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United Nations Office on Drugs and Crime



# Rapid Assessment: Criminal justice response to wildlife and forest crime in Fiji

July 2022



### **Disclaimer and acknowledgement**

This publication has been produced with the general financial support of the Bureau of International Narcotics and Law Enforcement Affairs of the US State Department.

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## Acronyms

ABF	Australian Border Force
AFP	Australian Federal Police
BAF	Biosecurity Authority of Fiji
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
DOE	Department of the Environment
EEZ	Exclusive Economic Zone
EMS	Electronic Monitoring System
FICAC	Fiji Independent Commission Against Corruption
FPF	Fiji Police Force
FRCS	Fiji Revenue and Customs Service
FSC	Forest Stewardship Council
MDNSP	Ministry of Defence, National Security and Policing
MITA	Ministry of iTaukei Affairs
MoF	Ministry of Forestry
MoFs	Ministry of Fisheries
MSAF	Maritime Safety Authority of Fiji
NTF	National Trust of Fiji
NZCS	New Zealand Customs Service
NZP	New Zealand Police
ODPP	Office of the Director of Public Prosecutions
OFD	Offshore Fisheries Division
RFN	Republic of Fiji Navy
UNODC	United Nations Office on Drugs and Crime
VMS	Vessel Monitoring System
WCO	World Customs Organisation

## Introduction

The objective of the rapid assessment is to understand the current context of wildlife and forest crimes in Fiji and to determine the effectiveness of the criminal justice response in addressing these crimes. The research was based on a desk review of the available primary and secondary data and interviews with key stakeholders from government and non-government organisations. Interviews were conducted with the main agencies of the criminal justice system such as prosecutors, police, customs, and environment/forestry officials involved in law enforcement and compliance. Interviews were also conducted with representatives from Nature Fiji, WWF, and IUCN. Wherever possible, interviews were conducted at the level of departmental head or deputy.

For the purposes of this report, “wildlife crime” refers to the taking, trading (supplying, selling, or trafficking), importing, exporting, processing, possession, obtaining or consumption of wild fauna and flora in contravention of national or international law. Given the importance of oceans and coral reefs in the Pacific context, this study also looked at the way these crimes affect certain marine species such as dolphins, marine turtles, giant clams, sea cucumber, sharks, and other species that may be targeted for illegal trade in a similar way to terrestrial wildlife species. However, illegal, unreported, and unregulated (IUU) fishing and other related fisheries crimes were outside the scope of this study and were not considered during the meetings or analysis.

The political commitment to use criminal justice resources to target the illegal exploitation and trade in wildlife and timber is one of the starting points for this country analysis. Criminal justice systems deal with multiple crime types and face considerable public and political pressure on a range of issues. In practice, criminal justice actors prioritise their interventions to meet the extensive demands on their services in the best way possible, given the limited resources at their disposal.

While criminal justice systems are designed in theory to respond to all crimes, the aim of this report is to map out the roles, responsibilities, and processes undertaken by the various agencies in investigating and prosecuting wildlife and forest crimes in Fiji, how these agencies interact, strengths and challenges, and their capabilities to undertake complex investigations. The report concludes with a set of recommendations which are aimed at national policy makers, but also at generating a wider discussion as to how criminal justice interventions could play a more effective role in tackling transnational wildlife and forest crime and raising awareness of this issue in Fiji.

## Fiji background and context

Fiji is an island country in the South Pacific roughly midway between Tonga and Vanuatu. The Fijian archipelago covers a total area of 194,000 km<sup>2</sup>, although only 10% of this is made up of land. Fiji consists of 332 islands, of which 106 are inhabited. The islands are mostly of volcanic origin and can be divided into nine separate geographic island groups, Viti Levu, Kadavu, Lau, Mamanuca Islands, Rotuma, Vanua Levu, Yasawa, Lomaiviti and Conway Reef.

The population of Fiji was estimated at approximately 896,444 and the GDP at USD 4.534 billion according to World Bank Data in 2020. The population is also relatively young, with 69% of people under 40 years old. There are three official languages in Fiji, iTaukei, Hindi and English. The economy is based on tourism and subsistence agriculture with sugar being the main agricultural export. Fishing is an important source of income and service sectors continue to grow along with construction, manufacturing, and retail activity.

