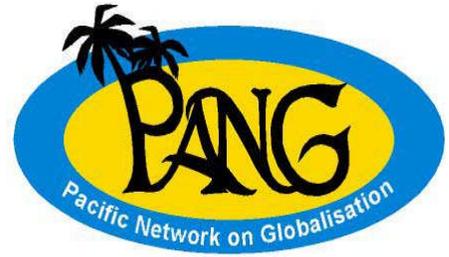


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MAKING WAVES: OPPORTUNITIES FOR RECLAIMING DEVELOPMENT IN THE PACIFIC



**INFORMING CIVIL SOCIETY RESPONSES TO
THE FREE TRADE AGENDA.**

**A report prepared by the Pacific Network on Globalisation (PANG) for the
2008 Annual Pacific Civil Society Organisation (CSO) Forum.
Auckland, NZ. August 12-14.**

Abstract

The Pacific Island Countries currently face concerted pressure (from donor countries and international financial institutions) to 'integrate into the global economy' through implementing new free trade agreements. The model of extensive trade liberalisation is currently being implemented through interlocking stages – bilaterally through the Pacific Island Countries Trade Agreement (PICTA), negotiations for a new Economic Partnership Agreement (EPA) with the EU, and with Australia and NZ under the Pacific Agreement on Closer Economic Relations (PACER), and multilaterally through the World Trade Organisation (WTO).

Free traders argue that the Pacific will benefit from cheaper imports, increased investment in the region and improvements in efficiency of Pacific business and service suppliers.

However, it is widely acknowledged that trade liberalisation will have very real costs for societies and economies – in terms of lost government revenue, business closures and job losses, and undermined access to essential services.

Governments will also lose important 'policy space' that can be used to stimulate development, and regulate trade and investment in the social interest.

Concerns have been raised by civil society organisations, church groups and trade unions that free trade will hurt workers and communities in the Pacific, and that the 'benefits' of trade liberalisation are far from proven.

This paper provides an up-to-date analysis of the FTA negotiations currently facing the region, and potential implications for the region if our governments choose to *sign* new FTAs. It also offers a critical analysis of the *approach* Pacific governments have taken to engaging new trade negotiations, and considers the role of trade unions and civil society in engaging the trade talks.

This paper is intended to give Pacific civil society organisations (CSOs) the critical tools required to understand the push towards free trade in the Pacific, and to engage the process more effectively. National, regional and international government processes for negotiating new FTAs are outlined, aiming to offer CSOs a picture of *where, when and how* they might better intervene in the trade decision making process. Finally, this paper offers some suggestions for coordinated CSO policy in relation to the push towards free trade in the Pacific.

This report has been prepared by Maureen Penjueli, Coordinator, the Pacific Network on Globalisation (PANG) and Wesley Morgan, Communications Officer, PANG. This paper has been prepared in collaboration with Nick Braxton, Advocacy and Research Officer, Oxfam New Zealand, and Professor Jane Kelsey, Professor of Law, Auckland University.

Acknowledgements

The Pacific Network on Globalisation (PANG) plays the role of the Pacific regional “peoples’ watchdog on trade issues”. Established in 2000 by regional NGOs concerned that Pacific civil society was being left out of the debate on trade liberalisation and that the free-trade agenda lacked a focus on key goals of human development and poverty reduction.

PANG receives support from a number of organisations and individuals, who deserve a special mention for their help in producing this report.

Without continuing support from the Canadian ecumenical organisation, *KAIROS: Canadian Ecumenical Justice Initiatives*, PANG would not be able to continue to carry out its important work. KAIROS program coordinator Connie Sorio in particular has demonstrated a much-appreciated faith in the ability of Pacific civil society to engage trade discussions in the region.

In producing this report PANG worked closely with Professor Jane Kelsey, Professor of Law at Auckland University. Professor Kelsey has been a tireless supporter of the campaign for fair trade in the Pacific (and across the globe). Her technical and legal expertise has been invaluable for producing research at PANG. Professor Kelsey has previously completed two major reports on free trade in the Pacific: *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)*, and; *A People’s Guide to PACER (The implications for the Pacific Islands of the Pacific Agreement on Closer Economic Relations (PACER))*.

Nick Braxton, Advocacy and Research Officer at Oxfam New Zealand also contributed to the research and writing of this report. Nick completed the section entitled; *A poor precedent for the region? Implications of the EU-Caribbean EPA*, and provided support throughout the review phases of producing the *Making Waves* report. Oxfam NZ continues to be a staunch ally of the Pacific in campaigns for fair trade in the region.

An earlier version of this report was produced for a regional trade union conference on free trade in the Pacific, hosted by the International Labour Organisation. The *ILO/ACTRAV Pacific Trade Union Seminar on Free Trade, Decent Work, and Social Development in the Pacific* was held in Nadi, Fiji, from June 24-26, 2008. PANG would like to thank Mishihiko Ishibashi, Specialist on Workers’ Activities, ILO sub-regional officer for Southeast Asia and the Pacific, for his enthusiastic support during that seminar. PANG would also like to thank Rajeshwar Singh, General Secretary of the Fiji Public Service Association for nominating PANG staff to work as resource people for the ILO seminar.

In solidarity,

Maureen Penjueli
PANG Coordinator
August 2008

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Abbreviations

ACP African, Caribbean and Pacific Countries
ADB Asian Development Bank
AUSAID Australian Agency for International Development
CSOs Civil Society Organisations
DAWN Development Alternatives with Women for a New Era
ECREA Ecumenical Centre for Research, Education and Advocacy
EPA Economic Partnership Agreement
EPG Eminent Persons Group
ESA Eastern and Southern Africa region
EU European Union
FEMM Forum Economic Ministers Meeting
FICs Forum Island Countries
FTA Free Trade Arrangement
GATT (WTO) General Agreement on Tariffs and Trade
GDP Gross Domestic Product
GSP General System of Preferences
IMF International Monetary Fund
IPPA Investment Promotion and Protection Agreement
LDCs Least Developed Countries
MDGs Millennium Development Goals
MSG Melanesian Spearhead Group
NGO Non-Government Organisation
NAFTA North American Free Trade Agreement
NSA Non-State Actors
NZ New Zealand
NZAID New Zealand Agency for International Development
NZPTC New Zealand Pacific Training College
OECD Organisation for Economic Cooperation and Development
PACER Pacific Agreement on Closer Economic Relations
PACP Pacific members of the ACP
PCC World Council of Churches – Office of the Pacific
PCRC Pacific Concerns Resource Centre
PICs Pacific Island Countries
PICTA Pacific Island Countries Trade Agreement
PNG Papua New Guinea
REPA Regional Economic Partnership Agreement
ROOs Rules of Origin
RTFP Regional Trade Facilitation Programme
SME Small and Medium Enterprises
SPARTECA South Pacific Regional Trade and Economic Cooperation Agreement
SPOCTU South Pacific Council of Trade Unions
USP University of the South Pacific
VAT Value added tax
WTO World Trade Organisation

1. Introduction: The push for free trade

For much of the past decade the Pacific Island Countries (PICs) have faced pressure from developed country partners, international financial institutions and aid donors to move towards trade liberalisation through new free trade agreements (FTAs) and through joining the World Trade Organisation (WTO).

Free trade agreements involving the region include the Pacific Island Countries Trade Agreement (PICTA), the Economic Partnership Agreement (EPA) with the European Union, and the extension of the Pacific Agreement on Closer Economic Relations (PACER) with Australia and NZ to include deeper “economic integration”.

The move towards free trade in the Pacific is driven largely by the interests of business (exporters, service suppliers and potential new investors) based in the Pacific’s developed-country ‘partners’. Businesses in Australia and NZ in particular want to see tariffs reduced on their exports to the Pacific, and changes to laws in the region to allow multinational corporations to establish new enterprises and invest (and remove profits) with reduced obligations to the countries in which they invest.

Alongside these direct commercial interests in trade liberalisation in the Pacific, policy makers from Australia, NZ and the EU rely heavily on neoliberal arguments that trade liberalisation will lead to improvements in industry efficiency, through increased competition and a renewed focus on areas of ‘comparative advantage’. Proponents of new FTAs for the region also argue that consumers will benefit from cheaper imports, and that some export industries will benefit from cheaper inputs to their production lines. (See *Inset Box 1: What ‘free trade’ means for the Pacific* for discussion on the arguments for free trade in the Pacific). Other more general arguments are made that new FTAs will help to improve regional cooperation in the Pacific, and will send a ‘positive signal’ that will help address the ‘economic and political marginalisation’ of the region.

In the decades following decolonisation in the Pacific, relations with former colonial powers in Europe, Australia and NZ were marked to a degree by development cooperation and trade preferences (preferential access to markets for Pacific exports). These relations were cemented under agreements like the South Pacific Regional Trade and Economic Cooperation Agreement (SPARTECA) with Australia and NZ, and the Lomé Agreement with the European Union.

During the 1990s, alongside the widespread adoption of neoliberal market policies in the developed world (and among donor organisations and international financial institutions), the rise of a multilateral trade liberalisation instrument (in the WTO), and a proliferation of bilateral free trade deals, this emphasis on development cooperation and trade preferences has been eroded. The rhetoric of development cooperation and special/preferential treatment for smaller developing nations is increasingly being replaced by a hard line ‘everyone must compete on the open market’ policy.

While often conflated with other concepts – like cultural homogenisation, and the spread of new technologies – it is the move towards open and integrated markets that is most often referred to as *globalisation*. It is important to understand that when Pacific governments are pressured to ‘embrace globalisation,’ this most often refers to pursuing free trade policies and negotiating new FTAs.

The key question, for Pacific civil society organisations, is whether the free trade deals facing the Pacific will really raise the people's standards of living, and of work, or will they lower them?

Concerns have been raised by many in the Islands, particularly civil society organisations, trade unions and critical academics, that FTAs will have negative implications for working people in the Pacific. Just some of these concerns are; reductions in government revenue (leading to increased consumption taxes and/or loss of government services), an undermining of access to essential services for poor and rural people through increased pressure for privatisation, a reduction in the 'policy space' available to governments to stimulate development, and less access to medicine and education materials through stronger intellectual property rights.

It should be noted that Pacific civil society is not alone in being wary of FTAs. There have been a series of concerns raised by civil society organisations the world over, and the international trade union movement, and about the employment and development impacts of the move to free trade.

Civil society organisations in the Pacific are focussed on work that contributes to regional goals of economic growth, sustainable development, good governance and human security – all elements of the Pacific Plan. The challenge of 'integrating into the global economy' and expanding trade opportunities is one that has become a preoccupation of Pacific leaders in the past decade.

It is important that Pacific CSOs are a part of the discussion around trade and development in the region. At the moment, the debate is dominated by simplistic assumptions that trade liberalisation will lead to economic growth and development. Pacific CSOs must raise concerns about potential negative impacts of poorly considered trade liberalisation – about the so called 'adjustment costs' – to add clarity to the discussion and help Pacific leaders to make realistic assessments of trade policy choices.

However, Pacific CSOs must do more than raise concerns about the FTAs. Pacific civil society can contribute to developing a coherent response to the question "*how can we use international trade to enhance our development?*." Currently, the focus, especially in FTA negotiations, is all too often "*how much trade liberalisation can we cope with?*", and in some senses negotiating FTAs has replaced considered trade and development policy in the region.

This is a dead-end approach to development. We know that all of the now-developed countries have used various elements of protection, and support for local industry, to develop to a level where their firms can compete in the global market. This is true for countries in the EU, for developed countries in the region like Australia and NZ, and for the rapidly developing Asian 'tiger economies'. Even small developing states can use a mix of tariffs, quotas, and investment incentives to govern the market in a way that adds value and stimulates development. Pacific leaders need to retain the ability to make policy choices that will harness trade to the service of development in the region.

To harness the opportunities of international trade, the Pacific needs a renewed focus on addressing real constraints in the region. A focus is needed on building service industry capacity (in tourism for example), supporting niche agricultural and manufacturing

products, developing new markets (and improving market access) for Pacific exports, improving management and value-adding of Pacific resources (in areas like mining, fishing and forestry) and targeting investment at small and medium enterprises. Renewed commitments are also needed to improving key infrastructure (transport, electricity, telecommunications etc.) and improving access to health and education services for Pacific workers.

The FTAs proposed by the EU, and Australia and NZ, will restrict forever the ability of Pacific governments to favour local firms and service suppliers, or regulate foreign investment to help stimulate local industry and employment. PICs will lose the ability to support local businesses to benefit from future opportunities and create local jobs in the future. For the Pacific, with relatively few developed businesses at present, it is this loss of policy space that is likely to be the lasting legacy of unjust and misguided trade liberalisation.

With Pacific governments rapidly committing themselves to FTAs that have not been debated publicly, it is vital that Pacific CSOs understand what is at stake in these agreements, develop effective strategies to engage the trade liberalisation debate, and vigorously resist agreements that would undermine development in the Pacific Islands. This background paper aims to contribute to those goals.

This report focuses on the three key FTA negotiations involving the region (PICTA, the EPA with the EU, and PACER), providing an update and analysis of the negotiations and their content. In particular, this background paper focuses on current discussions for an EPA with the EU, providing an analysis of the implications of the already initialled interim-EPAs (initialled by PNG and Fiji), a review of the example set by the EU-Caribbean EPA and their implications for the Pacific, an analysis of outstanding issues remaining for the negotiations in 2008, and a review of the implications of the EPA negotiations for potential trade negotiations with Australia and NZ (under PACER).

Finally, this paper outlines some of the possible scenarios under all three FTAs going ahead, explains ways CSOs can become more involved in the trade talks, and provides suggestions for CSO policy engagement..

2. Multilateral and bilateral trade liberalisation: complex and interlocking processes

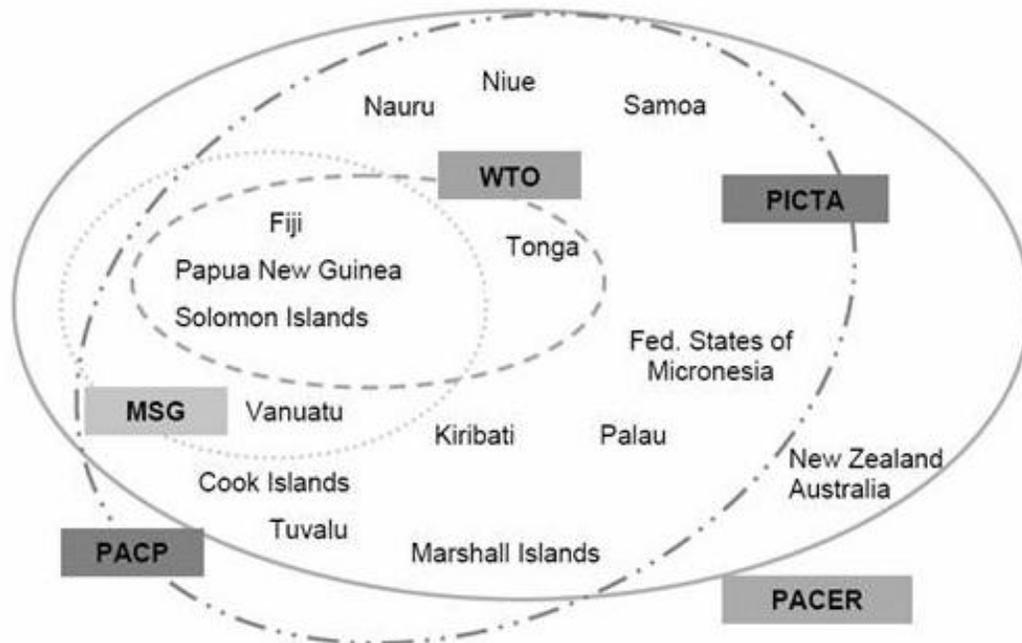
The Pacific Island Countries are surrounded by an ‘alphabet soup’ of complex and inter-related regional and sub-regional governmental and trade processes (see Figure 1 below). These inter-relating processes have implications for the way PICs engage trade negotiations at the national and regional level.

The FTAs involving the PICs are often described as ‘stepping stones’ towards a deeper commitment to free trade and globalisation, with each new FTA locking the door on going back. PICTA has been seen as the ‘starting point’ for the PICs, leading on to the EPA negotiations, PACER and beyond. The World Bank explained how this works in a report from 2002 entitled *Embarking on a Global Voyage: Trade Liberalisation and Complementary Reforms in the Pacific*. That report said:

In sum, PACER and the Cotonou Agreement have set in motion a process of negotiation of [free trade agreements] between [the PICs] and the EU and Australia and New Zealand, and for providing the United States with similar preferential treatment. The widening of preferential arrangements beyond PICTA is inevitable. Only the timing, extent and benefits are uncertain.

This seemingly irreversible and inevitable transition to free trade is increasingly being locked in through FTAs, and is driven by the active policies of the EU, Australia and NZ in the region – and their influence in key institutions like the Pacific Islands Forum Secretariat (PIFS). Understanding how these FTAs are interrelated, and the ways they relate to each other at an ideological and practical level, is important for Pacific CSOs.

