saved in small-scale activity that will make big differences for a large number of Papua New Guineans.'

IMPROVED RELATIONS

According to Frank Youn, Executive Director of the APNGBC, Australia Fiji Business Council and the Australia Pacific Islands Business Council, the issue of labour mobility in the region is one by which Australia's relations with the Pacific will be judged: 'It may indeed become the single most important issue in Australia's relations with the Pacific, so strongly are the Pacific Island governments supporting this,' he told *Business Advantage*.

While seasonal worker schemes won't solve the employment issues in the region, nor single-handedly transform the economic prospects of small island states, they do have 'the potential to make a material difference to the wellbeing of significant numbers of Pacific Island workers and their families and communities,' according to research by Peter Mares and Nic Maclellan of Swinburne University of Technology's Institute for Social Research.

LEARNING FROM NEW ZEALAND

The Australian announcement follows a comprehensive assessment of New Zealand's RSE scheme, which was introduced in 2007 to allow approved employers to take on unskilled workers from overseas in peak times—when they're unable to fill positions with New Zealand labourers. There are currently 5000 places available annually in the horticulture and viticulture sectors, with preference given to workers from a select list of Pacific Island nations.

Early results are positive, with labour requirements for some sectors—specifically kiwifruit (picking and packing) and wine (pruning)—being met in the first 10 months of the scheme's implementation.

A number of New Zealand employers went so far as to put their workers in purpose-built homes, collect children's books for them to take home, and help pay for employees to visit their families halfway through their stay.

According to a June 2008 conference on labour mobility, run by independent international policy think tank the Lowy Institute, results from the RSE scheme have even demonstrated significant transformational

changes in the horticultural industry, including a reduction in tax avoidance and the use of illegal workers, large productivity improvements for RSE employers and a growing recognition of RSE's potential as a social sustainability brand.

GOODWILL ALL ROUND

While there have been both successes and failures with such schemes, Dr Luthria has told Melbourne's *Age* newspaper that those which work tend to engage host communities. Indeed, one of the findings from the New Zealand experience was the need for appropriate awareness raising and preparation in both the sending and receiving countries, to ensure realistic expectations on all sides.

According to the outcomes of the Lowy conference, 'the benefits of the introduction of a seasonal labour scheme—to the Australian horticulture sector from increased production, to the Australian economy from increased taxation revenue, to Pacific Island economies from increased incomes, and to Australia's relations with its Pacific Island neighbours from the Government's inclusive approach—far outweighed the social and economic costs of administering a scheme.'

Ultimately, the Australian initiative is expected to contribute significantly to regional security, stability, cultural harmony, understanding and goodwill in the Pacific Islands region.

'I'm looking forward very much to its implementation and I know so too are the Pacific Island countries,' says Duncan Kerr.

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Understanding the Pacific consumer

While the South Pacific is a significant producer of a wide range of products and raw materials, it is also a consumer market in its own right. *Business Advantage* asked some business people with a strong focus on the region's consumers to provide their insights into how the market is changing.

The Pacific Islands consumer market is changing and the rapidity of change is escalating,' notes Caz Tebbutt-Dennis of Fiji-based market research company Tebbutt Research. 'Increasing competitiveness and deregulation are changing the landscape for marketers and making the region more attractive to a broader number of companies.'

Tebbutt-Dennis says the days of the Pacific being a dumping ground for goods are well and truly over: 'Clients are changing attitudes too, and social responsibility is guiding some market development. This will also become increasingly important,' she adds.

MORE DISCRIMINATING CONSUMERS

Tebbutt Research specialises in the Pacific Islands and has completed more than 500 market research projects in 16 Pacific Island countries. In the process, it has gathered a unique perspective on the Pacific consumer.

'The consumer is changing as they become more discriminatory and more demanding, thanks to the increasing choice in almost every category, and most noticeably media,' explains Tebbutt-Dennis. 'Improvements in quality standards are enthusiastically welcomed and this shifts the benchmarks. Lives are busier, and convenience products are enjoying tremendous growth.'

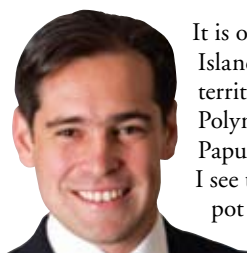
THE POWER OF THE BRAND

Tebbutt-Dennis suggests that branding is becoming increasingly important to the Pacific consumer.

'It has long been believed that price is the strongest driver of product or brand choice,' she says. This is not longer wholly the case. 'What this means is that consumers will choose brands with appropriate values when they are able to. Of course, as affordability rises, those brands that have made the investment in positioning will reap the rewards.'

Two companies with brands that are instantly recognisable across the South Pacific are food company Nestlé and mobile telecommunications specialist Digicel. The executives responsible for their Pacific operations spoke with *Business Advantage* for this article.

