

# 2020 - Questionnaire on the implementation of the Protocol to Eliminate Illicit Trade in Tobacco Products by its Parties

## A. ORIGIN OF THE REPORT

### Name of contracting Party:

Fiji

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### Information on national contact responsible for preparation of the report:

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Title

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Family name

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---

First name

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Full name of institution

Ministry of Health & Medical Services

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Signature of government official submitting the report:

---

Title

Mr

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Full name of institution

Ministry of Health & Medical Services

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## Period of reporting:

	<b>Month</b>	<b>Year</b>
Start date (SQ001)	April (4)	2019 (5)
End date (SQ002)	March (3)	2020 (6)

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## PART I: B. INTRODUCTION

### ARTICLE 2 - RELATION BETWEEN THIS PROTOCOL AND OTHER AGREEMENTS AND LEGAL INSTRUMENTS

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Please list any bilateral or multilateral agreements you entered into on issues relevant or additional to the Protocol, as mentioned in Article 2 of the WHO FCTC.

Fiji is currently drafting a Memorandum of Understanding with the Fiji Revenue & Customs Services for the use of ASYCUDA World for tracking and tracing of tobacco and tobacco products imported and manufactured in Fiji.

Currently the MOU is with the office of the Solicitor General who is currently vetting the legal aspects of the agreement between the us (Ministry of Health & Medical Services) and Fiji Revenue & Customs Services.

ASYCUDA World was recommended to us by the Oceania Customs Organization (OCO) and United Nations Conference on Trade and Development via WHO.

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## PART II: C. GENERAL OBLIGATIONS

## ARTICLE 5 - PROTECTION OF PERSONAL DATA

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What measure have you taken, in particular in the past two years, to ensure the protection of personal data of individuals, regardless of nationality or residence, when implementing this Protocol?

Personal data is only visible to a select lot of users of ASYCUDA World

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If you have any other relevant information pertaining to but not covered in this section, please provide details in the space below.

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## PART III: D. SUPPLY CHAIN CONTROL

### ARTICLE 6 – LICENCE, EQUIVALENT APPROVAL OR CONTROL SYSTEM

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Do you have a licensing system in place for any of the following activities:

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Manufacture of tobacco products?

Yes ✓

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Manufacture of manufacturing equipment?

No ✗

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Import of tobacco products?

Yes ✓

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Export of tobacco products?

No ✗

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Import of manufacturing equipment?

No ✗

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Export of manufacturing equipment?

No ✗

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Do you require a license for any natural or legal person engaged in:

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Retailing of tobacco products

Yes ✓

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Growing of tobacco, except for traditional small-scale growers, farmers and producers

Yes ✓

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Transporting commercial quantities of tobacco products or manufacturing equipment

No ✗

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Wholesaling, brokering, warehousing or distribution of tobacco and tobacco products or manufacturing equipment

Yes ✓

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Which competent authority/ies, if any, have been established or designated with regard to licensing?

Ministry of Health and Medical Services

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Does the competent authority have the prerogative to issue, renew, suspend, revoke and/or cancel licences for:

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the manufacture of tobacco products?

Yes ✓

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the import of tobacco products?

Yes ✓

---

the export of tobacco products?

No ✗

---

the manufacture of manufacturing equipment?

No ✗

---

the import of manufacturing equipment?

No ✗

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the export of manufacturing equipment?

No ✗

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Is the applicant for a license required to provide proof of any of the following?

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## When the applicant is a natural person

---

Its identity, including full name?

Yes ✓

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Its tradename?

Yes ✓

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Its business registration number (if any)?

Yes ✓

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Applicable tax registration numbers (if any)?

Yes ✓

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## When the applicant is a legal person

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Its full legal name?

Yes ✓

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Its tradename?

Yes ✓

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Its business registration number?

Yes ✓

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Date and place of incorporation?

Yes ✓

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Location of corporate headquarters and principal place of business

Yes ✓

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Applicable tax registration numbers?

Yes ✓

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Copies of articles of incorporation or equivalent documents?

Yes ✓

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Its corporate affiliates

Yes ✓

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Names of its directors and of any designated legal representatives

Yes ✓

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Does the application for the licence requires the applicant to specify any of the following information?

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precise business location of the manufacturing unit, warehouse location and production capacity of the business run by the applicant?

No ✗

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product description?

Yes ✓

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name of the product?

Yes ✓

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registered trade mark (if any)?

Yes ✓

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design?

Yes ✓

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brand?

