What is PICTA?
The PICTA is a free trade Agreement among the Forum Island Countries (FICs), intended to gradually establish a Free Trade Area (FTA) among the fourteen FICs.

What is a FTA?
A FTA is an agreement whereby the members agree to eliminate barriers to trade among themselves, while maintaining their individual barriers against imports from the outside world. This removal of barriers to trade primarily involves the reduction of tariffs to zero on substantially all of the products traded.

A FTA is different to a customs union, where the members agree to free trade amongst them but also have a common external tariff, i.e., they apply a common tariff against imports from the outside world.

Who are the members of the PICTA?
Twelve of the fourteen FICs have signed the Agreement. To date, seven countries, the Cook Islands, Fiji, Niue, Samoa, Solomon Islands, Tuvalu and Vanuatu have formally announced their readiness to trade under PICTA. There are four countries that have indicated that they will soon be completing the necessary domestic requirements to trade under PICTA, namely Kiribati, Nauru, Papua New Guinea, and Tonga. The Federated States of Micronesia is yet to ratify the Agreement while Palau and the Republic of Marshall Islands have not yet signed PICTA.

PICTA entered into force on 13 April 2003 after six FICs ratified the Agreement. The Agreement closed for signature on 17 August 2006. FICs who decide to join PICTA will have to follow the process of accession of new members.

Why should the FICs enter into an FTA and what are the benefits?
Freer trade amongst the FICs, as a result of the PICTA, will hopefully encourage specialisation and greater efficiency in FIC economies. FICs will increase their exports to other FICs of products in which they can be competitive, and will increase their imports of goods, which are being produced competitively by other FICs, reducing prices. The resulting increase in trade
will reflect enhanced efficiency and improved consumer welfare in the FIC economies, leading hopefully to the overall creation of jobs.

It is also hoped that the creation of a regional market will encourage increased investment in FICs. Many FICs currently struggle to attract investment because of their small domestic market. However, the opportunity to reach the regional market of 8 million people, at zero tariff rates, may encourage investment that was hesitant before.

Unfortunately, the level of trade among FICs is low, due to the constraints of geographical location and poor transport links. Even with the FTA it will be difficult to overcome these constraints, and by itself the FTA may deliver only small benefits to the FICs initially.

The PICTA should therefore also be viewed by the FICs as a “stepping stone” towards their more complete integration into the international economy, an initial preparatory step towards more extensive liberalisation in the future that will hope to achieve greater long run benefits. The PICTA will provide the FICs with experience in the negotiation and operation of an FTA, and it will help to create a common basis for the FICs’ negotiations with other trading partners.

The PICTA will be a “training ground” for the FIC economies, ready for further integration in the future. Businesses will become used to the idea of outside competition, and some governments will have to begin implementing reforms needed in preparation for more extensive trade liberalisation, for example reform of revenue collection systems.

What are the disadvantages of an FTA to FICs?

The small size of the expected benefits could be argued to be a disadvantage of the PICTA initially. There will be some administrative costs associated with the operation of the PICTA, even though the PICTA has been designed with a view to minimising those costs as far as possible.

Some increased imports under the PICTA may displace more efficient imports from non-member countries. This is the trade diversion effect associated with an FTA.

Will there be adverse social impacts?

Adverse social impacts can arise from “adjustment costs” associated with the removal of tariff barriers. In some cases inefficient FIC businesses may find it difficult to compete with businesses in other FIC partners. Those involved in these businesses may have to look for other avenues of employment, and may suffer unemployment and/or a loss of income at least temporarily. There may be a disruption to their way of life and this may place some burden on their communities to provide them with temporary support. Because the economic effects, including adjustment costs, of the PICTA are expected to be small, at least at first, these social impacts are also expected to be small. Generally in FTAs such impacts are smaller than the impact of other aspects of economic and technological change. They will also be balanced by increased opportunities opening up for other businesses in each FIC, which should lead to creation of employment, and a net overall benefit.
How will the FTA be achieved and when?

The PICTA provides for the progressive phasing out of tariffs on trade among the FICs. Tariffs of developing FICs will be reduced to zero by 2015, and by 2017 for the Small Island States and Least Developed Countries, except in the case of “excepted imports” (the “negative list”), for which tariffs are to be reduced to zero by 2020 and by 2021 respectively for the two groups of countries mentioned earlier. Trade barriers other than tariffs, such as quotas, must be eliminated immediately on trade between the FICs.

