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Trade Facilitation Needs and Customs Valuation in Fiji

By

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Executive Summary

In line with most developing countries, the last decade has seen Fiji adopt an export oriented, outward-looking approach to trade relations. Import restrictions have been largely lifted in favour of export promotion, and as such Fiji now has a more liberalized or open economy with increased volumes of both exports and imports.

A concept very much related to trade liberalization and openness is trade facilitation. Trade facilitation is the simplification and harmonization of international trade procedures, including activities practices, and formalities involved in collecting, presenting, communicating and processing data required for the movement of goods in international trade (WTO/UNCTAD, 2001). It reduces transaction costs, as well as, the complexity of international trade induced by documentation, procedure and regulations and hence, expands trade, resulting in both economic growth and development.

As tariff barriers have fallen, trade facilitation issues have become more prominent. This study therefore discusses the various trade facilitation measures implemented in Fiji so far. It then assesses the trade facilitation needs and priorities in Fiji based on a private sector survey. Since customs valuation has been identified as a key trade facilitation concerns in both Fiji and other developing countries in Asia and the Pacific, the study also looks at the practical implementation of the WTO Customs Valuation Agreement (WTOCVA) in Fiji and the constraints faced during the implementation process.

The survey results also indicated that trade facilitation initiatives undertaken so far have had a positive impact on the private sector by increasing the volume of its exports and imports, as well as, though helping exporters find new markets. As far as Fiji's trade facilitation needs and priorities are concerned, the survey results indicated that there is a genuine need for a formal and effective private sector consultation mechanism, which allows traders to comment on the proposed changes to regulations and procedures before they are issued and implemented. With regards to the problems faced by the Fijian private sector, technical and sanitary requirements topped the list. This was followed by factors such as customs valuation, tariff classification, identification of the origin of the goods, inspection and release of goods, submission of documents for clearance, obtaining of import license and payment of fees and penalties.

As far as the implementation of the WTO Customs Valuation Agreement is concerned, Fiji has had a varied experience. Fiji's customs valuation system is found in Schedule 1 of the Customs Tariff Act 1986, where the legislation aims to give effect to Fiji's commitment under the GATT to facilitate international trade by implementation of GATT valuation system. In line with the CVA, a majority¹ of the goods are valued using the transaction value method. As far as the issue of undervaluation is concerned, an official from FIRCA confirmed that there have been a lot of cases where imported goods have been undervalued due to a variety of reasons.

Based on the results of the private sector survey, a number of priorities can be identified with regards to TF and customs valuation. Some of these are as follows:

¹ The Official from FIRCA, who was interviewed on this issue, was not able to quantify the usage of the transactions value method.

- Elimination of bribery and other corrupt practices of officials involved in the clearance and release of imported goods;
- Computerization and automation of trade procedures, e.g., online submission and approval of Customs declarations, cargo manifests, including electronic payment of fees and Customs duties;
- Reduction and simplification of the documentation requirements for import and export procedures; and
- Completing clearance of goods before they have arrived physically in the Customs territory (based on advance submission of goods declaration and other documents).

Fiji, on its own, may need to address the first recommendation that is mentioned above, while the other recommendations may be better addressed through regional initiatives.

1. Introduction

International trade has increasingly become an underpinning determinant of economic prosperity in most countries of the world, and Fiji is no exception. Our external trading relations increasingly determine the growth and development of the country, and this influence will only increase with worldwide moves to free trade and globalisation. In line with most developing countries, the last decade has seen Fiji adopt an export oriented, outward-looking approach to trade relations. Import restrictions have been largely lifted in favour of export promotion, and as such Fiji now has a more liberalized or open economy with increased volumes of both exports and imports.

A concept very much related to trade liberalization and openness is trade facilitation. In simple terms, trade facilitation is the gradual removal of the “invisible” barriers to trade. Specifically, it is the simplification and harmonization of international trade procedures, including activities, practices, and formalities involved in collecting, presenting, communicating and processing data required for the movement of goods in international trade (WTO/UNCTAD, 2001). It reduces transaction costs, as well as, the complexity of international trade induced by documentation, procedure and regulations and hence, expands trade resulting in both economic growth and development. In view of such an important role for trade facilitation, many international organizations, including the World Trade Organization (WTO), have included it in their scope of work.

An important aspect of trade facilitation is the customs valuation of goods. Walsh (2003) defines it as an important element in a variety of other aspects of international trade including statistics, quota and licensing arrangement, taxes and other charges levied on imports, and the application of preference systems. Custom duties are levied mostly on an ad-valorem basis and custom valuation is usually the basis on which tariff and tax liability is calculated. Hence, it is important to establish generally acceptable rules and system for the valuation of imported goods.

In light of the importance of trade facilitation (including the customs valuation of goods), as highlighted in the previous two paragraphs, this study will first discuss the various trade facilitation measures implemented in Fiji so far. It will then assess the trade facilitation needs and priorities in Fiji. After that, it will discuss the impact, if any, of the various trade facilitation measures implemented in Fiji, so far, on its private sector. Following this, the study will look at the practical implementation of the WTO Customs Valuation Agreement (WTOCVA) in Fiji and the constraints faced during the implementation process.

The rest of the paper is structured as follows. In the next section, we will review some previous studies done on the issues of trade facilitation needs and custom valuation of goods. After that, we will have a look at the various trade facilitation measures implemented in Fiji so far. Following that, we will discuss the trade facilitation needs and priorities in Fiji, as well as, the impact of the various trade facilitation measures implemented, so far, on its private sector. This discussion will be based on a private sector survey that was carried out in October this year. In the penultimate section of this paper, we will have a look at the practical implementation of the customs valuation agreement in Fiji and related issues. Finally, we will provide some concluding remarks and policy recommendations.

II. Literature Review

Although a lot of studies have been done on trade facilitation over the past decade, in this section, we will provide an integrated summary of the five ARTNet studies done on the need for and the cost of trade facilitation measures in the Asia-Pacific region. We are particularly focusing on these five country studies, as they are basically looking at the same issues that will be discussed in this study.

Case studies² on trade facilitation measures (TFM) implementation in five Asia-Pacific countries, namely Bangladesh, China, Indonesia, India and Nepal, reveal that continuous unilateral efforts have been made by the Governments of these countries to facilitate trade, although countries are often at very different stages of implementation. In many countries, various trade facilitation systems and measures have been implemented at selected border crossings or customs offices on a pilot basis, with plans to expand the systems to all border crossings and relevant agencies, as resources become available. However, it is often unclear when these systems will be implemented on a national scale and to what extent rules and regulations will be implemented uniformly throughout each country's territory.