Approximately 56% of Fiji's total area remains forested including tropical lowland rainforests, montane rain forest, cloud forest, broad-leaved deciduous forest, conifer forest, and mangrove forests.

Fiji has 177 different bird species, 39 species of reptiles, and six species of flying foxes and bats, which are the only terrestrial mammals. Endemic species include the Fiji crested iguana (*Brachylophus vitiensis*) and the Fiji banded iguana (*Brachylophus fasciatus*), both very popular in the global pet trade. There are only an estimated 13,000 Fiji crested iguanas remaining in the wild, with an estimated 12,000 individuals found on one small 70-hectare island of Yadua Taba. Other species include the Fijian monkey-face bat (*Mirimiri acrodonta*), various birds such as the collared lory (*Phigys solitarius*), golden fruit dove (*Ptilinopus luteovirens*), and masked shining parrot (*Prosopeia peronata*), and freshwater fish. There is also a high diversity of orchids, palms, and tree ferns.

In its oceans, Fiji has an extensive and high diversity of coral reefs, seagrass beds, deep water seamounts and canyons supporting a variety of marine mammals, fish, crustaceans, and mollusc species. Key marine species include dolphins, whales, eels, sea snakes and hawksbill, leatherback, and olive ridley sea turtles, sea cucumber, coconut crabs, and more.

As a region rich in natural resources and rare and endangered endemic species that are highly valuable in the trade, the Pacific is an attractive source location for wildlife criminals and specialist collectors. However, this assessment showed that in general there is very little focus on wildlife and forest crime risks and threats in Fiji, and very little data or cases available to indicate the extent that these crimes may be occurring. Fiji law permits the cultural use of terrestrial wildlife and there are few restrictions on the hunting or taking of most native species for domestic purposes, which may partially account for the lack of focus on this issue. But as was highlighted by Fiji Police and Customs, this area is a significant information gap, and while there is an understanding that these crimes are occurring, the size and scale of the issues is unknown.

CITES trade data for the last three years for Fiji shows several small exports of whale teeth, green sea turtles and approximately 1,500 cubic metres of mahogany. Prior to 2018, CITES trade from Fiji was overwhelmingly live corals, however this was banned from 2019.

The largest timber operator in Fiji is Fiji Pine Limited which was originally government owned when it was formed in 1976. Fiji Pine Ltd is FSC-certified and considered a low risk by the Ministry of Forestry. The other major timber company is Fiji Hardwood Corporation Limited, a state-run enterprise commenced in 1998 to manage Fiji's hardwood plantations of primarily mahogany. Most other companies in the forestry sector are locally owned and are small to medium scale operations. There is also a national focus on developing plantations to supply the domestic timber needs and transition away from logging in native forests.

In terms of responding to transnational crimes, Fiji faces the same challenges as other Pacific countries in having an extensive geographic area, porous maritime borders, relatively small populations scattered across multiple islands, and limited law enforcement resources to patrol its vast territory. For criminal enterprises, the relatively low risk of detection and the profitability of transnational and organised crime contribute to the Pacific's appeal as both a location and transit route for transnational crime.

Fiji's economy suffered because of the COVID-19 pandemic as tourist numbers slumped after the government introduced a travel ban, and like in many jurisdictions, this resulted in far fewer cases of smuggling in 2020-2021 than in previous years. However, national borders have reopened, and it is anticipated that smuggling may rise in 2022.

