
CASE STUDY 2 – FIJI

The Regulatory Reform Task Force

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Background – investigating the investment approvals process

Fiji's current experience in public-private dialogue for investment climate reform arose from a government initiative to review Fiji's investment approvals process. Acting on concerns raised by the private sector, in 2001 the Ministry of Commerce, Business Development & Investment (MCBDI) conducted a review of why the investment approvals process in Fiji was so long, complex, non-transparent and excessively costly, both for investors to comply with and government to administer. After its own initial review, the MCBDI commissioned a consultant to conduct an in-depth study of Fiji's investment approvals agencies, with a view to recommending improvement strategies.

The MCBDI had already carried out a detailed review of Fiji's Foreign Investment Act (FIA). The FIA was amended to provide a simple, open and non-discretionary process for the Fiji Trade and Investment Bureau (FTIB) to register foreign investors. With the amendments, the FTIB had to grant or refuse applications for registration by foreign investors within five working days.

The consultant's report was presented to the Cabinet Sub-committee on Investment (CSI), chaired by Fiji's Prime Minister.¹ 78 specific reform recommendations from the consultancy report, covering 19 different government agencies, were endorsed by Cabinet in 2003, aimed at enhancing the efficiency and investor friendliness of Fiji's investment approvals process.

Recognizing the need for private sector engagement

Before embarking on implementing these reforms, the MCBDI carried out an awareness-raising exercise for government agencies and departments. This focused on the proposed implementation of the Cabinet's directive for all investment approvals authorities and amendments to the FIA. Government agencies reached consensus on the reforms in a workshop in early 2004. However, they also recognized a need to engage with the private sector, particularly investor agents and intermediaries, who had first-hand experience of the investment approvals process.

Fiji's Prime Minister launched the reform process and the revised FIA was officially launched in mid 2004. The Prime Minister stated that government would involve the private sector in the reform process.²

¹ The Cabinet Sub Committee comprises of the Prime Minister (Chairman), Attorney General and Minister for Justice, Minister for Finance and National Planning, Minister for Commerce, Business Development and Investment, Minister for Foreign Affairs and External Trade, Minister for Tourism, Minister for Fisheries and Forests, Minister for Public Enterprises and Public Sector Reforms, Minister for Works and Energy, Minister for Agriculture, Sugar and Land Resettlement, Minister for Lands and Mineral Resources, and Minister for Transport and Civil Aviation.

² The Prime Minister stressed that "*Traditional civil service thinking will not carry us through. In fact, that will kill the reforms before they have a chance to work. We need a fresh, more vigorous and positive attitude from the administrative decision makers. They must become more aware and responsive to the needs of the business people. There is a gap that must be closed between the business community and the Civil Service.*"

Initial private sector engagement for regulatory reform

In conjunction with the FTIB, the MCBDI held a series of public seminars, targeted at private sector organizations, to raise awareness about the revised FIA and the cabinet's directive for reform to the investment approvals process. This generated a lot of interest from existing local and foreign investors and intermediaries.

Private sector involvement was welcomed because it brought another dimension of thinking and revealed flaws in the investment approvals process from a user's point of view.

Development of the Regulatory Reform Program

With the support of FIAS and the World Bank, a regulatory reform program was agreed with the Fiji Government. The main expected outcomes include:

- measurable improvements in the time and cost of establishing a business in Fiji, and also in simplifying and reducing the burden of government regulation on private sector activity;
- improved efficiencies and a more customer-friendly approach on the part of regulatory agencies;
- improved coordination between regulatory agencies, to avoid duplication;
- established procedures to monitor performance and improved capability within the agencies to rectify shortcomings;
- closer and more effective dialogue between government and the private sector in relation to regulatory and administrative impediments and the most effective means of achieving reform;
- practical action plans for each agency for the broadening and strengthening of reforms in relation to regulatory and procedural impediments to private sector investment; and
- development of the necessary skills within the various agencies to maintain the reform, and the provision of necessary tools to undertake their tasks in an effective manner.

The Regulatory Reform Task Force (RRTF) – important features of the reform program

The Regulatory Reform Task Force (RRTF) was set up by the MCBDI in December 2004. The RRTF has ten members – five from government and five from the private sector. The five members of the private sector are representatives of large private sector organizations in Fiji. The World Bank committed to providing technical support when the task force requested it, giving greater flexibility.

Another key factor was the recruitment of a regulatory reform specialist, based in the MCBDI, to help government agencies implement their reforms – this is critical both specifically in helping agencies to carry out reforms, and generally in sustaining the momentum. The CSI has since continually monitored the implementation, progress and effectiveness of reforms.