In an effort to increase transparency, government agencies responsible for issuing and enforcing trade rules and regulations often have extensive publication and dissemination programmes in place, although the amount of information made available publicly vary from country to country. Not all countries have established standard time periods between publication and implementation and consultation with stakeholders (e.g., private sector traders) on new or amended rules remain ad-hoc and informal in most cases. Some form of binding advance ruling system is available or is being established, although the coverage (e.g., tariff, valuation, origin) and effectiveness (e.g., time between receipt of the information and issuance of a ruling) of the systems vary greatly across countries.

Appeal systems and procedures exist but are not always independent from the regulatory authorities. In addition, appeal processes are often lengthy and costly for the traders. Fees and charges connected with importation and exportation seems to be still quite numerous in some countries. Some of the fees and charges are calculated as a percentage of the value of a shipment, which may not be consistent with the need for the fees charges to be charged on the basis of the cost of services rendered. Some Governments have made an effort to reduce the number and complexity of fees and charges, as well as of trade documents for imports and exports. All countries, including the Least Developed Countries (LDCs) studied, have on-going computerization and electronic trade documentation programmes. All countries also have some form of rapid clearance system in place, albeit for selected categories of goods. Risk management and post-clearance audit systems have also been introduced in all countries, although on a

² These studies include Bhattacharya and Hossain (2006), Wenjing and Wei (2006), Damuri (2006), Chaturvedi (2006) and Rajkarnikar (2006).

very limited pilot basis in some countries. In regard to tariff classification, all countries studied rely on the Harmonised System (HS) nomenclature, often expanded to 8 or 10-digit levels to suit their needs.

Transit in the Asian countries examined is generally governed by bilateral and regional transit agreements. This might suggest that different rules and regulations apply to goods in transit depending on their country of origin in some of the countries. No charges are officially imposed on transit goods. One recurring concern, particularly in South Asia, is that goods officially in transit are illegally marketed in the transit country, as there are often no risk assessment mechanisms in place for these goods.

While, according to a review of existing legislations/regulations and on-going projects and programmes often supplemented by interviews with Government officials, many of the TFMs being discussed at the WTO Negotiating Group on Trade Facilitation (NGTF) have been at least partially implemented, the domestic private sector in these countries generally point to a need for improvement in many areas. For example, the private sector often acknowledge that relevant trade information is published and available but points to the need to make the information more easily available, in particular information on new or amended rules.

Elimination of bribery and other corrupt practices of officials involved in the clearance and release of imported goods is given top priority by the private sector in all the countries. Improvement of coordination between relevant agencies, particularly on documentation requirements, e.g. through the establishment of a single window for one-time submission and collection of trade documents, is also given very high priority in all the countries. Timely and comprehensive publication and dissemination of trade rules and regulations (e.g., through the Internet) is the highest priority in Indonesia and Nepal, while reduction and simplification of the documentation requirements for import/export is the highest priority in Bangladesh. Customs valuation, which is not part of the current WTO trade facilitation negotiation agenda, was the most problematic trade facilitation related area identified by private sectors in the five countries.

In addition to the need and priorities of private sector stakeholders, the costs and benefits to governments of implementing TFMs will also be considered when selecting measures to be included in the agreement. The trade research and policy literature has dwelled extensively on the benefits associated with trade facilitation. Unfortunately, very little information is available on the cost of implementing selected TFMs discussed at the WTO, an issue included in the agenda of work of the WTO NGTF. Four of the five country case studies on which this report is based do provide some, albeit very partial, information on the cost associated with trade facilitation programmes and efforts at the national level. The numbers and cost estimates available from the individual studies are, at best, very preliminary. However, they are generally relatively low, partly because some of the costs of implementing TFMs are seen as coming from regular (routine) budget of Customs and other relevant agencies – as well as from the continuation of technical assistance projects by major donors or international organizations.

While regulatory and institutional costs are expected to be small because of the rather extensive trade facilitation related reforms that have been undertaken in most of the countries, training costs may be significant as some countries lack the human resources necessary to effectively implement some of the measures (e.g., risk management and post-clearance audit). Interestingly, most studies point to the need to upgrade infrastructure as part of implementing a meaningful trade facilitation programme. These costs are not limited to computerization and information and communication technology (ICT) systems, but include the costs of container scanners or the setup of testing facilities/laboratories at selected border crossings, for example. In terms of facilitating transit trade, the country studies again suggest that transit trade may not be facilitated without significant investment in various infrastructures, ranging from roads and port facilities to effective risk management systems.

The international expert survey on the costs and benefits of selected TFMs undertaken as part of the study showed that, while long-term savings were expected to exceed costs for all measures, initial setup costs of some of the measures could be expected to be quite high relative to others. The cost difference between measures was mainly explained by the underlying political costs (i.e., extent to which measures will be resisted by staffs within relevant institutions; or by policy makers because of fears of losing political support they need) and infrastructure/equipment costs.

Since most of the TFMs on the negotiating table have been implemented or are planned for implementation even in the least developed countries in the region, the list of TFMs agreed upon will be less important than the accompanying terms and conditions for implementation, e.g., schedule of implementation for developing countries and technical assistance.

Negotiation of an agreement on trade facilitation provides an opportunity for pushing potentially difficult regulatory reforms at home through binding commitments on small, simple but highly meaningful administrative procedures e.g., a 30-day standard time period between publication and implementation of regulations, the establishment of formal channels of communication with the private sector on trade facilitation issues (e.g., establishment of an inclusive national trade facilitation committee), the alignment of trade documents to specific international standards, or even an agreement to reduce the number of trade documents to a certain number (by a given date, as necessary).

Agreeing on measures to enhance transparency and impartiality, such as an independent system to appeal or double-check rulings on tariff classification, should be given serious consideration given the priority accorded by the private sector to the reduction/elimination of corruption – and its ranking of “tariff classification” as the second most problematic issue in the survey. The notification to the WTO of an official webpage with a negotiated basic list of information and publications and a complete and official list of all existing fees and charges (could be developed in cooperation with the local chamber of commerce and/or with the support of relevant international organizations) could also be considered.