Which tariffs must be reduced under the PICTA?

Under PICTA, tariffs must be reduced only on imports from other FIC members of the PICTA. Tariffs on imports from other countries, including Australia and New Zealand, and any FICs that do not join the PICTA, will not be necessarily affected.

Does the PICTA require the removal of any internal taxes or charges?

No, but it does require “national treatment” ie. such taxes and charges relating to trade of goods (as well as laws, regulations etc) must be applied equally to domestically produced goods and goods from PICTA partners.

What does the PICTA cover?

The PICTA covers trade in goods between its members. PICTA does not cover trade in alcohol and tobacco products, and Government procurement rules are also excluded.

The Agreement also provides a list of exceptions, ensuring that the FICs can continue to restrict trade for the usual range of reasons generally allowed in international trade agreements. This includes things like the prohibition of dangerous goods such as explosives, or the restriction of trade necessary to protect human or animal health (ie Quarantine).

Can the coverage be extended to other sectors in future? eg services

Yes. In fact one of the stated objectives of the Agreement in the long term is the creation of a single market amongst the FICs, which would mean extending the coverage to include trade in services, and at some point the movement of capital and labour. This would be done in stages over the long term. Currently there are discussions to include trade in services as part of the PICTA.

The coverage would be extended either through an amendment of the main text, or through the addition of a specific protocol. Amendments can only be done with the Agreement of all the Parties, and a protocol is only binding on those who separately sign it, so in either situation the Parties will retain complete control as to their involvement in future extensions.

What is the criterion for according preferential entry on goods traded within the FTA?
In order to qualify for preferential entry, goods must comply with the rules of origin as set out in the PICTA. These are based on 40% local content criteria.

**How can it be ensured that tariff reductions actually take place?**

It is a country’s sovereign right to set its own tariffs. However, by signing and ratifying a treaty under international law, the Parties to the Agreement are stating that they agree to abide by its provisions, which in the case of the PICTA, clearly states the tariff reduction obligations. Failure to abide by the tariff reduction schedule will substantially harm its reputation in the international arena.

As with most trade agreements, there will be no specific enforcement body policing the Agreement. The Parties themselves will monitor each other to ensure that reductions are being made. If a country is not abiding by its obligations then the other Parties can call it to consultations, to resolve the problem. If this is not successful then there are provisions for dispute settlement eventually leading to a revocation of any preferences given to the offending Party.

**What about the sensitive industries? Can these be protected in an FTA?**

The provisions on excepted imports (the “negative list”) allow a longer period to phase out the tariffs on goods from the “sensitive industries”. Products to be included on the “negative list” must be specified at the time of signing the Agreement, and the reasons for doing so must be given. The PICTA contain rules as to which products can and cannot be included on the “negative lists”.

There is no provision for permanent exclusion of any product from the PICTA.

**What happens if situations arise which make it difficult to adhere to their obligations under the PICTA?**

PICTA contains some emergency action provisions which are designed to allow FICs to suspend specific obligations under the PICTA in some circumstances. The circumstances under which this may occur, the extent to which obligations may be suspended, and the procedures to be followed, are spelt out in the Articles. Such rules are necessary to ensure that these provisions are not used arbitrarily or as a means of re-introducing protection without adequate justification. The procedures laid down will place some burdens on FICs but they are less burdensome for example than the comparable provisions in the WTO Agreement. The need to follow these procedures will discourage members from using these provisions arbitrarily or unjustifiably.

**What about new industries that need protection during the implementation of the FTA?**

The PICTA contains provisions on “Protection of Developing Industries” which are designed to deal with this issue. They provide for the temporary re-imposition of protection under
certain conditions, where this is necessary to allow the successful establishment of a new industry.

What happens in the case of disputes between members?

It is hoped that all disputes will be solved by consultation between the Parties, but if necessary the PICTA has a dispute settlement procedure that moves successively through stages of consultation, mediation and legally binding independent arbitration. At the first two stages a time period is provided after which a party may require the dispute to move to the next stage if the dispute has not been resolved by then. At the end of the process, the arbitrator will make an award one way or the other. If this is not followed the aggrieved Party may revoke any preferences given to the offender up to level equivalent to the damage caused by the matter under dispute. Obviously it is hoped it will never go this far.

