

MULTI-PARTY GOVERNMENT IN FIJI

Operational Ground Rules

1.0 Introduction

- 1.1 In accordance with the requirements of section 99 of the Constitution of the Republic of Fiji, we have for the first time agreed to establish a multi-party Cabinet. It is now left to the parties included in the multi-party Cabinet to agree on the formation of ground rules which can facilitate the successful operation of this novel concept. These guidelines have been prepared to facilitate the successful operation of the multi-party Cabinet, which has been established in accordance with the requirements of section 99 of the Constitution of the Republic of the Fiji Islands.
- 1.2 Such a collective commitment to ensuring the success of the multi-party Cabinet has been reinforced by overwhelming support for it from all communities in Fiji.
- 1.3 The people have warmly welcomed the formation of the multi-party Cabinet between the Soqosoqo Duavata ni Lewenivanua (SDL) Party and the Fiji Labour Party (FLP), along with the inclusion of

independent Members, because through it, Fiji, for the first time, is now governed by a more representative multi-ethnic Government than has previously been possible. It is clear that people relate their sense of security and confidence in their future in Fiji, to the representation of their own community, not only in Parliament, but also in Government.

- 1.4 In addition, the multi-ethnic Government which has been formed, using the multi-party Cabinet provisions of Fiji's Constitution, specifically responds to the requirement of section 93 (4) that the composition of Cabinet should, as far as possible, fairly represent the parties represented in the House of Representatives. As well, it also takes into consideration the guiding principle under section 6 (h) of the Compact chapter of the Constitution that in the formation of a Government and in that Government's conduct of the affairs of the nation, full account is taken of the interests of all communities.

2.0 Background to the SDL/FLP multi-party Cabinet

- 2.1 The multi-party Cabinet which has been formed between the SDL and the FLP, following the May 2006 General Elections, is based on the following:

- i) Honourable Laisenia Qarase, the parliamentary leader of the SDL, was appointed Prime Minister under section 98 of the Constitution as the Member of the House of Representatives, who can form a Government that has the confidence of the House of Representatives;
- ii) As the majority party in the House of Representatives, the SDL is able, on its own, to maintain its leadership in Government in the House of Representatives;
- iii) The FLP is the only party, following the May 2006 elections, that qualified under section 99 (5) of the Constitution to be invited to be represented in a multi-party Cabinet in proportion to its numbers in the House of Representatives;
- iv) In accordance with the requirement of section 99 (5), the Prime Minister, Honourable Laisenia Qarase, duly issued an unconditional invitation to the Fiji Labour Party. The Parliamentary Leader of the FLP, Honourable Mahendra Pai Chaudhry, accepted the invitation on the FLP's behalf, similarly without any pre-condition;

- v) Thereafter, the Prime Minister proceeded to form the SDL/FLP multi-party Cabinet exercising the constitutional authority vested in the Prime Minister under sections 99 and 103 of the Constitution. This included the determination of the overall size of Cabinet and the number of Ministers outside Cabinet, the assignment of titles and portfolio responsibilities, and the selection of persons for appointment as Ministers. In his selection of those from the FLP to be appointed to the multi-party Cabinet, the Prime Minister consulted with the Parliamentary Leader of the Fiji Labour Party as required under section 99 (9) and took into account the recommendations of Honourable Mahendra Pal Chaudhry on this.
- vi) From the inauguration of the multi-party Cabinet, the Prime Minister informed all Ministers that the SDL Manifesto would provide the base document for the Government's Strategic Development Plan, covering the five-year period of the new Parliament, i.e. 2006- 2010. However, he also made it clear that where there are major differences in the SDL Manifesto and the FLP Manifesto, there would be full discussions on a case by case basis, and the Prime Minister will chair a

Cabinet sub-Committee to develop agreed common positions. ✓

3.0 Formation of future multi-party Cabinets

The appointment of the Prime Minister will continue to be in full accordance with section 98 of the Constitution. This provision underlines the point that the multi-party Cabinet is not the same as a Coalition Cabinet. A Coalition Cabinet and Government, in most instances, are created by political necessity and mutual need of the political parties concerned. They come together to agree on the basis for forming a majority to support the appointment of a Prime Minister who is able to establish a Government which has the confidence of Parliament. The requirements of section 99 of the Constitution for a multi-party Cabinet, recognize that the Prime Minister and his party do not need the support of the entitled party (or parties) in the House to maintain their leadership position in Government and in Parliament. However, Fiji's need for a multi-party Cabinet and Government is strongly reinforced by political reality. This reality is that under current circumstances this is the only way available under the Constitution to bring about a Cabinet and Government that is fully representative of our multi-ethnic and multi-cultural society, is through the provisions of section 99 of the Constitution.