## Legal framework

Fiji has a comprehensive legal framework in relation to the investigation and prosecution of wildlife and forest crimes, as well as ancillary crimes such as corruption, money laundering and smuggling. Key pieces of legislation include:

- *Environment Management Act 2005*
- *Endangered and Protected Species Act 2002*
- *Forest Decree 1992*
- *Fisheries Act 1941*
- *Crimes Act 2009*
- *Proceeds of Crime Act 1997*
- *Customs Act 1986*
- *Prevention of Bribery Act 2007*
- *Biosecurity Act 2008*
- *National Trust of Fiji Act 1970*

## Wildlife crime

The main legislation used to investigate wildlife crime in Fiji is the *Endangered and Protected Species Act 2002 (EPS)*, amended in 2017, which is administered by the Department of Environment. It applies to all CITES-listed species in Appendix I, II, and III, and more than 300 indigenous Fijian species which are not listed in CITES. Schedule 1 of the Act includes species indigenous to Fiji that are threatened with extinction, and Schedule 2 includes all other indigenous species.

The Act allows some trade of endangered and protected species with quotas, providing that individuals or companies are registered traders with the Department of Environment and have obtained the correct permits to do so. The Act also allows for captive breeding of threatened species for commercial purposes by registered breeding operations.

Under the EPS Act, the maximum penalty for illegal trade or captive breeding in protected wildlife by unregistered individuals is a fine of FJD 20,000 or imprisonment for four years, or for unregistered corporations is a fine of FJD 100,000. Illegal import, export, re-export, or introduction from the sea without a permit are subject to a fine of FJD 20,000 for the first offence, or in the case of a second or subsequent offence, to a fine of FJD 100,000 or to imprisonment for five years. Additional offences under the Act include forgery of permits and the possession, sale, or public display of wildlife by unregistered persons, among others.

A potential weakness in the EPS Act is the lack of provisions to designate full protection to any species or groups of species and prohibition from trade or commercial captive breeding. In its current form, the Act relies on the advice of the Fiji CITES Scientific Council and decisions of the CITES Management Authority on whether proposed imports or exports of specimens will be detrimental to the survival of the species involved on a case-by-case basis. However, during the assessment team's meetings it was mentioned that the Fiji CITES Scientific Council did not meet during 2021 due to COVID-19 restrictions, and that non-detriment finding surveys are carried out every three years or as requested by the Department of Environment, which may not be frequent enough to identify potential emerging trade issues.

Furthermore, the maximum fines available in the penalties are very low compared to the price of some high-value species, especially Fijian iguanas, which can sell for more than 10 times the value of the maximum fine at reptile markets in Europe. This provides little deterrent to would-be offenders, particularly when cases are not prosecuted through the court system.

The EPS Act appears to be primarily focused on managing trade and the utilisation of wildlife and does not include specific provisions to protect wildlife in its natural habitat. A notable gap is that there is no offence relating to illegal hunting or taking of species from the wild. However, there is a separate offence under the Forest Act 1992 (section 28) for setting traps, snares, or nets, or being in possession of a gun in a forest reserve or nature reserve in Fiji, which may partially cover this issue. This could be addressed by adding an offence under Section Seven, 'Enforcement' within the EPS Act.

The EPS Act also lacks provisions or offences for keeping wildlife species as pets in Fiji. Possession of wildlife for this purpose is not a licensed activity and during the interviews the Department of Environment said it does not act on these types of cases, as they are difficult to track and handle. It was reported that native parrots are often kept as pets, and there have been cases of a local NGO rescuing sick birds and rehabilitating them at Kula Eco Park.

Another important piece of legislation is the Environment Management Act, 2005. This legislation primarily deals with development and pollution matters but it does clarify the powers of DOE inspectors and provides them with strong powers in respect to environmental protection, including powers of search and seizure, and the ability to demand the production of documentation. It is unclear however if these powers are used in respect to wildlife crime offences.

### Forest Crime

Fiji's forests consist of 1.2 million hectares of timber, 95% of which consists of native forests with the remaining 5% made up of small portion of plantation forests of mahogany and pine species. Fiji's forestry sector generated about FJD 66 million net income in 2020.<sup>1</sup>

The main legislation to investigate forest crime in Fiji is the *Forest Act 1992* and its subsidiary regulations, which are administered by the Ministry of Forestry. A new Forestry Bill is currently being drafted and is expected to be tabled in Parliament in 2022.