What about Small Island States and Least Developed Countries – Is there recognition of their special status?

The Agreement specifically notes the special circumstances of the LDCs and SIS, and this is borne out in a number of the provisions of the Agreement. LDCs and SIS have a 10 year liberalisation schedule rather than 8 years for other developing FICs. They also have longer periods of protection under the developing industry provisions, and the emergency action provisions.

Specific provisions are also made to ensure the participation of LDCs and SIS in the Rules of Origin committee, established under the Agreement.

Will other Pacific Islands be allowed to join?

Yes. New members can be admitted by unanimous consent of the existing members, and the Agreement specifically contemplates the extension of the PICTA to include other Pacific Islands. Accession of non-Forum Pacific islands will not trigger a requirement for consultation with Australia and New Zealand under the PACER, except under some very specific conditions outlined in the PACER.

Some non-Forum Pacific Islands may face constitutional obstacles to accession to the PICTA, because of their relationship with a metropolitan power (France or the USA). During accession negotiation provision can be made for specific constitutional and trade issues faced by these non-Forum Pacific Islands.

What about Australia and New Zealand – Can they join the PICTA?

In principle, the provisions of the Agreement could permit Australia and/or New Zealand to join, but only if all the members unanimously agree. This is however unlikely to be an attractive option for either Australia and New Zealand or the FICs. Among other things, entry of Australia or New Zealand would trigger a requirement for the PICTA to be notified to the WTO under GATT Article XXIV. The PICTA contains some provisions, which may create difficulties in this case.
The PICTA is designed with FICs specifically in mind. To include Australia and New Zealand it will be more appropriate to have a specific Agreement designed which incorporates the diverse needs of all 16 members, and which complies to the WTO’s more rigorous standards for developed countries.

**How will the PICTA affect the FICs’ commitments under other regional and international trade agreements ie WTO, SPARTECA, MSG, Cotonou Agreement, Compact of Free Association?**

PICTA does not affect rights and obligations under existing agreements. Thus the FICs rights and obligations under existing agreements will remain in force.

**WTO – (Papua New Guinea, Fiji, Solomon Islands, Tonga, Samoa)**

The FICs who are WTO members remain bound by their obligations as WTO members, including their obligations towards each other. The emergency action provisions of the PICTA are less stringent than the corresponding WTO provisions, because of the limited capacity of many FICs to implement such provisions. However, if a WTO member in the PICTA becomes subject to emergency action measures by another WTO member in the PICTA, it would be possible for the former FIC to insist that WTO procedures be followed by the latter.

This last point is one of the reasons for confidence that membership of the PICTA does not present problems for the WTO members in the PICTA, despite the fact that the PICTA emergency action provisions do not meet WTO standards. Additional grounds for confidence on this point are that the PICTA may be notified under the Enabling Clause rather than Article XXIV of GATT, and that in any case the WTO members have not been able to agree as to whether Article XXIV provides a dispensation from all GATT Articles or only from GATT Article I (the non-discrimination provision).

**SPARTECA – (All FICs)**

Since the PICTA does not deal with trade relations between the FICs and Australia and New Zealand, it does not have any effect on SPARTECA. SPARTECA does not affect the right of the FICs to establish an FTA among themselves.

**MSG Trade Agreement – (Papua New Guinea, Vanuatu, Fiji, Solomon Islands)**

Existing preferences granted by MSG members to each other are not affected by the PICTA. MSG members would be allowed to continue to reduce barriers among themselves at a faster rate than is provided by the PICTA.

**Cotonou Agreement or the Economic Partnership Agreement (EPA) with the EU – (All FICs)**

The PICTA does not affect the Cotonou Agreement. Under the Cotonou Agreement it is only preferences granted to other developed countries that can trigger a requirement for comparable preferences to be granted to the EU.
Under the terms of the Compacts, if the Freely Associated States join a Free Trade Area, they would be obliged to offer the same trade preferences to the United States unless the United States grants a waiver from the relevant provisions in the Compacts. This waiver has been obtained by FSM and RMI in 2006 allowing them to join PICTA without any obligations to the USA. Palau is yet to request for this waiver.