No ✗

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model or make and serial number of the manufacturing equipment?

No ✗

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description of where manufacturing equipment will be installed and used?

No ✗

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documentation or a declaration regarding any criminal records?

No ✗

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complete identification of the bank accounts intended to be used in the relevant transactions and other relevant payment details?

No ✗

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a description of the intended use and intended market of sale of the tobacco products?

Yes ✓

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How often, if at any time, are licence fees monitored and collected?

Annual; in collaboration with Fiji Revenue and Customs Service

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What measures, if any, are taken to prevent, detect and investigate any irregular or fraudulent practices in the operation of the licensing system?

Annual licensing requirements

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How often, if at any time, are periodic review, renewal, inspection and audit of licences being undertaken? (please provide details)

Annual

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Are all licenced natural or legal persons obliged to inform, in advance, the competent authority of any change of location of their business or any significant change in information relevant to the activities as licenced?

No ✘

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Are all licenced natural or legal persons obliged to inform the competent authority, for appropriate action, of any acquisition or disposal of manufacturing equipment?

No ✘

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Please provide a brief description of the progress made in implementing Article 6 (Licence, equivalent approval or control system) in the past two years or since submission of your last report.

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If you have any other relevant information pertaining to but not covered in this section, please provide details in the space below.

Note: We answered "yes" for D12a and D12b Fiji does require local grown tobacco (Suki) registration and tobacco retail establishments registration

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## D2. ARTICLE 7 - DUE DILIGENCE



Is it a requirement to conduct due diligence before the commencement of a business relationship for all natural and legal persons:

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engaged in the supply chain of tobacco?

No ✘

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engaged in the supply chain of tobacco products?

No ✘

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Is it a requirement to conduct due diligence during the course of a business relationship for all natural and legal persons?

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engaged in the supply chain of tobacco?

No ✘

---

engaged in the supply chain of tobacco products?

No ✘

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Is it a requirement for actors in the supply chain of tobacco and tobacco products to conduct due diligence with regards to customer identification?

No ✘

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As part of due diligence of the supply chain, for the purpose of customer identification, do you require documentation or a declaration regarding any criminal records required for customer identification?

No ✘

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As part of due diligence of the supply chain, for the purpose of customer identification, do you require identification of the bank accounts intended to be used in transactions?

No ✘

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Have any legal or natural persons been “blocked” as customers within your jurisdiction?

Yes ✔

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Please provide a brief description of the progress made in implementing Article 7 (Due diligence) in the past two years or since submission of your last report.

Current legislation has provisions that a license or registration for a trader can be revoked if found or convicted for numerous offences stated within the legislation. The Tobacco Control & Enforcement Unit has yet to take a step further and cease any asset/property incurred from the illicit trade of tobacco & tobacco products.

or if current and would be traders do not meet the mandated requirements, then their application is declined. e.g. There is a strict mandated timeline for all to apply i.e. 1st to 31st of January each year. No applications can be received outside of the 1st to 31st of January time frame.

We currently have two cases before the Fiji Magistrates Courts for the illicit trade of e-cigarettes and Chinese cigarettes. if successfully convicted, we will

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If you have any other relevant information pertaining to but not covered in this section, please provide details in the space below.

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### D3. ARTICLE 8 - TRACKING AND TRACING

Has a tracking and tracing system been established in your jurisdiction (also in relation to Article 15.2.b of the WHO FCTC)?

No ✘

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Is it a requirement that unique, secure and non-removable identification markings (“unique identification markings”), such as codes or stamps, are affixed to or form part of:

All unit packets of cigarettes

No ✘

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All unit packages of cigarettes

No ✘

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Any outside packaging of cigarettes

No ✘

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All unit packets of other tobacco products

No ✘

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All unit packages of other tobacco products

No

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Any outside packaging of other tobacco products

No

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Is the following information available in your jurisdiction, either directly or accessible by means of link?

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Date of manufacture

No

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Location of manufacture

No

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Manufacturing facility

No

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Machine used to manufacture tobacco products

No

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Production shift or time of manufacture

No

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Information (name, invoice, order and payment records) on the first customer who is not affiliated with the manufacture

No

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The intended market of retail sale

No

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Product description

No

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Any warehousing and shipping

No

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The identity of any subsequent purchaser

No

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Shipment details (intended shipment route, the shipment date, shipment destination, point of departure and consignee)

No

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How is this information specified under D33 recorded in your country?

