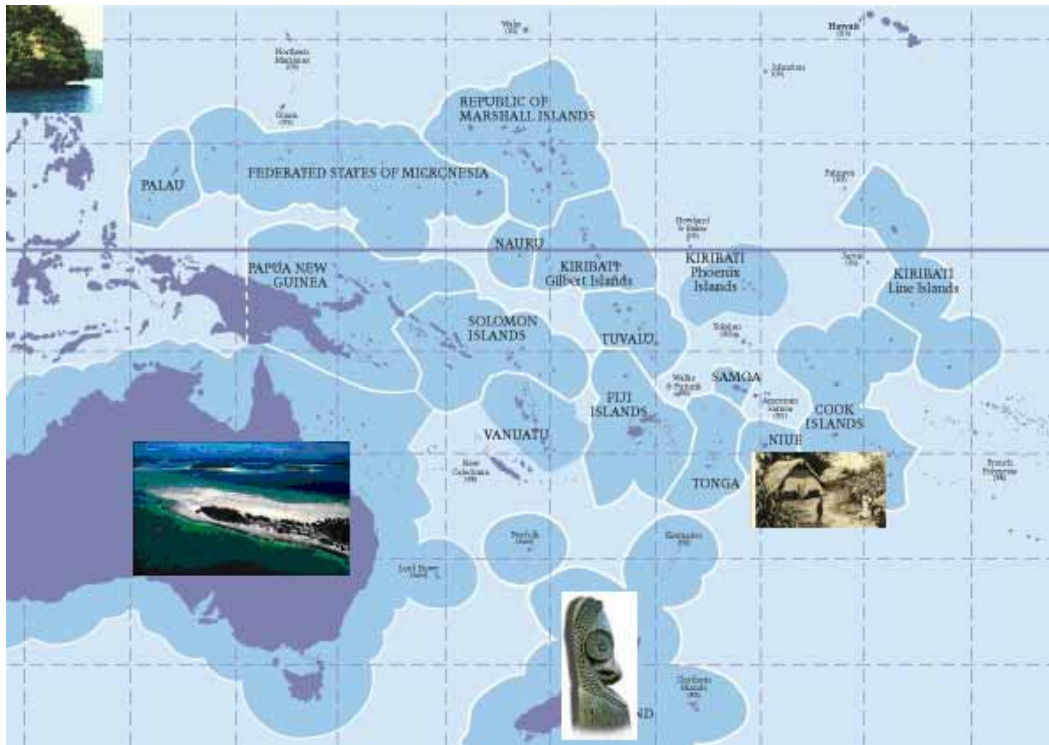


PACIFIC ISLAND COUNTRIES TRADE AGREEMENT

RULES OF ORIGIN MANUAL



Pacific Islands Forum Secretariat

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PACIFIC ISLAND COUNTRIES TRADE AGREEMENT PICTA Rules of Origin Manual

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Introduction

1.1 Background

This Manual is designed to assist in the uniform, transparent and efficient operation of the Rules of Origin (ROO) for the Pacific Islands Countries Trade Agreement (PICTA), through providing both the public and private sectors in all Parties with a user friendly guide to the practical application of the ROO.

This Manual was compiled by the Pacific Islands Forum Secretariat (PIFS) acting in its capacity as Secretariat to the PICTA's Rules of Origin Committee (ROC). This Committee met for the first time at the PIFS Headquarters in Suva, Fiji on the 11 June 2003 and in line with PICTA Article 5(3a) comprised representatives from the Cook Islands, Fiji, Niue, Samoa and Tonga. The ROC endorsed the creation and content of this Manual to guide, clarify and encourage the uniform and transparent implementation of the PICTA. The Manual and information contained here are based on the interpretation and as appropriate on the decisions of the ROC. As required, systems, procedures and processes stated in this Manual had been agreed to by PICTA Parties. It will be updated if and when requested by PICTA members or by the PIFS. All such changes require the endorsement of the ROC.

Although this Manual is based on the official PICTA ROO texts (Article 5 and Annex 1), it is not a substitute for those official texts and must therefore be used in conjunction with them. Where the PICTA text allows for the ROC to decide on matters, those decisions are reflected in this Manual.

The PICTA establishes a free trade area among the Forum Island Countries (FICs) whose overall objective is to become a 'stepping stone' towards wider trade integration of its members on both a regional and multilateral scale. In order to achieve this, the PICTA must foster improved trade performance of its members. The ROO plays the central role in facilitating the effectiveness of any free trade area. Goods will be accepted as eligible for PICTA preferential tariff treatment if they originate in Parties to the PICTA and the ROO as set out in Article 5 and Annex I of the PICTA detail the criteria through which goods can qualify as 'originating'.

Origin is always accorded to goods that are wholly obtained or produced in the territory of a PICTA Party. In determining the origin of products that result from a process or further process of manufacture in a member country various methods are used. The value-added method is used in PICTA. Under this method, a product obtains origin status if a minimum 40% of its value is brought about as a result of processing in the territory of the PICTA Party.

Annex II of the WTO Rules of Origin Agreement contains a 'Common Declaration' which relates to preferential ROO. It stipulates that the general principles and requirements applied to non-preferential ROO as contained in the Agreement should also apply to the administration of preferential ROO. Although the Parties to the PICTA consist of WTO members and non-members, they all strive to achieve the following principles and requirements with respect to the PICTA's ROO:

- be objective, understandable and predictable;

- not be used as instruments to pursue trade objectives directly or indirectly;
- be administrable in a consistent, uniform, impartial and reasonable manner; and
- be coherent and based on a positive standard.

The structure of the ROO is designed to encourage processing and value added in member countries - activities that will lay the foundations for the FICs to gain from wider trade liberalisation and integration. The ROO also prevent countries who are not Parties to the agreement from benefiting from its preferential duty rates.

For the PICTA to function all Parties to the Agreement must have sufficient competency in the ROO – both within the public and private sectors. Exporters must have the capacity to understand under what conditions their goods would be considered originating, and the procedures for claiming preferential treatment. Importers and officials must have the skills and capacity to verify that goods for which PICTA preferential tariff treatment has been claimed do in fact comply with the ROO and are able to assist and answer to any queries.

1.2 Aims of this Manual

The aims of this Manual are to:

- Provide a practical and user-friendly guide to the PICTA ROO for use by all persons involved in the conduct of PICTA trade – government officials and the private sector;
- Explain the origin criteria under the PICTA;
- Explain and clarify the organisational, procedural and administrative framework for the effective implementation and operation of the PICTA's ROO;
- Provide guidance on the issuing and verification of PICTA Certificates of Origin;
- Identify the functions and procedures of the PICTA ROC; and
- Standardise the procedures for the operation of the ROO.

1.3 PICTA Member States

As at 30 September 2004, the following countries are Parties to PICTA: **Cook Islands, Fiji, Kiribati, Niue, Nauru, Papua New Guinea, Samoa, Solomon Islands, Tonga,**

Any changes to the above list after 30 September 2004 may be found on the PIFS website www.forumsec.org.fj.

2. Product Coverage

2.1 Product Coverage

Under Article 5.1 of the PICTA, goods will be granted PICTA origin status if they comply with the ROO as detailed in Annex 1 of the Agreement.

PICTA Article 5.1 – Rules of Origin

- 1 Goods shall be treated as originating in a Party if they comply with the Rules of Origin set out in Annex I of this Agreement, hereinafter “the Rules”.

When goods are traded between PICTA countries and do meet the PICTA's ROO criteria, they will qualify for preferential tariff treatment as detailed in Article 7 of the PICTA. Goods which do not originate from PICTA countries may not enjoy the preferential treatment.

Particular attention should be paid to the negative list of goods within the PICTA itself. This Manual does not provide details on them but goods appearing in the negative list of each PICTA Party as provided in the legal text, are goods to which preferential treatment is delayed until a future date. The current negative list for each PICTA Party may be found on the PIFS website www.forumsec.org.fj

The PICTA provides for, and for the purposes of this Manual, alcohol and tobacco products, classified in Chapters 22 and 24 of the Harmonised Commodity Description and Coding System (HS) to be excepted and do not attract PICTA preferential treatment (even if such goods do meet the origin criteria of “origin”). PICTA Parties will consider rules to govern trade in such goods by 13 April 2005. Developments in this regard after 30 September 2005 may be found on the PIFS' website www.forumsec.org.fj.

Any originating goods imported into a PICTA member country may be either for commercial or personal use. For treatment of goods imported for non-commercial purposes, see Section 3.12 below.

2.2 Determination of Origin - Criteria for Preference Entitlement

To qualify for PICTA preferences, originating goods must fall into one of two categories:

1. Goods must be wholly produced or obtained in the Territory of a Party; *or*
2. Goods must have undergone ‘substantial transformation’ in the Territory of a Party.

Goods wholly produced or obtained

These are goods which have undergone no process of manufacture and contain no foreign parts or inputs.

Goods of this category are entitled to preferential rates of duty.

Full definitions of what goods qualify as 'wholly produced or obtained' are detailed in paragraph 1 of Annex 1 of the PICTA. This is reproduced as Annex II of this Manual.

Goods that have undergone 'substantial transformation'

These are manufactured or processed goods which consist of materials and/or processing activities which are attributable to countries - not all of which may necessarily be PICTA members.

The PICTA ROO use the value added criteria in determining whether 'substantial transformation' has occurred. This criteria defines the degree of transformation required to confer origin in terms of the minimum percentage of the final good's value that must be incurred by the Party performing the final process of manufacture. This general rule therefore allows a good to originate even though it may contain non-originating material. The criteria for manufactured goods to qualify as originating through having undergone substantial transformation are two-fold:

- a. the *last process of manufacture* must be performed within a Party to the PICTA;

and
- b. *not less than 40%*¹ of the factory cost¹ of the final good must be represented by qualifying expenditure.

2.3 Direct Consignment Rule

In order for goods to be eligible to qualify for PICTA preferences, paragraph 3 of Annex I of PICTA states that their shipment must either have been:

- **direct** from the exporting country to the importing country

or
- **indirect** – having been shipped from the exporting country to the importing country through an intermediary country - ***without entering the commerce of that (intermediary) country.***

The phrase "entering into the commerce" refers to more than merely being trans-shipped via a country irrespective of whether the intermediary country is a PICTA Party or not.

¹ Paragraph 1 of Annex I defines 'factory cost' of the final good as the total cost of the good in its finished state following a process of manufacture, excluding any profit, marketing costs, taxes and other duties.

Goods that were cleared by the Customs of an intermediary country, whether or not placed in a warehouse, a bonded warehouse, export processing zone or under any inward processing relief regime, and where they were subsequently unpacked and repacked causing changes to the unit values of the good before being re-exported, would be considered as having “entered the commerce” of that country.

Paragraph 2 of Annex I of PICTA details the conditions under which goods exported indirectly are not considered as having entered the commerce of the intermediary country;

- (a) The entry of the goods into the intermediary country must have been required for geographical or transport requirements. For example some of the transport routes between the PICTA Parties may transit through Australia and New Zealand; *and*
- (b) All operations (if any) performed on the goods must relate solely to their unloading, reloading or preservation. For example refrigeration.

In other words, for goods exported indirectly from one PICTA Party to another to qualify for originating status they must be kept under Customs surveillance in a bonded or transit warehouse for onward shipment when transhipped through the intermediary country. Such that although they have been transhipped through an intermediary country, they have been *consigned directly* from one PICTA Party to another.

Where the goods in question do enter the commerce of an intermediary country, they cannot be granted originating status under the PICTA.

For example a consignment of bananas, which is wholly produced in a PICTA Party is transhipped through Australia. Some bananas are taken from the consignment to be sold on the Australian market. The rest are repacked and subsequently exported to PICTA Parties by the importer in Australia who then becomes the supplier of bananas to these PICTA Parties. These bananas will have been considered to have entered the commerce of Australia and will therefore *not* be eligible to qualify for originating status under the PICTA.

Annex I ROO paragraphs 2 and 3 – Direct Shipment

- 2. For the purposes of Paragraph 3 of this Annex, goods are indirectly exported if the goods do not enter the commerce of a State, Territory, or Self-Governing Entity which is not a Party. Goods do not enter the commerce of a non-Party if:
 - (a) a transit entry is justified for geographical reasons or transport requirements; and
 - (b) the goods have only undergone an operation required for unloading or reloading, or any operation required to keep them in good condition.
- 3. Goods exported from one Party to any other Party, whether directly or indirectly, shall be treated as goods originating in the territory of the first Party if these goods are...

