



The Pacific Island Countries Trade Agreement (PICTA) and the Temporary Movement of Natural Persons (TMNP) scheme:

An update for immigration directors

The following provides an update for PIDC member immigration departments in the 14 Forum Island Countries (FICs)¹. It summarises developments relating to the Pacific Island Countries Trade Agreement (PICTA), seeks to raise awareness of ongoing negotiations, and identifies points that may be relevant to national discussions.

Background

From 11-13 March 2010, FIC officials met in Nadi, Fiji for the fourth round of negotiations for a trade in services agreement under PICTA. During the negotiations a consultancy team presented their final report on a proposed scheme for the Temporary Movement of Natural Persons (TMNP). Improving the movement of labour between FICs is a key part of the trade in services arrangements.

PIDC involvement

The PIDC Secretariat attended the sessions of the negotiations relating to the TMNP scheme as an observer, to reflect members' views and to provide an immigration perspective on discussions. PIDC members have provided input into the development of the TMNP scheme through direct discussions with the consultants during their national consultation exercise, at the PIDC annual conference in October, and through written comments submitted in November to the Pacific Islands Forum Secretariat (PIFS).

Summary of the proposed TMNP scheme

As currently proposed the scheme would be open to FIC nationals and permanent residents with certain qualifications and experience who pass good character and health tests, and who have a firm job offer in their intended destination country for a maximum three year contract.

The scheme would be divided into two tiers to allow differential treatment. Tier 1 would be open to professionals (including doctors, nurses, accountants, engineers etc.) and tier 2 to other skilled or semi-skilled workers (including trades professionals, such as plumbers, mechanics, carpenters, electricians etc.). The main difference between the tiers would be that tier 2 would operate with a minimum quota system. Discussions have taken place on creating a third tier for workers with no formal qualifications. However, this raises concerns about the potential movement of large numbers of unskilled workers. In 2008 Trade Ministers expressly agreed to a two tier approach.

From the consultants' report, it would appear that quotas would not be mandatory, as filling the quota is dependent on employers offering jobs to nationals in other FICs. However, where job offers are made, the minimum quota gives FICs control over whether to keep recruiting beyond the minimum or to protect their domestic labour force. The consultants have proposed the size of the minimum quota be guided by the size of the formal workforce. It ranges from a quota of 20 for small FICs, to 50 for the Solomon Islands and Vanuatu, to 500 for Papua New Guinea.

A key element of the scheme is the mutual recognition and harmonisation of qualifications across the region. The consultants propose that the Suva-based South Pacific Board for Educational Assessment (SPBEA) be responsible for this.

What are the major differences to existing immigration practice?

In many ways the proposed scheme closely resembles existing work permit arrangements. There are, however, several notable differences. Firstly, there is no 'economic needs' or 'labour market' test. The presumption is that there will always be a demand for highly skilled workers beyond what is available through the domestic labour market. And, for skilled positions and trades professionals the quota system is intended to offer some protection for the domestic labour force.

Secondly, the required qualifications and experience may set the bar higher than is currently the case in the work permit system, where less experience, for example, may be acceptable if the employer can show there is no one else to do the job.

Thirdly, the assessment of an application to the scheme is conducted in the home country, not in the country where the job is located. Once an FIC national has been accepted to the scheme, the receiving country would be obliged to allow entry and permit the work to be undertaken, unless there were strong reasons not to, or until any minimum quota had been filled.

What are the implications for immigration departments?

Whatever the final design of the scheme, there will be implications for border control processes as different rules will apply to those travelling under the scheme, with immigration officers in the receiving country having less decision-making power over arrivals. However, the consultants identified immigration departments as the best equipped organisations to process applications to the scheme from their own nationals.

Issues members may wish to clarify through national dialogue and consultation

The intention behind the TMNP scheme is to make it easier for certain categories of Pacific Islanders to travel and work in the region. The proposed scheme's similarity to existing national work permit systems potentially makes it no easier for an individual to work in another FIC. What is your government's position with regard to liberalising labour mobility in the region? Are there other elements, such as the requirement for a job offer, which could be lifted to make movement easier?

Processing applications to the scheme, managing the quota system, vetting employers to ensure job offers are genuine, and ensuring compliance, are tasks that may add to the workload of immigration departments. Do immigration departments have the resources to manage this scheme? What extra resources may immigration departments require, especially given this scheme may replace other routes of entry for Pacific Islanders?

What happens next?

FIC trade officials are due to meet in July 2010 to continue to discuss the TMNP scheme. Until then there is time for further discussion at the national level and with PIFS to agree the way forward for the TMNP scheme. The PIDC Secretariat will also continue to be involved in discussions with PIFS on this issue.

If you have any questions or would like to see a copy of the consultants' report, please contact the PIDC Policy Leader, Matthew Capper by email at mattcapper@pidcsec.org or by phone on +679 322 0361.

¹ The 14 FICs are: Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Nauru, Niue, Palau, Papua New Guinea, Republic of the Marshall Islands, Samoa, Solomon Islands, Tonga, Tuvalu, and Vanuatu.