Currently we intend to use ASYCUDA World as the tracking and tracing program to be used by us and Fiji Revenue & Customs Services. All parties concerned are yet to agree to the terms. other than that its the Fiji Revenue & Customs Services who have records of this.

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Is the recorded information accessible to the global information sharing focal point through a secure electronic interface?

No ✘

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In which way have you ensured that any of the obligations assigned to your government are not delegated to or performed by the tobacco industry?

Awareness to all parties and stakeholders on the obligations of the government to the protocol including tobacco industry interference. If a certain person or consultant does approach any of the stakeholder, than that a meeting between stakeholders are convened to clarify if the company or person is backed by the Tobacco Industry.

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Which percentage of the costs associated with the government's obligations concerning the tracking and tracing regime, has the tobacco industry been required to bear?

None so far.

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Please provide a brief description of the progress made in implementing Article 8 (Tracking and tracing) in the past two years or since submission of your last report.

Fiji Revenue and Customs Service uses ASYCUDA World and has begun liaising with Ministry of Health and Medical Services on how to integrate T&T requirements into the ASYCUDA platform.

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If you have any other relevant information pertaining to but not covered in this section, please provide details in the space below.

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## D4. ARTICLE 9 - RECORD-KEEPING

Do you require maintenance of complete and accurate records of all relevant transactions, for all natural and legal persons engaged in the supply chain of:

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Tobacco?

Yes ✓

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Tobacco products?

Yes ✓

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Manufacturing equipment?

No ✗

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What information do you require persons licenced in accordance with Article 6 of the Protocol to provide to the competent authorities?:

The Tobacco Control Act and Regs require that licensees are required to keep purchase and sales records.

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In your country, are tobacco products and manufacturing equipment sold or manufactured for export, or subject to duty-suspended movement in transit or transshipment on the territory?

No ✗

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What kind of measures have you adopted (legislative, executive, administrative or other measures) for record-keeping?

Tobacco Control Act/Regs requires records to be kept for 2 years.

Customs legislation require records to be kept for 5 years (s 114 and 114B).

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Have you established a system for sharing with other Parties details contained in all records kept in accordance with Article 9?

Yes ✓

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Do you cooperate with other Parties and with competent international organizations in progressively sharing and developing improved systems for record-keeping?

Yes ✓

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Please provide a brief description of the progress made in implementing Article 9 (Record keeping) in the past two years or since submission of your last report.

Fiji health and law enforcement agencies have a history of co-operating with other countries and international agencies (e.g., Pacific, regional, and global customs, law enforcement, and public health).

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If you have any other relevant information pertaining to but not covered in this section, please provide details in the space below.

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## D5. ARTICLE 10 - SECURITY AND PREVENTATIVE MEASURES

What kind of measures are in place in your jurisdiction to prevent diversion of tobacco products into illicit trade channels?

There is no explicit requirement in the Tobacco Control Act and Regs, or other Fiji legislation for licensees to “to take....measures to prevent the diversion of TPs into IT channels” as described in A10.1 of the ITP.

However, there are a number of existing controls in Fiji law that help achieve a similar intent and place obligations on parties.

Customs legislation has a sound system of controls around tobacco products that are imported, exported, stored and moved within Fiji. For example a customs officer is based at Fiji’s sole tobacco manufacturer to check applicable excise is paid and monitor amounts produced and track movement of tobacco products. Customs officers are present when TPs are removed from approved warehouses for distribution in Fiji or for export (or entered into such warehouses. Customs and Health officers check imports of tobacco products to ensure the goods are consistent with the manifests provided. Use of technology such as cameras are used as required.

Fiji also has record keeping requirements under Tobacco Control Act and customs legislation (see A9 table above).

There are also a range of offences for various behaviours (eg, smuggling, non-payment of excise, false declarations, importing, manufacturing and selling without applicable licences, registrations, etc).

Fiji also has a suite of laws which support the ITP and require parties do things (see below). For example the Financial Transaction Reporting Act requires financial institutions to put in place strict systems and procedures for doing business with their customers.

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Do you have sanctions in place when licensees do not adhere to the provisions of article 10?

Yes ✓

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If so, please provide further information regarding the kind of sanctions.

Yes. Legislation such as the Financial Transaction Reporting Act 2004 has penalties for people who contravene their obligations.

Under customs legislation avoidance of duty can be met with strong penalties. In some cases these can be 2 or 3 times the value of the goods if the this is greater than the penalty stated in the legislation.