2.4 Wholly Produced Goods

Under Paragraph 3 of Annex I of the PICTA, goods exported from a PICTA Party will be treated as goods originating in the Territory of that country if those goods are:

- a) **wholly produced or obtained in the Territory of the exporting country; or**
- b) **the result of the final process of manufacture performed in the territory of that Party, and the total expenditure on Originating Material costs, Labour costs and Overhead costs is not less than 40% of the total expenditure on Material, labour and overheads, whether or not incurred in the territory of that Party.**

(a) Wholly produced or obtained goods in the Territory of the exporting country

The phrase “wholly produced or obtained goods” is defined in paragraph 1 Annex I of the PICTA. These are goods which contain no materials imported from outside the PICTA area and comprise two general categories of goods;

1. Products that have been obtained in an unprocessed state, i.e. raw produce.

For example fresh fish caught and exported by a fishing vessel registered in Samoa will be granted PICTA origin. So too would fresh fish caught in Niue territory² by a fishing vessel registered in Niue, when exported directly from the vessel to a PICTA Party.

2. Products that are produced in a PICTA Party exclusively from products derived from that country.

For example, peeled and dried mangoes grown in Papua New Guinea (PNG) by PNG farmers using PNG fertilisers and packed in crates produced from wood extracts from the PNG timber industry. The production may also involve a degree of processing – which in this case would be the peeling and drying, packaging, labelling, storing and finally exporting.

² ‘territory’ means a Party’s land territory, internal waters, territorial waters, continental shelf, archipelagic waters and exclusive economic or resource management zones established in accordance with international law.

PICTA Annex I Paragraph 1 – Wholly Obtained or Produced Goods

“Wholly produced or obtained goods” means:

- (a) live animals born and raised in the territory of a Party;
- (b) animals obtained by hunting, trapping, fishing, gathering or capturing in the territory of a Party;
- (c) products obtained from live animals born and raised in the territory of a Party;
- (d) plants and plant products harvested, picked or gathered in the territory of a Party;
- (e) products of sea fishing and other products taken from the sea outside the territory of a Party, where the Party is the country of registration of the vessel that carries out those operations;
- (f) minerals and other naturally occurring substances extracted from soil, the waters, the seabed, or beneath the seabed of the territory of a Party;
- (g) scrap and waste derived from manufacturing operations in the territory of a Party which are only fit for disposal or for the recovery of raw Materials;
- (h) scrap and waste derived from articles collected or consumed in the territory of a Party which are only fit for the recovery of raw Materials;
- (i) products taken from the area of the seabed outside the territory of that Party, pursuant to rights held by that Party and recognised under international law; or
- (j) goods produced in the territory of a Party exclusively from products referred to in sub-paragraph (a)-(i).

For the purpose of the PICTA ROO, the ROC has determined that:³

- (a) “*natural water*” and “*coral*” are deemed as “mineral or other naturally occurring products” as defined in Annex I Wholly produced or obtained good – (f); and
- (b) “*animals*” as defined in Annex I “Wholly produced or obtained goods” are deemed to include “birds, insects, mammals and fish”.

2.5 Value Added Criteria

Under Paragraph 3(b) of Annex I of the PICTA, goods exported from one PICTA Party to another are deemed as originating if those goods are:

(b) The result of the final process of manufacture, performed in the territory of a PICTA Party, and the total expenditure on Originating Material costs, Labour and Overhead costs is not less than 40% of the total expenditure on Material, Labour and Overheads (whether or not incurred in the Territory of that Party).

The above paragraph gives rise to two distinct issues, which are:

1. Where the final process of manufacture took place.

³ ROC Meeting, 11-12th June 2003, Forum Secretariat, Suva, Fiji, Outcomes Document.

This is a qualitative criterion relating to whether the final process of manufacture of the goods was carried out in the territory of the exporting PICTA Party. For goods which require only a single process of manufacture, that process must therefore be carried out in the territory of the PICTA Party exporting the good in order for it to gain origin status. For goods which require multiple manufacturing processes, the final process of manufacture must be carried out in the territory of the exporting PICTA Party.

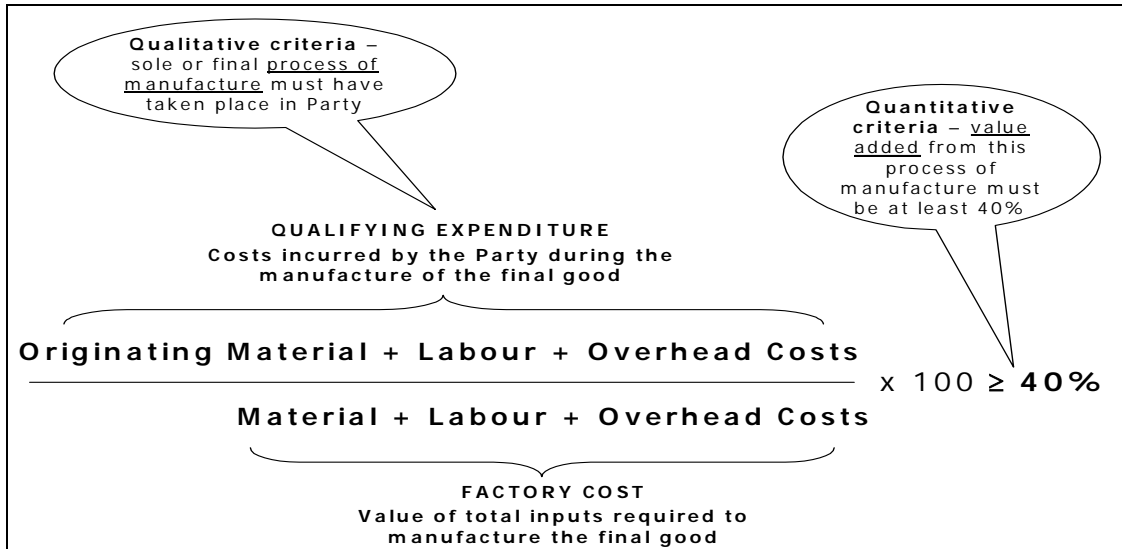
2. Percentage of total cost incurred in a PICTA Party.

This is a quantitative criterion relating to what proportion of the costs incurred in the production of the final good (its factory cost) were incurred in the territory of a Party to the PICTA. These must be calculated according to the value added criteria for determining origin. In this case manufactured goods will retain originating status, provided that a minimum of 40% of all material, labour and overhead costs originated from (or were incurred in) the territory of that PICTA Party.

2.5.1 Calculation of Factory Cost

“Factory cost” is defined as the “*total cost of goods in their finished state following a process of manufacture, excluding any profit, marketing costs, taxes and Other duties*”. For manufactured goods to qualify as originating, the result of the final process of manufacture, performed in the territory of a PICTA Party, and the total expenditure on Originating Material costs, Labour and Overhead costs must be at least 40% of the total expenditure on Material, Labour and Overheads (whether or not incurred in the Territory of that Party). Figure 1 below depicts this requirement graphically. ROO paragraph 3(b) refers to the “*total expenditure on Material, labour and overheads*” which, through the definitions of each of these cost components detailed in paragraph 1, will be synonymous with the PICTA defined factory cost of the good.

Figure 1



2.5.2 Calculation of Qualifying Expenditure

Qualifying expenditure is broken down into three categories of costs incurred during the manufacture of a good. These cost categories are Originating Material Costs, Labour Costs and Overhead Costs. Paragraph 1 of Annex I of the PICTA provides details of exactly what costs are permissible under each of these categories, and therefore provides the manufacturer with guidelines for exactly what costs incurred in the production of a good can contribute to qualifying expenditure in its calculation of value added.

$$\text{QUALIFYING EXPENDITURE} = \text{ORIGINATING MATERIAL COSTS} + \text{LABOUR COSTS} + \text{OVERHEAD COSTS}$$

2.5.3 Originating Material Costs

Originating Materials are materials, the costs of which can be included as qualifying expenditure by the final manufacturer when he/she is calculating value added for the final good.

When a PICTA Party manufacturer uses a wholly produced or obtained good in the manufacture of a final product the entire cost of this good can be included as originating material and therefore contributes towards qualifying expenditure in the calculation of the value added of the final good.

For example a Fijian manufacturer of pineapple juice who imports PICTA originating pineapples from Samoa would include the cost of these pineapples as Originating Material Costs when calculating the qualifying expenditure of the finished juice.

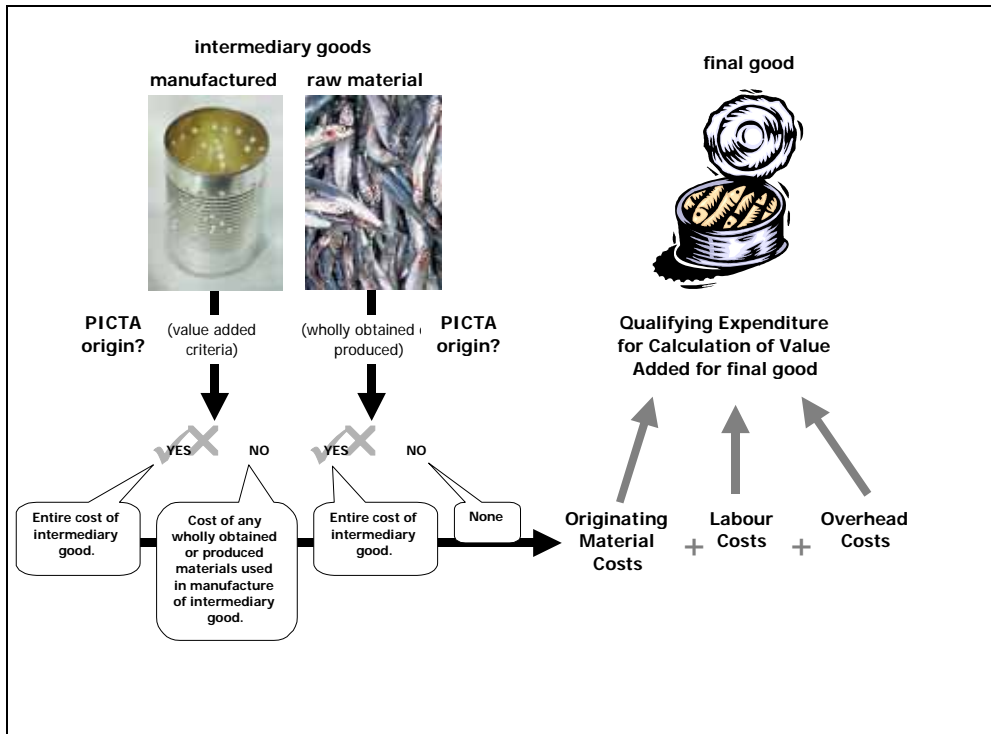
If this same manufacturer then switched input sources and imported pineapples from Australia instead of Samoa, he would no longer be able to include the cost of the pineapples in the calculation of qualifying expenditure on the juice, as pineapples from Australia cannot be PICTA 'wholly produced or obtained' and are therefore not Originating Materials.

The concept of cumulation applies to non-processed Originating Materials because paragraph 1 of the ROO states that wholly produced or obtained goods can originate in *any* PICTA Party, and the definition of "Originating Material Costs" covers, *any* wholly produced or obtained good used in the final process of manufacture - it is not restricted to only those wholly produced or obtained goods used in the final process of manufacture that originate in the Party where this final process of manufacture is taking place.

Originating Materials may also be a component of a manufactured intermediate good. That is of a good used in the manufacture of a final good that is itself a manufactured good.

Where the intermediary good has PICTA origin it is considered to be entirely Originating Material and therefore the *entire* factory cost of this good (material, labour + overhead costs) are included as qualifying expenditure by the manufacturer of the final good.

Finally, is the situation where a manufactured intermediary good is *not* of PICTA origin. In this instance, the only cost component of the intermediary good that qualifies as originating material costs and therefore originating expenditure, is any wholly obtained or produced material used in the production of that intermediary good.



