A PEOPLE'S GUIDE TO THE PACIFIC'S ECONOMIC PARTNERSHIP AGREEMENT

Negotiations between the Pacific Islands and the European Union pursuant to the Cotonou Agreement 2000

Professor Jane Kelsey

March 2005
World Council of Churches
Office in the Pacific

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Produced by the World Council of Churches, Office in the Pacific

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Foreword

One of the callings of the 8th Assembly of the World Council of Churches was for the churches to reflect on and search for an alternative to the current global economic system as promoted by the Bretton Woods institutions. In this pursuit of economic justice, member churches of the WCC were called to reflect and provide constructive criticism on the current economic paradigm. In their search for an alternative to economic globalisation as we know of it today, the Pacific churches called on the ecumenical movement to stand in solidarity with the marginalized and excluded and to promote living communities of hope.

In its quest for global domination, the current economic system promotes uniformity under the auspices of World Trade Organisation. In lay-person's terms alternatives are possible, so long as they do not threaten the current economic system.

The churches in the Pacific are now called to respond to the consequences of global economic policies that marginalize and exclude more Pacific Islanders than ever before. In many cases, the churches are called upon to do the social work and care for the ills of society. As churches we play that role very well and in many cases, incite government institutions to depend on us for that service we provide to society. In turn governments increasingly call on church institutions to "heal society" and "care for society".

The question at stake is whether we as the church will continue to be the band-aid service at the disposal of society or whether the church can address the causes of such ills?

Our Pacific cultures are based on the practice of giving. For the Pacific Island cultures, giving creates a bond between the giver and the recipient. Nowadays, giving to charity creates a sense of exoneration from the explicit poverty that surrounds us all. Now that we have given to charity, we have now cleaned our conscience and can carry on with our lives. This act of charity allows us not to address the core problem,which is a matter of justice for all. As part of this search for economic justice, the Pacific churches contributed its concept of the Island of Hope to the global ecumenical vision of a viable and living alternative to economic globalisation.

It is the hope that this study will establish a platform upon which the churches can be more involved in the policy discussions of Pacific Island economies. The economic partnership agreement and PACER and PICTA are mechanisms that will affect the lives of all Pacific Islanders and as such they are important issues that need to be discussed at all levels. They should not be reserved for the "experts" only! This study hopes to bring such broad sweeping concepts to a level that is understandable to all in the hope that discussion is generated at all levels and that an increasing number of Pacific Islanders understand the trade negotiations and multilateral trade agreements our governments are signing up to on our behalf.

Furthermore, our hope is that the discussions generated from this study will cross the oceans to our brothers and sisters in the Caribbean and African region. We hope to come together as churches to discuss the impacts of the ACP–EU Development Cooperation Agreement and other multilateral agreements on the peoples of our regions.

Most importantly, it is our hope that this study will bring people together to live and advocate for a more just economic system that is more viable and more sustainable for all, and that does not and will not create second class citizens.

Our deepest gratitude goes to Professor Jane Kelsey for accepting to write this important study guide and to Dr. Rogate Reuben Mshana, programme executive for the Economic Justice programme of the World Council of Churches for ensuring that this study comes to fruition.

Pacifically Yours

Fe'iloakitau Kaho Tevi
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Preface

In 1996 the European Commission released a Green Paper on future relations with Europe's former African, Caribbean and Pacific (ACP) colonies. This signalled its intention to replace 30 years of one-way preferential trade and aid arrangements that had been provided through a series of Lomé Conventions with two-way free trade treaties that are euphemistically called Economic Partnership Agreements. The Commission predicted that:

> *The future partnership will fit into a long transition process which will transform not only the economic organization of the country but also society itself*.

The framework for this radical transition is set out in the Cotonou Agreement 2000 and ties some of the poorest countries in the world to a market-driven model of 'development' that has manifestly failed them.

This report was commissioned by the World Council of Churches, Office in the Pacific, to examine the negotiations between the European Union and the Pacific ACP states for a Pacific regional Economic Partnership Agreement that have resulted from the Cotonou Agreement. These negotiations were formally launched in September 2004.

The terms of reference reflect the church's commitment to transformation from the 'development' model of neo-liberal globalisation that is being promoted by the European Union - one which serves powerful governments and mega-corporations - to an agenda for development that is sourced in the values and ethics of social justice and solidarity with people and earth. That vision is articulated in the Pacific Churches *Islands of Hope. A Pacific Alternative to Economic Globalisation* and the preparatory documents for the World Council of Churches Assembly in 2006 *God's AGAPE - Alternative Globalisation Addressing Peoples and Earth.*

This report uses a question and answer format to provide churches, NGOs, unions, politicians and other activists with the knowledge to intervene critically and effectively in the process, which they can then translate into more accessible and creative forms for their own communities.

The report draws on documents that were available to me, supplemented by interviews, to provide a critical assessment of the current negotiating strategies with particular attention to key sectors of sugar, fisheries, tourism and temporary migration of workers. I am acutely aware that this critique could be used as a justification for governments to say 'no' to an EPA and PACER, and do nothing. To the contrary, it urges governments to develop a Pacific-centred response to the very real challenges that face the region.

At the same time, it has been written for use beyond the Pacific, as a further antidote to the European Commission's move to divide and conquer by isolating the Pacific from the African and Caribbean countries that are also involved in the Cotonou negotiations.

A People's Guide to the Pacific's Economic Partnership Agreement should also be read as a companion to *A People's Guide to the Pacific Agreement on Closer Economic Relations (PACER)* (2004). The agendas and impacts of the Pacific EPA and PACER are inextricably linked and their combined effect could determine the future of the South Pacific and its people.

Part I examines the historical backdrop to the Pacific negotiations, from the Lomé Conventions through to the Cotonou Agreement, and the largely unsuccessful attempts of the ACP countries to cement in a common baseline position during Phase 1 of the negotiations.

Part II focuses on the Pacific Islands. The Cotonou negotiations are one of many hugely burdensome trade treaties and negotiations that threaten to submerge the Islands. The most ominous is the prospect that negotiations with the European Union may trigger a parallel process with Australia and New Zealand, whose effects could be devastating. Drawing on documents and interviews, the report examines some of the strategic options that are available to the Pacific Islands with particular attention to key sectors of sugar, fisheries, tourism and temporary migration of workers.

Part III highlights the failure, once again, of the Forum Secretariat and national governments to conduct genuine, locally informed social impact studies before they decide on their negotiating positions and table their proposals. It stresses the importance of open, informed and vigorous debate that goes beyond the current ineffectual consultations with 'non-State actors' and calls on governments to empower the people whose lives are most directly affected to express their views. An equally urgent challenge faces the ecumenical church in the Pacific to educate, mobilise and inspire its congregations, not simply to reject EU-style globalisation, but also to spell out what genuine transformation means for their lives.

I would like to thank those who have offered their knowledge and insights to assist in this research and those who reviewed drafts of the text.

Professor Jane Kelsey
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Abbreviations

ACP	African, Caribbean and Pacific Group of countries
ADB	Asian Development Bank
AGAPE	Alternative Globalisation Addressing Peoples and Earth
APEC	Asia Pacific Economic Cooperation (forum)
BIT	Bilateral Investment Treaty
ECOSOC	European Commission Economic & Social Committee
EBA	Everything But Arms
EDF	European Development Fund
EEC	European Economic Community (pre-1993)
EPA	Economic Partnership Agreement
EU	European Union (from 1993)
GATS	(WTO) General Agreement on Trade in Services
GATT	(WTO) General Agreement on Tariffs and Trade
GSP	General System of Preferences
IMF	International Monetary Fund
IPPA	Investment Promotion and Protection Agreement
LDCs	Least Developed Countries
MAI	Multilateral Agreement on Investment
MFN	Most Favoured Nation status
MSG	Melanesian Spearhead Group
NAFTA	North American Free Trade Agreement
NGO	Non-Government Organisation
NSAs	Non-State Actors
NZ	New Zealand
OECD	Organisation for Economic Cooperation and Development
PACP (Pacific ACP)	Pacific members of the ACP
PACER	Pacific Agreement on Closer Economic Relations
PICTA	Pacific Island Countries Trade Agreement
PNG	Papua New Guinea
REPA	Regional Economic Partnership Agreement
ROOs	Rules of Origin
SPARTECA	South Pacific Regional Trade and Economic Cooperation Agreement
TEAG	Trade Experts Advisory Group
US	United States of America
VAT	Value added tax
WCC	World Council of Churches
WTO	World Trade Organisation

The Church's Agape - Alternative Globalisation Addressing Peoples And Earth

Delegates to the Harare Assembly of the World Council of Churches in 1998 recognised the pastoral, ethical, theological and spiritual challenges that globalisation poses to the churches and to the ecumenical movement in particular. The Assembly called for a vision of the *oikoumene* of faith and solidarity, which motivates and energises the ecumenical movement, to replace the globalised *oikoumene* of domination.

The response to this call, a statement on God's Agape – Alternative Globalisation Addressing Peoples and Earth, has been prepared for World Council of Churches (WCC) Assembly in 2006 in Porto Alegre and circulated for discussion among the church community. *Agape* is the Greek word used in the Bible to signify God's love as well as people's love of God and of the neighbour. The statement outlines new challenges and possibilities for reflection and engagement, based on the theme of the 2006 Assembly "God in your Grace, Transform the World":

> *We, churches and believers, are called to look at the world's reality from the perspective of people, especially the oppressed and the excluded. We are called to be non-conformist and transformative communities. We are called to let ourselves be transformed by the freeing our minds from the dominating, conquering and egoistic imperial mindset, thus doing the will of God (according to the Torah) which is fulfilled in love (agape) and solidarity (Romans 13:10, 1 John 3, 10-24).*
>
> *Transformative communities [….] practice an economy of solidarity and sharing. Paul's good news is that, in the face of today's principalities and powers, another world is possible. Christian traditions, together with wisdom in other religions and cultures, can contribute to this vision of life in just relationships realized by God's Spirit, and can offer inspirational visions for alternatives.*
>
> *We as churches are called to create spaces for, and become agents of, transformation even as we are entangled in and complicit with the very system we are called to change. We confront the suffering, enormous economic and social disparity, abject poverty and the destruction of life, which result from the neoliberal model of economic globalization.[…] It is a pastoral and spiritual task for the churches to address the false spirituality of conformity, and to encourage Christian believers and faith communities to embrace a spirituality of life and transformation rooted in God's loving grace.*
>
> *This is the way in which agape, the love of God and neighbour, is translated into social and economic life.*
>
> *We are called to be with the suffering people and groaning creation in solidarity with those who are building alternative communities of life. The locus of the churches is where God is working, Christ is suffering and the Spirit is caring for life and resisting destructive principalities and powers. The churches that hold themselves apart from this concrete locus of the Triune God cannot claim to be faithful churches.*

In the context of neoliberal globalization, churches are called to make an explicit and public commitment of faith in word and deed. Ways in which the churches can express their faithfulness are by:

- ✓ *Opting for costly discipleship, preparing to become martyrs by following Jesus;*
- ✓ *Taking a faith stance when the powers of injustice and destruction question the very integrity of the gospel;*
- ✓ *Confessing their faith by saying a clear "NO!" to powers and principalities;*
- ✓ *Participating in the communion (koinonia) of the Triune God for fullness of life;*
- ✓ *Sharing the suffering and pain of the people and the earth in company with the Spirit, who is groaning with the whole creation (Romans 8:22-23);*
- ✓ *Covenanting for justice in life together with peoples and other creatures of God; and*
- ✓ *Four of these five characteristics reflect the "Criteria towards economic policy-making" presented in the WCC study document on Christian faith and the world economy today, Geneva: WCC, 1992, p. 29 ff. This document was an important step in understanding that economic matters are indeed matters of faith.*

Being in solidarity with the suffering people and the earth, and in resistance to powers of injustice and destruction.

Echoing these sentiments, women of faith from the global South and Eastern Europe, speaking from the Philippines in August 2004 as Women's Voices on AGAPE, demanded an end to unjust structures, institutions and policies - and to the *"insecurity and frustration provoked by the neo-liberal model [that] are inflicted on women's lives from womb to tomb."*

The Pacific Churches in 2001 generated their own *Island of Hope. A Pacific Alternative to Economic Globalisation* that is committed to the same transformative vision:

Spirituality, family life, traditional economy, cultural values, mutual care and respect are components of the concept of the Island of Hope which prioritises relationships, celebrates quality of life and values human beings and creation over the production of things. The Island of Hope is an alternative to the project of economic globalisation which entails domination through an unjust economic system. …

Following Christ, we must make a choice. We oppose the ethics of economic globalisation and join others who do the same. This choice is costly. It requires us to share what we have. It demands of us a commitment to give up what binds us to the system that exploits and enslaves our sisters and brothers (Mk 10:17-31). It leads into conflict and perhaps into persecution (Mk 10:32-34). Making this choice is a question of life and death.

We are obliged to choose between serving God or Mammon, power or people. Everyone, politicians and business people included, are responsible for the consequences of their actions. We will be held accountable by the people who suffer the consequences. We have a chance to turn around (Mt 6:12.13). We also hear the promise of the Gospel that choosing life will create an alternative and truly ecumenical community of sharing and solidarity (Mt 14:13-21; Acts 2:41-47) in response to the prayer "that all may be one as we are one" (John 17:11).

The power of the churches' spirituality and ethics of life for all provides the basis to confront the power enshrined in unjust trade relationships and accumulated wealth. Achieving this requires more than the reform of the unjust theories, practices and institutions that drive neoliberal globalisation. It calls for transformation that recognizes the common destiny as co-inhabitants of one earth which we all share responsibility for and from which we should all equally benefit; the full participation of all people and all communities – especially those marginalized by poverty and disempowerment – in the economic, social and political decisions that affect their lives; and the dignity of the human person as an expression of the intrinsic value of creation.

Transformation compels us as Churches to move beyond the difficult-but-conceivable to imagine, discover, embrace and embody the truly liberating, and then to make the liberating become the possible. Breaking free and leaving any allegiance the death-dealing paradigm of neoliberal globalisation behind, we espouse a life-affirming vision of the "oikoumene" - an earth community where all peoples live in just relationships with each other, with all creation and with God.

Principles for **Just Trade** can serve as indicators of a new paradigm of trade agreements that must

- be premised on the basic principles of love, solidarity, redistribution, sustainability, security and self-determination;
- protect and advance the interests of small, weaker and vulnerable states;
- deliver sustainable development and poverty reduction, as defined by the people themselves;
- give primacy to people's right to food, water and the necessities of life, and protect the ability of small producers to survive and thrive;
- be subordinate to international law and agreements that guarantee universally recognized human rights including civil, political, economic, social, religious and cultural rights, gender equity, labour rights, migrant worker rights and rights of indigenous peoples;
- recognise the inalienable rights of Indigenous Peoples to their territories, resources and traditional knowledge;
- strengthen respect for creation with ecological standards that safeguard the interests of future generations and the survival of the earth;
- respect the right and responsibility of governments to ensure the well-being of *all* members of society, democratic participation and public stewardship;
- contribute to world peace by ensuring the equitable distribution of resources and restraining powerful governments from using trade as a weapon to advance their economic, military and political interests;
- ensure greater corporate social responsibility and accountability;
- be initiated, concluded, implemented and monitored through transparent processes that ensure the full, informed and timely participation of those whose lives will be affected; and
- respect the sovereign rights of peoples to choose a diversity of development paths including the right to withdraw from or renegotiate such agreements.

PART ONE

From Lomé to Cotonou & the Economic Partnership Agreements

Key Points:

Describing the relationship between the former European colonial powers and their ex-colonies in Africa, the Caribbean and Pacific as a 'partnership' fails to disguise the ongoing power relationship through which Europe tries to dictate the economic, social and political development agenda of those countries.

The ACP Grouping was thrown together by historical accident in 1975 to provide a collective voice and solidarity in dealings with European powers and to promote a New International Economic Order. Today it is playing a defensive role in trying to hold back the international economic order of neoliberal globalisation in its negotiations with the European Union and at the WTO. The Pacific has been a barely visible in the ACP until recently.

The Pacific Islands' involvement in trade negotiations with the European Union is a legacy of the British Empire and the incorporation of preferential trading arrangements in Lomé Conventions since 1975. The Sugar Protocol, which was given special legal status to ensure security of supply to England's sugar refineries, has made Fiji and other ACP sugar producers dependent on growing raw materials while European corporations extract the profits.

The economic, political and aid dimensions of the Lomé Conventions reflected Europe's development ideology. By the time of Lomé IV in the 1990s, aid funding through the European Development Fund was used to complement the IMF/World Bank structural adjustment agenda, using 'good governance' conditionalities that required ACP governments to pursue neoliberal policies in the name of development and alleviating poverty.

In 1996 a European Commission Green Paper announced plans to redesign its relationship with ACP countries, saying it now wanted to make its presence felt in all regions of the world. The new 'partnership' would require ACP governments to implement 'reforms' that would radically transform the political and social structures of their countries. It would also replace trade preferences for ACP countries with reciprocal rights for Europe's goods into their markets.

The ACP failed to take the initiative and confront the European Union with an alternative development agenda and proposals for a post-Lomé relationship. By adopting a defensive position that tried to adapt, rather than challenge, the Green Paper proposals they bought into a global free market model whose impacts they then tried to minimise.

The primary objective of the new relationship, reflected in the Cotonou Agreement of 2000, is to enable European powers to shed their historic responsibilities to their former colonies and refocus their energies and resources on the new priorities of European expansion and competition with the US to dominate the world economy.

The European Commission's insistence that negotiations must be concluded by December 2007 was reinforced by its decision to seek a waiver from the WTO for the continuation of existing Lomé arrangements only until that date. There is no way that ACP governments, which include many of the world's poorest countries, have the capacity to negotiate such complex economic and trade agreements within that time.

Economic and trade negotiations under Cotonou are required to produce 'WTO compatible' outcomes, further cementing the hegemony of the WTO at a time when it faces a crisis of legitimacy and bringing non-WTO Members within the ACP under its rules. Attempts to reinterpret WTO-compatibility by assuming that the positions the ACP is currently promoting in the Doha Round is unrealistic, as poor countries have failed to secure any recognition of their concerns throughout the decade of the WTO's existence. Worse, the European Commission has secured commitments in the Cotonou Agreement to WTO-plus negotiations, including on issues of competition policy and investment that the ACP States have steadfastly resisted in the WTO.

The European Commission's negotiating mandate is premised on regional economic integration among different groups of ACP countries. The ACP governments failed during Phase 1 of the Cotonou negotiations to secure agreement from the European Commission on a set of principles and base lines that would protect their interests when negotiations moved to a regional level.

Notionally, the ACP had the right to determine the shape of Phase 2 negotiating groups; in practice, the Commission established a framework that has produced 6 separate regional and sub-regional negotiations that foster divide and rule and threaten to undermine existing and authentic attempts at regional economic integration.

The description of reciprocal trade agreements as 'Economic Partnership Agreements' feeds an illusion that these are about cooperation and partnership, rather than profits and power.

The claim that granting reciprocal free trade access into ACP markets for European goods will promote sustainable development and poverty alleviation is outrageous. Reciprocal trade in goods will threaten the survival of small local business and wage-earning jobs, with no guarantee that any replacements will emerge.

Free access for subsidised European agricultural products will undermine the viability of local food producers and intensify pressure for subsistence farmers to shift to contract-based, male-dominated cash crop production for export. Threats to food security and risks of famine are predicted to intensify.

Pressure from the European Commission for negotiations on services is designed to complement and advance its agenda in the current WTO negotiations on the General Agreement on Trade in Services (GATS). The Commission's GATS 'requests' to ACP countries are expected to provide the starting point for Economic Partnership Agreement negotiations. For two of the Pacific Islands these requests include removing foreign ownership restrictions on land. The creation of a EU Water Facility for ACP countries has fuelled speculation that it also intends to use these negotiations to secure access for its water transnationals to control the 'markets' of ACP countries.

Proposals from ACP countries for temporary rights of access for their people to work in semi- or unskilled services jobs in the European Union raise sensitive domestic questions of immigration and have implications for WTO negotiations, both of which will determine the Commission's response.

The alternatives available to ACP countries that decide not to participate in reciprocal trade arrangements – the Everything But Arms option for Least Developed Countries and the General System of Preferences for 'developing' countries - carry fewer risks, but leave those countries at the whim of the European Union which can alter or eliminate those arrangements at will.

The European Commission acknowledges that its agenda for the ACP countries will require major economic and social restructuring that may produce political upheaval. It also says it is the sovereign responsibility of governments to maintain that policy agenda, assisted by binding commitments in trade agreements and rewards through European aid funding for those who display 'good governance'. This linkage of aid and trade denies the democratic right of citizens to determine their own futures and removes the policy space that is necessary for ACP governments to respond to national development priorities.

The European Commission insists that it will not provide additional funding to meet 'adjustment costs' which it admits will result from its agenda. This allows it to secure the benefits of market access for its exports and investors, while the costs remain a burden on the governments and people of ACP countries.

The Sustainability Impact Assessment commissioned by the European Commission from a consortium led by PriceWaterhouseCoopers, one of the world's largest transnational management corporations, is a farcical exercise that serves no purpose other than compliance with European Union requirements that such a study has been done.

The Cotonou Agreement talks about empowering civil society, when it is really empowering capital and creating new national elites. The participation of 'civil society' and 'non-State actors' in the process and the desire to promote 'ownership' at the national level are never allowed to dispute the European Union's neoliberal development paradigm. Despite an unprecedented level of consultation and disclosure with 'non-State actors' since 2001, very few educated people are aware of what is at stake, let alone the ordinary people whose lives could be turned upside down. This reflects the complexity of the issues and the lack of understanding and capacity among governments as well as their peoples.

Non-government organisations are playing a vitally important role, both as critics on the outside and as educators and catalysts working with governments in the negotiating process, to encourage their governments to say 'no' to the European Union's agenda and to advocate a development paradigm that genuinely reflects the needs of their people and their countries.

1 Pacific Islands, the European Union & Lomé

Why are the Pacific Islands involved in trade negotiations with the European Union?

It is a legacy of the British Empire. Most of the Pacific Islands used to be colonies of Britain, either directly or through Australia or New Zealand. The remainder were under French or US rule - and 'French Polynesia', New Caledonia, Wallis and Fortuna, Federated States of Micronesia, Palau and the Marshall Islands still are. One of the main motives in colonising the Islands was to ensure a steady supply of raw materials for their industries; there were also military and foreign policy reasons. These interests framed the trade, investment and aid policies and practices of the colonial powers. When the Pacific Islands secured their political independence, this ongoing relationship was formalised through treaties with their former colonisers.

How does that historical relationship with Britain link the Pacific Islands to the European Union?

Britain joined the European Common Market in 1973. Even though its interests had shifted, Britain couldn't just abandon its former colonies. It also still needed a secure supply of sugar from Fiji (and Caribbean countries) for its refining companies, especially Tate and Lyle. When Britain joined the Common Market, it was part of the deal that these preferential arrangements would continue. They were formalised in the first Lomé Convention between the ACP States and the European Community, which came into effect in 1975. A separate but related legal arrangement for sugar became known as the Sugar Protocol.

"What the Pacific island governments tend to advocate is that we have had a relationship with the EU with the Lome framework, for almost 25 years. And this we do not want to stop"
(Feilo'akitau Kaho Tevi, PCRC, 1999)

Which Pacific Islands did the Lomé Convention cover?

The first Lomé agreement in 1975 only applied to Fiji, Samoa and Tonga. Kiribati, PNG, Solomon Islands and Tuvalu acceded in 1980, and Vanuatu joined in 1985. That covered all the Pacific Islands that are members of the Pacific Islands Forum, except the Cook Islands, Nauru and Niue (which relied on their close association arrangements with New Zealand) and the Marshall Islands, Federated States of Micronesia and Palau (they were covered by Compacts of Free Association with the US).

Was the Lomé Convention solely a deal for the Pacific Islands?

No. Lomé's origins lay in the Yaounde Convention (1963-75). That was a trade and aid package for 21 African colonies of the original European Common Market states (mainly France). By the time the Lomé Convention ended in 2000, it had been extended to 71 former European colonies from Africa, the Caribbean and the Pacific.

What is the difference between the Common Market, the European Economic Community and the European Union?

Each time the European states deepened their economic and political integration the name changed. The Common Market and the European Economic Community, which was formed in 1957, became the European Community in 1967. Under the Maastricht Treaty, which was signed in 1992 and provided for a common currency and other shared policies and regulatory bodies, it became the European Union. The European Commission (EC) is the executive body that conducts international relations, including trade negotiations, on behalf of the European Union.

What were the basic principles that underpinned the Lomé Convention?

A body of 'shared objectives and principles' forms part of what is called the *Lomé acquis:*

- the principle of 'partnership' between European Union and ACP States, including dialogue and joint administration;
- the contractual nature of the relationship; and
- the combination of trade, aid and political dimensions that operates with a relatively long-term perspective.

What were the main features of the Lomé Convention?

The Convention provided trade preferences for exports from ACP countries to the European Union. It also had a political dimension where, in theory, decisions were made in partnership; in practice, the Europeans dictated the terms. The third element was a related aid package known as the European Development Fund.

2 The Lomé Convention

"Lomé was unrealistic, but not for the reasons advanced by the Green Paper. It was unrealistic because it expected countries to diversify, etc. within a framework through which ... Europe sought to retain these countries as providers of raw materials and overseas markets."
(Tetteh Hormeku, TWN-Africa, 1998)

Did the same Lomé arrangements operate continuously from 1975 to 1999?

The original Lomé Convention was renegotiated three times. Lomé I, II and III each ran for 5 years. Lomé IV was for 10 years, with a mid-term review. The focus and priorities varied according to Europe's development thinking and foreign policy interests at the time:

Lomé I (1975-1980) was primarily concerned with non-reciprocal preferential trade arrangements.

Lomé II (1980-1985) continued the focus on industrial development.

Lomé III (1985-1990) shifted the focus from industrialisation to self-sufficiency and food security.

Lomé IV (1990-1999) reflected the post-Cold War focus on a market economy, human rights, democracy and the rule of law. It also required the negotiation of a post-Lomé agreement to begin in September 1998.

Were the Lomé Conventions underpinned by a particular economic ideology?

It became more market-driven over time. In Lomé IV, especially after the mid-term revision in 1995, there was a move away from treating aid as the main instrument of 'development cooperation' to focus instead on trade. This reflected the European Union's post-Cold War agenda as it faced the challenges of reintegrating Europe and the priorities set down in the Maastricht Treaty that established the European Union; to promote economic development and fight poverty through the 'gradual integration of developing countries into the global economy', economic liberalisation, improved commercial competitiveness, trade and investment agreements and 'aid effectiveness'. Even then, Lomé IV stopped short of requiring the ACP to embrace neoliberal globalisation in return for preferences from the European Union.

Did the negotiations for a post-Lomé Agreement begin in September 1998?

Yes and they lasted for two years. The new Cotonou Agreement was signed in 2000 and set in train the current negotiations for Economic Partnership Agreements. Under Cotonou, this process must be completed by the end of 2007, with new arrangements to begin on 1 January 2008. Until then (most of) the preferences provided in the Lomé Convention continue to operate.

How did/do the Lomé trade preferences operate?

Under Lomé, some 99% of industrial goods from the ACP countries have unrestricted entry to the European Union, without tariffs or quotas. Agricultural products are more restricted; for example, a specific quantity (quota) of processed tuna from the Pacific Islands is allowed to enter the European Union duty (tariff) free. There are also special protocols for some agricultural products:

- *sugar*: sugar producers can export an annual quota to the EU at guaranteed high prices that are aligned to its internal sugar price. This mainly benefits Mauritius, Fiji, Guyana and Barbados.
- *beef and veal*: 90% of the tax normally paid on imports is refunded. This mainly benefits Southern Africa;
- *bananas*: quotas of bananas from mainly Caribbean producers have duty free entry to EU markets.

How did the political dimension of the Lomé Convention operate?

The agreement established three formal mechanisms for political dialogue:

- an annual ACP-EU Council of Ministers;
- regular meetings of the ACP Ambassadors (in Brussels, where the European Commission is based); and
- An ACP-EU Joint Assembly that meets twice a year. This is made up of Members of the European Parliament and Members of Parliament, or their delegates from the ACP's Member States (where there is no Parliament, the State can send representatives but they must first be approved by the Assembly).

What was/is the aid package from the European Union to the ACP?

This is known as the European Development Fund (EDF). It had its origins in the Treaty of Rome (that created the European Common Market) in 1957, which made provision for aid to the colonies. Each allocation of the

EDF is usually for 5 years and has traditionally run alongside each of the Lomé Conventions. The money is provided by the individual European Union Member States, rather than the general EU budget, and it has its own financial rules and management committee. This is a mixed blessing: it makes the fund less of a political football; but it is also less open to scrutiny by the European Parliament. The European Union also has other aid funds in its general budget, and individual States maintain their own aid arrangements with particular ACP countries.

What can the European Development Fund be used for?

The EDF is available to fund grants, risk capital and loans to the private sector. The grants are primarily used for technical assistance and financial assistance. The European Commission has been accused of channelling this money into contracts for its own 'experts' to provide technical assistance for those projects and in ways that reflect Europe's priorities. Two export price support schemes have also been funded from the European Development Fund, as part of Europe's strategy to ensure a stable supply of key commodities:

- Lomé I established a system to compensate ACP countries for shortfalls in their export earnings when the prices for commodities fluctuated (STABEX);
- Lomé II introduced a price support system for the mining industry (SYSMIN).

"The EU mandate is above all not about sharing and caring - it is about economic expansion and domination."
(Nancy Kachingwe, MWENGO, 2003)

What are the development goals of the European Development Fund?

The initial focus was to fund physical, social and agricultural infrastructure. The funding priority shifted in 1985 to food security and desertification. In the 1990s the European Union's development goals were more closely aligned to International Monetary Fund (IMF) and World Bank structural adjustment priorities. Lomé IV (1990) also introduced 'human rights' conditionalities that allowed the European Union to suspend aid funding to a country unilaterally. After 1995, it also began releasing the EDF funding in stages.

How was the EDF money allocated during the Lomé era?

The European Commission used to draft a Country Strategy Paper and each ACP government drafted its own National Development Plan. Their Plan was supposed to be consistent with the Commission's country strategy, but governments often ignored this.

Is that still the system for EDF allocation?

The process changed. A Country Support Strategy Paper is (in theory) written jointly; in practice, it is primarily written by the Commission's officials. The strategy paper is meant to reflect the World Bank Poverty Reduction Strategy Programme for that country – which is another example of a document that is supposedly generated by the debtor government, but is really dictated by the international institution. Each ACP government then 'negotiates' a National Indicative Programme (NIP) with the European Commission, with a 5-year budget for achieving the development strategy. This new process gives the Commission more leverage than it had under Lomé. In addition, any money that isn't used by the government within the specified time can be withheld - and the Commission can require the return of any money that has not been used well!

Is there likely to be unused money?

That has been a major issue with the Europeans. The Commission says it won't provide additional funding to address new challenges because the EDF has billions of unspent Euros for development programmes in ACP countries – even though that backlog is largely because the approval and distribution processes in the Development Directorate of the Commission are so slow and complex, and the ACP countries lack capacity.

Are these strategy plans and programmes only developed on a national basis?

There are parallel Regional Support Strategy Papers and Regional Indicative Programmes that are also funded out of the EDF. These are fostering a divisive competition between regional bodies and national governments. The same unequal dynamics also apply: reportedly the Southern Africa Development Community (SADC) region had to rewrite its Regional Indicative Programme 15 times before the EC accepted it!

3 African, Caribbean & Pacific Solidarity

What did/do the African, Caribbean and Pacific (ACP) countries have in common?