3.1 The Prime Minister will continue to exercise the authority vested in the position under section 99 and section 103, to determine the size of Cabinet, the number of Ministers to be appointed outside Cabinet, the assignment of titles and portfolio responsibilities, and the selection of persons, including those from an entitled party, for appointment by the President as Ministers. Section 99 (9) requires the Prime Minister to consult with the Leader of an entitled party on the persons to be selected from that party. In making his selection, the Prime Minister will fully consider the views and recommendations of the Leader of the entitled party.

3.2 The Election Manifesto of the majority party from which the Prime Minister is appointed under section 98 will be the base document for the policies and strategies of the Government. However, where there are major differences with the Manifesto of the entitled party or parties, these differences would be considered on a case by case basis through consultations in a Cabinet sub-Committee, chaired by the Prime Minister, to arrive at mutually acceptable positions.

4.0 Operation of Cabinet

- 4.1 Decision-making in Cabinet is by consensus. This is to ensure that all points of view are taken into account. There is no voting. Ministers are encouraged to speak freely in Cabinet in discussions on particular policy proposals, and especially where their views differ from the recommendations of the paper under discussion.
- 4.2 To facilitate consensus and unanimity in Cabinet, individual Ministers are required to consult widely to ensure that their policy recommendations have the support and endorsement of key stakeholders, both within and outside Government. These include the Ministry of Finance and National Planning on new funding implications, the State Law Office on legal and legislative aspects, and the Public Service Commission on new staffing requirements.
- 4.3 When differences are expressed in Cabinet, the Prime Minister may ask the relevant Minister to withdraw the paper concerned for reconsideration through further consultations. The Prime Minister may also refer the paper to an appropriate sub-Committee of Cabinet for further discussions there.

- 4.4 All Ministers are bound by the principle of collective responsibility in Cabinet, and outside Cabinet. Once a decision is taken in Cabinet, Ministers are bound to uphold it and to co-operate in the implementation of that decision. Ministers are not permitted to express opinions outside Cabinet, in Parliament and in public generally, which differ from the collective decision of Cabinet. The commitment by all political parties (and Independents) represented in the multi-party Cabinet to this principle of collective solidarity and responsibility is also important in underscoring their acceptance to be in Cabinet without any pre-conditions.
- 4.5 All Ministers are collectively responsible to act together as a united group in Parliament in supporting Government policy and legislative initiatives, based on the collective decisions of the multi-party Cabinet. Differing views by Ministers on any subject must be resolved through discussions in Cabinet and not outside it.
- 4.6 Likewise, no Minister may publicly commit Government to any course of action except in accordance with the policy of Cabinet.
- 4.7 All Ministers are bound by the Code of Conduct provisions of the Constitution as set out in section 156. Upon assumption of office,

all Ministers are required to submit to the Prime Minister as soon as possible a full disclosure of their private pecuniary (financial) interests. Ministers must divest themselves from any involvement with outside interests, which may conflict with their public responsibilities. Further, in Government's consideration of any proposals, either in Cabinet or in another forum, Ministers must declare their "personal" interest where there is potential for conflict between one's official responsibility and one's private pecuniary interests or that of a family member (including members of immediate family), a friend or a close associate.

4.8 Cabinet papers and proceedings are confidential and all Ministers in Cabinet are bound to observe this confidentiality and to safeguard the security of Cabinet documents. They are not permitted to disclose how decisions were arrived at, or differences expressed in Cabinet, and the identity of the Ministers concerned. Not even to members of their own Party outside Cabinet.

4.9 If any Minister is unable to support a decision taken by Cabinet, he/she has no option but to resign. The Prime Minister reserves the right to ask for the resignation of a Minister who does not adhere to this rule. If a Minister who resigns is from the entitled

party, the Prime Minister will invite the leader of the party for alternative names from the party for appointment as replacement Minister. This is if the entitled party chooses to continue in the multi-party Cabinet notwithstanding the resignation of one or more of its members in Cabinet.

- 4.10 As chair of Cabinet, the Prime Minister will decide which decisions of Cabinet are to be announced publicly. Individual Ministers can, however, elaborate on publicly released decisions that relate to their Ministry and portfolio responsibilities, unless otherwise directed.
- 4.11 Only Ministers in Cabinet are given full portfolio responsibility in accordance with their appointment by His Excellency the President on the advice of the Prime Minister, and their assigned ministerial responsibilities will be as prescribed in gazette notices.
- 4.12 Most of these guidelines and ground rules are already included in the Cabinet Manual which govern the practice and procedures of Cabinet. New guidelines and ground rules required for the effective application of the multi-party concept will need to be incorporated into the Cabinet Manual.