Example

Fijian manufacturer using tinned mangos (intermediary good) in the production of mango jam.

There are two sources of the tinned mangos:

Scenario 1) Tinned mangos produced in Samoa with mangos from Australia.

Scenario 2) Tinned mangos produced in Australia with Samoan mangos.

The production method in neither scenario confers the tinned mangos PICTA origin. Calculation of Wholly Originating Materials that the Fijian manufacturer can include as qualifying expenditure when calculating value added for the mango jam:

○ **Scenario 1**

No Originating Material Costs. The tinned mangos do not have PICTA origin and there are no wholly obtained or produced goods used in its production since mangos are from Australia. In addition, even though the product was manufactured in Samoa and there are value added by Samoa through Labour and Overhead Costs, these costs cannot be cumulated by the Fijian manufacturer. However, if the *value added* were over 40% the tinned mangos would gain originating status.

o **Scenario 2**

Although, the tinned mangos are once again not classified as PICTA originating, they do contain Originating Material Costs - the costs of the mangos (as long as they meet the definition of wholly obtained or produced).

For further clarification on the calculation of Originating Material Costs see the section 3.6 on Cumulation in this Manual.

2.5.4 Labour Costs

PICTA Annex I Paragraph 1 – Labour Costs

“Labour costs” means:

- (a) salaries, wages, bonuses, productivity payments and other employment related benefits incurred in connection with a process of manufacture in the territory of a Party; and
- (b) other labour costs incurred at a Factory in connection with the manufacturing process in the territory of a Party, including:
 - (i) management of the process of manufacture;
 - (ii) receipt of Materials;
 - (iii) storage of Materials;
 - (iv) supervision of the process;
 - (v) training in relation to the manufacture of goods;
 - (vi) quality control;
 - (vii) packing into inner containers; and
 - (viii) handling the storage of goods in the Factory.

Where “Material” means all inputs, other than labour and overheads, into a process of manufacture in the form they are received at a Factory, including:

- (a) an input that is itself a result of an earlier process of manufacture;
- (b) natural elements that are used in that process of manufacture; and
- (c) inner containers.

2.5.5 Overhead Costs

The term “Overhead costs” is defined in Paragraph 1 of Annex I of the PICTA and is reproduced below. Materials whose origin cannot be determined will be deemed to have been imported from outside the PICTA region.

Annex I paragraph 1 – Overhead Costs

“Overhead costs” includes any of the following costs where incurred in connection with the final process of manufacture in the territory of a Party:

- (a) inspecting and testing Materials and goods;
- (b) insuring real property, plant, equipment and Materials used in the production of the goods, work in progress and finished goods;
- (c) liability insurance, accident compensation, and insurance against consequential loss from accident to plant and equipment;
- (d) dies, moulds, and tooling, whether or not these items originate within the territory of a Party;
- (e) depreciation, maintenance and repair of plant and equipment;
- (f) interest payments for plant and equipment;
- (g) research, development, design, engineering and creative work;
- (h) rent, leasing, mortgage interest, depreciation on buildings, maintenance, repair, rates and taxes for real property used in the production of the goods;
- (i) leasing of plant and equipment, whether or not these items originated within a territory of a Party;
- (j) materials and supplies utilised in the manufacturing process, but not directly incorporated into the manufactured goods, including energy, fuel, water, lighting, lubricants and rags, whether or not these items originated within the Party;
- (k) storage of Material and goods at the Factory;
- (l) royalties, licences or fees in respect of patented machines or processes used in the manufacture of the goods, or in respect of the right to manufacture the goods, or intellectual property rights;
- (m) subscriptions to standards institutions and industry and research associations;
- (n) factory security, provision of medical care, including first aid kits and medical supplies, cleaning services, cleaning materials and equipment, training materials, disposal of waste, safety and protective clothing and equipment, and the subsidisation of a Factory cafeteria to the extent not recovered by returns;
- (o) computer facilities allocated to the process of manufacture of the goods;
- (p) contracting out part of the manufacturing process within the territory of a Party;
- (q) employee transport and Factory vehicle expenses; and
- (r) any tax in the nature of a fringe benefit tax payable on a cost in respect of labour or overheads.

“Overhead costs” does not include:

- costs for telephone, mail and other means of communication;
- the cost of shipping and airfreight containers;
- the cost of conveying, insuring, or shipping the goods after their manufacture is completed;
- royalty payments relating to a licensing agreement to distribute or market the goods;
- rent, mortgage interest, depreciation on buildings, property insurance premiums, maintenance, repair, taxes and rates for real property used by personnel charged with administrative functions;
- international travel expenses, including fares and accommodation;
- manufacturer’s profits, or the profit or remuneration of any trader, agent, broker or other person dealing in the goods after their manufacture;
- costs relating to the general expense of doing business, such as the cost of providing executive, financial, sales, advertising, marketing, accounting and legal services, and insurance;
- any other costs and expenses incurred after the completion of the manufacture of the goods.

2.6 Cumulation of Origin

Cumulation is a process used under preferential ROO which aims to stimulate trade within the free trade area through providing manufacturers more opportunities to meet the ROO criteria. Cumulation provides that where materials from other PICTA Parties are used in production, these may be considered as originating in the PICTA State in which final production takes place. How cumulation works under PICTA therefore, relates to how the production costs of a good are incorporated into the calculation of its value added. PICTA’s ROO incorporate the concept of cumulation through the definition of ‘Originating Material Costs’ in Annex I, paragraph 1. Part **a** of the definition relates to inputs into the manufacturing process which are wholly produced or obtained and part **b** refers to inputs into the final process of manufacture which are themselves also manufactured.

PICTA Annex I Paragraph 1 - Definition of “Originating Material costs”

“Originating Material costs” in relation to any process of manufacture means:

- (a) the total cost of Wholly produced or obtained goods used in that process of manufacture; or
- (b) the cost of Material used in that process of manufacture that is wholly produced or obtained in the territory of a Party, excluding Labour costs and Overhead costs from an earlier process of manufacture if:
 - (i) that earlier process of manufacture has taken place outside the territory of a Party; or
 - (ii) the total expenditure on Material that is wholly produced or obtained, and on labour and overhead that is incurred, in the territory of that Party, is less than 40 per cent of the factory cost of that process of manufacture.

The concept of full cumulation implies that any wholly produced or obtained, or originating manufactured intermediary goods shall, for the purpose of determining the origin of a

final good, be deemed to have originated in the Party where the final manufacture takes place. Less than full cumulation provisions apply for intermediary goods which are not PICTA originating, as detailed in Table 1 below.

Table 1: Cumulation in the PICTA

Input into manufacture of final good is...			
a) wholly produced or obtained and...		b) manufactured and...	
is of PICTA origin	is <i>not</i> of PICTA origin	is of PICTA origin	is <i>not</i> of PICTA origin
Qualifying expenditure of final manufactured good arising from intermediate good:			
Entire cost of the intermediate good.	Nothing - none of the costs of the intermediate good.	Entire cost of the intermediate good (Overhead, Labour and Material Costs) – regardless of which of these costs were incurred in a PICTA Party.	Only the costs of any <i>wholly produced of obtained material</i> used in the manufacture of the intermediate good.
Degree of Cumulation			
FULL CUMULATION <i>Allows <u>all</u> costs incurred in a PICTA Party to be considered as costs incurred in the PICTA Party where the final process of manufacture took place.</i>	NO CUMULATION <i>Implied by the definition of wholly or obtained goods.</i>	FULL CUMULATION <i>Allows <u>all</u> costs incurred in a PICTA Party to be considered as costs incurred in the PICTA Party where the final process of manufacture took place.</i>	PARTIAL CUMULATION <i>Allows <u>certain</u> costs incurred in a PICTA Party to be considered as costs incurred in the PICTA Party where the final process of manufacture took place.</i>

2.7 Processes not Conferring Origin

Minimum operations or processes

Paragraph 5 of Annex I of the PICTA states that minimal operations or processes will not confer origin on goods, either by themselves or in combination with each other. Minimum operations or processes are defined as activities that are performed on goods exclusively to:

- (a) ensure the preservation of goods in good condition for the purposes of transport or storage;
- (b) facilitate shipment or transportation; or
- (c) package or present the goods for sale.

This is to prevent schemes which meticulously comply with the literal words of the rules but which defeat the purpose for which the ROO were introduced – to encourage manufacturing and value-added activities in the PICTA Parties. An obvious example is where a PICTA exporter imports low value goods from outside the PICTA area and simply repackages them before exporting the goods to other Parties. In this example, this repackaging does not confer origin.

3. Administrative Procedures for Operating the ROO

3.1 Introduction

The successful and effective implementation of the PICTA ROO requires all Parties to apply harmonised and transparent procedures in determining the eligibility of goods for PICTA originating status and the subsequent granting of preferential tariffs as provided for under the PICTA.

The application of common administrative procedures by the Parties, signals to businesses that the free trade area is being effectively and fairly administered and which encourages full utilisation of the opportunities made available by the PICTA therefore fulfilling the fundamental aim of the Agreement.

3.2 The PICTA Certificate of Origin

The documentary evidence, which must be supplied by the exporter in one PICTA Party to the importer in another to support a claim that the goods are originating, is the PICTA Certificate of Origin, Form "FIC1" (see Annex IV). The FIC1 form must be completed by the exporter and authorised by the Customs Authority in the exporting country. The completion and authorisation as such will deem the goods eligible for the PICTA's preferential rates of duty.

The importer requesting preferential rates of duty under the PICTA must ensure that sufficient information is available and can be provided to the Customs authority in the importing Party should the need arise. This requires that the manufacturer or exporter of the good provide the importer with sufficient or complete information as to those goods that meet the ROO.

Annex IV of this Manual contains the PICTA Rules of Origin Certificate (FIC1) along with guidelines for its completion.

The issued FIC1 form from the exporting Customs Authority provides to an importer the automatic right to get goods out from the importing authorities using the PICTA preferential duty rates. Goods so accompanied by a FIC1 shall not be withheld or prevented from being released to the importer for the reason of it being accompanied by a FIC1. In cases where Customs Authorities need to enforce compliance and require other verification, the concerned goods must be released in the first instance. Customs Authorities may impose further terms and conditions as they deem necessary, including a requirement for a deposit or other security for the duties liable thereon before the goods are released from Customs control. In case where no duty or no further action is pursued by Customs, the deposit or security must be returned to the importer no later than 30 days from the date such deposit or security was lodged.

3.3 PICTA Certificate of Origin - Designated Authorising Bodies

It was decided by the ROC⁴ that the national *Customs Authority* in each Party be the Designated Authorising Body with responsibility for the issuance, authorisation and verification of PICTA Rules of Origin Certificates (FIC1 Form).

The operational formalities and procedures of the Customs Authorities will be as simple and easy as possible to follow to ensure that nothing in the course of the Certificate of Origin's issuance, authorisation or verification becomes a burden on exporters so as to constitute a non-tariff barrier and lead them to choose not to trade their goods under the PICTA, even if their goods would be eligible to do so. Notwithstanding this trade facilitation requirement, such procedures must not compromise other national objectives, for example, those related to national security.

3.4 Exporting Party

3.4.1 Completion of FIC1 Forms

Completion of the FIC1 is to be made by the exporter of the products for submission to the Customs Authorities for endorsement. Because the responsibility for completion of the FIC1 form lies with the exporter, the exporter himself/herself must ensure that goods so claimed as originating under the PICTA do comply with the PICTA ROO. In order to claim PICTA origin status on exported goods, the exporter must have the required information to substantiate his or her claim. If the exporter is the manufacturer or if he/she is exporting products that are manufactured by others, all relevant information required for origin verification must be available and kept by the exporter.

3.4.2 Certification of Origin - FIC1 Form

Tariff clarification must be included in Box 9 of the FIC1 Form (at least at six digit level of the 2002 or later version of the Harmonised Commodity Description and Coding System, the HS). Each PICTA Party must provide for exporters the FIC1 forms and must have a reasonable number of copies of FIC1 forms available at all times.