Given that the main priority identified through private sector surveys was the need for improvement of coordination between relevant agencies, the establishment of single windows for one-time submission and collection of trade documents may therefore need to be considered. While commitments on electronic submission and processing of trade documents and the establishment of electronic single windows connecting all relevant agencies and organizations (e.g., similar to Singapore TradeNet) may not be feasible given the level of computerization and the state of the ICT infrastructure in many countries of the region, the negotiations provide an opportunity for developing countries to request and help shape a well-coordinated technical assistance/capacity building mechanisms in this area. Developed countries may be particularly open to funding electronic trade facilitation systems in developing WTO member countries, given the raising concerns about trade security issues.

While there is some convergence in the needs and priorities of the private sector, the studies clearly showed that countries remain at various stages of development and implementation of TFMs. It was also established that setup costs of some measures may be significant for countries with limited resources or with difficult political conditions. Therefore, commitments on TF measures may need to be divided into groups or lists, depending on how quickly they can be implemented in all WTO members and/or on the amount of likely TA/CB and other resources or infrastructure required.

Both the case studies and the WTO member proposals to the NGTF reveal that trade facilitation terms such as single windows, express clearance, risk management system and eve advance ruling imply slightly different things to different people, even within a same country. As such, any agreement that will involve complex trade facilitation procedures (such as in terms of risk management and post-clearance audit) will need to make specific reference to established trade facilitation instruments (such as specific paragraphs and sections of the WCO revised Kyoto convention). The disagreements that emerge, even among experts, on the sequencing of various measures also suggest that a long-term mechanism to deal with trade facilitation issues (e.g., a WTO working group or committee), as proposed by various WTO members is likely to be needed. As noted by many respondents to the expert survey, TFMs considered may not be implemented effectively separately, but as part of an overall trade facilitation programme (that may include some infrastructure component). Development of standard trade facilitation technical assistance/capacity building modules, each including a small set of related TFMs, for which countries in need could apply may be considered.

As the on-going unilateral trade facilitation efforts in the country studies suggest, implementation of TFMs has no downside for Governments, as it does not result in loss of customs revenue, even if trade flows remain the same. The findings on implementation costs, as well as a significant number of anecdotal evidence from inside and outside the Asia-Pacific region, also suggest that setup and operating costs are dwarfed by long-term savings. As such, special and differential treatment is only needed to shield developing countries from dispute settlement until they secure the resources and build the capacity necessary to implement TFMs.

The types of costs associated with various measures may affect the type of special and differential treatment needed. Measures with high political costs may require differential treatment in terms of time of implementation. Measures with high infrastructure-related costs may require exemption until technical assistance has been received and capacity to implement has been acquired.

An agreement on TF with non-binding commitments would make little sense in the context of the WTO, especially since there are already a number of relatively comprehensive non-binding international conventions on trade facilitation, notably the WCO Revised Kyoto Convention. One essential benefit from negotiating on TF at the WTO would be to agree on a possibly very small but nonetheless existent set of TF measures to be implemented by all WTO member countries.

However, a disagreement on a single transaction should not lead to the triggering of the WTO dispute settlement mechanism. A WTO agreement that would include commitments from member countries on disclosure of trade-related regulations and fees and charges, combined with a set of jointly agreed principles to govern and strengthen national level appeal mechanisms (including time limits on issuance of rulings), would be an option. The WTO dispute settlement mechanism would then only be triggered in case of failure of the national appeal system to comply with negotiated principles.

Transit arrangements in many Asia-Pacific countries are function of bilateral and subregional agreements mostly. Freedom of Transit will therefore be dependent on harmonization of these bilateral and sub-regional agreements, suggesting that regional committees on transit issues, and perhaps also other trade facilitation issues, may be needed to make progress in this area. Given the neutral role and expertise of UN regional commissions in trade and transport facilitation, it is important that they form an integral part of the coordinated global trade facilitation technical assistance and capacity building that will likely be needed to facilitate implementation of the agreement.

The fact that customs valuation (and SPS/TBT) rank as the most problematic issue(s) in all countries studied some years after the WTO Customs Valuation Agreement (and of the SPS and TBT agreements) was implemented is an important signal to the Geneva negotiators of the discrepancies that may emerge between an agreement and its implementation in the area of trade facilitation. As such, it may be better to be less ambitious in the number of TFMs to be implemented, but more detailed in defining how compliance will be monitored and, importantly for LDCs, what technical assistance will be provided.

III. Trade Facilitation Initiatives Implemented in Fiji

The Fiji Islands Revenue and Customs Authority (FIRCA), which plays a pivotal role as far as trade facilitation is concerned, has implemented a number of initiatives over the past few years in order to facilitate trade flows to and from Fiji. Some of these initiatives are as follows:

- Modernisation of the various legislations that have an impact on trade such as the Income Tax Act, Land Sales Act, Customs Act, Customs Tariff Act, Excise Act and so on;
- Harmonisation of the above-mentioned legislations to similar legislations in Fiji's trading partner countries;
- Modernisation of its data processing systems (e.g. the upgrade of ASYCUDA to version 18c and improvements in the network infrastructure);
- Review of all FIRCA procedures to identify weak areas and improve efficiency; and
- More training, as well as, the use of a Performance Management system to improve the productivity levels of workers at FIRCA.

IV. Trade Facilitation Needs, Priorities and Impact in Fiji

4.1 Survey Methodology

In order to assess the needs and priorities of TF, as well as the impact of the various TF measures implemented in Fiji so far, a private sector survey was carried out in October this year. This survey was carried out based on a questionnaire developed by ARTNeT in 2005³. Our survey tried to reach various private sector units and export organizations. The sample size was selected taking into account the relative importance of various sectors in total domestic exports of Fiji. At the sectoral level, export shares were worked out and accordingly a representative target base was identified.

Table 1: Percentage Share of Individual Commodity Groups in Fiji's Total Domestic Exports

Commodity Group	2003	2004	2005	Average Share
I. Primary Products	0.52	0.56	0.62	0.57
Sugar	0.23	0.22	0.26	0.24
Fish	0.08	0.09	0.10	0.09
Gold	0.08	0.09	0.07	0.08

³ A template of the questionnaire is available on the ARTNeT website at www.artnetotrade.org or directly at http://www.unescap.org/tid/artnet/pub/tipub2426_ap2.pdf. Some senior officials from the Fiji Islands Revenue and Customs Authority helped in tailoring the questionnaire for the Fiji case.

