



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 17.1.2007  
COM(2007) 14 final

**COMMUNICATION FROM THE COMMISSION TO THE COUNCIL**

**on the opening of consultations with Fiji under Article 96 of the Cotonou Agreement**

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#### I. History

It is recalled that following the coup and seizure of hostages in May 2000, the Commission in June the same year proposed to open consultations as foreseen under Article 96 of the Cotonou Agreement, and in July Council agreed unanimously, following which the consultations were opened in October 2000. In consequence a partial suspension of development cooperation was decided on in 2001, and the last sanctions were lifted on 7 November 2003. At the time the consultations combined with partial suspension of development cooperation were considered useful in terms of furthering a positive process in Fiji. However, considering that Fiji six years later faces a new military take-over, it is clear that democratic institutions and democratic culture are not sufficiently strong, and a differently calibrated approach may therefore be called for this time.

After almost two months of tensions between the Government and Fiji's military, Fiji's democratically elected government of Prime Minister Laisenia Qarase was overthrown by the armed forces, led by the military commander, Commodore Voreqe Bainimarama, on 5 December 2006. Apparently the military take-over was bloodless at first. It was Fiji's fourth military take-over since 1987.

Most importantly, the Qarase Government was elected by popular vote in general elections in May 2006. In line with the new EU policy on strengthened partnership with the Pacific islands, the EU sent a full elections observation mission to Fiji with former Hungarian minister and MEP Istvan Szent-Ivanyi as Chief Observer. The EU Monitors deemed the elections credible. It is consequently beyond doubt that the Qarase Government had full democratic legitimacy, as well as a large majority in parliament.

The commander seized executive authority from President Iloilo, dismissed Prime Minister Qarase, announced a state of emergency, and gradually consolidated the military's power. A number of key figures were forcibly detained, questioned and most were subsequently released and relieved of their positions, including notably the Vice President, the acting police commissioner, as well as the CEO for the Ministry of Finance, who is also National Authorising Officer of the European Development Fund in Fiji.

An interim "prime-minister" – a 77 year former military doctor and diplomat - was sworn in. His first act was to advise the commander to dissolve Parliament, which he did. The interim "prime minister" resigned 4 January 2007. Meanwhile, Prime Minister Qarase maintains that he is the legal Prime Minister of Fiji.

#### II. Current situation

The situation is not fully stable and continues to evolve. The military placed advertisements in local newspapers to attract candidates for ministerial positions. The Great Council of Chiefs, which under Fiji's Constitution appoints the President and the Vice-President, met 20-22 December 2006 and recommended a number of steps, including that the military should return to barracks. The commander criticised the Great Council of Chiefs and stated that in future it

would only be allowed to meet when he allows it to. In early January 2007 the situation worsened as the President came out in support of the military and appointed the commander as interim prime minister. Further more, the judiciary came under pressure. Fijian media reported on 5 January 2007 that a man had lost his life during interrogation by the military.

There was considerable opposition to the take-over. On the day of the take-over, President Iloilo declared that he neither supported nor condoned the actions of the military, but he reversed this position on 4 January 2007. Traditional chiefs and churches have condemned the take-over; Fiji's judges have declared that they will uphold the rule of law and the Constitution; Fiji's acting police commissioner labelled the take-over treason, following which he was removed from his post by the military. Media have been outspoken, but are under pressure by the military not to "incite". There have been numerous examples of passive resistance and civil disobedience, but the opposition to the military does not appear to be centralised or organised. Furthermore, the military seeks to suppress internal opposition and dissent with intimidation. However, popular frustration may erupt and violence cannot be excluded, depending on the military's behaviour.

This latest military take-over appears fundamentally different from the earlier ones, as it is not a reflection of tensions between the indigenous Fijians and Indo-Fijians, but mainly a conflict among indigenous Fijians, with, however, important ramifications for both of the country's major communities.

The commander's declarations before the take-over took place reflect a number of important political grievances, some of which may have quite considerable support within the population. There were accusations of racial bias, as witnessed by draft legislation exclusively favouring indigenous Fijians, criticism of very close contacts with and important functions for some personalities implicated in the take-over in 2000, as well as unsubstantiated claims regarding corruption and nepotism. The commander's stance to some extent also reflects opposition to the traditional powers in Fiji - notably the chiefs and the churches - whose positions are being eroded by modernity. The commander's opposition to the Qarase Government also appears to have been influenced by the poor personal relations between the two men.

Mediation efforts in New Zealand involving the Prime Minister of Fiji and the commander, brokered by New Zealand's Foreign Minister Winston Peters, resulted in very important concessions by the Prime Minister, which the commander, unable or unwilling to compromise, considered insufficient.

The military take-over was neither legal nor constitutional and is a major backward step for democracy in Fiji. It has been universally condemned, including by the EU which on 11 December 2006 stated: *"The Council condemns the military takeover in Fiji and the removal of the democratically elected Government. It deplors the actions by Commodore Bainimarama and the Republic of Fiji Military Forces (RFMF) in deposing the Prime Minister and assuming executive control of the country. The Council calls for the urgent and full restoration of democracy as well as return of civilian rule as soon as possible."* On 14 December 2006 the European Parliament strongly condemned the take over by the armed forces, as did former Chief Observer and MEP Istvan Szent-Ivanyi in a separate statement. The Parliament also called on the Commission and the Member States to suspend immediately all non-humanitarian aid to Fiji, with the exception of educational programmes, provided these are implemented by NGOs. The ACP Heads of State and Government, in a statement of 8 December 2006, strongly condemned the overthrow of the legitimate and

democratically-elected government. There has also been a statement from the UN Security Council, and Fiji is facing increasing international isolation as it has been removed from the chair for the Pacific Forum and has been suspended from the Commonwealth councils.