The Tobacco Control Act and Regs have provisions to enable suspension or revocation of licenses/registration. For example the PS can revoke wholesaler, retailer registration if they are convicted of crimes.

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Please provide a brief description of the progress made in implementing Article 10 (Security and preventive measures) in the past two years or since submission of your last report.

The Tobacco Control & Enforcement Unit is also a technical working member of the National Narcotics Committee that consists of Police, Army, Naval, Customs and other border control agencies/stakeholders. The TWG is part of the regional transnational Crime watch group. Though the Unit does not sit in in any meetings, it however can access their services when needed.

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If you have any other relevant information pertaining to but not covered in this section, please provide details in the space below.

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## D6. ARTICLE 11 - SALE BY INTERNET, TELECOMMUNICATION OR ANY OTHER EVOLVING TECHNOLOGY

Does the Protocol apply to all sales through internet, telecommunication or any other evolving technology?

Yes ✓

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Have you banned sales of tobacco products through internet, telecommunication or any other evolving technology?

Yes ✓

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If so, please provide further details.

Advertising of Tobacco and tobacco products is prohibited under the Fiji tobacco legislations.

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Please provide a brief description of the progress made in implementing Article 11 (Sales by Internet, telecommunication or any other evolving technology) in the past two years or since submission of your last report.

Advertising via internet, telecommunications is prohibited. Those found to be in violation of the legislation have been taken to court.

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If you have any other relevant information pertaining to but not covered in this section, please provide details in the space below.

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## D7. ARTICLE 12 - FREE ZONES AND INTERNATIONAL TRANSIT

Do you have authorizations to conduct controls in free zones, by use of all relevant measures as provided in the Protocol?

Yes ✓

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Do you prohibit the intermingling of tobacco products with non-tobacco products in a single container or any other such similar transportation unit at the time of removal from free zones?

No ✘

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Do you control transit or transshipment of tobacco products and/or manufacturing equipment?

No ✘

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Please provide a brief description of the progress made in implementing Article 12 (Free zones and international transit) in the past two years or since submission of your last report.

Re: D72, While there are so specific laws around intermingling of TPs with other goods, the fraudulent declarations etc would apply to anyone seeking to do this to avoid any applicable laws (eg, import or excise duties).

Re: D73, Normal border control laws would apply to tobacco products. Part 13 of the Customs Act 1986 covers goods for transshipment

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If you have any other relevant information pertaining to but not covered in this section, please provide details in the space below.

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## D8. ARTICLE 13 - DUTY FREE SALES

Do you allow duty-free sales in your jurisdiction?

Yes ✓

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If yes, are they taking place?

Yes ✓

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Do you implement effective measures to subject any duty-free sales to all relevant provisions of this Protocol?

Yes ✓

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If yes, please provide details

For example, duty free retailers need to be registered and can only supply to the duty free market.

Only 200 cigarettes or 200grams of tobacco is permitted to be imported per person.

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Please provide a brief description of the progress made in implementing Article 13 (Duty free sales) in the past two years or since submission of your last report.

There was a decrease in duty free allowance from 250 cigarettes/250 grams to 200 cigarettes/200 grams.

If you have any other relevant information pertaining to but not covered in this section, please provide details in the space below.

## PART IV: E. OFFENCES (Articles 14-19 of the Protocol)

### ARTICLE 14: UNLAWFUL CONDUCT INCLUDING CRIMINAL OFFENCES

Please note that information requested in this section might be of confidential nature and might only be made accessible to Parties to the Protocol only, upon their request, unless otherwise stated by the transmitting Party.

In accordance with the Protocol, does the following constitute an unlawful conduct in your country's domestic laws?

	Tobacco	Tobacco Products	Manufacturing equipment
E11a. Illicit manufacturing, wholesaling, brokering, selling, transporting, distributing, storing, shipping, importing or exporting of:	1	1	
E11b. Tax evasion for tobacco products for:	1	1	
E11c. Smuggling or attempted smuggling of:	1	1	

In accordance with the Protocol, does the following constitute an unlawful conduct in your country's domestic law?

concealment of tobacco products?

Yes ✓

intermingling of tobacco products with non-tobacco products in contravention of Article 12.2 (*Free Zones and international transit*) of the Protocol?

No ✘

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illicit trade of tobacco products through the Internet or other technology-based modes of sale?

Yes ✔

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acting against good faith in relation to the supply chain of tobacco products?

No ✘

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obstructing any public officer or an authorized officer in the performance of duties relating to the prevention, deterrence, detection, investigation or elimination of illicit trade in tobacco, tobacco products or manufacturing equipment?