RRTF – structure and role

The role of the RRTF is to provide input through a public/private consultative mechanism to guide the day-to-day work of the regulatory reform program. The aim is to help ensure that the expected program outcomes are achieved. In particular, the RRTF is designed to:

- provide a forum for identifying and discussing important regulatory reform issues;
 - develop new programs to address identified bottlenecks in the regulatory environment;
 - decide on the appropriate sequencing of reform initiatives;
 - monitor the progress of reform implementation;
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- report on the progress of reform to the CSI and recommend changes to policy and legislation.

A number of principles were used to determine the size and make-up of the RRTF:

- Number of members was kept to a manageable size, to minimize logistical difficulties in convening meetings and facilitate the building of a team atmosphere within the task force.
- Balanced representation, between the public and private sector and between organizations. This was to ensure the task force is not dominated by the views of any particular group.
- Public sector agencies represented on the task force should have a broad investment mandate. This means senior officials from government agencies with general oversight responsibilities for investment, rather than responsibility for specific investment approvals – there are many such agencies and their narrow focus on a particular regulatory process can make it difficult for them to take a broader view of the overall regulatory environment that investors face.
- Private sector representatives should be registered associations with large and broad memberships, not individual business people – associations needed to be generally accepted as the key bodies representing their areas of interest in the country, and with a sizeable membership. Together, the associations were to reflect a broad national range of business interests.

RRTF – process and progress

In a little over a year since its establishment in December 2004, the RRTF has met seven times and identified the following areas to be addressed to improve the business and investment climate in Fiji:

1. A review of the company registration process;
2. Contract enforcement;
3. Improving the transparency of the investment approvals process; and
4. Establishing a mechanism for obtaining the views of the private sector on the efficiency and investor-friendliness of the investment approvals process.

The MCBDI provides secretariat service to the RRTF – scheduling and preparing agendas and notifications of meetings, drafting discussion papers, minute-taking, following up on issues discussed during meetings, and implementing decisions taken by members. The chairmanship of the RRTF also rests with the MCBDI.

Attendance at the RRTF meetings has been good, with the private sector contributing first-hand experiences and suggesting improvements to Fiji's investment climate. There was initial skepticism shown by the private sector in the first two meetings, fearing that the RRTF might be discarded in the future and serve no useful purpose. However, these fears seem to have subsided. Members have also come well prepared, which has allowed focused discussions and outcomes.

Overall, the establishment of the RRTF has been well received with positive feedback from the private sector. The RRTF produces a newsletter titled "*Regulatory Reform News*" which is circulated to stakeholders, both public and private. It has also issued press releases and paid advertisements in the dailies to ensure a broader outreach.

Monitoring reform improvements

The current monitoring mechanism, endorsed by the cabinet, requires investment approvals agencies to provide a report to the MCBDI. This report consists of a progress update on cabinet's specific reforms for implementation by individual agencies, and a self-evaluation by agencies on application processing times and compliance costs to investors. These reports are normally presented to the RRTF and then to the CSI, which is tasked by the cabinet to monitor the

implementation, progress and effectiveness of the reforms. With the RRTF now in place, the CSI has also assumed overall responsibility of monitoring its activities and additional reform initiatives.

Achievements to date

- *Review of the Company Registration Process*

In August 2005, with the assistance of FIAS, a team of consultants from Norway completed a review of the Office of the Registrar of Companies' process to register a business name and company. The findings of the review were tabled in Cabinet in November 2005, and outlined the reforms to be implemented to improve the system of business registration. The implementation of reforms will allow online registration of business and company names.

- *Contract enforcement*

The World Bank estimates that the time taken to enforce a contract in Fiji's courts is more than double the global average – 320 days versus 139 days. Following a preliminary assessment by the RRTF, the cabinet in August 2005 endorsed the need to clarify the importance of the courts and alternative dispute resolution as mechanisms for settling contract disputes. Cabinet also agreed that the Asian Development Bank should be approached for technical assistance in early 2006.

- *Improving the transparency of the investment approvals process*

There is a lack of concise, comprehensive up-to-date information about the different steps involved in the investment approvals process in Fiji. The RRTF, through FIAS, contracted a legal firm to assist in addressing this gap. The firm is currently preparing information summaries for 12 approval processes. This will help ensure that the each approval process is transparent and assist investors in making sound decisions. The work is now almost complete and final drafts have been sent to the various agencies for clearance by the respective Chief Executive Officers. When cleared, these information summaries will be made available on the FTIB website.

- *Establishing a mechanism for obtaining the views of the private sector on the efficiency and investor-friendliness of the investment approvals process*

In monitoring the implementation, progress and effectiveness of reforms, the RRTF has solely relied on the progress reports submitted by individual investment approvals agencies. The MCBDI, through FIAS, contracted an statistical research company to conduct a survey of private sector experiences in complying with the investment approval processes. As a pilot, the study examined five approvals: foreign investment registration certificate; work permits; issuance and transfer of shares to non-residents; business name and company registration; and tax registration. The survey establishes baseline indicators and benchmarks for each agency against which performance improvements can be measured. The findings were presented to the five agencies, they are required by cabinet to develop action plans to address priority areas for improvement. In 2006, the survey will be extended to the 12 remaining investment approvals agencies.