The Forest Act recognises customary rights on iTaukei land, which is approximately 89% of land in Fiji. Customary landowners are given rights of access and use of land resources in Fiji under the Forest Act, which includes the rights to hunt, fish, collect wild fruits and vegetables, and to fell and remove timber or other forest produce for the construction of housing, for firewood, or for other common benefit of domestic life in the community.

The Act stipulates the provisions for licensing to fell or extract timber, to take forest produce or to clear land on the various land classifications, preparing logging plans, prohibited activities, and payment of fees and royalties. There are a range of offences available under the Act including for felling or extracting timber without lawful authority, concealing tree stumps, counterfeiting licences, fraudulent use of hammer marks, making false statements in the licence application, and others.

The penalty for any offence under the Act is a fine up to FJD 10,000 and/or up to 12 months imprisonment. For offences of felling or extracting timber, an additional fine can be imposed equal to the amount of any royalties and fees that would have been payable. There are also provisions for imposing compensation payments to resource owners for damage or injury caused by taking forest produce, and the forfeiture of all equipment and forest produce involved in the commission of the offence.

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<sup>1</sup> 'Forestry Sector Injects Over \$66 million net income into the economy', accessed on Fiji Ministry of Forestry website at: <https://www.forestry.gov.fj/pressdetail.php?id=56>



The Forest Act also has provisions for compounding as an alternative to prosecution, whereby a forestry officer can offer an offender the option to compound the offence with a payment up to one-half of the amount of the fine that would otherwise be prescribed, and any seized property will be released upon payment of the money.

Currently, the law is applicable to the landowner/resource owner as the licensees, while the logging activities are usually carried out by third party contractors engaged by the resource owners in separate agreements outside of the Ministry of Forestry. The Conservator of Forests does add conditions to licences so that contractors can be legally liable for their activities, but it was reported that this issue does create implementation challenges for forestry officers, particularly around the interpretation of the law.

A key concern with the current legislation is the low penalties for offences, which are not commensurate with the high value of timber and would simply be absorbed as a business cost by offending timber companies. Furthermore, it was reported that many offences are dealt with by issuing compound notices, further reducing the amount of the fine payable and the deterrent effect of a penalty. To date, no forestry cases have been prosecuted in the court system in Fiji. The assessment team understands that the new Forestry Bill will remove the compound provision, which will partially resolve this issue but will also highlight weaknesses in capacity.

## Competent law enforcement authorities

### Department of Environment

The Department of Environment (DOE) is Fiji's environment regulator and sits within the Ministry of Waterways and Environment. It is responsible for the enforcement of environmental and natural resources legislation and standards at all levels, and for developing and implementing programmes for the restoration of ecosystems. The DOE is also the competent CITES Management Authority and Scientific Authority.

Approximately 60 officers work for DOE based across the central, northern, and western regions of Fiji. Within DOE, the Resource Management Unit is responsible for CITES enforcement and is staffed with 10 officers, five in Suva and five in the northern and western regions, all of whom have a compliance role. Most of the DOE's compliance work is focused on monitoring activities that require an Environmental Impact Assessment (EIA). In terms of wildlife and forestry activities, an EIA is required prior to logging and prior to the trade of fisheries species.

In terms of investigations under the EPS Act, DOE officers have powers of entry to business premises without a search warrant or residential premises with a search warrant, as well as powers to seize and confiscate specimens or means of committing an offence, collect evidence, and detain suspects for handover to police. Theoretically, the Environment Management Act (EMA) enables inspectors to seize mobile phones and computers, but these powers have not been used for wildlife crime offences. A recent example of a successful investigation and prosecution under the EMA is the case of the State v Freesoul Real Estate Development (Fiji) PTE Limited, which involved illegal mangrove clearing and sea channel digging without an EIA, causing environmental damage. The case is further described in the ODPP section of this report.

DOE collects intelligence and information relating to environmental issues including illegal wildlife trade from members of the public, NGOs, and other agencies such as police and customs. However, it does not have any dedicated intelligence analysis staff or a central database to store the information, and complaints and information received would need to be manually reviewed to conduct analysis and identify trends. DOE representatives suggested a linked database with Fiji Customs and Revenue Service (FCRS) to record intelligence and cases of illegal wildlife trade would be useful. There is also a media team within DOE that monitors social media posts for reports or indications of illegal developments, mangrove removal, wildlife trade, and other activities, and some instances of online sales of native parrots for keeping as pets have been identified this way.