Sylvain Pons, General Manager, Nestlé Pacific Islands



It is often far too simple to group the Pacific Islands into 'developed'—such as the French territories of New Caledonia and French Polynesia—and 'developing' markets, such as Papua New Guinea, Fiji and Vanuatu. I see the Pacific Islands as a diverse melting pot where cultures and tribes from numerous ethnic dispositions mingle on a day-to-day basis. Fundamentally,

I see consumers seeking the same things: quality products at affordable prices that are readily available. I believe it is this very diversity that breeds innovation, which ultimately ensures consumers from all walks of life will benefit in the long run.

Keeping these consumer sentiments in mind, we at Nestlé Pacific Islands aim to keep things simple and focus on putting the wants and needs of our consumers at the heart of what we do. In order to grow our brands and gain greater loyalty, we see direct marketing and sampling as pillars to our success.

Ultimately, understanding our consumers and gaining key insights into their behaviours and aspirations builds on this, and as a result we are embarking on an ambitious consumer insights project in 2009. We intend to take ourselves to the level of our consumers: interviewing them, seeing first hand their preferences and observing their cooking and consumption habits.

The region has a cumulative population of over 8.3 million people, an average population growth rate of 1.9%, over 18 countries and territories and more than 900 languages and dialects (820 in PNG alone!). I feel it is a great honour to be heading up the Regional Division of a global company such as Nestlé.

Vanessa Slowey, Chief Executive Officer, Digicel Pacific



We have put the customer as number one by finding out what the customer wants. One size doesn't necessarily fit all in the Pacific; what works in Fiji doesn't necessarily work elsewhere. You have to listen to what your customers want and go and deliver that.

You've got to give your customers what they want and if you don't you won't survive. Our best promotional ideas often come from our customer care people, who are actually speaking to customers.

If you listen and do enough research, you can give people what they want rather than 100 products they don't need. We think of value-added services—free calls on a Sunday, for example. You have to keep things simple, and keep listening to the customer.



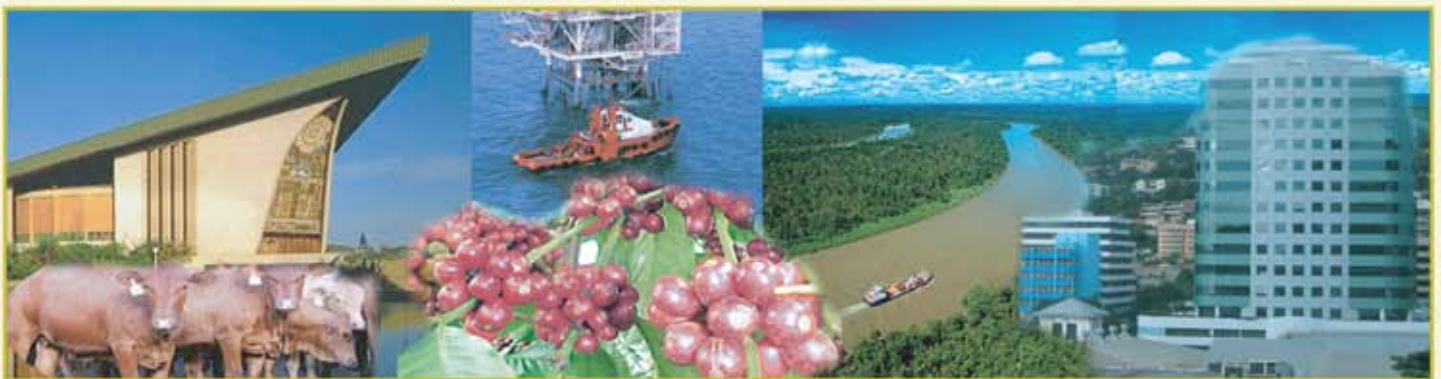


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Renewable energy in the Pacific

There are few areas of the world where the continued uncertainty over oil prices has had such a profound impact as in the Pacific. Renewable energy presents the region with an opportunity to become more self-sufficient, suggests Nigel Hall of the European Investment Bank.

The Pacific is characterised by small populations dispersed over many thousands of kilometres. Given the small scale of energy use, most countries are heavily dependent on petroleum as the sole source of energy. Alternative fossil fuels such as coal, natural gas or LNG tend to be either unavailable or economically non-viable.

OIL IN THE PACIFIC

Pacific countries have little bargaining power to negotiate favourable long-term contracts for the supply of petroleum products and the market is too small for the major oil companies to be interested in competing or investing in the market.