As the Issuing Authority for these forms, Customs Authorities have responsibility for ensuring that sufficient supplies of the FIC1 forms are available, providing them to trade contacts, issuing them to exporters and having a record of the numerical sequencing of the FIC1 forms. Where possible the issuing and submission (lodging) of FIC1 forms electronically should be acceptable, as with the Single Administrative Document (SAD) or import/export document. At all times the principle of self-assessment will apply.

For users of Customs automated systems the PICTA Certificate of Origin may also be available and cleared electronically. The availability and use of electronic FIC1 certificates shall be in accordance with national legislation.

⁴ ROC Meeting, 11-12th June 2003, Forum Secretariat, Suva, Fiji, Outcomes Document.

Two copies of the FIC1 form are required at the time of lodgment at the Customs office. One copy is to be retained by Customs in the country of export and the other for submission to the importing Party. The exporter will have responsibility for making his/her own copy. Certified, original, faxed, and electronic copies of FIC1 form may be acceptable by importing countries in accordance with national legislation.

3.4.3 Authorising the Certificate of Origin, FIC1

All FIC1 forms submitted to the importing authorities to claim PICTA preferential treatment must be correctly and legally certified by the exporting Party. Certification from the exporting country is a legally binding document which should expedite and facilitate the documentary process in the importing country. The FIC1 submitted by the importer, must be authorised by the Customs Authority in the exporter's country.

Before Certificates of Origin are authorised, the Customs Authority must check that the Certificate has been completed correctly and satisfy itself that the criteria of the ROO have been met. The Authority may request for any supporting evidence it deems necessary to fulfil this duty.

Authorisation of the Certificate of Origin will be carried out by the Customs Authority through the process of verifying, signing and stamping the Certificate. In the case of electronic FIC1 forms being submitted, a unique identifier verification and approval code may be acceptable. The impression on the origin verification stamp or the electronic unique identifier codes should be very clear to avoid raising doubt by authorities of the importing party as to its authenticity. The stamp, signature and unique identifier codes used by the Customs Authority will be the ones circulated to all PICTA Parties via the Certificate of Signature (Annex 5).

After the Customs Authority has signed and issued the FIC1 at the exporting country, the FIC1 shall not be subject to any other intervention by any other person or bodies (other than that related to the commercial contract on the selling and buying of the said goods).

The Customs Authority will make one copy of the authorised FIC1 form. The original copy will be returned to the exporter to be forwarded and presented to the importing Customs Authority on import of the goods at the importing country. The Customs Authority in the Party of the exporter will keep a copy for compliance purposes. It will be the exporter's own responsibility to make and retain a copy of this certificate for his/her own records.

3.4.4 Certificate of Signature (Annex 5)

PICTA Parties must provide to each other and other Forum Island Countries (FICs), samples of the authorised signatures and authorised seals or stamps or unique identifier codes from which Certificates of Origin may be authorised.

It is the responsibility of all PICTA Parties to subsequently notify the Forum Secretariat of any changes to those authorisations and to ensure that those authorising the Certificates of Origin have sufficient understanding of the ROO.

Annex 5 of this Manual provides a sample of the Certificate of Signature. This certificate must be submitted with a covering note from the Official Contact Point in each country to the Secretary General of the PIFS. Once received these samples will be circulated to all FICs. A review of these samples will be carried out once every two years or as and when deemed appropriate by the ROC. The Forum Secretariat shall action these reviews and circulate the results to all FICs.

3.5 Importing Party

For a consignment of imports to enter a PICTA Party under PICTA's preferential terms the importer must present to the Customs Authority of his/her country a FIC1 duly completed and signed by the exporter and authorised by the Customs Authority in the exporting country.

Once the Customs Authorities have checked the seal, signature or other forms of authorisation on the FIC1 and satisfied themselves that the information provided in the certificate matches that provided in the invoice and customs entry, the goods will be granted PICTA preferential treatment.

3.5.1 Queries

Queries or disputes, if they escalate, would arise if the authorities in the importing country did not accept the Certificate of Origin issued by the authorities in the exporting party.

On identification of minor omissions or mistakes in the Certificate of Origin, any rectification should be allowed to be made by the importer or the Customs authorities without rejection of the goods for preferential treatment.

On identification of more serious doubts as to the originating status of goods, dialogue and consultation between the Customs Authorities in the importing and exporting countries should be commenced in order to resolve the matter in an expeditious manner. If the issues remain unresolved by consultation, a more formal procedure should then be followed.

3.5.2 Procedure for Verifying Originating Status

In some instances the Customs Authorities in the importing country may request that the importer acquire further information from the exporter for the purposes of verifying origin status.

The exporter may then supply this information either directly to the importer or to the Customs Authorities. The Customs Authorities may also refer a verification query directly to the Customs Authority in the exporting country.

The query must clearly state where the doubts over originating status of the good have arisen and what information is necessary to resolve this query.

Verification requests should be lodged by the importing Customs Authority to the exporting Customs Authority within two working days of the query raised over the originating status of a particular consignment of goods. It is important that all queries of this nature are dealt with transparently and quickly to minimise costs for all those involved. Acknowledgments of origin verification requests should be made by the exporting Customs Authority no later than two weeks and responses supplied no later than four weeks following receipt of the query. Verification requests may be made in writing, by phone, by fax or through other electronic means.

During this time the goods should be released to the importer as long as there is adequate security that any additional duty payable, dependent on the outcome of the query, can be collected from the importer.

If there is a breakdown in this procedure, for example queries not being responded to within four weeks or Customs Authorities refusing to clear goods for which there is a pending originating status query, the importer should notify both the Ministry responsible for trade in his country and the PIFS who will encourage the correct operation of this procedure.

3.6 Procedure for Exporters

The exporter wishing to export his goods under PICTA's preferential tariff rates must first obtain a Certificate of Origin from the Customs Authorities in his/her country.

The Certificate, when completed, authorised and presented by the importer to the Customs Authority in the importing party will serve as evidence of the goods originating status and eligibility, to be accorded the preferential tariff rates of the PICTA.

3.6.1 Exporter's Procedures

1. Obtain a blank FIC1 form from the Customs Authorities, trade office or a designated person.
2. Complete the FIC1 form by inserting the required information in the designated areas for each shipment for which PICTA preferential treatment is requested. A guide to completing this form is provided in Annex IV of this Manual.
3. The FIC1 may be prepared by any process i.e. in own handwriting, typed or generated from an electronic processing machine or unit, provided that the entries are indelible and legible. Erasures and super-impositions are not allowed. Any alterations must be made by striking out the incorrect entries, making the required changes and be initialled by the person completing the form before being endorsed by the Customs Authorities. Any unused spaces on the form must be crossed out so that any subsequent addition is not possible.
4. Before signing the form, the exporter must check that all the details in the Certificate of Origin are correct. Certificates signed by shipping or forwarding agents etc are not permissible.

5. The completed FIC1 will be presented with the Customs export entry or declaration and any other supporting documents as may be required, to the Customs authority for authorisation of the FIC1.
6. Authorisation by the Customs Authorities is a confirmation of the said goods having complied with the PICTA ROO, as per the information or declaration presented to it by the exporter. The authorised FIC1 is to be returned to the exporter, with any other relevant documents. The exporter shall cause the said certified documents to be sent to the importer in the importing country.
7. Documents stated above means documents may either be in hard copy or in electronic form.

3.7 Self Assessment

The implementation of the ROO and the assessing of whether the goods in question do meet the ROO is done on a self assessment basis by the exporter and the importer. In order to speed up and advance trade under the PICTA, the law enforcement authorities will allow maximum flexibility for the private sector actors including importers and exporters to self assess their systems, procedures and legal declarations to comply with the PICTA. The principle of risk management, as promoted by the Oceania Customs Organisation (OCO) will apply when verifying self assessed processes and procedures.

Exporters are to complete their self-assessment of whether goods qualify for “origin” status and to also verify this at completion of the FIC1 and to then submit to Customs for verification. Customs may verify Certificates using risk management principles. Customs may require the provision of production costs of the goods in question from the exporters. Customs may verify every first shipment and subsequently risk manage or sign Certificates from the outset and verify such certificates at a later stage using relevant risk management criteria.

Exporters must submit any audit information verifying PICTA origin of any good to Customs on the first export consignment of their goods. Exporters must also stand ready to submit to Customs the same or similar information at any other time. The retention or filing of such information will be in accordance with national practice.

3.8 Retention of Documents and Record Keeping

3.8.1 Importers and Exporters

Importers and exporters engaging in trade under the PICTA should ensure that they keep adequate records such that they can justify origin status on any consignment of goods for which they have received or have declared preferential treatment under the PICTA.

The minimum length of time that these records may be kept is four years⁵ from the date of transaction as indicated by the FIC1 to which the consignment relates. Irrespective of whether or not national legislation requires such records to be kept, the keeping of records for at least four years is mandatory under the rules approved by the Rules of Origin Committee of the PICTA.

These records must cover the following sources of information:

- Custom import entries and invoices for imported inputs used in the production of the final goods.
- Records of purchases of local materials.
- Accounting records relating to wages, utilities and other expenses incurred in connection with the manufacture of goods which were traded under the PICTA.
- All other information that will assist in determining whether such wholly produced or wholly obtained or manufactured goods do meet the ROO of the PICTA.

3.8.2 Designated Authorising Bodies

The Designated Authorising Bodies in both the exporting and importing Parties should keep PICTA Certificates of Origin and other related documentary evidence for a minimum period of four years.

3.9 Collaboration between Customs Authorities

The interdependence of Parties to the PICTA means that there will be a high degree of mutual confidence and trust between them, specifically with respect to the national Customs Authorities. The smooth ongoing operation of the ROO will depend on cooperation and continuing dialogue amongst Customs Authorities. They will not only administer the granting of preferences but will also be the first body involved in any dispute.

Each Party will, after adequate notification, allow Customs Authorities (or other authority as may be designated by the disputing Parties) to carry out investigations in the territory of the other Party, in order to obtain evidence and verify information that have been provided or used to establish origin. Parties will also have to allow an importing party to receive and use, for the purposes of verifying origin, confidential information from an exporter in a different PICTA Party and as such the exchange of information between Customs authorities is essential. Details of investigations into claims of origin must be made available to other parties to the dispute and lodged with the ROC via the PIFS. The notification to the ROC will ensure transparency in the application of the ROO and would allow the ROC to efficiently handle the dispute should this escalate to the extent that the intervention by the PIFS is required.

Details of fraudulent claims are to be submitted the PIFS which will then disseminate this information to all Parties.

⁵ ROC Meeting, 11 – 12th June 2003, Pacific Islands Forum Secretariat, Suva, Fiji, Outcomes Document

3.10 Derogation

In an effort to ensure the ROO serve to facilitate trade between the Parties, Paragraph 4 of Annex I of the PICTA supports the possibility of "derogation" in certain circumstances.

Under these circumstances, derogation allows the ROO to be "adjusted" by up to a 2% margin of tolerance on the qualifying expenditure i.e. in circumstances where derogation has been granted, a good may be granted PICTA origin with only 38% of its value added by a Party.

However, derogation should not be allowed to be abused so that it becomes the primary method of achieving origin. Derogation will only be allowed if, due to unforeseen circumstances, goods fail to qualify for origin status. The derogation rule applies for a short term and the importing and exporting country must agree to the limited period for which derogation will apply.

Examples of situations where derogation may apply include:

- Where a significant (but temporary) depreciation of the local currency caused the value added (which is calculated in domestic currency) of a good manufactured by a Party to fall below 40% while the price of its imported inputs in terms of foreign currency remained unchanged.
- A natural disaster.
- A temporary fluctuation in the price of a raw material.
- A situation where local manufacturers lose access to inputs sourced from PICTA Parties, for example due to factory closure. This will reduce the value added of the product they manufacture and if they are unable to re-source from another PICTA Party in the short-term, they may be able to request temporary derogation from the ROO.

PICTA Annex I – paragraph 4 - Derogation

If difficulties arise, from unforeseen circumstances of a short term nature, resulting in an individual shipment of goods failing to qualify for origin under Paragraph (3)(b), then the exporting and importing Parties may agree to apply a margin of tolerance of up to 2% of the qualifying expenditure. These Parties shall apply this tolerance for a limited period of time only.