Fiji's partners, including France and the United Kingdom, have suspended military cooperation. A number of countries have imposed targeted sanctions, notably France, Australia and New Zealand, while some of Fiji's international partners are reviewing and reducing development cooperation

### III. Proposal

Article 9(2) of the ACP-EC Partnership agreement signed in Cotonou on 23 June 2000 between the European Union and the ACP States, including Fiji, and revised in Luxemburg on 25 June 2005 lays down the essential elements on which the partnership is based. Respect for democratic principles, the rule of law and human rights underpin the domestic and international policies of the Parties and constitute the essential elements of the Agreement. In accordance with this article and in the light of the circumstances in which power changed hands in Fiji, the Commission considers that dialogue with the country's new rulers is necessary in order to clarify the following points:

- (1) the urgent and peaceful return to democracy within the existing legality and in full respect of the Constitution;
- (2) establishing a government with a mandate from and a majority in Fiji's parliament, which was elected in free and fair elections in May 2006, or organising early free and fair elections, while avoiding a prolonged period with an "interim" government;
- (3) a plan with targets and benchmarks as well as a time-table for the above;
- (4) full respect for human rights, with special focus on the freedom of expression;
- (5) full respect for the rule of law.

A dialogue would give Fiji's new rulers opportunity to state their case on the above points and allow the EU to assess whether, on that basis, it could support the country's efforts at improving compliance with the essential elements of the revised Cotonou Agreement, or take appropriate measures in accordance with Article 96. The EU will keep relevant partners and stakeholders informed.

Due to the circumstances in which the change of regime in Fiji occurred and due to the form of political organisation put in place by the emerging rulers, the Commission considers this to be a case of special urgency, also in the light of the fact that the European Union twice in the critical weeks before the military take-over warned the military, in the form of public statements by the EU Presidency that it has no political role to play in a democracy.

Therefore, in compliance with Article 96(1a) of the revised Cotonou Agreement, it is not necessary to exhaust the possibilities of political dialogue as set out in Article 8 of the same Agreement. It can be noted that in the interest of an early solution and considering the importance of trade and of aid in EU/Fiji relations, an enhanced dialogue under Article 8 continues. The European Commission, however, wishes to have formal consultations with the new rulers to discuss their commitments before deciding on appropriate measures to be taken.

The Commission therefore proposes that the Council invites the Republic of Fiji Islands to hold consultations under Article 96 of the revised Cotonou Agreement in accordance with the attached draft letter.

The Commission proposes that cooperation activities under way, in particular under the seventh, eight and ninth EDFs should continue during the consultation period provided that the Financing Agreements are observed. Furthermore, it is proposed that cooperation activities which would help the return to democracy and improve governance, should also be pursued.

In addition, given the importance of the sugar industry for Fiji's economy, employment and poverty situation, the Commission proposes that preliminary activities with financing from the sugar reform accompanying measures approved under the 2006 budget should go ahead during the consultation period and provided the Commission considers that conditions allow.

## ANNEX

Interim Prime Minister of the Republic of Fiji Islands  
Suva  
Fiji

### DRAFT LETTER

Dear Interim Prime Minister,

On 11 December the EU Council adopted the following conclusions: *"The Council condemns the military takeover in Fiji and the removal of its democratically elected Government. It deploras the actions by Commodore Bainimarama and the Republic of Fiji Military Forces (RFMF) in deposing the Prime Minister and assuming executive control of the country. The Council calls for the urgent and full restoration of democracy as well as the return to civilian rule as soon as possible."* Furthermore, on 14 December the European Parliament strongly condemned the take-over.

Due to the circumstances in which the change of regime in Fiji occurred and due to the form of political organisation put in place by the new authorities, the EU considers there has been a violation of the essential elements of the revised Cotonou Agreement. Furthermore, the EU considers this to be a "case of special urgency" under the meaning of Article 96 (2b). Therefore, in compliance with Article 96(1a) of the revised Cotonou Agreement, it is not necessary to exhaust the possibilities of political dialogue as set out in Article 8 of the same Agreement.

The European Union, however, wishes to have formal consultations with the Government before appropriate measures are taken. We are, therefore, pleased, on behalf of the Community and of the Member States of the European Union, to invite your country to hold consultations under Article 96 of the revised Cotonou Agreement with a view to carrying out an in-depth analysis of the situation and, if appropriate, of the corrective measures to be taken.

For its part, the EU will engage in these consultations in a constructive and open manner.

The consultations should allow the Fijian side to be more specific about the urgent and peaceful return to democracy within the existing legality and in full respect of the Constitution.

We would like to suggest that these consultations are held in the near future, on a mutually convenient date, in the premises of the Council of the European Union in Brussels,

Yours sincerely,

For the Council

For the Commission