Mainly, the historical fact that they are former colonies of the European powers, where coercion was routine, repression was frequent and brutality was justified as advancing 'civilisation' and 'development'. They also carry the continued economic, political and social legacy of colonial regimes whose:

- *political system* was undemocratic and fostered privileged and corrupt elites;
- *bureaucracy* was dominated by expatriates and tailored to meet the administrative needs of the metropole;
- *legal system* was rudimentary and combined Empire's law with a degraded form of indigenous law;
- *economy* exploited natural resources and people to maximise profits for colonial industrialists and investors;
- system of individual *property rights* and ownership gave control of key resources to colonists or local élites;
- suppression of indigenous *culture, language, spirituality and social systems* was designed to destroy their capacity for authentic self-determination.

"The African state's sorry performance in achieving democratic reform and governance has some of its roots in emulating the tactics of its former colonial masters."
(Tandon and Lin, SEATINI, 1999)

When and why was the Group of ACP States formed?

The ACP Grouping was created by the Georgetown Agreement in 1975, at the time Lomé I came into effect. It includes all ACP States who are parties to Lomé, so its membership has grown over time. The Group's main role is to coordinate ACP activities that involve the European Union. But there were also broader aspirations. Back in 1975 Third World states that had secured their *political* independence wanted a New International Economic Order that would deliver them *economic* independence. The Preamble to the Georgetown Agreement talked of their 'united and concerted endeavours' to accelerate, consolidate and strengthen the process of solidarity among developing countries. The Lomé Convention was seen as one tool to advance their aspirations and the New International Economic Order.

How did the ACP's role develop over time?

The ACP Group provided a unified voice for its Members each time the Lomé Convention was reviewed, and it monitored and pressured the Europeans in-between times. However, the push for a New International Economic Order was sunk by the debt crisis in the later 1970s. The end of the Cold War, followed by the creation of the World Trade Organisation in 1995, heralded a very different economic order – that of neoliberal globalisation. The ACP assumed an increasingly critical role by giving voice to the concerns and demands ACP Members, many of whom had no representative in Geneva. This was most visible at the WTO Ministerial Meeting in Cancun in 2003, where the ACP stood firm against demands, led by the European Commission, to negotiate on a range of 'new issues' (investment, competition policy, trade facilitation, and transparency in government procurement). This has fuelled speculation that the Commission would like to use the Cotonou negotiations to break down ACP solidarity and remove the rationale for the Group's existence.

How does the ACP operate as a Group?

A Council of Ministers from each ACP State meets twice a year. A Committee of (Brussels-based) Ambassadors reports to the Ministers. Both these bodies elect their own executive bureaux of six members – four from Africa, one each from the Caribbean and the Pacific. Decisions are made by consensus, although the Ministers can vote in special circumstances. An ACP Secretariat is based in Brussels; each ACP State contributes, but it is largely funded by the European Union. It is considered by many to be very inefficient, with member governments and their local ambassadors influencing even the most mundane decisions.

How significant a role have the Pacific Island States played in the ACP process?

That has depended on the individuals involved and the positions they held in the ACP structure. Because there was no Pacific Islands diplomatic presence in Geneva until 2004, the 'P' has been virtually invisible in the ACP's activities at the WTO. The new Geneva-based Pacific Islands Forum representative still finds it difficult to assert an active role in ACP deliberations. For the first time a Pacific Island representative, Sir John Kaputin from PNG, has been elected as the Secretary General of the ACP. He took office in January 2005 and will preside over the critical period of trade negotiations and discussions on the next - 10th - European Development Fund.

4 An Old Wolf in New Clothes

When did the European Union decide that the Lomé Convention couldn't continue?

The formal indication came in a Green Paper published by the European Commission in 1996:

> *As the 21st century nears, the Union must redesign its aid policy towards the ACP countries from scratch, not only as a result of changes in the economic and political conditions governing development or rapid development in other regions of the world but because Europe's motives are no longer the same. The colonial and post-colonial age is over, and a more open international political climate means that the partners' respective responsibilities can be defined less ambiguously.*

What were the European Union's new motives?

The Foreword from the then EU President said the ACP was no longer its priority: *'The world is now a very different place. … In a world now multipolar, the Union must make its presence felt in all regions of the world.'*

In what way was the world a 'very different place'?

The President was referring to at least five factors:

1. The end of the Cold War meant the Western superpowers no longer had to compete with the Soviet Union to maintain their influence in the Third World, especially Africa.
2. Economic, social and political transitions in Eastern Europe posed new pressures and priorities for the European Union, with expectations that it would eventually expand to incorporate those states.
3. Before the East Asian financial crisis in 1997, the Asian Tiger economies were expected to be the new powerhouse of the global economy. The EU had few Asian connections and was keen to develop them.
4. The EU could now source the raw materials it once imported from the ACP more cheaply from elsewhere.
5. The Lomé Convention's Banana Protocol had been repeatedly challenged by the US and Latin American countries for breaching the GATT. Under the old GATT rules, the European Union could veto findings against it. That was no longer possible after the WTO was established in 1995.

"It appears like history repeating itself - the 1884 Berlin conference, where developed nations scrambled for African resources and markets."
(Richard Kamidza, SEATINI, 2004)

Why didn't the European Union just terminate its arrangement with the ACP?

In 1996 it would have been politically impossible for the European powers just to walk away. Third World (especially African) debt and poverty remained centre-stage, both internationally and within Europe. There were other foreign policy considerations too. With the Soviet Union gone, the European Union and the US were now competing for dominance over the rest of the world. Africa was no longer critical as a source of raw materials; but it was still important economically and strategically for the Europeans to keep Africa within their sphere of influence. The Caribbean and Pacific came as part of the ACP package deal.

What did competition between the EU and US have to do with trade?

Both re-organised their international trade regimes to promote their strategic interests. After the failure of the Seattle WTO Ministerial Meeting in 1999, the super-powers realised they could not guarantee to get what they wanted through the WTO. Bilateral and regional agreements became increasingly important:

- By 2000, the European Union had signed a free trade agreement with South Africa, another with Chile, and initiated discussions with Mercosur (among many others).
- The US promoted the Free Trade Agreement for the Americas (FTAA) and other sub-regional pacts. In relation to Africa, US Trade Representative Robert Zoellick vowed that the US *'will seek to level the playing field in areas where U.S. exporters are disadvantaged by the European Union's free trade agreement with South Africa'.* The US African Growth and Opportunity Act (AGOA) was signed into law on 18 May 2000 to increase trade between US and Sub-Saharan Africa, initially through (one-way) non-reciprocal trade agreements that would later become (two-way) free trade agreements.
- The Cotonou Agreement, signed one month later in June 2000, made provision for reciprocal free trade agreements that went beyond what the European Union could secure within the WTO.

5 Europe's New Plan for the ACP

What new arrangements did the European Commission propose in its 1996 Green Paper?

The Commission wanted to 'breath fresh life' into its partnership with the ACP by assessing what had, and had not, worked in the past and the current political, economic and social needs of ACP countries. It said that times had changed. ACP countries had become marginalised as a result of globalised production, distribution, capital flows and information technology. They needed radical economic reforms. Leaving this to national governments had proved inadequate and the WTO was too slow. The process needed a push from the bilateral and regional levels. That required a radically different approach from Lomé.

What about the underlying principles of the *Lomé acquis*?

These would remain, but be updated. What the Green Paper described as the 'fiction of equality' under Lomé would be replaced with a 'true partnership' that was treated as an objective, rather than a description of reality. This new 'true partnership' *'will require a new policy foundation and more effective dialogue, backed by a commitment by ACP governments to reform'*.

"The proposals suggested in the Green Paper, when stripped of their diplomatic pleasantries, are in effect a recitation of IMF/World Bank structural adjustment policies with a politically correct veneer of concern for human rights, the environment and gender issues."
(Grynberg, 1997)

Who did the Commission say would decide on the model for reform in ACP countries?

Despite repeated references to dialogue, democratisation and the broad participation of civil society, the Commission said the EU could not be bound by international commitments that were inconsistent with its own internal policies. It would only support policies that reflected its (latest) view of what was good for ACP countries:

> *The EU can commit itself to supporting only economic and social organization models which contribute to the objectives of its cooperation policy and which comply with the political and social values which it means to promote.*

Wasn't there some role for the ACP to evaluate the past and assess their future needs?

No. This was the European Union's Green Paper. So it reflected the European Union's assessment of history, the success and failures of Lomé, the current problems and the solutions. It displayed the colonial arrogance that has underpinned Europe's relationship with ACP countries for centuries. Lomé had provided trade preferences and aid within a framework of economic and political relations that suited Europe's interests at the time. Now those interests had changed, the ACP was expected to fall into line. The trade economist for the Pacific Island Forum Secretariat at the time, Roman Grynberg, described the Green Paper as a 'policy monologue', shared by the IMF, World Bank and other donors who peddled the same ideology and economic agenda.

What did the European Commission suggest should replace the Lomé Convention?

It said a 'coherent' package of trade, aid and 'true partnership' would help ACP countries to achieve high rates of export and economic growth, allow them to make the most of their development opportunities and avert the threat of marginalisation. But this could only be achieved by adopting stable, secure and efficient internal trade and investment policies that were embedded in 'sound' market driven policies. These policies would have to be implemented by responsible governments and enforced through the rule of law.

That sounds like the same old - failed - neo-liberal structural adjustment programmes!

The Green Paper conceded that there had been past failures. But it blamed them on poor governance and technical weaknesses in design. The 'unexpected problems' with structural adjustment programmes of the 1980s had been sorted out in 1990s, especially because the European Union had taken a more sensitive approach that recognised the importance of good governance and the role of civil society. Again, the Green Paper accepted that their initial attempts to impose 'good governance' conditionalities on ACP governments may have been too formalistic to secure a sufficient level of political stability and the rule of law, but blamed this on the lack of appropriate models for political and social organisation in such countries. This time would be different - structural adjustment would succeed by ensuring that 'sound' neoliberal policies, 'good governance' and democracy were backed by aid conditionalities that rewarded governments who implemented them.

How was the European Commission planning to link aid, trade and politics?

By making aid more 'efficient'. The Green Paper said the Commission had (wrongly) filled the gap in the past when ACP (mainly African) governments failed to 'internalise' development policies and it had shown too much respect for states' sovereignty by not insisting that those governments take responsibility. In the future, ACP States would have to take sovereign responsibility for delivering what was promised in aid programmes. Failure

to do so would indicate that the state was dysfunctional and would justify the European Union withdrawing its support.

> *Thus, the respect for national sovereignty that once took the form of an almost boundless trust in the recipient governments is evolving into an approach guided by considerations of efficiency.*

So the Commission would take over the role of sovereign ACP governments in designing policy?

More than that – it would insist on an agenda that it knew would radically transform economic, social and political life in ACP countries and that was likely to provoke the downfall of governments that implemented it:

> *As far as the ACP States are concerned, the necessary changes and reforms will not be made without a radical transformation of political and social structures. EU support measures for economic policies and institutional reforms may have major political repercussions on these countries.*

What were 'sovereign' ACP governments meant to do if people revolted against this agenda?

Hold firm, if they wanted to keep receiving aid from the European Union:

> *Experience of past cooperation has furthermore shown that this [EU] support is appropriate only when certain conditions – primarily political – are met. Strengthening the political dialogue is now a condition of increased effectiveness of all ACP/EU cooperation: a stronger political relationship which allows essential issues such as good governance, democratisation and human rights to be tackled in a less formalistic, franker and hence more efficient manner now seems to be absolutely necessary if Europe wishes to give its cooperation policy a greater chance of success.*

"What does one do if the EU and the other multilateral and bilateral donors that wish to dictate economic policy are wrong and the policies that are being suggested create only social upheaval and not the economic good that is promised?"
(Grynberg, 1997)

But this whole approach is a denial of democracy!

The Green Paper conceded that there was a tension between neoliberalism and democracy, because 'the short term social cost may disappoint voters'. When governments are faced with political and social instability and persistent difficulties in implementing economic policies, they find it difficult to stay on track. But the dual process of economic and political transformation must still proceed. The 'incentive-based' approach to aid means that '*performance criteria for political and economic life would come into play alongside social and economic indicators and levels of poverty*'. 'Selectiveness' of aid should reflect not only countries' needs but also their 'institutional and policy choices'. In other words, governments that stand firm should be rewarded.

How could the European Union reconcile that approach with respect for state sovereignty?

Because it only pays lip service to sovereignty. The Green Paper treats the nation state as *the* major obstacle to be overcome by narrowing the ACP governments' policy space and removing their discretion. It even suggested the EU, along with other donors, should consider 'giving more strategic backing' to securing political change that limits the role of the state, including orchestrating support 'on the ground' to overcome the resistance of élites.

Isn't that a valid consideration in ACP countries that are governed by corrupt élites?

There is a world of difference between empowering the mass of people in ACP countries to determine their own political and economic future, and former colonial powers imposing a self-interested economic policy agenda through indirect economic rule.

Who would take responsibility when the Europeans' plan for the ACP went wrong?

Tetteh Hormeku from Third World Network Africa remarks on how the European Union claimed the right to dictate the agenda, but disavowed any responsibility for the consequences:

> *Lomé was unrealistic, but not for the reasons advanced by the Paper. It was unrealistic because it expected countries to diversify, etc. within a framework through which … Europe sought to retain these countries as providers of raw materials and overseas markets. Now it sought to 'rectify' those failures to meet its changed strategic interests, with no responsibility for the new failures that will result.*

6 Clearing a Path for Free Trade

What did the European Union want to put in place of the Lomé trade preferences?

The Green Paper said the way to strengthen the participation of ACP countries in the global economy was to embrace two-way (reciprocal) free trade. Opening their markets and allowing unrestricted foreign investment offered the ACP greater opportunities for growth than continuing to rely on non-reciprocal tariff preferences.

So ACP countries would be better off by giving Europe's exporters access to their markets?

This is the standard argument used to support free trade. Competition from European products would force ACP economies to restructure, become more efficient and focus on their 'comparative advantage', so they could then compete in the global economy. Many products would become cheaper for consumers and producers who relied on imported inputs. The value of Lomé preferences was eroding anyway, because the European Union was giving preferences to non-APEC countries through other trade agreements. The Green Paper also claimed that trade preferences had failed to deliver meaningful gains to ACP countries, at least in recent years.

Is it true that Lomé's trade preferences were ineffective?

No. Where the margin of preference over the tariffs that were imposed on imports from other countries was large enough, ACP countries had established or maintained a place in the market. The problem arose when the European Union began lowering its tariffs to other countries and reduced the value of the preferences. The preferences for canned tuna into the European Union (and garments into Australia and New Zealand under SPARTECA) have been especially effective for the Pacific Islands.

Wasn't there also a WTO ruling against the Lomé preferences?

That wasn't the Green Paper's main argument for change back in 1996, but it has become critically important since then. The issue was whether the Lomé preferences to ACP banana producers were in breach of the General Agreement on Tariffs and Trade (GATT). The European Commission had been able to block any such findings under the old GATT dispute system, which gave it a power of veto. That veto was removed when the WTO was created in 1995. When it lost a challenge to the banana preferences under the WTO, the Commission said the whole Lomé regime had to go and be replaced by a new 'WTO-compatible' regime. It asked the WTO for a temporary 'waiver' for the Lomé arrangements until December 2007 - the deadline the European Commission insisted on during the negotiations for Cotonou.

"It is immoral for the EU to misuse its economic strength to dictate clearly unfavourable terms to the ACP."
(International Development Committee, British House of Commons, 1998)

What alternatives to Lomé did the Commission put forward in the Green Paper?

There were 4 options, all of which had to be made 'WTO-compatible'. The Commission clearly favoured number 4:

1. ***The status quo*** – to retain the current one-way preferences for the longer term. That would require the European Commission to seek a further waiver from the WTO, if it had the political will to do so, and other WTO Members would demand concessions from the European Union in return.

2. ***General System of Preferences*** – this is a WTO-approved system that allows a 'developed' country (the EU) to grant preferences to 'developing' countries (ACP and non-ACP) on a non-discriminatory basis. The kind and extent of preferences it gives under GSP is discretionary and can be withdrawn unilaterally.

3. ***Uniform reciprocity*** – all ACP countries would give the EU the same treatment as the EU gives them. There would be no preferences and no special treatment for the poorest Least Developed Countries (LDCs), who are a majority in the ACP. This option would comply fully with the WTO rules and not need approval.

4. ***Differentiated reciprocity -*** different regional groupings within the ACP could strike their own deals with the European Union, reflecting varying degrees of special and differential treatment for 'developing' countries and LDCs. This would allow the European Commission to pick and choose which groups of countries it would negotiate with, on what terms and provide lots of scope to divide and rule. It would be possible for Least Developed Countries to opt out and rely on another arrangement, known as Everything But Arms, that allows tariff free entry to the European Union for most goods without requiring reciprocity. However, special treatment for any new grouping, such as small vulnerable island economies, would need WTO approval.

7 Recasting the ACP in Europe's Image

Why did the European Union favour the idea of 'differentiated reciprocity'?

They believed that Europe's model of regional economic integration could and should be adapted across the ACP. The process of creating an integrated market economy would help the ACP States to speed up neoliberal reform and socio-economic transformation, and dilute the disruptive impacts of 'dysfunctional' states:

> *The creation of political and economic areas which go beyond national boundaries has been recognized as a necessary step for Europe and is so for the ACP States as well. The path of regional cooperation and integration seems advisable not only because of the generally inadequate economic size of many ACP countries but also because such an option can encourage political leaders to adopt a more strategic approach to developing their economies. It is also likely to speed up the socioeconomic transformations which are needed to develop a market economy and do away with clientelist structures often organized on a national basis.*

So ACP States should model themselves on the European Union?

Apparently. This ignored the fact that European economic integration was an incremental process, driven by unique historical, economic and political circumstances over almost 50 years. The Green Paper assumed that the EU could be artificially replicated in the diverse, poverty-stricken and non-industrialised sub-regions of Africa, the Caribbean and Pacific within an externally imposed deadline of 2008 plus 10 years for implementation.

"In the Green Paper the Caribbean is an aside and the Pacific an afterthought, bordering on a footnote."
(Grynberg 1997)

How did the European Commission plan to divide the ACP into regions?

The Green Paper spent many pages setting out the sub-regional configurations for Africa, ignoring the effect on Africa's own strategies for regional integration if they had to negotiate with the Commission according to its plan.

Where did the Pacific Islands fit into the Europeans' new scheme?

The Pacific Islands were largely invisible. The Green Paper was really the Europeans' plan for Africa, especially Sub-Saharan Africa. It made occasional references to the Caribbean, but even these seemed token. In a document of more than 70 pages the Pacific Islands appeared in three short paragraphs. These exposed an appalling mix of ignorance and disinterest. One paragraph, for instance, was about '*emerging economies [that have] shown themselves capable of reform'*. It had one sentence on the Pacific, which said '*In the Pacific, PNG has, since 1989, participated in the APEC-led liberalisation process'*. But PNG only joined APEC in 1992 and its (failed) neoliberal reforms had been adopted because of debt conditionalities. The Individual Action Plan it produced for APEC was not produced until 1995, and the promises it made for more privatisations, etc were quite unrealistic.

What regional integration agreements did the Commission expect the Pacific Islands to build on?

That was another example of poor knowledge and/or disinterest, and seemed to relate more to the European's interests than to those of the Pacific Islands.

> *The ACP States of the Pacific are all members of regional organizations which are relatively well-developed at economic and political level, as well as technical level. Effective cooperation with this region of the world would mean extending the framework of cooperation to other island states in the Pacific. In this extended framework, the Community's interests lie in two specific areas: preservation of the environment and of the region's considerable natural resources and trade promotion, especially with APEC countries.*

But the only regional organisation that all Pacific ACP States belonged to in 1996 was the Pacific Islands Forum, whose Leaders did not resolve to 'embrace globalisation' until 1997 and then in a very undeveloped form. The Melanesian Spearhead Group trade agreement was not signed until 1998 and only covered four Islands. PNG was the only Pacific Island member of APEC.

Didn't the Green Paper recognise the special vulnerabilities of the Pacific Islands?

One paragraph refers to '*Problems peculiar to the small island economies of the Pacific*'. It made no attempt to explain these problems, beyond saying that:

> *These countries have every interest in gearing themselves to the booming economies of the "Pacific Rim", with the support of Australia and New Zealand. Problems relating to transport and communications, on the one hand, and the environment and preservation of natural resources as the main economic resource, on the other, will require particular attention.*

8 The European Union's Base Line

What happened after the Green Paper was released in 1996?

The purpose of the Green Paper was to provide a basis for discussions within the European Union on the future of Lomé. So there were consultations in the European Parliament and each EU Member State. In October 1997, the Commission published *Guidelines for the negotiation of new cooperation agreements with ACP countries*, known as the draft mandate. These stressed openness, transparency and participation in the process – within parameters set by the European Union.

What was the thrust of the European Commission's negotiating mandate?

There were five major ***Policy Guidelines:***

"The neo-liberal approach being proposed is already in a state of crisis given the experience of SAPS and recent crisis in the world particularly in emerging markets."
(Moses Tekere, TRADES CENTRE, Harare, updated)

1. ***Give the partnership a strong new political dimension*** – this 'shared' political vision would be reinforced by political conditionalities on aid, in line with the EC's *Agenda 2000* development strategy that required 'complementarity, coordination and coherence' across aid, trade and politics. The new strengthened partnership was expected to foster a 'policy environment conducive to legitimacy' and a sense of 'ownership' by ACP governments that have 'voluntarily' adopted the Europeans' development agenda.
2. ***Make poverty alleviation the cornerstone of the partnership*** – this new emphasis on poverty alleviation was the result of public criticism of the Green Paper and was grafted onto the neoliberal objectives of economic growth, development of local markets, regional integration and integration into the global economy - with special attention to the role of 'civil society', especially private enterprise.
3. ***Open up cooperation to economic partnership*** – the Commission aimed to 'breathe new life' into a genuine partnership that would reflect the mutual interests of both parties by negotiating regional and sub-regional economic cooperation and partnership agreements. These agreements would accommodate different levels of development, but eventually achieve reciprocity in a way that was compatible with the European Union's Common Agricultural Policy and the rules of the WTO.
4. ***Overhaul procedures for financial and technical cooperation*** – Lomé had provided certainty and stability based on contracts, but proved to be inefficient in achieving the European Union's goals and ACP ownership of reforms. Each ACP government would now be made responsible for its development through a system of rewards for those who comply, but not for those who depart from 'good governance'.
5. ***Treat the ACP as a group while introducing geographical diversification*** – essentially the Commission would conduct *dialogue* through the ACP Group, but *negotiate* at the level of regional and subregional trade groupings. The European Union's own solidarity would remain intact, operating through the Commission.

How would the Commission's *Policy Guidelines* be translated into more concrete policies?

The mandate identified three '***main priorities'***:

- support for growth and policies for competitiveness and employment;
- support for social policies and cultural cooperation; and
- regional integration;

plus three '***essential criteria'*** or 'cross-cutting' issues - capacity building, gender sensitivity and environmental principles – that would run through each level.

What was the Commission's negotiating mandate on the trade aspect of the post-Lomé relationship?

As expected, this centred on 'differentiated reciprocity', on the grounds that 'a dynamic approach' of reciprocity, rather than unilateral preferences, would help both sides benefit from a 'genuine partnership'. In return for gaining access for their products into ACP markets, the Commission would help ACP countries to become more trade and investment friendly and to increase European investment to tap their 'comparative advantage' (mainly in raw materials). The Commission would also 'invite' the ACP to support it within the WTO. The Commission recognised there would be barriers to achieving this: the different extent and enthusiasm for trade liberalisation among ACP countries; their low capacity to handle the additional 'trade-related' issues the Commission was

pushing; and difficulties in 'stabilising' trade and investment policies to provide better guarantees for businesses and investors.

How would the European Union differentiate within the ACP?

The 'ultimate objective' was to conclude Economic Partnership Agreements (EPAs) in each of the 3 ACP regions by negotiating with subgroups of countries that were already involved in a regional economic integration process. Those subregional arrangements would also take into account their level of development, constraints and capacities. The Commission said 'of course' it was for the ACP countries to choose their own regional structures. But the mandate went on to identify the likely groupings: West Africa, Central Africa, Southern Africa, East Africa, the Caribbean and the Pacific; plus a few larger individual countries (code for South Africa). There was a particular problem with the Pacific, because there was no formal regional economic integration arrangement and no regional partner for the Commission to negotiate with - hence the Commission's support for the creation of the Pacific Island Countries Trade Agreement (PICTA).

"Talk of regions as merely 'regional trade arrangements' is contemptuous as it reduces the millions of poor people in these countries to nothing. There is more to regions than just trade and markets. Justice demands that the lives of people of the South should not be subjected to this narrow examination."
(Percy Makombe, SEATINI, 2004)

What negotiating process and structure did the Europeans have in mind?

The plan was to have two levels of agreement:

1. ***an overall agreement***, negotiated between 1998 and 2000. This would set out the overall objectives and framework for the regional agreements, name the regional subgroups that would negotiate them, and set down the negotiating timetable. It would also contain common provisions for 'trade-related' areas that could be expanded on later.
2. ***subregional negotiations*** (which could eventually be harmonised) for:

   - *economic cooperation agreements:* these would contain an element of reciprocity for EU exports into the subregion and provide for cooperation in trade-related areas, with a timetable for reviewing their progress towards further liberalisation; or

   - *economic partnership agreements:* these would provide for the gradual creation of free trade areas that met WTO requirements (to cover all sectors and substantially all trade within a 10 year period) and in accordance with the European Union's Common Agriculture Policy.

When were these subregional agreements supposed to be completed by?

The Commission would seek a waiver from the WTO for a 'transition' period of 5 years – meaning the subregional negotiations were originally supposed to be completed by *2003*! The specific timetables for those negotiations would reflect the state of regional integration arrangements.

What if some ACP States wanted to opt out?

They had two choices:

- Least Developed Countries could take up the Everything But Arms arrangement. This would allow them duty free access to the European Union for 'almost all' goods, except arms. However, the Europeans could end the scheme unilaterally at any time.
- Other ACP States would still have access to the General System of Preferences (GSP). However, this meant they would be treated the same as other developing countries and lose their special treatment as ACP States. They would also have to accept whatever deal the European Union was offering under the GSP, which could also be altered or withdrawn unilaterally.

Was the Commission's mandate non-negotiable?

Negotiations with the ACP were one of many competing considerations for the European Union. The mandate reflected its internal politics, policies and priorities, its geo-political strategy and its objectives in the WTO and other trade negotiations. The Commission wanted to avoid precedents that could undermine its arguments in those negotiations and create favourable precedents it could use as leverage. If the ACP Group was going to force the Commission to reconsider, it would have needed to seize the initiative at the earliest possible stage and go beyond a critique of the Green Paper to develop clear, credible, principled alternatives that had popular support within ACP countries and were backed by a strong lobby within Europe.

9 The ACP on the Back Foot

When and how did the ACP governments respond to the Commission's draft mandate?

Slowly and inadequately. Although the Green Paper was an internal policy document for discussion in the European Union, it also became the focal point for discussions at government and 'civil society' levels in all 3 ACP regions. All their energies focused on developing a critique and defense, rather than articulating the ACP's own post-Lomé agenda and a strategy for engagement on their terms. This became worse when the Commission sponsored consultations on its position within the ACP regions. By the time the ACP Group began to develop its own thinking in late 1997, just three months before negotiations began, it had lost the initiative. Even then, it opted to use the Commission's language and try to give it a different meaning.

"The outcome of the negotiations again indicate the failure of ACP to determine their own development ideology, take initiatives and assert sovereignty in national economic policy formulation and implementation."
(Tekere, TWN Africa, 2000)

Did the ACP Group have a vision for the future after Lomé?

The Libreville Declaration of ACP Heads of State and Government in November 1997 sounded promising:

> *We affirm that the development of our countries is first and foremost our responsibility and that of our peoples. Consequently we agree to lay a firm foundation for a human-centred, equitable and sustainable development based on sound macro-economic policies, social justice and the rule of law, and collective self-reliance.*

What kind of partnership did the ACP States envisage?

The Declaration talked of

- a '*renewed, true and more equitable partnership*';
- '*regional integration, intra-ACP cooperation and cooperation among ACP and other developing countries as a means of promoting the socio-economic development of our countries and strengthening our solidarity'*; and
- the commitment to '*preserve and reinforce the unity and solidarity of the ACP Group within the current geographical framework that has stood the test of time'*, while endorsing the principle of regionalisation.

What did they say about the European Commission's specific proposals?

That was ambiguous. They insisted that the inequities of the international economic order and the lack of a level playing field required genuinely special and differential treatment. They also pointed to the 'painful' structural adjustment programmes their countries had already undertaken. But they stopped short of challenging the EC agenda. Instead, they committed themselves to '*macro-economic policies that create an environment conducive to expanding trade, encouraging domestic savings and investment and attracting foreign direct investment*'. Maybe they were being pragmatic and thought they couldn't assert a radically different development agenda; maybe some ACP States agreed with some of the Europeans' arguments. Whatever, they chose to adapt the language of their adversary in ways that limited themselves to doing battle with the Europeans on their terms.

What specifically did the ACP leaders want from the European Union?

For as little as possible to change! Because they had no alternative position, they fell back on defending the status quo. They said a post-Lomé trade agreement should:

1. maintain non-reciprocal trade preferences and market access;
2. maintain the preferential commodity protocols and arrangements;
3. adhere to transparent processes for consultation with the ACP Group before using any safeguard and other restrictive trade measure that is likely to adversely affect any ACP States;
4. liberalise and improve the existing rules of origin to foster the expansion and diversification of ACP exports;
5. maintain and improve STABEX so that its resources are disbursed more expeditiously;
6. maintain and improve SYSMIN so as to accelerate investment in the mining industry;
7. encourage the development of the services sector, including tourism; and
8. strengthen the role of the Centre for the Development of Enterprise to support the ACP private sector and promote industrial development activities.

10 The Cotonou Agreement

When did negotiations for the Cotonou Agreement begin and end?

As required under Lomé IV, negotiations for a post-Lomé arrangement between the ACP and the European Union had begun in September 1998. They ended in February 2000. The new Agreement was signed in Cotonou, Benin in June 2000.

How is the Cotonou Agreement structured?

Part I: General Provisions: this sets out the objectives, principles and actors, including the 'political dimension' and the role of what are called 'non-State actors'.

Part II: Institutional Provisions: this spells out the membership and role of the Council of Ministers, the Committee of Ambassadors and Joint Parliamentary Assembly, along the same lines as Lomé.

Part III: Cooperation Strategies*:* This is the critical section that brings aid and trade under a single heading:

(i) Development strategies: these specify a market-led development model, based on neoliberal macroeconomic and structural adjustment policies and regional economic integration. Other aims, such as improving the 'coverage, quality of and access to basic social infrastructure and services' and 'ensuring adequate levels of public spending in the social sectors', sit uncomfortably within that framework. So does the requirement for sensitivity to gender, environment and capacity building to crosscut these strategies.

(ii) Economic and trade cooperation: the stated aim is to integrate the ACP smoothly and gradually into the world economy 'with due regard for their political choices and development priorities', as a means to promote sustainable development and contribute to poverty eradication! The 'ultimate objective' is for ACP States 'to play a full part in international trade'. Economic and trade cooperation should enable them to 'manage the challenges of globalisation and adapt progressively to international trade thereby facilitating their transition to the liberalised global economy.' The process would build on regional integration initiatives and be in full conformity with the provisions of the WTO.

"Three decades after the first Lomé Convention, new economic partnership agreements constitute a major threat to poverty reduction efforts and the development prospects of some of the world's poorest countries." *(Actionaid International, 2004)*

Part IV: Development Finance Cooperation: This provides for humanitarian and emergency assistance. But it also reinforces coherence between trade and aid by providing financial support for sectoral policies, micro projects, debt and structural adjustment support, and technical cooperation. Significantly, this includes a commitment to incorporate 'best practice' general principles on investment promotion and protection into the Economic Partnership Agreements, to establish investor insurance and guarantee schemes and to support public private partnerships – all key elements of neoliberal globalisation.

Part V: General Provisions for the Least Developed, Landlocked and Island ACP States: this promises special treatment for LDCs and to 'take due account of the vulnerability' of landlocked and island countries.