II. Secondary Products	0.48	0.44	0.38	0.43
Garments	0.25	0.24	0.14	0.21
Bev. and Tob.	0.05	0.07	0.10	0.07
Footwear	0.02	0.02	0.01	0.02

Source: Fiji Islands Bureau of Statistics

As shown in Table 1, primary goods represent a greater share hovering at around 57 percent, while secondary products are at about 43 percent. The questionnaire was sent to various firms according to the weight assigned to their sector as shown in Table 2. While selecting the firms, care was taken to ensure that these firms also engaged in substantial imports so as to avoid any kind of bias in the sample selection for export-related activities only. The sample size was decided in a way that major private sector firms in the leading export sectors were covered. Due to time constraints, we covered the private sector firms through a very limited but representative sample size. Out of 50 firms approached, we could get responses from 25 firms. Consistent with the export shares, a relatively greater emphasis was given to the primary sector, in which 28 firms were approached. Out of this, 15 firms responded. As far as the secondary sector is concerned, 22 firms were requested to fill-in the questionnaire. Out of the 22, only 10 firms responded.

Table 2: Sample Size and Number of Responses Received

Commodity Group	Number of Sample (category wise) in the target sample	Number of Sample (category wise) in the actual sample
I. Primary Products	28	15
II. Secondary Products	22	10

Source: Private Sector Survey

4.2 Survey Results

The private sector survey managed to get a reasonable response on all the three aspects of the questionnaire. These three aspects include:

- The private sector perception of the level of implementation of various trade facilitation measures related to Articles V, VIII and X in Fiji;
- The ranking of the needs and priorities of the selected trade facilitation measures for implementation; and
- The Impact of the various trade facilitation measures implemented in Fiji, so far, on the private sector.

The survey also identified the key trade facilitation related areas in which private sector respondents faced the most problems.

4.2.1 Perceived Level of Implementation

The survey results on perceived level of implementation of trade facilitation measures in Fiji are summarized in Table 3, in which an effort has been made to compare the private sector responses with the responses received from the government officials. As is clear from the table, in most of the cases perceptions from most of the traders match well with the official positions. However, there are some key areas where views are different. For instance, the majority of the private sector feels that the laws, regulations and judicial decisions are not applied in a uniform, impartial, and reasonable manner but the government does not agree with that. Similarly, the private sector feels that a formal and effective private sector consultation mechanism is still not available which is quite contrary to the stated position of the government. The private sector does not believe that there is an effective advance ruling system in place. There are also differences in Article V as the private sector has outlined that goods in transit are subject to unreasonable transit duties or transit charges, while the government does not agree with that. In the following paragraphs, we discuss the results on the perceived level of implementation in more detail.

Table 3: Comparison of Survey Results and the Government Sector

Perceived Implementation of Trade Facilitation Measures	Private Sector		Government
	Yes (%)	No(%)	Yes (1)/No (0)
Customs procedures and regulations are publicly available and easily accessible	80	20	1
Changes in regulations and procedures are made available promptly and conveniently	70	30	1
Laws, regulations and judicial decisions are applied in a uniform, impartial, and reasonable manner	45	55	1
An independent system to appeal trade and/or Customs authorities' decisions is available and operates effectively	60	40	1
Formal and effective private sector consultation mechanism exists, which allows traders to comment on proposed changes to regulations and procedures before they are issued and implemented	30	70	1
An effective advance ruling system is in place	50	50	1
Documentation requirements for import/export are excessive and time consuming	70	30	0
Fees and charges levied on export and import are reasonable	50	50	1
Penalties and fines for minor breaches of Customs regulation are small and reasonable	55	45	1

Easy to submit required trade documentation to trade/Customs authorities for approval	60	40	1
Computerization and automation of Customs and trade procedures have noticeably reduced average time of clearance	70	30	1
The treatment of goods and vehicles in transit is Non-discriminatory	55	45	1
Goods in transit are subject to unreasonable transit duties or transit charges	30	70	0
Regulation and procedures for goods in transit are clearly defined and widely available	50	40	1
Vehicles in transit are allowed to use the most convenient routes to their destination	60	40	1

A large number of firms appreciated FIRCA's efforts on dissemination of information by making customs procedures and regulations publicly available; as high as 80 percent of the respondents endorsed the availability. They (70 percent) also agreed that changes in regulations and procedures are made available well in time.

Although many respondents (60 percent) find that an independent system to appeal trade and/or customs authorities' decisions is available, 55 percent of them feel that laws, regulations and judicial decisions are not applied in a uniform, impartial, and reasonable manner. Only 30 percent of the respondents feel that a formal and effective private sector consultation mechanism exists, which allows traders to comment on the proposed changes to regulations and procedures before they are issued and implemented. A large number of respondents find an effective advance ruling system is in place (50 percent) but an equal percentage of them also suggest greater policy attention in making it further effective. They also state that documentation requirements for import/export are excessive and time consuming (70 percent). There is very good satisfaction (70 percent) with the computerization and automation of customs and trade procedures which has noticeably reduced the average time of clearance.

There is a general perception that fees and charges levied on exports and imports are reasonable (50 percent each). However, a large number of respondents (50 percent) find penalties and fines for minor breaches of customs regulation too high. They (70 percent) also feel that irregular and arbitrary payments are often required to expedite release of goods from customs. There is a general satisfaction about the required trade documentation to trade/customs authorities for approval (60 percent). Similarly, improvement of coordination between relevant agencies, particularly on document requirement, e.g., through the establishment of a single window for one-time submission and collection of all trade documents (59 percent) is highly emphasized.

Most of the respondents have indicated that the treatment of goods and vehicles in transit is non-discriminatory (55 percent) and goods in transit are not subject to

unreasonable transit duties or transit charges (70 percent). They have also indicated that regulation and procedures for goods in transit are clearly defined and widely available (50 per cent). Although vehicles in transit are allowed to use the most convenient routes to their destination (60 per cent), more needs to be done to improve infrastructure on these routes. Some of them pointed out in their communication that alternative routes should also be developed so that excessive pressure on existing ones is avoided. However, in terms of policy, the private sector emphasized on the implementation of international and regional transit systems based on international standards and practices (40 percent) which at present are not in place. The private sector also feels that the existing mechanism of bilateral treaties does not take into account the views of the private sector.