Figure 1: Interlocking ‘steps’ towards free trade in the Pacific Island Countries



A quick summary of trade and governance processes involved in trade liberalisation in the Pacific, and ways they are interrelated, are as follows:

2.1 World Trade Organisation (WTO):

(Members: Fiji, Papua New Guinea, the Solomon Islands and Tonga)

Pacific Island States that are members of the WTO have certain commitments to liberalise trade in goods with all other member countries of the WTO, and receive requests from other member states to liberalise service sectors under the General Agreement on Trade in Services (GATS). Vanuatu shelved plans to join the WTO in 2001 after it was found that conditions for Vanuatu's accession to the WTO contained a range of WTO+ conditions (including demands for a radical liberalisation in services)¹. Vanuatu may yet accede under similar terms and Samoa is currently preparing to join the WTO.

Membership of the WTO has implications for countries that are engaged in regional FTA negotiations that are generally based on WTO principles (though the EU, Australia and NZ are seeking WTO+ provisions from the FTA negotiations). Less than half of the PICs are members of the WTO, so signing onto these FTAs will mean that PICs will have to submit to trade liberalisation schedules more burdensome than is required of developing states at the WTO *even if they are not members of the WTO*.

2.2 Melanesian Spearhead Group (MSG):

(Members: Fiji, PNG, Solomon Islands, Vanuatu)

The Melanesian Spearhead Group was formed in 1993 by Papua New Guinea, Solomon Islands, and Vanuatu – with Fiji joining in 1998. The MSG was formed to lead the free trade experiment in the Pacific. It applies free trade rules to a small number of key products in which each country has a comparative advantage. The Melanesian governments, especially PNG, argued that the agreement provided a small, gradual and island-only approach to free trade. Free traders have criticised the MSG as limited and weak.

2.3 Pacific Islands Forum (PIF):

(Members: Australia, Cook Islands, Fed. States of Micronesia, Fiji, Kiribati, Marshall Islands, Nauru, New Zealand, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu, Vanuatu).

The Pacific Islands Forum encompasses the 16 island states of the southwest Pacific (excluding French and American territories in the region). The Forum is the region's premiere political and economic policy organisation. Forum leaders meet annually to develop collective responses to regional issues.

The Pacific Islands Forum Secretariat (PIFS) is the administrative arm of the Forum, based in Suva, Fiji. PIFS receives more than \$30 million each year from member governments and other donors (like the EU). Since the late 1990s – under concerted influence from the EU, Australia, and NZ – PIFS has increasingly focussed on the

¹ Vanuatu had to make commitments to liberalise professional services, basic and value-added telecommunication services, environmental, wholesale, retail, insurance, banking services, hotels and restaurants, primary, secondary, higher, adult and other education services, and sewerage, refuse disposal, sanitation and general construction services. Kelsey, J (2004a) *Acceding Countries As Pawns in a Power Play: A Case Study of the Pacific Islands*. Focus on the Global South, August 23, 2004. <http://www.focusweb.org/content/view/442/36/>

implementation of a free trade agenda in the Pacific Islands, and ‘economic reform’, ‘regional integration’ and ‘integration of the Islands into the global economy’ are all euphemisms for trade liberalisation in the PICs. Studies and reports into the ‘benefits’ of free trade, programs to develop technical capacity to negotiate new FTAs, and to implement the terms of new FTAs have all been funded by the EU, Australia, and NZ through the PIFS (under programs like the Regional Trade Facilitation Program funded by Australia/NZ and the Pacific Regional Economic Integration Program funded by the EU.)

This focus on trade liberalisation at the Forum Secretariat means it has become an institution for creating political consensus around signing new FTAs. As Fiji-based academic Claire Slatter writes:

The Pacific Islands Forum, formerly known as the South Pacific Forum, has played a key role in regional economic restructuring, functioning as a channel for the diffusion of neo-liberal economic ideas and thinking among Pacific Island leaders, and as the principle implementing agency in the externally driven program of ‘reforms’. From 1999, the work of the Pacific Islands Forum Secretariat began to focus increasingly on trade liberalisation and compliance with WTO principles and trade rules – two regional trade agreements, the Pacific Island Countries Trade Agreement (PICTA) and the Pacific Agreement on Closer Economic Relations (PACER), emerged from Secretariat processes².

The Pacific Islands Forum Secretariat has also assumed responsibility for coordinating the Pacific ACP countries (see below) in their negotiations with the EU for a new FTA (the Economic Partnership Agreement) – with key technical staff assisting the Pacific Regional Negotiating Team funded by the EU itself. This has had implications for the way Pacific countries have approached negotiations with the EU.

2.4 Pacific Island Countries Trade Agreement (PICTA):

(Members: Cook islands, Fiji, Kiribati, Nauru, Niue, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu, and Vanuatu).

In 1999 a meeting of Forum Trade Ministers decided to proceed with a PICs-only free trade agreement (excluding Australia and NZ) covering trade in goods between the PICs. PICTA arose to a degree in response to pressure from Australia and NZ for the PICs to begin negotiations for an FTA including those countries. In response the PICs decided to pursue an islands-only FTA (though Australia and NZ bullied PICs to commit to discussing extending free trade to Australia and NZ under PACER, see below). Originally PICTA covered only liberalisation of goods trade between PICs, but in 2001 Forum Trade Ministers endorsed in principle the integration of services into PICTA based on a “gradual, flexible approach, with sufficient transition periods where appropriate”.

PICTA came into force for trade in goods in 2003, and since then six members (Cook Islands, Niue, Fiji, Samoa, Solomon Islands and Vanuatu) have announced their readiness to trade under PICTA. Trading under PICTA preferences commenced in 2007.

Negotiations for the extension of PICTA to include trade in services (including labour mobility) began in earnest in April of this year, with a subsequent round of negotiations

² Slatter, C. (2005) “*Treading water in rapids? Non-governmental organisations and resistance to neo-liberalism in Pacific Island States.*” Chapter 2: Globalisation and Governance in the Pacific Islands. Australian National University Press.

conducted in June and a final round scheduled for September – with a view towards concluding the new legal text for a trade in services agreement (as an extension of PICTA) by October 2008.

(See *A stepping stone to where? The Pacific Island Countries Trade Agreement (PICTA)*, below, for further discussion on current stages of the PICTA negotiations).

2.5 Pacific Agreement on Closer Economic Relations (PACER):

(Members: Australia, Cook Islands, Fiji, Kiribati, Nauru, New Zealand, Niue, Papua New Guinea, Samoa, Solomon Islands and Tonga).

The Pacific Agreement on Closer Economic Relations (PACER) was negotiated alongside PICTA by all Pacific Island Forum members, including Australia and NZ. Officially PACER is an ‘umbrella agreement’ and PICTA is the lesser one. This is not how most PICs see it, as they were interested only in negotiating an FTA among PICs, but Australia and NZ insisted on being included.

Under PACER, Forum Island Countries must begin discussions with Australia and NZ with a view towards negotiating an FTA in 2011, unless certain ‘triggers’ are engaged earlier. PACER stipulates that if Forum Countries sign an FTA with a third-party developed country, this triggers PACER discussions³. Australia and NZ view the initialling of interim EPAs by Fiji and PNG as having pulled that trigger, and are keen to begin discussions on a new FTA as soon as possible.

An informal meeting on PACER has already been held, in May this year in Auckland, between representatives from the Australian Department of Foreign Affairs and Trade (DFAT), the NZ Ministry of Foreign Affairs and Trade (MFAT) and representatives from each of the PICs.

PACER is *not* a free trade agreement, but an ‘economic and trade cooperation’ agreement that includes obligations to look towards negotiating a new FTA. PACER also contains obligations for Australia and NZ to help fund a Regional Trade Facilitation Programme aimed at streamlining and upgrading customs, biosecurity and quarantine processes in the PICs. This was a major incentive for PICs to sign on to PACER. It is not clear what other elements of ‘economic and trade cooperation’ could be discussed and negotiated under PACER – labour mobility, improved rules of origin, and new development funding to address transport infrastructure and other “capacity constraint” issues are possibilities.

It should be noted that Australian and NZ officials have already stopped referring to PACER and now speak exclusively of PACER-Plus, with the ‘Plus’ indicating negotiations for an actual FTA.

Of the FTAs facing the region PACER is likely to have by far the biggest impact on Pacific economies, societies and environments – due to the much larger volumes of trade with Australia and NZ, and the presence of large, well-established and expansionary corporations in those countries with an interest in the Pacific market.

³ As then Australian foreign minister Alexander Downer explained of the signing of PACER; “The PACER protects Australian trade interests in the event that Forum Island Countries begin negotiations for a free trade agreement or offer improved market access to another developed country”. Pacific Magazine. (2003) Enduring Commitments: An Exclusive Interview with Australian Foreign Minister Alexander Downer. *Pacific Magazine*, No. 3, March 2003. Accessed from: <http://www.pacificislands.cc/pm32003/index.php> Accessed on:5/6/08

2.6 Pacific members of the African, Caribbean and Pacific group (PACP):

(Members: Cook Islands, Fed. States of Micronesia, Fiji, Kiribati, Marshall Islands, Nauru, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu, Vanuatu).

The EU has a special relationship with its ex-colonies in Africa, the Caribbean and the Pacific (the ACP) that encompasses political and trade relations, and development assistance. This relationship, in acknowledgment of Europe's historical debt to its ex-colonies, was been marked by the concept of *development cooperation* in particular. The Lomé Agreement (signed between the EU and ACP states in 1975) accepted that the parties involved were not on equal footing and one party (the EU) needed to assist the other (the ACP States) with technical and financial resources to develop capacity. In 2000, the EU and the ACP states signed a new agreement – the Cotonou Agreement – in which the EU made an explicit shift from a relationship based on development cooperation to one more focused on *trade*.

The Cotonou Agreement reflected the new priorities of European powers interested in shedding historical responsibilities to their ex-colonies, and expanding their economic interests. Under the Lomé Agreement, ex-colonies had been granted preferential access to European markets for their exports. The Cotonou Agreement outlined the phasing out of these preferences for ACP countries, to be replaced with reciprocal rights for Europe's goods into ACP markets. As well as reciprocal market access, the EU is seeking to extend the scope of trade relationships to include new areas like services, competition and investment policy and intellectual property rules.

In the Pacific, the Forum Island Countries, excluding Australia and NZ, are all members of the Pacific ACP (PACP) regional grouping – who are currently involved in negotiations with the EU for a new EPA (see below).

2.7 Economic Partnership Agreement (EPA):

Under the Cotonou Agreement, the EU set out to establish new trading arrangements, to be called Economic Partnership Agreements (EPAs), with all of the ACP nations. The EU envisaged the completion of EPA negotiations, entailing World Trade Organisation-compatible and reciprocal market access agreements, by the end of 2007 and sought a waiver from the WTO for the continuation of Lomé non-reciprocal preferences (deemed illegal under WTO rules) until December 31 2007.

In late 2007, Fiji and PNG initialed Interim-EPAs covering liberalisation of goods-trade (under threat of increases on tariffs for exports of tuna and sugar). No other PICs have initialed an Interim-EPA. Currently the EU is pressuring PACP states to sign onto a comprehensive EPA covering goods and other areas (services, investment, intellectual property rights etc.) before end-2008. Talks are currently at a stalemate with PACP countries demanding concessions from the EU on labour mobility before they will move ahead with negotiations on areas of interest to the EU. (See *David and Goliath: Negotiations for an FTA between the Pacific Island Countries and the EU* below).

The EPA negotiations have particular significance for relations with Australia and NZ under the PACER agreement as PACER contains 'triggers' that mean PICs will have to look at instigating consultations with Australia and NZ, with a view towards beginning negotiations for a reciprocal market access agreement, should an FTA be signed with a third-party developed country.

It is widely believed that (under PACER commitments) the PICs must offer any market concessions to Australia and NZ that they offer to the EU under any EPA commitments.

This is not true⁴ though there will be considerable political pressure brought to bear on the PICs from Australia and NZ, who won't want to see other parties gaining trade advantages in what they often regard as 'their lake'. The New Zealand Minister of Trade, Phil Goff, has indicated that an FTA between Australia, NZ and the PICs is necessary to ensure NZ "is not disadvantaged by preferential access to Pacific markets being given to European countries"⁵. Meanwhile, the (then) Australian Trade Minister, Warren Truss, said in June 2007; "it's obviously in Australia and New Zealand's interest that any new deal that the South Pacific countries may do with the EU doesn't disadvantage Australian exporters into those same countries."⁶

⁴ Article 6(3) of the Pacific Agreement on Closer Economic Relations specifies that if Forum Island Countries that have ratified PACER enter a free trade agreement with the EU, then Islands who have signed PACER will be 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 agreements*'. Note that there is no specified time frame to start or complete those negotiations – nor that an agreement should be completed. This clearly leaves Pacific governments the option of refusing to sign any free trade agreement with Australia and NZ, if such a deal is not in their interests.

⁵ Goff, P. (2007) 'Preliminary Discussions on Pacific Trade Agreement' Ministerial Press Release NZ Minister of Trade, 12 June 2007. New Zealand Government. Available at: <http://www.beehive.govt.nz/release/preliminary+discussions+pacific+trade+agreement> Accessed on: 16/1/08

⁶ Pacific Magazine (2007) 'Pacific Urged to Beware of Trade Agreement Trigger' *Pacific Magazine*, 5 October 2007. Available at: <http://www.pacificmagazine.net/news/2007/10/05/pacific-urged-to-beware-of-trade-agreement-trigger> Accessed on: 16/1/08

Box 1: What 'Free Trade' means for the Pacific

What does 'free trade' involve?

Traditionally 'free trade' is applied to food and goods. It requires all countries (including the Pacific Islands) to open their doors to every other country's products in return for removing protections of their own. Binding and enforceable free trade agreements are designed to lock governments into that approach and can impose penalties on their exports if they break the rules.

How does this affect the Pacific Island economies?

There are several layers to Island economies. A majority of people live by subsistence in what is called the 'informal' economy. At the other extreme, many important economic activities such as mining, forestry, banking, tobacco, brewing and garments are controlled by foreign firms. Most local farmers, fishers, shopkeepers and other businesses in the formal economy sell their produce within the country and rely on the government to protect them from being overrun by cheaper foreign products. Some producers can also export fruit, fish, taro, timber or clothing to Europe, Australia, NZ and the US because they have preferential access to those countries under historical agreements such as SPARTECA and Lomé. This means they don't face the same level of tariffs (border taxes) that are imposed on similar products from other countries. Sometimes they also benefit from special entry quotas or guaranteed prices. It is these protections that are stripped away in the name of 'free trade'.

What changes do 'free trade' rules require?

There are two basic rules:

1. Products from all countries must be treated the same. So preferential trade deals that give Island products better treatment than products from other countries are no longer acceptable.
2. The Islands can't discriminate against foreign produced goods and must treat them like they would similar local products. So the Islands have to stop protecting their local producers.

What does this really mean for the Islands?

'Free trade' theory pretends that the global marketplace is a level playing field where the Islands will get access to new markets for their exports in return for opening their own borders. In reality, 'free trade' agreements are a new form of colonisation. Signing up to these rules will allow richer countries and their corporations to dominate economic life in the Islands. It will force many local producers to close, people in paid work will lose jobs and the Islands will become even more dependent on imports, including essentials such as food. There will be very few - if any - benefits for their exports in return.

What kind of 'protections' would have to go?

There is a standard list of unacceptable trade barriers that the Islands have to reduce or abandon:

Tariffs, which are taxes levied on imports that make them more expensive than locally produced goods so as to protect local producers who may not otherwise be able to compete, and to provide governments with revenue;

Import quotas, which restrict the amount of a particular food or good that can be imported;

Import licenses, which restrict who is allowed to import food or goods and the kind and amount that they can import;

Temporary bans on imports of a particular food or good so a new local business can get established (known as an 'infant industry') or because a sudden flood of imports has swamped a local producer and threatens their survival (an 'emergency safeguard' measure);

Subsidies to exporters that make their products cheaper on the international market (export subsidies) or that help local producers compete against imports or guarantee them a minimum price (domestic support);

Bans on imports because of health, sanitary, cultural or conservation reasons where they are not backed by clear-cut scientific evidence.

What is meant to be achieved by removing these 'barriers' and will it do that?

People who support 'free trade' argue that:

Competition from imports will force local firms to become more efficient.

But we know that few local producers will be able to compete with cheaper food and goods from countries that have bigger-scale and higher-tech producers who are often subsidised, either currently or in the past. Instead of becoming more efficient, many local businesses, farmers and workers are likely to lose their livelihoods.

If Islands have to stop producing what they can't produce as efficiently as other countries they can refocus their resources on what they can produce better than any other country (known as their 'comparative advantage').

But there are very few high-value foods and goods that Pacific Islands can produce more efficiently than other countries. They are too small in scale and remote, with high transport costs and lack the necessary skilled workers, technology and capital. Realistically, few foreign investors will bring those inputs to the Islands. Unrestricted global competition means most Islands will be left selling unprocessed natural resources like fish, timber or minerals to other countries that make the big profits out of 'adding value'. And a natural disaster can wipe out those natural resources overnight.