3.10.1 Process of Derogation

Article 5(7) of the PICTA grants the Rules of Origin Committee responsibility for managing derogation requests. To guide the ROC in considering derogation requests, the Article stipulates that for derogation to be granted the following conditions must apply:

- That NOT granting derogation would create an unfair restriction on PICTA trade;
- The derogation must not create any adverse effects such as arbitrary or unjustifiable discrimination on any Parties;

- The good for which derogation is requested must not be ordinarily produced or obtained in any Party affected by the derogation; and
- The good for which derogation is requested has either undergone substantial transformation in the territory of the exporting Party or is temporarily unable to qualify as originating goods due to exceptional circumstances.

3.10.2 Derogation Procedure

In order to facilitate the examination by the ROC of requests for derogation, the PICTA Party or an exporter from a PICTA Party, making the request will, by means of the form given in Annex VI to this Manual, furnish in support of its request the fullest possible information covering in particular the points listed below:

- Nature and quantity of materials originating in a third country;
- Nature and quantity of materials originating in the PICTA Party, or which has been processed there;
- Manufacturing processes;
- Value added;
- Number of employees in the enterprise concerned;
- Anticipated volume of exports to PICTA Parties;
- Other possible sources of supply of raw materials;
- Evidence that the value added is not less than 38%;
- Details of the unforeseen circumstances and their impact;
- Evidence that in the absence of the unforeseen circumstances the value added would have been 40% or more;
- Details of when the unforeseen circumstances are likely to cease; and
- Other observations.

The ROC will take steps necessary to ensure that a decision is reached as quickly as possible and in any case not later than forty (40) working days after the request is received by the Secretariat of the ROC. If the ROC does not inform the Party requesting the derogation of its position on the request within this period, the request shall be deemed to have been accepted.

Any approved derogation shall be valid for a period of no more than twelve months.

The derogation decision may provide for renewals without a new decision of the ROC provided that the PICTA Party concerned submit, three months before the end of the twelve month period, proof that they are still unable to meet the full conditions of the ROO. In all cases where such a renewal is provided, it shall be extended for a period of no more than three months. Derogation requests, in all instances, lapse after this period and cannot be renewed.

Both exporters and national governments may request derogation for goods produced by particular manufacturers. In all such requests, written evidence must be submitted to show that some consultations had already taken place with government authorities or the national rules of

origin committee (if they exist). From the government side, the Trade Officials may request derogation on behalf of the manufacturer or the exporter.

Requests for derogation are to be sent to the Secretary General of the PIFS (in accordance with Article 5(6)(e) of the PICTA) who will then refer them to the ROC for consideration. The Secretary General will refer the derogation request to the ROC Chairman and will cause the ROC to consider and make a decision regarding the request as soon as possible.

The party seeking the derogation will meet costs related to the verification of the request if they do arise at the national level.

3.11 Dispute Resolution Mechanism

It is desirable that disputes between two PICTA Parties be mutually resolved as soon as they are raised.

Any PICTA Party may notify the other Party (or Parties) of its wish to enter into consultations regarding a ROO dispute.

3.11.1 Dispute Resolution Procedure

In the event that informal consultations have not resolved the dispute the first step is for the Customs Authorities to exchange formal communication regarding the dispute.

Should there be a need for consultations between Parties to settle any ROO disputes the ROC must be notified via the PIFS.

If within 60 days of notification the ROO issue remains unresolved, any Party may request the PIFS to resolve the dispute by mediation. Disputes regarding ROO are dealt with primarily by the ROC. Therefore in every ROO dispute the PIFS shall in the first instance refer the matter to the Chairman of the ROC. The ROC will deliberate and, where appropriate, employ the services of expert advisors to assist the Committee in arriving at a possible resolution.

The PIFS will notify the disputing Parties as to ROC resolution to the matter and no later than thirty days thereafter, to inform all PICTA Parties of the dispute and the ROC rulings or outcomes.

The ruling, resolutions, decisions and recommendations of the ROC if not accepted by either Party may be subject to review by independent arbitrators (who would be appointed by the Secretary General). Any Party not accepting the ruling by the ROC may appeal to the Secretary General of the PIFS, stating the reasons for the appeal who will as soon as practically possible cause his/her office to resolve the dispute. At this stage recourse will be made to the general procedures for consultations and dispute resolution provided for in Articles 22 and Annex V of the PICTA. The procedures stated therein remain the final method of resolution for ROO disputes.

3.12 Imports of non-commercial goods

While the PICTA is geared towards commercial trade, in many instances personal or small quantities of PICTA-origin goods may be exported or imported by individuals or commercial entities.

Such PICTA goods for import and export may be related to the following:

- Personal and household effects;
- Samples of no commercial value;
- Human therapeutic substances, blood grouping and tissue-typing reagents;
- Removable articles on transfer of residence;
- Trousseaux and wedding presents;
- Effects by inheritance;
- Personal effects and educational articles for persons attending educational establishments;
- Personal gifts; and
- Documents and miscellaneous articles of no commercial value.

Any existing national regulations will apply on imports of PICTA origin imported under the above conditions. If for reasons of law, for example the duty free limits were exceeded and duty must be collected on those goods, in order to be accorded the preferential PICTA treatment, the requirement for presentation of a certified FIC1 will apply.

However, without prejudice to the laws applicable at any time, the requirement for a FIC1 certificate may be waived for imports described above, in order to facilitate the movement of such goods. This waiver must however be in compliance with transparent procedures as may be set out in national legislation or national practise. The Kyoto Convention on the Simplification and Harmonisation of Customs Procedures sets out best Customs practices in such instances and all PICTA Members may wish to refer to the Kyoto Convention for guidance in this regard.

4. Organisational Requirements for ROO Implementation

4.1 Introduction

The effective implementation of the ROO requires that the issuing, authorisation and verification of Certificates of Origin should be carried out in a uniform, efficient and transparent manner by the Designated Body within each Party.

There is therefore a need for a national system responsible for the administration of the ROO to be adopted by each Party.

While the differences in legal procedures, trade volumes and geography among others, make the prescription of a uniform organisational structure to be adopted by all Parties undesirable, it is important that the procedures are transparent, efficient and harmonised to ensure uniform application of the PICTA. A national Rules of Origin Committee for each PICTA Party may be established as part of the National Trade Facilitation Committee to advance ROO matters at national level.

At the regional level, the PICTA ROC has been established. The ROC, comprised of five PICTA Parties may act with a quorum of three and where appropriate, may employ the services of expert advisors. The PIFS provides secretariat services to the ROC. The role of the ROC is provided for in Article 5.6 of the PICTA and is presented below:

PICTA Article 5 Rules of Origin

5.6 The functions of the Rules of Origin Committee shall be to:

- (a) regularly review the implementation of the Rules to ensure that they are applied effectively, uniformly and in accordance with this Agreement, and report its findings and make appropriate recommendations to the Parties;
- (b) regularly review the Rules to ensure that:
 - (i) they are fully supportive of the objectives of this Agreement; and
 - (ii) if appropriate, they conform to the guidelines produced by bodies such as the World Customs Organisation and the World Trade Organisation;and report its findings and recommend any desirable amendments to the Parties;
- (c) in consultation with the Parties, make recommendations on the adoption of standardised operating and documentation procedures;
- (d) provide technical and investigative assistance to the Parties in respect of the interpretation, implementation and operation of the Rules;
- (e) receive from the parties requests for derogation, and approve as appropriate those requests in accordance with Paragraph 7;

- (f) provide, as appropriate, training to Parties on the application and operation of the Rules;
- (g) provide, if requested by the Parties, assistance, consultation or mediation to assist in the resolution of disputes arising from, or related to the Rules;
- (h) provide binding rulings on disputes related to the Rules or derogation from them, if requested by the relevant Parties;
- (i) notify the Parties of any disputes between the Parties and the results of any consultation, mediation or rulings, pursuant to sub-paragraphs (g) and (h);
- (j) develop guidelines and procedures, consistent with international best practices, to be used in determining “substantial transformation” for the purposes of Paragraph 7 (c) (i), and notify these guidelines and procedures and any subsequent changes to the Parties, which may make amendments as appropriate;
- (k) ensure that the Committee’s operation is functional, transparent and within the resources of the Parties;
- (l) establish operating procedures for carrying out its functions, including by means of remote communications where desirable, and notify these procedures and any subsequent changes to the Parties, which may make amendments as appropriate; and
- (m) when making recommendations for future co-operation, have regard to the resource and capacity constraints of the Parties, in particular the Small Island States and Least Developed Countries.

4.2 Post Clearance Control

In exercising controls over the flow of PICTA trade, Customs Authorities must strike a balance between facilitating trade on the one hand and mitigating against Customs fraud on the other. In this context a post clearance control system is encouraged.

A post clearance system would allow Customs Authorities in the importing countries to verify the originating status of goods after they had been cleared by Customs and granted PICTA preferential treatment. This system would test the adequacy of the risk management procedures in facilitating trade whilst also detecting fraudulent claims. A post clearance control system would also increase the effectiveness of risk management procedures by helping to identify the characteristics of consignments and transactions that should be fully investigated.

The principles of risk management, as promoted by the OCO, will apply when carrying out post clearance controls.

4.3 Competencies of the Designated Authority

The designated authorities for ROO matters are the national Customs Authorities responsible for Customs. Customs Authorities are best placed in any national administrations to deal practically with imports and export at the border or deal with import and export matters after the legal import/export formalities had been completed. Customs Authorities also have a sound relationship with all other national agencies and private sector groups, including importers and exporters in order for them to facilitate trade.

Regular dialogue through meetings, training, seminars or public information dissemination in any form is to be provided by Customs Authorities and other national agencies. In respect to the enforcement of the ROO, all trade actors are to actively participate so as to ensure the proper functioning of the PICTA.

The Secretariat of the ROC shall cause for the provision of PICTA ROO training at each PICTA Party at least once every 24 months. The method of such training may be in the form of actual training conducted by the Secretariat and the ROC or by the National Rules of Origin Committee in each national administration using materials supplied by the ROC Secretariat. In addition, the ROC will be responsible for providing technical and investigative assistance to the Parties in respect of the interpretation, implementation and operation of the Rules (see Article 5.6(d) of PICTA).

4.4 Rules of Origin Committee

Membership of the ROC is comprised of five representatives from PICTA Parties. Members of the ROC can be from the public or private sector and include at least one representative from a FIC Least Developed Country or Small Island State.

The Committee members:

- are initially the representatives appointed by each of the first five Parties to ratify this Agreement that were willing to provide such a representative, and held their first meeting within 60 days of the entry into force of the PICTA;
- thereafter they would be the representatives of the five Parties which have been decided by the consensus agreement of the Parties biannually; and
- may serve more than one term.

The manner in which the ROC is constituted after the first six months of the ROC being set up (and for each subsequent six month period) will be that the PIFS sends out a circular inviting expressions of interest from each FIC which is a Party to the PICTA, to be a member of the ROC. After receipt of the responses from FICs, the PIFS will send to all FICs the responses and ask for

a consensus decision as to the final composition of the ROC for the next six-month period. This process shall be repeated every six months.

The Committee may act with a quorum of three, and where appropriate employ the services of expert advisers. The Chairman of the ROC will be decided by consensus of the ROC members

The PIFS will provide secretariat services to the Committee.

In accordance with Article 5(3) of the PICTA, representatives of PICTA Parties to the ROC will consist of one representative who will decide on ROC issues. Other persons, acting as advisors to the each PICTA ROC representative may be allowed to sit and participate in the ROC discussions. The role of advisors is limited to the provision of advisory services to the PICTA representative and to the ROC itself. For the purposes of the ROC membership, PICTA Parties may submit nominations by name, title or name of agency or organisation.

Costs for attending the ROC meetings are to be met by national governments if funding is not available from the Secretariat. Regular review of the ROO and their implementation to ensure uniform application of rules and make recommendations to Parties as provided under Articles 5.6a will be done on an ongoing basis. PICTA Parties may submit their views to the Secretariat of the ROC at anytime which will refer them for consideration by the ROC. The ROC will consider such views and make a recommendation to Forum Trade Ministers (who meet every two years) for their consideration. As well, the Secretariat of the ROC will formally invite submissions from all PICTA Parties on any ROO matters 12 months before the biennial meeting of the Forum Trade Ministers. Where legal changes to the PICTA are required, legal processes must be complied with. Where administrative changes are required, such changes must be implemented in accordance with the provisions of the PICTA and national practices.