Yes ✔

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fraud?

Yes ✔

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money laundering?

Yes ✔

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Does any of the above activities constitute criminal offences in your jurisdiction?

Yes ✔

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If yes, please provide further details.

Yes Fiji has legislation to cover money laundering. Examples include:

- The Financial Transaction Reporting <https://www.fijifiu.gov.fj/getattachment/Law-Regulations/FTR-Act/ftrAct2004.pdf.aspx>
  - The Proceeds of Crime Act 1997 <http://www.oecd.org/site/adboecdanti-corruptioninitiative/39830464.pdf>
- 

Please attach the relevant legislation concerning the establishment of unlawful conduct in your country.

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Please provide a brief description of the progress made in implementing Article 14 (Unlawful conduct including criminal offences) in the past two years or since submission of your last report.

Offenders have been taken to the Fiji Magistrates Court since 2012 when the legislation came into force. Public awareness and training of all authorized officers/stakeholders for the enforcement of the legislation. Environmental Health Officers (EHOs) have been attending Basic & Advance Prosecution Course coordinated by the Office of Director of Public Prosecution (ODPP). This training ensures that EHOs are empowered to appear in all magistrates court in Fiji, litigating on behalf of the state. this has progressed quite well, and sees that EHOs as authorized officers can enforce and litigate.

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If you have any other relevant information pertaining to but not covered in this section, please provide details in the space below.

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## E2. ARTICLE 15: LIABILITY OF LEGAL PERSONS

Has the liability of legal persons been established for the unlawful conduct (including criminal offences) under Article 14 of the Protocol?

Yes ✓

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Please provide a brief description of the progress made in implementing Article 15 (Liability of legal persons) in the past two years or since submission of your last report.

We have an independent commission in Fiji namely the Fiji Independent Commission Against Corruption (FICAC). They were established to look into such issues of probable corrupt practices or liability of legal persons or persons in supervisory/ management roles in Fiji.

We also have an internal disciplinary Investigation Team within the government system and an Audit team within the Ministry of Health.

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If you have any other relevant information pertaining to but not covered in this section, please provide details in the space below.

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## E3. ARTICLE 16: PROSECUTIONS AND SANCTIONS

Is it ensured that persons held liable for the unlawful conduct (including criminal offences) under Article 14 are subjected to effective, proportionate and dissuasive criminal or non-criminal sanctions, including monetary sanctions?

Yes ✓

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Please provide a brief description of the progress made in implementing Article 16 (Prosecutions and sanctions) in the past two years or since submission of your last report.

Fiji legislation summarised above has established penalties for those convicted of offences (monetary and in some cases imprisonment). There are also administrative sanctions (eg, revocation of licences, etc.) Fiji will administer such discretionary legal powers as is appropriate in each particular case.

Fiji is ITP compliant regarding its applicable existing laws, but will also need to ensure any new unlawful conduct created by amendments to legislation are covered off as required.

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If you have any other relevant information pertaining to but not covered in this section, please provide details in the space below.

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## E4. ARTICLE 17: SEIZURE PAYMENTS

Have you adopted legislative and / or other measures to levy an amount proportionate to lost taxes and duties from the producer, manufacturer, distributor, importer or exporter of seized tobacco, tobacco products and /or manufacturing equipment?

Yes ✓

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Please provide a brief description of the progress made in implementing Article 17 (Seizure payments) in the past two years or since submission of your last report.

We currently have a case against an illegal importation of Chinese Cigarette. If successfully convicted, we can make an application in high court for seizure of any assets/money attained during the illicit trade of tobacco products.

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If you have any other relevant information pertaining to but not covered in this section, please provide details in the space below.

Customs and excise legislation sets out appropriate penalties for importers and manufacturers). Some of these are described in terms of a monetary penalty that can be up to two or three times the value of the evaded duty or excise (whichever is greater).

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## E5. ARTICLE 18: DISPOSAL OR DESTRUCTION

Please provide information on the quantity of confiscated tobacco, tobacco products and manufacturing equipment that was destroyed (e.g, product, unit, quantity, by year and destruction method), if available.

We do not have the exact amount of confiscated tobacco and tobacco products including manufacturing equipment.

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Please provide a brief description of the progress made in implementing Article 18 (Disposal or destruction) in the past two years or since submission of your last report.

A technical working group between Fiji Revenue and Customs Service, Ministry of Health and Medical Services and WHO was formed in 2018.