It is a better use of the world's scarce resources for the Islands to import food and goods that are produced more efficiently and cheaply than locals can produce them.

But if local producers are driven out of business and an Island becomes dependent on imports, especially of food, it has no guarantee of food security. This is especially serious if it can't earn the foreign currency from exports that it needs to pay for those imports.

The cost of business closures and job losses is outweighed by benefits to consumers, because foreign food and goods will be cheaper once tariffs have been removed.

But in practice foreign producers and 'middle men' tend to increase their prices when tariffs are removed, so they take the benefit rather than passing it on to consumers, particularly in small markets with limited competition. Even if imports do become cheaper, they may be undesirable replacements for healthier local products – as with mutton flaps and milk powder.

Tariff cuts force governments to raise revenue in ways that don't disrupt trade.

But this usually involves a value added tax (VAT) and/or 'user charges' on public services that hit poorer people harder than import taxes that tend to be highest on luxury items. New taxes also increase poor people's need for cash in Islands where most people live from the land and the sea, supported by remittances from overseas. More dependence on cash incomes will increase the drift to the towns, and associated problems of unemployment and squatting.

Does this argument only relate to food and goods?

Similar arguments are made in favour of 'importing' services from foreign firms (ranging from banks, telecoms and electricity to education, health and water supply) rather than the Islands supplying their own services. This assumes that all those services can be run by private (foreign) firms based on a commercial user-charge. Free trade rules on services mean removing restrictions on foreign firms that want to provide those services and treating them at least as well as local providers, including state-owned firms, are treated. That can include rights to public subsidies.

Isn't this a recipe for economic and social chaos?

Free traders agree that unemployment and business closures are inevitable costs of 'adjusting' to the global marketplace, but they insist that these costs are short term until new economic growth occurs. They ignore the real social, economic and political costs to the Islands and their people or what happens if – when – their theory fails.

3. A stepping stone to where? The Pacific Island Countries Trade Agreement (PICTA)

3.1 *Background: Pacific Regional Trade Agreements*

The idea for a free trade agreement among the Pacific Island Countries (PICs) has been around since the 1970s. It gathered momentum in 1997 when the Forum Economic Ministers endorsed a proposal for a Pacific Regional Trade Agreement. This move was treated as inevitable, even though some of the Islands' political leaders were not very enthusiastic. By that time the EU had signaled its intention to shift from the preferential approach in the Lomé agreement to a reciprocal approach that conformed to WTO rules. Australia and NZ wanted a similar approach. The World Bank and ADB were also urging PICs to embrace globalisation by joining the WTO and negotiating regional free trade agreements.

Australia and NZ believed that, as Forum members, they should automatically be part of any free trade arrangement in the South Pacific. However, the PICs wanted to start slowly and argued for an agreement between themselves that could act as a stepping stone. After a lot of bullying and three years of negotiations, two agreements emerged: PICTA, which was an agreement on free trade in goods among the PICs, and PACER, which was a 'framework' agreement that promised Australia and NZ that negotiations for an economic integration agreement would begin by 2011, if not earlier. PACER was described (at least by Australia and NZ) as an umbrella agreement that PICTA sat under.

Many Pacific governments now have much more understanding of the negative implications of these agreements than they had in 1997. But they remain locked into a one-way process of negotiating new and more extensive agreement. Once ministers have made a decision at a formal meeting and set a timetable for achieving an outcome, the process is very difficult to derail. The contracts of Forum secretariat staff are linked to achieving those deadlines. When officials and ministers are reluctant, they tend to string out the negotiation process. Once negotiations conclude, most of the governments sign it. But agreement does not bind them until it is 'ratified'. Even though these agreements restrict the policies and laws that parliaments can adopt in the future the decision to ratify is usually made by the Executive (Cabinet or King). It is theoretically possible to withdraw from the agreement some time later, but that is virtually impossible for a range of political, aid and economic reasons. Perhaps the most common response is for governments to adopt an agreement and drag their feet in implementing it, in the hope that no other parties will challenge them.

3.2 *PICTA (Pacific Island Countries Trade Agreement)*

The first free trade agreement proposed for all PICs is the Pacific Island Countries Trade Agreement (PICTA). Only Forum Island Countries can join PICTA. All 14 were involved in the negotiations that ran from 1999 to 2002. PICTA came into effect in 2003 after 6 countries had ratified it. Vanuatu did not ratify PICTA until 2007. The three Compact States (Federated States of Micronesia, Marshall Islands and Palau) have been given longer to decide whether to join, because they would need to give the US the same concessions they give to the PICs under PICTA.

3.3 Goods

PICTA is a simple agreement. Its rules currently cover trade in *goods* - mainly food, fish, clothes, manufactures and equipment. All parties must allow goods from other PICTA members to enter without restriction, by a certain date. That means no tariffs, no quotas limiting the amount of a good that can be imported and no import licenses that require permission to import goods. So long as a nation remains a party to PICTA, it can only lower its tariffs and restrictions on other Islands' goods; it can't increase them. Once they have reached zero, the government can't reintroduce them.

Tobacco and alcohol were initially excluded for two years so governments could study the possible impacts. That is partly because tariffs on 'sin' products are important for revenue but also because cheaper imports would have a serious impact on local producers and local jobs. For the time being, they are still not included.

To qualify for 'free trade' under PICTA a product must satisfy Rules of Origin. These set a minimum level of local content (materials and labour) before a good is accepted as being the product of a country. Local content can be hard to measure and complicated to calculate. Products that rely on imported inputs will not satisfy PICTA's Rules of Origin. This means that they won't be able to compete in the regional marketplace with products that use locally made inputs and become tariff free.

Governments were allowed to protect their sensitive products until 2016, if they listed them in the Annex. These are known as the negative list. PNG listed 87 items, which outraged Fiji's manufacturers as Fiji did not list anything, and this makes PNG more attractive to Australia and NZ. (These internal disputes are also found in the similar trade agreement among the Melanesian Spearhead Group (MSG) Countries – Fiji, PNG, Solomon Islands, Vanuatu and informally Timor Leste).

3.4 Services

PICTA can be extended to other economic activities. Back in 2001 the PIC trade ministers agreed to extend PICTA to 'trade in services' – this covers a broad range of activities from health, education, water and environment, media, telecommunications, electricity, banking, road or maritime transport, wholesale and retail trade, tourism, professional and business services, services related to forestry, fisheries and mining, etc. The aim is to restrict the ways that governments can regulate these services. Services that perform important social, cultural and development roles, and are vital sources of employment, are viewed as commercial activities that take place in a competitive globalised market.

PIC trade ministers decided in 2007 that negotiations on PICTA services should be completed by the end of 2008. This has taken the form of a Protocol on Trade in Services (POTIS). The text is still in its first draft stage but it follows the standard WTO approach. The main rules say that governments cannot give local suppliers of services preferences than are not available to suppliers from FICs or restrict the size of their services markets by, for example, limiting the number of hotels or taxi operators.

One way of supplying services is through foreign investment by firms from other PICs. Many of the services firms in the Pacific are actually subsidiaries and branches of Australia, NZ, European, US, Japanese or Chinese firms. The POTIS limits the benefits

to firms that are more than 50% owned by locals or where locals have the power to name a majority of its directors or legally direct its actions.

The draft text provides a more extensive exclusion for public services than is normally found in these agreements. But the agreement still aims to promote private sector competitors for public services, such as health, education or water. The result in other countries has been a two-tiered system where the wealthy can afford good quality services. Public sector workers are attracted to the private sector that has better facilities and wages. The poor are left to rely on services provided by cash-starved governments.

Governments nominate which services they will submit to these rules and any limitations on that commitment. A consultants' report in 2004 recommended that every PIC should commit four out of seven services categories to free trade rules. Since then, Forum consultants have conducted regional and national workshops in various PICs. These have combined preparations for services offers in the EPA with those under PICTA.

Trade officials from across the PICs met in the Cook Islands in late July for the second round of negotiations on which sectors will be listed under PICTA. During the three days of negotiations, PICs exchanged their indicative requests and offers for the services sector liberalisation. The offers and requests also covered temporary movement of natural persons (TMNP) within the PICs. A 'final' round of negotiations will be held in September, with a view to finalising which sectors will be liberalised before year's end.

'Consultations' that covered PICTA services trade were held at the national level around the region, in recent months, though serious concerns have been raised that these consultations were rushed, unrepresentative, and wholly inadequate.

Trade officials are saying privately they don't understand the implications sufficiently to conclude negotiations at this stage. In light of this, and the lack of social impact assessments or regulatory reviews, the Pacific Network on Globalisation (PANG) has called for a moratorium on the PICTA services negotiations.

3.2.1 Implications of PICTA/POTIS

What does PICTA and the Services Protocol mean for workers, their families and villages? The only social impact assessment done for PICTA was prepared in 2002 using free trade theory to conclude that everyone would benefit in the end. The report was a token gesture and was only presented to the ministers at the time they signed the agreement! No assessment has been done of the impact of POTIS. However, it is possible to identify a number of likely outcomes from the various consultants' reports and studies completed on aspects of these agreements, and on similar agreements elsewhere.

3.2.2 Governments lose revenue and/or raise taxes that impact most heavily on the poor.

PIC governments rely on tariffs for between 20% and 70% of their government's income. If they remove tariffs, they lose this income. They have to find new sources of income, such as selling assets, introducing or increasing user charges for public services, introducing a new tax like Value Added Tax (VAT/GST) and/or cutting government spending, jobs and services. These approaches shift the burden of paying taxes shifts from the rich to the poor. They also means that people who have very low wages or live

by subsistence fishing or food production are more dependent on cash income.

3.2.3 *Production and jobs will shift to Fiji*

The effect on the level of imports and exports will be very limited because there is not a lot of inter-Island trade. Trade among PICs might increase once it becomes cheaper to import products tax-free from other Islands than continuing to import them from other countries (this is known as 'trade diversion'). But that effect will only last so long as there are much higher tariffs on imports from non-Island countries.

Production is likely to concentrate in countries whose products meet the Rules of Origin. In practice, that means those countries that have advantages of size, technology and transport systems. Fiji is most likely to benefit from this. Investment in new enterprises that create new jobs is also likely to focus on the 'hub' of Fiji. Some other Islands will face significant closures and job losses. A study by Wadan Narsey into the likely effects of including tobacco and beer under PICTA concluded that they were likely to be relocated to Fiji once exports to the other PICs were tariff-free. He also noted that this could be a temporary benefit for Fiji, as production would probably relocate to Australia and NZ if those countries were included in a Pacific free trade agreement.

3.2.4 *Unregulated regional monopolies can charge extortionate prices*

If the regional market is too small for two large competitors to operate profitably, regional monopolies will emerge. It is difficult for individual Island countries to regulate their behaviour effectively. That will increase pressure to establish a regional competition body; that idea is problematic and unlikely to be agreed in the short term. As a result unregulated monopolies will be able to charge what they like - quite the opposite of the price cuts and consumer benefits that are meant to compensate for higher VAT. The risk of profiteering will increase if firms think their monopoly will be short lived - for example, if competing imports from Australia and NZ will become tariff free in just a few years.

3.2.5 *Increased unemployment and poverty*

The champions of free trade insist that inefficient businesses must be allowed to fail so investors will put their money and skills into more profitable activities. So it is inevitable that factories and producers in some Islands will go out of business and wage workers will face unemployment. According to their theory, the available investment and labour resources will find new more efficient uses. They describe this as 'structural adjustment'. This argument is unrealistic in small economies with very limited commercial options. Even if new businesses did emerge, the structural adjustment process increases the burdens on the government safety nets at a time when its revenue is falling and it becomes more dependent on VAT. In practice the subsistence economy is expected to sustain the people. If the 'adjustment' process provokes a recession, VAT will prove to be an unreliable alternative source of income. Any moves by governments to raise the level of VAT level to increase its income will deepen the tax burden on the poor, unemployed and subsistence workers.

3.2.6 *Push factors encourage migration for remittances*

The more likely effect is an increasing push for people to migrate, permanently if they have access to other countries or temporarily to gain remittances. The economy loses its

core workforce and becomes increasingly dependent on remittances, which can be cut off when the destination countries no longer want migrant workers. There is currently little effective protection for migrant workers from unscrupulous recruitment agencies, high costs of remittances, and exploitive employers. Many work in poorly unionized worksites and often lack access to basic health and social services. The absence of mothers and fathers has major social and cultural impacts on children, the wider family and village life.

3.2.7 Social and political instability

PICTA has the potential to create economic and social instability. The agreement allows governments to introduce some temporary measures in economic emergencies (such as balance of payments), to protect local industries that risk being swamped by a rush of imports and to protect health, environment, morals, natural treasures or address food shortages. But those exceptions are temporary and limited in the form they can take. They do not allow governments to depart from the agreement because of social impacts or labour, gender, indigenous and other human rights. If governments are unable to respond by reimposing tariffs and they cut government spending instead, they risk creating worse social unrest and political instability. Loans from the Asian Development Bank (ADB) and aid from Australia and NZ are likely to be conditional on the Islands continuing with these policies. These impacts may be felt hardest in smaller Islands whose producers become uncompetitive and where wage work depends on that small number of enterprises. The resulting instability could easily spread across the region.

4. David and Goliath: Negotiations for an FTA between the EU and the Pacific

4.1 Background to the EPA negotiations

The European Union (EU) has a long historical debt to the Pacific Island Countries (PICs), including Fiji. For centuries European nations colonised distant lands around the globe, subjugating their peoples, stripping economic and environmental resources, stealing land, and imposing alien laws and systems of government.

The Pacific Islands are certainly no exception. Tens of thousands of Indian labourers were coerced to work for British companies in the sugar plantations of Fiji, islands like Banaba and Nauru were stripped of their phosphate resources to provide rich fertilizer for farmers in Australia, New Zealand and Europe, thousands of Islanders were captured in raids by slave traders to work the sugar cane fields of Queensland, and natural resources like cotton, beche-de-mercure, sandalwood, pearls and copra were all extracted from colonies in the Pacific. The exploitation of colonies in the Pacific (and the Indian sub-continent, Africa and the Caribbean) contributed massively to Europe's own development and the growth of European economies.

In acknowledgement of this historical debt, a special trading arrangement was established between European nations and their independent ex-colonies in the 1970s. Signed between the EU and the African, Caribbean and Pacific (ACP) states in 1975 and in force for decades, the Lomé Agreement was marked by the concept of *development cooperation* – a relationship that accepts parties involved are not on an equal footing, and that one party needs to assist the other with technical and financial resources to develop capacity. In 2000, the EU and the ACP states signed a new agreement – the Cotonou Agreement – in which the EU has made an explicit shift from a relationship based on development cooperation to one more focused on *trade*.

The Cotonou Agreement reflected the new priorities of European powers interested in shedding historical responsibilities to their ex-colonies, and expanding their economic interests. Under the Lomé Agreement, ex-colonies had been granted preferential access to European markets for their exports⁷. The Cotonou Agreement outlined the phasing out of these preferences for ACP countries, to be replaced with a reciprocal free trade agreement giving unprecedented access for Europe's goods into ACP markets. As well as reciprocal market access, the EU is seeking to extend the scope of trade relationships to include new areas like services, competition and investment policy and intellectual property rules.

Under the Cotonou Agreement, the EU set out to establish new trading arrangements, to be called Economic Partnership Agreements (EPAs), with the ACP nations. The EU envisaged the completion of EPA negotiations, entailing World Trade Organisation-compatible and reciprocal market access agreements, by the end of 2007 and sought a waiver from the WTO for the continuation of Lomé preferences until December 31 2007.

⁷ Though preferential market access had advantages for the Europeans as well, as arrangements like the Sugar Protocol guaranteed a security of supply to English sugar refineries. These arrangements are part of the reason the Pacific hasn't diversified from growing raw materials into more value-added production.

This is how the Pacific Island countries, have come to be negotiating a reciprocal free trade agreement with the EU, which demands both parties reduce 'barriers' to trade from the other – despite the fact the EU has an economy 1400 times bigger than all the Pacific Island countries taken together, and that in reality the EU has far more to gain (for its multinational corporations, exporters and investors) than Pacific countries do from such a deal.

In the five years of negotiations in the lead up to 2007, the Pacific put forward a number of proposals for the EPA negotiations, to argue for movement on issues of key interest to the Pacific⁸, and to try to blunt some of the more damaging aspects of a free trade agreement with the EU.

Less than five months prior to the December 2007 'deadline' for concluding EPA negotiations, the EU responded to the Pacific's proposals with a paper covering the EU's trade interests and rejecting virtually all of the Pacific's proposals. The Pacific Islands Forum Secretariat expressed "deep concern" over the EU's proposal, observing that:

"The text contained explicit provisions setting out the [European] Commission's demands while reflecting almost none of the key written proposals of the PACP group nor the positions put forward and key interests expressed by PACP Ministers and Officials during discussions that had been taking place between the two sides over the last two years."⁹

It did not help matters that the EU's draft EPA text was a slightly amended version of an EPA proposal put to one of the African ACP regions – which only added to suspicions the EU was not genuinely interested in the proposals being put forward by the Pacific.