The adoption of all ROO standardised operating and documentation procedures (Article 5(6)(c)) will be subject to consultation with PICTA Parties. If a ROO interpretation is required by a Party (or Parties), they must first notify the Secretary General of the PIFS who will refer such request to the ROC to consider. The ROC may conduct their deliberations or consider the request through any communication means. Decisions made must be in a written form and are to be transmitted to Parties in writing – emails and faxes copies will also suffice and will be deemed as legally binding

4.5 Notification of Authorised Signatories on Certificates of Origin

All Certificates of Origin, which are submitted to the importing authorities in order to claim PICTA preferential treatment, must be correctly and legally certified by the exporting party. Certification from the exporting country is a legal binding document and should expedite and facilitate the documentary process at the importing country.

Certification agencies are to be Customs Authorities. Details of personnel in the Customs Authorities of each PICTA Party who are eligible to provide FIC1 certification must be clearly stated.

PICTA Parties must provide to each other and other FICs, samples of the authorised signatures and authorised seals from which these Certificates of Origin may be issued. The draft format for notification is provided in Annex V of this Manual.

All Parties must notify the PIFS where changes to these authorizations have been effected prior to the biennial review.

Annex V of this Manual sets out the format for notifying Members. This document must be submitted with a covering note from the official contact point of each country to the PIFS. These samples, once received by PIFS, will be circulated to all FICs. A review of these samples must be carried out once every two years or as may be decided from time to time. Notwithstanding this, the PIFS shall cause these reviews to be undertaken and results circulated to all FICs. It is the responsibility of Parties to ensure that those signing the Certificates have a correct understanding of the ROO.

4.6 National Rules of Origin Mechanisms

The effective implementation of the ROO requires that the issuing, authorisation and verification of Certificates of Origin be carried out in a uniform, efficient and transparent manner by the Customs Authorities within each Party.

The PICTA makes no requirement that Parties have a national ROO Committee per se but Article 5(2) does stipulate that Parties must establish a mechanism that would be able to provide, on request, a binding ruling on the originating status of goods that are to be imported.

Such rulings must be made “within six months”⁶ of a shipment of these goods and be valid for a period of at least six months after arrival of the first shipment.

There is therefore a need for each Party to establish a national system responsible for the administration of the ROO in accordance with the provisions of the PICTA.

While the differences in legal procedures, trade volumes and geography among others, make the prescription of a uniform organisational structure to be adopted by all Parties undesirable, it is important that the procedures are transparent, efficient and harmonised to ensure uniform application of the PICTA. A national Rules of Origin Committee for each PICTA Party may be established as part of the National Trade Facilitation Committee. To enhance the predictability of trading under a regional trade agreement, preferential ROO may require Parties to stand ready to issue binding rulings on the originating status of goods before their actual importation from another Party. An importer, exporter or any person may make such requests with a justifiable cause.

Copies of such binding rulings are to be made available to all exporters, importers and other PICTA Parties. On request, the PIFS and the ROC must also be provided copies of these binding rulings.

⁶ Forum Trade Ministers Meeting, Outcomes, Decision 7 (b), Nadi Fiji, 3 July 2003 – which allowed for amendment to the ROO. Further information also from PICTA national administrations.

4.7 Contacts

PICTA Rules of Origin Committee (ROC) - Contact Points

The contact points refer to present and past ROC Members (as at July 2004). Membership to the ROC change once every six months thus all queries on ROO could be directed to the PIFS who will be able to advise of ROC members and contact points as appropriate.

	Contact 1	Contact 2
ROC Secretariat	Pacific Islands Forum Secretariat Trade Facilitation Unit Trade and Investment Division Private Mail Bag Suva FIJI Tel: (679) 331 2600 Fax: (679) 331 2226 Email: PICTAROO@forumsec.org.fj	Sumbue Antas Trade Facilitation Officer Trade and Investment Division Private Mail Bag Suva FIJI Tel: (679) 322 0386 Fax: (679) 331 2226 Email: Sumbuea@forumsec.org.fj or info@forumsec.org.fj
Fiji Islands	Mr Tony O'Connor Director General Fiji Islands Revenue and Customs Authority Private Mail Bag Suva Fiji Tel (679) 330 2478 Fax (679) 3302321 E-mail: Toconnor@frca.org.fj	Mr Jagat Narayan Revenue and Customs Authority Private Mail Bag Suva Fiji Tel: (679) 330 2322 Ext 228 Fax: (679) 330 7302 E-mail: jnarayan@frcaorg.fj
Cook Islands	Mr. William Kauvai Department of Customs Revenue Management Division P O Box 120 Avarua Cook Islands Tel (682) 29365 Fax (682) 29465 revman@oyster.net.ck	Mr Geoffrey Stoddart Department of Customs Revenue Management Division P O Box 120 Avarua Cook Islands Tel (682) 29365 Fax (682) 29465 revman@oyster.net.ck

Papua New Guinea	<p>Mr Frank Babaga Manager International Relations PNG Internal Revenue Commission Level 10 Revenue Haus Champion Parade P O Box 777 Port Moresby 121, NCD Papua New Guinea</p> <p>Tel: (675) 322 6929 Fax: (675) 321 4002 Email: fbabaga.irc@global.net.pg</p>	
Tonga	<p>Mr. Sione Likiliki Deputy Commissioner of Revenue Customs and Trade Division PO BOX 146 Nuku'alofa Tonga</p> <p>Tel (676) 23651 / 23650 Fax (676) 24124 Email: adminctd@kalianet.to</p>	<p>Mr Kulu Anisi Bloomfield Customs and Trade Division Customs and Trade Division PO BOX 146 Nuku'alofa Tonga</p> <p>Tel (676) 22108 Fax (676) 24124 Email: adminctd@kalianet.to</p>
Niue	<p>Mr Sione Sionetama Customs and Taxation Division Collector of Customs and Taxation PO Box 36 Alofi Niue</p> <p>Tel (683) 4122 Fax (683) 4150 Email: sionetama@hotmail.com customs.treasury@mail.gov.nu</p>	
Samoa	<p>Mr Fuimaono Poufa TE'O Chief Executive Officer Ministry for Revenue P O Box 1877 Apia Samoa</p> <p>Tel (685) 21561 or 29411 Fax (685) 21563 or 20414 Email: fuimaono-teo@samoa.ws</p>	<p>Mr Ray Pereira Ministry for Revenue Customs Department P O Box 44 Apia Samoa</p> <p>Tel (685) 21561 Fax (685) 21563 Email: rpereira@samoa.ws</p>

4.8 Annexes

Annex I	PICTA Article 5
Annex II	PICTA Annex 1 – Rules of Origin
Annex III	Designated Bodies for PICTA Members
Annex IV	Certificate of Origin Form (FIC1)
Annex V	Certificate of Authorised Signatures
Annex VI	Application for derogation
Annex VII	Glossary

Annex I

PICTA ROO Article 5

The information in this annex is a replication of Article 5 of the PICTA

Article 5

Rules of Origin

1. Goods shall be treated as originating in a Party if they comply with the Rules of Origin set out in Annex I of this Agreement, hereinafter “the Rules”.
2. Each Party shall establish a mechanism to provide on request a binding ruling on the originating status of goods to be imported, available at least six months in advance of shipment of such goods, and valid for a period of at least six months after the arrival of the first shipment.
3. The Parties shall establish a Rules of Origin Committee which shall consist of representatives, whether from the public or private sector, from five Parties, including at least one representative from a Least Developed Country or Small Island State. The Committee members:
 - (a) shall initially be the representatives appointed by each of the first five Parties to ratify this Agreement that are willing to provide such a representative, and shall meet within 60 days of the entry into force of this Agreement;
 - (b) shall thereafter be the representatives of the five Parties which have been decided by the consensus agreement of the Parties biannually; and
 - (c) may serve more than one term.
4. The Committee may act with a quorum of three, and where appropriate employ the services of expert advisers.
5. The Forum Secretariat shall provide secretariat services to the Committee.
6. The functions of the Rules of Origin Committee shall be to:
 - (a) regularly review the implementation of the Rules to ensure that they are applied effectively, uniformly and in accordance with this Agreement, and report its findings and make appropriate recommendations to the Parties;
 - (b) regularly review the Rules to ensure that:
 - (i) they are fully supportive of the objectives of this Agreement; and

- (ii) if appropriate, they conform to the guidelines produced by bodies such as the World Customs Organisation and the World Trade Organisation;
 - and report its findings and recommend any desirable amendments to the Parties;
- (c) in consultation with the Parties, make recommendations on the adoption of standardised operating and documentation procedures;
- (d) provide technical and investigative assistance to the Parties in respect of the interpretation, implementation and operation of the Rules;
- (e) receive from the parties requests for derogation, and approve as appropriate those requests in accordance with Paragraph 7;
- (f) provide, as appropriate, training to Parties on the application and operation of the Rules;
- (g) provide, if requested by the Parties, assistance, consultation or mediation to assist in the resolution of disputes arising from, or related to the Rules;
- (h) provide binding rulings on disputes related to the Rules or derogation from them, if requested by the relevant Parties;
- (i) notify the Parties of any disputes between the Parties and the results of any consultation, mediation or rulings, pursuant to sub-paragraphs (g) and (h);
- (j) develop guidelines and procedures, consistent with international best practices, to be used in determining “substantial transformation” for the purposes of Paragraph 7 (c) (i), and notify these guidelines and procedures and any subsequent changes to the Parties, which may make amendments as appropriate;
- (k) ensure that the Committee’s operation is functional, transparent and within the resources of the Parties;
- (l) establish operating procedures for carrying out its functions, including by means of remote communications where desirable, and notify these procedures and any subsequent changes to the Parties, which may make amendments as appropriate; and
- (m) when making recommendations for future co-operation, have regard to the resource and capacity constraints of the Parties, in particular the Small Island States and Least Developed Countries.

7 Where origin cannot be achieved under the normal criteria, the Rules of Origin Committee may permit the Rules to be derogated from where their operation in

specific cases is considered unduly restrictive of trade. Derogation from the Rules shall be permitted where it has been established on the basis of objective evidence that the derogation sought:

- (a) will not have significant adverse effects, including arbitrary or unjustifiable discrimination on any Parties; and
- (b) relates to goods, which are not ordinarily produced or obtained in any Party affected by the derogation; and
- (c) relates to goods which,
 - (i) have undergone substantial transformation in the territory of the exporting Party; or
 - (ii) are temporarily unable to qualify as originating goods due to exceptional circumstances.



Annex II

PICTA Annex 1 – Rules of Origin

The information in this annex is a replication of Annex 1 of PICTA

ANNEX I RULES OF ORIGIN

1 In this Annex, unless the contrary intention appears:

“Factory” means the place in the territory of a Party where a process of manufacture occurs.

“Factory cost” means the total cost of the goods in their finished state following a process of manufacture, excluding any profit, marketing costs, taxes and Other duties.

“Inner containers” includes any container or containers into which, or on which, any goods are packed for sale, but excludes any shipping container, pallet or similar article used for the purposes of carriage on any ship or aircraft.

“Labour costs” means:

- (a) salaries, wages, bonuses, productivity payments and other employment related benefits incurred in connection with a process of manufacture in the territory of a Party; and
- (b) other labour costs incurred at a Factory in connection with the manufacturing process in the territory of a Party, including:
 - (i) management of the process of manufacture;
 - (ii) receipt of Materials;
 - (iii) storage of Materials;
 - (iv) supervision of the process;
 - (v) training in relation to the manufacture of goods;
 - (vi) quality control;
 - (vii) packing into inner containers; and
 - (viii) handling the storage of goods in the Factory.

“Material” means all inputs, other than labour and overheads, into a process of manufacture in the form they are received at a Factory, including:

- (a) an input that is itself a result of an earlier process of manufacture;
- (b) natural elements that are used in that process of manufacture; and
- (c) inner containers.

“Originating Material costs” in relation to any process of manufacture means:

- (a) the total cost of Wholly produced or obtained goods used in that process of manufacture; or
- (b) the cost of Material used in that process of manufacture that is wholly produced or obtained in the territory of a Party, excluding Labour costs and Overhead costs from an earlier process of manufacture if:
 - (i) that earlier process of manufacture has taken place outside the territory of a Party; or
 - (ii) the total expenditure on Material that is wholly produced or obtained, and on labour and overhead that is incurred, in the territory of that Party, is less than 40 per cent of the factory cost of that process of manufacture.

