

10 REASONS TO CHALLENGE THE PACIFIC EPA

1. Do the Pacific Islands' negotiators genuinely hope they can negotiate a beneficial Economic Partnership Agreement with the European Union or are they simply going through the motions and doing what is required of them under the Cotonou Agreement 2000? Judging by the texts they have produced, they are aiming for a showdown, but in the secretive chess game of trade negotiations it is impossible to know. **Realistically, the Pacific Islands cannot expect to benefit from an EPA.** The few gains the governments might hope to make are likely to be blocked by the EU, and they would face serious economic and social costs in return. But as long as the Pacific negotiators remain at the negotiating table there is a risk that they will not walk away from a bad deal. Opening up their negotiating texts to detailed scrutiny and encouraging active public debate can only strengthen their hand at the table and their justification for saying 'no' to the EU.

2. The current negotiations for a Pacific EPA are due to be concluded by December 2007. **A draft legal text has been prepared that attempts to create a lot of flexibility, but would still seriously limit the policy and development options of future Pacific Islands governments.** That text has been discussed informally with the EU, but not with members of parliament and affected communities in the Pacific Islands; indeed, it is not clear if they would get to see a text before the negotiations are concluded. To ensure they can, the draft text and a preliminary analysis is available on http://www.bilaterals.org/article.php3?id_article=6111 - something the negotiating governments and Forum Secretariat should have made available themselves.

3. Governments from the Pacific and other sub-regions in the Africa Caribbean and Pacific (ACP) group have said they want to explore alternatives, because they see little to gain and much to lose from an EPA. **The EU has been very cunning in avoiding discussion of those alternatives.** By inviting the six ACP sub-regions to draft the first texts, the EU has drawn them into negotiations where they will be tempted to defend 'their' texts. Each of the sub-regions has been working in isolation, which increases the EU's ability to divide and rule. Meanwhile, consideration of alternatives is taking place in a long drawn out review process that won't be completed until around March 2007 and is running on a separate track from the negotiations on the EPA text.

4. The initial draft EPA text sets out the Pacific ACP governments' wish list. That is as good as a Pacific EPA is going to get. The text has attempted to weaken the standard free trade rules to advantage the Pacific and include creative proposals that could benefit particular countries and sectors. But most, if not all, of those innovations are likely to disappear. This version is only the starting point for negotiations. **Any final text will be much weaker because the EU will refuse to accept the parts that it doesn't like.** It has already presented an identical 'non-paper' on services and investment to the Pacific and Caribbean that is designed solely to advance its transnational corporations and makes a mockery of any development agenda. It hasn't agreed to the unorthodox 'framework' on which the whole agreement hangs and is refusing to fund the many facilities and activities that are proposed. It seems clear that the EU sees an EPA as a WTO+ free trade deal.

5. The Pacific ACP governments have taken a defensive approach to the EPA. **Their driving concern has been to avoid triggering negotiations with Australia and New Zealand under PACER, which have the potential to devastate the Pacific Islands' economies.** The trigger is activated if they negotiate a free trade agreement on goods with the EU. That is why the main EPA text is a 'framework' agreement on goods, which all Pacific ACP governments could sign, while the agreement to liberalise trade in goods is in a separate Annex where participation is voluntary. As soon as any Pacific ACP country begins to negotiate with the EU on goods, Australia and NZ will demand negotiations with that country. The governments that are thinking of taking part in the goods negotiations are Fiji, PNG, Solomon Islands, Samoa, Vanuatu, Tonga and maybe the Cook Islands. It is not clear why, as they have nothing obvious to gain, especially if the EU rejects proposals for more flexible rules as seems likely. Only Fiji and PNG have any significant trade with the EU, and most of Fiji's trade is caught up in the separate discussions over sugar.

6. While the draft text of the EPA is a 'framework' for goods, it also contains chapters that deal with other issues: agricultural development, services, tourism, investment promotion and protection, trade facilitation and promotion. All these are key areas of national policy. Bringing them under the EPA would tie future governments to follow a market-driven economic strategy. **Democratically elected governments would have no choice but to continue the global market model of development that has already failed too many Pacific countries.**

7. **The text proposes to vest authority over key Pacific development strategies in Partnership Committees made up of EU representatives and Pacific trade officials.** It says the Pacific governments retain the full sovereign control over the development strategies and models of their economies and societies. But these committees would receive, adopt and review national and regional strategy papers in the major areas covered by the EPA. There is no guarantee that Members of Parliament and the public would be involved in preparing those strategy documents or even see them before they were sent to the committee. The current practice for similar committees is to work in secret with no effective accountability to national parliaments or their citizens.

8. One explicit goal of the Agriculture Development Strategy is **'to assist in the reform of laws, including laws relating to land tenure', with 'enabling policies' that 'endeavour to strengthen local institutions and enact policies and legislation that provide for equitable and secure access to ownership and control of natural resources, particularly land'.** This could mean better rights for ordinary people over land and resources. But in a trade liberalisation agreement, which focuses on industrial agriculture and cash cropping for export, it is more likely to mean securing control over larger-scale land holdings for individuals and companies, including foreign agribusiness. Any changes to land laws made for agriculture would flow on to tourism, forestry, mining and more. There is no mention of people's participation in these decisions, constitutional protections for land rights, or the social, cultural, environmental and spiritual dimensions of land.

9. Trade in services is a complicated and high risk area that can limit the way governments can regulate banking, electricity, sanitation, education, ports, retail shops, health care and much more. **The draft text on services could give EU companies enforceable rights to invest and supply services in the Pacific.** This is totally unnecessary. Some other ACP regions are refusing to discuss services with the EU. The Cotonou Agreement says services don't have to be included in an EPA until countries have had experience with such agreements. Only Fiji, PNG and the Solomon Islands – 3 out of 14 Pacific ACP countries - have signed the WTO services agreement and their commitments are minimal. Vanuatu and Tonga have put their WTO accessions on hold partly because of the excessive services commitments they agreed to. Yet it is rumoured that the Forum's consultants have advised Tonga to offer the same list of services in the EPA! Hopefully, that is wrong; but the secrecy of the process makes it hard to know. This is a major weak point of the EPA. In stark contrast, the draft text on foreign investment has plenty of fishhooks, but seeks to impose obligations on the EU and its investors and even commits Pacific governments to labour, environment and human rights obligations that far exceed their current standards.

10. The Forum Secretariat promised civil society groups in Nadi in June 2006 that there would be a social impact assessment of the Pacific EPA before the negotiators decided their final position. The Pacific trade ministers agreed. Pacific NGOs made it clear that they wanted to play an active role in the impact assessment, but they have been ignored. **The terms of reference for the 'social impact assessment' of the Pacific EPA are farcical.** It will not look at *whether* there should be an EPA, only how *'to cushion the impact of an EPA'* once it is negotiated. There is no consideration of alternatives. A consultant will conduct a comprehensive review of the social impacts of the EPA across a sample of Pacific Islands in just 35 days. Their final report will go to 'technical experts and senior government officials' in late January 2007. There is no requirement to consult the people who understand the impacts on their communities, no provision for them to provide an independent peer review, and no promise that the final report will be made public. Whether the governments' are aiming to avoid an EPA or seek a high quality, pro-development outcome, a credible social impact assessment that is backed by civil society can only strengthen their negotiating position.