In late 2007, the EU offered interim Economic Partnership Agreements to ACP countries and regions (covering goods-trade only) to avoid trade disruptions arising from missing the December 2007 'deadline' for negotiations. The Europeans had insisted that the WTO waiver allowing the EU to provide preferential access to the EU market for its ex-colonies would come to an end in 2007 and could not be renewed. It is clear that the EU made this decision to further their interests, not out of any political/economic necessity.

The EU contention that it could not continue to provide equivalent market access to ACP exporters is evidently not true¹⁰ and is in direct contradiction with EU commitments to the

⁸ Areas of 'offensive interest' for the Pacific included duty-free and quota-free access for exports, improved Rules of Origin (especially for tuna exports), Mode 4 labour mobility in sectors such as tourism, construction and health-related services. The Pacific also put forward proposals on investment (with strong anti-corruption provisions and improved mechanisms to target resources to micro and small enterprises).

⁹ Pacific Islands Forum Secretariat (2007) 'Pacific ACP countries express deep concern at EU trade deal proposal. *Pacific Islands Forum Secretariat Press Release, August 28, 2007*. Pacific Islands Forum Secretariat, Suva. Available at: http://www.bilateral.org/article.php?id_article=9518. Accessed on: 16/1/08

¹⁰ For extensive discussions on ways the EU could have provided continued market access to Pacific countries in the absence of signing an EPA see: Oxfam International (2007) *A Matter of Political Will: How the European Union can maintain market access for African, Caribbean and Pacific countries in the absence of Economic Partnership Agreements*. Briefing Note, April 2007.

ACP countries under the Cotonou Agreement. Indeed, ACP countries agreed to negotiate EPAs on the understanding that the Cotonou Agreement (under Article 37.6) guaranteed that no matter what happened during the negotiations no ACP country would be left worse off (in terms of market access to the EU). This means the EU was obliged to offer the Pacific Island Countries alternative trading arrangements, to avoid a disruption in trade at the end of 2007. Instead the EU split the solidarity of Pacific countries by forcing two nations (Fiji and PNG) to sign on to Interim-EPAs – under threat of business closures and job losses.

4.2 A 'two-step' approach: the Interim-EPAs

In late 2007, with negotiations in turmoil and with little hope of making the “deadline” the EC offered Pacific countries “interim” EPAs covering goods-only trade, as part of a ‘two-step’ approach to concluding a more comprehensive EPA in 2008. The EU said that if Pacific countries did not sign an EPA before the end of 2007, they would have to trade with the EU under the terms of the EU’s Generalised System of Preferences (GSP). It was abundantly clear that some Pacific countries would be very seriously affected if the EU raised tariffs on their exports in 2008. For exports of sugar from Fiji, tariffs were to rise to €33 per 100kg, and for exports of tuna from PNG tariffs would rise from zero to 20.5 per cent on processed tuna.

The tariff hike on tuna exports from PNG would put the PNG fishing industry, and thousands of jobs, at serious risk. In Fiji some 40,000 people are employed in the sugar industry (with many others relying on the industry for ‘downstream revenue’). Sugar exports from Fiji to the EU account for 95 per cent of Fiji’s €100 million annual exports to the EU (and over 26 per cent of Fiji’s global exports). It is clear that the higher GSP tariff rate on sugar exports would have wreaked havoc on Fiji’s small and vulnerable economy – this in a country where more than 30 per cent of the population lives below the poverty line. It should be noted that while the Sugar Protocol (unilaterally abandoned by the EU in October 2007) would have maintained Fiji’s quota and guaranteed price to sell into the EU market until its termination in October 2009, it would not have protected the duty free access¹¹.

While Fiji and PNG received criticism from some quarters for breaking ranks with the rest of the region to initial the Interim EPAs,¹² it seems apparent that both countries in fact had little choice.

4.2.1 Implications of the Interim EPAs

Perhaps the only pro-development gain for the Pacific in the Interim EPAs is a revised Rule of Origin (RoO) for processed tuna exports to the EU. Whereas the old RoO specified that to gain duty-free access to the EU market, fish had to be caught by an EU or ACP vessel, the new RoO allows duty-free access as long as the fish is processed onshore in a PACP EPA signatory country, no matter who catches it, or where.

¹¹ Primack, D (2007) “EPA fails to draw Pacific closer to the international trading system” *Trade Negotiations Insights*, Vol.6. No.8, December 2007. International Centre for Trade and Sustainable Development.

¹² See for example; Pareti, S (2007) *PNG, Fiji Turncoats spell doom for the region*. Islands Business Magazine, December 2007.

However, this gain is effectively time-limited, as the WTO's multilateral negotiations are likely to erode the preferential market access for the Pacific – putting Pacific exporters in direct competition with producers from Thailand and the Philippines. One tuna exporter told the Pacific Network on Globalisation that this is likely to happen within the next decade.

In return for this marginal development gain, and in line with the EU's interpretation of what is required by the WTO for a compatible regional agreement, Fiji and PNG have agreed to liberalise import duties (remove tariffs) on “substantially all imports” from the EU. The interim agreements provide for the liberalisation of 88 per cent of the value of PNG's imports from Europe immediately, and 81.6 per cent for Fiji over 15 years.

The Interim EPA will actually have only a small immediate impact on PNG, with 76 per cent of PNG tariff lines already duty free. For Fiji, 23 per cent of the value of EU imports is liberalized on entry into force, and an additional 13 per cent is liberalised after five years. The bulk of the liberalisation comes in years 6-10, where 40 per cent of the value of EU imports (and 32 per cent of previous duty collected) will be liberalised. The final tranche (18 per cent of value) occurs in years 11-15. The interim deal also has a standstill clause that prevents any new or increased duties between the EU and the Pacific Island Countries being introduced (tariffs can only go down).

4.2.2 Lost government revenue

By pushing Pacific governments to sign a free trade agreement on goods, that lowers tariffs on “substantially all trade” between the Pacific and the EU, the EU is cutting off an important source of government revenue for many Pacific countries: taxes on imports and exports. At the same time ‘adjustments’ – such as shifting workers out of currently protected industries – will be extremely costly and cumbersome to implement, placing a double financial burden on governments which are already struggling to pay for basic education and health needs.

While revenue losses through tariff liberalisation with the EU will be relatively small (due to limited trade flows), under PACER Australia and NZ are going to demand the same market access as granted to the EU under the EPA, which could have drastic consequences in terms of lost government revenue. Pacific countries will find it extremely difficult to replace this lost revenue.

Studies undertaken by the IMF have found that in the past 25 years, low income countries have completely failed to recover government revenue lost from the reduction of tariffs (and furthermore that the introduction of VAT has a negligible impact on meeting the shortfall)¹³.

It is difficult to ascertain exactly how much government revenue will be lost if PICs liberalise “substantially all trade” with the EU *and* Australia and NZ, but one study commissioned by the Forum Secretariat estimates annual losses of between \$22-45 million for Fiji, accounting for between 1½ and 3 per cent of annual government

¹³ International Monetary Fund, 2005. *Tax revenue and (or?) trade liberalisation*. (prepared by Thomas Baunsgaard and Michaels Keen). June, 2005.

revenue¹⁴. The loss of tariff revenue will be far more serious in other Pacific countries. The Forum Secretariat predicts that “countries such the Solomon Islands, Cooks, FSM, Niue and Nauru could lose between five to ten percent of their recurrent revenue” and “for about half of the pacific, Samoa, Vanuatu, Tonga, Kiribati, RMI, and Tuvalu full trade liberalisation would present a major fiscal as well as administrative challenge as the adjustments would be between ten and thirty percent of revenue.”¹⁵

Pacific governments have made little provision for adjusting to such major losses of government revenue – which could have drastic implications for working people in the PICs as governments are forced to raise revenue through consumer taxes (like VAT) – raising the prices of food and consumer goods, reducing the size of their public service – laying off workers, or reduce government expenditure on essential services like health and education.

4.2.3 Restricting options for ‘value adding’ for Pacific resources

The interim EPA does not only cover import tariffs. Some of the more contentious clauses within the Interim-EPA (initialed by PNG and Fiji) will be harmful to development in the Pacific. In particular, the Interim-EPAs restrict the choices available to Pacific governments to support ‘value adding’ in areas where PICs continue to export low value raw commodities.

The Interim-EPAs contain a provision to eliminate all export restrictions. This means that PICs who sign on to the Interim-EPAs would not be in a position to limit or tax exports of their natural resources (fish, wood, oil, minerals, raw materials etc.) so as to preserve them for local value-added processing, in order move from commodity producers to value-added producers. This is in direct opposition to current policy in many PICs, where governments are actively encouraging downstream processing of raw materials in agriculture and other key sectors.

An example of the impact of the Interim-EPAs would be in the forestry sector. Papua New Guinea currently has an export tax of 30 per cent on the export of logs (which is worth well over K100million each year to the PNG Government). Fiji has an outright ban on the export of logs. These measures are in place to try to develop downstream processing and value adding in Fiji and PNG. Indeed, in Fiji the log export ban has helped to develop the local furniture manufacturing industry. If Fiji and PNG sign their already initialed interim EPAs they will have to do away with these export restrictions, posing a threat to both the environment, and the industries that they have stimulated. The Solomon Islands also levy an export tax on logs responsible for roughly 14% of government revenue. This would have to be eliminated should they choose to sign an EPA.

4.2.4 Undermining the development of new industries

¹⁴ Fiji Times. 2008 *Monetary fund defends stand on trade agreements*. Fiji Times, 29/3/08.

¹⁵ Pacific Islands Forum Secretariat. 2007 *Responding to the Revenue Consequences of Trade Reforms in the Forum Island Countries – Final Report*. PIFS, November, 2007.

The interim EPAs include an infant industry safeguard, touted as a development component that will allow Pacific governments to protect “infant” industries from foreign competition until they are strong enough to compete in the global economy. However, these safeguards in the Interim EPAs are heavily restricted and limited to mitigating the damage of import surges for existing sectors and would actually prevent Pacific governments from using tariffs to nurture *new* industries, making it extremely difficult to develop competitive value-adding processes and compounding the Pacific’s high dependence on exporting raw commodities. These ‘infant industry’ provisions will have to be phased out within 20 years, arguably when it may have been most useful as most of the Pacific’s liberalization commitments will then be in force, and leaving virtually no ability for PICs to nurture new industries through tariff protection.

4.2.5 Business closures and job losses

A binding agreement on goods liberalisation (as found in the Interim-EPAs – and potentially under PACER in the future) severely restricts the ability of Pacific governments to protect local industries. Pacific industries are often new industries, and are often restricted by economies of scale (they’re small!). Open competition with well established, large, exporting industries in the EU (and Australia/NZ) could lead to business closures, de-industrialisation and job-losses, when local industries are out-competed by cheap imports.

Free traders argue that some ‘structural adjustment’ pain is necessary as economies shift to a liberal trading system – arguing that long-term benefits will outweigh short term losses. Where workers lose their jobs, the argument goes, they will be ultimately better off shifting into industries where PICs have a genuine ‘comparative advantage’ and as their economy grows through a market-led recovery.

It is much, much harder to shift workers out from protected industries (to industries where the Pacific might have a ‘comparative advantage’) in developing countries than it is in developed nations like the countries that comprise the EU. There has been no planning at all in the Pacific for shifting people out of industries that currently exist because of tariff protections. There are virtually no safety nets for the unemployed within the region, certainly not of a level comparable with safety nets in developed countries considering reform associated with trade liberalisation. In reality, workers who are displaced by trade liberalisation in the Pacific will fall back on traditional supports, like their families, churches and villages.

It’s important to note that the type of liberalisation the EU is seeking under the Interim-EPA will not necessarily make producers more competitive, but may instead wipe them out.

Economics professor at the University of the South Pacific, Dr Wadan Narsey, has told Pacific media that if a free trade deal is concluded with the EU, *and with Australia and NZ*, it would be catastrophic for Fiji businesses. He estimates that *over 80 per cent of businesses in Fiji would close!* Dr Narsey told Pacific media:

“I think governments have not thought through the consequences of joining a free trade area. We hear all this talk of efficiency and economies of scale. But the reality is, small companies will be forced out once the big players come to town. Governments have not worked out an alternative plan on how to reemploy

people if factories close and people are left without jobs. What will happen, is that the jobless will march on the streets and local business owners will be complaining that they are being squeezed out of the market by foreign companies.”¹⁶

4.2.6 *The Interim-EPAs and further negotiations*

The Interim EPAs contain a Most Favoured Nation clause that will severely restrict the Pacific’s ability to negotiate trade deals with other nations, as any terms offered to other parties (for increased market access for exports, investments and service companies) will also have to be offered to the EU with no obligation on the EU to offer anything in return. With such a precedent, Australia is likely to seek the same, helping to ensure that all future negotiations work to remove any remaining protection for sensitive products. The Most Favoured Nation clause thus works as a “liberalisation ratchet”, meaning that every new concession is automatically offered to all.

The Interim EPAs also contain a provision to conclude negotiations by the end of 2008 for a comprehensive EPA “in line with the Cotonou Agreement and previous Ministerial Declarations and Conclusions”. It should be noted that this does not constitute in any way a legal requirement for Pacific states to offer increased market access to the EU in areas outside of goods (areas like services, investment, government procurement etc.), nor to sign a deal incorporating issues like intellectual property rights, competition policy and so on. The Interim EPAs contain provisions for other PICS to sign on to the same Interim EPA at a later date.

It should be noted that neither PNG nor Fiji have *signed* an Interim EPA (merely initialed). This still leaves open the door for Pacific governments to refuse to sign any form of EPA, or to demand further impact studies before signing. Most concretely it leaves the door open for Pacific governments to demand a renegotiation of some of the more contentious clauses in the Interim EPA.

4.3 *Outstanding issues in the EPA negotiations*

The EU is interested in securing market access to ACP countries in areas outside of a classical ‘trade in goods’ agreement (which the Interim EPAs represent) in areas like services, investment, government procurement, competition, and intellectual property rights. The EU has put all of these issues on the table, and is aggressively pursuing a comprehensive EPA including new market access commitments in all of these areas. It is likely that the EU will request the PACP countries sign an agreement that includes a combined services and investment chapter (as found in Title II of the EU’s EPA with the Caribbean countries, see below). The EU is hoping PICs will sign up to comprehensive EPAs by the end of 2008.

This EU’s push to extend an FTA with the ACP countries further than a WTO-compatible agreement on goods is in keeping with the EU’s aggressive ‘Global Europe’ trade strategy. The EU, with an economy 1,400 times larger than the Pacific Island States, is the world’s biggest exporter of goods and services, and the European Commission’s

¹⁶ Samoa Observer (2003) *Free Trade worries at Nadi meeting*. Samoa Observer, July 2, 2003.

External Trade department aims specifically to push countries around the world to open their markets to EU business. The European Commission explains that:

“The competitiveness of EU businesses depends on countries providing fair conditions for foreign businesses and upholding the rights of EU companies that trade abroad. Where regulation is shaped to restrict foreign trade and investment, or where intellectual property rights are not properly protected European companies are put at a disadvantage. We can and should be hard-nosed about improving those conditions. This is particularly the case in the field of investment and services trade, which are not only key EU strengths, but are not yet properly covered by WTO rules or standards.”¹⁷

The PICs have some ‘offensive trade interests’ in areas outside of trade in goods, particularly in labour mobility (under Mode 4 of any services agreement, see *Inset Box 2: A flawed approach? Free trade and labour mobility in the Pacific Island Countries* below), and in protecting biodiversity, traditional knowledge and folklore under an intellectual property agreement (see *Nothing to gain: Intellectual property in the EPAs* below). Some countries may also be interested in pursuing an agreement on investment to try to send positive signals to potential investors.

It remains unclear if PICs will continue to engage in the EPA negotiations (given that negotiations are currently at a standstill with PICs demanding the EU give way on labour mobility) or which countries are ultimately interested in concluding either an Interim EPA arrangement or a comprehensive EPA.

4.3.1 Implications of a comprehensive EPA

Concerns have been raised by many civil society organisations, trade unions, development experts, economists, church groups, women’s organisations and farmers that the framework for a comprehensive EPA proposed by the EU will have further negative implications for working people in the ACP countries. This is true of the Pacific, as well as the African and Caribbean countries.

CSOs in the Pacific focus on improving human security in the region – with an understanding that human security involves ‘freedom from fear’ and ‘freedom from want’. An essential element of human security is therefore access to suitable livelihoods – a goal that is out of reach of the many unemployed and underemployed in the region.

How to boost strategic local industries to create a sufficient number of jobs is a key challenge facing the Pacific Islands. Civil society organisations should be especially wary of a comprehensive EPA that contains commitments on services and investment that have implications for the creation of employment and regulation of foreign investment to stimulate local industry and employment.

CSOs should also consider the possibility that a comprehensive EPA will lead to an undermining of access to essential services for poor and rural people through increased

¹⁷ European Commission (2006) *Global Europe: Some questions and answers*. EC Press Release, Brussels. October 4, 2006.

pressure for privatisation, and less access to medicine and education materials through stronger intellectual property rights.