“Other duties” includes goods and services taxes, sales taxes, value added taxes, excise taxes, anti-dumping duties and countervailing duties.

“Overhead costs” includes any of the following costs where incurred in connection with the final process of manufacture in the territory of a Party:

- (a) inspecting and testing Materials and goods;
- (b) insuring real property, plant, equipment and Materials used in the production of the goods, work in progress and finished goods;
- (c) liability insurance, accident compensation, and insurance against consequential loss from accident to plant and equipment;
- (d) dies, moulds, and tooling, whether or not these items originate within the territory of a Party;
- (e) depreciation, maintenance and repair of plant and equipment;
- (f) interest payments for plant and equipment;
- (g) research, development, design, engineering and creative work;
- (h) rent, leasing, mortgage interest, depreciation on buildings, maintenance, repair, rates and taxes for real property used in the production of the goods;
- (i) leasing of plant and equipment, whether or not these items originated within a territory of a Party;
- (j) Materials and supplies utilised in the manufacturing process, but not directly incorporated into the manufactured goods, including energy, fuel, water, lighting, lubricants and rags, whether or not these items originated within the Party;
- (k) storage of Material and goods at the Factory;
- (l) royalties, licences or fees in respect of patented machines or processes used in the manufacture of the goods, or in respect of the right to manufacture the goods, or intellectual property rights;

- (m) subscriptions to standards institutions and industry and research associations;
- (n) Factory security, provision of medical care, including first aid kits and medical supplies, cleaning services, cleaning materials and equipment, training materials, disposal of waste, safety and protective clothing and equipment, and the subsidisation of a Factory cafeteria to the extent not recovered by returns;
- (o) computer facilities allocated to the process of manufacture of the goods;
- (p) contracting out part of the manufacturing process within the territory of a Party;
- (q) employee transport and Factory vehicle expenses; and
- (r) any tax in the nature of a fringe benefit tax payable on a cost in respect of labour or overheads.

“Overhead costs” does not include:

- (a) costs for telephone, mail and other means of communication;
- (b) the cost of shipping and airfreight containers;
- (c) the cost of conveying, insuring, or shipping the goods after their manufacture is completed;
- (d) royalty payments relating to a licensing agreement to distribute or market the goods;
- (e) rent, mortgage interest, depreciation on buildings, property insurance premiums, maintenance, repair, taxes and rates for real property used by personnel charged with administrative functions;
- (f) international travel expenses, including fares and accommodation;
- (g) manufacturer’s profits, or the profit or remuneration of any trader, agent, broker or other person dealing in the goods after their manufacture;
- (h) costs relating to the general expense of doing business, such as the cost of providing executive, financial, sales, advertising, marketing, accounting and legal services, and insurance;
- (i) any other costs and expenses incurred after the completion of the manufacture of the goods.

“Wholly produced or obtained goods” means:

- (a) live animals born and raised in the territory of a Party;
- (b) animals obtained by hunting, trapping, fishing, gathering or capturing in the territory of a Party;
- (c) products obtained from live animals born and raised in the territory of a Party;
- (d) plants and plant products harvested, picked or gathered in the territory of a Party;

- (e) products of sea fishing and other products taken from the sea outside the territory of a Party, where the Party is the country of registration of the vessel that carries out those operations;
 - (f) minerals and other naturally occurring substances extracted from soil, the waters, the seabed, or beneath the seabed of the territory of a Party;
 - (g) scrap and waste derived from manufacturing operations in the territory of a Party which are only fit for disposal or for the recovery of raw Materials;
 - (h) scrap and waste derived from articles collected or consumed in the territory of a Party which are only fit for the recovery of raw Materials;
 - (i) products taken from the area of the seabed outside the territory of that Party, pursuant to rights held by that Party and recognised under international law; or
 - (j) goods produced in the territory of a Party exclusively from products referred to in subparagraph (a)-(i).
- 2 For the purposes of Paragraph 3 of this Annex, goods are indirectly exported if the goods do not enter the commerce of a State, Territory, or Self-Governing Entity which is not a Party. Goods do not enter the commerce of a non-Party if:
- (b) a transit entry is justified for geographical reasons or transport requirements; and
 - (c) the goods have only undergone an operation required for unloading or reloading, or any operation required to keep them in good condition.
- 3 Goods exported from one Party to any other Party, whether directly or indirectly, shall be treated as goods originating in the territory of the first Party if these goods are:
- (a) wholly produced or obtained in the territory of that Party; or
 - (b) the result of the final process of manufacture performed in the territory of that Party, and the total expenditure on Originating Material costs, Labour costs and Overhead costs is not less than 40 per cent of the total expenditure on Material, labour and overheads, whether or not incurred in the territory of that Party.
- 4 If difficulties arise, from unforeseen circumstances of a short term nature, resulting in an individual shipment of goods failing to qualify for origin under Paragraph (3)(b), then the exporting and importing Parties may agree to apply a margin of tolerance of up to 2% of the qualifying expenditure. These Parties shall apply this tolerance for a limited period of time only.
- 5 Minimal operations or processes that are only performed to:
- (a) ensure the preservation of goods in good condition for the purposes of transport or storage;
 - (b) facilitate shipment or transportation; or
 - (c) package or present the goods for sale;

shall not, alone or in combination with each other, confer origin on goods under any other rule.

Annex III
DESIGNATED BODIES FOR PICTA MEMBERS

Country	Designated Body	Contact and Postal Address	Contact Details
Cook Islands	Department of Customs and Revenue Management	Senior Customs Officer Department of Customs Revenue Management Division P O Box 120 Avarua Cook Islands	Tel (682) 29365 Fax (682) 29465 Email: revman@oyster.net.ck
Federated States of Micronesia	Division of Customs & Tax Administration	Assistant Secretary, Department of Finance and Administration, Division of Customs & Tax Administration, P.O. Box PS 54 Palikir, Pohnpei, FM 96941 Federated States of Micronesia	Tel: (691) 320 5855 or 320 2826 Fax: (691) 320 5715 Email: fsmsofa@mail.fm
Fiji	Fiji Revenue and Customs Authority	Director General Fiji Islands Revenue and Customs Authority Private Mail Bag Suva Fiji	Tel (679) 330 2478 Fax (679) 3302321 E-mail: toconnor@frca.org.fj
Kiribati	Kiribati Customs Service	Comptroller of Customs Kiribati Customs Service Ministry of Finance and Economic Development P O Box 503 Betio, Tarawa Kiribati	Tel (686) 26531 Fax (686) 26532 Email: customs@tskl.net.ki
Nauru	Nauru Customs	Nauru Customs and Immigration Nauru Central Pacific	Tel: (674) 444 3133

Niue	Customs and Taxation Division	Collector of Customs and Taxation Customs and Taxation Division PO Box 36 Alofi Niue	Tel (683) 4122 Fax (683) 4150 Email: sionetama@hotmail.com customs.treasury@mail.gov.nu
Palau	Division of Customs	Chief of Customs Division of Customs P.O. Box 6011 Koror, Palau 96940	Tel: (680) 488 1985 488 6031 488 5607 Fax: (680) 488 4405 Email: rop.customs@palaunet.com jtarkongjr@hotmail.com
Papua New Guinea	PNG Internal Revenue Commission	Manager International Relations PNG Internal Revenue Commission Level 10 Revenue Haus Champion Parade P O Box 777 Port Moresby 121, NCD Papua New Guinea	Tel: (675) 322 6929 Fax: (675) 321 4002 Email: fbabaga.irc@global.net.pg
Republic of Marshall Islands	Customs, Revenue and Taxation	Chief of Customs, Revenue and Taxation Ministry of Finance P.O. Box 29 Majuro Republic of the Marshall Islands	Tel: (692) 6255 722 3297012 Fax: (692) 6255730 3298617 Email: rmicustoms@hotmail.com mhcustoms@ntamar.net
Samoa	Customs Department Ministry for Revenue	Chief Executive Officer Ministry for Revenue P.O. Box 44 Apia Samoa	Tel (685) 21561 or 29411 Fax (685) 21563 or 20414 Email: fuimaono-teo@samoa.ws rpereira@samoa.ws

Solomon Islands	Customs and Excise	Comptroller of Customs and Excise HM Customs and Excise P.O. Box G16 Honiara Solomon Islands	Tel: (677) 28979 or 94491 Fax: (677) 25640
Tonga	Customs and Trade Division	Deputy Commissioner of Revenue Customs and Trade Division PO BOX 146 Nuku'alofa Tonga	Tel (676) 23651 / 23650 Fax (676) 24124 adminctd@kalianet.to
Tuvalu	Tuvalu Tax and Customs Control	Senior Collector of Customs Ministry of Finance Government of Tuvalu Vaiaku, Funafuti Tuvalu	Tel: (688) 20235 or 20239 Fax: (688)20816 Email: customs@tuvalu.tv
Vanuatu	Customs and Inland Revenue Department	Director of Customs and Inland Revenue Department of Customs and Inland Revenue Private Mail Bag Port Vila Vanuatu	Tel: (678) 24544 Fax: (678) 22597 Email: bwotu@vanuatu.gov.vu tmalosu@vanuatu.gov.vu

Annex IV
CERTIFICATE OF ORIGIN FORM - FIC1

PACIFIC ISLAND COUNTRIES TRADE AGREEMENT
CERTIFICATE OF ORIGIN FORM – FIC1

1. Exporter's name and address		PACIFIC ISLAND COUNTRIES TRADE AGREEMENT CERTIFICATE OF ORIGIN FIC1 No: WS000001			
2. Goods consigned to (Consignee's name and address)		Issued in _____ [Country]			
3. Means of transport and route		4. Country of Origin		5. Country of Destination	
6. Marks and Numbers	7. Number of and kind of packages	8. Origin Criterion (see overleaf) - please indicate		9. Tariff Number	
				10. Description of Good	
		Wholly obtained	Processed or manufactured	11. Weight/quantity	
				12. Number and date of invoice	
13. Declaration by Exporter		14. Certification			
<p>I, the undersigned, hereby declare that the above statements are correct and that all goods were produced in (country)_____ and that the origin declaration complies with the origin requirements specified under the Pacific Island Countries Trade Agreement for the goods to be exported to</p> <p style="text-align: center;">[Importing country]</p> <p>I agree to submit supporting evidence and to any inspection to my accounts to verify this declaration.</p> <p>Place and date.....</p> <p>Signature.....</p> <p>Status.....</p>		<p>It is hereby certified, on the basis of controls carried out, that the declaration by the exporter is correct.</p> <p>Exported from.....</p> <p>Customs Port.....</p> <p>Issuing country</p> <p>Signature and Date</p> <p>Designation.....</p> <div style="text-align: right; margin-top: 20px;">  Official stamp/seal </div>			

Notes on reverse sheet of PICTA Rules of Origin

1. Countries which accept this form for the purposes of the Pacific Island Countries Trade Agreement (PICTA) are Parties to the PICTA. Details of the rules governing the PICTA in those countries can be obtained from the Customs authorities of the countries concerned.

2. Definitions of “Factory”, “Factory cost”, “Inner containers”, “Labour costs”, “Material”, “Originating Material costs”, “Other duties”, “Overhead costs” and “Wholly produced or obtained goods” are clearly provided in the PICTA.

3. In order for goods to be eligible under the PICTA, goods which are indirectly exported must not enter the commerce of a State, Territory, or Self-Governing Entity which is not a Party to PICTA. Goods do not enter the commerce of a non-Party if a transit entry is justified for geographical reasons or transport requirements and the goods have only undergone an operation required for unloading or reloading, or any operation required to keep them in good condition.

4. Goods exported from one PICTA Party to any other Party, whether directly or indirectly, shall be treated as goods originating in the territory of the first Party if those goods are either wholly produced or obtained in the territory of that Party or the result of the final process of manufacture performed in the territory of that Party, and the total expenditure on Originating Material costs, Labour costs and Overhead costs is not less than 40 per cent of the total expenditure on Material, labour and overheads, whether or not incurred in the territory of that Party.

