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Directorate-General for Trade

Deputy Director-General

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**Honourable Kaliopate Tavola**

Minister

Ministry for Foreign Affairs and External Trade, Fiji

Lead Spokesperson of the Pacific ACP Regional Negotiating Team

Private Mail Bag, Suva, Fiji

Dear Minister

We are writing to share with you our assessment of the current state of EPA negotiations with the Pacific region and the outlook for progress until the end of next year.

Let us emphasise first of all that we appreciate the increasing frequency of EPA related meetings this year following 2005 where only very few meetings could be held. A further intensification of exchanges is certainly needed in order to meet the **deadline** of end of 2007. As you are well aware, we **have to respect this deadline**. The Cotonou trade regime will no longer be covered by a WTO waiver as from 1<sup>st</sup> of January 2008 and we are exposed to challenges from non-ACP developing countries who will ask for equal treatment in our markets.

On the occasion of the informal EPA meeting in January in London and the JTWG meeting in July, our positions as stated during earlier meetings were outlined in detail and in particular as they relate to the question of the architecture or structure of an EPA and its linkage with development assistance. In addition, as you remember, we had an exchange of letters copied to your Ministerial colleagues to clarify these and other issues.

Against this background, we welcome the **draft legal EPA text** submitted by your side in July which foresees a general EPA agreement - including sections on services and investment - to be signed by all Pacific ACP States. The annex on goods can be signed by a selection of interested Pacific ACP countries, but should be open to others who may join eventually. This **structure** corresponds to our earlier discussions and although some modifications may still be needed, it could form the basis for an overall structure of an EPA agreement with the Pacific.

We note that a proposal on **fisheries** is not included in the draft text but may still be forthcoming. As explained in earlier meetings, it will not be possible for us to negotiate separate sectoral stand alone agreements outside the EPA. However, we believe that most of the elements that you have on your mind can very usefully be integrated into our EPA. This is set out in our non paper submitted earlier. Obviously, a strong emphasis within

EPA on fisheries would tally perfectly with the focal sector of natural resources management foreseen in the draft regional strategy. During the July meeting it was suggested that fisheries issues should be further discussed in a small group made up of fishery experts from both sides. We propose that this suggestion is followed up in the near future.

A further major issue is the **link between EPA and development cooperation**. Here we see still a considerable gap in our mutual understanding. In your draft EPA submission, detailed development cooperation provisions form integral part of the text, be it for certain economic sectors of importance in the Pacific such as agriculture or tourism or for a chapter on additional funding that is not yet identified. As you know, this is not acceptable to us. We have jointly spent considerable time during our meetings in the past clarifying this point. In our view, the overall framework for development assistance has to remain the Cotonou agreement. What we have to do is to link development assistance and EPA, acknowledging that both should be mutually reinforcing.

There may be costs associated with an EPA. But we should not forget about the benefits. The EU believes that the latter will in the end exceed the former which is the reason why we pursue the EPA idea. Some costs will perhaps arise when the benefits have not yet kicked in. Their extent will depend on the level of the commitments entered into by your region which is not yet known. As you know, we are prepared to include transition periods as well as bilateral safeguards that will allow us to handle the matter in a controlled way as things evolve. But, the EC should not be treated worse in this respect than other industrialised countries, such as Australia and New Zealand.

As you had recently the opportunity to discuss the issue at your visit to Brussels, you know that we have considerably increased the envelope for the regional programme in order to assist your region to address EPA-related challenges and that it is time now to identify with you priority needs and to examine how they will be covered.

The preferred instrument for doing this is the **Regional Preparatory Task Force (RPTF)** which despite our earlier agreement in the 2004 Joint Roadmap has not yet been created. We are concerned about this continuing absence of a structured link between EPA and development cooperation. The currently ongoing programming of the 10<sup>th</sup> EDF does not benefit from the input of an RPTF. Indeed, Pacific EPA negotiators seemed surprised at our recent discussions with the contents of the already existing draft for the regional programme, which is only a tentative outline based on our own understanding. But nothing sure can be done without precise inputs from the region. We would therefore urge you to facilitate the rapid establishment of the RPTF, and in the meantime share with us any input you may wish to provide from the EPA angle into the programming process. Naturally, we are at your disposal for any advice or assistance you may wish to request in this regard.

As regards the issue of **services**, we have taken good note of your various submissions and noted carefully your emphasis on one particular aspect which is mode 4 ("temporary movement of labour"). Let us be clear about the fact that your ambitions in this area go far beyond the possible offers that we will be able to make in the end. Your requests touch on a variety of aspects many of which fall within the competence of our Member States and are not covered under GATS such as social security schemes, visa arrangements or, most importantly, the temporary movement of unskilled workers. We will pursue with you those aspects where we have competence. For instance, one of the focal areas of cooperation proposed in the 10<sup>th</sup> EDF regional indicative programme is human resource development including training, which could help to position your

countries and citizens to better exploit any future arrangement with us (and others) under "mode 4". As regards other aspects, we have offered to facilitate your contacts with our Member States. We understand in this regard that a Ministerial mission to EU capitals is being prepared.

Other issues such as **investment** will be equally pursued on the basis of your submissions although again we will not be able to re-define what we already jointly agreed in Cotonou on investment related cooperation and the functioning of related institutions.

As regards **rules of origin**, we have already provided some indications as to your requests regarding fisheries but will come back as soon as our internal reflection on the rules of origin will be concluded later this year. As regards liberalisation of market access on our side, we have said that under EPA, we want to go beyond the current market access, therefore, EPA should aim at achieving full market access for Pacific EPA countries to the greatest extent possible, while recognizing the need to address the import regime for a few sensitive products.

Finally, the draft EPA text **does not yet reflect a number of issues** of high importance for development and regional integration on which we still need to discuss appropriate language such as on government procurement, competition or intellectual property rights, partly already agreed in the Cotonou Agreement.

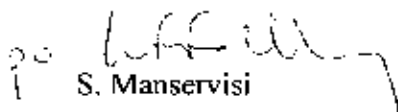
While no doubt some progress has been achieved over the last two years, we feel that we are now **at the crossroads**. As we have pointed out, it will not be possible to fulfil all of the Pacific high ambitions such as those relating to the services area or aiming at the creation of a new aid and cooperation framework within EPA.


The submitted draft EPA text will hence have to undergo substantial amendment before it can become a mutually agreeable EPA. You are no doubt aware of this point but we wanted to raise it explicitly for the sake of transparency and to enable speedy continuation of our discussions.

We suggest that on both sides we give instructions to our negotiators to re-double their efforts to accelerate the process of convergence towards a common "landing zone". This would also include conducting the ongoing review process that we should conclude by the end of this year in accordance with the Cotonou Agreement.

We trust you find the above remarks helpful and look forward to your comments. We may also consider scheduling soon a meeting at senior or ministerial level to provide further guidance to our negotiators in view of the required acceleration of the process.

Yours sincerely,

  
S. Manservigi

  
K.F. Falkenberg

**CC: Ministers of Trade in the Pacific ACP countries  
Regional delegation at Fiji Islands  
Regional delegation at Papua New Guinea**