5.0 Operation of the House of Representatives and the Senate

- 5.1 The establishment of a multi-party Cabinet has a direct consequential impact on how both the House of Representatives and the Senate conduct their proceedings.
- 5.2 In our present situation the application of the multi-party Cabinet concept means that the FLP, having accepted the Prime Minister's invitation to be part of the multi-party Cabinet would become part of the Government, leaving those that do not meet the threshold requirement under section 99 (5) and who are not invited by the Prime Minister, to form the Opposition. Furthermore, in the appointment of Senators, those to be appointed by the President on the advice of the Leader of the Opposition, under section 64 (1) (c) will, in effect, be nominees of the leader of the FLP which is part of Government. Section 64 (2) of the Constitution is the basis of this.
- 5.3 The constitutional and political significance of para. 5.2 above is the new scenario that is created in the House of Representatives and the Senate, as follows:

- i) The Government Backbenchers in the House of Representatives will no longer be confined to those that belong to the Prime Minister's party or coalition. Those members from an entitled party who are not appointed Ministers will also be regarded as Backbenchers of the Government side. They will be bound by the collective responsibility of all Government Ministers to support Government policies and Bills, as decided by the multi-party Cabinet;
- ii) Those Senators who are appointed by the President on the nomination of the Leader of the Opposition on the recommendation of an entitled party which is part of the multi-party Government, would also have to regard themselves, along with the Senators appointed on the nomination of the Prime Minister, as generally being bound by the multi-party Government's position in the House of Representatives; and
- iii) The true Opposition to Government, or the alternative Government, in the House of Representatives, in the

traditional and conventional Westminster parliamentary system, will, henceforth, be the Members of those parties and independents that are not represented in the multi-party Cabinet.

- 5.4 Good governance requires a strong Opposition in Parliament to keep Government accountable. Since, with the multi-party Cabinet, the official Opposition is confined to minority parties (as is the case now), it is important to consider new ways of strengthening scrutiny of Government legislation and other measures in the House and in the Senate. It is accordingly agreed that full use is to be made of Sector Committees, Standing Committees and Ad Hoc Committees to encourage bi-partisan consultation and constructive dialogue. In this way, all Government Backbenchers and those from the official Opposition will be given a greater say in scrutinizing proposed Government legislation and policy initiatives.
- 5.5 This, therefore, means that Government agrees to make appropriate use of the Sector Committee system for detailed scrutiny of all major legislative initiatives by the Government Backbenchers and the Opposition members in the House, and by Senators in the Upper Chamber. The sponsoring Ministers must

give priority to responding to invitations from these Committees for briefings and presentations.

5.6 Based on the above, the following guidelines will apply in the House of Representative:

- i) All political parties represented in the multi-party Cabinet make up the whole of the Government side, and are bound collectively to support policy and legislative initiatives of the Government, as decided in Cabinet;
- ii) In order to ensure effective scrutiny of Government by Parliament, all Government Backbenchers are free to contribute to discussions on issues and policies presented in the House by Government. They are encouraged to make constructive recommendations and suggestions, particularly when they differ from the position of Cabinet and Government;
- iii) As Government Backbenchers are an integral part of the Government, every effort must be made through regular Caucus consultations to ensure that there is unanimity and

solidarity on Government business and that dissent from Backbenchers is expressed and dealt with within Caucus meetings;

- iv) In order to promote a positive environment for free, open and constructive dialogue in the House of Representatives and in the Senate, the Prime Minister should be at liberty to convene consultation meetings with the parliamentary leader of entitled parties in the multi-party Cabinet, and the Leader of the Opposition as and when the Prime Minister considers this necessary and desirable. This allows the Prime Minister to fully inform his political colleagues on Government's thinking behind particular policies or legislative proposals.
- v) Ministers in Cabinet are to make regular use of ministerial statements in the House and in the Senate to amplify and explain Government's stand and position on particular issues and situations; and
- vi) Ministers in Cabinet are to ensure the timely tabling in Parliament of the annual report of their Ministries.

6.0 Civil Service

- 6.1 Ministers decide policy in Cabinet and within their assigned portfolio responsibilities. Officers in the Public Service are advisers and are required to ensure Ministers are provided with all relevant information in order for them to make informed and well-considered decisions.
- 6.2 All Ministers in Cabinet are to be provided with a Chief Executive Officer in accordance with section 110 of the Constitution. Ministers are also to be provided with a Private Secretary from within the staff establishment of the Ministry.
- 6.3 The Cabinet Office is responsible for co-ordinating with individual CEOs and with the PSC and Ministry of Finance & National Planning the provision of office support and other facilities for Ministers.
- 6.4 Only a Minister has authority to make public statements on behalf of a Ministry on policy and political matters. A CEO or a designated spokesperson can only make a public statement to explain the facts and background to a policy. However, as a general rule, it is the Minister who is to speak for the Ministry.

7.0 Media Relations

7.1 Positive relations and communications with the media are crucial for the work of Cabinet. Ministers should, therefore, develop sound relationships with media representatives. They should be proactive about explaining to the media Cabinet policies relating to their Ministries. They must address public issues as they arise in news reports and deal with media enquiries in a timely manner. To minimize the risk of inaccurate reporting and misinterpretation, Ministers should endeavour to make comments in writing, especially when answering telephone inquiries.

[Laisenia Qarase]
Prime Minister

29th June, 2005