4.3.2 *Undermining development of Pacific business and industry*

Under a combined services and investment agreement, as the EU is pursuing for a comprehensive EPA with the PICs, the EU is seeking *full national treatment* for EU companies supplying services and investing in the Pacific. This would mean EU corporations must be given at least as favourable treatment as is given to local suppliers.

This represents an incredible erosion of the sovereignty of Pacific governments and peoples. If, for example, a firm comprising a cooperative of local landowners wanted to establish new tourism services in a rural area, or on an 'offshore' island – which may be important for preventing rural-urban drift, promoting culturally sensitive development, and providing appropriate sustainable livelihoods for villagers – Pacific governments may not be able to provide those landowners with preferential credit (to build new tourist accommodation for example), or time-bound tax breaks, or training grants to send young people to hospitality courses, *without extending those same treatments to any EU corporation interested in establishing a similar enterprise.*

PICs who sign a new services/investment agreement with the EU, including new market access and national treatment provisions, will face the certainty that Australian and NZ trade officials will exert a tremendous amount of pressure to secure the same concessions¹⁸. This would open Pacific firms to unrestricted competition with much larger corporations based in Australia and NZ.

Pacific trade unions should ask the question, how then will Pacific firms be developed to the point where they can compete on equal grounds with EU firms (or Australian and NZ firms), *even within the Pacific?*

An agreement on services and investment, leading to unrestricted competition from EU, Australian, and NZ firms will lead to a scenario in which Pacific companies will either be driven out of business by developed-country corporations, or in the case of the most profitable firms in fast-growing industries, be acquired by their EU, Australian and NZ counterparts.

Business closures in the Pacific, and their acquisition by foreign companies, is likely to have negative implications for employment and the development of skills for Pacific workers – especially if multinational corporations move operations to their 'home' countries and export finished products to the Pacific (utilising new market access as tariffs are slashed through bilateral and multilateral trade liberalisation).

¹⁸ As then Australian Trade Minister Alexander Downer put it, "it's obviously in Australia and New Zealand's interest that any new deal that the South Pacific may do with the European Union doesn't disadvantage Australian exporters into those countries". ABC story 13/06/07. <http://www.abc.net.au/ra/news/stories/s1950447.htm>. His views are echoed by his NZ counterpart, who has argued that PACER "ensures that New Zealand, which already allows tariff-free entry to goods produced in Pacific Islands, is not disadvantaged by preferential access to Pacific markets being given to European countries. NZ Trade Minister Phil Goff, 12/06/07. Press Release.

4.3.3 A free hand for investors? Tying the hands of Pacific governments

An EPA with the EU that includes a combined services and investment agreement (as found in the EU's EPA with the Caribbean countries) would prevent Pacific governments from regulating foreign investments in the public interest – to ensure that investments contribute to the creation of decent jobs and livelihoods. PICs who sign on to a comprehensive EPA will no longer be able to require foreign investors to hire local workers and managers, train local workers, partner with local businesses or use local inputs and suppliers.

Strategic management of international trade and investment relationships is important for the successful development of small and developing economies like the PIC's (and indeed, any economy). Strategies like reducing tariffs on key inputs while simultaneously levying high tariffs on competing products, for example, can help develop new export industries. Strategic regulation of foreign investment – to ensure that investments contribute to the creation of decent jobs and livelihoods – is also very important.

Attracting new investment is one of the reasons Pacific governments have shown an interest in signing an EPA. However, it seems unlikely that a new investment chapter as part of a comprehensive EPA is going to help attract any significant inflows of foreign direct investment. The unique challenges faced by most Pacific Islands (small size, distance from markets, high transport costs etc.) are more considerable factors. Even the Pacific Islands Forum Secretariat concedes that:

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 advisors, such as Samoa, have found that this has not been rewarded by any significant increase in foreign direct investment¹⁹.

An in-depth report on investment commissioned by the Pacific Islands Forum Secretariat in 2004 and entitled "Distant Prospects" found that:

It would not make sense for PACPs to purchase fine-sounding arrangements for promotion of an inherently improbable flow of PDI [Private Direct Investment] by Europe, by giving up powers to protect and manage aspects of their domestic economies that they would otherwise use to good effect.²⁰

It's worth noting that taken together, restrictions on the ability of Pacific governments to favour local firms or regulate foreign investment in the public interest, will undermine the ability of PIC's to support local industry and create local jobs *in the future*. For the Pacific, with relatively few developed local business firms at present, it is this loss of policy space that is likely to be the lasting legacy of any misguided trade liberalisation.

¹⁹ Pacific Islands Forum Secretariat, *The Pacific ACP-EU Partnership. The Way Forward*, Suva: PIFS, 2004

²⁰ Hughes, A.V., "Distant Prospects: Promoting investment in the Pacific through an ACP-EU agreement", Report to the Pacific Islands Forum Secretariat, December 2004, p.9.

4.3.4 Increased pressure for privatisation (and undermining access to basic services)

A services and investment agreement as part of a comprehensive EPA is likely to increase pressure for privatisation in the PIC's. Perhaps the biggest concern regarding a services/investment agreement is that service sector liberalisation could lead to a cut in essential services – especially to vulnerable people like the poor, the unemployed, and those in rural areas. Services like water supply, education and healthcare should be provided to all the population at affordable prices (these services represent basic human rights).

Deregulation can allow private corporations to 'cherry pick' profitable segments, resulting in a decline in quality and availability of services in other areas (companies may, for example, provide water, health, education and power services to the urban wealthy in regional centres, but neglect to extend services to the poor or to rural areas). Civil society in the Pacific is very concerned that a combined services/investment agreement will place the 'rights' of EU corporations ahead of the rights of people to demand adequate and universal supply of basic services.

Under the EPA proposed for the Pacific by the EU, PICs are being asked to open up sectors (like health, education, telecommunications, water, waste management etc.) to competition from foreign service-providers and foreign investors²¹. If a PIC agrees to liberalise a sector, it will be obliged to list that sector in a schedule of specific commitments as part of the EPA. This makes the liberalisation commitment legally binding on that country, and would prevent it from limiting the number of foreign service providers in that sector, or the conditions in which they may operate.

PICs that are members of the WTO currently receive requests to open up sectors under the General Agreement on Trade in Services (GATS). For example, Fiji has listed one sector on its schedule of commitments at the WTO – namely Tourism and Travel Related Services. It is very likely that PICs will be asked to commit to open up new sectors under the EPA, especially given the fact that the EU has already made requests under the GATS (for Fiji to open its business services, telecommunications services, and transport services for example).

The schedule of service sector commitments PICs will be asked to put forward as part of the EPA will reflect the GATS agreement under the WTO. The GATS agreement specifies four modes of supply (for delivering services internationally).²² Under Mode 3 of GATS, liberalisation in the health sector, for example, involves allowing construction of foreign hospitals or dental clinics catering to rich or urban patients, or opening national health insurance systems to multinational insurance companies. The right to health

²¹ This is similar to commitments WTO members make to liberalise service sectors under the General Agreement on Trade in Services (GATS), though under the EPA signed already between the Caribbean and the EU commitments on services *and investment* are combined under a single schedule.

²² The four modes of supply specified under GATS are: Mode 1: Cross- border supply of services (eg. tele-medicine, e-health), Mode 2: Consumption of services abroad (eg. patients traveling abroad for hospital treatment), Mode 3: Commercial presence (eg. establishment of health facilities in other countries), Mode 4: Presence of natural persons: (eg. doctors or nurses practicing in other countries).

demands that functioning, good quality health care facilities be available and accessible to all without discrimination. But opening up health to foreign service providers could lead to a range of problems in the PICs. In particular, the establishment of health sector facilities run by foreign providers typically leads to an 'internal brain drain' where the most skilled and experienced staff are drawn away from the public sector (by means of higher pay), leaving poor or remote areas without the personnel needed to run essential healthcare facilities.

4.3.5 Access to water

Another key area of concern is water, particularly as the right to water is indispensable for the realisation of the right to health. In the current round of WTO negotiations (the Doha Round) the EU has proposed new classifications of services which would include water for human use and wastewater management, solid waste, and protection of biodiversity. These proposals would bring water distribution services under the rubric of the GATS. In 2002, the EU first requested that 72 countries liberalise their water services (including full market access and 'national treatment' for foreign investors) as part of the Doha Round GATS negotiations.

The EU is pushing to include water distribution under the GATS (and under the EPA with ACP countries) because providing water – one of the basic elements of life – has become big, big business. *Fortune* magazine recently noted that “water will be to the 21st Century what oil was to the 20th”. Who owns the water and how much they are able to charge for it will be the question of the century. The privatisation of water services is already worth \$400 billion a year in business globally. It is clear that in future, water will be an incredibly important resource, as more and more people live with water shortages. In establishing their position on water services under GATS (and under the EPA), the EU has relied on the advice of large European water-corporations. The European Commission consulted with French companies Vivendi and Suez, and German-based RWE (who owns Thames Water and American Water Works) in particular – sending them questionnaires to ask what they would like the EU to pursue in terms of market access for water corporations. Suez and Vivendi are the two largest water-corporations on earth, already controlling approximately 70 per cent of global private markets.

So the EU is clearly keen to gain commitments on market access for European water corporations throughout the ACP countries, including the PICs. As well as pushing for commitments on access to water 'markets' in ACP countries, the EU may also push for a services/investment agreement that would prevent Pacific governments from creating policies and regulations that are 'more burdensome than necessary', or regulations which place restrictions on fee-setting.

Pacific trade unions should be concerned that a liberalisation of water services under a comprehensive EPA with the EU could see a reduction in access to water for poor and vulnerable people in the Islands. There are many examples from around the world (see below) where water distribution has been privatised and opened up to foreign corporations, (without appropriate regulatory oversight or universal service agreements) and the poor and vulnerable have suffered as water becomes priced out of their reach, and service upgrades focus on profitable segments of the 'market' (generally the urban wealthy).

If PIC's make service-sector commitments under any final EPA with the European Union, it will be very difficult (virtually impossible) to change or withdraw from their commitments, or de-privatise where privatisation has taken place – future governments would not be able to step back from their commitments if things go wrong. De-privatising water services (for example) is a perfectly rational policy if corporate management fails to provide services adequately. There have been numerous examples of privatisation failures around the world. Perhaps the most famous of which was the privatisation of water services in Cochabamba, Bolivia – which led to massive price hikes (where water bills rose up to one-third of the average wage in Bolivia) and consequently to mass civil unrest.

4.3.6 *Nothing to gain: Intellectual property in the EPAs*

Another area of key concern to civil society in the Pacific is the implications of any new agreement on intellectual property (IP) rights as part of comprehensive EPA negotiations.

It should be noted that there is no legal requirement whatsoever for PICs to include IP in any EPA with the EU. Furthermore, there is *nothing to gain* from new IP rules in the EPA. One study into the EU's proposed IP section of the EU-Pacific EPA, commissioned by the Catholic Agency for Overseas Development and co-sponsored by the International Centre for Trade and Sustainable Development, found that:

“While there are a number of areas such as protection of traditional knowledge and folklore in which Pacific countries have a positive interest, *the proposed elements on these issues add no value*. Going by the textual proposals on these issues in other regions, it is unlikely that Pacific countries could get positive commitments from the EU on these issues. Overall therefore, it is strongly recommended that Pacific countries do not agree to the inclusion of an IP section in the EC-Pacific EPA.”²³

So while there is nothing for PIC's to gain by including IP in any comprehensive EPA, there are concerns about the very large cost of implementing new IP laws²⁴, and what

²³ Musungu, S. (2007) *An Analysis of the EC Non Paper on the Objectives and Possible Elements of an IP Section in the EC-Pacific EPA*. International Centre for Trade and Sustainable Development.

²⁴ In terms of the costs, for Pacific Island countries, associated with complying with new TRIPS-style intellectual property rules the Asian Development Bank has flagged a warning that these costs will be very high. In the ADB Economics and Research Department Working Paper No. 21 *'The Doha Agenda and Development: A View from the Uruguay Round'* some estimates are made of the administrative costs of complying with TRIPS in various developing countries. In Chile, additional fixed costs from this upgrade were estimated at \$718,000 and annual recurrent costs at \$837,000. Egyptian fixed costs would be perhaps \$800,000, with additional annual training costs of around \$1 million. Bangladesh anticipated one-time costs of administrative TRIPS compliance (drafting legislation) amounting to \$250,000, and over \$1.1 million in annual costs for judicial work, equipment, and enforcement efforts. If training costs were included it is likely that a comprehensive upgrade of the IPRs regime in the poorest countries could require an up-front expenditure of \$1.5 to \$2 million, plus recurrent costs. Finger and Schuler (1999) report World Bank surveys finding that these costs could be far higher.' (J. Michael Finger (2002) *The Doha Agenda and Development: A View from the Uruguay Round*. Asian Development Bank, Economics and Research Department Working Paper Series 21.)

PIC's may lose with new IP laws. The biggest concerns relate to an undermining of access to medicine and restrictions in access to educational material (though there are other concerns about restrictions in access to seeds used in traditional farming, and restrictions on technology transfer, including ready access to inputs important for development, like new software, machinery, herbicides, pesticides etc.)

A number of prominent IP experts²⁵ have condemned the EU's pursuit of stronger intellectual property rights as the pursuit of commercial interests for European corporations over and above an interest in development outcomes for countries such as the PICs. These experts explain that the EU is asking countries to:

- ❖ Make it more difficult for their students and academics to access and afford educational materials on the internet, for example by enforcing digital locks on information that should be publicly accessible;
 - ❖ Impede their researchers and technicians as they seek to access information and tools needed for their work, and limit the means available for poor countries to achieve their own technological development;
- and

Restrict the full and traditional right of their farmers to save, re-use, exchange and sell the seeds produced from their harvests, making them dependent on global multinationals for their food security and threatening agricultural biodiversity.

²⁵ A group of 16 intellectual property experts, led by Carlos Correa, Director of the Centre for Interdisciplinary Studies on Industrial Property and Economics Law, University of Buenos Aires (and member of the UK-Commission on Intellectual Property Rights) have written to the Financial Times explaining that the EU is “breaking its promise to the poor”.

5. A Poor Precedent for the Region: Implications of the EU-Caribbean EPA

5.1 *Implications of the CARIFORUM EPA (the EU's EPA with the Caribbean)*

Although all six ACP negotiating regions had originally aimed to complete a “full” EPA by December 2007, it became clear in the middle of 2007 that the large differences between what ACP negotiators wanted as a development agreement, and what the EC was prepared to offer, meant that it would prove virtually impossible to reach any agreement by the deadline. The Pacific region had put forward a detailed proposal in mid 2006 that was met with a brief letter rejecting most of the proposals, and followed in mid 2007 with an EU text adapted from the East and Southern Africa region. At that point, the Pacific negotiators concentrated their efforts on finding a WTO-compatible solution for those PICs whose exports were threatened by the EU’s commitment to end the Cotonou preferences and raise tariffs on certain ACP exports. These negotiations led to the interim agreements being initialled by Fiji and PNG at the end 2007.

The Caribbean region, however, continued to negotiate with the EC on a “comprehensive” agreement that was initialled in December 2007. The 350 page text will now set a precedent for the five other regions should they also choose to conclude comprehensive agreements. Further, the text is likely to represent close to the best that could be achieved in negotiations with the EC, as the EC negotiators are now under less political pressure to achieve comprehensive agreements, and so are unlikely to entertain further concessions, particularly as the Most Favoured Nation clause would require them to extend those concessions to the Caribbean and other trading partners. It is therefore worth analysing what is covered in the agreement, and how a similar agreement would affect the Pacific.

5.2 *Services*

Unlike the Pacific (that includes 4 WTO members), all 15 Caribbean states are WTO members, and therefore have some experience in dealing with commitments in services. The Cotonou Agreement that set the mandate for negotiations specifically notes that ACP states should not be expected to commit to services liberalisation in the EPA until after they have some experience under the WTO framework for services (ie GATS). The Caribbean agreement takes a unique approach to specifying how commitments are made, so that even experience with the WTO system would not prepare Pacific governments for a similar agreement.

Given the large transport costs for Pacific goods to reach most markets, trade in services potentially represents an opportunity to overcome the “tyranny of distance” for Pacific exporters, so it is doubly important that the region does not get locked into commitments that prevent future development. The Pacific, like the Caribbean, also has a large tourism services sector, and so it is vital that the region is able to develop that sector in ways that benefit Pacific people, as well as protect Pacific culture and the natural environment.

The Caribbean EPA (C-EPA) contains extensive services liberalisation commitments, with the only UN-designated LDC in the region (Haiti) opening 65% of sectors, and most others opening 75%, with significant variations in which sub-sectors between countries.

Similar liberalisation commitments by the Pacific would represent a quantum leap, with non-WTO members currently having no commitments, and existing WTO members such as Fiji and the Solomon Islands having minimal commitments (of the 160 subsectors Fiji has only one commitment in one subsector, the Solomons has six).