Part VI: Final Provisions: these cover ratification, amendment, withdrawal, termination, a mechanism for dispute settlement and a provision for consultation on corruption.

Annexes cover specific issues such as finance and transitional measures for the commodity Protocols.

What were the major sticking points during the negotiations?

The most contentious areas were the political and trade chapters. There were also disputes over the repatriation of cultural goods from EU to ACP countries, and controls over investment and the movement of capital.

What disputes emerged in the political chapter?

There were two issues. One was a last minute 'non-negotiable' demand from the Commission to include provisions for the repatriation of illegal immigrants. The ACP governments objected that this was not consistent with international law and agreed only to an enabling article that included readmission of their own nationals.

And the second political issue?

The Commission wanted to strengthen its influence over the behaviour of ACP governments. In the 8th EDF good governance had been described as a *'fundamental principle'*. That meant alleged breaches would trigger a requirement for dialogue between the EC and the particular ACP government. The Europeans wanted to make 'good governance' an 'essential element' so the Commission could activate the 'non-execution' clause in the agreement and impose sanctions on an offending government unilaterally. The ACP States objected that 'good governance' is a subjective and nebulous concept and the proposal infringed their sovereignty. As a

compromise 'good governance' was described as a 'fundamental element'. Alleged breaches would trigger dialogue, but serious and active corruption could ultimately lead to the suspension of EDF funding.

Aren't sanctions a reasonable way of dealing with corruption in ACP governments?

Only when they aim to empower local people to determine their own futures. That's not what the European Commission was proposing. It was also totally hypocritical - the European Commission had to resign en masse in 1999 after a damning report found widespread corruption in its own operations, and leading politicians in several European governments have been accused of corruption on a massive scale!

Why does trade come under the heading 'Cooperation Strategies'?

That is meant to feed the dual illusions that

(i) Economic Partnership Agreements are about cooperation and partnership, rather than profits and power; and

(ii) neoliberal globalisation is the pathway to development and the eradication of poverty.

How does the Agreement define 'partnership' in trade?

Article 35 on 'Principles' says '*economic and trade cooperation shall be based on a true, strengthened and strategic partnership*'. This partnership is meant to build on the good things from Lomé, and on regional integration initiatives in the ACP States '*bearing in mind that regional integration is a key instrument for the integration of ACP countries into the world economy*'. Cooperation between the European Union and ACP is meant to enhance the production, supply and trading capacity of ACP countries and their capacity to attract foreign investment. This will produce a new trading dynamic that strengthens the ACP's trade and investment policies.

"Given the en masse resignation of the entire European Commission in March (1999), on grounds of nepotism and abuse of office, it is clear that the ACP countries do not have a monopoly on corrupt governance."
(Yash Tandon and Lim, SEATINI, 1999)

Is there any recognition that integration into the world economy might be unrealistic or undesirable?

No. The ACP governments have agreed that the 'Objectives' of Cotonou are to:

> *foster the smooth and gradual integration of the ACP states into the world economy, with due regard for their political choices and development priorities, thereby promoting their sustainable development and contributing to poverty eradication in the ACP countries*.

What were the major disagreements about the trade chapter?

The European side insisted that negotiations should be at a regional level. The ACP saw this as a recipe for 'divide and rule' that would allow the Commission to pick off the weaker states and set precedents it could use against the rest. Regional agreements would also fragment the ACP Group and remove a basic justification for its existence when it was playing a critical role in challenging the EC and US in the WTO. The compromise did not say who would be parties to Economic Partnership Agreements. Under Article 37.5 negotiations will take place with ACP countries '*which consider themselves in a position to do so, at the level they consider appropriate, and in accordance with the procedures agreed by the ACP Group, taking into account regional integration process within the ACP*'. This left the possibility that Economic Partnership Agreements could be agreed at the ACP/EU level, and for bilateral agreements with individual ACP states. It also supposedly left the decision about regional groupings to the ACP.

What are the key obligations on 'Trade and Economic Cooperation'?

Negotiations would begin in September 2002 and be completed by December 2007. Reciprocal trade obligations would begin to be implemented from 2008. The Commission would seek a waiver from the WTO to allow Lomé preferences to continue until then. The new Economic Partnership Agreements would be compatible with the WTO and address a range of trade-related issues, at least at the level of principles. Under the Lomé acquis, ACP states should not be worse off during the negotiating period. But there was no guarantee that access for the ACP to Europe's markets would improve or that the commodity protocols would be maintained throughout the transition, except for the special case of sugar.

11 An Open Door to the EU?

What new trading arrangements are required to be negotiated under Cotonou?

The section on economic and trade cooperation covers a number of areas. The chapter on 'new trading arrangements' refers to Economic Partnership Agreements. Then there are separate chapters on trade in services, which includes specific articles on maritime transport and information technology; 'trade-related' areas of competition policy, intellectual property rights, technical standards and certification, quarantine-type measures, trade and environment, trade and labour standards, and consumer protection; and special provision for cooperation on fisheries and food security.

What are the ACP countries supposed to gain from such agreements?

The European side promises to build on the *Lomé acquis* so ACP States won't reduce their current entitlements. It *aims* to improve their current access to the European market through a review of the Rules of Origin, which could relax the proportion of a product that has to be sourced within the exporting ACP country. ACP governments also wanted the European Union to reduce its 'non-tariff barriers' (eg. quarantine and product standards) that exclude their products; that issue is mainly dealt with in the negotiations on trade rules.

"There's no point negotiating for years with countries who don't have the capacity to implement what is agreed, and where – just to get the deal done at the end – we agree to give lengthy derogations or carve-outs from obligations."
(Pascal Lamy, EU Trade Commissioner, May 2004)

How would the trade negotiations be conducted and on what timeframe?

- The two years between ***June 2000 and September 2002*** would be spent making initial preparations. During that time ACP countries were supposed to build the capacity and competitiveness of their public and private sectors and strengthen their regional organisations. The European Commission would support trade integration initiatives, 'where appropriate'.
- Formal negotiations would begin in ***September 2002.*** Progress would be reviewed regularly, with a formal and comprehensive review of arrangements for all ACP countries in 2006 'to ensure that no further time is needed for preparations or negotiations'.
- The deadline for concluding negotiations was ***31 December 2007***. The new arrangements would come into force on ***1 January 2008*** and be implemented gradually over an unspecified preparatory period.

What if the negotiations aren't finished by December 2007?

There is no reference to that possibility in the Agreement and no provision for dealing with it.

"There is no time to lose. The EPAs must be in place by January 2008. This is a "hard" real deadline.... But the real deadline is not legal. It is the prospect for you to reap opportunities from our relationship now."
(Peter Mandelson, EU Trade Commissioner, December 2004)

Are the Economic Partnership Agreements (EPAs) only concerned with trade in goods?

That's what the structure of the Cotonou Agreement implies, but the wording is ambiguous. There are two main provisions in the chapter on new trading arrangements. Article 36 doesn't refer to Economic Partnership Agreements. It just says:

> *The parties agree to conclude new World Trade Organisation (WTO) compatible trading arrangements, removing progressively barriers to trade between them and enhancing cooperation in all areas relevant to trade. The Parties agree that the new trading arrangements shall be introduced gradually and recognize the need, therefore, for a preparatory period.*

It is Article 37 that refers to Economic Partnership Agreements. Although it mainly covers the procedures and timetables for negotiations, it also says the aim is '*to establish a timetable for the progressive removal of barriers to trade between the two Parties, in accordance with relevant WTO rules*'.

How does the European Commission interpret these commitments?

The Commission insists that ACP governments are obliged to negotiate new trade arrangements that cover barriers in goods and all other areas relevant to trade. That includes the progressive removal of tariffs on products imported from the European Union after January 2008 – in other words, a free trade agreement. It interprets WTO-compatibility to mean the new agreements will satisfy the tough rules for a regional trade agreement contained in Article XXIV of the General Agreement on Tariffs and Trade - that the parties will remove tariffs over 'substantially all trade' within 10 years, or longer under exceptional circumstances.

Is there another way of interpreting these provisions?

There is no specific reference to a free trade agreement, a regional trade agreement or Article XXIV of the GATT. Nor is there mention of *removing all* barriers to trade. It is possible to interpret the requirements to mean they can negotiate any trade arrangements that do not breach WTO rules. That might allow a commodity specific trade arrangement that reduces barriers in relation to a particular product. However, the Commission would have to be willing to accept such an interpretation and defend it if it was challenged in the WTO.

How might this affect the Pacific Islands?

Most Pacific Islands don't import much from Europe. The total sum for exports to the Pacific Islands is about 200 million Euros a year. That could increase if tariffs were removed, but not enough for the EU to be particularly bothered about access to Pacific Island markets. That raises the possibility that the European Commission might consider negotiating something less than a free trade agreement and just focus on particular commodities that are important to the Pacific region or individual countries. Because most of the Islands are not WTO Members there is a sound basis for arguing that they should not have to comply with Article XXIV of the GATT. However, that seems optimistic; the Commission will not want to create precedents that other ACP States might use.

"In 1988 the EU had contracted six studies on the economic impact of its proposed REPAs, and they concluded that the costs for ACP would by far outweigh the benefits."
(Yash Tandon, SEATINI, 1999)

Do ACP governments have any choice about participating in the Economic Partnership Agreements?

Yes, there are three options.

1. Least Development Countries*:* The Cotonou Agreement promised that Least Developed Countries would have duty free access into the European Union for 'essentially all products' by 2005. This would build on trade preferences in Lomé IV with simpler and revised rules of origin. This echoes the 'Everything But Arms' arrangement that the Commission has offered all to Least Developed Countries and allows the world's 50 poorest countries duty free access for 'almost all' products, except arms and ammunition.

However, it appears that the Commission expects the Least Developed Countries to reciprocate with access for European services and investment in return for retaining free access to the European Union for their goods. If a Least Developed Country does decide to join the regional EPA negotiations, it would have to accept a degree of reciprocity. The Commission has conceded that this would create some hardship, and says it would recognise this, but believes that the 'benefits of taking part in an area of enhanced economic cooperation with the European Union should outweigh any interim costs of liberalisation'.

2. The General System of Preferences (GSP*)* is the European Union's system trade preferences for 178 developing countries. It dates back to 1971 and is periodically updated. The latest system was announced in February 2005 and runs until December 2008. This has a general scheme that provides tariff cuts to around 7200 products.

There is also a GSP Plus scheme that provides duty free access for especially vulnerable countries that have special development needs. Countries need to demonstrate that their economies are poorly diversified, and therefore dependent and vulnerable, and their GSP-covered imports must represent less than 1% of total EU imports under General System of Preferences. To be eligible these countries must also have ratified and effectively applied 27 key international conventions on sustainable development and good governance. Almost all the Pacific Islands would meet the vulnerability criteria; whether they would also meet the 'good governance' tests is highly questionable.

Any ACP States that choose not to take part in an Economic Partnership Agreement would be eligible for the General System of Preferences, meaning they would be treated the same as, and have to compete with, all other developing countries. There would be no negotiations - they have to accept whatever the European Union is offering and run the risk that this is altered or withdrawn unilaterally in the future.

3. ACP States that are not Least Development Countries can decide, after consultations with the Commission, that they are not in a position to enter into an Economic Partnership Agreement and ask the Commission to examine an alternative framework for trade that is equivalent to what the country had under Lomé. This leaves the power in the hands of the Commission. Originally, this option was only available until 2004, but it has been extended to 2006 when the review of the negotiations under Cotonou is scheduled. However, it is hard to think of any WTO compatible arrangement beyond the General System of Preferences, and the Commission is unwilling to propose any alternatives because it believes the free trade agreements are the best option.

12 WTO Rules

How important is the requirement that new trade arrangements are WTO compatible?

It is the most critical phrase in the entire Cotonou Agreement and casts a lethal shadow over the proposed Economic Partnership Agreements. In the future, policy choices of all ACP governments on subjects covered by WTO agreements could be trapped within the straitjacket of 'conformity with the WTO' or 'WTO compatibility'.

What does the Cotonou Agreement actually require?

According to the objectives in Article 34:

> *Economic and trade cooperation shall be implemented in full conformity with the provisions of the WTO, including special and differential treatment, taking account of the Parties' mutual interests and their respective levels of development.*

Article 36 on the 'modalities' for the new trade arrangements says

> *the parties agree to conclude new World Trade Organisation compatible trading arrangements, removing progressively barriers to trade between them and enhancing cooperation in all areas relevant to trade.*

"The WTO claims to be a multilateral trading organization which addresses the circumstances of all its Members, and whose rules provide a balance of advantages for all its constituents. However, this is unfortunately not true for the small, vulnerable economies ..."
(Hon Kaliopate Tavola, Fiji Minister of Trade, 2003)

Article 37.7 that deals specifically with Economic Partnership Agreements says the negotiations must take into account the level of development, the socio-economic impact of the trade measures and the capacity of ACP countries to adapt and adjust to liberalisation. Assuming these factors are properly assessed (which they haven't been so far), they could affect the length of the transition period and the products that are finally covered (taking account of 'sensitive' sectors) and allow different timetables for the European Union and the ACP countries to implement the agreement. However, the degree of flexibility is limited by the requirement that they conform '*with WTO rules then prevailing'.*

What are the relevant WTO rules?

Strict rules apply when a 'developed country' (such as the EU) signs a new regional trade agreement, even if the other parties to the agreement are the poorest countries in the world. These rules are set down in GATT Article XXIV. They require the parties to the agreement to remove the tariffs on 'substantially all trade' between them, normally within 10 years. In exceptional circumstances they can seek a longer transition time.

What does this mean in practice for ACP countries?

Because goods and most agricultural products from ACP countries already enter the EU duty free, this won't have much effect on the European Union. It is the ACP States that will have to remove their tariffs on 'substantially all trade' with the EU within a finite period.

Is that the only effect of 'WTO compatibility'?

No. If an EPA was extended to cover services it would have to meet the requirements of the WTO's General Agreement on Trade in Services (GATS) Article V: that it cover a substantial number of sectors and not exclude any 'mode of supply' (such as foreign investment). In theory it would also have to accord with GATS provisions that favour 'developing' countries, but the European Commission has been at the forefront of blocking attempts to give those provisions any meaning. Many other issues that have been targeted for negotiations under Cotonou are also covered by WTO rules, such as intellectual property, technical barriers to trade and sanitary and phytosanitary measures. Any agreements on these issues will have to conform to the relevant WTO rules.

Is 'special and differential treatment' also part of WTO compatibility?

The ACP States are relying heavily on this, especially because it is specifically referred to in Article 34 of the Cotonou Agreement. The Agreement also promises to recognise the different needs and levels of development of ACP countries and regions. Part V of the Agreement makes specific provision for Least Developed Countries, landlocked states and island states. This establishes a hierarchy, where the Parties

- reaffirm 'their attachment' to ensuring special and differential treatment for *all ACP States*.
- shall 'ensure' special treatment for *the Least Developed Countries*;
- shall 'take due account' of the vulnerability of *small, landlocked and island countries*; and
- shall *'take into consideration'* the needs of *post-conflict states.*

That sounds pretty watertight.

It is not that simple. The Commission may insist that the EPAs meets the requirements of Article XXIV of the GATT – and Article XXIV doesn't explicitly provide for special treatment of poorer countries. This doesn't stop the Commission from agreeing to provide special and differential treatment, but it must be prepared to defend that in the WTO and the agreement could be struck down if another WTO Member challenged it.

Surely the Commission would defend the need for special and differential treatment in this case?

The Europeans have a long tradition of great rhetoric about trade and development, and a very bad track record of supporting measures that are meaningful. Ever since the WTO was created in 1995 poor countries have complained that their needs are ignored. They say they didn't understand most of the agreements they were pressured to sign during the Uruguay Round of negotiations that created the WTO, and they can't afford to implement them. They have asked to revisit many of those agreements and for more time to implement others. But promises to consider their concerns in the so-called Doha 'Development' Round have come to nothing, with most of the deadlines being ignored. For similar reasons ACP governments have steadfastly resisted negotiations on 'new issues' that the rich WTO Members, especially European Union, have demanded on behalf of their transnational corporations.

"Making trade arrangements between ACP-EU compatible with the rules of World Trade Organisation will seriously undermine sustainable development in small islands' states, least developed countries and developing countries in the ACP region. National parliaments further have no say in what governments commit to in trade agreements under the WTO regime and therefore national sovereignty is undermined."

(Forum of Non-State Actions, [Fonsa], 2002)

Is the European Commission likely to give these words any more meaning than it does at the WTO?

The Commission's behaviour at the WTO suggests that it won't and that the fine words in the Cotonou Agreement are just window dressing.

When Article 37.7 refers to WTO rules 'then prevailing' does it mean when Cotonou was signed in 2000 or when the EPA negotiations end?

That is being heavily contested, because the rules under Article XXIV are the subject of vigorous negotiations in the WTO. The ACP has proposed a transition period of 18 years and more flexibility. The European Commission and others say it is not necessary to change the rules, because current provisions give enough flexibility. It is very unlikely that these negotiations will be over by 31 December 2007. If they are, there is no chance that the changes being sought by the ACP will have been approved.

Aren't the ACP and European Union meant to defend these Agreements jointly at the WTO?

The Cotonou Agreement requires them to *'closely cooperate and collaborate in the WTO with a view to defending the arrangements reached, in particular with regard to the degree of flexibility available'.* The Commission says this means defending a longer transition period on the grounds of exceptional circumstances. The ACP and Commission also have a broader obligation to *'strengthen their cooperation … by establishing full and coordinated participation in the relevant international fora and agreements'*; it is difficult to imagine how, given they are on opposite sides on most issues at the WTO.

What does WTO-compatibility mean for Pacific Islands that aren't members of the WTO?

That is a really serious concern. Only 3 of the 14 Pacific ACP States – Fiji, PNG and Solomon Islands - are currently WTO Members. Three more are negotiating to join – Vanuatu, Samoa and Tonga – and the first two of those have reservations. That's still less than half the total number of Pacific Islands involved in the Cotonou negotiations. None of the rest is ever likely to join. Several African and Caribbean States are in the same situation. But that doesn't make any difference to the requirement for WTO compatibility. The WTO rules bind any of its Members who enter into a new regional trade agreement on goods and/or services with another State, even one that is not a WTO Member. So if non-WTO States become parties to an Economic Partnership Agreement they end up being bound to implement the WTO rules. This has lead some to say they might as well join the WTO, even if that will cripple them, so they have a voice at the table – yet that voice hasn't helped the ACP States that are already WTO Members. It is more sensible to treat this as a compelling reason for Pacific Islands that are not WTO Members to steer clear of any Economic Partnership Agreement.

13 A Threat to Food Security

"Article 54 on Food Security is nothing more than a palliative that suggests a non-commitment to addressing the realities of food security on the ground."
(Ofei-Nkansah, TWN Africa, 2002)

How might the Cotonou negotiations affect food security in ACP countries?

Agriculture and fisheries are essential to people's basic needs for food security, rural development, protection of the environment and the livelihood of farmers. Food production is the main source of subsistence and cash income in ACP countries; it accounts for between twenty and sixty percent of the economic activity and employs up to 90% of the work force. Agricultural exports provide a vital source of foreign exchange to finance their development and pay for imported food. So sustainability of local agriculture is a priority. The threat of recurrent hunger and famine may become worse under Cotonou. The European Union's 'development' agenda offers massive infrastructural support for cash crop producers, mainly men, in a market that is still structured towards the export of raw materials to Europe to benefit their agribusiness. The idea that food security can be achieved by relying on cheap imports will fail if ACP exporters lose their preferences and export earnings fall, creating a balance of payments crisis, and local producers face crippling competition from subsidised European produce.

How can ACP countries protect food security if they open the door to (subsidised) EU agriculture?

The Cotonou Agreement has a specific clause on food security. The European Union undertook to provide export refunds for a range of products 'drawn up in light of the food requirements expressed by those States'. This echoes a Commission proposal at the WTO that provoked a major argument with net-food importing countries about who defines their requirements. Moreover, this mechanism is only about exports. It does nothing to deal with food security on the ground – problems of dependency on foreign food suppliers or protecting local producers and their traditional, ecologically sustainable methods of food production.

What do ACP governments want from the Cotonou negotiations on agriculture?

They say the priority is to develop their own subsistence and commercial agriculture before they liberalise trade in food. They also want help for agricultural exports through more flexible rules of origin; help to improve their capacity to meet European standards and hygiene conditions, and more realistic standards; and new ways to stabilise export earnings, given the demise of the STABEX arrangement. Then there is the question of European Union farm subsidies – which the Europeans may only be prepared to discuss at the WTO.

How has the European Commission responded?

The Commission says local development and liberalisation have to go hand in hand. Measures to support agriculture will only be effective if there is a dynamic private sector and competitive markets that can force efficiencies and focus export-based production on areas of competitive advantage. Removing tariffs from imported food reduces the price to consumers and provides a new source of food security.

Would tariffs have to be removed from all agricultural imports from the European Union?

All Lomé preferences are subject to the same requirements. There may be some leeway, depending on how both sides agree to interpret compatibility with the WTO. If Article XXIV does apply, 'substantially all trade' would still allow some agricultural products to be excluded.

How does Cotonou affect the protocols on sugar, bananas and beef and veal?

Sugar has a special status because it is subject to a separate legal agreement. This is vital for Fiji, as well as Mauritius, Guyana and Barbados. However, its fate is likely to be determined by other factors: the European Union's move to bring its domestic sugar regime under the Common Agriculture Policy, and the result of the Commission's appeal against a finding that the Sugar Protocol breaches WTO rules. The other protocols will be reviewed 'with a view to safeguarding the benefits' from those protocols. But there are no guarantees, especially as the Europeans' proposed changes to the Banana Protocol are currently being challenged in the WTO.

Do the same rules apply to fisheries?

Arguably not. A separate Article says that both sides are prepared to negotiate fishery agreements '*aimed at guaranteeing sustainable and mutually satisfactory conditions for fishing activities in ACP States'* and that do not discriminate against EU Member States in providing access to their fisheries. This could be interpreted to mean that fisheries are not included in the EPA and the calculation of 'substantially all trade'. That would give the Pacific Islands much more flexibility because fish products are such a high proportion of trade with the European Union.

14 Capturing the ACP'S Services

What does 'trade in services' mean?

Buying and selling services – ranging from banking, telecoms and hotel stays to healthcare, schooling and cultural performances. *International* trade in services means the buyer and seller come from different countries. In most services where there is big money to be made, the seller is a transnational corporation from a rich country. They have the capital and technology, the global marketing capacity, an educated workforce and size to swamp many smaller, especially local, service providers. Poorer countries (like the Pacific Islands) have limited services 'markets' that are generally not attractive to transnational companies.

How do services fit into a trade agreement?

The main rules are found in the General Agreement on Trade in Services (GATS) at the WTO, although some regional and bilateral agreements now go much further. Governments promise to let foreign firms invest in a particular service, or supply that service across the border (say by Internet), or send people temporarily to the country to provide the service (engineers, tour guides), or let their own people travel overseas to 'consume' the service (for surgery, study or a holiday). Governments also promise not to discriminate in favour of local people who supply those services or to regulate the services in a way that unnecessarily impede foreign firms. When governments introduce social, cultural or environmental policies that interfere with these commitments, they can face trade sanctions. These rules potentially cover most public services, unless they are run as a government monopoly that has no commercial dimension (such as school fees or doctors fees).

"As long as the wider impact of EPA provisions on liberalisation of services and investment is not assessed and publicly discussed, they should be excluded from EPAs."
(Vander Stichele, SOMO, 2004)

Are all services automatically covered?

No. Governments are asked to commit specific services to these rules for the indefinite future. They can hold back any services they think might become vulnerable to foreign control. But it is almost impossible to predict what the effects might be – recently, Antigua successfully complained that a ban on Internet gambling breached the US commitments under the GATS, despite the US saying it never intended to make such a commitment.

Is an Economic Partnership Agreement required to include 'trade in services'?

No. In Article 41 the European Commission and ACP States agreed

> *on the objective of extending under the economic partnership agreements, and after they have acquired some experience in applying MFN (non-discrimination) treatment under the GATS, their partnership to encompass the liberalisation of services.*

Most ACP States have made very limited GATS commitments so they could argue for a lengthy delay. Pacific Island states that are not members of the WTO and have no services commitments in any other agreements could delay indefinitely! But the Commission insists there is a commitment to negotiate. It initially wanted to begin by 2006 and complete the negotiations in 2007, allowing some scope for delay. Now the ACP and European Commission will decide on the starting date during the 2006 review. Some may have already begun by then – for tactical reasons, the Pacific Islands have identified services as a priority for negotiation.

Why would ACP States want to include services in an Economic Partnership Agreement?

The standard argument is that foreign firms will be more willing to invest in ACP countries if they have guarantees. Their presence will bring competition, increase efficiency, improve the infrastructure for the rest of the economy, reduce costs to consumers and bring technology and know how that can be passed on to locals. The European Commission argued during Phase 1 that services negotiations

> *represented a not-to-be-missed opportunity for the ACP countries, which now had an occasion to use gradual services liberalisation as a means to foster the development of their own services.*

Is that true?

There is no empirical evidence that making commitments on trade in services attracts any more foreign investment. Foreign firms invest – or don't invest – for diverse reasons. In ACP countries factors of size, poverty, remoteness, local education levels and lack of support services are usually much more important. When foreign firms do invest, they are often picking over the privatisations. Lack of effective regulation encourages them to make quick profits then move on to new pastures, leaving the government to pick up the pieces.

What position has the ACP taken on services negotiations under Cotonou?

As with agriculture, the ACP said they have limited services that they can supply competitively. So they need to build up their own services capacity and competitiveness and proper regulatory frameworks before they try to liberalise them. The Commission should recognise the need for asymmetry in any services negotiations and provide additional funds to help build this capacity. There is also real nervousness that foreign firms will gain control of their water, health and education services, especially given the tendency of transnational companies to 'cut and run' when economic, social or political conditions deteriorate.

Why does the Commission want to bring services into an Economic Partnership Agreement?

The European Commission has big ambitions for its firms in the current WTO services (GATS) negotiations, but it is making slow progress. In 2003 its 'requests' were leaked. They wanted access to the water, education, telecommunications, maritime transport and many other services of the poorest countries of the world, including the ACP. According to a Commission official, these GATS requests are likely to be the starting point in negotiations on services under Cotonou, because they represent the Commission's position towards those countries. The Cotonou Agreement has singled out two key services of interest to the European Union:

- maritime transport, which could guarantee the European Union's firms unrestricted access to the international maritime transport market of ACP countries and the same access as locals to ports, infrastructure and auxiliary services, including facilities for loading and unloading; and
- information and communication technology.

"We declare our fourth goal to be for Papua New Guinea's natural resources and environment to be conserved and used for the collective benefit of us all, and be replenished for the benefit of future generations."
(Constitution of Papua New Guinea)

Is the Commission targeting any particular sectors of importance to the Pacific Islands?

Perhaps the most explosive request that the Commission made of PNG and the Solomon Islands (among many other countries) is to remove all restrictions on foreign ownership of land. The request to PNG reads:

> *Papua New Guinea specifies under [market access] that "foreign nationals and foreign-owned companies may not purchase land, but may lease from government or land-holding groups through the Department of Lands".* ***EC Request:*** *Eliminate this restriction.*

Despite this, a Commission representative vigorously denies that it would target land ownership in a Pacific EPA.

Does the European Commission have its eyes on any other essential services?

There are strong suspicions that it wants ACP countries to open up their water services and is preparing the way through a new Water Facility. The Commission initially proposed a $1 billion water facility for ACP countries, which it planned to take out of the European Development Fund; but there wasn't enough so it was cut back to E250 million, with possibly E250 million more later. This will provide loans for water projects, based on competitive applications from ACP governments and regional development banks, that can be used as leverage to secure more money from other lending facilities – preferably those that give foreign firms guarantees for their investment and profits. These loans will be governed by confidential contracts, making it impossible for citizens to monitor any conditions and guarantees. The target is Africa, but the Pacific can apply. One Pacific Island Ambassador complained there was no prior consultation: 'the EU just announces it, then tells people how good it is for them.'

Is it realistic to think that ACP States could gain access for their services workers under an EPA?

Caribbean and Pacific countries want the Commission to ease restrictions on their nationals going to Europe temporarily to work in semi-skilled or unskilled service jobs, such as hotels or security. Their remittances would help to compensate for the loss of tariff revenue under an Economic Partnership Agreement and the workers could use their new skills to build the country's services when they return home. This might include a quota, but also require less onerous visa procedures, commitment to skill development and training and mutual recognition of qualifications. Some suggest that Article 41 of Cotonou supports this idea. But it only promises to 'give sympathetic consideration' to the ACP's priorities *in the GATS negotiations*. In relation to an Economic Partnership Agreement, Cotonou just says the European Union will support ACP efforts to strengthen their capacity to supply services, especially labour, business, distribution, finance, tourism, culture, construction and related engineering services, and by doing so increase their trade in services.

15 'New Issues' through the Back Door

Is the Commission using Cotonou as a back door for issues that are blocked at the WTO?

Yes – ironically in many areas the ACP Group has staunchly rejected for years. In August 2004 the Commission and others dropped their demand for WTO negotiations on competition, transparency in government procurement and investment, for now; in return, the ACP and others reluctantly agreed to negotiate on 'trade facilitation'. But the Commission already has the same trade-related issues on the table through Cotonou. Mostly the ACP has only made 'soft' promises, but some commitments will require changes to domestic policy:

"There should be no taboo... Apart from trade in services, where I believe your countries stand to gain a lot, I am notably thinking of a number of trade-related areas such as competition policy or the protection of intellectual property rights."
(European Trade Commissioner Danuta Hübner, 2004)

◆ ***Competition policy:*** (Art 45) The ACP States undertake to *implement* national or regional rules and policies to control anti-competitive practices and to *prohibit* firms from abusing their dominant position. This is not limited to private firms, so it could open up state monopolies. They also promise to cooperate with the Commission in developing policies and enforcement agencies for use in relation to private and state enterprises. These are formal commitments, but there is no time frame for implementing them.

The appearance of agreement disguises conflicting objectives. The Commission wants competition rules that open up markets for European companies, break down state monopolies and embed the market system, using the argument that this promotes economic growth and prosperity. ACP States are concerned that competition rules open the door to transnational companies, who have no corresponding obligations. So they want competition rules that will discipline cartels and other abuses of power by transnational companies. Some officials and advisers also believe that competition can improve efficiency and open up their corrupt state enterprises; but they also fear that this is unrealistic in small economies and will lead to new private monopolies. There is considerable support for regional competition rules and agencies, provided they are designed to meet their own needs and not dictated by the Commission's version of 'best practice'.

◆ ***Intellectual Property Rights:*** (Art 46) This clearly reflects the European Union's priorities. Bland words are used to endorse the WTO agreement on intellectual property rights (TRIPS) and related agreements, as well as the Convention on Biological Diversity, without addressing the tensions between them. The Commission can ask ACP countries to prevent the abuse of intellectual property rights, but they need to agree on how. Each side can also seek protection of trademarks or geographical indicators (such as wine regions) – something the Commission has been pushing hard in the WTO. There is no comparable provision for rules to protect indigenous knowledge or life forms, which are key concerns of the Pacific Islands and which as non-WTO members they can still pursue unfettered by the TRIPS agreement.

◆ ***Standards and certification***: (Art 47) The opposition of ACP countries to negotiations on 'trade facilitation' in the WTO reflected their fear of onerous first-world requirements that require expertise, facilities and resources that they don't have and can't afford. They have repeatedly urged the Europeans to reduce these barriers and help develop their capacity to comply. The Cotonou Agreement only promises closer cooperation to remove *unnecessary* technical barriers and reduce differences and *aims* to promote a more compatible system.