Delivery of oil is also highly inefficient—the only ports capable of importing fuel directly from Singapore (where almost all of the fuel in the region is sourced) are Guam, Samoa and Fiji, from where oil has to be transhipped onto small coastal tankers. In many cases, the oil infrastructure too is inadequate—storage capacity is too small and often poorly maintained, shipping channels have insufficient depth to allow the passage of fully-loaded vessels, oil pumps and pipelines are inadequately sized.

Most of the Pacific's small economies are very energy-intensive due to the high level of consumption relative to GDP, inefficient energy use and the almost total reliance in much of the Pacific on thirsty diesel generators for producing electricity. As a consequence, Pacific economies are strongly affected by oil price rises—a recent article in the *Pacific Economic Bulletin* estimated that the impact on national income of each US\$10 per barrel rise in world oil prices was between 1% and 2.5%.

THE IMPORTANCE OF POWER TO THE PACIFIC

Access to affordable and reliable supplies of electricity is, however, a key requirement for generating economic growth and improving the quality of life. It has a direct impact on many of the United Nations' Millennium Development Goals, including improvements to health and education, the eradication of poverty and hunger, and the generation of full and productive employment.

Despite the wide recognition of the importance of providing electricity throughout the Pacific, statistics for electrification rates for 13 Pacific Island countries over the period 1980 to 2004 indicate little progress has been made. Statistics from Papua New Guinea (PNG) over a similar period indicate a significantly harsher picture.

Without electricity, schools can have no communication with the outside world and without lighting the ability of students to work in the evenings is limited. Health clinics rely on refrigeration to store vaccines and other medicines, as well as to operate the

most basic analytical and diagnostic tools. Water supply systems need electricity for pumps. In the productive sector, the absence of electricity prevents farmers and fishermen from processing or storing their products, while the power tools that are essential for boosting productivity in the construction and manufacturing sectors all rely on electricity.

Under these circumstances, it's not surprising that the Pacific Island economies find it hard to compete with neighbouring Indonesia and the south-east Asian 'tigers,' all of which benefit from the extensive power reticulation systems that their large and geographically concentrated populations render relatively straightforward to implement.

ALTERNATIVE SOURCES OF ENERGY FOR THE PACIFIC

Given the problems with conventional energy supplies, renewable energy can provide an attractive alternative. Depending on the specific location, hydroelectric power, wind power, geothermal, biofuels, biomass and solar photovoltaic systems can all provide viable means of generating electricity.

The renewable resources in the Pacific are abundant—rainfall in some countries is amongst the highest in the world, while in other islands solar irradiation is high for a large proportion of daylight hours. Much of the region is blessed with fertile soils, providing a productive environment for producing biofuels and biomass. In some countries, such as Fiji and PNG, hydroelectric power already supplies significant quantities of electricity to the existing distribution networks.

In general, however, only a very small proportion of the available renewable resource is utilised and there is a large unrealised potential.

THE ADVANTAGES OF RENEWABLE ENERGY SOURCES

- Using renewable resources avoids the costly import of refined petroleum products, all of which are paid for in foreign currency.
- Localised production avoids the cost and unreliability of extended power transmission and distribution networks.
- Low-technology technical solutions are well-adapted to the scarcity of skilled technicians in the region.
- Because of the environmental benefits, renewable projects can access preferential financing terms from international financing institutions (see table on next page).
- Supplementary revenues can be obtained from the sale of carbon credits on the international market.

SPECIAL FEATURE: RENEWABLE ENERGY

AVAILABILITY OF FINANCIAL INSTRUMENTS (INDICATIVE ONLY)

	Technical assistance	Grants	Equity	Loans	Guarantees
International organisations					
World Bank Group (IBRD, IDA, IFC)	•	•	•	•	•
Asian Development Bank	•			•	•
European Commission	•	•			
European Investment Bank	•		•	•	•
Global Environment Facility	•	•			
United Nations Development Program	•	•			
United Nations Framework Convention on Climate Change	•				
Bi-lateral organisations					
AusAID	•	•			
NZAID	•	•			
European Union member states (development agencies, export credit and guarantee agencies)	•	•	•		
USAID	•	•			
Japan Bank for International Cooperation/Japan International Cooperation Agency	•			•	•
Regional organisations					
Pacific Islands Forum Secretariat	•				
Pacific Power Association	•				
Pacific Islands Applied Geoscience Commission (SOPAC)	•				

OBSTACLES FOR RENEWABLE ENERGY IN THE PACIFIC

- Power utilities in many countries are stretched for resources, with a lack of the technical and management experience and know-how to implement these projects.
- Legislation allowing the private sector to enter the market may be missing.
- Many renewable schemes require a thorough prior understanding of the renewable resource. The resource studies take time, requiring up-front funding to be available years before the project can be implemented.
- Fuel supplies (eg biomass, coconut oil) may be unreliable due to seasonality, extreme weather events and transport problems.
- Technical expertise is in short supply at all phases of the project cycle, from planning, through purchasing and construction, to operation and maintenance.
- Project sponsors may not have ready access to suitable sources of finance.

