

## EXPLANATORY STATEMENT 1 of 2014

### Amendment, adopted by the 8<sup>th</sup> Conference of the Pacific Community, to the Agreement establishing the South Pacific Commission (Suva, 19 November 2013) [2014] ATNIF 1

#### Practical and legal effect

1. The proposed treaty action is tacit acceptance of an amendment, adopted by the 8<sup>th</sup> Conference of the Pacific Community on 19 November 2013, to the *Agreement establishing the South Pacific Commission* (the Canberra Agreement), done at Canberra on 6 February 1947<sup>1</sup>.
2. The amendment would expand the territorial scope of the Pacific Community (SPC) to include Timor-Leste. (The South Pacific Commission was renamed the “Pacific Community” in 1997.) This would allow Timor-Leste to join the Pacific Community by acceding to the Canberra Agreement at a later date.
3. The amendment does not affect the rights and obligations of existing Parties to the Canberra Agreement. It is therefore expected to have a negligible legal, financial or practical impact on Australia.

#### Nature and timing of the treaty action

4. The SPC, based in Noumea and Suva, is a Pacific regional organisation that provides technical assistance to the Pacific Island countries and territories in the areas of public health, geoscience, agriculture, forestry, water resources, disaster management, fisheries, education, statistics and demography, transport, energy, human rights, gender, youth and culture to help Pacific Island people achieve sustainable development. Founded in 1947 as an organisation of metropolitan powers<sup>2</sup>, the SPC now comprises 22 Pacific island countries and territories as well as Australia, France, New Zealand and the US (see attached membership list). Pacific Island countries and territories were admitted as full members of the SPC in 1983 and have enjoyed the same rights as founding members ever since. Australia is the largest contributor to SPC, providing 34 per cent (approximately A\$39.6 million) of the SPC’s budget in 2013.
5. In 2013, Timor-Leste advised its intention to apply for membership of the SPC. Timor-Leste attended the SPC governing body meeting (the Conference) as an observer in November 2013, and has also participated in SPC technical meetings on an ad-hoc basis. Article XXI(66) of the Canberra Agreement provides that any government within the territorial scope of the SPC may accede to the Canberra Agreement, if invited to do so by all participating governments, by depositing an instrument of accession. Article II(2) provides that the territorial scope of the SPC shall include Pacific countries and territories located wholly or in part south of the equator and east of and including “the Australian Territory of Papua and the Trust Territory of New Guinea; and Guam and the Trust Territory of the Pacific Islands”<sup>3</sup>. Timor-Leste lies west of this demarcation line and is thus outside the present geographic scope of the SPC.

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<sup>1</sup> 1948] ATS 15, as amended by [1951] ATS 18; [1954] ATS 18; [1965] ATS 11 and [1980] ATS 20

<sup>2</sup> The founding members were Australia, France, the Netherlands, New Zealand, the United Kingdom and the United States. The Netherlands and the UK have subsequently withdrawn from the organisation.

<sup>3</sup> The former Australian Territory of Papua and the Trust Territory of New Guinea now form the Independent State of Papua New Guinea. The former US Trust Territory of the Pacific Islands is now the Federated States of Micronesia, Republic of the Marshall Islands and Commonwealth of the Northern Mariana Islands.

6. Article II(3) of the Canberra Agreement allows the territorial scope of the SPC to be altered by agreement of all participating governments. In anticipation of a formal request for SPC membership from Timor Leste, the 8<sup>th</sup> Conference of the Pacific Community (Suva, 18-19 November 2013) adopted a resolution extending the scope of the SPC to include Timor-Leste. Under the terms of the resolution, the amendment will enter into force one year from the date of its adoption by the Conference (that is, on 19 November 2014), providing no participating government lodges an objection with the depositary (Australia) before that date.

7. The amendment does not, of itself, admit Timor-Leste as a member of the SPC. Timor-Leste will be eligible to apply for membership of the SPC once the amendment enters into force. If invited to do so by all participating governments, Timor-Leste will then be able to accede to the Canberra Agreement in accordance with Article XXI(66).

### **Reasons for Australia to take the proposed action relating to the treaty matter**

8. Australian acceptance of this amendment is in line with the consensus decision of the SPC, consistent with our support for Timor-Leste's participation in a range of regional forums. Timor-Leste faces a number of development challenges in common with SPC member countries and territories, and would benefit from access to the SPC's wide range of technical services.

### **Implementing legislation**

9. No change to Australian legislation is required to give effect to the amendment.

Pacific Division  
Department of Foreign Affairs and Trade

Submitted to JSCOT: [date]

**Members of the Pacific Community  
as at January 2014**

American Samoa  
Australia \*  
Cook Islands  
Federated States of Micronesia  
Fiji  
France\*  
French Polynesia  
Guam  
Kiribati  
Marshall Islands  
Nauru  
New Caledonia  
New Zealand\*  
Niue  
Northern Mariana Islands  
Palau  
Papua New Guinea  
Pitcairn Islands  
Samoa  
Solomon Islands  
Tokelau  
Tonga  
Tuvalu  
United States\*  
Vanuatu  
Wallis and Futuna

\*remaining founding members of the South Pacific Commission