◆ ***Sanitary and phytosanitary rules***: (Art 48) This raises similar concerns about quarantine and health regulations. The provision repeats the WTO rules, which the ACP has deemed to be unfair and inadequate, especially as the European Union tends to impose requirements that are higher than other countries on grounds that are often considered spurious. Poor countries don't have the resources to challenge them at the WTO. This can have devastating effects, as the Pacific Islands found when Germany banned imports of the mildly sedative root crop kava in 2001, claiming that it contributed to liver disease. This set off similar bans or restrictions across Europe, Canada and Singapore and crippled export earnings from Vanuatu and Fiji. There are reports that European and global drug multinationals lobbied for the prohibition because kava was beginning to rival drugs like Prozac and Valium. Under Cotonou, the European Union merely promises to 'reinforce coordination, consultation and information' regarding the notification and application of such measures.

◆ ***Trade and Environment:*** (Art 49) In line with ACP opposition to any formal link between trade and environment, they merely affirm their commitment to sustainable and sound practices and better cooperation.

◆ ***Trade and Labour Standards***: (Art 50**)** Likewise, this is a soft provision that affirms the commitment of both sides to the ILO's core labour standards and they promise to cooperate more in exchanging information on labour laws, formulating and enforcing such laws, and education and awareness raising programmes.

◆ ***Consumer Policy and Protection:*** (Art 51) This, too promises better cooperation and help to improve the ACP's institutional and technical capacity – although it also promises cooperation over banning the export of products that are already prohibited for domestic use (a complaint that is often made against European drug companies and agribusinesses that dump banned toxic products in the South.)

16 A Charter for Europe's Investors

Will the European Union also use the Cotonou negotiations to get binding commitments on foreign investment?

Promotion, protection and guarantees for foreign investment is given its own chapter, but in Part 4 of the Cotonou Agreement, which deals with Development Finance Cooperation, rather than Part 3 on Economic and Trade Cooperation. Annex II provides further detailed provisions on Investment Protection Agreements.

What do these investment agreements involve?

They are usually called Bilateral Investment Treaties (BITs) or Investment Promotion and Protection Agreements (IPPAs). Basically, national governments sign a charter of rights for transnational companies that guarantee the right to make investments and protect the value (and often profitability) of those investments. These rights are usually enforceable directly by investors through secret proceedings in international tribunals. The definition of 'investment' can include company shares, physical assets like roads or ports, mining licenses, patents and land. Sometimes it also includes bonds and speculative financial assets, such as derivatives.

"Through the EPAs the EU is trying to sneak in issues through the back door, such as investment and government procurement, that African countries have been resisting in the WTO."
(Steve Ouma, Kenya Human Rights Commission, 2005)

How would these investment agreements impact on ACP States?

They would provide guarantees from ACP governments to European investors. Similar agreements have already exposed the governments of poor countries to massive damages awards when they adopted perfectly valid policies to address their local social, economic, environmental or cultural needs, but those policies reduced the profits or value of the foreign investment. The most notorious have involved the cancellation of contracts with transnational companies to supply water, after local people rebelled over the cost and quality of the water; these contracts were the result of water privatisations forced on those countries by the World Bank. Many of the biggest water companies are based in Europe, so there are obvious concerns about links between the European Union's Water Facility and its desire to get binding investment agreements.

Why did the European Commission insist on including investment under Cotonou?

The Commission has failed to achieve a multilateral agreement on investment through both the WTO and the rich countries club of the OECD. Ironically, the ACP Group was largely responsible for defeating the proposal to negotiate an investment agreement at the WTO ministerial meeting in Cancun in 2003 – yet it had already agreed to negotiate some such provisions under Cotonou! Article 75 contains general obligations to implement measures and take actions to promote European investment, including negotiation of agreements to improve the investment climate. In the provision on protecting the interests of investors (Art 78) they

> *affirm the need to promote and protect either Party's investments on their respective territories, and in this context affirm the importance of concluding, in their mutual interest, investment promotion and protection agreements which could also provide the basis for insurance and guarantee schemes.*

But neither obligation has a specific time line.

How would these investment agreements be negotiated and by whom?

Negotiating bilateral investment treaties is the prerogative of individual European Union Member states. Many already exist with ACP countries. Cotonou aims to include general principles for such agreements in the Economic Partnership Agreements:

> *The Parties also agree to introduce, within the economic partnership agreements, general principles on protection and promotion of investments, which will endorse the best results agreed in the competent international fora or bilaterally*.

Where might they look for 'best results', 'agreed' by whom?

In the past, the Commission has viewed the North America Free Trade Agreement (NAFTA) and model bilateral investment treaties as 'best practice'. Currently it views the Chile/European Union free trade agreement as 'state of the art', but Commission officials agree that an ACP region like the Pacific doesn't have the capacity and investment structure to implement that, so some flexibility will be needed. The OECD and APEC – which are champions of investors' interests – will be other important reference points.

Will ACP governments buy into this, given their staunch opposition at the WTO?

They already have. The ACP negotiating guidelines for 2002 talked of attracting foreign investment by concluding investment protection agreements, without saying when. So there is concern that the move by the Pacific Islands to put investment on the negotiating table at an early stage will limit their ability to delay indefinitely, or maximise the benefits and limit the risks of such agreements and undermine the ACP's collective position in the WTO.

17 Phase 1 Negotiations

It sounds like the ACP agreed to negotiate on Europe's terms?

They secured a few concessions on the time frame and funding, but essentially the ACP governments gave away the right to use vital development instruments and locked themselves into the European Union's agenda. Not surprisingly, the European Commissioner for Development Cooperation hailed the outcome as proof 'that there is still room for a true and deep relationship between the North and the South', despite the collapse of the WTO ministerial meeting in Seattle in 1999. This was now a 'true partnership' that would take an ambitious approach to major challenges. The Agreement '*made clear the link between development support and the establishment of a policy framework favourable to trade development and investment'* and recognised that '[*e*]*ach country must own and be accountable for its policies*'.

How did the ACP Group portray the outcome?

The immediate response - that Cotonou was less harsh than they expected – fostered the illusion that these had been genuine negotiations. In theory, ACP States maintained the right to decide their own level for negotiations and reject Economic Partnership Agreements in favour of alternative arrangements provided they were WTO compatible'. In practice, the Commission got virtually everything it wanted.

"The pace of the negotiations has caught our countries without adequate considerations of the options open to us, or understanding of their implications, and we are becoming hostage to target dates that have been hastily set without the participation of our respective 'parliaments'."
(East African Parliamentarians Liaison Committee, 2004)

What was the ACP's game plan for the first phase of negotiations?

The ACP Group agreed on Draft Negotiating Guidelines in June 2002. These set out their approach to the Economic Partnership Agreements and the principles that should inform the negotiations. They also proposed a strategy, structure and time line that was totally at odds with what the Commission had in mind.

What were the ACP's guiding principles for the negotiations?

Sustainable development-oriented Economic Partnership Agreements: to achieve sustainable development and eradication of poverty in ACP States and to foster their smooth and gradual integration into the world economy, recognising that 40 of the 78 ACP States are Least Developed Countries and most others are on the margins;

ACP unity and solidarity: recognising that ACP States would secure a better deal collectively and gain strength from unity, including in Geneva at the WTO;

Preservation and improvement of the Lomé Acquis: no ACP State should be worse off after 2007 than it was under Lomé. Given the possible adverse effect of Economic Partnership Agreements on production and fiscal stability, ACP States could not agree *a priori* to reciprocity or the same level of commitments as the European Union, especially on market access;

WTO compatibility: by securing changes to current WTO rules on regional trade agreements, development, and special and differential treatment that are imbalanced against the development needs of ACP States, so those States will be in a position to agree to Economic Partnership Agreements that are compatible with 'WTO rules then prevailing';

Special and Differential treatment: between the ACP and European Union on the basis of equity and different levels of development, with special treatment to Least Developed Countries and vulnerable small, landlocked and island States.

Flexibility: shown by the Commission to the ACP States, and then injected into WTO rules so the proposed Economic Partnership Agreements then become compatible with the WTO;

Sustainability: viewed in terms of the adjustment costs of Economic Partnership Agreements, their social and political implications, institutional and human resource capacities, and the stability of ACP States;

Coherence and consistency: including across Economic Partnership Agreements and a reformed WTO;

Priority for regional integration over Economic Partnership Agreements: consolidating regional initiatives and their capacity to negotiate and implement agreements;

Legitimacy: establishing the legitimacy of Economic Partnership Agreements, especially their contribution to the sustainable development of ACP countries, must involve as a matter of principle all stakeholders, public scrutiny and parliamentary follow-up, creating a level playing field in their capacity to negotiate, and negotiating procedures that are inclusive and transparent.

An Adjustment Compensation Fund: to provide additional resources and support for adjustment to address revenue loss, unemployment, upgrading of productive structures and human resources, and building institutional capacity.

Didn't the Cotonou Agreement say the ACP States could decide their own models of development?

Indeed! Chapter 2 'The Actors of the Partnership' begins in Article 4 by saying:

> *The ACP States shall determine the development principles, strategies and models of their economies and society in all sovereignty.*

But these are negotiations in which the European side holds the upper hand. Many of the ACP's principles would also require amendments to WTO rules, which could only be achieved with the Commission's support.

"The dangling of development aid by EU has triggered fast emotions by each configuration to rush the process so as to be the first in concluding an EPA."
(Richard Kamidza, SEATINI 2004)

How did the ACP Group want to conduct the negotiations?

They were determined that the major negotiations should take place at an all-ACP level. Member States were already stretched across a range of negotiations at the WTO, the Caribbean States were doing battle with the US over the Free Trade Agreement for the Americas, Southern Africa was coming to terms with NEPAD (New Partnership for Africa's Development) and the Pacific Islands were facing the implementation of the Pacific Island Countries Trade Agreement (PICTA) among themselves plus the Pacific Agreement on Closer Economic Relations (PACER) with Australia and New Zealand. The only way they could cope was to build their collective negotiating capacity and prepare analyses, including impact studies, to guide them.

How would this work?

They proposed 2 phases:

Phase 1 - from September 2002 to September 2003: This would cover the principles and scope of Economic Partnership Agreements, their content, and rules to cover special and different treatment, financing of adjustment, rules of origin, sanitary and phytosanitary rules, framework agreement on services, development aspects of services, fisheries, trade-related issues, investment and promotion, and much more.

Phase 2 - From September 2003 to December 2007: regional and country-level negotiations would focus on tariff schedules and sectors of specific interest to those countries.

How did they think all this could be achieved by 2007?

That was the timeline established by the European Commission during the Cotonou negotiations and presented to, and approved by, the WTO at the Doha Ministerial Conference in 2001. It was obviously reckless for ACP governments to try to achieve this, and the antithesis of the 'good governance' that the European Union was so insistent on. But no government was prepared to say up-front that it couldn't be done.

Did the Commission agree to the ACP's approach?

No! The Commission agreed to initial discussions from September 2002 to September 2003 at an all-ACP level, but only for the purpose of clarification. Formal negotiations had to be conducted at the regional level.

Why didn't the ACP governments just walk away?

All the ACP States would have had to agree to do that, which was never likely. They were focused on the short term and had no alternative game plan. Most governments wanted to maintain their existing preferences at least until 2007, and hoped they might secure something useful beyond that. There was also the bribe of aid money through the European Developing Fund. In theory, this was separate. In practice, the Commission and the Cotonou Agreement itself stressed the link between trade and aid. In return, the ACP governments opened the door to a whole raft of new commitments that could easily outweigh those short-term benefits.

18 Unequal Partnership In Practice

What were the main arguments about during Phase 1 and who won?

1. Organisation of phase 1 discussions

***ACP*:** Negotiations should mirror the way the ACP are organising their preparations through 6 issue-specific negotiating groups (market access, agriculture and fisheries, services, development cooperation, trade-related issues and legal issues). Because agriculture, fisheries and services are fundamental to ACP societies and the implications of liberalising them go well beyond trade considerations, they should not be discussed simply as matters of 'market access'.

EC: An issue-specific approach fails to recognise the driving principle of regional integration. All issues should be discussed in a single setting that has four broad clusters: 1. a 'toolbox' of best practice laws and policies; 2. comprehensive market access across goods, agriculture, fish and services; 3. all rules-related areas; and 4. procedures for regional negotiations in Phase 2.

Outcome: The EC won, but agreed to hold dedicated sessions on the 'development dimension' of agriculture and fisheries, and services.

2. Relationship between Phase 1 and Phase 2

***ACP*:** Article 37(5) allows the ACP to decide on the level at which issues should be dealt with. Phase 1 negotiations should take place at the all-ACP level and should produce an all-ACP/EU Agreement that provides the legal anchorage for Phase 2. To ensure coherency across all Economic Partnership Agreements, there must be agreement on crosscutting issues that are common to all-ACP States (such as rules of origin, safeguard clauses, dispute settlement mechanisms).

***EC*:** Completion of Phase 1 is not a pre-condition to launching Phase 2 regional negotiations. It provides an opportunity for clarification of the general framework agreed to in Cotonou. While a meeting of minds would be helpful, formal decisions or legal documents that impose coherence are inappropriate. Negotiations should be conducted solely at the regional level, and require a bottom-up approach that can ensure flexibility and the ability to tailor Economic Partnership Agreements to regional needs. An all-ACP/EU coordination committee should operate during Phase 2, but have no decision making power.

Outcome: The EC won.

3. Objectives, principles and structure of Economic Partnership Agreements

***ACP*:** Economic Partnership Agreements should reflect the 10 principles in the ACP draft mandate.

***EC*:** The objectives and principles of Economic Partnership Agreements are already defined by the Cotonou Agreement. They can be elaborated on, but new ones cannot be introduced. Guarantees, such as the preservation of the Lomé acquis, cannot be given before the negotiations are completed.

Outcome: The EC won.

4. Representation and mandates

ACP: Regions must be represented by Member States, because it is States who have to take the commitments in the end and States who are WTO Members, not the regional economic integration organisations. Cotonou also foresees the possibility of Economic Partnership Agreements with individual States.

EC: Cotonou builds on regional integration initiatives. The regional structure for negotiations means the participation of regional organisations is crucial, as they have the expertise. *'The fact that ACP countries might be the ones to sign the EPAs would not change the regional nature of future negotiations'.*

Outcome: EC effectively won, with ACP States negotiating through regional economic integration organisations.

5. Asymmetry of rules

***ACP*:** Questions of product coverage, grace and transition periods, and the levels and speed of tariff elimination must take account of special and differential treatment, the position of Least Developed Countries, and the special circumstances of small vulnerable island states and landlocked states. This should be settled at the all-ACP level.

EC: ACP countries should aim for a situation where they no longer require special and differential treatment. Different rules (eg rules of origin) could be agreed for different ACP regions, but a single set of rules would have to apply to both parties to an Economic Partnership Agreement within one region. The Commission also requires the region to give the European Union the best treatment it gives to any other external party.

Outcome: The EC won (so far).

"Why, then, are the ACP countries negotiating Cotonou? An honest answer is that they are forced to ... by the seemingly unstoppable stampede to liberal trade regimes and by the EU that is seeking to end preferences to their former colonies."
(Yash Tandon, SEATINI, 2003)

6. Meaning of WTO compatibility

***ACP*:** Current WTO rules are inadequate. ACP States need a trading system that is governed by fairer and more equitable rules that can be adjusted to take account of their specific situation.

***EC*:** WTO rules are flexible enough to allow Economic Partnership Agreements to respond to specific development objectives. Article XXIV of the GATT allows the requirement of reciprocity within 10 years to be exceeded in exceptional circumstances. The ACP should identify appropriate arguments to justify this extension or do more to convince the Commission that the current rules are not flexible enough.

Outcome: Both agreed to 'take account of the evolving nature of WTO rules' and collaborate closely.

7. Consideration of development issues

***ACP*:** Economic Partnership Agreements should follow and support regional integration and enhance the capacity of ACP countries. Cotonou is not about building markets and forcing integration. Transition into the global economy must be guided by development thresholds, not arbitrary time lines.

***EC*:** The defensive position adopted by the ACP is unhelpful. Providing reciprocity to the European Union is not a 'price to pay'. Economic Partnership Agreements will help to build regions through integration and liberalisation, and are an instrument that promotes sustainable development and poverty eradication.

Outcome: The EC won (so far)

8. Sequencing of integration regionally and with the EU

"The ACP is divided; the EU is united."
(Yash Tandon, SEATINI, 2002)

***ACP*:** The EU should strengthen and enhance fledgling regional initiatives within the ACP and provide support to build agriculture, services and investment at the regional level before opening them to liberalisation. Extending those arrangements to other countries and providing reciprocity should only occur when they have reached certain development thresholds, and must not be driven by an artificial timeline.

EC: The Commission sees regional integration as a preparatory process for global integration, so the two can and should run in parallel according to a firm timetable. Liberalisation creates competitive pressures, forces efficiencies and attracts investment, which produce growth in all sectors.

Outcome: The EC won (so far)

9. European Development Fund

ACP: Additional resources are needed to address 'supply-side' constraints and support the adjustment and fiscal costs that will result from the Economic Partnership Agreements, These were impossible to predict when the Cotonou Agreement was being negotiated. Money must not be diverted from EDF projects that have been identified on the basis of National Indicative Programmes and Regional Indicative Programmes.

EC: Economic Partnership Agreements are more than trade agreements; they complement and support the aid and political dimensions of Cotonou in an integrated approach. Regional Preparatory Task Forces of experts should be established to identify which development measures need to be supported through the EDF and to reinforce the link between aid and trade. That financial framework was settled during the Cotonou negotiations; funding for the next 5 years is settled and there is no room to renegotiate.

Outcome*:* The EC won and Regional Preparatory Task Forces have been established to oversee the link between the EDF and the Economic Partnership Agreements.

What happened at the end of Phase 1?

The demand for all-ACP negotiations collapsed when Western Africa and Central Africa broke ranks and agreed to launch regional negotiations in October 2003. Other regions followed:

West Africa (ECOWAS)	October 2003	Southern Africa (SADC)	July 2004
Central Africa (CEMAC)	October 2003	Caribbean (CARIFORUM)	April 2004
East and Southern Africa (COMESA)	February 2004	Pacific (PIFS)	September 2004

Discussions between the Commission and ACP over substantive issues remained at stalemate. The 2006 review of progress is the next opportunity to revisit these questions at an all-ACP-EU level.

19 Learning from Others' Experience

Why should the Pacific Islands be watching what is happening in Africa and the Caribbean?

There are at least 3 good reasons:

- It offers insights into the Commission's approach and developments that are shaping its thinking;
- Lessons can be learnt (good and bad) from what other ACP regions are trying;
- Precedents may be established that will flow onto the Pacific negotiations.

Is there a good example to learn from?

Probably the most interesting example is Eastern and Southern Africa (ESA). That group is much more complicated than the Pacific. 16 States are negotiating as part of the Eastern and Southern Africa Group, of which 12 are Least Developed Countries and many are highly indebted poor countries. All are part of the Common Market for Eastern and Southern Africa (COMESA), which is the largest economic grouping in Africa and many consider has real potential to provide a solid economic base for the region. Six states belong to both COMESA and the Southern African Development Community (SADC) and have chosen to negotiate under the Eastern and Southern Africa umbrella. However, 3 other COMESA members are negotiating as part of the Southern African Development Community. Three further parties to the Eastern and Southern Africa negotiations are also members of the East African Community (EAC). Whatever is decided in the Eastern and Southern Africa negotiations will affect all those groupings and their other members – who are involved in their own Economic Partnership Agreement negotiations – as well as shaping the direction of COMESA.

"The EPA is set to decisively undermine Africa's own continent-wide collaboration for economic development, and with it the ability of African countries to reduce their dependency on Europe."
(Tetteh Hormeku, TWN-Africa, 2003)

What is at stake for these countries?

As highly indebted countries they have suffered continual IMF structural adjustment programmes. These have deepened their debt, increased poverty and left their social services in decay. The Economic Partnership Agreement will entrench those neoliberal policies. Tariff cuts will also mean even less revenue, while debt servicing demands continue to take priority on the dwindling public purse. There are also fears that opening markets to European imports will endanger local businesses, jobs and food security, while European investors pick over anything of value that the Europeans, US and South Africa don't yet own.

What is the time frame for the Eastern and Southern Africa negotiations?

The 'road map' was launched in Mauritius in February 2004. They agreed to negotiate on 6 clusters: development issues, market access, agriculture, fisheries, services and trade-related areas. The formal substantive negotiations were to run from July 2004 to March 2005. They actually began in September 2004, leaving just seven months. Each country was meant to set up a National Development and Trade Policy Forum, comprising government and 'non-State actors', to formulate national positions. These would feed into a Regional Negotiating Forum made up of 3 people from each country (government and NSA), the Brussels Ambassadors, secretariats of the regional organisations, and a regional civil society group that specialises in trade negotiation issues.

Has the necessary preparatory work been done?

Reports from the third Regional Negotiating Forum meeting in October 2004 showed the 'road map' was already behind schedule. The Secretariat said it hadn't received any written reports from the national level Development Trade Policy Forums, as required by the roadmap guidelines. Only 5 countries had completed the Impact Assessment Studies that are meant to underpin negotiating decisions and they haven't been made public. Some countries are still waiting for funds from the European Commission to conduct their studies. A number are also still seeking funding for the National Development Trade Policy Forums that are meant to decide their positions. But the Commission is impatient so decisions on regional negotiating priorities are already being taken.

Who is making the decisions for the Eastern and Southern African States?

That is a controversial question. There is a Regional Negotiating Forum of Brussels-based Ambassadors and European Commission officials. There is also a Regional Preparatory Task Force of 'experts', which the Commission insisted on, that is supposed to help the Negotiating Forum prepare for the meetings, including an 'informal dialogue'. In practice, the Task Force appears to be determining the agenda. Because the Eastern and Southern Africa Trade Ministers have agreed to the establishment of the Task Force, the Regional Negotiating

Forum can't disband it. However, the Ambassadors have told the COMESA Secretariat that *they* will decide what is discussed in the Task Force in the future.

How do the Regional and Brussels processes relate to the nation state level?

With difficulty. Most Eastern and Southern Africa governments lack the technical and financial capacity to take part in the negotiations. Their Brussels Ambassadors have little experience with trade negotiations. Their private sector has some involvement, but most 'civil society', media and Members of Parliament at the national level remain on the periphery.

"Access to land as well as other natural resources and the inputs for production are far more important than access to markets. Africa must not compromise on this during trade negotiations."
[Tetteh Hormeku, TWN-Africa, 2003]

Is the COMESA Secretariat up with the play and accountable to nation states?

Observers say the Secretariat doesn't have the capacity to deal with the complexity of the negotiations. They rely on the Commission for funding, which is slow coming through. The Chief Technical Advisor, who was meant to assist with the negotiations, still hadn't been appointed in October 2004. The Secretariat's leadership has warned countries not to rush into signing any agreements, saying sovereign States have the right to decide whether the region is ready to negotiate. However the Secretariat itself is being accused of making decisions in place of the national governments, and creating the equivalent of the invitation-only 'Green Rooms' that ACP governments have strongly criticised at the WTO.

How is the ESA grouping holding together so far?

Not well. Some governments, like Mauritius, have advised caution, saying the poor will bear the burden of bad decisions. They are stressing the need to build on regional integration at a South-South level (recognised in Article 37.3 of Cotonou) as the basis for 'smooth and gradual integration into the global economy', and they say this should be the litmus test of whether Economic Partnership Agreements are genuinely about development. But some Eastern and Southern Africa Members have already broken ranks and made premature commitments that will be hard to escape from.

What's an example of a bad premature decision?

Coastal and island states ignored warnings to move carefully on fisheries, given the Europeans' record of over-fishing their own waters. At a Dedicated Session on Fisheries in October 2004 they agreed to a compromise on Marine Fisheries Rules of Origin. This now forms the basis of a Marine Fisheries Framework Agreement for Eastern and Southern Africa countries that want to negotiate a national Fisheries Framework Agreement. Governments with interests in inland fisheries were still working on their studies, so those fisheries have not been included in the framework. There is a flow on risk that these Rules of Origin and the Framework Agreement could set a precedent for discussions in other regions, including the Pacific.

"The costs of half-heartedly concluded agreements will be disproportionately born by the ACP countries concerned."
(ECDPM Discussion paper, 2004)

What roles are the 'non-state actors' playing?

Some Eastern and Southern Africa governments are only involving the private sector. Others have been including key advisers from the NGOs on their negotiation teams, and the Southern and Eastern African Trade, Information and Negotiations Institute (SEATINI) was asked by COMESA to be part of the Regional Negotiating Forum. SEATINI's then Director Yash Tandon offered the following reflections in June 2004:

> *Europe has taken advantage of the evolving global trade "regime change" to alter the terms of engagement between itself and the ACP countries. There is not a single country in Africa that would want to negotiate an EPA under Cotonou. They are forced to do so on the one hand by the evolving and seemingly unstoppable stampede to liberalise trade regimes, and on the other by the European Union that is seeking to end preferences to their former colonies to meet the changing needs of Europe …*
>
> *COMESA and the 16 countries should find ways in which they can skirt around the WTO regime and the limitation placed by the Doha waiver which ends non-reciprocity on 31 December 2007. They need to carry out proper studies on a number of issues that are crying out for clarification and analysis. The fact of the matter is that nobody among the ACP countries really knows what the future holds for them in relation to Europe. They are swimming like dead fish with the powerful current set in motion by the EU and the so-called gravitational pull of globalisation.*

20 Europe's Quest for Legitimacy

How does the Commission expect ACP countries to 'own' these outcomes?

European sensitivity to allegations that free trade is about power and profits underpins a multi-layered façade of consultation, openness and impact assessments that it has constructed around the Cotonou negotiations:

- An ACP-wide Sustainability Impact Assessment by a consortium led by PriceWaterhouseCoopers;
- Consultations with 'non-State actors' at national and regional levels; and
- National and Regional Impact Assessments prepared mainly by economic consultants.

Why was a Sustainability Impact Assessment commissioned from PriceWaterhouseCoopers?

In 1999 the EU adopted a policy to identify the sustainability impacts of current and future trade agreements, so they could mitigate the negative effects and promote the positive impacts. So in 2003 the Commission awarded a 4-year 'framework' contract for a Sustainability Impact Assessment of Economic Partnership Agreements across the entire ACP. The contract went to a consortium led by PriceWaterhouseCoopers (PWC) – a transnational management firm whose website boasts of 769 branches in 144 countries that employ 122,000 people, and that services 83% of the companies in the Fortune Global 500. PWC is a stalwart of the European Services Forum, the main corporate lobby for extending free trade in services. The opening sentence on the (EC-funded) website for the Sustainability Impact Assessment leaves no doubts about its approach: '*Trade liberalisation is not an end in itself, but rather an essential tool contributing to sustainable development*'.

"A major concern ... is the impact that the trade liberalisation to be wrought by EPAs would have on fiscal revenue. ... The prospect of falling government revenue, combined with falling commodity prices and huge external indebtedness, imposes a heavy burden on your countries and threatens to further hinder your ability to achieve the Millennium Development Goals."
(UN Secretary General Kofi Annan, 2004)

How has PriceWaterhouseCoopers gone about the Sustainability Impact Assessment?

This is a classic high-price, low value exercise that has nothing to do with the lives, livelihoods, environment and culture of the diverse communities that will be affected by Economic Partnership Agreements. In their phase 1 report, finalised in February 2004, the consortium set the priorities for the regions. Then they developed a socially meaningless framework for the Sustainability Impact Assessment using quantitative General Computerised Equilibrium modeling, extended where data was available to include social impacts associated with poverty and equity; and qualitative techniques of 'causal chain analysis'. Having developed this framework, they planned to consult with governments, civil society, private sector and other experts on its application. Their Phase 2 report proposes to conduct in-depth Sustainability Impact Assessments in specific sectors *they* chose: agriculture in Western Africa, tourism in the Caribbean and fisheries in the Pacific.

How has the PWC Consortium involved the people of the ACP regions in the process?

They haven't. The 'dialogue' in their first phase was conducted through their website (which assumes people know about it, have the technology to access it and can respond usefully to what is there). They also held two regional meetings, in the Caribbean and West Africa, which were attended by 40 participants from across governments, the EU, private sector, civil society and municipalities. Not surprisingly, the report contains minimal references to the Pacific, most of which are bracketed with the Caribbean. Indeed,in January 2005 the Forum Secretariat said it was not aware of the entire process, including the proposed Phase 2 study of the impact on Pacific fisheries!

How can the European Commission claim this has any credibility?

Presumably it doesn't care, provided it can tick the box saying a Sustainability Impact Assessment was prepared.

Where do the National and Regional Impact Assessments fit in to this?

These are a quite different exercise. Each region is meant to conduct an Impact Assessment covering national and regional levels to inform their strategies. Progress has been slow and uneven, with many complaints that they have been drafted without input from local experts (in some cases by European consultants). Once they are completed they are often not available for comment, even to the 'non-State actors' who are being consulted under Cotonou.

Who are 'non-State actors' and what is their role in the Cotonou process?

The homogenised entity called 'Non-State Actors' groups together the 'private sector, economic and social partners, including trade union organisations; and civil society in all its forms according to national characteristics'

in a way that deliberately blurs the boundaries of class, gender, race and power. Cotonou's Objectives are to promote social cohesion, a democratic society, a market economy and an active and organised 'civil society', as if these co-exist harmoniously. The involvement of non-State actors is essential to the 'partnership' illusion that the negotiations, and the policies they promote, are developmental, democratic and empowering.

How are non-State actors supposed to participate in the process?

Each region operates its own national and regional level consultations through the relevant regional economic integration organisation (in the Pacific, the Forum Secretariat) with funding from the European Commission. The national governments get to chose who is invited, supposedly based on the extent to which groups address the needs of the population, their specific competencies and whether they are organised democratically and transparently. Their input is supposed to help inform the national and regional negotiating teams, who are also meant to submit progress reports on the nature and level of consultations. But this is usually reduced to a summary and there are few signs that if finds its way into decisions on negotiating positions and strategies.

What is the attitude of ACP governments to participation by 'non-State actors'?

In theory, very positive. Paragraph 32 of the ACP Negotiating Mandate 2002 says:

> *EPAs will have to establish their legitimacy in ACP States, particularly as regards their contribution to the sustainable development of those countries. In this regard, it will be, as a matter of principle, essential that the negotiation process be paralleled by concerted efforts to generate within the ACP and EU States:*
> - *involvement of all stakeholders in the negotiation process and public support for the negotiations and outcomes of those negotiations;*
> - *public scrutiny of the negotiations, including parliamentary follow-ups;*
> - *creation of a level playing field in terms of capacities to negotiate (including leveling the costs of the negotiation process);*
> - *negotiation procedures which are inclusive and transparent.*

"Without dealing with broader issues of power relations between the North and South – raising questions about the policies of the EU as much as we question ACP governments – can this dialogue gain the credibility that would merit the participation of citizens?"
(Nancy Kachingwe, MWENGO, 2003)

What has been happening in practice with the NSA consultations?

Experiences vary across and within ACP regions according to the willingness of governments and the awareness, resources and activism of social movements, trade unions and NGOs. Not surprisingly, trade unions have been the most marginalised, even though the livelihoods of their members are most directly affected and their level of transparency and democracy is far greater than the private sector and most NGOs. In other cases, especially in Eastern and Southern Africa, well-organised and highly skilled NGOs have taken the initiative and are running training programmes for officials, media and social movements. But they say the lack of documentation still makes it very difficult to engage effectively with the decisions. Secrecy remains a major barrier. While a few governments have circulated their negotiating proposals for discussion among 'non-State actors' before final decisions have been taken, they are the exception; most governments and regional organisations operate under a shroud of confidentiality that makes informed and effective participation impossible.

So what purpose is served by the 'non-State actor' process and is there any point in participating?