Table 4 Perceived level of implementation of GATT Articles V, VIII and X by the private sector in selected countries

(7: Strongly agree; 6: Agree; 5: Slightly agree; 4: No opinion; 3: Slightly disagree; 2: Disagree; 1: Strongly disagree)

	Overall Average	Bangladesh	China	Fiji	India	Indonesia	Nepal
Articles VIII & X (Transparency and Fees & Formalities)							
Relevant trade and customs procedures and regulations are publicly available and easily accessible	5.1	3.4	5.1	6.3	5.4	4.9	5.3
Computerization and automation of customs and trade procedures have noticeably reduced average time of clearance	4.8	4.2	5.8	5.3	5.0	5.6	3.0
Penalties and fines for minor breaches of customs regulation (e.g., due to typing mistakes) are small and reasonable	4.4	3.3	5.6	4.5	4.3	4.3	4.3
Information about changes in regulations and procedures are made available promptly and conveniently to the public	4.5	3.1	4.5	5.5	4.9	3.6	5.3

It is easy to submit required trade documentation to trade/customs authorities for approval	4.4	3.1	3.9	4.6	4.3	5.4	5.0
A formal and effective private sector consultation mechanism exists, which allows traders to comment on proposed changes to regulations and procedures before they are issued and implemented.	3.7	3.7	4.6	2.3	4.0	3.4	4.3
On average, fees and charges levied on export and import are reasonable (i.e., are limited to the cost of services rendered by the authorities)	4.1	3.4	4.3	4.4	4.0	3.3	5.0
An independent system to appeal trade and/or customs authorities' decisions is available and operates effectively	4.1	2.6	3.6	5.1	4.4	4.2	4.6
An effective advance ruling system is in place, which allows the importer, in advance of trade, to obtain binding rules in certain specific areas (e.g., tariff classification, customs valuation, origin)	3.8	4.1	4.4	4.0	4.0	5.1	1.3
Laws, regulations and judicial decisions are applied in a uniform, impartial, and reasonable manner	3.4	2.7	4.5	3.5	3.9	2.7	3.3
Documentation requirements for import/export are NOT excessive and time consuming	3.2	1.9	2.9	2.4	3.3	4.4	4.0
Irregular and arbitrary payments are NOT often required to expedite release of goods from customs	2.9	1.8	5.9	1.6	3.6	3.2	1.4
Article V (Transit related)							

Vehicles in transit are allowed to use the most convenient routes to their destination	5.1	4.3	6.0	5.0	4.8	4.3	6.0
The treatment of goods and vehicles in transit is non-discriminatory (i.e., imported goods are not discriminated based on origin and/or destination)	5.2	4.1	5.8	6.1	4.7	4.3	6.0
Regulation and procedures for goods in transit are clearly defined and widely available	4.4	3.4	4.3	4.5	4.2	3.9	6.3
Goods in transit are NOT subject to unreasonable transit duties or transit charges	4.3	3.3	4.9	5.1	4.6	3.8	4.0

Source: ARTNeT Working Papers No. 4, 5, 8, 9 and 10; www.artnetontrade.org

Table 4 aims to compare the results obtained on the issue of perceived level of implementation in Fiji with the results obtained in 5 other surveys in other developing countries of Asia and the Pacific (ESCAP, 2006). The results look similar, except for the following notable differences:

- The private sector in Fiji does not agree that there is an existence of a formal and effective private sector consultation mechanism, whilst the private sectors in the other 5 countries generally have no opinion on this issue;
- The respondents from Fiji slightly agree that an independent system to appeal trade and/or customs authorities' decisions is available and operates effectively, whilst the private sectors in the other 5 countries generally have no opinion on this issue.

4.2.2 Ranking of Needs and Priorities

As far as the prioritization of the various trade facilitation measures for implementation is concerned (see Table 5 below), the following observations were made.

Elimination of bribery and other corrupt practices of officials involved in the clearance and release of imported goods was considered to be of the highest priority by 92 percent of the respondents. Moreover, 77 percent of the respondents mentioned that computerization and automation of trade procedures, e.g., online submission and approval of Customs declarations, cargo manifests, including electronic payment of fees and Customs duties was their highest priority.

With regards to the reduction and simplification of the documentation requirements for import and export procedures, 60 percent of the participants considered it as their highest priority. The same percentage also mentioned that completing

clearance of goods before they have arrived physically in the Customs territory (based on advance submission of goods declaration and other documents) and, timely and comprehensive publication and dissemination of trade rules and regulations were their highest priorities.

Fifty-nine percent of the respondents outlined that improvement of coordination between relevant agencies, particularly on document requirement, e.g., through the establishment of a single window for one-time submission and collection of all trade documents was their highest priority.

Fifty-five percent of the respondents also mentioned that improvement in Customs inspection and control procedures, e.g., systematic use of risk analysis to determine which good should be examined, clearer criteria for “green” and “red” channels and special channels for authorized traders and express shipments and, harmonization and standardization of documentation requirements based on international standards were their highest priorities. Finally, 50 percent of the participants outlined that establishment (or improvement in the effectiveness) of enquiry points and/or call centres for up-to-date information on trade procedures was also their highest priority.

Table 5 Survey Results from the Private Sector: Identifying TF Needs and Priorities (percentage)

TF Needs and Priorities	Low Priority	Medium Priority	High Priority	Highest Priority
Timely and comprehensive publication and dissemination of trade rules and regulations	4	8	28	60
Establishment (or improvement in the effectiveness) of enquiry points and/or call centres for up-to-date information on trade procedures	5	6	39	50
Establishment (or improvement in the effectiveness) of a consultation mechanism through which traders can provide inputs on proposed new or amended rules and regulations	5	25	30	40
Establishment (or improvement in the effectiveness) of an appeal mechanism outside of the authority of Customs or related agencies for traders to dispute Customs and other authorities’ decisions	3	23	40	34
Establishment (or improvement in the effectiveness) of an advance ruling system, which allows the importer, in advance of trade, to obtain binding rules in certain specific areas (e.g., tariff classification, Customs valuation, origin)	5	20	40	35
Beginning and, if possible, completing clearance of goods before they have arrived physically in the Customs territory (based on advance submission of good declaration and other documents)	2	11	27	60
Separating release from clearance procedures, i.e., allowing goods to be released before all clearance	10	17	40	33

formalities have been completed (this may be subject to providing a financial guarantee to customs and/or post-release audit)				
Reduction and simplification of the documentation requirements for import and export procedures	4	8	22	60
Harmonization and standardization of documentation requirements based on international standards	3	15	27	55
Improvement of coordination between relevant agencies, particularly on document requirement, e.g., through the establishment of a single window for one-time submission and collection of all trade documents	5	9	27	59
Computerization and automation of trade procedures, e.g., online submission and approval of Customs declarations, cargo manifests, including electronic payment of fees and Customs duties	2	8	13	77
Improvement in Customs inspection and control procedures, e.g., systematic use of risk analysis to determine which good should be examined, clearer criteria for “green” and “red” channels and special channels for authorized traders and express shipments	0	5	39	55
Elimination of bribery and other corrupt practices of officials involved in the clearance and release of imported goods	1	2	5	92
Implementation of international and regional transit systems based on international standards and practices	4	26	40	30