5. If difficulties arise from unforeseen circumstances of a short term nature resulting in an individual shipment of goods failing to qualify for origin under Paragraph (3)(b) of Annex I of the PICTA, the exporting and importing Parties may agree to apply a margin of tolerance of up to 2% of the qualifying expenditure. These Parties shall apply this tolerance for a limited period of time only. Customs authorities will direct you to the relevant officials who will deal with tolerance requests.

Field/Box	Explanatory Notes on FIC1 Form
1	Name and address of the exporter. The full address must be stated, including telephone, fax and email contact.
2	The full name and address of the consignee must be stated, including telephone, fax and email contact.
3	In order for goods to be eligible under PICTA, goods which are indirectly exported must not enter the commerce of a State, Territory, or Self-Governing Entity who are non Parties. Goods do not enter the commerce of a non-Party if a transit entry is justified for geographical reasons or transport requirements and the goods have only undergone an operation required for unloading or reloading, or any operation required to keep them in good condition.
CERTIFICATE OF ORIGIN No	An unnumbered box "CERTIFICATE OF ORIGIN No: WS000001" is the FIC1 identification number for each FIC1 form issued and certified by the Customs authority. A unique identifier certificate code will be inserted into all certificates of origin. It will consist of two alphabets and six numbers. The alphabets indicate the country from which the certificate was issued - using the internationally accepted country abbreviations followed by the numerical series which will begin from 000001, 000002 etc. Therefore origin certificates from Samoa and Fiji for example, will be "WS000001 or WS000002" and "FJ000001 or FJ000002" respectively.
4	The Country of Origin declaration is governed by the PICTA legal texts.
5	The Country must be a PICTA Party.
6	The marks and numbers of the packages need to be inserted here. E.g. One carton consigned to "Man Malo" in Tarawa could be marked "MM1/Kiribati".
7	Packaging codes may be taken from guidelines as may be available in Single Administrative Documents (SAD). ASYCUDA guidelines on packaging codes are recommended. Description of packages could read "1 carton" or "1 pallet" or "2 containers" etc.
8	Rules of Origin criteria are stated in the PICTA Annex 1.
	The goods are wholly produced or obtained if they fall within the description which is accepted under the PICTA
	The result of the final process of manufacture performed in the territory of that Party, and the total expenditure on Originating Material costs, Labour costs and Overhead costs is not less than 40 per cent of the total expenditure on Material, labour and overheads, whether or not incurred in the territory of that Party.
9	Tariff number must be at least six digit level and based on the Harmonised Commodity Description and Coding System (HS). The HS 2002 version is the benchmark for which all PICTA Parties must use.
10	A brief description of the goods concerned should be inserted here.
11	Unit of weight or other units. This can kg or dozens, pairs, m ³ etc depending on statistical need.
12	The commercial invoice identification number and date for which the invoices were issued.
13	The exporter must complete this part.
	"Status" is to identify the position of the person. Could be "manager", "export manager", "export officer" etc.
14	This field is to be completed by the Designated Authorities who are the Customs Authorities. "Designation" is the title of the Customs officer who has signed and certified the FIC1 form.

Annex V
NOTIFICATION OF AUTHORISED SIGNATURES ON
PICTA CERTIFICATE OF ORIGIN (FIC1) FORMS

Pacific Island Countries Trade Agreement Notification of authorised signatures on PICTA Certificates of Origin (FIC1) Forms	
Country:	
Valid from: (Date)	to
1.	Name of Authorised person →
	Designation of person →
	Sample signature →
	Date of signature →
	Sample seal →
2.	Name of Authorised person →
	Designation of person →
	Sample signature →
	Date of signature →
	Sample seal →
3.	Name of Authorised person →
	Designation of person →
	Sample signature →
	Date of signature →
	Sample seal →

To be signed in triplicate and sent to the “PICTA Rules of Origin Committee Secretariat, Pacific Islands Forum Secretariat, Private Mail Bag, Suva, Fiji.”

Explanatory notes overleaf.

Explanatory notes on form for the “Notification of authorised signatures on PICTA Certificates of Origin (FIC1) Forms”

Name of Authorised person – Name of person who is authorised to sign FIC1 Forms. The name of the person must be stated clearly.

Designation of person - Specify the position or title of the person.

Sample Signature - A sample signature must be inserted here in black or dark blue ink. In cases where authorisation is provided electronically, such electronic verification authorisation should be provided in addition to the sample signature provided here.

Date of signature - This is the date the sample signature was put on this form

Sample Seal - Official seals must be affixed here if used by the Customs Authority

Annex VI
APPLICATION FOR DEROGATION FORM

1. 1. Commercial description of the finished product 1.2 Customs classification (HS Code)	2. Anticipated annual value and quantity of exports to PICTA Party
3. Commercial description of third country materials Customs classification (HS Code)	4. Anticipated annual quantity of third country materials to be used
5. Value of finished products	6. Origin of third country materials
7. Value of third country materials	8. Commercial description of materials originating in PICTA Party
9. Reasons why the rule of origin for the finished product cannot be fulfilled	10. Value of materials sourced from PICTA Party
11. Anticipated annual quantity of PICTA Party materials to be used	12. Working or processing carried in PICTA Party without obtaining origin
13. Amount of investment made or foreseen	14. Staff employed/expected
15. Value added by the working or processing in PICTA Party: 15.1 Labour 15.2 Overheads 15.3 Others	16. Details of the unforeseen circumstances requiring the derogation
17. Possible development to overcome the need for a derogation	18. Duration requested for derogation – from.....to.....
19. Detailed description of working and processing in PICTA Party	20. Capital structure of the firm concerned
21. Other possible sources of supply for materials	22. Observations

Notes

1. If the boxes in the form are not sufficient to contain all relevant information, additional pages may be attached to the form. In this case, the mention “see annex” shall be entered in the box concerned.
2. If possible, samples or other illustrative materials, pictures, designs, catalogues, etc of the final product and of the materials should accompany the form.
3. A form shall be completed for each product covered by the request.
4. References to ‘third country’ in boxes 3, 4, 6 and 7 means any country which is not a PICTA Party.
5. Box 12 - if the third country materials have been worked or processed in a PICTA Party or State(s) without obtaining origin, before being further processed in the PICTA State requesting derogation, indicate the working or processing carried out in the PICTA.
6. Box 13- Indicate possible further investments or suppliers’ differentiation which make the derogation necessary for only a limited period of time.
7. Box 18 – The dates to be indicated are the initial and final one for the period in which FIC1 certificates may be issued under the derogation.
8. Box 19 – Indicate either the percentage of added value in respect of the ex-works price of the product or the monetary amount of added-value for unit of product.
9. Box 21 - If alternative sources of material exist, indicate here what they are and, if possible, the reasons of cost or other reasons why they are not used.

Annex VII

GLOSSARY OF TRADE RELATED TERMS

FTA	Free Trade Area
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FEMM	Forum Economic Ministers Meeting
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FIC1	Certificate of Origin Form
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Certificate of Origin form used for trade under the PICTA

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

FTMM	Forum Trade Ministers Meeting
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- The first FTMM was held in 1999 in Suva, Fiji
- The second FTMM was held in 2001 in Apia, Samoa.
- The third FTMM was held in July 2003 in Nadi, Fiji.
- The fourth FTMM was held in April 2004 in Port Moresby, Papua New Guinea

FTOM	Forum Trade Officials Meeting
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HS	Harmonised Commodity Description and Coding System
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A multi-purpose international product nomenclature developed by the World Customs Organisation. It comprises 5,000 commodity groups, each identified by a six-digit code, arranged in a legal and logical structure and supported by well-defined rules to achieve uniform classification. The system is used by more than 177 countries and economies as a basis for their Customs tariffs and for the collection of international trade statistics. Over 98% of the merchandise in international trade is classified in terms of the HS.

LDCs	Least Developed Countries
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- UNCTAD classifies LDCs as a relatively small category of the very poorest and structurally weakest countries and to the acceptance by the international community that these least developed countries are deserving of special and specific attention.
- The following FICs are currently classified as LDCs: Kiribati, Samoa, Solomon Islands, Tuvalu and Vanuatu.

[Taken from: <http://www.un.org/events/ldc3/prepcom/history.htm>]

MFN Most Favoured Nation

NTFCs National Trade Facilitation Committees

- National Bodies responsible for national trade facilitation issues.
- These Bodies should create a sustainable, transparent and formal consultative mechanism for all interested parties involved in the nation's international trade (notably from both the public and private sectors), to work together to identify their respective trade facilitation problems, and prioritise, coordinate and implement mutually agreeable solutions.
- NTFCs or similar Bodies can formulate recommendations to the Government as to how to reduce practical impediments to the nation's trade.

OCO Oceania Customs Organisation

- The OCO brings together twenty-three customs administrations of Oceania (Australasia, Melanesia, Micronesia and Polynesia).
- The OCO meets in a different member country each year since it first convened in Rarotonga, Cook Islands, in 1986.

PACER Pacific Agreement on Closer Economic Relations

- The PACER is an economic cooperation agreement including all Forum members.
- The main objectives of PACER focus on the provision of a framework for cooperation amongst Forum members leading to the development of a single regional market and integration into the global economy.
- The FICs will receive financial and technical assistance from Australia and New Zealand to assist them to implement trade liberalisation measures and to facilitate "adjustment" to the new international trading regime.
- The PACER envisages a possible free trade area between FICs, Australia and New Zealand. Negotiations for a free trade area will start 8 years after PICTA entered in force (i.e. 13 April 2011) or earlier if triggered in accordance with Article 6 of PACER.

PICTA Pacific Island Country Trade Agreement

- The PICTA is a trade agreement which provides for the creation of a free trade area amongst the FICs.
- Over a period of ten years virtually all tariff and quota barriers to merchandise trade between FICs will be removed.
- It is intended that, in addition, the services trade will be negotiated into PICTA facilitating the movements of capital and labour across the FICs.
- The ultimate aim is the creation of a "single market".

PIFS Pacific Islands Forum Secretariat

ROC (PICTA's) Rules of Origin Committee

ROO Rules of Origin

- "Rules of origin" are the criteria used to define where a product was made.
- Preferential ROO are used to determine whether goods are eligible for special treatment under a trading agreement by determining whether such goods actually 'originate' in a preference receiving country.
- Unprocessed goods can qualify under ROO if they are wholly-obtained or produced. For processed or semi-processed goods to qualify they must have been 'substantially transformed' in a preference receiving country.
- Under the PICTA, 'substantial transformation' is achieved through the value-added criteria which define the degree of transformation required to confer origin on the goods in terms of the minimum percentage of value that must come from the originating country.
- For the PICTA ROO the value-added criteria is 40%.
- Goods which qualify under the ROO are traded with an accompanying Certificate of Origin under which they will receive the appropriate preferential treatment.

RTFF Regional Trade Facilitation Forum

RTFP Regional Trade Facilitation Programme

SIS Small Island States

Small Island States are generally defined as geographically remote, environmentally and ecologically fragile, small size in terms of population and land area, isolated from markets, geographically dispersed and limited resources. FICs in this category include the Cook Islands, Kiribati, Nauru, Niue, Republic of Marshall Islands and Tuvalu.

TID Trade and Investment Division of the Pacific Islands Forum Secretariat

WCO World Customs Organisation

- The WCO aids the national economic wealth and social protection of its members by promoting an honest, transparent and predictable Customs environment. This permits legitimate international trade to flourish and effective action to be taken against illegal activity.
- Working closely together, the WCO, WTO and UNCTAD are coordinating their efforts to remove the remaining barriers to trade by simplifying and harmonizing Customs procedures and processes throughout the world.
- The WCO currently has 159 Member Governments, including those of Fiji, Papua New Guinea and Samoa.

[Taken from: <http://www.wcoomd.org/ie/En/AboutUs/aboutus.html>]

WTO World Trade Organisation

- Established in 1995 and evolved from the GATT.
- The WTO superseded the GATT as the umbrella organisation for multilateral trade, negotiations and rule-making.
- Currently the Forum WTO members are Australia, Fiji, New Zealand, Papua New Guinea and Solomon Islands. Samoa, Tonga and Vanuatu are currently in the process of acceding to WTO membership.