FINANCE & ASSISTANCE IS AT HAND

Despite the hurdles, the good news is that there are a large number of public and private sector organisations that are willing and able to help Pacific countries tackle the problem.

The twin goals of providing reliable and affordable energy supplies to drive economic growth and also addressing climate change fit nicely with the key objectives of the international organisations that provide development assistance in the region.

The table above does not provide an exhaustive list, but indicates some of the most active public sector organisations in the region.

A wide variety of instruments are offered and many come with strings attached. However, there is generally plenty of support available for a sound initiative. The most important role that these

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CASE STUDY: COCONUT ENERGY

Coconut oil differs from diesel fuel in that it is more viscous, solidifies at temperatures of 22–25°C and has a much higher ignition temperature. It can be used directly as a fuel in specially adapted engines or, when blended with diesel fuel at a proportion of up to 20% coconut oil, can be used in standard engines. A third, but more expensive alternative, is to convert the coconut oil using a chemical process into a biodiesel fuel, which can then be used in standard diesel engines.

The use of coconut oil to fuel specially adapted diesel generator sets allows local communities with no access to electricity grids to become energy self-sufficient. The oil mill and press as well as the power plant can be owned by community groups, with charges for electricity consumed paid through a pre-payment meter system.

The Government of Vanuatu has collaborated with UNELCO Suez, the local private sector utility, to establish a Rural Electrification Plan to electrify the 80% of the population currently without electricity. As a first step, a prototype project has been established at a cost of 20 million vatu (about 140,000 euros) to electrify the village of Port Olry, on the island of Espiritu

Santo, using diesel generators fuelled by coconut oil.

The oil will be produced on site from copra purchased from the Port Olry community, which will become totally independent of fossil fuels. This prototype will be used to demonstrate the viability and sustainability of the concept so that it can be duplicated at nine other sites in Vanuatu for which funding has already been obtained from the European Union.



CREDIT: EIB

generally well-intentioned organisations can play is in creating a sound environment to help get ideas off the ground and then managing the technical, management and financial risks.

Technical assistance is important. Grant funds are available from many international organisations for resource assessments, feasibility studies, preliminary design and even assistance with setting up a legal frameworks that allow private sector Independent Power Producers to set up schemes and sell power to the public.

PROVIDING CAPITAL

When it comes to providing capital for investment programs, there is a clear hierarchy, ranging from grant contributions to equity participation and then long-term loans, either with or without concessional terms (eg duration, interest rates, and grace periods). In general, the more concessional the instrument, the more restrictive the conditions attached. So far as the private sector is concerned, financing can be provided by the commercial banking sector as well as a number of the international agencies mentioned

above, including the European Investment Bank (EIB) and the International Finance Corporation (IFC).

The really scarce resource is that of human capital: competent managers and technicians who can plan and implement projects in the field and then ensure that they continue to provide reliable and affordable supplies of power to the communities that they serve. Successful implementation also requires strong local ownership to provide access to the natural resources and to ensure that schemes are well-maintained.

Nigel Hall is a technical adviser at the European Investment Bank's Sydney office. In line with the action plan for the European Union's current energy policy, the EIB is increasing its support for renewable energy and energy efficiency projects, including small-scale projects in less mature markets. Its new annual lending target for renewable energy projects is 900 million euros (US\$1.16 billion), with 50% of lending aimed at electricity generation that uses renewable technologies.

ENERGISING THE PACIFIC

Faced with the challenge of providing power to the 200,000 or so non-electrified households in the Pacific Islands, not to mention the millions of people without power in PNG, a number of international financing institutions and donor agencies are working with Pacific Islands governments to develop a 'bottom-up' approach to rural electrification.

The 'Energising the Pacific' program focuses on identifying small-scale technologies such as solar photovoltaic, wind power, small-scale hydro-electric and biomass gasification schemes that will be owned, operated and maintained by local communities.

The initial focus is on access to energy for households, although power will also be provided for small community-based enterprises.

The program will aim to provide a comprehensive framework covering the choice of technology, a clear road-map for accessing the necessary resources and finance, and laying the foundation for public and private sector organisations to take ownership and implement the program.

The program was discussed at the World Bank's annual meeting in

October 2008 and in the coming months further analysis will develop the proposal, deepen country-specific information, explore possible economies of scale and identify possible manufacturing options.



CREDIT: EIB

Wind turbines in cyclone-prone areas of the Pacific need to be able to be lowered to the ground rapidly to avoid damage from oncoming storms.