Some groups have kept a distance from the process so they can speak out strongly, clearly and critically in opposition to the European Union's agenda. But it has also been important for people with an informed and critical perspective to attend the meetings, analyse the documents they are allowed to access, educate others who are involved about what is really going on. Depending on their political situation, they can challenge and/or support their governments. Yash Tandon from SEATINI, who was invited to participate on the Eastern and Southern Africa negotiating team, explains how he has approached the role:

> *A small voice of conscience can, at times, restrain the mighty. If nothing else, SEATINI can at least blow the whistle if things go wrong. Above all, it can help the COMESA Secretariat to look for potholes on the roadmap to integration through negotiations with the EU. As any driver on African roads would know, driving along a potholed road is never a straight trajectory. …*

PART TWO

The Pacific's Regional Economic Partnership Negotiations

Key Points:

The European Union's Cotonou agenda - sustainable development and poverty alleviation through structural adjustment and trade liberalisation - commits the Pacific Islands to a path that is economically, socially, culturally and environmentally destructive and likely to increase regional instability and insecurity. In a mockery of good governance the Europeans are insisting on neoliberal policies, backed by coercive aid conditionalities, that deny the people of the Pacific the right to define their own future through participatory democracy. Attempts by the Pacific Island governments to create space by proposing variations within the Commission's own framework is a game the Islands cannot win.

The European Union has little interest in the Pacific Islands. The Pacific relationship is a historical relic they have to deal with so they can reorganise their relationship with Africa and attend to European expansion. The European Commission may prove less demanding of the Pacific and its pro-development rhetoric should be pushed at every opportunity. However, it is unlikely to endorse 'low quality' precedents that undercut its negotiating position with African and Caribbean countries, in other bilateral or regional agreements and at the World Trade Organisation.

A Pacific regional Economic Partnership Agreement is meant to build on regional economic integration under the Pacific Island Countries Trade Agreement (PICTA). But PICTA is based on the same flawed model and its implementation is already problematic among the Pacific Forum's 'developing' countries, let alone the poorer ones. The Melanesian Spearhead Group trade agreement among just four of the Islands has previously run into problems.

The framework for Pacific EPA negotiations is spelt out in the September 2004 Road Map. This set an unrealistic timetable that was outdated with months. There is no way the Pacific Islands can responsibly meet the deadline of December 2007 that has been imposed through Cotonou, and reinforced by the WTO, without taking huge risks whose implications have not been properly assessed.

The requirement to negotiate a 'WTO-compatible' agreement draws the majority of Pacific Islands who are not members of the WTO within its web, at a time when countries of the South are saying the economic and social cost of implementing WTO rules is too high. This single agreement would mean the development strategies of the Pacific Islands are effectively governed by those rules for the indefinite future.

Trade preferences have been the lifeline for Pacific Islands' exports. European preferences have been critically important for sugar and canned tuna. Losing these would threaten those major export industries and cost jobs. It may be sensible for the countries that are most directly affected to negotiate these issues separately. But if those products were excluded from a free trade agreement in goods, it would fail the current WTO requirements to cover substantially all trade which the European Commission is insisting on.

The Pacific Islands are proposing to include services in an Economic Partnership Agreement, when that is not required under Cotonou. This risks transferring control over vital services to Europe's transnational corporations. A services agreement could see Island governments give away the right to adopt regulations and policies of their choice in key areas of social, cultural, environmental and local development; Vanuatu has already learned the lesson of making commitments it didn't understand during its WTO accession. The Commission is currently taking an aggressive approach to services at the WTO where it has 'requested' that PNG and the Solomon Islands remove restrictions on foreign ownership of land

A proposal to give priority to an Investment Agreement with the EU wrongly assumes that this will promote more foreign investment in the Islands and ignores the growing number of international cases where poor countries have faced multi-million dollar damages suits by transnational companies for breaching such agreements. This also undermines the strong opposition maintained by ACP countries to such an agreement in the WTO.

Pacific Island governments have nothing to gain from negotiating an Economic Partnership Agreement with the European Union. Those with Least Developed Country status can opt for the Everything But Arms

arrangement that gives them duty free entry for 'essentially all' goods. Others, especially those who have little trade with Europe, can make use of the General System of Preferences that the European Union offers to all 'developing' countries. Those with major interests in specific commodities can seek to negotiate these separately with the EU.

In theory, opting out of an Economic Partnership Agreement should not affect access to aid funding under the European Development Fund; in practice, however, the Fund is now tied to the Commission's structural adjustment and trade liberalisation agenda. That linkage should not be conceded by treating an Economic Partnership Agreement as the price to pay for aid, especially as the Pacific Islands' share of European aid is likely to fall as the European Union focuses its attention elsewhere.

So far there have been no proper social or environmental impact assessments of these proposals. Studies to date have focused on economic or sectoral impacts, based on a presumption that free trade is good for the Pacific, not on the social and developmental implications. No process has been established to undertake such studies *before* negotiating proposals are put on the negotiating table - there are only plans to monitor the effects at some time in the future.

The European Commission's insistence that the Forum Island Secretariat is the main coordinating agency for these negotiations has fostered distrust among individual Pacific Island States about the Forum's agenda and accusations of empire building. Meanwhile, Forum Secretariat staff are over-stretched and working to a mandate that requires them to perform complex tasks to meet impossible time-lines.

Despite the unprecedented 'openness' provided for in Cotonou, a democratic deficit pervades every step of the negotiating process. A handpicked Trade Experts Advisory Group, organised by the Forum Secretariat, considers reports from selected consultants and provides advice to an inner circle of Ministers and senior officials from the region. They report to national governments that have a twice-yearly opportunity for input.

Many governments operate the same way at the national level, organising and drawing selectively from consultations with government-approved 'non-State actors', who respond to an agenda that is largely set by the Forum Secretariat. 'Non-State actors' combines the pro-market private sector (including local affiliates of foreign firms) with trade unions, social justice activists, environmentalists, consumer groups and others, most of whom are critics of a market-driven 'development' model. There is no space for their critique to be taken on board. Their participation risks legitimising an unacceptable set of negotiations; but there are also signs that their challenges are prompting caution and second thoughts from some Pacific Islands governments.

The Pacific negotiating strategy is designed to minimise the risk that it will trigger an obligation to negotiate a comparable free trade agreement with Australia and NZ under the Pacific Agreement on Closer Economic Relations (PACER). Pacific Islands governments belatedly recognise that this could have a devastating fiscal, economic, social and developmental impact. Creative attempts to convert this defensive strategy into an opportunity, by asking the Europeans to fund a limited and focused development programme, seems unduly optimistic. So is the expectation that European countries will pay for the Pacific Islands to 'adjust' to global market policies when most of that cost would arise from PACER. Yet there is no obvious fall back position.

Whatever the outcome, the Pacific Islands will face negotiations for a reciprocal free trade treaty with Australia and New Zealand under PACER in 2011. There is a suggestion that the Islands should minimise the damage and maximise their leverage by initiating these ahead of negotiations with the EU. This assumes that a progressive development agenda is possible under PACER; but PACER embodies the same WTO-compatible neoliberal 'development' model as Cotonou. Nor is it likely that Australia and NZ will abandon the self-interest they displayed during the PACER negotiations. The only effective way for Pacific Island governments to escape from PACER is to exercise their right to withdraw en masse. They should do the same with PICTA and restart the regional integration process based on sound development principles.

Neoliberal globalisation – free trade – structural adjustment – is designed to serve the interests of rich and powerful countries, companies and individuals. It seeks to impose a fundamentally unsound anti-development model on the Pacific Islands. The peoples of the Pacific must have the space and opportunity to define their own development agenda, as the Pacific Islands churches in *Islands of Hope* have called for.

21 The Pacific Negotiating Context

Where do the European Union negotiations fit in the bigger picture for the Pacific Islands?

The Pacific Islands are currently drowning in a sea of burdensome trade negotiations and agreements:

WTO Doha Round: Fiji, PNG and the Solomon Islands are WTO Members. As part of the ACP Group and the 'Group of 90' (African, ACP and Least Developed) countries in the WTO, they have been trying to influence the current Doha Round of negotiations. They have also formed a group of Small Vulnerable Economies to put their unique problems on the agenda. This has attracted a lot of rhetoric, but there is no realistic prospect that they will gain any significant concessions, and certainly none that will outweigh the burdensome new obligations the rich countries are demanding of them. In addition, Fiji is trying to defend its sugar exports after a WTO Dispute Panel found that Europe's sugar regime, including the Sugar Protocol, breached WTO rules and the European Union announced plans to bring sugar under its Common Agricultural Policy.

"This process is not of our making, but we cannot sit here and do nothing while the foundations of our economies are being removed."
(Noel Levi, Pacific Islands Forum Secretary General, 1999)

WTO accession: Three other Pacific ACP countries – Samoa, Vanuatu and Tonga – are in the process of trying to join the WTO. Vanuatu actually completed its accession in 2001, but realised just before it was due to sign that the price the rich countries had extracted (especially the US, but also Australia and NZ) was too high. They recently reactivated the accession, but have asked the US to re-negotiate their commitments on services - which seems extremely unlikely. The Tongan government hasn't learnt any lessons from what happened to Vanuatu. It is offering even more excessive commitments, whose implications it doesn't understand and which it doesn't have a hope of implementing without massive economic, social and political upheaval. People in Tonga have no idea of what is really going on. The Samoan government has been watching all this and is proceeding slowly and cautiously.

APEC: The only Pacific Island that is formally a member of Asia Pacific Economic Cooperation (APEC) is PNG – and that was as a trade-off in 1992 for Chile being allowed to join. APEC's driving goal is to achieve free trade and investment across APEC member 'economies' by 2010 for the richer ones and 2020 for poorer ones. This target is voluntary and non-binding and few APEC members take it very seriously, although Australia and NZ use it to justify their free trade agendas. APEC requires member 'economies' to submit Individual Action Plans that set out how they will achieve the 2010/2020 goal, and to sign up to Collective Action Plans. PNG's Individual Action Plan commits future governments to a range of neoliberal policies, including privatisations; this seems bizarre when PNG is already in breach of its binding commitments on tariffs at the WTO, and its structural adjustment policies are often derailed because of the political and social chaos they create.

***MSG*:** The Melanesian Spearhead Group (MSG) Trade Agreement was created by PNG, the Solomon Islands and Vanuatu in 1993. Fiji joined in 1998. It potentially applies to nearly 200 products, but all members (except Fiji) have 'negative lists' that exclude over a quarter of these from coverage. Vanuatu and the Solomon Islands effectively suspended their commitments in 2002, citing crises with their revenue. Exporters complain that the agreement has not produced the benefits they expected. Failure is blamed by some on the rush to sign an agreement when countries were in no position to comply, and by others on instability and the lack of government resolve to address their domestic economic problems. Despite this, the agreement is still promoted by MSG members as a small-scale, gradual and Island-only approach to free trade that should form the basis of broader regional agreements.

Compacts of Free Association: The Federated States of Micronesia, the Marshall Islands and Palau all have preferential access for their goods to the US. That is their main export market, as well as a major source of imports. The terms of the Compacts require the three States to extend to the US any preferences they give to any other country – so joining PICTA, PACER or a Pacific EPA would have a major impact. Their entry to PICTA and PACER has been deferred for 3 years so they can explore the options with the US.

SPARTECA*:* Since 1981 Australia and NZ have given (one-way) trade preferences to exports of goods from the Pacific Islands (except the Compact States) under the South Pacific Regional Trade and Economic Cooperation Agreement (SPARTECA). These have provided vital lifelines, but also reinforced the Islands' dependency on Australia and NZ as markets. Radical tariff cuts by Australia and NZ are making those preferences worthless. The exception is the garment sector where tariffs still exist. Fiji's garment industry was built around these preferences and depends on a special short-term concessionary arrangement with Australia. That expired in 2004 and, after intense negotiations, was renewed for seven years, until 2011 – when negotiations under PACER have to begin.

The Pacific Island Countries Trade Agreement (PICTA*)* is limited to the Forum Island Countries (FICs). It only covers trade in goods, although there are currently moves to extend it to services. PICTA requires

progressive cuts to tariffs that will achieve free trade in goods within 8 years (2011) for the 'developing' States (Fiji, PNG and Tonga) and 10 years (2013) for the rest. Sensitive products can be protected until 2016. Each country has a schedule of tariff cuts and sensitive products. Alcohol and tobacco were exempted until 2005 pending an assessment of the revenue impacts of including them. Nine countries originally signed PICTA in 2002. It came into force on 13 April 2003 after being ratified by 6 of them. As of December 2004 the Cook Islands, Fiji, Niue, Samoa, Tonga, Solomon Islands, PNG, Nauru and Kiribati were members. Tuvalu and the Compact States had not ratified. The Vanuatu government had gazetted its accession, but not formally notified the Forum Secretariat. Legally, any or all Pacific Islands governments can withdraw with 6 months notice.

PICTA was promoted as a 'stepping stone' to bigger agreements. But the costs of implementation will be huge, with little or no economic return because there is not much trade between the Islands. Fiji is expected to be the main beneficiary, as firms are likely to centralise production there. But recent analysis shows that many of Fiji's exports to the other Islands are re-exports; these would not satisfy the Rules of Origin to receive duty-free treatment under PICTA. Any gains to Fiji from relocation would also be short term if free trade deals with other countries (especially Australia and NZ) opened the door to more competitive products and if exporters centralised their production in those countries.

"A practical or economic interest of ours was to ensure that, whatever trade liberalisation occurred between island countries, if it were extended to other states such as ... the EU, it did not disadvantage our trading position."
(Australia government evidence to Australian Parliamentary Committee, 2002)

The Pacific Agreement on Closer Economic Relations (PACER) is open to all members of the Pacific Island Forum, including Australia and NZ. PACER guarantees Australia and NZ that the Islands will enter into reciprocal free trade negotiations no later than 2011 - *or earlier if triggered by one of several developments, including negotiations for a free trade agreement on goods with the European Union*. A separate Annex provides for a trade facilitation programme which Australia and NZ agreed to part-fund. That is the only concrete benefit to the Islands from PACER. However, the amount Australia and NZ have been prepared to pay is much less than the Islands expected. After holding out for almost a year, Fiji and PNG agreed to accept what was on offer, with a vague commitment to more later. PACER came into force in October 2002 after being ratified by Fiji, Australia, NZ, Cook Islands, Samoa and Tonga. Kiribati, Nauru, Niue, PNG and Solomon Islands have since joined. Vanuatu, Tuvalu and the Compact States have not. Legally, any or all Pacific Islands governments can withdraw with 6 months notice.

Why did the Pacific Islands end up with PICTA *and* PACER?

Australia and NZ initially demanded that they be included in any Pacific regional trade agreement. When the Islands discovered this would require massive tariff cuts within 10 years they said 'no'. After some outrageous bullying, they agreed to a two-tier approach that portrays PACER as the superior 'umbrella' agreement under which the Island-only PICTA sits. This bought them time before they had to negotiate anything concrete with Australia and NZ, and only promised to negotiate - not to conclude - a free trade agreement. But Australia and NZ had secured enough leverage to require a further round of negotiations, sooner or later. Their demands will be difficult to fend off a second time, especially if they are based on parity with what the Pacific Islands give the European Union. The fiscal, economic and social impacts of making parallel concessions to Australia and NZ will be huge.

Why did the Pacific Islands make all these deals?

When the Forum Secretariat was established in 1991, it was mandated to investigate the development of free trade among Forum Island Countries. By 1997 the globalisation bandwagon was moving at full speed. There was huge pressure to get on board or be left behind. The proposal for a Pacific Regional Trade Agreement was tabled at the Forum Economic Ministers Meeting in July 1997. They instructed the Secretariat to report to the 1998 meeting with options and a framework that gave '*due regard to benefits from preferential and non-preferential approaches, taking into account the need for WTO consistency, and differing speeds at which [Forum Island Countries] could do so*.' That led to the negotiations that produced PICTA and PACER.

Did the European Union play any role in this?

As the Green Paper made clear, the European Commission was looking for a regional entity in the Pacific with which it could negotiate a post-Lomé arrangement. The Forum Secretariat was the main regional organisation, but it includes Australia and NZ and it didn't have a regional economic integration agreement. Other trade agreements covered only some Islands and were limited in scope. So it was in the Commission's interest to support the negotiating of PICTA and reportedly it funded the preparatory process. The European Union also funds the Forum Island Countries' office in Geneva, to help deepen their engagement in the WTO.

22 The Domino Effect of a Pacific EPA

"PACER and the Cotonou Agreement have set in motion a process of negotiation of [free trade agreements] between the [Pacific Island Countries] and the EU and New Zealand, and for providing the United States with similar preferential treatment. The widening of preferential trading arrangements beyond PICTA is inevitable. Only the timing, extent and benefits are uncertain."
(Embarking on a Global Voyage, World Bank, 2002)

Why have the Pacific Islands agreed to negotiations with the European Union?

There are numerous reasons:

- they are members of the ACP Group, and most were parties to Lomé, so they were automatically involved;
- Pacific Islands that trade with the European Union need to protect their interests;
- the Commission portrays aid and trade negotiations as a coherent package and most Islands want the money;
- major donors (Australia, NZ, the ADB/World Bank) would view opting out as evidence of weak governance;
- there is hope that the Islands can secure trade or development assistance that will leave them better able to cope with globalisation than they are now.

What flow-on effects would a Pacific Economic Partnership Agreement have for dealings with other countries?

There are three main effects:

1. Any precedents that are set in a Pacific Economic Partnership Agreement, especially in services, investment and competition, will be used by the European Commission to push other ACP regions into similar negotiations, most of them don't want to. The Commission will likewise use those precedents in the WTO where similar demands have been rebuffed by the ACP countries.

2. The three Compact States have a binding obligation to give the US the best treatment they give any other country (which is called Most Favoured Nation or MFN treatment). Because the Compact States have a low level of trade with Europe a Pacific Economic Partnership Agreement would have a minimal effect on them; but extending the same commitments to the US, which is their main trading partner, could have a massive impact.

3. The Pacific ACP states who are signatories to PACER (all except Vanuatu, Tuvalu and the three Compact States) will face pressure from Australia and New Zealand to extend at least as good treatment to them. Because Australia and NZ are the Islands' major trading partners, the domino effect would be enormous.

What would the domino effects of PACER be?

In a paper on the likely revenue impacts of a Pacific Economic Partnership Agreement, Wadan Narsey said that previous studies under-estimated the tariff loss to the Islands from a similar agreement with Australia and NZ. That is partly because the kind of good imported from Australia and NZ tend to attract higher tariffs, so the loss will be higher, and partly because goods that appear to be Fijian exports are often re-exports of goods imported from Australia and NZ. That means they won't meet the Rules of Origin under PICTA or PACER and will be defined as goods from Australia and NZ.

Can the Islands minimise the flow-on effect of a Pacific Economic Partnership Agreement under PACER?

Narsey stresses the need to calculate the revenue effects of each negotiating option for the European Union *and* Australia and NZ. The Pacific Islands could minimise the impact of removing tariffs on trade in goods if they:

- convert duties on imports to excise taxes that would apply to similar local goods. This could be defended under the WTO rules for 'sin' goods (alcohol and tobacco) and health-damaging products (sweet processed food and fatty meats) and possibly for luxury items (justified as an equity measure). Because most of these products are imported the taxes could still be collected at the border, just as tariffs are now. The impact on local producers would be limited;
- raise revenue through an increase in Value Added Tax (VAT). Countries that don't have VAT should introduce it, with a high threshold so that small businesses don't need to provide returns, but with few exceptions to ensure simplicity and reduce avoidance. The regressive effect of a VAT, which takes a higher proportion of income from the poor than tariffs usually do, could be countered if governments spent more of their revenue on meeting poor people's basic needs;
- introduce an income tax where the country doesn't have one (meaning Vanuatu); and
- convince the European Union to provide compensatory finance.

23 Avoiding PACER's Triggers

What are the triggers that could spark negotiations with Australia and NZ under PACER?

PACER could be activated by negotiations with the European Commission in two ways - either

1. *one* Forum Island Country that has signed *PACER* begins formal negotiations for a free trade agreement in goods with the European Union, as defined by GATT Article XXIV (covering substantially all goods within a period normally of 10 years). That trigger is in Article 6(3) of PACER; or
2. *all* the Forum Island Countries who are parties to *PICTA* jointly begin negotiations for such an agreement with the European Union. That trigger is in Article 6(4) of PACER.

So the PACER triggers are very precise about what is being negotiated and by which countries?

Yes. The two relevant articles have a complex mixture of requirements:

The ***Article 6(3)*** trigger is activated when any Island that has ratified PACER begins formal negotiations with the European Union for a free trade agreement in goods. At present, this affects

- the Cook Islands, Fiji, Kiribati, Nauru, Niue, PNG, Samoa, Solomon Islands or Tonga,
- if that country enters negotiations with the European Union *and*
- they have reached the stage of formal negotiations *and*
- the negotiations are for a free trade agreement in goods as defined by GATT Article XXIV.

Article 6(4) is activated when all the parties to PICTA jointly commence negotiations for a free trade agreement in goods with the European Union. At present, this affects

- the Cook Islands, Fiji, Kiribati, Nauru, Niue, PNG, Samoa, Solomon Islands and Tonga,
- if *all* of them are involved in negotiations with the European Union *and*
- they all negotiate jointly *and*
- those negotiations have commenced *and*

the negotiations are for a free trade agreement in goods as defined by GATT Article XXIV.

"By locking in a significant regional trading arrangement with Australia and New Zealand, the Forum Island Countries would give a powerful signal to business that intervention and assistance is not likely and would be most difficult to change."
(Stoeckel, 1998)

If PACER's trigger is pulled, what are the Islands that signed PACER required to do?

They are obliged to '*offer to undertake consultations as soon as practicable with Australia and New Zealand, individually or jointly, with a view to the commencement of negotiation of free trade arrangements*'. But there is no time frame to start or complete those negotiations – nor that an agreement is concluded.

What if some or all the signatories to PACER pull out of negotiations with the European Union?

Their obligation to negotiate with Australia and NZ ends if the negotiations that triggered it are discontinued. That would also avoid the second trigger, because *all* PICTA members would no longer be involved. The Commission has always said that each country can make its own decision. But the whole focus is on regional integration, so it would be pretty unhappy if some Islands opt out and rely on Everything But Arms, especially if they still want to access the European Development Fund grants.

What effect would pulling the trigger have on Islands that aren't parties to PICTA or PACER?

Those that haven't signed PICTA or PACER don't have to enter any negotiations with Australia/NZ, even if they sign an Economic Partnership Agreement with the European Union. The same applies to any Islands that decide to withdraw from PACER and/or PICTA, which they can do at six months notice.

Is withdrawing from PICTA and PACER a realistic option?

If one or two did so, they might rightly fear the repercussions. But if all the Islands withdrew en masse they would put huge pressure on Australia and NZ to back off and explore something different. Renegotiating PICTA is certainly possible as there is much more flexibility in the WTO's so-called Enabling Clause than PICTA took advantage of.

When do Australia and NZ believe the triggers would be activated by the Cotonou negotiations?

Initially they said formal negotiations between the European Union and Pacific Islands members of the ACP began on 27 September 2002, when Phase 1 of the Cotonou negotiations started, so the Forum Island parties to PACER should have entered into consultations with Australia and NZ then. But they trod more carefully than they did during the PICTA/PACER negotiations, and appealed to the 'spirit' of PACER, and the 'spirit' of the Forum rather than to legal arguments. They wanted a two-phase process, starting with preliminary consultations

to establish probable coverage, content, procedures and administrative aspects of future negotiations. Discussions on process would have been followed by preliminary negotiations on fisheries, tourism, investment and trade facilitation, safeguards, dispute settlement and rules of origin. Market access issues would have been dealt with in a second, later stage of negotiations, in parallel with the Cotonou time frame.

How did the Pacific Islands respond?

They refused even to have an informal dialogue with Australia and NZ about their negotiations with the Europeans, let alone agree to a proposal for parallel negotiations. This was partly because they feared what negotiations under PACER might mean; they were also angry with Australia and NZ over the amount of funding being offered under the trade facilitation part of PACER.

What is the situation now?

Tensions were defused when the European Trade Commissioner Pascal Lamy called into Wellington on his way to launch the Pacific Economic Partnership Agreement negotiations in Nadi in September 2004 and into Canberra on his way home. Who knows what was discussed behind the scenes, but presumably he promised to keep both countries informed. That is unlikely to be enough for Australia and NZ, who will want to insist that negotiations with the European Union were formally launched in September 2004 and should be with them too; but they are still discussing what to do next.

Can the Islands argue that formal negotiations have not yet begun?

There are at least four possible arguments:

1. the current negotiations with the European Commission are not formal negotiations for a free trade agreement in goods as defined by GATT Article XXIV. The first phase, until January 2007, is to negotiate a framework agreement and does not require WTO approval – rather like PACER. Formal negotiations to convert this framework into a formal legal text don't begin until 2007.
2. the formal legal negotiations in 2007 may never result in a free trade agreement in goods as defined by GATT Article XXIV. The Islands might opt instead for agreements on specific commodities, such as sugar and fish, and on non-goods areas such as services or investment that wouldn't trigger PACER.
3. it is impossible to know until the end of the legal negotiations in 2007 which, if any, Forum Island Countries may end up signing a free trade agreement in goods as defined by GATT Article XXIV or whether all PICTA members will sign. Some may prefer the Everything But Arms or the General System of Preferences, rather than the final deal, when they see what the European Union will agree to.
4. the obligation under PACER arises 'as soon as practicable'. The burdensome demands of the Pacific Economic Partnership Agreement negotiations, the WTO Doha round, implementation of PICTA and the MSG trade agreement mean it is not practicable to begin consultations with Australia and NZ until after the Cotonou negotiations are concluded.

"PICTA and PACER are instruments to lock the Pacific Islands into an unjust trade regime that will see their national economies systematically opened to suppliers of goods (and eventually services and investment) from around the globe."
(PANG, 2002)

What leverage can Australia and NZ use to push their demand?

They don't have the same leverage that the European Union has with the end of the Lomé preferences. Australia and NZ promised to continue to apply SPARTECA and any other market access arrangements with any Forum Island Country until they conclude a new or improved arrangements which gives that Island equal or better market access. On the other hand SPARTECA's value keeps falling as Australia and NZ remove their tariffs on imports from other countries and enter more free trade deals with other countries.

Would the Islands have to offer Australia and NZ the same as they give the European Union?

There is no formal obligation to do so. There has been a general expectation that they would, based partly on the special status of Australia and NZ as Forum 'partners' and partly on the 'most favoured nation' principle that countries should be offered the best treatment that is given to any other country.

Are the Forum Islands off the hook with Australia and NZ if they avoid pulling the triggers?

No, it would just delay the inevitable. Parties to PACER *must* begin negotiations with Australia and NZ in 2011 '*with a view to establishing reciprocal free trade arrangements'.* Australia and NZ will be determined to secure at least as good treatment as the Pacific Islands give the European Union and probably much more.

24 Common Cause: Australia/NZ & the EU

Are the European Union and Australia/NZ competing with each other in the Pacific?

At one, level they have very different interests in the Pacific.

For the European Union, the Cotonou Agreement is about renegotiating its relationship with Africa. It has little interest in the Pacific, aside from fisheries. That could mean the Commission is prepared to strike a minimalist deal with the Pacific ACP countries in a few areas of genuine mutual benefit. But if it did, it would also want to minimise any ongoing aid obligations. Weighed against that, the Commission will want to avoid creating any 'soft' precedents for other negotiations, to advance its quest for binding international rules on investment and competition, and to secure compromises that weaken the ACP bloc at the WTO.

Australia and NZ will be determined to make sure the European Union doesn't steal a march on them, politically and economically, in their only real sphere of influence. Any access the Europeans get, they will want too. But they will not want to be limited to that if the European Commission settles for very little.

So both major palyers are pursuing their own interests?

Yes. Sometimes their goals conflict. But fundamentally Australia/NZ and the Europeans are playing the same game. Both PACER and the Cotonou Agreement reach beyond traditional free trade agreements to cover broad economic policy, in the name of 'economic integration' and 'economic and trade cooperation'. The power imbalance they both enjoy will allow them to establish precedents that advance their own negotiating agendas, while they protect any elements of concern to themselves. Both insist that reciprocity will benefit the Pacific Islands more than the current preferential arrangements do – even though reciprocity gives them more extensive market access to the Islands without having to make any additional concessions in return. Both are strong advocates of the WTO as being good for poor countries and as WTO Members they can require any agreements they negotiate to be WTO-compatible, effectively extending the reach of WTO rules to those Pacific Islands who are not WTO members.

"The credibility of reforms may be increased if they are locked-in with a regional or multilateral agreement. ... While PICTA may not be able to serve as the lock-in mechanism, this role could be played by the EU, Australia and New Zealand in [Regional Trade Agreements] with the PICs."
(Global Voyage, World Bank, 2002)

Is this shared agenda reflected in the PACER and Cotonou Agreements?

The rhetoric of PACER and Cotonou are strikingly similar. Both

- invoke the term 'partnership' despite the glaring inequalities of economic weight, aid dependency and negotiating capacity between the major powers and the Pacific Islands;
- promise to address poverty, deliver sustainable development and facilitate the gradual integration of Pacific Islands into the world economy through a model of trade liberalisation and structural adjustment that has deepened poverty and debt in most poor countries, including in the Pacific;
- insist that the Pacific Island states will remain fully sovereign in determining their own future pathways, while binding them to neoliberal policies that can be enforced by potentially crippling trade sanctions;
- promise a 'stable and democratic political environment' when those same policies are shown to have created instability and conflict in numerous ACP countries; and
- promote good governance, while denying Members of Parliament, voters, trade unions, NGOs and other critical voices the democratic right to reject the neoliberal 'development' agenda and choose their own economically, socially and culturally appropriate development pathways.

Which is more arrogant towards the Pacific: Australia/NZ or the European Union?

Both the European Commission and Australia/NZ display the colonial arrogance of knowing what is best for the Pacific Islands and claim that self-serving policies are really in the interests of their former colonies. But Australia and NZ - especially Australia - seem to be more abrasive. The power politics of the PICTA/PACER process were notoriously bad.

How are the European Union and Australia/NZ likely to reconcile their interests?

If the Pacific Economic Partnership Agreement negotiations did conclude in 2007, and the Islands still did not accept that PACER had been triggered, Australia and NZ would probably treat any commitments that were made to the EU on industrial and agricultural commodities, services, competition and intellectual property as the floor from which to start their own negotiations in 2011. They would probably welcome any protection for investments that Europe secures. But they would be nervous about any precedent on temporary entry for

unskilled services workers into the European Union - few Pacific Islanders are likely to travel to Europe, but many would want to enter Australia and NZ under a similar deal. They would also want to limit the extent of funding to support the Islands' adjustment to new trade rules, so they might follow the European example and tie their aid and 'compensation' more tightly than now to the adoption of economic and trade policies through 'good governance' conditionalities. They may also be interested in the symbolic and strategic role of the Council of Ministers and the Joint Parliamentary Assembly, given the proposals for a Pacific Economic Community that are being promoted from Australia.

Is it certain that the Cotonou negotiations will continue to take priority over PACER?

Two factors seem to ensure that:

1. access rights, quotas and guaranteed prices will end in January 2008 when the WTO's temporary waiver for Lomé expires. There is an understandable desire among Pacific Island governments who depend on the Lomé preferences to have some certainty about what will replace them;
2. there is a (dangerous) tendency to view the European Development Fund as a pot of gold that the Pacific Islands can continue to access, without paying too high a price in return.

"When it comes to trade, there is no 'special relationship' with the Pacific. The negotiators do a group hug, then put their Geneva hats on."
(NZ government representative, 2004)

Might there be some benefit for the Islands in negotiating with Australia and NZ first?