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If you have any other relevant information pertaining to but not covered in this section, please provide details in the space below.

Currently Fiji has not covered disposal or destruction in the current tobacco legislation. We intend to address the issue in the amendments to include all traders of tobacco and tobacco products.

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## E6. ARTICLE 19: SPECIAL INVESTIGATIVE TECHNIQUES

Do you allow the use of controlled delivery and other special investigative techniques to effectively combat illicit trade in tobacco, tobacco products or manufacturing equipment?

Yes ✓

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If yes, please provide details.

Fiji customs, police and health officials advise that such investigative techniques are available to assist with enforcement activity if required.

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Have you concluded any bilateral or multilateral agreement or arrangement for the use of techniques mentioned above when investigating the criminal offences established in accordance with Article 14 of the Protocol?

Yes ✓

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If yes, please give further details on any agreement or international cooperation with other Parties for the use of such techniques in this area.

through membership in Oceania Customs Organisation

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Please provide a brief description of the progress made in implementing Article 19 (Special investigative techniques) in the past two years or since submission of your last report.

Fiji Revenue and Customs Organization have access to software shared through the transnational Crime and Fiji Immigration department that monitors the inward and outward travel of any citizen or overseas traveler into and out of Fiji.

The Tobacco Control & Enforcement Unit can access such information (through the National Tobacco Technical Working Group formed in 2018) when the need arises.

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If you have any other relevant information pertaining to but not covered in this section, please provide details in the space below.

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## PART V: F. INTERNATIONAL COOPERATION

### ARTICLE 20 – GENERAL INFORMATION SHARING

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## Article 20.1(a) SEIZURES OF ILLICIT...

	<b>Quantity seized</b>	<b>Value of seizures Please specify currency (e.g. in USD or local currency)</b>	<b>Description of seized product</b>	<b>Date and place of manufacture</b>	<b>Taxes evaded (in USD or local currency; please, specify)</b>
F11b. ...smoking tobacco products	61,200	FJD22,625.43	cigarettes	China	

Please provide examples of some of your seizures, if available.

China - Dec 2014, cigarettes concealed in LED boxes (10 pkts); duty value FJ\$730.90

China - Mar 2015, 244 gross (250) cigarettes; duty value FJ\$21, 894.53

## Article 20.1(b) TOBACCO TRADE-RELATED MATTERS...

	<b>Import (please specify unit)</b>	<b>Export (please specify unit)</b>	<b>Transit (please specify unit)</b>	<b>Taxes paid (in USD or local currency; please, specify)</b>	<b>Duty free sales (in USD or local currency; please, specify)</b>	<b>Quantity or value of domestic production (please specify unit)</b>
F12a. ...tobacco (raw)	146065.95kg			FJD235813.83		
F12b. ...smoking tobacco products	3960.14kg			FJD425450.44		
F12c. ...smokeless tobacco products	36.35kg			FJD223.25		



Please provide a brief description of the progress made in implementing Article 20 (General information sharing) in the past two years or since submission of your last report.

Data in table F12 above is from 2019. The Fiji Revenue and Customs Services have an amicable relationship with the Ministry of Health & Medical Services. This relationship was strengthened in 2018 with the formation of the Technical Working Group.

Currently we have the Memorandum of Understanding being reviewed, which will strengthen "Information Sharing" by both parties on Elimination of the illicit trade of tobacco products.

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If you have any other relevant information pertaining to but not covered in this section, please provide details in the space below.

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## F2. ARTICLE 21 – ENFORCEMENT INFORMATION SHARING

Have you exchanged enforcement information with another Party on your own initiative or on their request?

Yes ✓

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If yes, please provide examples of such enforcement information sharing (also in relation Article 24.2 of the Protocol).

FRCS and MOHMS share information; FRCS shares information with Oceania Customs Organisation and MOHMS shares information with WHO.

MoHMS always shares information with the Fiji Police Force during joint enforcement operations and special investigations. Authorized officers are trained by the Fiji Police Academy Crime & Fraud Unit.

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Please provide a brief description of the progress made in implementing Article 21 (Enforcement information sharing) in the past two years or since submission of your last report.

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If you have any other relevant information pertaining to but not covered in this section, please provide details in the space below.

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### F3. ARTICLE 22 – INFORMATION SHARING: CONFIDENTIALITY AND PROTECTION OF INFORMATION

Have you designated competent national authority or authorities to which data referred to in Articles 20, 21 and 24 of the Protocol are supplied?