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For further information, please contact:

- External Trade:
Mrs Doriane Sanchez-Le Bris;
- Investments and Zoneco program:
Messrs Adrien Rivaton and Alain Chung;
- Regional Cooperation:
Ms Caroline Païdjo.



ADECAL

New Caledonia Economic Development Agency

The new wave of commercial law reform

Since much business in the Pacific takes place over long distances, often between people who don't know each other, a sound legal framework for business dealings is especially important, argue the Asian Development Bank's Winfried Wicklein and Terry Reid.

Commercial law is the foundation of business transactions in the Pacific. The region requires laws that take into account its unique spectrum of communities and business groups. The laws must also be user friendly, be applied with certainty, and encourage and support foreign investment.

CUTTING-EDGE LAWS

Good commercial law is particularly important due to the renewed focus on the role of the private sector in generating growth and alleviating poverty in the region. Governments, as well as donors such as the Asian Development Bank (ADB), the World Bank Group and AusAID, are working together on promoting private sector development as part of their aid programs.

ADB is assisting many countries in the Pacific to embark on far-reaching commercial law reform, which has the potential to transform the legal landscape in the region. It will give our island countries laws and other institutions that will be uniquely tailored for business in the region but at the same time will represent some of the most cutting-edge legal frameworks in the world.

For example, over the past few years, Niue and Samoa have passed new company law legislation. At present, Vanuatu, Tonga and the Solomon Islands are preparing new company law statutes. In addition, bankruptcy legislation is being reformed in Vanuatu.

'No longer will it be necessary to hire a lawyer or travel to the capital city to form a company. Wherever there is internet access, even through an internet café, people and groups will be able to form companies.'

VITAL LEGAL INFRASTRUCTURE

Just as roads, ports and airports represent important physical infrastructure, good commercial law—including company law—represents vital legal infrastructure. It is crucial to get the best legal infrastructure in place in order to encourage business.

Internationally, the overwhelming majority of all businesses are small and medium-sized businesses. Clear, concise and user-friendly company law encourages the formation of small businesses that can enter into contracts, and trade and deal with other companies as independent entities. The ability to operate as distinct economic persons has many advantages, from adding value to businesses, facilitating their sale and protecting the owner. In turn, this promotes economic development.



Just as roads, ports and airports represent important physical infrastructure, good commercial law represents vital legal infrastructure.

COMMUNITY COMPANIES

Good company legislation can also be designed to address the particular characteristics of Pacific Island nations. For example, the draft company legislation of the Solomon Islands makes provision for the registration of 'community companies.' Community companies are a special type of company designed for use by kin groups especially where land is under customary ownership.

The use of a community company enables the use of community assets in a way that benefits all members of the community while at the same time removing the potential for abuse sometimes experienced with the use of trusts. Others who can take advantage of this type of company are women's groups, farming and fishing cooperatives, and even groups who receive government grants and other funding. This legislation will protect members of the group from being taken advantage of and will give them a say in the activities for which the company has been set up.

BUSINESS LAW & ACCESS TO FINANCE

Another area where far-reaching changes are taking place is in the laws governing the pledging of collateral. In countries where access to finance is widespread, it is simple for borrowers to pledge their business assets to the banks as security. In the event of default, lenders can repossess and sell the assets to recover what is owed. As a result, they are far more willing to lend, interest rates are lower and many more companies and small businesses can borrow to finance their business activities. More widespread access to finance means more investment. In the longer term this translates into growth and prosperity.

Reform of collateral, which has the technical name of personal property securities reform, has already taken place in Micronesia and is underway in six other Pacific countries—Palau, Solomon Islands, Vanuatu, Tonga, the Marshall Islands and Samoa. Again, the legislation being considered is at the cutting edge of such reform around the world and will make a big difference to how business is financed once it is in place.

SPECIAL FEATURE: BUSINESS LAW REFORM

PUBLIC CONSULTATION CRUCIAL

Consultation across all levels of society, from the largest businesses to the smallest villages, has been a feature of the development of the new commercial laws. Each country undertaking reform has driven the process through steering committees committed to designing laws that meet the needs of the local citizenry and improve overall access across every level of society.

A widespread consultation ensures awareness and also assists in building capacity. This will encourage 'take-up' when the laws are passed. The laws when drafted have been distributed widely for feedback. To assist stakeholders with little knowledge of commercial law, summary papers have been distributed and public forums conducted.

PUTTING LAWS INTO PRACTICE

As the laws are passed, extensive implementation programs will

follow. These programs will support all users who wish to benefit from the reforms. Instructional publications aimed at users will be developed and training will occur.

The new laws will not only remove the traditional complexities of commercial law but also remove the barriers imposed by distance and remoteness. They will also provide a very sound foundation for the development of a private sector in the Pacific, as well as encourage foreign investment.