The on-going role of the RRTF

Apart from ensuring the smooth implementation of the cabinet's specific directives for reform, the RRTF has also identified bottlenecks in the broader investment approvals process and ways to address them. The RRTF has also begun to broaden its reform agenda to cover other regulatory areas in need of reform. It is envisaged that the RRTF will play an increasingly important advisory role in investment climate policy reform.

The RRTF has also mapped out additional areas which will require detailed diagnostic analysis and study, such as Fiji's physical planning process and hotel licensing process.

Conclusions

Fiji has had one year of experience with its RRTF. The establishment of benchmarks and indicators through the Private Sector Survey is an independent basis for assessing whether the reforms have achieved the desired outcomes.

It is early to ascertain whether the reform initiatives have yielded the expected outcomes. Reforms take time, as do changes in internal institutional mechanisms within agencies, changes in legislation, and changes in the attitudes and mindsets of reform beneficiaries and managers. The reform process, however, was always intended to be an ongoing one.

The RRTF is now in place and the challenge is to maintain, foster and strengthen this working relationship to produce the desired outcomes, and demonstrate that public private dialogue is vital if Fiji is to improve its business and investment climate.

List of Government Authorities and Approvals Addressed in Cabinet IAR Directive

Authority	Approval
Fiji Islands Trade and Investment Bureau	Foreign investment registration
Reserve Bank	Approval of share transfer
Department of Immigration	Key post work permit; time post work permit
Office of the Registrar of Companies	Business name registration; company registration
Fiji Islands Revenue and Customs Authority	Tax registration
Department of Lands	Approval for dealings in freehold or state land; Foreshore lease approval
Native Land Trust Board	Native land lease approval
Department of Town and Country Planning	Approval of a development master plan; Approval for sub-division of land; Approval for rezoning land
Municipal Councils, Rural Local Authorities and Department of Town and Country Planning	Building approval
Fiji Islands Maritime Safety Administration	Vessel survey and registration certificates Coastal trading licence
Department of Fisheries	Fishing licence; Fisheries project development approval
Department of Mineral Resources	Prospecting licence
Department of Environment	Environmental impact assessment
Ministry of Tourism	Concessions under the Hotel Aids Act
Public Works Department	Reviews of scheme and engineering plans re site development approvals

Authors:

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Isireli Koyamaibole is CEO of the Ministry of Commerce, Business Development & Investment in Fiji, which particularly handles the investment, trade and commerce and business development focusing on SMEs. He has had more than ten years experience in dealing with private sectors of small island economies through early employment with the Fiji Development Bank.

Isireli deals directly with the Prime Minister and other senior cabinet ministers on matters relating to national strategic plans, investment strategies at various levels, competition policies and fair trading, export strategies, private sector involvement, regional development, bilateral and multilateral agreements, WTO issues, standards and conformance and so on.

He is currently the Chair of the National Trade Facilitation Committee and the Regulatory Reform Task Force in Fiji. This is in addition to his membership of the various other Boards in Fiji – the Fiji Islands Trade & Investment Bureau, Fiji Audio Visual Commission, Fiji Investment Corporation Ltd., and National Centre for Small & Micro-Enterprises Development.

Isireli holds a BA in Economics/Accounting from the University of the South Pacific (Fiji) and an Executive MBA from the University of Wales (UK).

Ken Roberts, CEO, Fiji Employers Federation

Ken Roberts is Chief Executive of RIM Consultants. He works as a consultant to Fiji Employers Federation, with the title of Chief Executive Officer. This contracted position provides all the duties of the CEO of an employers' organisation, with responsibility for maintaining all membership services, all liaison functions and the economic viability of FEF.

Mr Roberts is a member of: the Labour Advisory Board; Trade Union Advisory Committee; Manufacturing Industry Wages Council; Consultative Committee on Economic Strategy; NES Taskforce on Employment Creation; Tripartite Forum; University of the South Pacific MBA Advisory Council; Steering Committee to establish Fiji Islands Chapter of Transparency International; Board of Coconut Industry Development Authority; Board of Copra Millers of Fiji Ltd.; Public Enterprise Advisory Board; USP Solutions Board; National Economic Development Council; and Steering Committee on Reorganisation of Department of Immigration.

An Australian-born Fiji citizen, he is also Honorary Consul for both Finland and Sweden in Fiji; founder Vice Chairman of the National Health Promotion Council; and past president of Suva Chamber of Commerce, Federation of Chambers of Commerce in Fiji, and Rotary Club of Suva. He was a founder member and past president of Fiji Manufacturers Association.

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