Table 6 Private sector priority ranking of selected trade facilitation measures in Selected Countries (1: Highest priority)

	Overall	Bangladesh	China	Fiji	India	Indonesia	Nepal
Elimination of bribery and other corrupt practices of officials involved in the clearance and release of imported goods	1	1	1	1	1	2	1
Improvement of coordination between relevant agencies, particularly on document requirements, e.g., through the establishment of a	2	3	3	6	4	2	4

single window for one-time submission and collection of all trade documents							
Timely and comprehensive publication and dissemination of trade rules and regulations (e.g., through the Internet)	3	6	4	5	4	1	1
Computerization and automation of trade procedures, e.g., online submission and approval of customs declarations, cargo manifests, including electronic payment of fees and customs duties	4	6	4	2	2	5	6
Harmonization and standardization of documentation requirements based on international standards	5	4		8	8	8	4
Reduction and simplification of the documentation requirements for import and export procedures	6	1	7	3	3	6	
Improvement in customs inspection and control procedures, e.g., systematic use of risk analysis to determine which goods should be examined, clearer criteria for “green” and “red” channels and special channels for authorized traders and express shipments	7	6	7	7	4	10	6
Establishment (or improvement in the effectiveness) of an advance ruling system, which allows the importer, in advance of trade, to obtain binding rules in certain	8		4		10	8	1

specific areas (e.g., tariff classification, customs valuation, origin)							
Beginning and, if possible, completing clearance of goods before they have arrived physically in the customs territory (based on advance submission of good declaration and other documents)	9	9	2	4	4		9
Establishment (or improvement in the effectiveness) of a consultation mechanism through which traders can provide inputs on proposed new or amended rules and regulations	10		4			7	6
Establishment (or improvement in the effectiveness) of enquiry points and/or call centers for up-to-date information on trade procedures		9		9	9	2	
Establishment (or improvement in the effectiveness) of an appeal mechanism outside of the authority of customs or related agencies for traders to dispute customs and other authorities' decisions		5				10	9
Separating release from clearance procedures, i.e., allowing goods to be released before all clearance formalities have been completed (this may be subject to providing a financial guarantee to customs and/or post-release audit)			7				
Implementation of international and regional transit							

systems based on international standards and practices							
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Source: ARTNeT Working Papers No. 4, 5, 8, 9 and 10; www.artnetontrade.org

Table 6 summarizes how private sector respondents in each of the countries studied (with the inclusion of Fiji) prioritize fourteen trade facilitation measures mainly related to Articles VIII and X. The addition of Fiji has not changed any of the overall rankings.

Elimination of bribery and other corrupt practices of officials involved in the clearance and release of imported goods is still given top priority in all the countries, except Indonesia. Moreover, computerization and automation of trade procedures are given quite a high priority in Fiji, India and China. In addition, reduction and simplification of document requirements are ranked quite highly in Fiji, Bangladesh and India.

Improvement of coordination between relevant agencies, particularly on documentation requirements, e.g., through the establishment of a single window for one-time submission and collection of trade documents, is also given very high priority in all the countries, except Fiji. Timely and comprehensive publication and dissemination of trade rules and regulations (e.g., through the Internet) is the highest priority in Indonesia and Nepal, while reduction and simplification of the documentation requirements for import/export is the highest priority in Bangladesh.

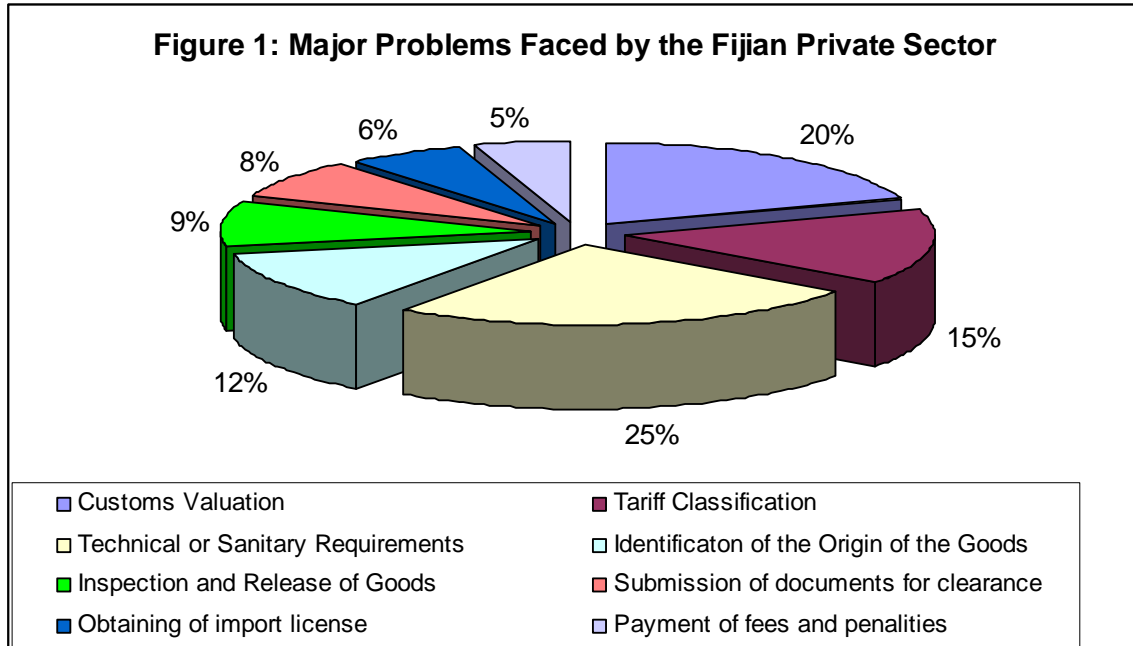
Beginning and, if possible, completing clearance of goods before they arrive physically in the customs territory is a priority for the Chinese private sector and, to a lesser extent, for India and Fiji, but not for the other countries. Establishment of enquiry points receives high priority in Indonesia, but not in other countries. Establishment of an advance ruling system is a top priority for the Nepalese private sector. Interestingly, establishment of a consultation mechanism through which traders can provide inputs on proposed new or amended rules and regulations, or improvement in customs inspection and control procedures through risk analysis and authorized traders channels are relatively low priorities in most countries (including Fiji).