Winfried Wicklein and Terry Reid are Senior Private Sector Development Specialist and Senior Business Law Expert respectively at the Asian Development Bank. (See the profile on page 72 for more on the ADB.)

USING NEW INFORMATION TECHNOLOGY

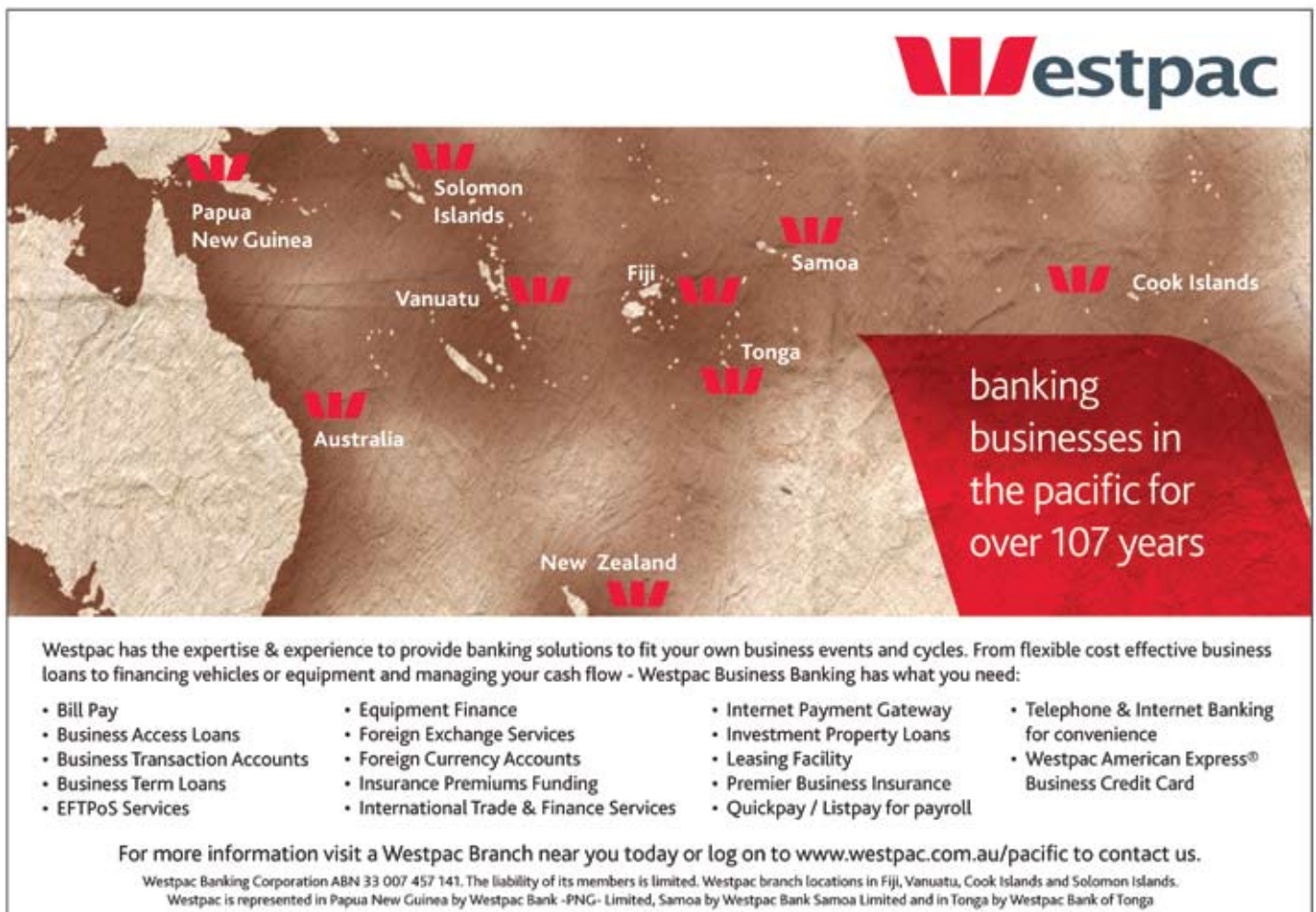
Company law reform in South Pacific nations can ensure the optimum use of new information and communication technologies, which are increasingly available in the region thanks to increased competition.

Modernised registries should facilitate the online registration of companies and filing of company documents. The numerous changes necessary to use the internet in this way are being incorporated into the new laws.

By reducing the enormous costs associated with the 'tyranny of distance,' these types of changes can transform the way business is structured in the region. No longer will it be necessary to hire a lawyer or travel to

the capital city to form a company. Wherever there is internet access, even through an internet café, people and groups will be able to form companies and submit corporate documents.