Yes ✓

If yes, please provide the name and contact details of such competent national authority or authorities.

Tobacco Control Enforcement Unit of the Ministry of Health and Medical Services

Please provide a brief description of the progress made in implementing Article 22 (Information sharing: General Obligations) in the past two years or since submission of your last report.

MOHMS Fiji has a MOU drafted with the FRCS currently under review to formalize the information sharing process.

If you have any other relevant information pertaining to but not covered in this section, please provide details in the space below.

### F4. ARTICLE 23 - ASSISTANCE AND COOPERATION:

Have you provided financial or technical assistance (be it through unilateral, bilateral, multilateral agreements, and/or through international and regional organizations) in any of the following areas:

F41a. Information gathering	No
F41b. Law enforcement	Yes
F41c. Tracking and tracing	No
F41d. Information management	No
F41e. Protection of personal data	No
F41f. Interdiction	No
F41g. Electronic surveillance	No
F41h. Forensic analysis	No
F41i. Mutual legal assistance	No
F41j. Extradition	No

If you answered "Yes" to any of the previous sub-questions, please provide further information (Party/Parties that were provided assistance, type of assistance (project), etc.)

In 2019, MOHMS Fiji hosted a study tour for Samoa MOH and Police to observe how Fijis tobacco control enforcement operations work.

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Have you received financial or technical assistance (be it through unilateral, bilateral, multilateral agreements, and/or through international and regional organizations) in any of the following areas:

F42a. Information gathering	Yes
F42b. Law enforcement	No
F42c. Tracking and tracing	Yes
F42d. Information management	Yes
F42e. Protection of personal data	No
F42f. Interdiction	No
F42g. Electronic surveillance	Yes
F42h. Forensic analysis	Yes
F42i. Mutual legal assistance	No
F42j. Extradition	No

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If you answered "Yes" to any of the previous sub-questions, please provide further information (Party/Parties from which assistance was received, type of assistance (project), support from other entities including the tobacco industry etc.)

OCO, UNCTAD, Australian Federal Police and NZ Police have provided technical assistance to the Government of Fiji.

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Have you developed or conducted research on identifying the exact geographical origin of seized tobacco and tobacco products?

No ✘

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Please provide a brief description of the progress made in implementing Article 23 (Assistance and cooperation: training technical assistance and cooperation in scientific, technical and technological matters) in the past two years or since submission of your last report.

However, OCO is monitoring F43

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If you have any other relevant information pertaining to but not covered in this section, please provide details in the space below.

## F5. ARTICLE 24 – ASSISTANCE AND COOPERATION: INVESTIGATION AND PROSECUTION

Have you entered in multilateral, regional or bilateral arrangements for the purpose of the advancement of investigation and prosecution of offences in accordance to Article 24 of the Protocol?

No ✘

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Have you cooperated and exchanged relevant information?

No ✘

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Please provide a brief description of the progress made in implementing Article 24 (Assistance and cooperation: investigation and prosecution of offences) in the past two years or since submission of your last report.

MOHMS and FRCS have an MOU under draft; FRCS is a member of OCO.

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If you have any other relevant information pertaining to but not covered in this section, please provide details in the space below.

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## F6. ARTICLE 26 - JURISDICTION

Have you adopted measures to establish your jurisdiction over the criminal offences in accordance with Article 14 of the Protocol?

No ✘

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Please provide a brief description of the progress made in implementing Article 26 (Jurisdiction) in the past two years or since submission of your last report.

Fiji Currently does not have any measures in place .

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If you have any other relevant information pertaining to but not covered in this section, please provide details in the space below.

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## F7. ARTICLE 27 – LAW ENFORCEMENT COOPERATION

Have you established mechanisms for effective domestic cooperation, including between customs, police and other law enforcement agencies, for the benefit of information sharing and law enforcement?

Yes ✓

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If yes, please provide examples of such domestic cooperation.

MOHMS and FRCS have a draft MOU. However, even without that the MOHMS, Police and FRCS have worked together to enforce the tobacco control act and regs and customs laws relating to tobacco.

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Have you established mechanisms for cooperation with other Parties for the benefit of information sharing and law enforcement?

No ✗

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Please provide a brief description of the progress made in implementing Article 27 (Law enforcement cooperation) in the past two years or since submission of your last report.

the Unit is a member of the National Narcotics technical Working Group of which Fiji Revenue & Customs Services, Fiji Police Force and other enforcement agencies are party to. We do share information when and if the need arises.