That possibility has been strongly advocated by Wadan Narsey. He argues that

- there is not a lot of trade between the Pacific Islands and Europe, so the loss of tariff revenue and accompanying adjustment costs will be limited, except perhaps in sugar;
- the European Union has little to gain from an Economic Partnership Agreement with the Pacific Islands, especially if Fiji decides to deal with sugar separately and the fisheries-rich countries do the same;
- even if those sectors are included in a Pacific Economic Partnership Agreement, the Commission is unlikely to agree to provide large amounts of new aid;
- the much more serious impact on tariff revenue and adjustment costs for the Islands will come from replicating the Pacific Economic Partnership Agreement commitments to Australia and NZ under PACER;
- there is no reason why the European Commission would agree to cover adjustment costs that come from such an agreement with Australia and NZ, especially when it gains little in return;
- once the Pacific ACP governments have struck a deal with European Union, they will find it difficult to refuse Australia and NZ at least as favourable terms;
- if they negotiate with Australia and NZ after they have finished with the European Union, they will have given away any bargaining chips that they might have to limit their exposure and to leverage their demands for significant adjustment funding to compensate for the effect on them;
- the Pacific Islands' future lies in a regional relationship where Australia and NZ will be the dominant players;
- so the Pacific ACP governments should initiate negotiations with Australia and NZ as a priority, target key areas of interest – especially temporary entry for service workers - and seek substantial compensation in return.

"The Howard Government has proposed a radical plan for Pacific nations to adopt the Australian dollar, amalgamate key services and set up a regional unit to fight transnational crime and terrorism."
(The Age, 18 August 2003)

Is this a realistic option?

Wadan Narsey is right that there is no reason for the European Union to provide significant adjustment funding to compensate the Pacific Islands for the effect of PACER, especially given the marginal place of the Islands in the European Union's geo-political game plan. But the suggestion that negotiating first with Australia and NZ would be a better option is unduly optimistic. Australia and NZ are certainly more interested in the Pacific Islands, but for their own economic, security and diplomatic reasons. Their domineering behaviour during and after the PACER negotiations, and in the WTO accessions of Samoa, Tonga and Vanuatu, bears out the observation offered by one NZ government representative – that 'when it comes to trade, there is no special relationship with the Pacific'. Moreover, PACER's neoliberal policy agenda and requirement of WTO-compatibility doesn't provide the kind of flexibility that would be needed to achieve the outcomes that Narsey is aiming for.

25 A Lack of Capacity

Who is negotiating the Pacific Economic Partnership Agreement with the European Commission?

This is an international treaty, so the formal parties are the 14 States who are members of the Pacific Islands Forum – that is the original 11 Islands that were parties to the Lomé Convention, plus those that signed on to the Cotonou Agreement. In practice, however, the Forum Secretariat as the regional economic integration organisation is the coordinating body, and committees conduct the actual negotiations.

How are the negotiating committees organised and who is on them?

There is a hierarchy of committees that involve ministers and senior officials, with Ambassadors and expert advisers on the side (see Annex III). Each has a different role:

- the Leaders from all Pacific ACP countries are formally in charge and approve the negotiating mandate;
- the Ministers of Trade from all the Islands decide on questions of policy;
- an inner circle of Ministers, known as the Regional Negotiating Team, meet with European Commissioners to resolve any political and policy matters (the Pacific Ministers are from Fiji (lead), Samoa (alternate) and the Cook Islands, Marshall Islands, Palau, PNG, Tonga and Tuvalu);
- technical negotiations are conducted by Negotiating Groups on specific issues. Each is led by a senior Pacific trade official with senior officials and other experts as members;
- all these levels receive advice from a Trade Experts Advisory Group, the Forum Secretariat and in the case of fisheries, from the Forum Fisheries Agency;
- the Pacific Islands Ambassadors to the European Union are expected to keep a watching brief at the Brussels end and to liaise with Ambassadors from the non-Pacific ACP countries.

"In some countries Trade Ministries lack even basic equipment such as computers and vehicles, while human resource capacity in trade negotiations is stretched so thinly as to be virtually invisible."
(EPA Shadow Newsletter no.1, 2004)

Who has the power in this negotiating structure?

Most of the critical negotiations will be one-on-one between the Commission's lead official, Karl Falkenberg, and the chair of the Pacific ACP Negotiating Group Isikeli Mataitonga, formerly Fiji's Ambassador to Brussels and now Chief Executive of Fiji's Ministry of Foreign Affairs and External Trade.

How was it decided which Ministers would be on the Regional Negotiating Team?

They were asked to volunteer at a meeting. Reportedly, there was no great enthusiasm and some participants had to be press-ganged. Later, other governments decided they wanted their particular interests represented (eg Tuvalu as a Small Island State) and they were added. Now over half the Islands are there. Some of those who aren't represented are beginning to worry about how they will remain informed and influence the process.

What roles does the Forum Secretariat play?

The European Union insists this is a regional negotiation. On the European side, the European Commission will negotiate for all its member countries through its trade directorate. There has to be a comparable single body for the Pacific; that is the Forum Secretariat. Under the Pacific Regional Economic Integration Strategy, the Forum has been given the responsibility and funding to commission studies, provide advice, conduct training and workshops, and service the negotiations. In practice, the Forum proposes the negotiating strategy and oversees the negotiations. This has fuelled accusations that the Forum is usurping the role of sovereign governments and using the Cotonou negotiations to expand its empire. That suspicion has been reinforced by the process for developing the draft Pacific Plan, whereby the Forum and its advisers are seen to be framing proposals that will shape the future of the region.

How do the Forum staff see the situation?

They seem equally frustrated. The Secretariat is incredibly bureaucratic and pedantic. The timetable for the negotiations, set out in the 'Road Map', is impossible. Getting funding from the Commission has taken so long that the staff are struggling to deliver what they've been instructed to do. They concede that they have focused on developing the regional strategies and capacity, mainly through their Trade Experts Advisory Group, at the expense of the national level, because that was the easiest thing to do.

Who and what is the Trade Experts Advisory Group?

'TEAG' is a think tank set up by the Forum Secretariat several years ago to help develop strategy and prepare background research. They are invited individuals from government, consultants, academics and the private

sector acting 'in their personal capacity'. Because they are not representatives they are not accountable to anyone. Their discussions and reports are 'confidential' until they are released by the Forum – usually after decisions have been made, and sometimes not then. In one sense this is understandable because the Pacific side doesn't want to show its hand to the Commission. But it also means that the key studies and discussions on strategy are shielded from critique and other perspectives can't be heard. That is especially important when government advisers and politicians depend so heavily on the advice and analysis of TEAG.

Is there any 'civil society' representation on TEAG?

When TEAG was first created there was a discussion with the regional NGOs, who agreed that Pacific Concerns Resource Centre would provide a member from 'civil society'. The NGOs intention was to provide input in and information out. But the 'civil society' representative has not been invited to all TEAG meetings and receives the documents too late to consult other NGOs to develop a common position - something that sits uncomfortably with TEAG's confidential way of working anyway. There are no resources for this work, either. All this undermines the ability of 'non-state actors' to have genuine input into the decision making process.

"The lack of socio-economic and political analysis of the sub-regional challenges and dynamics ... is worsened by little scrutiny from member-states coupled with their seemingly passive attitude that results in surrendering the whole process to the coordinating regional secretariat."
(Richard Kamidza, SEATINI 2004)

Does the European Commission give the Pacific governments funding to help with the process?

The Commission has provided E200 million for ACP 'capacity building'; the Pacific got E29 million. E12 million has been allocated to 'trade-related' assistance under the Pacific's Regional Economic Integration Plan to fund studies, technical expertise and meetings. Most of this goes to regional organisations, especially the Secretariat. Any further money that comes from the mid-term review of the European Development Fund in 2005 is also likely to go through the Forum. Although a new capacity building fund for all trade negotiations 'TRADE.COM' came on stream in 2004, that and other Commission money is administered through the Development Directorate, which has complex approval processes and moves very slowly. The recent changeover of Commissioners for both Trade and Development means more delays as they settle in.

So how can national governments stay on top of the issues during the regional negotiations?

They are supposed to feed in to the decisions through their Ministers and officials at periodic regional meetings. However, the channels of communication are problematic. Information often doesn't find its way to the most appropriate ministries and staff. There are also serious capacity problems. Governments complain that most money goes to the Forum Secretariat, when they need funding to develop their own capacity so they can play an active and informed role. Some have no trade policy. They have few – sometimes one – staff to cover the whole array of trade negotiations, as well as other projects, who often struggle with the complexities. High turnover means loss of institutional memory and skills. So pragmatism prevails and they do what they can.

Is there any effective way to support national governments?

The Commonwealth Secretariat has created a scheme that 'lends' advisers to governments to 'champion the rights' of their host countries. This 'hub and spoke' project provides a senior adviser at the regional level and recent graduates to national governments. The Pacific's 'hub' was appointed to the Forum Secretariat for two years, starting in July 2003. With 6 months to go he still hadn't been able to develop the trade policy programme because the Commission had only just been released the funding. The Pacific 'spokes' were allocated to Fiji, PNG, Vanuatu, Tonga and the Forum Secretariat. They arrived in late 2004 full of enthusiasm and goodwill. But most of them are just out of university and few know anything about the countries they are meant to 'champion'.

Given all this, is the Commission prepared to extend the December 2007 negotiating deadline?

No, the clock keeps ticking, making a mockery of the rhetoric about development. The Commission says the timeframe is driven by external factors – when the WTO waiver expires – and its adamant that it won't seek a further renewal. If more time is required, the best it is likely to offer is a bridging arrangement that other WTO Members won't object to – which means negotiations will need to be making progress towards satisfying the GATT Article XXIV requirements. No one is prepared to discuss this up front because it would make missing the deadline almost inevitable. Pacific Island governments could refuse to play the game on these terms, but none of them seems prepared to. So their officials and Secretariat staff will work to the current mandate until someone blows the whistle.

26 The Joint Road Map

What is a Road Map?

The *Pacific ACP - EC EPA Negotiations Joint Road Map* sets out the agreed principles, processes and general content for the negotiations. It was released when regional negotiations between the European Commission and Pacific ACP States were formally launched in Nadi on 15 September 2004. The Islands also have their own Road Map based on their Regional Negotiating Strategy, Regional Negotiating Guidelines and Pacific Regional Action Plan.

Are there principles in the Joint Road Map that the Pacific Islands might use to their advantage?

Cotonou is premised on a market-driven model of development. It is unrealistic to think the European Commission's rhetoric can be twisted to achieve something different – especially when Pacific Island governments don't have a clear alternative development model. Bearing that in mind, the main principles the governments might seek to rely on are:

- the overall objectives shall be the sustainable development of the Islands, their smooth and gradual integration into the global economy and contributing to poverty eradication among their people;
- the aims and objectives of economic and trade cooperation between the Pacific ACP States and the European Commission include enabling the Pacific Islands to play a full part in international trade, to manage the challenges of globalisation, and to adapt progressively to new conditions on international trade in a manner and at a pace that is conducive to their overall economic and social development;
- the Economic Partnership Agreement must be an instrument for development and the development dimension must be reflected in all areas of negotiations;
- the Economic Partnership Agreement will take into account the specific and special economic, social, environmental and structural constraints of the Pacific ACP States, as well as their capacity to adapt their economies to the regional economic integration process;
- the negotiations will be designed to complement and support regional integration processes and programmes;
- the pace of liberalisation of trade will reflect the degree of regional economic integration and be realised in a flexible and asymmetrical manner;
- the Economic Partnership Agreement will preserve and improve the existing preferential access into the European market, and all Pacific ACP States participating in the Economic Partnership Agreement should be better off following the negotiations;
- under the Economic Partnership Agreement, special and differential treatment should be provided to all Pacific ACP States. This should take into account the particular constraints of Least Developed Countries and the Smaller Islands States and their need for special treatment to enable them to overcome the serious economic and social difficulties that hinder their development;
- the way in which special and differential treatment is incorporated in an Economic Partnership Agreement may go beyond existing WTO measures;
- flexibility will be built into the broadly agreed framework to allow individual countries to adjust the pattern and schedules for implementation in ways that are consistent with their national circumstances, while still pursuing the objective of regional integration;
- the Economic Partnership Agreement shall contribute to establishing specific provisions and measures to support Pacific ACP States in their efforts to overcome the natural and geographical difficulties and other obstacles that hamper their development.

"The EU's role in the new division of labour will be to act as the soft environmentally friendly and politically correct underbelly of the IMF/World Bank liberalisation policies."
(Grynberg 1997)

Is the Commission prepared to recognise the flow-on effects of PACER and the US Compacts?

Yes, although it doesn't name them. Rather surprisingly perhaps, the Road Map recognises the Economic Partnership Agreement 'may have important implications' that 'will need to be reflected in all areas of the negotiations' to ensure that the agreement in itself, and in the context of other trading commitments (PACER and the US Compacts), 'constitutes a significant net contributor to the development of the Pacific ACP States'.

Is the Commission prepared to come up with additional funding for the Pacific?

In line with the all-ACP position, Pacific Islands want more funding than that provided in the European Development Fund for 'adjustment' costs. They have designed an integrated trade and development package that tries to put the development dimension at the centre. While the Joint Road Map recognises the Islands would need financial assistance to meet 'significant adjustments', it only says that all the existing Cotonou funds and complementary resources from European Union Member governments and other sources will be used.

Is there a timetable for negotiations?

They will be in 2 stages: (an interim, but already outdated, timetable is in Annex II)

Stage I***. October 2004 to December 2006*** will aim to reach substantive agreement on the basic principles and elements to be integrated into an Economic Partnership Agreement, its structure and most points of detail;

Stage 2: ***January 2007 to December 2007*** will finalise any outstanding issues and translate Stage 1 into a binding legal text.

"Only when regional integration is well established, should we pursue a second phase where the objective involves reciprocal access for EU goods and services. Then, at the very end of this negotiating process, comes full integration into the global trading system – but only after lengthy periods of transition."
(Peter Mandelson, EU Trade Commissioner, December 2004)

Does the Road Map indicate how the Islands plan to avoid pulling PACER's triggers?

You have to read between the lines. PACER is only triggered by negotiations on trade in goods, and trade in goods is not explicitly mentioned. The 'basic elements' referred to in Stage 1 are '(e.g. investment, fisheries, services, etc.)'. This suggests a plan to negotiate services, investment and specific sectors like fisheries first and to leave any discussion on goods to last – if at all. Other ACP groupings are likely to have concerns about putting services and investment on the table now, as the Commission is likely to use it as a precedent.

Has the European Commission agreed to that approach?

The wording seems deliberately ambiguous. Because the Pacific approach is so different from the other ACP regions, the Commission will also be concerned not to create a precedent on goods for others to use. Indeed, it interprets Article 36 of the Cotonou Agreement as requiring the removal of barriers to trade in goods:

> *The Parties agree to conclude new World Trade Organisation (WTO) compatible trading arrangements, removing progressively barriers to trade between them and enhancing cooperation in all areas relevant to trade.*

What if the Europeans say no to the Pacific's plan?

If the Commission rejects these proposals, the Pacific ACP strategy will be in trouble because all energies and resources seem to have been ploughed into developing this plan.

How is the new European Trade Commissioner Mandelson approaching the Pacific negotiations?

Peter Mandelson isTony Blair's former right-hand man, and has a formidable reputation as a political dealmaker and spin-doctor. He has been making lots of speeches that stress development, but key Pacific players suspect he will be like his predecessor Pascal Lamy – the fine words go out the window when the EU's interests are at stake.

Has the Commission indicated that they have any base lines for the Pacific Negotiations?

There appear to be three:

- *regional integration:* in the words of one Commission official 'we can't go anywhere if we consider what is being proposed is negative for regional integration'. Their ultimate goal is to deal with each ACP region as a single entity. For that to happen the Islands would need to go beyond PICTA and to form a customs union in which all the Islands apply a common tariff to imports from all other countries.
- *sustainable development:* this sounds benign, but it says the region will be guided by the best expertise and analysis possible on sustainability issues – *from the IMF and World Bank on trade and poverty and the OECD on investment issues* - and (less worrying) the Forum Fisheries Agency on fish.
- *WTO Compatibility:* this was described by one Commission official as 'a political mantra' - but one on which the Europeans have a more moderate position than other countries, such as Australia.

27 'The Way Forward'

Do ordinary Pacific Islanders know what their governments are proposing?

The strategy documents and most of the background studies are not publicly available. The Forum Secretariat has prepared a helpful glossy booklet called *The Way Forward* that sets out the basics of their position and is now on their website along with the Road Map (but not much else on the Cotonou negotiations).

Does *The Way Forward* identify any base lines for the Pacific Islands side?

Sort of. It says an Economic Partnership Agreement must have a number of general qualities, but stops short of saying the governments won't sign something that doesn't:

- reflect the diversity and specific needs and circumstances of the Pacific Islands;
- promote and support development and trade capacity in fisheries and tourism in all States and agriculture, mining and forestry in those Islands with export interests;
- enhance the ability of Pacific Islands to attract foreign direct investment;
- stress trade facilitation and trade promotion, not simply access to and for the European Union; and
- address the diverse adjustment needs of the Islands.

"The opportunities afforded by the Cotonou Agreement for promoting trade and economic cooperation with the EU are welcomed by the Pacific ACP Group. However, such cooperation must be based on a sound appreciation of regional realities, including the unique situation of Pacific ACP States and their capacity constraints."
(The Way Forward)

How do they deal with the issue of WTO-compatibility?

They try to soften the meaning of GATT Article XXIV (and the counterpart for services in the GATS). They point out that the current Doha negotiating agenda endorses both the Small Economies Work Programme and the review of Special and Differential treatment. They then assume that these negotiations will deliver everything they have been asking for and will therefore form part of the WTO rules *then prevailing* at the time when the Economic Partnership Agreement negotiations end. This was also the ACP's negotiating position in Phase 1 which the European Commission did not support. It is an understandable tactic, but not at all realistic.

What happens to Islands that can't cope with a WTO compatible agreement?

The Pacific Islands plan is to have two levels of agreement:

1. a 'master' or 'umbrella' agreement that sets out the principles to govern the Economic Partnership Agreement relationship, including principles that would govern subsidiary agreements. Because this would not be a free trade agreement itself, it would not have to comply with GATT Article XXIV (the same approach was taken with PACER). It is suggested that all the Pacific ACP States could sign this agreement.
2. a series of subsidiary agreements which countries could join as and if they felt it was appropriate, on:

- Reciprocal free trade in goods (that would have to satisfy GATT Article XXIV)
- Trade in services (that would have to satisfy GATS Article V)
- Trade facilitation and trade promotion
- Investment
- a Fisheries Partnership Agreement
- Tourism
- Agriculture
- Mining
- Forestry.

Would this mean they could avoid an agreement on trade in goods and not trigger PACER?

The idea is to seek deals with the Commission in specific areas of special interest – tourism, fisheries, the sugar protocol, temporary presence of services workers in the European Union – and avoid both the WTO straitjacket and PACER. But the Commission would have to agree to that.

What is the minimum the Pacific Islands are likely to settle for?

They will want more than they could already get from the General System of Preferences or Everything But Arms. It looks like they would walk away from a deal that does not provide two things:

- temporary access for a significant number of semi-skilled and unskilled services workers to Europe; and
- an investment agreement that includes facilities that could encourage foreign investors to the Islands.

28 (No) Goods

"I am convinced that trade, and more specifically EPAs, are crucial tools in our drive for global prosperity and for social justice."
(Peter Mandelson, EU Trade Commissioner, December 2004)

What might a Pacific Economic Partnership Agreement mean for the Pacific Islands?

In the traditional sense of trade in goods, the main concern is to protect the preferential access of Fiji for sugar and PNG and the Solomon Islands for canned tuna. An open door for European products would not have a very significant effect because the amount of trade with Europe is relatively small. . Agreements on services, investment, competition and other 'trade-related' topics would have a much greater impact, mainly by closing the policy choices available to Pacific Islands governments and opening them to sanctions if they tried to retreat from the neoliberal agenda.

What might an agreement on trade in goods provide?

Relying on the Commission's promise of flexibility, asymmetry and special and differential treatment, the Pacific Islands are likely to seek full access for all exports from any Island that signs an agreement on goods, free from duties and quotas, with less rigid Rules of Origin than exist now. In return, they would guarantee the access for a less extensive range of products from the EU over long transition periods. They will also want financial assistance with the 'adjustment' costs, including fiscal reform to compensate for the loss of tariff revenue.

Who are the Islands' main exporters of goods to Europe?

The level and source of trade in goods fluctuates. In 2003 the Commission says Europe imported E530 million of goods from the Pacific Islands, up 10.7% on 2002. They were mainly palm oil (29%), sugar (18%), copper (9%) and coffee (9%). The main country sources of exports were PNG (67% of the total), Fiji (20%) and the Marshall Islands (11%). One product dominated the exports from each country: 42% of PNG's exports were palm oil, 92% of Fiji's exports were sugar, and 89% of Marshall Islands exports were transport-related goods (cruise ships, yachts). Losing these markets would have a significant effect.

Which Islands import most from Europe and how might an EPA affect them?

Imports from the European Union in 2003 were worth E210 million – down 63% over 2002. The main products were transport goods (56%), machinery (20%) and chemical products (4%). Most went to Fiji and PNG, and some to Vanuatu. Imports are not expected to increase dramatically if tariffs are removed, although some goods might be sourced from Europe that would have been bought from other countries (known as 'trade diversion'). Loss of tariff revenue would be limited, and most serious for Vanuatu because it relies on tariffs for one third of its revenue. The impact on local manufacturers would also be relatively small. Most food imports from Europe complement local products, so there seems little risk that a massive increase in agriculture imports would threaten food security, either.

How much revenue might be lost by removing tariffs on goods from the European Union?

Not much, if the Commission supports a favourable reading of the WTO rules. The problem is WTO-compatibility. GATT Article XXIV requires free trade agreements involving the European Union to cover 'substantially all trade' in goods and be implemented within 10 years, unless there are exceptional circumstances. Wadan Narsey has examined the best ways to define 'substantially all trade' from the Islands' perspective - how to calculate the quantity of trade (by volume, value or categories of goods); how cuts might be phased in over time and backloaded to come at the end of the transition period; and the length of the transition. He notes that recent agreements between rich countries provide much longer than 10 years – the Australia/US free trade agreement extends to 18 years for some products - so the Islands could argue for a transition of at least 25 years.

Who decides whether such a formula satisfies the GATT rules?

First, the European Commission must agree. It has promised to be flexible. But it will be looking to avoid a precedent that might be used to its disadvantage elsewhere, so it could insist on a high standard of 'substantially all trade' and time line. The Commission must also be prepared to defend the formula at the WTO (as the Cotonou Agreement requires it to do). Once such an agreement is signed, it is supposed to be approved by the WTO's Committee on Regional Trade Agreements. That process has come to a standstill because WTO members can't agree on the interpretation of Article XXIV. It is much more likely that an agreement negotiated under Cotonou could be challenged in the WTO's court by a government that believes a weak interpretation of Article XXIV creates an undesirable precedent. Australia is known to take a hard line on this question – despite the terms of its own agreement with the US!

29 Sugar

How might a Pacific Economic Partnership Agreement impact on agriculture?

Agriculture will not be a major issue for the Pacific, except for the Sugar Protocol. Unlike Africa, few Pacific Islands (Fiji, PNG, Solomon Islands, Vanuatu) are suitable for large-scale commercial agriculture. However, the impact of imported food on subsistence producers may be significant once PACER is factored in.

What is the Sugar Protocol?

The Sugar Protocol guarantees that ACP countries (and India) can export a set quota of sugar to the European Union each year at a guaranteed minimum price. That price is linked to the price the Commission pays to domestic producers, which is up to four times higher than the global market rate. A second related arrangement known as Special Preferential Sugar, is limited to certain ACP countries and guarantees a supply of cane sugar to European refineries at around 85% of the Sugar Protocol price.

When did the Sugar Protocol come about and why?

The British had encouraged sugar cane production in Fiji (using indentured labour) and its Caribbean colonies to supply its factories. When England joined the European Common Market it ensured a secure supply of unrefined sugar for its major producer, Tate & Lyle, by signing a Sugar Protocol. That Protocol was incorporated into the first Lomé Convention but it maintained an independent legal existence. That means it is not dependent on the Contonou Agreement and continues indefinitely - although the European Commission can renounce it at 2 years' notice. It is noteworthy that most of the sugar imported from ACP States is still processed in Europe and re-exported - raising the question of how many billions of dollars have European companies have made over the years on the backs of their former colonies, while claiming this was concession to promote their development?

"The agreement between some of the world's richest countries and the poorest will see the latter lose revenue through the elimination of tariffs, increased unemployment following the collapse of local industries and threaten the livelihoods of millions of small scale farmers through competition from European imports."
(Ashok Subron, Resistance and Alternatives, Mauritius)

Which ACP countries does the Sugar Protocol primarily affect?

The European Union imports nearly 1.3 million tonnes of sugar under the Sugar Protocol from ACP countries. Mauritius has the largest share of 38.25%. Fiji's share is 12.75% (around 165,000 tonnes). This quota level originally ran from 1995-2001 and was extended to 2006. Fiji also gets 9.3% of the Special Preferential Sugar scheme, just over 30,000 tonnes. In total, 60% of Fiji's sugar production goes to the European Union.

Why is the Sugar Protocol under threat?

For three reasons:

1. The European Union is a very inefficient producer of sugar. It uses massive domestic subsidies that are very expensive for the EU and for consumers. That will get worse because the enlargement of the European Union requires these subsidies to be extended to sugar producing countries in Eastern Europe. This is the main reason that the Commission is committed to reforming its sugar regime.
2. Major sugar producers in Brazil, Thailand and Australia have long complained that the European Union's sugar regime discriminates against their exports, because direct and indirect subsidies undercut the price they receive on world markets. Several times the Commission vetoed the findings of the GATT panels that their regime breached GATT Rules. Under the new WTO rules it lost the power of veto. In October 2004 a WTO panel rejected the Commission's arguments, including that the ACP imports were protected by a footnote in its agriculture schedule. But it said the EC should still honour its commitment under Article 36.4 of the Cotonou Agreement to review the protocols '*with a view to safeguarding the benefits derived therefrom, bearing in mind the special legal status of the Sugar Protocol*'. The Commission has appealed.
3. The Everything But Arms arrangement for the (non-ACP) Least Developed Countries includes a progressive increase in their sugar quotas between 2001 and 2006. Then, from 2006 to 2009, the Commission will phase in duty free access and much larger quotas for Least Developed Countries at the same preferential tariff rate it pays to ACP countries. This will have a serious impact on Fiji.

How is the European Commission proposing to reform its domestic sugar policy?

It is replacing the sugar subsidies with a system of direct price support for producers under the Common Agricultural Policy (which would provide a slightly reduced level of payment) and cutting production. The WTO

will probably approve this, especially under the new rules the US and EC are proposing for agriculture in the Doha round. Meanwhile, ACP countries (and India) will keep a guaranteed quota of sugar exports to the EU, but at the lower price that would be paid to all Least Developed Countries. This transition will be implemented in three stages from 2005 to 2008 – coincidently when the Cotonou waiver ends.

How have the ACP countries reacted?

The (Caribbean) Heads of Government of CARICOM have condemned the proposal as a betrayal of Lomé and Cotonou. They project an annual loss to their economies from 2008 of US$91 million, which well exceeds Europe's aid commitments to the region, and predict widespread unemployment. International trade unions have highlighted the difficulty ACP countries will have competing with the low wage, largely non-unionised workforce of Brazil's agribusinesses, and the devastating effect of further restructuring and redundancies, especially in Mauritius where 30,000 workers and 25,000 small farmers depend on the sugar industry.

What does this mean for Fiji?

Sugar is almost one quarter of Fiji's total exports; two thirds of that usually goes to Europe. The industry is Fiji's largest employer. It is now undergoing a major and overdue restructuring, but it cannot absorb a sudden massive drop in price. To survive, it will need much more time and a lot of transitional funding. The future options are still not clear. Some in the industry think there is a future in value added production. Some in the Fiji government would like to see support also directed towards creating alternative livelihoods. The Fiji Sugar Workers Union and the National Farmers Union say there must be greater efficiency and better management of the Fiji Sugar Corporation and effective assistance to displaced farmers. Everyone agrees that a total collapse of the sugar industry would seriously destabilise Fiji. But this is a highly political issue. As leases to Indo-Fijian farmers expire, and are not renewed by indigenous landowners who are not committed to sugar cane production, many sugar farmers and workers are joining the ranks of Fiji's urban unemployed - at the same time as cutbacks in the garment sector are reducing jobs for mainly women workers in the towns.

"Recent studies suggest that under any likely scenario for sugar reform, the Jamaican sugar industry will simply disappear, with the loss of 32,000 jobs."
(EPA Shadow Newsletter no.1, 2004)

Is the European Commission offering compensation?

Given the huge profits made by European companies for more than a century, you might expect the European Union to provide substantial compensation. But Europe has no burning sense of obligation. Talks on compensation are underway and the Commission has agreed that it won't come out of the European Development Fund, as originally feared. But no allocation is being made in the Commission's 2005 budget. If it is included in 2006, it will take some 18 months to set up the management fund and not reach the affected governments until the end of 2007, well after the adverse effects are felt.

Does sugar have to be part of a Pacific Economic Partnership Agreement?

That will be Fiji's decision. It is too early to make that call, because the compensation negotiations have just begun and the WTO appeal won't be decided until at least mid-2005. There are examples where sugar has been excluded from free trade agreements – for example, the European Union's agreements with South Africa and Mercosur and the recent Australia US Free Trade Agreement. But sugar makes up a much larger part of Pacific ACP exports to Europe. If it is excluded it will be very difficult to meet the GATT Article XXIV requirement that an agreement on trade in goods covers 'substantially all trade' and that would leave very little room to protect other sensitive products from other Islands. If sugar was included, Fiji could seek a long transition time, backloaded so any major concessions come near the end. Once it lost its protection the industry would need to be competitive enough by then to survive in the global marketplace.

Are there other options?

One possibility is not to have any Pacific regional agreement on goods. Fiji could renegotiate the Sugar Protocol as a separate issue. Alternatively, Fiji and possibly PNG could negotiate individual Economic Partnership Agreements that included goods. The structure of subsidiary agreements would allow this flexibility.

Would the Commission agree to an Economic Partnership Agreement with just a couple of Islands?

The Commission sees sugar as a Fiji issue, but one that offsets the entire Pacific negotiations. It is still deciding how to tackle the question. However, it will be reluctant to endorse anything less than a regional Economic Partnership Agreement, because that creates a precedent that other ACP regions might follow.

30 Fisheries

Why are fisheries so important to a Pacific Economic Partnership Agreement?

The region's fisheries offer the Pacific's greatest opportunity for commercial development and for participating in the global economy. The Islands have a huge combined Exclusive Economic Zone – some 20 million square kilometres - and provide around half the world's tuna catch. They are often described as the only tuna fishing ground in the world that has not been over-exploited – although conservationists question that.

"The commercial reality is that in excess of some 95 per cent of the annual value of the South Pacific tuna catch goes to distant water fishing countries. ... Obviously, we must redouble our countries' efforts at maximizing our capability to derive a fair share of these resources both from harvesting and processing."
(Fiji Prime Minister Qarase, 2002)

Is the picture really that rosy?

The Greenpeace ship Rainbow Warrior did a 10 week tour of Pacific fisheries in 2004. Local fishers, industry leaders, academics and government regulators all told them that the fishery is on the edge of crisis - there are too many boats taking too many fish, with pirates forcing legitimate fleets out of business. Small local fishers now have to fish for many more days, much further out, to catch much smaller fish. As well as the lowering their income and reducing local food supply, their long absences have social impacts on their families and communities. It is impossible for small Island countries to police their regulations and prosecute foreign fishing vessels. Large numbers of purse-seiners now fish the high seas without any regulation or controls and have huge impacts on the migratory species, not just tuna.

What do Pacific Island countries want from developing the fisheries?

Tuna-rich Islands face a dilemma – how to maximise their revenue and protect the resource. There are two different approaches. The majority of tuna resource lies within the range of 10ºN to 10ºS. Those Islands with the largest share are more interested in the license and access fees they can earn from foreign fishing vessels. But they receive a low return - more than 95% of the cash value of the region's fisheries catch goes to other countries. The requirements for local crews and landing of part-catches locally for processing are also weak.

What is the alternative?