A New Zealand-supported IT solution for the registration of company data has already been adopted by Niue. The solution has a number of advantages. In particular, because the data is backed-up in a secure, separate and dedicated server held in New Zealand, the particular South Pacific company registry will always be immune from fires, floods and tidal waves.



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Trade treaties and economic cooperation agreements in the South Pacific

Julia Tijaja, a former trade policy analyst for the Solomon Islands Government, provides an up-to-date summary of current trade treaties in the Pacific.

While no additional formal trade treaties were signed in 2008, it was a busy year for the region in the area of trade negotiations and consultations.

The failure to conclude the Pacific–EU Economic Partnership Agreement (EPA) negotiations by the end of 2007 led to a one-year extension for the negotiations up to the end of 2008. Intensive negotiation rounds on Trade in Services under the Pacific Islands Countries Trade Agreement (PICTA), known as POTIS (PICTA on Trade in Services) have been launched.

Informal consultations on a possible Free Trade Agreement among all Pacific Forum members, including Australia and New Zealand, known as the ‘PACER Plus,’ are also ongoing.

PACIFIC ACP–EU EPA NEGOTIATIONS

Members: *Pacific ACP States (14 Forum Island Countries)*

Although the ACP (Africa Caribbean and the Pacific) Group’s preferential market access into the EU under the Cotonou Agreement came to an end on 31 December 2007, the Pacific region and the EU failed to successfully negotiate an EPA to replace this. On 23 November 2007, PNG and Fiji initialled the Interim Economic Partnership Agreement (IEPA) with the EU to maintain preferential market access for their sugar and tuna products in the EU. The rest of the Pacific ACP members decided not to sign the IEPA. The non-LDCs (Least Developed Countries) among them reverted to the Generalised System of Preferences (GSP), while the LDCs maintain most of their preferential market access under the Everything but Arms (EBA) provision.

Despite this eleventh hour divide on the signing of the IEPA, the Pacific region decided to continue negotiating for a WTO-compatible comprehensive EPA as a group, with a new deadline of 31 December 2008. Meetings of the joint technical working groups between EU and PACP officials have been taking place throughout the year, as well as senior level meetings between the two regions. The final outcome of this second attempt remains unpredictable at the time of writing.

SPARTECA, PACER & INFORMAL CONSULTATION ON THE PACER PLUS

Members: *14 Forum Island Countries (FICs), Australia and New Zealand*

The South Pacific Agreement on Trade and Economic Cooperation (SPARTECA) provides non-reciprocal duty-free market access for FIC exports into Australia and New Zealand for products that

comply with rules of origin requirements. SPARTECA has the potential to stimulate regional two-way trade development. One of the challenges in realising the benefits of SPARTECA is adhering to the Rules of Origin compliance requirement.

The Pacific Agreement on Closer Economic Relations (PACER) was endorsed at the Forum meeting in Nauru in 2001. It is not an FTA but a framework for gradual trade and economic integration among members. The main component of PACER is the Regional Trade Facilitation Programme (RTFP), which entails cooperation in the areas of customs, quarantine and standard and conformance.

PACER contains a provision that obliges its members to commence FTA negotiation by 13 April 2011; eight years after PICTA came into force. Negotiation can also be triggered earlier should the FICs enter into formal negotiation with a developed non-Forum country. The framework for this FTA negotiation is currently known as the PACER Plus which, once realised, will replace the SPARTECA unilateral preferential trade agreement with a reciprocal, albeit asymmetrical, FTA.

As decades of preferential market access under SPARTECA have failed to facilitate FICs’ export development, the PACER Plus is expected to be more than a typical FTA, and to include a strong development component. Informal consultations on PACER Plus are currently taking place on an ad-hoc but increasingly frequent basis.

At the moment it is impossible to tell the shape or structure of the negotiation. The FICs have flagged requests for assistance in the negotiation process to better equip them in an otherwise asymmetrical negotiation process.

PICTA & POTIS NEGOTIATIONS

Members: *14 FICs*

Status: *Operational in Fiji, Samoa, Cook Islands, Solomon Islands, Vanuatu and Niue*

PICTA is a free trade agreement among the 14 FICs, excluding Australia and New Zealand. PICTA was endorsed at the Forum Leaders’ meeting in Nauru in 2001 and provides for scheduled elimination of tariffs among members.

Tariff liberalisation began in 2007. All tariffs among members will be completely eliminated by 2021, creating a Free Trade Area among the 14 PICTA members.

While progress on implementation has been slow, a few more FICs have announced their readiness to join the agreement recently. Solomon Islands, Vanuatu and Niue have now joined

SPECIAL FEATURE: TRADE TREATIES

Fiji, Samoa and Cook Islands to trade under PICTA. Real trade under the agreement remains minimal, as most intra-regional trade has been covered under the Melanesian Spearhead Group (MSG) FTA. Nevertheless PICTA is a significant signpost of regional economic integration taking place in the South Pacific.