4.2.3 Overall Impact of the Various Trade Facilitation Measures Implemented in Fiji So Far

About 60 percent of the respondents mentioned that the various trade facilitation measures implemented so far (as well as the improvements that have been made on the existing ones) have encouraged them to increase their exports to and imports from their major trading partners. About half of this 60 percent also mentioned that these measures have helped them to tap into new export markets. Out of the remaining 40 percent, 30 percent mentioned that they have not experienced any benefits from the various trade facilitation measures, while the remaining 10 percent were not sure.

4.2.4 Key Trade Facilitation-related Problems Faced by the Fijian Private Sector

The firms that were surveyed were quiet enthusiastic to identify key problem areas in TF (see Figure 1). The key problem areas identified by respondents of the survey are in the following order: technical and sanitary requirements (25 percent); customs valuation (20 percent); tariff classification (15 percent); and identification of the origin of the goods (12 percent).



The other areas listed in order as key problems are inspection and release of goods, submission of documents for clearance, obtaining of import license and payment of fees and penalties. This clearly shows that the current scope of trade facilitation negotiations at the WTO eventually may not be sufficient in ensuring quicker flow of goods. It is also evident that the private sector should be more prepared to take maximum advantage of automation and other programmes of customs agencies.

Table 7: A Comparison of the Most Problematic areas in conducting trade in Selected Countries

	Overall	Bangladesh	China	Fiji	India	Indonesia	Nepal
Customs valuation	1	1	2	2	1	3	2
Inspection and release of goods	2	2	6	5	2	2	1
Tariff classification	3	3	5	3	3	4	3

Technical or sanitary requirements	4	7	1	1	7	5	4
Payment of fees and penalties	5	6	4	8	6	1	N.A
Obtaining an import license	6	5	3	7	5	6	N.A
Submission of documents for clearance	7	4	6	6	4	7	N.A
Identification of origin of the goods	8	8	8	4	8	8	N.A

Source: ARTNeT Working Papers No. 4, 5, 8, 9 and 10; www.artnetontrade.org

The inclusion of Fiji has not changed any of the overall rankings of the problematic areas in Table 7. The areas and issues identified here go beyond the current scope of the WTO trade facilitation negotiations. In particular, customs valuation, which is not part of the negotiation, is still ranked as the most, or second most, problematic issue by the private sector in all countries surveyed. Technical or sanitary requirements is ranked as the fourth most problematic area overall, and as the most problematic area by the Chinese and Fijian respondents.

Furthermore, inspection and release of goods and tariff classification are identified as two of the top four problem areas that may be addressed within the scope of the current WTO negotiations.

In addition, the private sector survey highlighted that most of the difficulties faced by exporters and importers in Fiji stem from procedures/regulations in the countries of their buyers (suppliers). Specifically, about 70 percent of the respondents highlighted this problem.

V. Implementation of the WTO Customs Valuation Agreement in Fiji

In the private sector survey, customs valuation was highlighted as one of the key issues/problems faced in Fiji. In line with this, this section will initially discuss the implementation of the WTO Customs valuation agreement in Fiji.

Customs duties are instruments of fiscal and trade policy which may be calculated by reference to specific rates, ad-valorem rates or a combination of both. Like majority of the countries, Fiji also applies ad valorem duties, and as a result places special emphasis on the valuation principle because a valuation system with uniformity and equity provides a sound base for assessment of duty, which will deliver, fiscal and trade

policy aims. Fiji values imported goods for the purpose of assessing ad valorem duty in accordance with the principles of the WTO customs valuation agreement spelt out under the Article VII of GATT 1994. Fiji's legislative valuation provisions are comprehensively set out in Schedule 1 to the customs tariff act 1986 (parts 1,2,3) which provides and defines how the customs value of imported goods is to be determined in compliance with provisions of the WTO Valuation Agreement but very little reference is made in this volume to legislative provisions because Fiji's legislation is essentially a mirror reflection of the WTO agreement on customs valuation on which it is based.

General principles of application of valuation methods

Fiji's customs valuation system is found in Schedule 1 to the customs tariff act 1986 where the legislation aims to give effect to Fiji's commitment under the GATT to facilitate international trade by implementation of GATT valuation system. Fiji became a signatory to the GATT agreement on 14th January 1996. The WTO agreement under the clauses 1(10) – (12) of schedule 1 to the customs tariff act of 1986 provides Fiji with various methods for valuing imported goods prior to the application of the ad-valorem duty rates. Under the Agreement as defined in Article 1 the first and most important method of valuing customs duty should be a Customs valuation system that primarily bases the Customs value on the transaction value of the imported goods, which is the price actually paid or payable for the goods when sold to Fiji plus adjustments for certain elements listed in Article 8. Freight, packaging, commissions, goods and services supplied to the buyer free of charge and some other costs may be added to the customs value. Currently more than 90% of world trade is valued on the basis of the transaction value method thus providing more predictability, uniformity and transparency for the business community. Where the Fiji customs administration are suspicious that the transactions value is false, customs administrations may determine the value by going sequentially through five options: (a) the value of identical goods, (b) the value of similar goods, (c) the imported price of identical or similar goods less applicable deductions for costs incurred within the country of import, (d) computed value, constructed by adding to the original cost of materials and fabrication, and (e) if none of these methods work, reasonable means may be used on the basis of the data available in Fiji. However, under Article 4 of the agreement and clause 1(11) of schedule to the Customs Tariff Act 1986 the deductive and the computed value method may be reversed at the request of the importer because of the possibility of difficulties in their respective determinations. So far, Fiji has not taken up this right in its statutory enactments.

Primary Basis of Valuation: Transaction Value

The transaction value will only be acceptable as the customs value of the imported goods if the four conditions set out in paragraph 1 to article 1 are satisfied. These four conditions are:

a) That there are no restrictions as to the disposition or use of the goods by the buyer other than certain specified ones which

- are imposed or required by law in the country of importation;
- are limited to the geographic area in which the goods may be resold;
- do not substantially affect the value of the goods.

b) that the sale or price is not subject to some condition or consideration for which a value cannot be determined with respect to the goods being valued

c) that no part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made in accordance with the provisions of Article 8 and

d) that the buyer and seller are not related, or where the buyer and seller are related, the transaction value is acceptable for customs purposes under the provision of paragraph 2 of this article.