The commitments

In the December texts, Caribbean countries agree to open up major commercial services. For instance, many countries allow European companies to establish a local presence in telecoms, banking, retail, and courier services. By doing this, these countries risk losing the very benefits that foreign investment might be expected to bring, because their liberalisation commitments take away their full flexibility to regulate foreign firms or favour local ones.

Under the deals, governments are largely prohibited from treating foreign and local companies differently, favouring joint ventures over wholly foreign-owned ventures, limiting the number of suppliers, or requiring that foreign companies train and employ local people or that they provide benefits to local communities affected by the service. The text does require that EU investors consult local communities “where appropriate” but this must not “nullify and impair” any benefits they gain from the EPA.²⁶

Caribbean governments are allowed to require foreign services companies to provide universal service, but this right is circumscribed by the caveat that it must not be “more burdensome than necessary”. This means that government policies aimed at ensuring universal service provision (for instance in the supply of water, or postal services) can be challenged if the EU feels that they unduly interfere with the activities of its companies. In the event that the participation of foreign companies does not assist countries to meet national development objectives such as providing employment for locals, or unexpectedly undermines access for the poorest and most vulnerable people in society, the EPA provisions make it very difficult for countries to alter the conditions set for foreign providers. There is no provision to even temporarily suspend obligations, and the review mechanism is only aimed at *extending* commitments, not reducing them.

Like the Pacific, the Caribbean was keen to gain access for its workers into the EU, and they were able to get some “flexibilities” for Caribbean chefs, models and entertainers, hailed as a great success in the negotiations. However, their entry to Europe is not easy: Caribbean chefs need to have advanced technical qualifications and six years’ work experience at the level at which they intend to work, while models and entertainers may be required to prove technical qualifications as well. What is more, professionals can only enter the European market after Europe has carried out an internal market audit exercise to see if they are needed, i.e. an economic needs test.

Because of the Pacific’s small size and distance from Europe, it is very unlikely that Pacific service providers would be able to take advantage of a service agreement with the EU, particularly given the very limited flexibility the EC has shown on the movement of workers, both in the Caribbean EPA and in the Pacific negotiations. Although the Pacific has agreed to continue negotiations on a “full” EPA, negotiations on the services

²⁶ Kelsey, J, “Key Issues Affecting Investment & Services in the Cariforum/EU EPA 2007: A Memo for the PACP States”, February 2008. p.10.

component of the EPA are on hold, at least until after negotiations on PICTA and PACER are completed.

5.3 *Investment*

At the beginning of negotiations, one of the key interests of the Pacific was to encourage investment in order to boost economic growth. At its best, foreign investment can create decent jobs, transfer valuable knowledge and skills, generate demand for local producers, and provide capital when it is scarce. At its worst, foreign investment has led to human-rights violations and environmental degradation, and has generated very little wealth for host countries. For this reason it is very important that host governments retain the right to oversee foreign (and domestic) investors' activities. The Pacific negotiators originally proposed an investment chapter that sought to balance the rights of investors with the sovereign rights of host states to act in the best interests of their people. The negotiators also sought improvements to existing institutions such as the European Investment Bank (EIB), the Centre for the Development of Enterprise (CDE), and the Centre for the Development of Agriculture (CTA), suggesting ways that these institutions could provide funding on a scale more useful to small and medium-sized Pacific businesses, but these proposals were largely ignored by the EU and are not included in the C-EPA.

In the Caribbean text, investment provisions are included in the same chapter as the services provisions, but extended into non-services areas such as agriculture, forestry, mining, manufacturing, and the transmission and distribution of electricity and gas. As in the service sectors, host governments will not be able to limit the participation of foreign firms or apply performance requirements such as requiring the hiring and training of local personnel, or specifying joint ventures.

The agreement does specify certain environmental and labour standards should be adhered to. The environment chapter, however, uses weak language such as the need to "seek to ensure" and "strive" to achieve sound environmental management.²⁷ For labour standards, the Caribbean states (who are all full ILO members) are required to ensure their laws comply with core ILO standards, however, action to enforce these requirements will depend on the EU seeking consultations rather than local trade unions or NGOs.²⁸

In the sectors that are subject to opening, the deals specify the regulations on land ownership that European companies have to comply with. This poses the risk that if in future a government wants to change the rules to provide more protection for local ownership of land or to restrict the purchase of offshore islands in a sector that has been opened, it will be very difficult to do so. It would be very risky for the Pacific to bind itself in this way given the burgeoning debate and tensions around land ownership in the region.

²⁷ *ibid*, p.10

²⁸ *ibid*, p.10

The investment provisions also restrict the way that governments are able to use capital controls to react to financial crises such as those experienced by East Asia in 1997-98 and Argentina in 2001-2002. The agreement allows free movement of capital for investments in goods and services with only limited exceptions in “exceptional circumstances”, and for no longer than 6 months. Crises such as mentioned above invariably hit the poorest the hardest, and capital controls can be used to mitigate the worst effects – Malaysia, for example, used them to good effect during the East Asian crisis to provide stability for the economy and security for its citizens. Under WTO rules governments are allowed to consider the maintenance of financial reserves to implement development programmes and services that are essential to economic development, but even this provision is omitted in the C-EPA.²⁹

5.4 *Intellectual Property*

Ideas fuel growth. No country can start from scratch. Like Europe, East Asia, and others before them, ACP countries need access to technologies and to adapt them to their local context in order to stimulate development. For this reason, the Caribbean negotiators began Intellectual Property (IP) negotiations with high ambitions to create an agreement that encouraged technology transfer to the region in order to stimulate innovation. The stakes are high when negotiating on IP, as any agreement reached by existing WTO members must be automatically extended to all other WTO members. Although Caribbean negotiators succeeded in getting technology transfer into the December EPA text, the language is toothless. Europe promises only to ‘share information’, ‘exchange views’, and ‘endeavour to promote measures that ensure technology transfer’.³⁰

In stark contrast with provisions on technology transfer, commitments made by Caribbean countries on intellectual property rules are stringent and oblige a high level of enforcement.³¹ Caribbean countries are asked to enforce the WIPO Copyright and the WIPO Performers and Phonograms Treaties, which developing countries have been strongly advised against by intellectual property experts.³²

One of the key concerns is that the provisions are likely to undermine access to digital materials for students and researchers. Unlike WTO rules, which have exceptions that allow educational institutions to make copies of digital information, these treaties do not have such exceptions, preventing legitimate access. The watchdog organisation Consumers International notes that such expanded intellectual property rules on digital content have ‘grave implications’ for access to education, further widening the digital divide.³³ For the Pacific, the use of digital content in the provision of education represents a real opportunity to bring down the cost of educational materials, but signing

²⁹ *ibid.*, p.8.

³⁰ D. Shabalala ‘IP Provision in EPAs’, Centre for Environmental and Investment Law, Geneva, March 2008.

³¹ *Ibid.*

³² Commission on Intellectual Property Rights (2002) ‘Integrating Intellectual Property Rights and Development Policy’, London, September 2002.

³³ Consumers International (2006) ‘Access to Knowledge’, Asia-Pacific Consumer Vols 43 and 44 1&2/2005 p.17.

a similar agreement to that agreed to by the Caribbean would seriously reduce this potential.

The EU negotiators had aimed to get the Caribbean to agree to “UPOV 1991”, a treaty that provides strong protection to plant breeders. The treaty prevents farmers from saving and exchanging seeds, and locks them into vertical relationships with seed corporations rather than allowing them to build co-operative and sustainable relationships within their local farming communities. The Caribbean negotiators were able to resist agreeing to this treaty, and instead agreed to “consider” acceding to it, leaving the WTO’s rules on IP (TRIPS) as the basis for plant protection. For the Pacific, even this would be a major increase in commitments on IP for the majority of countries who are not WTO members.

Like negotiations on services and investment, the Pacific is under no obligation to agree to any provisions on IP, and in fact there are moves under way in the region to establish a Pacific-oriented system of IP to protect the region’s Traditional Knowledge (TK). For the Pacific to agree to the sort of IP rules that the EU has pushed in the Caribbean EPA is very likely to undermine Pacific efforts to establish such a TK system.

5.5 Competition Policy

Governments implement competition policies in order to promote competition in their markets, particularly in sectors that tend to be dominated by monopolies. In large, developed markets, competition policies are generally aimed at maintaining a large number of competitors, and, as the South Centre notes

assume[s] the existence of a multitude of independent private actors, the existence of consumers, the presence of no information asymmetries and the capacity of states to enforce contracts. Moreover, the enforcement of traditional competition concepts rely on the existence of a strong state, with adequate institutional, human and financial capacity to conduct investigations, monitor markets and sanction prohibited practices.³⁴

In the Pacific (and also, although to a lesser extent, in the Caribbean), these assumptions are very far from reality. What is more, developing countries often have quite different objectives when implementing a competition policy, aiming to encourage the *optimum* amount of competition, rather than the *maximum* amount, in order to actively promote industry development.³⁵ These differing objectives are what led to a stalemate in WTO discussions on the issue, and it being thrown out of the Doha round of negotiations.

The Caribbean text on competition contains three elements: 1) the need to have competition laws and an implementing body 2) the requirement to share information with the EU, and 3) the reform of the way Caribbean state enterprises operate to prevent any

³⁴ The South Centre “Fact Sheet N°8: Competition Policy in Economic Partnership Agreements (Cariforum Text)”, Geneva, April 2008, p.6.

³⁵ *ibid.*, p.7.

discrimination against EU enterprises.³⁶ Conditions 1) and 3) have the most serious implications for the Pacific.

Only a limited number of Pacific states actually have competition authorities, and so implementing requirement 1 would represent a significant burden. Implementing a regional competition body could be an option, but it may be difficult to create such a body that could take into account the varying needs of the PICs. What is more, instituting such a body as a result of the EPA would be likely to lead to competition rules based on the EU model that are not be suitable for small developing countries such as the PICs aiming to promote their own industries.

The third requirement is perhaps the most worrisome, however, because the Caribbean text makes public enterprises subject to competition law, meaning that they must be reformed to remove “any measure distorting trade in goods or services between the Parties to an extent contrary to the parties’ interests”.³⁷ Public enterprises would therefore not be able to favour local suppliers of goods or services when making purchases, removing an important tool for the promotion of domestic businesses and local employment.

5.6 Fisheries

At the outset of negotiations, the Pacific had sought a comprehensive agreement on fisheries that would have included assistance with developing the fisheries industry, improved rules for fisheries exports to the EU, and a multilateral agreement on access for EU vessels to fish in Pacific waters. The Pacific’s interim agreement does include partially improved rules for the export of fish to the EU market, but the EC rejected the proposal for a multilateral access arrangement for its vessels.

The Caribbean text includes language on fisheries in the Agriculture and Fisheries chapter that is non-binding around cooperation, information sharing and working towards improving Caribbean competitiveness and adhering to standards. Funding for any initiatives would be from either EDF, from other EU donors or from the EU’s Aid-for-Trade commitments.

5.7 Funding

The Cariforum text requires Caribbean countries to undertake a number of reforms as well as forego significant revenue from the liberalisation of “substantially all” trade. Throughout the negotiations the EC has been explicit that it was not guilty of “bribing” any region into signing an EPA (although at times there has been an impression that aid may be conditional to EPA commitments), and indeed, despite commitments from the EC to assist in many areas, no extra funding is included in the agreement. The clear implication for the Pacific region, therefore, is that any agreement that the region decides to enter into as a result of the EPA negotiations must be of benefit to the region on its own merit, and not agreed to as a trade-off for extra funding. By the same token, any

³⁶ *ibid.*, p.10.

³⁷ Caribbean text (art.5(2))

commitments on assistance from the EU to implement any aspect of an agreement will be at the expense of funding that otherwise would have been available to be spent elsewhere.

5.8 *The Way Forward*

Fiji and PNG have a commitment as part of their interim texts to continue negotiations towards a comprehensive EPA, and the other PICs made a joint declaration with the EC that they aim to conclude a comprehensive EPA by the end of 2008. Neither of these commitments, nor anything in the Cotonou agreement, mean that the Pacific must sign a comprehensive agreement. The pressure created by the expiry of the Cotonou waiver for goods exports has now passed and so the PICs have the time to properly consider whether an agreement with the EU is in their development interests, and likely to promote the welfare of Pacific peoples. With negotiations on services currently on hold, it may be that a “hollow” EPA is pursued, with few binding clauses, but the option of expanding commitments later, and “soft” language on cooperation. While clearly a much less risky proposition than an agreement with “teeth” such as the Cariforum one, a hollow EPA would still need to be treated with caution, as it may divert resources that could more profitably be used elsewhere, as well as promote legislation and reform driven by the EU’s agenda, rather than tailored to the region and its peoples’ own unique needs.

Box 2: A flawed approach? Free trade and labour mobility in the Pacific Island Countries

Under pressure to sign on to new free trade agreements, Pacific Island governments interested in securing positive outcomes for their peoples see deals on labour mobility as potential development gains... But is this the right approach? And what are the potential costs?

For much of the past decade the Pacific Island Countries have faced pressure from developed-country partners and aid donors to move towards trade liberalisation through new free trade agreements (FTAs).

Free trade agreements involving the region include the Pacific Island Countries Trade Agreement (PICTA), the Economic Partnership Agreement (EPA) with the European Union, and the extension of the Pacific Agreement on Closer Economic Relations (PACER) with Australia and NZ to include deeper “economic integration”.

The move towards free trade is driven largely by the interests of business (exporters, service suppliers and potential new investors) based in the Pacific’s developed-country ‘partners’. Businesses in Australia and NZ in particular want to see tariffs reduced on their exports to the Pacific, and changes to laws in the region to allow multinational corporations to establish new enterprises and invest (and remove profits) without obligations to the countries in which they invest.

Concerns have been raised by many in the region, particularly civil society and academics, that these free trade deals will lead to rising inequality, dramatic losses in government revenue, de-industrialisation, business closures, job losses, a reduction in the quality and supply of essential services and the closing off of important ‘policy space’ that governments use to stimulate development.

Pacific governments have approached this push towards FTAs from a defensive position – understanding that trade liberalisation with much larger economies will have very real costs for the Pacific Islands, but hoping to win some concessions in areas of key interest to the region.

This is an important distinction. Rather than resisting the free trade agenda that is being pushed by the EU, Australia and NZ, our Ministers are saying “we know free trade will hurt us, but it’s inevitable, so let’s see what we can get out of these deals”. The fact that most Pacific governments have (so far) refused to sign the interim EPA with the EU and are reluctant to begin negotiations with Australia and NZ are positive signs, but history shows how the ‘big brothers’ keep up the pressure until they get their way.

The link between labour mobility and FTAs

One of the areas Pacific governments have been keen to gain concessions in is in the area of labour mobility.

The unique challenges faced by most Pacific Islands (small size, distance from markets, high transport costs etc.) means that relatively few investors are interested in putting their money into the region³⁸. Understanding that capital is not coming to labour in the region, governments are calling for the introduction of carefully regulated labour movement schemes that would see unskilled and semi-skilled workers temporarily move

³⁸ A consultant’s report for the Pacific Islands Forum Secretariat concedes that: “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 advisors, such as Samoa, have found that this has not been rewarded by any significant increase in foreign direct investment”.

to developed countries to work – increasing remittance flows to the Islands, improving skills for returning workers, and easing economic and social pressures created through unemployment (especially youth unemployment)³⁹.

The temporary movement of labour (not permanent *migration*) is linked to FTAs through agreements on trade in services. The General Agreement on Trade in Services (GATS) at the World Trade Organisation (WTO) generally forms the basis for bilateral FTAs that include agreements on services-trade. The ‘temporary movement of natural persons’ (people who travel to another country to deliver a service) is known as Mode 4 under the GATS.

Pacific governments have spent much of the past decade arguing that concessions on Mode 4 labour mobility should be included in any FTAs with the EU, or with Australia and NZ – and this has become a central negotiating position for the region.

So important does the Pacific hold temporary labour movement that current negotiations with the EU for a comprehensive FTA (called an Economic Partnership Agreement) have stalled because the EU is refusing to offer any new concessions on Mode 4 labour mobility. This has become the ‘red line’ non-negotiable regional position in the EPA negotiations.

At a recent seminar on the EPA negotiations, held in Madang, Papua New Guinea, Pacific trade ministers and regional trade negotiators told EU ambassadors they have “no mandate” to discuss services liberalisation until the EU gives way. PNG Foreign Minister Sam Abal said the EU was “hearing, but not listening to, the Pacific Countries” when it came to their key demand.

The EU forced Fiji and PNG to initial an interim free trade deal (covering goods trade) in late 2007, under threats the EU would raise tariffs on tuna and sugar exports to the EU, and is seeking to conclude a full FTA in 2008 (covering issues like services and investment, government procurement and intellectual property rights). However, without labour mobility on the table for negotiations, the Pacific States have walked away from the negotiations, and it remains unclear if they will return. At the time of writing, Pacific states have in fact requested a suspension of all further EPA negotiations with the EU, with a view to potentially returning to the negotiating table in the future.

An unrealistic option?