In its current form, PICTA covers only merchandise trade. In 2005, country leaders agreed on the need to extend PICTA to also cover services trade, including intra-regional movement of labour. PICTA on Trade in Services (POTIS) negotiation rounds were launched in early 2008 by the Trade Ministers. Three rounds of formal negotiations were conducted with the aim to conclude negotiations by the end of the year. The fast pace of POTIS negotiations was meant to synchronise regional integration with other negotiations at multilateral fronts, ie EPA with the EU, PACER Plus.

MELANESIAN SPEARHEAD GROUP FREE TRADE AGREEMENT

Members: Papua New Guinea, Solomon Islands, Vanuatu and Fiji

Status: Operational (the original 1994 version)

The MSG is the biggest and strongest sub-regional grouping among the FICs, accounting for 92% of the regional population outside Australia and New Zealand. The original MSG-FTA was signed in 1994 as a trade treaty among the four Melanesian states: Vanuatu, Papua New Guinea, Solomon Islands and Fiji. It uses a positive list approach whereby up to 240 goods are traded duty free among members.

The agreement was reviewed in 2005 to establish an FTA among members, with the exception of individual members' negative lists. Implementation of the revised trade agreement has been hampered by administrative delays over the years. Once operational, the revised agreement will replace the current one; although it now seems more likely that trade liberalisation among MSG members under PICTA will precede liberalisation under the revised MSG-FTA. The establishment of the MSG Secretariat in Port Vila in late 2007 is expected to speed up the implementation process.

There is also a move, albeit a slow one, to expand the MSG-FTA to cover trade in services. Again it is likely that POTIS negotiations will be concluded earlier than that of the MSG Trade in Services.

THE COMPACT OF FREE ASSOCIATION

Members: United States of America, Palau, Federated States of Micronesia (FSM), Republic of Marshall Islands (RMI)

Status: Operational

The 'Compact' is an agreement that provides preferential trade access privileges from the three compact states into the US market, in addition to various important entitlements to financial assistance. The US has factored in an extension of this arrangement with the WTO until 2013. However, there is a clause under the agreement that obliges the three compact states to offer the US the same treatment should they sign a FTA with another developed country or region. The clause to extend the same concessions to the US will be triggered should any of the FIC Compact members decide to sign for a comprehensive EPA.

PNG & AUSTRALIA TRADE & COMMERCIAL RELATIONS AGREEMENT (PATCRA)

Members: PNG and Australia

Status: Technically operational

PATCRA II replaced PATCRA I in 1991. The agreement allows unilateral, non-reciprocal, preferential trade access for PNG products which, aside from excepted goods, can enter the Australian market duty-free.

NEW OVERSEAS COUNTRIES & TERRITORIES (OCT) PREFERENTIAL TRADE AGREEMENT

Members: French Polynesia and New Caledonia

Status: Operational

As members of the association of Overseas Countries and Territories, French Polynesia and New Caledonia enjoy preferential (duty-free) trade access into the EU market, subject to appropriate documentation.

Julia Tijaja (email j.p.tijaja@open.ac.uk) worked as a trade policy analyst for the Solomon Islands Government (Overseas Development Institute Fellow) from 2005 to 2007. She is currently a PhD student at the Department of Development Policy and Practice, the Open University, UK.

Agreement	Members	Entry into Force	Comments
PATCRA II	Australia, PNG	1991	www.worldtradelaw.net
MSGTA	PNG, Solomons, Vanuatu, Fiji	22 July 1993	www.worldtradelaw.net Original 1994 version currently operational Revised version (2005) still pending implementation.
PICTA	14 FICs	13 April 2003	www.forumsec.org Tariff liberalisation began in 2007 Fiji, Samoa, Cook Islands, Solomon Islands, Vanuatu and Niue are ready to trade under PICTA
Compact	USA, RMI, FSM, Palau		www.fm/jcn/compact/comframe.html
GSP/EBA	Developing Countries, LDCs		Used by FICs who did not signed the IEPA to maintain preferential market access in the EU, replacing the Cotonou preferences
SPARTECA	FICs and ANZ	1 January 1981	www.worldtradelaw.net
OCT	Fr. Polynesia, New Caledonia		
PACER	16 Forum Members (including ANZ).	October 2002	www.forumsec.org The Regional Trade facilitation program is operational. PACER is not an FTA.
IEPA	PNG and Fiji	01 January 2008	www.bilaterals.org/IMG/pdf/537b-07_PNG.pdf An interim EPA initialised by the 2 FICs to maintain market access for their sugar and tuna products in the EU. Received some criticisms due to the lack of development concerns.