Apart from that, the MOU with FRCS will ensure the ease of sharing information between the two parties instead of the usual government red tape and the need to obtain the approval of Senior Management for issues highlighted in the MOU, which includes Enforcement operations, customs data and so forth.

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If you have any other relevant information pertaining to but not covered in this section, please provide details in the space below.

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## F8. ARTICLE 28 – ASSISTANCE ADMINISTRATIVE MUTUELLE

Have you entered into a procedure of mutual administrative assistance with another Party on the basis of the Protocol?

No ✗

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Please provide a brief description of the progress made in implementing Article 28 (Mutual administrative assistance) in the past two years or since submission of your last report.

Fiji has not entered a procedure of mutual administrative assistance with another Party.

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If you have any other relevant information pertaining to but not covered in this section, please provide details in the space below.

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## F9. ARTICLE 29 – MUTUAL LEGAL ASSISTANCE

Have you entered into mutual legal assistance procedures with another Party on the basis of the Protocol?

No ✘

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Have you designated a central authority for the purpose of mutual legal assistance?

No ✘

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Please provide a brief description of the progress made in implementing Article 29 (Mutual legal assistance) in the past two years or since submission of your last report.

Whilst MoHMS has not entered into any Mutual Legal Assistance with another Party on the Protocol, another arm of the Government i.e. the Attorney General. In 1997, Fiji enacted the Mutual Legal Assistance in Criminal Matters Act, the domestic legislation that facilitates the provision of assistance to law enforcement and judicial authorities abroad. The Act has been further strengthened by amendments that were made in 2005. It can be applied where requests are made under bilateral treaties or Exchange of Notes, multi-lateral conventions, and other special international arrangements.

The amendment to section 5 of the Act has had the effect that the Act will apply even if there is no reciprocal arrangement or agreement with the requesting country. In practice, this would mean that the Attorney -General may agree to facilitate any request for international assistance, and not seek reciprocal undertakings.

The Attorney-General is the appropriate authority duly authorized to make and receive requests for international assistance.

In practice, it is the Director of Public Prosecutions (DPP) who verifies compliance and implements all requests. Foreign authorities may seek the advice of the DPP, and draft requests can be forwarded to him for comment, to ensure that they comply with Fiji statutory requirements and delays are avoided. This also ensures that all Mutual Legal Assistance requests, including requests in relation to money laundering and terrorist financing, are processed and executed without delay in a timely manner including the prioritisation of requests.

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If you have any other relevant information pertaining to but not covered in this section, please provide details in the space below.

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## F10. ARTICLE 30 – EXTRADITION and ARTICLE 31 – MEASURES TO ENSURE EXTRADITION

Have you utilized the Protocol for the purposes of extradition?

No

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Please provide a brief description of the progress made in implementing Articles 30 (Extradition) and 31 (Measures to ensure extradition) in the past two years or since submission of your last report.

For Fiji, the Office of the Director of Public Prosecution (ODPP) acts on behalf of the state or government departments including MoHMS.

When requests for extradition are made to or made by Fiji, the ODPP acts in accordance with the Extradition Act 2003. This Act provides a comprehensive and modern scheme of extradition to respond to all requests from any country, and attempts to overcome many of the issues that stifled and delayed the processing of past extradition requests. This also ensures that all extradition requests, including requests in relation to money laundering and terrorist financing, are processed and executed without delay in a timely manner including the prioritization of requests.

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If you have any other relevant information pertaining to but not covered in this section, please provide details in the space below.

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## PART VI: G. PRIORITIES AND COMMENTS

What are the priorities for implementation of the Protocol in your jurisdiction?

To begin integration of the T&T requirements into the ASYCUDA World platform as appropriate.

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In relation to Article 36 of the Protocol, do you finance your national activities, in accordance with your national plans, priorities and programmes?

No

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Have you identified any specific gaps between the resources available and the needs assessed for implementing the Protocol?

No

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What, if any, are the constraints or barriers, other than lack of resources, you have encountered in implementing the Protocol?

Specific guidelines/guidance on T&T.

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If any of the actions reported in this instrument were only taken at subnational level, please give further information here.

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Please provide any other relevant information not covered elsewhere that you consider important.

In January 2020, a private company "OpSec Security" approached FRCS to support T&T and after reaching out to MOHMS, WHO and the Convention Secretariat, the MOHMS did inform the FRCS that this companys claims were misleading and to consider using the existing ASYCUDA World platform instead.

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Please provide any suggestions for further development and revision of this reporting instrument.

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