Pacific governments have been encouraged to pursue Mode 4 concessions under FTA negotiations from a range of advisors and academics (both external and from within the region). Advisors to the EPA Regional Negotiating Team from the Pacific Islands Forum Secretariat for example have advocated concessions on labour mobility as a key positive outcome for the Pacific. It is possible that if the EU had offered even modest concessions on labour mobility, the Forum Secretariat would have called for countries to sign EPAs.

Former Professor of Employment and Labour Market Studies at the University of the South Pacific, Professor Wadan Narsey, while acknowledging that signing FTAs with Australia and the EU will lead to extensive job losses and business closures, has

³⁹ While important for many states in the region, it should be noted that not all Pacific States perceive movement of workers as a gain. States like Niue and the Cook Islands for example are desperate to attract more people to live in their countries, not to provide more opportunities to move somewhere else. There have also been vigorous debates about whether temporary labour migration really is an appropriate long-term development strategy, and calls for Governments to maintain an emphasis on providing decent work for people in the Pacific.

consistently argued that access for workers to Australia and NZ labour markets is a key gain from pursuing new FTAs⁴⁰.

With advice like this, it is easy to see why Pacific governments have pursued the negotiating tactics they have to date. But given the lack of movement from the EU on the issue, now is an opportune time to ask whether this tactic remains suitable (or indeed ever was).

Whilst not technically excluded from inclusion under Mode 4 of the GATS, the movement of unskilled and semi-skilled workers is now being excluded from new FTAs, which focus on executives, professionals and skilled self-employed contractors who service transnational corporations or meet skills shortages.

The EU has made it clear that they will not offer concessions for movement of the categories of workers proposed by the Pacific, largely because immigration is the responsibility of Member States. In a letter from the European Commission's Deputy Director for Trade, Karl Falkenberg and the Director General for Development, Stefano Manservigi, to the (then) Pacific lead negotiator (dated October 20, 2006) the EC stated that the Pacific's "ambitions in this area go far beyond the possible offers we will be able to make in the end".

Evaluating the costs

The Pacific prepared a raft of proposals for the EPA negotiations to try to blunt some of the more damaging aspects of a free trade agreement with the EU and to argue for movement on issues of key interest to the Pacific (including labour mobility, but also improved Rules of Origin for tuna exports, innovative proposals for targeting investment at small enterprises, and duty/quota free access to EU markets for exports).

The EU rejected most of the Pacific's requests (and continues to do so). When the EU responded to the Pacific's proposals (five months out from the 'deadline' for negotiations), the Forum Secretariat expressed "deep concern" over the EU's proposal, observing that; "The text contained explicit provisions setting out the [European] Commission's demands while reflecting almost none of the key written proposals of the PACP group nor the positions put forward and key interests expressed by PACP Ministers and Officials during discussions that had been taking place between the two sides over the last two years."

It did not help matters that the EU's draft EPA text was a slightly amended version of an EPA proposal put to one of the African ACP regions – which only added to suspicions the EU was not genuinely interested in the proposals being put forward by the Pacific.

Not only have most of the Pacific's proposals been rejected, but also, by focusing on what 'concessions' the Pacific could gain from FTAs (including labour mobility), Pacific governments have been drawn into the notion that FTAs will offer benefits for the region – ignoring the very real costs that will be incurred by signing these deals.

A one-eye-closed approach to these FTAs means our leaders are in danger of trading away important policy space and opening Pacific markets to unrestricted competition from foreign imports and businesses (with job losses and the loss of opportunities to nurture Pacific businesses) in return for 'pro-development' concessions that are not likely to be granted, and *should not be included in FTAs in the first place!*

⁴⁰ Wadan Narsey even went to the extent of arguing that Pacific Countries should trigger PACER negotiations before the EPA negotiations – because "more substantial long term benefits" could accrue from PACER than could from the EPA, such as "access to Australia and NZ for PIC unskilled labour", whereas an EPA without Mode 4 concessions could set a bad precedence for PACER negotiations.

Pacific civil society, church groups and trade unions have all pointed out that FTAs will have negative consequences for Pacific societies that should not be underestimated.

Organisations like the Pacific Council of Churches, the Pacific Network on Globalisation, Fiji Women's Rights Movement (FWRM), the Ecumenical Centre for Research, Education, and Advocacy (ECREA), and Oxfam NZ have highlighted the fact that FTAs will lead to dramatic fall in government revenue, business closures, job losses, an undermining of access to health, education and basic services, increased pressure for privatisation, restricted access to medicine and educational materials (through strict intellectual property rules), a reduction in policy options for creating local employment and stimulating local business, and restrictions on the ability of Pacific governments to regulate foreign investment in the social interest.

These negative consequences arising from FTAs cannot simply be ignored, while looking for illusive gains – like new labour mobility schemes.

Separating development and free trade

When Pacific governments consider ways relationships with developed countries could be improved with positive development outcomes for the Pacific, it should be noted that there is no need for new proposals to be *included within* FTAs.

Including development proposals within dangerous FTAs betrays a certain lack of imagination, and buys into the agenda of big brother neighbours like Australia and NZ.

At the moment, Australia and NZ are looking at ways to induce Pacific governments to enter into a new FTA (dubbed 'PACER+') and are looking at using seasonal worker programmes as a 'bargaining chip' in negotiations set to get under way later this year⁴¹.

Certainly NZ Trade Minister Phil Goff sees NZ's Recognised Seasonal Employment (RSE) scheme, initiated in April 2007, as leverage for the creation of the PACER+ agreement. In March this year, he explained; "it's something the Pacific nations have been seeking and would be a major inducement for those countries to become part of an integrated economy in the Pacific region".

NZ's Ministry of Foreign Affairs sees RSE as "an excellent example of the benefits of regional integration. It may help stimulate deeper economic integration through the Pacific Plan and the Pacific Agreement on Closer Economic Relations".

Australian Prime Minister Kevin Rudd will formally announce a pilot seasonal workers' scheme (similar to the NZ scheme) at the Pacific Island Forum Leaders Meeting in Niue in August this year. Australia can be expected, like NZ, to link this scheme implicitly, if not explicitly, to the PACER negotiations.

Pacific governments should be extremely wary of any such linkage. The NZ seasonal labour scheme is *employer driven* - horticulture operators in NZ are struggling to find workers domestically, and are keen to find reliable labour from the Pacific. In Australia, the National Farmers Federation has come out fully in favour of a similar scheme, anticipating a shortfall of 22,000 unskilled workers in Australia's \$7 billion-a-year horticulture industry as the drought ends.

With farmers in Australia and NZ desperate for workers, and Pacific countries keen to supply them, such a scheme is a 'win-win'. It would be completely cynical for Australia and NZ to use a seasonal workers' scheme as a bargaining concession in negotiations.

Pacific governments should be asking whether it's more feasible to pursue labour mobility agreements completely separate from FTAs. New Zealand's RSE is an

⁴¹ Any seasonal labour scheme under PACER is *not* likely to be offered as a binding commitment under Mode 4 labour mobility, but as a distinct and unique side-agreement to PACER.

example of a temporary labour migration scheme (employing thousands of Pacific Islanders) that is not linked to an FTA.

As the New Zealand Council of Trade Unions explains; “if the seasonal labour development plan is a genuine development opportunity, then it should not be linked to discussion around free trade agreements”

Some close followers of the labour mobility debate have argued that labour mobility needs to be included within an FTA in order to make any workers scheme *binding* – and thereby preventing governments in Australia or NZ sending thousands of workers home when unemployment rises, or if political relations sour with a particular country (like Fiji’s exclusion from NZ’s current seasonal workers scheme). But we know already the EU, Australia, and NZ do not believe GATS Mode 4 is supposed to cover workers in seasonal labour schemes, and it seems the *binding* nature of an agreement is likely to be more apparent than real. The recent NZ-China FTA relegates short-term access to NZ’s employment market for Chinese on a working holiday to a side-letter with onerous qualifications. NZ can suspend the scheme for political reasons (in the event of a military coup for example) or end it with 3 months notice if unemployment rises dramatically.

The issue here is the separating out of what should be a mutually beneficial labour mobility arrangement that has development benefits from FTAs that could have a whole raft of negative consequences for the Pacific.

Development in the Pacific: new visions required

One advantage of the Pacific’s defensive position in relation to the current free trade agenda is Pacific governments have (to a degree) had to ask what development outcomes can be gained through trade arrangements.

There seems to be growing acknowledgement that the Pacific’s key offensive priorities, such as setting Rules of Origin for exports, development of regional fisheries, attracting investment, labour mobility, quarantine requirements or regional assistance, are not necessarily best served by FTAs at all.

The insistence of government and trade officials in Australia, NZ and the EU on linking aid with a free trade agenda is a form of neo-colonialism that ignores the Pacific’s right to set *our own* trade agenda.

It should be noted that these countries have all made international commitments to an aid contribution of 0.7 per cent of their GDP, and they have consistently failed to live up to their own promises. Aid is a right in its own, and Pacific governments needn’t feel apologetic about needing development assistance and cooperation to benefit from international trade.

There is no political obligation whatsoever for Pacific leaders to agree to an imposed model of development – driven by foreign interests. Pacific peoples need a model of development that is sustainable, and culturally and environmentally suitable.

We need a renewed focus on addressing the real constraints in the Pacific – like access to health and education services, improving key infrastructure (transport, electricity, telecommunications etc.), building service industry capacity (in tourism for example), supporting niche agricultural and industrial products, developing new markets (and improving market access) for Pacific exports, improving management and local value-adding for Pacific resources (in areas like mining, fishing, and forestry) and targeting investment at small and medium enterprises.

Labour mobility schemes can improve remittance flows, provide skills training, and ease unemployment pressures in the Pacific.

However, addressing the constraints faced by Pacific societies should not be linked with selling our sovereignty and exposing our markets to unequal foreign competition in binding FTAs.

It's no secret that PACER, the EPA, and the Pacific Plan itself pose a 'one path' model of development based on extensive and rapid trade liberalisation and neoliberal reform that has not been shown to work for small developing countries.

Now, more than ever, we need Pacific leaders to take charge of the development agenda in the Pacific.

If they don't, we all risk paying a very heavy price.

NOTE: *A flawed approach? Free trade and labour mobility in the Pacific Island Countries* appears as a feature story in the August edition of Islands Business magazine.

6. Pacific Agreement on Closer Economic Relations (PACER): A new FTA with Australia and NZ?

6.1 A background to PACER: Driven by Australia and NZ.

PACER had two important elements. The first was funding for a regional trade facilitation programme, which was the buyoff for the PICs to agree to PACER. The second was a pre-commitment to begin negotiations for regional economic integration in 2011. These negotiations could occur earlier if the PICs began negotiating for a free trade in goods agreement with another developed country (ie the EC under the Cotonou Agreement). Australia and NZ have argued since 2003 that the trigger has been pulled. The PICs have continued to dispute that. It is difficult for Fiji and PNG to maintain that argument since they initialed the interim EPA on goods with the EC in late 2007. However, the main justification for PACER - that Australia and NZ should not be disadvantaged in comparison to the EU – would justify only very limited negotiations. Only PNG and Fiji have so far signed the interim EPA on goods and the ‘rendezvous’ clause aims to defer services and investment for at least three years.

Despite this, Australia and NZ want a comprehensive agreement (called PACER-Plus) that covers virtually every area of economic activity and regulation: goods, agriculture, services, investment, competition, government procurement, intellectual property, environment, disputes settlement, economic cooperation, subsidies, etc. Temporary movement of people is also mentioned, but this will be heavily disputed as Australia and NZ want to limit this to professional and skilled workers, and exclude lower-skilled jobs like seasonal farm labour. All these areas are now common in the free trade agreements that Australia and NZ have negotiated with other ‘developing’ countries. The agenda for PACER-Plus therefore includes issues that have been rejected by developing countries at the WTO because they only benefit rich countries and their TNCs. Worse, it would apply those rules to PICs that are not even WTO members.

Australia and NZ have now increased the pressure on the PICs to begin negotiations. While they insist that they are only asking for informal dialogue, NZ hosted an informal discussion in Auckland in late May. They set the agenda and nominated the presenters. Before the meeting the Solomon Islands government expressed its opposition to any attempt to use the meeting to formalise the PACER-Plus process. The PIC officials insisted that the meeting only produced a report from the chair, not an agreed outcomes document. This recognized the need for further consultation at the national level to get an appreciation of what the agreement might involve. Discussions would need to take account of broader sustainable development objectives, including social, economic and environmental. The meeting also ‘recognized the importance of consulting with civil society at both a national and regional level from an early stage’. All this sounds very similar to the EPA process – and the result was the exact opposite.

At a meeting of Pacific Islands Forum Trade Ministers held in the Cook Islands in July this year, Australia pushed to formalise the PACER-Plus process. This push was rejected by the majority of Pacific Island trade ministers.

Australia and NZ also rejected the PIC proposal to fund an office of a Chief Trade Advisor (CTA) to be based in Port Vila, Vanuatu. Instead, Australia announced a trade fellowship programme to assist in capacity building for the PICs – with provisions for one

trade official from each PIC to attend training on trade negotiation in Australia. Australia also announced a facility for the PICs to undertake national studies to inform their engagement in PACER Plus.

Australia's approach to the Forum Trade Ministers' Meeting seems to indicate that Australia and NZ don't want the Pacific to have a strong, well resourced, regional negotiating team. They would much prefer to deal with countries individually, and even pit them against each other.

6.2 Implications of 'PACER-Plus'

PACER-Plus would have a more intense impact than PICTA/POTIS, or even a comprehensive EPA.

Most PICs import much more from Australia and NZ than other countries. So the loss of government revenue from eliminating their tariffs would be huge. One report in September 2007 calculated that the biggest revenue losses as a proportion of total revenue from an agreement with Australia and NZ would be Samoa (12%), Vanuatu (18%), Tonga (19%),

This would have flow on effects for public services and jobs and alternative revenue from user charges and VAT. Local food producers would face intense competition from cheap, and often low quality, meat, dairy, fruits and vegetables. There is a high risk of producers relocating their factories to Australia or NZ and exporting into the Pacific duty-free. The battles over rules of origin for textiles and vehicle harnesses in SPARTECA seem likely to continue. Australia and NZ may be unwilling to provide equivalent rules to those that apply in free trade agreements with China or ASEAN unless they get extensive concessions on services and investment in return. The aim would be to lock open up key areas like banking, telecoms, maritime transport, legal and professional services, construction, education and environmental services to Australia and NZ firms, and prohibit preferences that protect local services suppliers. Investors could also gain stronger enforceable rights to exploit natural resources like mining, fisheries and forestry.

If Australia and NZ manage to put enough pressure on the Pacific ministers and leaders, it is possible that the negotiation process may begin within a year. This leaves relatively little time to educate and mobilize workers, trade union organizations, NGOs and local communities and develop resources that can support them to actively challenge the free trade agenda.

A Social Impact Assessment of the EPA was coordinated by PANG and presented to ministers in 2007. At the time, the ministers said they would like such an assessment at an early stage for any PACER negotiations. It is important that this is undertaken by people within the region from the perspective of those whose lives and livelihoods will be most directly affected.

One 'baseline and gaps analysis' has already been prepared. In 2007 the Forum Trade Ministers received a consultants' report on the potential impact of 'PACER-Plus' and the capacity challenges that would raise. The report was written by US consultants Nathan Associates. The report is pro-free trade but also identifies a number of risks. It described two considerations of paramount importance – the impact on FIC producers and workers, and the impact on government revenue. It argues for a strategy that would

maintain social, cultural and environmental goals within the context of liberalization – an aim that seems highly contradictory. This includes sensitive areas like communal land ownership, disproportionate impacts on women workers and protection of the environment from pressures by foreign firms to lower protections. Only a few sentences discussed the impacts on workers. It argued that a gradual approach would spread out the cost of adjustment, minimize the risk of backlash from job losses and a slow economic recovery, and make change more politically achievable. It suggested displaced workers should have transitional adjustment grants and training programmes.

The report also expresses concern about the inequality of negotiating capacity and power. Technical assistance funding has been narrowly focused on issues related to the negotiations rather than ‘institutional capacity issues that constrain the PIC’s ability to analyze their negotiating interests, develop and evaluate options, and communicate with and hear from stakeholders during the pre-negotiation preparatory stages’. The report also noted that Australia and NZ’s free trade agreements with other countries were likely to have a significant influence on these negotiations.

Other tools are also being developed, including a resource that will help to identify the domestic impacts of trade in services rules and commitments. That resource requires a lot of work that is beyond the capacity of officials, and offers a perfect opportunity for trade unions, NGOs and communities to expose the social, cultural, developmental and employment implications of ‘trade in services’ negotiations.

7. Getting involved: Regional and national frameworks for civil society participation in trade talks

7.1 Locating avenues for CSO intervention

For Pacific CSOs to be involved in trade talks, and discussions on the move towards free trade in the PIC's it is essential to have a picture of the region's negotiating frameworks – to identify who is responsible for reviewing new FTAs, establishing key negotiating positions, engaging the negotiation process, signing and ratification of the deals etc. PIC's engage in the FTA talks at national levels (at government official, ministerial, and executive levels), regional and international levels. There are some processes in place for consultation with civil society at both the national and regional levels as well.