Subsidiary Basis of Valuation: Identical and Similar Goods Method

On occasions where it is not possible to establish the value of the imported goods under article 1 because

- the imported goods were not the subject of sale
- the sale was the subject of some restriction on the disposition or use of the imported goods
- the sale was subject to some condition or consideration for which a value could be determined
- there was an adjustment to be made to the price actually paid or payable under Article 8 but sufficient information did not exist to make the appropriate adjustment
- the sale occurred between related parties

In all the above cases Article 1 would not exist and hence there would be no transaction value of the imported goods. In such situations Fiji's customs administration will resort to the first alternative basis of value under Article 2 which is the transaction value of identical goods. If the value still cannot be determined under Article 2 then the second alternative basis is Article 3 which is the transaction value of similar goods. Clauses 4 and 5 of schedule 1 to the Customs Tariff Act 1986, deal with identical and similar goods respectively.

Deductive Value Method

If the three methods of arriving at the Customs value have been examined and discarded by Fiji customs officials then article 5 provides that when the customs value cannot be determined under Article 1, 2, 3 it will be determined on the basis of the price at which the imported goods or identical or similar imported goods are sold to unrelated buyers in the country of importation. Article 6 provides that where customs value cannot

be based on Article 5 then it will be based on the sum of the costs to produce the imported goods.

In this connection, Customs Act prescribes that in applying the deductive value method for imported goods, profit and general expenses should be taken as a whole and be calculated on the basis of an accounting report prepared in a manner consistent with the generally accepted accounting principles (GAAP).

Computed Value Method

Under deductive value the desired basis was a price at which imported goods are sold in the country of importation from which certain selling expenses incurred in the country would be deducted but with computed value cost elements reflected in the production of the imported goods are considered with the view to computing the cost of the goods. For the purpose of Fiji customs computed value is defined in Article 6 as being the sum of the following

- the cost or value of materials and fabrication or other processing employed in producing the imported goods
- an amount for profit and general expenses equal to that usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to the country of importation
- the cost or value of all other expenses necessary to reflect the valuation option chosen by the party under Article 8.2.

Fallback Method

Provisions relating to fallback method of valuation are set out in clause 8 Schedule 1 to the customs tariff act 1986. The five methods of valuation defined in the code normally provides a basis on which to establish value but certain situations do not allow the later methods to be applied because of such occurring

- the transaction involves leased goods
- no identical or similar goods are imported
- the goods are not resold in the country of importation
- the producer is unknown or refuses to disclose cost data to foreigners

Article 7 provides the means for establishing a customs value where the value cannot be determined under any of the other valuation methods. Article 7 does not provide for a specific valuation method but rather requires customs value be determined using reasonable means that is consistent with the principles and general provisions of the agreement and Article 7 of GATT and on the basis of data available in the country of importation.

5.1 Key constraints and issues with WTOCVVA implementation

The WTOCVVA has been implemented in conjunction with other TF initiatives (as discussed in the previous section) over the past decade. Moreover, majority⁴ of the goods are valued using the transaction value method. It is only when one or more of the conditions highlighted in section 5.2 are violated, other methods of valuation are applied. (Singh, 2006).

While the implementation of the WTOCVVA is ongoing, it is faced with a number of constraints. Some of these include:

- Laws, regulations and judicial decisions are not applied in a uniform, impartial, and reasonable manner;
- A formal and effective private sector consultation mechanism does not exist, which allows traders to comment on the proposed changes to regulations and procedures before they are issued and implemented;
- Documentation requirements for import/export are excessive and time consuming;
- Lack of trained manpower on customs valuation;
- Customs valuation problems often become the subject of dispute between traders and customs administrations; and
- Irregular and arbitrary payments are often required to expedite release of goods from customs.

As far as the issue of undervaluation is concerned, an official from FIRCA confirmed that there have been a lot of cases where imported goods have been undervalued due to a number of reasons. One of the main reasons has been the submission of invoices where the goods in question have been undervalued. Once customs officials are able to ascertain (through the application of their own procedures) that a particular shipment of goods is undervalued, these goods go on an audit trail.

Under the audit trail, these goods are heavily scrutinized in order to determine their true value. Penalties are also imposed to importers who are found to have deliberately undervalued their goods. These penalties depend on the seriousness of the offence and can range from as low as F\$150 to as high as \$2000. In exceptional circumstances, penalties can be as high as a third of the value of the imported goods (Singh 2006).

⁴ The Official from FIRCA, who was interviewed on this issue, was not able to quantify the usage of the transactions value method.

VI. Conclusion and Policy Recommendations

This paper initially discussed the various trade facilitation initiatives implemented in Fiji so far. It then highlighted the TF needs and priorities of Fiji, as well as, the impact of the various TF measures implemented, so far, on the private sector in Fiji. The discussions on the needs and priorities, as well as, the impact were based on a private sector survey that was carried out in October this year. The paper has also shed some light on the practical implementation of the WTOCVA in Fiji and the problems faced while implementing it.

Based on the results of the private sector survey, a number of priorities can be identified with regards to TF and customs valuation. These are as follows:

- Elimination of bribery and other corrupt practices of officials involved in the clearance and release of imported goods;
- Computerization and automation of trade procedures, e.g., online submission and approval of Customs declarations, cargo manifests, including electronic payment of fees and Customs duties;
- Reduction and simplification of the documentation requirements for import and export procedures;
- Completing clearance of goods before they have arrived physically in the Customs territory (based on advance submission of goods declaration and other documents);
- Timely and comprehensive publication and dissemination of trade rules and regulations;
- Improvement of coordination between relevant agencies, particularly on document requirement, e.g., through the establishment of a single window for one-time submission and collection of all trade documents;
- Improvement in Customs inspection and control procedures, e.g., systematic use of risk analysis to determine which good should be examined, clearer criteria for “green” and “red” channels and special channels for authorized traders and express shipments;
- Harmonization and standardization of documentation requirements based on international standards; and
- Establishment (or improvement in the effectiveness) of enquiry points and/or call centres for up-to-date information on trade procedures.

Fiji, on its own, may need to address the first recommendation that is mentioned above, while the other recommendations will be ably addressed through the regional initiatives. However, it is also worthwhile to mention that Fiji, on its own, has already started working on the second and the eighth recommendation highlighted above. Finally, the priorities identified through the private sector survey indicate that the regional initiatives that are implemented, so far, and/or are in the process of being implemented are generally focusing on the right issues.

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