Some Islands want to develop a domestic industry and processing capacity. That would require landing facilities and high quality testing, storing and handling facilities to meet the demanding product standards of major export markets. Few foreign firms have shown any interest because of the distance and transport costs. A Pacific Industry would also find it difficult to compete with bigger players, such Thailand and the Philippines. So the Islands want help from the European Union.

Are there other reasons why advisers want to bring fisheries under a regional umbrella?

Existing bilateral fishing treaties are not at all transparent. There are suspicions that much of the revenue is being siphoned off by governments and well-placed individuals. A regional fisheries deal with the European Union could tie up a large proportion of the resource in a transparent way and make the fisheries less vulnerable to corruption.

Is the European Commission likely to be interested in a specific deal on fisheries?

The European Union is a big international player in fisheries. It has numerous bilateral fishing treaties that help to provide over 33,000 European jobs. Most of the benefits go to Spain, with some to France and Portugal. Spain and France are especially interested in tuna. The EU has a minimal presence in the Pacific at present, but wants a fallback position for when other oceans are fished out. From 1998 to 2000 the Commission pushed for a multilateral fishing agreement with the Pacific, but was rebuffed because some Islands were wary of Europe's intentions for the tuna convention that was being negotiated. By 2001, when the Islands were interested, the Commission had changed tactics and begun negotiating bilateral agreements called Fisheries Partnership Agreements. These come under the Common Fisheries Policy Reform, which contains the same paternalistic rhetoric about sustainability, development and sound policies as found in Cotonou. The Commission secured treaties with Kiribati (July 2002), Solomon Islands (February 2004) and Federated States of Micronesia (May 2004). These include requirements to carry Pacific Island crew and compulsory trans-shipment through local ports, and target a proportion of revenue for conservation and management. But there is no genuine commitment to building the Islands' capacity to add value to the fisheries and increase their share of the profits.

How do the Lomé preferences fit into this picture?

Processed fish comes under 'trade in goods'. Lomé guarantees that a quota of canned tuna and tuna loins can enter the European Union duty free. These quotas are secure until 2007. But there are problems with the Rules

of Origin that have to be met to qualify for the quotas, in particular definitions of the origin of vessels, the width of territorial waters, origin of catches and 'wholly obtained' products. The Commission has promised to review them as one way to improve market access for ACP fish products. There is also a stand off over the definition of territorial waters: the Commission says 12 nautical miles, while the Pacific Islands argue for the 200-mile Exclusive Economic Zone.

Is the tuna preference being challenged in the WTO?

It is caught up in the bigger challenge to Lomé preferences. The value of the preference is also under attack from bigger, more competitive tuna fishing countries. As part of the deal for securing a WTO waiver until 2008, the Commission gave the Philippines and Thailand preferential market access to Europe for a fisheries quota at a tariff rate of 14%, rather than 24%. Many predict that this will become the European Union's new across-the-board tariff rate, making it harder for Pacific exporters to compete. Fisheries subsidies are also under attack in the WTO Doha negotiations and the ACP countries have pleaded for special consideration of the impact on their fisheries.

How might fisheries be dealt with in the Economic Partnership Agreement negotiations?

"We have a biological problem, there are too many boats taking too many fish. It also spawns an economical problem where we have legitimate fleets being forced out of business by the pirate fleets or the non-conformists."
(Grahame Southwick, owner of Fiji Fish, 2004)

Given the migratory nature of tuna fisheries and the need for costly infrastructure, a regional approach makes sense. But those Islands that are tuna-rich and already have bilateral deals with the European Union have little reason to pool the resource. As with sugar, an Economic Partnership Agreement without fisheries may fall short of the requirement to cover 'substantially all trade'. The alternative is to develop a subsidiary Fisheries Partnership Agreement that includes development funding and other support, as foreshadowed in the Pacific Islands strategy. That could also come with risky trade-offs. To attract foreign investment to local processing plants, governments may be asked to guarantee the security and possibly the profitability of those investments. Depending on the nature of these guarantees, foreign companies could challenge government policies or laws that reduce the value or profitability of their operation, even if those measures have a sound developmental, cultural or conservation rationale. They may also be asked to promise not to give preference to local firms, require a certain amount of local processing or employment, or insist on joint ventures. It is important to remember that these may not be specific to an agreement on fisheries; the European Commission is likely to insist on them as basic principles in the umbrella Economic Partnership Agreement.

How would a Fisheries Partnership Agreement link to other aspects of the negotiations?

According to *The Way Forward* a worthwhile fisheries agreement must deliver more benefits to the Pacific Islands and European Union than current arrangements. It would be linked to trade in goods, trade facilitation and promotion, and foreign investment and have improved Rules of Origin. This reflects the broad ACP insistence that Economic Partnership Agreements must involve genuine development, not just market access.

Is the Commission likely to accept the Fisheries Partnership Agreement option?

If the Commission thinks the Economic Partnership Agreement negotiations aren't offering enough on market access, services and investment, or if the Pacific wants too much in return, it may be happy to get as much as it can through bilateral deals in areas of particular interest, notably fisheries. How far the Commission would accept the 'development' side of the package would probably depend, yet again, on what precedents it sets.

Would this approach really promote development for Pacific peoples?

The hope is that people will find jobs in the new fish factories and on ships. Balanced with this is the experience in many countries that women workers leave their villages to take low paid jobs in the towns with huge impacts on their families, communities, culture and the sustainability of the subsistence economy. Those impacts intensify if the foreign investors decide the venture isn't profitable enough and leave. These risks haven't been assessed. Nor it seems, have the environmental impacts. The fishery is one of the Pacific's most precious resources. It sustains the livelihoods of most Pacific people. Fish stock, biodiversity and the marine ecosystem need to be protected from over-exploitation and destructive fishing practices. If fisheries form part of the bigger Economic Partnership Agreement negotiations, there is a risk they would become the subject of trade offs, with no assessment of the consequences. The fisheries also face pollution and damage from other commercial activities, such as factories, tourist resorts, shipping and new ports. These fall within other parts of the Economic Partnership Agreement negotiations that have no impact assessments either.

31 Services

Do the Pacific Islands have to negotiate with the European Commission over services?

The Commission wants negotiations on services, not because its firms want to invest in the Pacific, but to establish precedents that advance its WTO negotiations, especially in the maritime and telecom sectors. But there is no obligation in Cotonou to do so. Article 41 says the objective is to cover services *after* countries have acquired some experience in applying the WTO rules under GATS. Few Island governments have any such experience. Only three are WTO members and even they have made only minimal commitments. The rest have *no* experience of such rules – except Vanuatu, whose government decided not to join the WTO when it realised the commitments it had offered in education, health, environment, audio-visual, retail and wholesale distribution services went too far.

"Countries are having real difficulties trying to develop free trade rules among themselves and the attempt to open up trade for services is ridiculous."
(Grant Percival, Samoa Association of Manufacturers and Exporters, 2004)

Aren't services supposed to be included soon under PICTA?

The Forum Trade Ministers have agreed in principle to proposals from the Secretariat's consultants that they should include GATS-style rules under PICTA. Each government is meant to choose four of seven services – finance, maritime, air transport, telecommunications, health, education and environment. Even though these services form essential parts of social life, the Forum doesn't intend conducting any social impact studies before governments make these decisions, and individual Islands don't have the resources or expertise to do so. National consultations were supposed take place in 2004, with recommendations to the Forum Trade Ministers in 2005. But few people know anything about them. It seems that some governments now want the proposal put on hold.

What are the risks of signing a GATS-style agreement?

These agreements are designed to stop governments from limiting the kind of services that foreign investors can control and from giving preferential treatment to local providers of services. They also restrict the kind of regulations that governments can use to protect social, economic, cultural and environmental interests. An agreement with the Europeans may or may not require a Pacific Island government to change its current laws and policies, especially if it has already commercialised or privatised those services, but it would prevent future governments from stepping back in if things went wrong.

Wouldn't competition help deal with inefficient state monopolies over telecoms or electricity?

In most Islands opening these services to foreign firms would mean replacing public monopolies with private ones, unless governments could devise regulations that limit profiteering and protect people's access to affordable quality services. Trade in services agreements try to stop governments from using those kinds of regulations. The answer may well lie in taking a regional approach to shipping, air transport and telecoms; but a free trade agreement isn't the answer.

So why do the Pacific Island want to negotiate on services with the European Union?

This is another part of the strategy to avoid PACER. They are also relying on simplistic consultancy reports that suggest the Islands might attract new foreign investors by locking in their commitments to a market model. Yet even *The Way Forward* acknowledges that Samoa has implemented strong neoliberal policies, but has still not attracted foreign investors because of its remoteness, small scale, transport services and poor infrastructure. As the European Commission points out, its firms are hardly lining up to invest in the Pacific for those reasons. So an agreement on trade in services would not solve their problem.

Are there specific services commitments that the Pacific Islands want from the Europeans?

Like many other ACP countries they see services as the way of replacing the loss of jobs in industry and agriculture. Along with the Caribbean governments, the Islands want the Commission to make commitments on:

1. tourism; and
2. the right of Pacific Islands people to work in Europe on a temporary basis.

These are specified in their negotiating strategy. Many African governments are more cautious, largely because of education campaigns by local NGOs. They are concerned that the Pacific and Caribbean approach will see them pressured into negotiations on services which they don't want.

32 Tourism

What kind of tourism do the Pacific Islands want to promote?

That varies widely. Fiji, the Cook Islands and (less so) Vanuatu and Palau are currently catering to the mass tourism market. Others have a low-key approach as a result of geography, infrastructure or preference. Samoa and Tonga are in-between. Most countries recognise the need to balance foreign investment in tourism with protection for local firms, traditional culture, the environment and indigenous rights to land.

What would they want from an agreement on tourism with the European Union?

Tourism is the major foreign exchange earner for most of the Pacific Islands. Along with remittances and aid, it keeps their economies afloat. It also provides jobs for people directly and indirectly in tourism activities and beyond as their wages and tourist spending circulate through the economy. The Islands are pushing an integrated plan for tourism that could operate as a stand-alone agreement with the European Union or be incorporated into an agreement on trade in services. Their idea is to combine a cluster of tourism-related services, ranging from construction and hotel management to marketing and finance, in a single package. This would offer guarantees that European firms could access the Islands' tourism 'market' and be treated at least as well as local firms. It would cross-link with any provisions on investment, development assistance and training that were contained in the 'umbrella' Economic Partnership Agreement or other subsidiary agreements.

"The GATS has serious implications for pro-poor tourism that attempts to generate benefits for the poor. ... There is growing consolidation and centralization of the tools of the tourism trade among a few players. ... The sexual division of labour operates at all aspects of travel and tourism related industries."
(Williams, IGTN, 2002)

Is the European Commission likely to be interested?

In Article 24 of Cotonou they promise to support such developments. Realistically, however, Fiji is the main destination of interest to the Europeans; it has already made extensive tourism commitments in the GATS and doesn't have much more to offer. So the Commission may not be interested in a stand alone agreement, especially on the terms the Pacific Islands are seeking, unless it can get very good trade-offs elsewhere.

What are the risks of a 'cluster' agreement on tourism?

Tourism is the world's largest industry. It is dominated by mega-transnational corporations that operate their own clusters through consortiums that control air transport, booking systems, franchised hotel chains, car rentals, tour operators with their own guides, and even souvenirs made in China. Growing use of the Internet allows these firms to control the choices available to tourists and they charge high fees for listings that local firms can't afford. The effect is most evident in package deals to large-scale resorts where the only local content is the weather, some fruits and the unskilled labour force. Increasingly, luxury facilities demand priority over local firms and communities for access to water, roading, electricity, telecoms and land. Studies show the profitability of mass tourism can be seriously over-stated. A large percentage of tourism earnings leak out of the country to pay for luxury imports. Often, entire packages are paid for offshore. Transnational firms have become experts at manipulating their loans and earnings so they pay minimal local taxes and maximise their profitability. Even eco-tourism is increasingly falling into the same hands.

Are there social costs as well?

Mass tourism, especially resorts, is commonly accompanied by displacement of local communities, exploitation of low-paid workers, growth of the sex industry, land and water pollution, corruption of traditional culture and the marginalisation of local craft makers and food producers. HIV-AIDs is a growing tourist-related problem.

Does the Pacific Islands negotiating position address these risks?

The Pacific Islands say they need guaranteed access to the computer reservation systems and global distribution systems so the transnationals can't lock out their local firms, and they want the European Union to promote work opportunities and overseas training programmes to create a pool of indigenous managers and skilled workers. They are also insisting on control over tour guides and protecting the traditional ownership of lands. But the social issues haven't been addressed.

Surely the European Commission won't try to open up Pacific Island land to foreign ownership?

The Commission's 'requests' to PNG and the Solomon Islands in the current GATS negotiations asked them to eliminate the reservation from the GATS schedule that 'foreign nationals and foreign-owned companies may not purchase land, but may lease from government or land-holding groups'. One Commission official was adamant that they would not make such a demand in these negotiations. But another confirmed that the Commission was likely to use its GATS requests as the starting point for negotiations on services in the EPAs.

33 Temporary Migration

How is the right of Pacific people to work in Europe connected to trade negotiations?

The Islands want to increase the number of Pacific people allowed to work temporarily in other countries to get more remittances and develop skills. This should be dealt with as a development matter. Historically, however, temporary migration was a hugely sensitive issue. So, now that 'temporary movement of natural persons' (known as 'Mode 4') forms part of trade in services agreements, the Pacific Islands and many similar governments are making this a centrepiece of trade negotiations.

Why is this called 'Mode 4'?

The WTO's services agreement – the GATS – sets out 4 ways of trading services internationally. The 4th of these covers people moving from one country to another to deliver services on a temporary basis. Almost invariably the commitments of WTO Members are limited to professionals, managers and highly skilled technical people. Often they are linked to foreign firms that have set up in the host country under what is called Mode 3 – 'establishing a commercial presence' (foreign investment). The Commission is currently trying to secure guaranteed rights of multiple entry for a wider range of employees from Europe's firms on a temporary (2 to 3 year) basis, even where there are locals who can do the work.

"The principal interest of the Pacific ACP States for the near future would be in increased Mode 4 access (movement of Pacific ACP nationals for work purposes to the EU market in specific sectors where this would contribute to their development objectives."
(The Pacific Way, 2004)

Does Mode 4 also cover semi-skilled and unskilled workers?

The low-skilled services workforce isn't *excluded*. However, richer countries fear a huge influx of workers from poor countries. So they treat this as a 'trade' issue when it involves skilled workers from those countries that fuel the 'brain drain', but it reverts to being an immigration issue when it involves low-skilled workers. A clear hierarchy is emerging: the richest countries recruit the nurses, teachers and skilled technicians trained in other First World countries, such as Australia and NZ; those countries lure replacements from poorer countries, such as the Pacific Islands, who have paid for their training but can't compete to retain their professionals by providing equivalent wages, conditions and facilities.

What are Pacific Islands proposing?

The idea is to secure access for a quota of people from the Pacific Islands into Europe to work on a temporary basis in services sectors such as tourism and security. This could form a stand-alone agreement or be a trade-off for other parts of a free trade deal. There are two benefits:

1. Workers could use the training they receive offshore to build up local services when they come home.
2. Their remittances would help replace the income that the country loses from removing tariffs on imports.

The real target is not the European Union, which Pacific Island people find less attractive because of distance, language, lack of family and climate; but to secure an equivalent deal with Australia and NZ under PACER.

Who is pushing the idea?

These proposals have come from Southern governments at the WTO, so far without success. In the Pacific, the Melanesian Spearhead Group has tabled a paper that argues strongly for temporary access for workers with qualifications below tertiary level, including seasonal agricultural workers. It has also been preparing a proposal on tourism. The Vanuatu government, which will be hit hardest by the loss of the tariffs, has assessed the number of temporary migrants whose remittances would compensate for the loss of revenue under both an Economic Partnership Agreement and PACER. Wadan Narsey is also pushing Mode 4 as the basis for initiating negotiations with Australia and New Zealand on a Pacific Economic Community. He has suggested a flexible system of permanent residence for skilled and professional workers that would allow them to come and go freely from the Islands; and a scheme for unskilled labour that would provide lower cost workers for unattractive jobs in Australia and New Zealand, reduce unemployment pressures in the Pacific and provide remittances.

Would a temporary scheme like this be attractive to people in the Pacific?

Its supporters say it is one concrete benefit that ordinary people can get from trade agreements and would far outweigh any abstract concerns about loss of national sovereignty. In response to fears that people would 'overstay', they say the idea of being able to earn better money than people can in the Islands, then return home, would be much more attractive than having to emigrate permanently. Others doubt that.

How trade unions in Australia and NZ feel about more cheap Pacific Islands labour?

That depends on how the scheme operates. Many workers in low-skilled services industries, such as cleaning, already come from the Pacific Islands and are grossly exploited by the transnational firms that control those

contracts. They are usually paid the minimum wage for appalling work hours and conditions and struggle to meet their living costs and send money home. Unions see the solution as increasing unionisation and raising the minimum wage. Many of them support in principle, the idea of temporary migration, but they would view Narsey's suggestion that temporary migrants could be paid less than local workers as a recipe for greater exploitation and erosion of the minimum wage.

Is there any guarantee that people will send remittances home?

The Vanuatu government's calculation assumes that people will send back a quarter of their salary. Their research rejects arguments that remittances fall over time. They say transfers continue for 20 years after initial migration and point out that Mode 4 applies to temporary migration.

How could governments guarantee that people returned home?

The prospect of 'overstayers' will be one of the major grounds of opposition. The home governments would be expected to set up a system of bonding or other guarantees. There have also been suggestions that unions in host countries might be involved in its administration to bring them onside and help ensure repatriation.

Wouldn't this scheme make the brain drain from the Pacific Islands even worse?

Many professionals who have enough points to meet the immigration tests will leave anyway. That is seen as a legitimate choice. It also poses problems for governments of how to recoup the costs of their training, address the deterioration of local services, and lure them back home. Some have suggested that a more flexible work visa would encourage skilled migrants to divide their time between the Islands and Australia/NZ.

"For decades, skilled people needed in PICs have been sucked out to Aus/NZ by their points system, partly replaced by expensive technical assistance from donors and HRD programmes. The loss of skills continues. But unskilled PIC workers? No entry!"
(Waden Narsey, 2005)

How would the Pacific Islands try to sell this to the European Community?

They could make temporary entry, combined with training, a non-negotiable baseline for any deal. Objectively, the European Union should have few objections, because few Pacific people are likely to go to Europe and the Pacific Islands might be prepared to make significant concessions in return. There is a precedent – the European Union has an agreement for a quota of Kiribati and Tuvalu seamen in its offshore shipping fleet.

How is the Commission likely to respond?

It certainly won't want to create a precedent with the Pacific that it would have to extend to other ACP countries. The Commission sees Mode 4 as a sensitive immigration issue. The negotiating record for Phase 1 shows the Commission was willing to discuss the issue because it was of 'mutual interest' - referring to the desire of European companies to gain easier entry for their staff. But it downplayed the benefit to the ACP from Mode 4, saying a substantial share of the gains stay in the host country and: '*Access to the EC labour market for ACP individuals would neither result from WTO Mode 4 negotiations, nor from EPA liberalisation*'.

How would the Pacific Islands try to sell a similar proposal to Australia and NZ?

They could make it a pre-requisite for any deal under PACER, too, but they would need to secure a major shift in attitude from both countries. New Zealand has a history of witch-hunts against Pacific Island peoples when domestic political and economic conditions demand. Australia recently demanded changes to the TransTasman travel agreement to minimise the back door entry by Pacific Island people and limit their right to social welfare benefits and pensions. Both governments remain more interested in Asian migrants, especially those with money, and still seek to minimise the immigration of Pacific Islanders other than professionals. Forum Secretary General Greg Urwin recently reported signs that positions are softening, but this remains a hugely sensitive political issue.

Surely this should be dealt with as a development strategy, not a trade issue?

Absolutely, and it can be justified by sound development arguments. Australia and NZ have been sucking out professional workers from the Pacific for years, without taking any responsibility for the brain drain - often replacing them with their own 'technical assistance' and training programmes funded as 'aid'. Accepting a limited number of less-skilled workers can be a win-win option, provided migrant and local workers are all protected by good labour laws. The number would be small, especially when compared to immigration from other countries. The Commonwealth Secretariat has been developing proposals along these lines that deserve careful discussion – but not in the context of trade negotiations where they become crude Mode 4 commitments and damaging trade-offs are demanded in return.

34 Foreign Investment

What is the Pacific's attitue to including foreign investment in an EPA?

According to *The Way Forward*, the flow of foreign investment in the Pacific Islands has been steadily falling and is not enough to keep pace with the depreciation of existing investments. Their goal is to increase the level of investment. Some policy changes could help reverse the trend, although as the Forum concedes

> *it appears inescapable that the small size, geographical dispersion and isolation of the Pacific ACP States constitute an irreducible inherent handicap to their ability to attract foreign investment. Even [those] States that have faithfully followed the prescriptions for economic reform of their external advisers, such as Samoa, have found that this has not been rewarded by any significant increase in the inflow of foreign direct investment.*

"EPA investment agreements would restrict the ability of [Pacific] governments to pursue nationally prioritised economic and social objectives." *(Actionaid International, 2004)*

How do they think an investment agreement with the European Union could address these issues?

Their advisers assume that foreign investors will be attracted to the Islands by binding rules that promise them the right to invest and to be treated at least as well as local firms. But international studies don't support that: other factors tend to be much more important to firms when deciding which countries to invest in. The advisers also say there are real benefits from tying the hands of governments and forcing them to address problems of inefficiency and corruption, especially in state enterprises. Yet that can just as easily result in private monopolies, which can be as or more inefficient, abusive and corrupt. Equally worrying, it would deprive responsible governments of the policy levers they need to develop their local firms and regulate foreign investors. It could even expose them to massive damages awards if they regulate unethical investors to defend the national interest.

Surely the Pacific Islands wouldn't sign an agreement that had that effect?

Informally, Forum advisers say the Islands would not agree to an expropriation provision that could leave them liable to damages awards. But there is no reference to this risk in the consultancy reports. Moreover, the Commission may not agree. One EC official noted that Cotonou talks of investment protection and described the Chile/EU investment chapter as 'state of the art'. But he also conceded that Economic Partnership Agreements are different, and the Pacific hasn't the capacity and investment structure that such an agreement would require. It is worrying that the Pacific Joint Road Map identifies the OECD as the source of expert advice on investment rules, as it takes a purist approach to IPPAs and expropriation.

What kind of investment agreement are the Pacific Islands considering?

The Way Forward says they want to include provisions on investment in an Economic Partnership Agreement, possibly supported by an enhanced Investment Promotion and Protection Agreement (IPPA-plus) that individual Pacific Islands could sign up to.

What does the 'plus' refer to?

The dubious benefits and proven risks of IPPAs are discussed above in section 16. The 'plus' refers to investment facilities that would be tailored to meet the needs and circumstances of the Pacific Islands:

- an investment guarantee arrangement that covers the risk to foreign investors from the absence of clearly defined land titles and political instability;
- a concessionary lending facility that recognises it is inappropriate for the private sector in small and remote countries to rely on loans that are based on market interest rates, either by modifying existing European Union investment facilities (such as the European Investment Bank) or creating new ones;
- targeting investment support towards the priority areas of tourism, fisheries and aspects of agriculture.

These measures would be closely linked to 'appropriate development assistance measures' designed to help overcome 'policy-related and inherent obstacles' to increased investment, and to commitments by Pacific Island governments to implement appropriate policies. In other words, classic neoliberal policies and conditionalities.

Doesn't that contradict the ACP Group's opposition to investment rules in the WTO?

Yes. That's causing considerable unease, especially in African ACP countries. Although investment is now off the formal negotiating agenda for the Doha Round, the Commission hasn't given up altogether and there is likely to be another push when it thinks the opposition has been weakened. The Pacific's decision to break ranks will weaken that opposition and make it harder for other ACP States to resist in their own EPA negotiations.

PART THREE

Another Way Forward

KEY POINTS

The proposed Pacific Economic Partnership Agreement is about free trade, not development.

There is no way the Pacific Islands can ever compete on an unprotected basis in the global economy.

The European Union has few, if any, economic interests in securing a trade agreement with the Pacific Islands.

The European Commission is unlikely to take any positions in negotiating a Pacific EPA that undermine its trade strategy in the international arena or in negotiations with other regions within the ACP. This means the prospects for an agreement on the lines proposed by the Pacific Islands are remote.

Grossly unequal bargaining power will allow the European Union to demand excessive concessions in return for agreement to specific priorities of Pacific Island governments, if it continues to put Europe's self-interest ahead of genuine Pacific development.

There is a risk that the lure of European aid money, and the desire not to appear to have failed, may entice Pacific Island governments into making irresponsible, pragmatic and short sighted commitments in the trade negotiations under Cotonou.

A Pacific Economic Partnership Agreement cannot be concluded by the December 2007 deadline imposed by the Cotonou Agreement and the WTO, without incurring obligations whose implications have not been properly examined. The Forum Secretariat is struggling to meet impossible deadlines. Pacific Island governments are struggling at a national level to engage with the regions negotiation process and view the Forum Secretariat's role with suspicion.

Forum Secretariat advisers and national governments acknowledge there may be potentially devastating effects if they make extensive commitments under a Pacific Economic Partnership Agreement that have to be passed on to Australia and New Zealand under PACER and to the US under the Compacts of Free Association.

Neither the Secretariat nor national governments have yet conducted any social impact assessments of their negotiating strategy and the consequences if that was extended to Australia/ NZ and the US. There are no plans to conduct any such assessments before negotiations are scheduled to end in 2007. The only proposal is to establish a mechanism to monitor the social impact of PICTA some time in the future.

By grouping representatives of business together with trade unions, NGOs and community organisations, consultations with 'non-State actors' are destined to fail. National and regional consultations in the Pacific Isalnds have been uneven and ineffective in influencing the negotiating positions being taken by their governments or the Regional Negotiating Team.

If a comprehensive Pacific Economic Partnership Agreement is concluded, and flow-on negotiations with Australia and New Zealand impose similar obligations, the Pacific Islands will face massive economic, social and political upheaval. Governments will have signed away the policy space to decide for themselves how to respond.

Pacific Island governments have become trapped in a lethal cycle of trade negotiations where they have nothing realistically to win and everything to lose. None of them is yet prepared to say 'no' because they are dependent on those trading partners for aid and market access – and there is no obvious, viable alternative.

An effective strategy cannot be based just on saying 'no'. There are short term options available to the Pacific Islands. But these will only buy time. Real alternatives for regional cooperation that put the needs of Pacific people at the heart of the development agenda need to be debated in the context of relations with other regional powers and the international financial institutions, and of the Pacific Island Forum's Pacific Plan. This is an opportunity to map out the Pacific's own visions for the region, taking into account the harsh realities and limited choices facing the region. It is up to the Pacific churches, trade unions, social movements, NGOs and communities to provide the lead in developing that agenda.

35 Where are the Social Impact Assessments?

Are there any studies of what an Economic Partnership Agreement would mean for Pacific people?

The only official Impact Assessment on the Pacific was prepared for the ACP Group by consultant Robert Scollay in 2002, before phase 1 negotiations began. Half the report examines the positive and negative economic impacts from his perspective as a free trade economist and suggests strategies. The other half examines these impacts at a national level for each Island.

Did the Scollay report assess the likely social, cultural and political impact?

There is a cursory two page section on regional 'Social and Political Impact' which says the impact will be greatest on Fiji and PNG because they have the largest trade. For Fiji, losing access to the European market for sugar would create social dislocation from rural to urban areas, where there is already major unemployment, and could disturb the 'fragile equilibrium'. While serious structural change in the sugar industry is inevitable and will cause dislocation, loss of market access to Europe could mean the total collapse of the industry. In PNG, loss of access for tree crop exports would seriously affect the rural economy with adverse political effects. The impacts of PACER would intensify the urban stress in both countries, as the garment sector is already 'downsizing' in Fiji and there is high urban unemployment in PNG. Scollay notes that all the Islands will face problems in sustaining economic 'reforms', especially loss of revenue. He concludes that '*The political challenges facing the introduction of the proposed new trading arrangements should not be under-estimated'* – and stops there.

"We express disappointment that no comprehensive people-centered social impact studies have been done on the sectors that may be addressed in the EPA negotiations. Government must not enter into any EPA commitments until it has examined the economic, social, environmental and gender impacts of existing free trade commitments."
(Fiji Civil Society Statement, September 2004)

Does the EU's Sustainable Impact Study (by PriceWaterhouseCoopers) offer anything useful?

No. The Phase 1 report barely mentioned the Pacific. The Phase 2 sectoral study on Pacific fisheries has produced an eight page scoping discussion, and its value has been questioned in a British Parliamentary committee. More worrying is the fact that Forum Secretariat staff said they knew nothing about it until January 2005. On Friday 18 March an electronic notice was circulated among Pacific NGO's advising them of a week-long electronic discussion on the PWC paper - that began on March 15!

Didn't the Pacific Leaders call for a social impact study of trade agreements several years ago?

In 1999 the Forum Trade Ministers asked the Forum Secretariat to assess the possible social impacts of free trade agreements. But the terms of reference were limited to PICTA and the report was superficial. It assumed that PICTA would produce very few economic benefits, so its social impacts would also be minimal and concerns about its impact were deemed 'groundless' – even though PICTA would require policy changes that included deregulation of the commercial and labour markets, budget discipline and cuts to the public sector. Instead, the consultants relied on economic theory to conclude that PICTA would produce lower unemployment, rising incomes, better living standards and improved status for women. They recommended follow-up monitoring of PICTA to minimise any negative impact. There was no attempt to evaluate the likely impact of PACER because its terms had not yet been defined.

What has happened since then?

The Forum Trade Ministers 'noted' the report at the same meeting as they signed PICTA and PACER! They asked the Forum Secretariat to convene a regional workshop on training and preparations to establish a monitoring framework for free trade agreements and encouraged each country to establish its own monitoring framework – without providing any resources to do so. Three years later the Secretariat has contracted two regional organisations – Pacific Foundation for the Advancement of Women (PACFAW) and the United Nations Development Fund for Women (UNIFEM) – to work alongside it to provide national training on social impact assessment. Consultants from each organisation will conduct the training in different parts of the Pacific using a common training package.

Who is developing the social impact assessment package, to train whom, to do what and when?

The package will be developed by a separate consultant. The appointment criteria required knowledge of trade agreements and the theory and practice of social impact assessment – but knowledge and experience of the Pacific Islands context was just 'a distinct advantage'. The terms of reference were published in late 2004, and require particular attention to gender impacts. The consultant is only expected to take 10-15 working days to prepare a generic training package that can be adapted for different Islands. The package will then be tested through a 'training of trainers' workshop. When it is finalised, the three organisations will conduct training for

'stakeholders' from government departments, 'non-state actors' including women's groups, church groups, private sector, trade unions and other organisations. Governments will choose who is invited, in consultation with the three organisations. One stated goal of the training is to convince the participants – especially governments - of the value of social impact assessments! Another is to brief them fully on multilateral trade negotiations, in particular PICTA. Assuming that the governments decide to proceed (and it is not clear whether they would get any funding to assist them), the first assessment won't be done until 2006 at the earliest.

"Studies 'confirm the absence of women in trade and investment policy and decision making, as well as the fact that gender considerations and women's issues are considered by most policy makers as irrelevant to trade and investment processes."
(Aprodev, 2003)

Would these social impact assessments offer anything useful for the EPA negotiations?

No, for three reasons:

1. the training is to assess the impacts *after* an agreement has been signed – not to examine the likely social and human implications before a position is put on the negotiating table. Even the suggested case study looks at the effect of having already closed a factory.
2. the social impact assessment will initially only apply to PICTA. The much more significant consequences of a Pacific Economic Partnership Agreement and the flow-on effects from triggering PACER would not be considered until the distance future - even though everyone accepts that they could have serious social, economic, cultural, environmental and political consequences.
3. PICTA deals only with goods, so the social impact assessment training package is unlikely to cover services, investment or other issues that arise under Cotonou, and could potentially come under PACER.