Below is a guide to some of the negotiating frameworks for each of the FTAs facing the region. Whilst not a complete picture, this provides a starting point – helping to identify 'points of intervention', where Pacific CSOs may be able to influence decision makers involved in the trade talks. (It may, for example, be possible to be included on national level committees advising the Ministry of Trade, to attend discussions held at the regional level (through the Forum Secretariat, or Forum Trade Ministers' Meetings), or even to be included with national delegations as they engage in discussions and formal negotiations (whether that be with the EU/Australia/NZ or at the WTO).

7.2 Negotiating frameworks: Regional and National

EPA:

At the regional ministerial level, PICs set up a Regional Negotiating Team composed of Ministers of trade from the Cook Islands, Papua New Guinea, the Republic of Marshall Islands, Palau, Samoa, Tonga and Tuvalu. The RNT was set up primarily to be responsible for the final negotiating rounds, the drafting of legal texts and the translation of outcomes of negotiations into finalised arrangements. Within the RTN, the Minister of Foreign Affairs and External Trade of Fiji and the Minister of Commerce, Industry and Labour of Samoa were appointed respectively as chief negotiator (or Lead Spokesperson) and alternate. Fiji Foreign Affairs Minister Kaliopate Tavola was the chief negotiator for the region for much of the earlier phases of discussions and negotiations with the EU. Currently, Samoa's Associate Minister for Commerce, Industry and Labour, Hans Joachim Keil is chief negotiator for the region.

The Regional Negotiating Team has received much of its advice and technical information on engaging in the EPA negotiations from a Trade Experts Advisory Group (TEAG) based at the Pacific Islands Forum Secretariat. The TEAG also worked closely with PIC's ambassadors in Brussels. It should be noted that the TEAG has been funded by the EU, through the Pacific Regional Economic Integration Program (PACREIP), to provide technical capacity within the region to engage in the EPA negotiations.

At the national level, government officials (generally the Director of Trade within the Ministry of Foreign Affairs and Trade, or Ministry of Industry) are responsible for engaging in the EPA process.

PICTA:

At the regional level, the process of implementing PICTA, and extending PICTA to cover trade in services (as is currently happening) has been driven by the PIC trade ministers at the annual Forum Trade Ministers' Meetings, with Ministries of Foreign Affairs and Trade (or Ministry of Industry) responsible for implementing directives issuing from the Forum Trade Ministers' Meetings at the national level – preparing PICs to trade under PICTA's terms.

The example of extending PICTA to services illustrates how this works. In 2001, Forum Trade Ministers endorsed in principle the extension of PICTA from goods-only to trade in services. At the Forum Trade Ministers' Meeting in 2007, Forum Trade Ministers issued a directive that negotiations for services liberalisation between the PICs should be concluded by October 2008. This means that trade officials are currently preparing which service sectors they will list for trade under PICTA – with each PIC having committed to list four sectors. A number of PIC officials have admitted concern that no social impact assessments have been conducted on services liberalisation under PICTA, and they simply don't know what the implications will be of listing sectors like health, education, tourism, etc. will be.

There may be opportunities for Pacific CSOs to become much more involved in the PICTA process, through engagement at the national level (see *National/Ministerial Level* below).

PACER:

The regional negotiating framework for PACER has yet to be determined, and is at the centre of discussions on going forward for PACER at the moment.

Australia and NZ, while very keen to begin discussions for an FTA as soon as possible don't wish to be seen to be rushing the region – especially if there's contention about whether 'PACER+' has been triggered if most of the Pacific has yet to sign any kind of EPA with the EU. At present, Australia and NZ are holding 'informal' talks with PICs on the way forward for PACER+, the 'informal' nature of these talks is ambiguous, as any decisions made may yet become the 'formal' approach to PACER+ - including what the nature of the regional trade negotiating framework will be, how much funding it will receive, the timeline for PACER+ negotiations, and importantly the *scope* of PACER+ discussions – ie. Will it cover trade in goods only (unlikely), or a broad sweep of issues including investment, services, competition, intellectual property rights, government procurement etc (as Australia and NZ will be very keen to see).

Australia and NZ officials have said they don't want to see a regional negotiating advisory team based at the Forum Secretariat (as has happened with the TEAG in the EPA negotiations), arguing that they are members of the Forum, and therefore the Secretariat cannot represent some of the member States (the Forum Island Countries) in opposition to other members (Australia and NZ) in negotiations.

The Pacific Islands Forum Secretariat has put forward a proposal for a Chief Trade Advisor (CTA), to be based in Vanuatu. The CTA, with a secretariat of technical staff, would most likely be based within the new Melanesian Spearhead Group Secretariat in Port Vila. However, Australia and NZ have already indicated their unwillingness to provide adequate funding for an office of technical staff to work with a potential CTA.

Australian and NZ officials have acknowledged that there are still very real and considerable capacity constraints for PIC's to engage in a new round of trade negotiations at the national level – and therefore have said that in principle, they will help assist (financially) a regional negotiating framework, and help provide capacity building for Trade Ministries at the national level. It should be noted however that such capacity building will be a double-edged sword, with Australian and NZ trade officials likely to

focus only on the 'benefits' of trade liberalisation, and train PIC officials on how to negotiate on areas *of interest to Australia and NZ!*

Resourcing of a regional trade negotiating framework (whether it is the Chief Trade Advisor or not) looks like the opening round of contention in the PACER+ discussions. (The Forum Secretariat proposal is around \$US11million, and Australia and NZ have said they are not prepared to offer nearly that amount, and have instead announced funding for national level studies and training for individual trade officials from each of the PICs.)

National/ministerial level

At the national level Government processes for negotiating trade agreements will differ slightly across the PIC's but the Fiji example is useful.

In Fiji, negotiating FTAs is the responsibility of the Ministry of Foreign Affairs and Trade. Primary responsibility is borne by the Minister, with the Ministry divided into two main sections – a political section (including international treaties) and an economic and trade section (including foreign aid). FTA negotiations are handled by officials within the economic and trade section, lead by the Permanent Secretary for the Ministry .

The Ministry of Foreign Affairs and Trade in Fiji has two established committees to allow wider consultation relating to trade negotiations. The first is the Focus Trade Development Committee, consisting of government officials from Ministries and Departments outside of Foreign Affairs (at present, this committee generally includes officials from the Ministry of Commerce, FIRCA, FTIB etc. *but not* from other Ministries (like Health, Education, Labour, Women etc.) considered, erroneously, to be outside the scope of trade discussions.

The second consultation committee is the Extended Trade Development Committee, consisting of the Focus Trade Development Committee (TDC) *plus* non-state actors (civil society, unions, private sector organisations etc). At present, the Extended TDC is under-utilised by civil society and trade unions – and there are good opportunities for CSOs to become involved in trade talks at the national level by being involved in this committee. CSOs should ask for representation on the committee through a request letter to the Minister.

Obviously the government structures will be different at the national level across the PICs, but generally the Director of Trade within the Ministry of Foreign Affairs and Trade (or Ministry of Industry) will be responsible for the work of engaging in trade negotiations at regional, bilateral and multilateral levels.

9. Accessing further information

Links to further information, background and arguments regarding free trade in the Pacific (especially the three main FTAs – PICTA/PACER/EPA) are presented below.

Legal texts

The full legal text of the PICTA and PACER agreements are available at the Pacific Islands Forum Secretariat website.

See:

www.forumsec.org/resources/article/files/PICTA%20Text.pdf

www.forumsec.org/UserFiles/File/PACER_Text.pdf

The full legal text of the Interim-EPAs initialled by Fiji and PNG is available at:

www.bilaterals.org/IMG/pdf/537b-07_PNG.pdf

The full legal text of the CARIFORUM-EU EPA, signed between the EU and the Caribbean is available at:

http://ec.europa.eu/trade/issues/bilateral/regions/acp/pr220208_en.htm

The full legal text of the Cotonou Agreement between the EU and ACP countries (which forms a backdrop to the EPA negotiations) is available at:

http://ec.europa.eu/development/geographical/cotonou/cotonoudoc_en.cfm

Reports

Commissioned by the Pacific Network on Globalisation (PANG) and produced by Professor Jane Kelsey of Auckland University, *A People's Guide to PACER*, provides user-friendly information on the PACER negotiations, including case studies from the Pacific region on the ways that a new FTA with Australia and NZ will impact local business and society. This report also covers the Pacific Island Countries Trade Agreement (PICTA). See:

http://www.bilaterals.org/IMG/pdf/A_Peoples_Guide_to_PACER.pdf

Commissioned by the World Council of Churches, Office in the Pacific, and produced by Professor Jane Kelsey of Auckland University, *A People's Guide to the Pacific's Economic Partnership Agreement*, provides a critical perspective on negotiations for an EPA between the Pacific and the EU pursuant to the Cotonou Agreement. See:

<http://www.igtn.org/page/627/1>

Oxfam International released a report in April this year, *Partnership or Powerplay? How Europe should bring development into its trade deals with African, Caribbean and Pacific Countries*. This report analyses where the EPA negotiations stand following the initialling of Interim-EPAs by a number of ACP countries in late 2007, and looks at outstanding issues involved in the negotiations. Oxfam International points out that the EPAs offered by the EU are a long way from the stated objectives of the agreements – to stimulate development in ACP countries – and are actually likely to undermine development in some of the poorest countries on earth. See:

http://www.oxfam.org/en/policy/briefingpapers/bp110_EPAs_europe_trade_deals_with_a_cp_countries_0804

A report commissioned by the Pacific Islands Forum Secretariat exploring the revenue implications of pursuing trade liberalisation through PICTA/PACER and the EPAs was

released in December 2007. This report finds that for around half of the Pacific Island Countries trade liberalisation with the EU, Australia and NZ will lead to losses of government revenue of between 10 and 40 per cent.

Revenue Consequences of Trade Liberalisation in the Pacific Island Countries is available at:

http://www.forumsec.org.fj/_resources/article/files/Revenue%20consequences%20of%20Trade%20Liberalisation.pdf

The *Pacific Regional Trade and Economic Cooperation: Joint Baseline and Gap Analysis*, also released in December 2007, analyses possible steps towards a “broadbased legal arrangement between Australia, New Zealand and the Forum Island Countries that would cover trade in goods, trade in services, investment, other trade-related areas as may be agreed, and related development cooperation activities”. This report is commonly referred to as the *Nathan’s Report* (because it was commissioned by the Pacific Islands Forum Secretariat to Nathans Associates Inc.). This report makes pro-free trade conclusions, but does raise some reservations about potential losses to the PICs.

See:

www.forumsec.org.fj/_resources/article/files/Pacific%20Regional%20Trade%20and%20Economic%20Cooperation_FINAL%20REPORT_December%2020071.pdf

A *Social Impact Assessment of the Economic Partnership Agreement being negotiated between the European Community and Pacific ACP States* was commissioned by the Pacific Islands Forum Secretariat. The impact assessment was undertaken by the Pacific Network on Globalisation, with a final draft of the report submitted to the Forum Secretariat in March 2008. This report details some of the potential social impacts of an EPA with the EU for Pacific states, and outline ways these impacts could be mitigated. The report draws on research from six countries – Papua New Guinea, Kiribati, Republic of Marshall Islands, Samoa, Solomon Islands and Fiji.

See: www.pang.org.fj

Labour Mobility

Information on Australia’s plans for a new seasonal workers scheme for Pacific Islanders is available from the Australian Parliamentary Library. These sites contain links to further information, background and arguments regarding a workers scheme.

See:

A seasonal guest worker program for Australia? (May, 2006)

<http://www.aph.gov.au/library/pubs/RB/2005-06/06rb16.htm>

and;

New Zealand’s seasonal guest worker scheme (May, 2008)

http://www.aph.gov.au/library/pubs/BN/2007-08/NZSeasonalWorker.htm#_Toc198095425

Nic Maclellan, an independent researcher and journalist with extensive experience in the Pacific Islands region, has prepared a number of papers regarding a seasonal migration scheme for Pacific Islanders in Australia. His papers outline policy recommendations for ensuring any new workers scheme offers maximum opportunities for development outcomes for Pacific communities, and ensuring that seasonal workers are not exploited. For his latest paper, *Workers for All Seasons? Issues from New Zealand’s Recognised Seasonal Employer (RSE) program*, see:

http://www.apo.org.au/crosspost_linkboard/items/209447-upload-00001.pdf

Immigration NZ provides links to details of the Recognised Seasonal Employer (RSE) scheme on its webpage, at: www.immigration.govt.nz/community/stream/employ/employingtemporaryworkers/whatisrequired/seasonalwkrs/trse.htm

Peter Mares, *Objection to Pacific seasonal work programs in rural Australia*, Public Policy, v.2(1), 2007, pp. 68–87. Peter Mares has been a long-time advocate for a seasonal guest-worker scheme in Australia and in this article he examines different objections that have been put forward against the idea. Available here: http://parlinfoweb.aph.gov.au/piweb/TranslateWIPILink.aspx?Folder=jmart&Criteria=CITATION_ID:I65P6;

National Farmers' Federation, *Workforce from Abroad Employment Scheme*, National Farmers' Federation Ltd., 2008. This report outlines areas of labour shortage in the agricultural sector and outlines a possible model for a guest-worker program in Australia. Available at: <http://www.nff.org.au/policy/workplace.html>

Independent Task Force, *Engaging our Neighbours: Towards a new relationship between Australia and the Pacific Islands*, report for the Australian Strategic Policy Institute, ASPI, Canberra, 2008. This report recommends a number of different strategies for Australia to engage with Pacific Island nations including increased labour mobility. Available at: www.aspi.org.au/publications/publication_details.aspx?ContentID=157&pubtype=10

Fair Trade and FTAs

Information on fair trade in the Pacific Island Countries is available at the website for the Pacific Network on Globalisation (PANG). A network formed of Pacific civil society, church groups and trade unions, PANG is critical of the imposition of neoliberal free trade in the Pacific Island Countries, and calls for a Pacific-owned development vision to replace the emphasis on signing FTAs

See: www.pang.org.fj

Information on bilateral free trade agreements being negotiated across the globe is available at bilaterals.org. Billed as 'everything that isn't happening at the WTO', bilaterals.org maintains a very large library of information on bilateral trade negotiations (including a good section on PICTA/PACER/EPA and the Pacific). Information is 'leaked' to bilaterals.org about FTA negotiations, and there have been Pacific examples.

See: www.bilaterals.org

Oxfam International has campaigned against the negative implications of the EU's proposed EPAs as part of its Make Trade Fair campaign. See:

www.oxfam.org/en/programs/campaigns/maketradefair/index.htm

Oxfam NZ has a particular focus on trade negotiations in the Pacific, with their Make Trade Fair campaign focused on turning trade deals towards positive development outcomes for the Pacific. See:

www.oxfam.org.nz/whatwedo.asp?s1=What%20we%20do&s2=Issues%20we%20work%20on&s3=Make%20Trade%20Fair&s4=Make%20Trade%20Fair%20in%20the%20Pacific

The South Centre, 'an Intergovernmental Policy Think Tank for Developing Countries', provides good technical briefing papers and general information regarding trade negotiations. These papers are geared to be received by policy makers, and a number of them cover the EPA negotiations currently facing the Pacific.

See: www.southcentre.org/index.php

The Third World Network is a huge clearinghouse of good information regarding trade negotiations – from a developing country perspective. Third World Network focuses both on bilateral trade negotiations and on movements at the WTO concerning developing countries.

See: <http://www.twinside.org.sg/>

Further Information:

Resources concerning trade liberalisation in the Pacific are available at official websites such as that of the World Trade Organisation, the World Bank, the Asian Development Bank, the International Monetary Fund, from Government websites (Ministry of Foreign Affairs and Trade) from PIC's, Australia and NZ, from the official websites of the EU and from the website of the ACP group of countries.

Information regarding the international labour movement's response to free trade, and FTA negotiations in particular, is available at various websites, including those of the International Labour Organisation (ILO), the International Trade Union Confederation, etc. A site with good links is the website of the Global Union Research Network, which has a sub-section dealing with regional and bilateral trade agreements.

See: <http://www.gurn.info/topic/trade/index.html>

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Further information on PANG:

Please note that further resources on trade and economic justice issues in the Pacific are available at www.pang.org.fj.

The Pacific Network on Globalisation (PANG) plays the role of the Pacific regional “peoples’ watchdog on trade issues”. PANG was established in 2000 by regional NGOs concerned that Pacific civil society was being left out of the debate on trade liberalisation and that the free-trade agenda lacked a focus on key goals of human development and poverty reduction. PANG is a research, education, and advocacy organisation. PANG provides considered research and analysis on trade issues, and regular media input – on trade and human development – across the region. PANG also plays a very important campaigning role, lobbying to have the concerns of Pacific civil society heard in fora where the Pacific’s economic future is increasingly determined.

Ultimately, PANG aims to improve effective and democratic governance in the Pacific, by empowering Pacific civil society and private sectors to engage the decision making process around trade and economic planning.