Surely the Forum Secretariat is organising specific social impact studies of an EPA?

Not yet, despite repeated demands from NGOs. There is a proposal to set up a Consultative Group within the Regional Negotiating Machinery as part of the Outreach Programme. It would work on issues such as the social dimensions of EPAs, impact on specific economic sectors, environment, gender, etc, in collaboration with regional networks of 'non-State actors'. But there is no sign of it. Worse, the sources of expertise that the Secretariat suggests for understanding sustainable impact assessments and 'trade and poverty' are the IMF and World Bank.

Do national governments see the social impacts as an issue?

Fiji trade officials say they don't have the resources to conduct these studies themselves and it is not their role. While the government is trying to develop capacities in other ministries, including Women's Affairs, but that won't happen in time for the Economic Partnership Agreement. The best they can do is to adapt the Forum Secretariat's training package to Fiji.

Why can't governments commission their own people to do these studies?

The Vanuatu government's negotiating strategy acknowledges how little research has been done on social impacts and none assessing the social meaning of an Economic Partnership Agreement. Such studies are outside the terms of reference and role of Department of Trade, but it suggests it could help to coordinate a social impact study conducted by a NGO, the Kaljoral Senta and/or the trade union. That study might include:

- examination of the likely social impact of tariff reductions on prices of staple products such as rice, tinned fish and kerosene;
- an examination of the tax structure and how possible changes resulting from trade liberalisation would affect low-income groups, especially if tariff cuts accelerate the need for income tax and lead to a more progressive tax regime;
- an assessment of the impact on employment;
- an analysis of what would happen socially if the service sectors identified by the government were liberalised;
- social impact of the movement of seasonable agricultural workers overseas, including the possible impact of remittances on community consumption levels; whether the temporary movement of people overseas would erode cultural values; the effect of on-the-job training received abroad; and potential for any brain drain.

36 Very Civil Society

How are the Pacific governments responding to the requirement to consult non-State actors?

That varies. Some national based NGOs who work directly on these issues say they have no knowledge of any consultations; others say there is selective engagement with reasonably informed groups in their countries. Fiji has the most organised structure and process. The Chief Executive of Foreign Affairs (who chairs the Regional Negotiating Team and is on the Trade Experts Advisory Group) has stressed the importance of dialogue with the Forum of Non-State Actors (Fonsa) that groups together NGOs, unions, consumer groups and private sector organisations.

How is the Fiji government organising that dialogue?

It has established a structure and process that mirrors the regional arrangements and provides for non-government participation at various levels:

- a Focus Trade Development Committee of officials oversees policy and strategy.
- an extended Trade Development Committee, which includes the private sector and other 'non-State actors', receives reports.
- six sectoral working groups cover market access, trade-related issues, services, agriculture and fisheries, development cooperation and legal. Each group is chaired by the Chief Executive of the relevant ministry. Members can include non-government 'stakeholders', although that depends on the chair.
- cells are being developed in ministries other than Foreign Affairs and External Trade to build the capacity and knowledge base within government to contribute to and lead on particular issues. The list includes the Ministry of Women's Affairs.
- briefings have been held for the Foreign Affairs Committee of Parliament, several of whom sit on sector working groups and are members of the ACP/EU Joint Parliamentary Assembly.
- a parallel 'good neighbour' policy aims to promote dialogue between the Fiji government and other Islands and encourage a frank exchange of views about Fiji and the Forum.
- the National Consultation Forum is formally resourced by the Forum Secretariat, but the Fiji government sets the agenda and has circulated some of its own strategy papers for discussion in advance of making decisions.

"ACP member states are encouraged to consider that the push for trade liberalisation undermines the very principles of human rights, democracy and good governance which are considered as "essential" and "fundamental elements" of the Cotonou Agreement."
(Fonsa, 2002)

How does this work in practice?

Even the Fiji government faces serious capacity problems. The Working Groups met twice before the formal launch of negotiations in September 2004, but they had no clear sense of direction. They did not meet again in 2004, even though negotiations were underway. The Trade Ministry is very stretched; its officials have to sit on all the working groups and chair two of them. Developing cells in other ministries to share the load takes time, especially with high staff turnover. Some Chief Executives of ministries are more open to non-government involvement in working groups than others, and the private sector, unions and NGOs have limited understanding of the technical issues to allow them to participate effectively. The more informed Suva-based regional NGOs such as Pacific Concerns Resource Centre (PCRC) and Pacific Network on Globalisation (PANG) are not part of the *national* consultations.

How does the National Consultation Forum work in Fiji?

The Cotonou consultations with 'non-State actors' are organised through Fonsa – the Forum of Non-State Actors that was formed in 2001. Fonsa produced a moderate intervention at the time of the ACP-EU Summit in 2002, which was politely ignored. For historical reasons, its Secretariat is based with the National Council of Women. Some groups and officials feel that Fonsa acts as a gatekeeper and doesn't always pass on information and invitations. It also tends to focus more on the European Development Fund than on the trade negotiations, partly because most NGO members lack the necessary expertise. Fonsa's private sector participants are most active in the government working groups and on Fonsa's executive – something the European Commission's representative thought was not a bad thing 'because their interests are primarily affected' (a revealing insight for the unions and social sectors). Those private sector representatives are themselves bemused by the 'divisive and unconstructive' role of more critical NGOs, such as the ECREA, who challenge the European Union's neoliberal agenda.

Isn't that inevitable when contesting sectors are grouped together as 'non-State actors'?

At the EC Economic and Social Committee (ECOSOC) seminar held in Fiji in October 2004 a speaker from ECREA likened it to putting together lions and fleas, tigers and mice, cats and dogs, giraffes and elephants, snakes and pigeons and expecting them to work together effectively. The business sector won't see eye to eye with some NGOs, big NGOs will walk over the smaller ones, trade unions will resent being equated with NGOs, and women's groups will cry 'foul' when one group gets more than another. Their perspectives and priorities are so different that it seems calculated to fail. There was one positive outcome – each group had the possibility of becoming better acquainted with the needs and viewpoint of the other.

"It is not true that ACP countries 'requested' the EPA: 'A cow does not choose to go willingly to the abattoir."
(Alhaji Hassan Somunu, Secretary General of the Organisation of African Trade Union Unity, 2004)

What role are the trade unions playing?

There is deep frustration among the unions with the consultation process and the impotence of Article 50 of the Cotonou Agreement in which Pacific Islands government affirm their commitment to the ILO's Core Labour Standards. Governments in many of the Islands are reluctant to involve the trade unions actively in the process and not one of them is actively promoting the ILO Core Standards. While the trade unions resent being lumped in with NGOs they also lack the capacity to take the initiative themselves. In 2004 the South Pacific Council of Trade Unions resolved '*with the assistance from the CTU and NZCTU to seeking funding for and conducting seminars on trade in each country to build the capacity for engagement with governments, NSAs and the Pacific Island Forum Secretariat*'. Even if that eventuates, the negotiations will be advanced before the trade unions are able to engage effectively.

Is it possible to challenge the European Union directly about its agenda for the Pacific?

Every 6 months ACP-wide consultations with regional NGOs are held in Brussels. But that is more an information gathering exercise than an opportunity to debate the European Union's 'development' agenda. Direct challenges to the Commission come primarily from the Brussels-based coalition of NGOs that was formed to oppose the Economic Partnership Agreements. Occasionally there are discussions outside the EPA process - such as the ECOSOC regional seminar in Fiji in October 2004. But that was a highly structured programme 'full' of talking heads presenting the European position. There was no room to challenge the Commission's right to impose its 'development' model on the Pacific. The Commission, in turn, expressed disappointment that the Fiji government didn't send any representatives to the meeting.

Wasn't there any challenge to the Commission during the Economic and Social Committee seminar?

Yes. The following exchange between the Brussels-based Commission official (Mr Dihm) who works on the Pacific Economic Partnership Agreement and the representative from ECREA injected a much-needed critical perspective:

> ECREA: "*If someone wants to rob your house and they find the house protected by a few fierce dogs, they go away and get some juicy pieces of meat and throw them over the fence. While the dogs are busy with the meat, the robbers climb over the fence and rob the house."*
>
> The image caught on and many speakers made use of it.
>
> After Mr Dihm's glowing presentation about Cotonou, ECREA's story was repeated. He was somewhat upset and replied:
>
> *" We don't want to rob your house. But we think your house is falling down. !!**!! Ahem! Ahem! I mean your governments are telling us that your house is falling down and parts of it are on fire and so we are coming to help you restore your house and look after it*."
>
> It was too late. A number of speakers took up the phrase "we think your house is falling down" and pursued the implications.

What was the outcome of the Economic and Social Committee meeting?

The Declaration was exceedingly moderate. It stressed the need for more information, expressed concern at the limited consultation to date, called for more resources and emphasis on social dialogue, and hoped for better from the mid-term review of the Cotonou Agreement. It welcomed Economic Partnership Agreement negotiations, provided the special situation of small Pacific Island states was taken into account and trade liberalisation was not treated as an end in itself - but as a means to foster development, establish regional markets and contribute to poverty eradication. The Commission could have written it itself!

37 Not So Civil Society

The Pacific Network on Globalisation (PANG) organised a briefing for 'civil society' in Suva just before the negotiations for a Pacific Economic Partnership Agreement were officially launched in September 2004. This produced a statement, later published in *Fiji Times,* which was critical of the ideology, substance, process and implications of the proposed Pacific EPA.

Statement of civil society organisations from workshop on negotiations for an Economic Partnership Agreement (EPA) between the Pacific ACP states and the European Union, 7 September 2004, Suva.

Negotiations between the Pacific ACP states and the EU will be launched on 10 September 2004 and are expected to be completed by December 2007. There are serious concerns about the social, political and economic implications of these negotiations for Fiji and the small vulnerable economies of the Pacific. Fiji and regional civil society groups attending the above workshop submit the following initial statements for consideration as negotiations begin.

Issues and Concerns

- The interest of Pacific peoples and their development must take precedence over the economic interests and corporate profits that drive 'free trade' agreements such as the Economic Partnership Agreements.
- Services that impact on daily lives (such as education, public utilities and health services) have no place in trade agreements such as EPAs. These services should not be governed by trade rules. They are basic human rights that every Fiji and Pacific citizen is entitled to whatever their social status.
- We express disappointment that no comprehensive people-centered social impact studies have been done on the sectors that may be addressed in the EPA negotiations. These studies must be participatory and must be done immediately to inform the negotiations in the coming years. Findings must be made known publicly for discussion and debate. Furthermore government must not enter into any EPA commitments until it has examined the economic, social, environmental and gender impacts of existing free trade commitments.
- We oppose the requirement that an EPA must be WTO-compatible since WTO rules are biased against small vulnerable economies such as Fiji. Further, most Pacific ACP countries are not WTO members anyway. The EPA could make them become members against their will.
- The claim that these free trade agreements will alleviate poverty (and bring greater peace and security) is misleading. There are real and proven dangers from an unequal 'free trade' system that assumes small countries like Fiji and Tuvalu can compete on a 'level playing field' with the EU and other developed countries. We want a just trading system that takes into account the vulnerabilities of small economies, and addresses the vast inequalities in the world today.
- Before anything is agreed to in an EPA, government must ensure that local people and firms have the capacity to deliver and take advantage of its provisions. Government must not rely on foreign or overseas firms/expertise to take over or control the sector or the activity being opened up in an EPA without adequate time and protection given to local firms/expertise to compete.
- For the food security of small island economies, certain sectors particularly in agriculture and fisheries need to be protected for local consumption. Small and local enterprises and strategic industries must also be protected and supported to ensure the livelihoods of Pacific peoples.
- We must build our capacity in quality standards and quarantine to a level that protects the health and safety of our people and the sustainability of our products for export, while at the same time ensure that the EU does not set unrealistic standards that restrict our market access and the ability of local traders to export.

'Woe to you who make unjust decrees and who write oppressive laws, to turn aside the needy from justice and to rob the poor of my people of their right that widows may be your spoil and that you may make the orphans your prey.'
(Isaiah 10: 104)

- We strongly support the stand of ACP member states at the WTO to exclude the 'Singapore issues' (trade facilitation, competition, government procurement, foreign investment) and insist that these issues be excluded from the EPA negotiations.
- Governments must recognise that the EPA is part of wider trade liberalisation processes and what is agreed to with the EU may have to be offered to other countries such as major trading partners like Australia and New Zealand with even more damaging effects. The removal of special treatment or preferential clauses in trade agreements will be detrimental for Pacific countries because of economies of scale.
- Because of 'major adjustment' and projected loss of tariff revenue under these new WTO-compatible trade agreements, there is the very real danger that VAT and other taxes that hurt consumers will be increased to recoup losses in government revenue, and resources for social sectors may be diverted or reduced. This will mean further deterioration in the quality of public health, water, education and agricultural services due to cost cutting and downsizing measures.
- Governments should resist the use of aid or development assistance by the EU as a pre-condition/ bribe to make free trade commitments in the EPA. The EU must take responsibility to match or increase its aid commitments to the Pacific without trying to force Pacific states to make damaging commitments on trade issues, many of which are being rejected within the WTO itself.
- The EPA explicitly promotes privatization (Article 21 of Cotonou). For the benefit of ordinary people and the poor, government should respect and protect the rights of people to basic services, and that these remain the responsibility of the State. The cost of basic public services should be kept at affordable levels for our citizens, and not a 'commodity' that brings in huge profits for shareholders.
- The EU promotes a structural adjustment model as a means for alleviating poverty. This model has not been thoroughly researched and there is no evidence provided by the EU to prove that this model has been successful in other parts of the world. In effect it undermines vulnerable communities with little or no consideration of their lifestyles, needs and basic principles upon which communities are established.
- We call for the protection of Intellectual Property Rights including traditional medicines and culture of indigenous peoples in the EPA negotiations, and reject the WTO-compatible approach to IPR.
- We call for the assured protection of indigenous land rights. In the EPA negotiations the EU may demand that communal ownership of land gives way to private ownership that satisfy the requirements of investors. The EU has already asked PNG and the Solomon Islands to remove their communal land ownership laws that don't allow foreigners to own land.
- The Sovereign right of government to decide policy in the interest of their peoples should not be undermined by trade rules neither should these undermine the democratic rights of citizens to determine their own development.

Signed:

The Ecumenical Center for Research, Education and Advocacy, Fiji Women's Crisis Centre, Fiji Nursing Association (FNA), Fijian Teachers Association, Fiji Teachers Union, National Council of Women Fiji, Consumer Council of Fiji, Pacific Conference of Churches, World Council of Churches – Office in the Pacific, Save the Children Fund Fiji, Citizens Constitutional Forum, Live and Learn Fiji, Pacific Foundation for the Advancement of Women, Fiji Forum of Non-State Actors, Council of Pacific Education, Pacific Concerns Resource Centre, Pacific Island Association of NGOs, Pacific Network on Globalisation.

What was the official response to this statement?

The Pacific Islands governments ignored it publicly, although some 'noted' it privately. The European Commission was most unhappy, especially with the statement about the threat to land rights (see section 14). It must also be noted that the private sector bodies whose names were associated with the statement by implication through Fonsa were not pleased, either.

38 Swimming Upstream

Would the Pacific governments' strategy be workable if the Europeans are prepared to agree?

No. Their proposals still put markets, competition and profits at the centre and assume that development flows as the benefits trickle down to the masses at the bottom. Pacific people cannot survive, let alone thrive, under those conditions. Markets, trade and exchange are essential elements of social life. But when they are the primary determinants of social relations, community, environment, culture, wellbeing and self-determination it is time to say 'no'. The challenge then is to generate a viable, more acceptable alternative.

Is that possibility being discussed in other parts of the ACP?

There is real concern, especially among social movements and NGOs, that governments have backed themselves into a corner because they have no idea what else to do. Moses Teke from TRADES CENTRE in Harare has pointed out that the European Commission has a coherent position to which it is intractably committed; the ACP has a sense of what they don't want, but no clear and agreed alternative:

> *The outcome of the negotiations again indicate the failure of ACP to determine their own development ideology, take initiatives and assert sovereignty in national economic policy formulation and implementation. … The Lomé Convention has become an instrument through which ACP countries are further locked into a development ideology that is not suitable to their development concerns.*

"First say no to negotiations but failing that we should stop them from being ratified. Campaigns are not won on intellectual input but on the strength of mobilisation."
(Tetteh Hormeku, TWN Africa 2004)

Isn't it unrealistic to say 'no'?

Is it more realistic for Pacific Island governments to sign agreements and make commitments which they know they don't have the capacity to implement and that will create human suffering, social unrest and political instability if they try? At present, the only 'WTO-compatible' agreement that commits them to this agenda is PICTA, and that can and should be renegotiated. If they lock themselves into further agreements with other, powerful governments the only policy choices available to them will be more of the same.

Does the Cotonou Agreement allow the Pacific Islands to say no to the European Union?

There is no obligation to sign anything with the European Union. The Least Developed Countries (Kiribati, Samoa, Vanuatu, Solomon Islands and Tuvalu) would be eligible for the Everything But Arms option. The remainder of 'developing' countries could opt for the European Union's revised General System of Preferences. These are not perfect and do not provide long-term security; but they don't carry the costs that are likely to accompany a Pacific Economic Partnership Agreement. The European Union may well try to cut back aid to the Pacific in return. That will be a major test of its development rhetoric. But aid is likely to dwindle anyway as Europe refocuses its attention elsewhere.

Where would that leave the prospect of negotiations with Australia and NZ under PACER?

Most Pacific Islands governments now recognise that their future cannot lie within the framework that was foisted on them through PACER. That can be reversed but only if governments collectively resolve to withdraw from the agreement. Australia and NZ cannot afford to turn their backs on the region – nor should the region want them to. But their agenda will become progressively more dominant if the Pacific Island governments do not assert themselves now.

Won't the Pacific face new problems if preferences and aid disappear without replacements?

Again,is it better for Pacific Islands to begin absorbing some of those costs now or when they have gone further down a path of neoliberal globalisation that few of their governments seems to believe is genuinely good for their country and their people? It comes down to an exercise of sovereign responsibility.

Isn't it unrealistic to pretend that the small dependent Pacific Islands have any real sovereignty?

Sovereignty is not some abstract notion that empowers élites to run their countries to serve their own interests, bank balances and egos. The sovereign authority of governments comes from their people. Governments cannot 'simply' give that away without a mandate to do so. That is what good governance really means. The Biketawa Declaration set out very clearly a set of foundational principles for participatory democracy that trade negotiations sweep aside. Increasingly, these trade agreements even contradict the fundamental principles, values and responsibilities that are embodied in national constitutions.

Do Pacific Island governments recognise that?

Some. In a speech in 2004, the Chief Executive of Ministry of Foreign Affairs and External Trade, Isikeli Mataitoga, spelt out the constitutional dilemma this poses for Fiji:

> *Fiji's constitution recognizes that in the area of law making, the Fiji Parliament is supreme in that regard. It's the Fiji Parliament only that is empowered to make laws for the good order of the land and its people. It is also true generally and especially in the area of trade policy formulations and regulations that agendas are set in accordance with the dictates of the Bretton Woods Institutions [World Bank, ADB, WTO etc]. The domestic law making that follows that agenda setting are more in the nature of rubber stamping rather than a critical evaluation of what is best for the country...*
>
> *...The principles of the Separation of Powers of State and the supremacy of parliament within that is under threat. How do we engage this change while remaining true to these cardinal principles of our constitution?*

"The power of the churches' spirituality and ethics of life for all provides the basis to confront the power enshrined in unjust trade relationships and accumulated wealth. ... Transformation compels us as Churches to move beyond the difficult-but-conceivable to imagine, discover, embrace and embody the truly liberating, and then to make the liberating become the possible."
(Islands of Hope, Pacific Council of Churches, 2001)

Are there other ways for the Pacific Islands to survive in this hostile global environment?

Very real issues confront the people of the Pacific. The future may well lie in regional configurations and alliances, the pooling of resources, sharing institutions and power. But it needs to be on their own terms, according to a model of development that is based on true Pacific values. In former years, it was this kind of debate that inspired the movements for decolonisation and drove the successful demand for self-determination. That same level of courage and vision, based on prophetic traditions, is what the Pacific Churches called for in *Islands of Hope*.

What is the Island of Hope?

The WCC in conjunction with the Pacific Conference of Churches organized a consultation on economic globalization in order to accompany the Pacific churches' efforts to find alternatives to globalization. Their concept, the Island of Hope, holds up life-centered values deeply rooted in Pacific communities as a viable source for a just and sustainable economy and life in dignity.

"Spirituality, family life, traditional economy, cultural values, mutual care and respect are components of the Island of Hope which prioritizes relationships, celebrates the quality of life and values human being and creation over production of material goods. The Island of Hope is an alternative to the project of economic globalization which entails domination through an unjust system..."

"On our Island of Hope, life is valued and celebrated in *maneaba* (Kiribati), the *fale* (Samoa), the *cava* ceremony (Fiji and Tonga), the *bilum* and *sam* celebrations (Papua New Guinea) and the *nut* celebration (Solomon Islands)... These symbols and rituals are living examples of the ethos of communal life and communal economic and social relations; sharing and caring; celebrating life over material wealth; communal ownership of resource bases and high levels of intra-community interaction and solidarity… The Pacific Churches see the 'Island of Hope' as fitting expression of the global, ecumenical concept of the Kingdom of God in the Pacific context… The best of our traditional values are like seeds of the kingdom of God which, as Christians, we can offer to the world."

Could that be achieved through the Pacific Island Forum's proposed Pacific Plan?

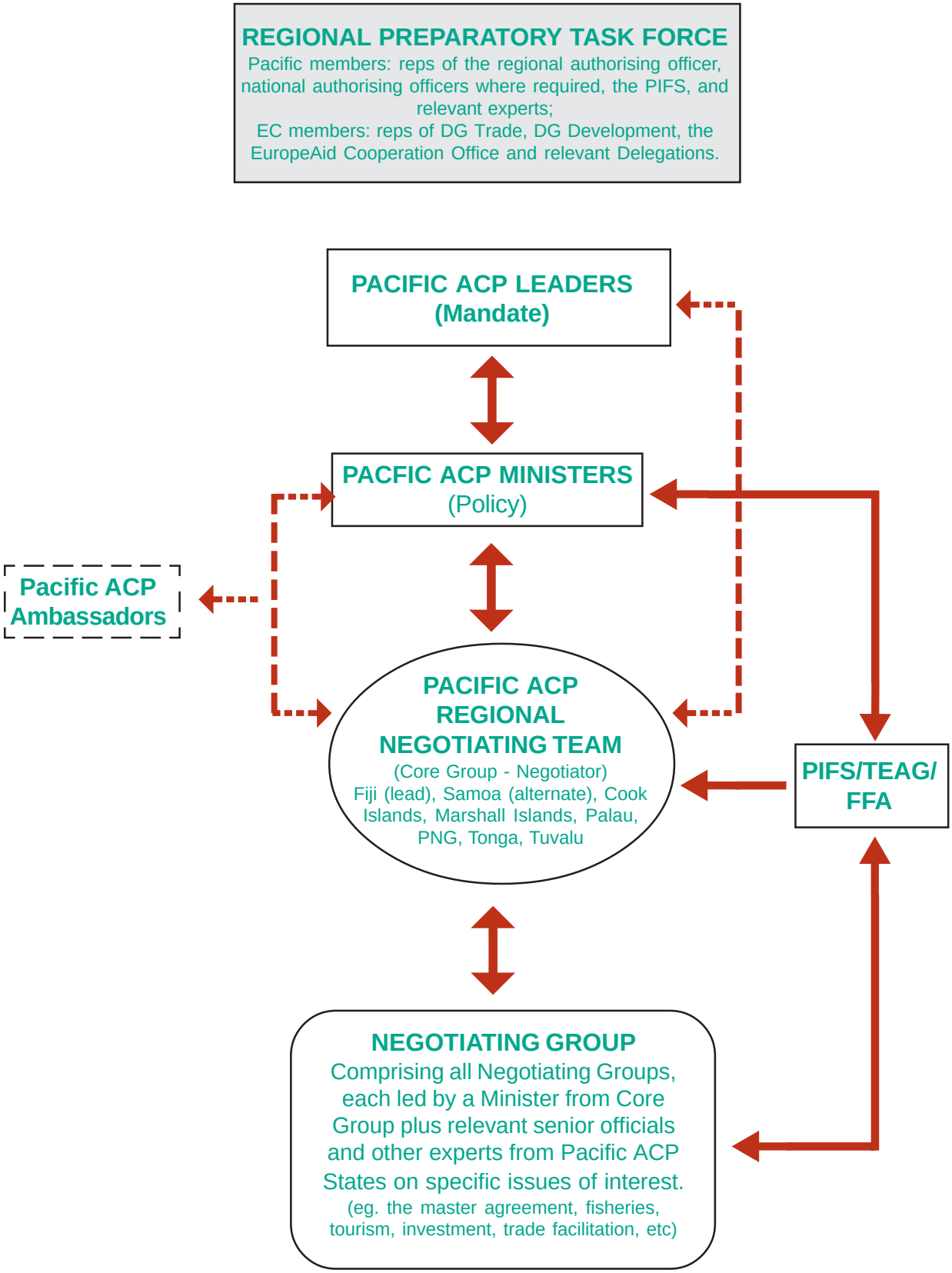
It is difficult to know quite where that is heading. The draft 'Pacific Plan for Strengthening Regional Cooperation and Integration' was released for consultation in February 2005. It was extremely vague, which suggests that nothing much had been happening. The most concrete proposals involve economic integration and the common provision of services (including a common labour market) through PICTA, an EPA with the European Union, and subsequent discussions with Australia and New Zealand. Behind the scenes a more detailed document is being developed with more concrete proposals for regional integration; it is not clear how the Pacific governments will respond. Those who advocate alternative development agendas for the Pacific need to engage with this broader debate – urgently.

Is there any alternative?

'Alternatives' often describe how Pacific people currently live their lives, based on an economy of solidarity, reciprocity and harmony with the natural world. A new vision for the future needs to harness those foundational principles to address today's complex, and often fearful challenges. The idea that the profit-driven global market place is the only world in which we can envisage our futures is simply unthinkable. Yash Tandon, formerly of SEATINI and now Director of the South Centre in Geneva, has spelt out the challenge that faces Eastern and Southern Africa, Caribbean and Pacific countries:

> *To question globalisation is like questioning the laws of gravity. And so everyone drifts in the current. Like dead fish … COMESA should refuse to drift in the current. Globalisation is not like gravity. Globalisation is the policy of the transnational mega corporations to control the global movement of goods, services and capital in order to maximise their profits and fight against the persistent downward pressure on their profits. It is backed by the most powerful states on earth (EU including), and the multilateralised trading system. The EPAs may be the least undesirable option among those visibly placed on the table by the EU, but EPAs and the GSP (now under review) are not the only options in town. There are other options that a creative mind can reveal. It requires a bit of imagination laced with a little bit of will power. As long as it has life the trout in the streams of Zimbabwe dare to swim against the current. Neither COMESA nor the 16 ESA countries are dead fish. Nor indeed are the ACP countries.*

Appendix I: Regional Pacific ACP Negotiating Structure



Appendix II: Pacific ACP Negotiating Timeline (as of August 2004)

(Note that this is subject to change!)

Date	Activity
January 2005	1st Joint Pacific ACP-EU Ministerial Meeting
Feb/March 2005	1st negotiating session, technical negotiations between Pacific ACP officials and EU
July 2005	National consultations to discuss issues with NSAs
August 2005	Pacific ACP Leaders Meeting
October 2005	2nd negotiating session on technical issues
October/Nov 2005	2nd Joint Pacific ACP-EU Ministerial Meeting
November 2005	Regional EPA Seminar – to discuss EPA issues with NSAs/ parliamentarians
December 2005	3rd negotiating session on technical issues
February 2006	3rd Joint Pacific ACP-EU Ministerial Meeting
March/April 2006	National consultations to brief on outcomes to date
May 2006	4th negotiating session on outstanding issues
July 2006	Meeting of Pacific ACP Trade Ministers to consider Regional Negotiating Team report on progress
October 2006	5th negotiating session on outstanding issues
November 2006	4th Joint Pacific ACP-EU Ministerial Meeting
December 2006	Regional EPA workshop for Non-State Actors
February 2007	6th negotiating session to begin technical discussions with EU on converting 'convergences' into draft legal texts
March 2007	5th Joint Pacific ACP-EU Ministerial Meeting
March/April 2007	National consultations/workshops to brief Pacific ACP States on outcomes of negotiations
May 2007	7th negotiating session
June/July 2007	Pacific ACP Trade Ministers discuss progress and make recommendations to leaders
August 2007	Pacific ACP leaders consider recommendations from Trade Ministers
October 2007	6th Joint Pacific ACP-EU Ministerial Meeting to discuss and finalise draft of legal texts
November 2007	Finalise and print legal text in preparation for signing
December 2007	Sign legal text

Appendix III: Pacific Island Forum Country Participation In Trade Agreements and Groupings 2004

	FIC	LDCs	Small Island States	SPAR TECA	PICTA	PACER	Lome/ Cotonou	WTO	APEC*
Australia				x		x		x	x
Cook Islands	x		x	x	x	x	x		
Federated States of Micronesia	x			x			x		
Fiji Islands	x			x	x	x	x	x	
Kiribati	x	x	x	x	x	x	x		
Marshall Islands	x		x	x			x		
Nauru	x		x	x	x	x	x		
New Zealand				x		x		x	x
Niue	x		x	x	x	x	x		
Palau	x						x		
Papua New Guinea	x			x	x	x	x	x	x
Samoa	x	x		x	x	x	x	a	
Solomon Islands	x	x		x	x	x	x	x	
Tonga	x			x	x	x	x	a	
Tuvalu	x	x	x	x			x		
Vanuatu	x	x		x			x	a	

a = in process of accession
* The Pacific Islands Forum has observer status at APEC

Appendix IV: People Interviewed

Fr Kevin Barr, Programme Consultant, ECREA, Fiji

Ratu Tui Cavuilati, Ambassador of Fiji, Brussels

Martin Dihm, Principal Administrator, European Commission Directorate-General for Trade, Brussels

Daniel Gay, Trade Economist, Department of External Trade, Vanuatu

James Gosselin, Multilateral Trade Policy Adviser, Pacific Islands Forum Secretariat

Roman Grynberg, Commonwealth Secretariat, member Trade Experts Advisory Group

Namita Khatri, Trade Policy Adviser, Ministry of Foreign Affairs and External Trade, Fiji

Roy Mickey Joy, Chairman, Vanuatu Investment Promotion Authority, Vanuatu

Marc Maes, 11.11.11 Coalition of the Flemish North-South Movement, Brussels

Isikeli Mataitoga. Chief Executive Officer, Ministry of Foreign Affairs and External Trade, Fiji

Tau'ili'ili Uili Meredith, Ambassador of Samoa to the European Communities, Brussels

Moses Mose, Trade Policy Adviser, Pacific Islands Forum Secretariat

Tupou Raturaga, Counsellor, Embassy of Fiji, Brussels

Ken Roberts, Chief Executive, Fiji Employers' Federation, Fiji

Susana Tuisawau, Regional Programme Officer, Education International, Fiji

Myfanwy van de Velde, Counsellor, European Commission, Fiji

Tupou Vere, Pacific Concerns Resource Centre, member Trade Experts Advisory Group, Fiji

Appendix V: Useful Websites

Africa Trade Network: www.twnafrica.org

Agritrade: www.agricta.org

Arena: www.arena.org.nz

COMESA: www.comesa.int

EDCPM: www.acp-eu-trade.org

EPA Watch: www.epawatch.net

European Centre for the Development of Policy Management: www.ecdpm.org

European Commission: www.europa.eu.int

Pacific Islands Forum Secretariat: www.forumsec.org.fj

PANG: www.pang.org.fj

SEATINI: www.seatini.org

STOP EPA: www.stopepa.org

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