The DOE works closely with FCRS to detect illegal wildlife trade at the borders, and the two agencies are in the process of developing an MOU. Both agencies also participated in Operation Thunder 2021, the global enforcement operation against wildlife and timber crime coordinated by INTERPOL and the World Customs Organization (WCO). As part of this operation, DOE began working with FCRS to develop risk profiles for species listed in the EPS Act and CITES. The profiling project has started with timber species, and risk profiles include information such as companies licensed to harvest and export timber in Fiji, quotas, and companies that have previously applied for permits. DOE also has an MOU for cooperation with the Fiji Police since 2009, and it is currently being reviewed for an update.

DOE has the authority to prosecute its own cases under the EPS Act and has 7-8 prosecutors who have been trained by the Office of the Director of Public Prosecutions (ODPP) on apprehending offences, collecting evidence, and preparing cases for prosecution. While DOE has prosecuted cases for other environmental matters such as illegal development, it has not prosecuted any cases of illegal wildlife trade.

### Implementation of CITES

One of DOE's strategic priorities is the development of an e-tracking system for processing CITES permits under the EPS Act and to improve enforcement of CITES-related matters. DOE has developed a CITES training manual and has delivered training courses for customs officers and other border control agencies as recently as October 2021. There is one company registered with DOE for captive breeding.

Figure 1 below shows reported data of CITES exports from Fiji from 2017-2021. Fiji has previously faced CITES trade suspension in 2016 for significant trade in bubble corals *Plerogyra simplex* and *Plerogyra sinuosa*, both of which are listed under CITES Appendix II. The issue was resolved with a live coral export ban, introduced from June 2019, which banned all harvesting, purchasing, sales and export of live coral and aquarium rock to assist with the regeneration of coral. Only farmed or cultured coral is allowed for export. Live corals are entirely protected under the Customs Act and prohibited from export. The impact of the ban can be seen in the data of CITES Trade Database, which shows a dramatic reduction in exports of live coral from 2018 onwards.

It was reported that there have been some previous shipments that left Fiji without the proper documents or permits and were subsequently returned by the importing country, with the example given of a shipping container of giant clams that was sent out and returned in 2017. There have also been some records of companies trading in protected species without registration with the department. DOE is tightening its permit and registration processes in response to these incidents.

In terms of other cases detected, DOE mentioned several shipments of a species of mud crab that is protected under the EPS Act that ended up in New Zealand. New Zealand authorities detected the shipments and sent an email alert to notify DOE. There have been several cases of tabua (sperm whale teeth) being sent to Australia and New Zealand without obtaining the necessary permits, and there have been some cases of fake tabua detected in trade, which are made from plastic. Tabua are only permitted for trade for cultural purposes, pre-CITES convention. It was reported that carbon dating of tabua would be useful to ensure legal trade. DOE also mentioned there is a lot of interest to commercially trade giant clams in Fiji and a consultant has been engaged to look at this.

Other species of high concern for DOE for potential illegal trade in Fiji include timber and several ornamental fish species for the aquarium trade. The EIA process was reported to be one way that the impact of trade can be assessed.

Figure 1: Data of reported CITES exports from Fiji, 2017-2021 reported in CITES Trade Database

Year	No. exports reported	Species
2017	1,033	1,015 exports were for live coral, almost all of which were wild harvested for commercial trade. Remaining exports included shark fins, giant clams, iguanas, green sea turtles, and timber.
2018	263	221 exports were for live coral, almost all of which were wild harvested for commercial trade. Remaining exports included shark fins and tabua (sperm whale teeth).
2019	9	7 exports for tabua (sperm whale teeth), 1 export involving 34 live green sea turtles, 1 timber export.
2020	3	2 exports of tabua, 1 of timber.
2021	0	N/A

## Ministry of Forestry

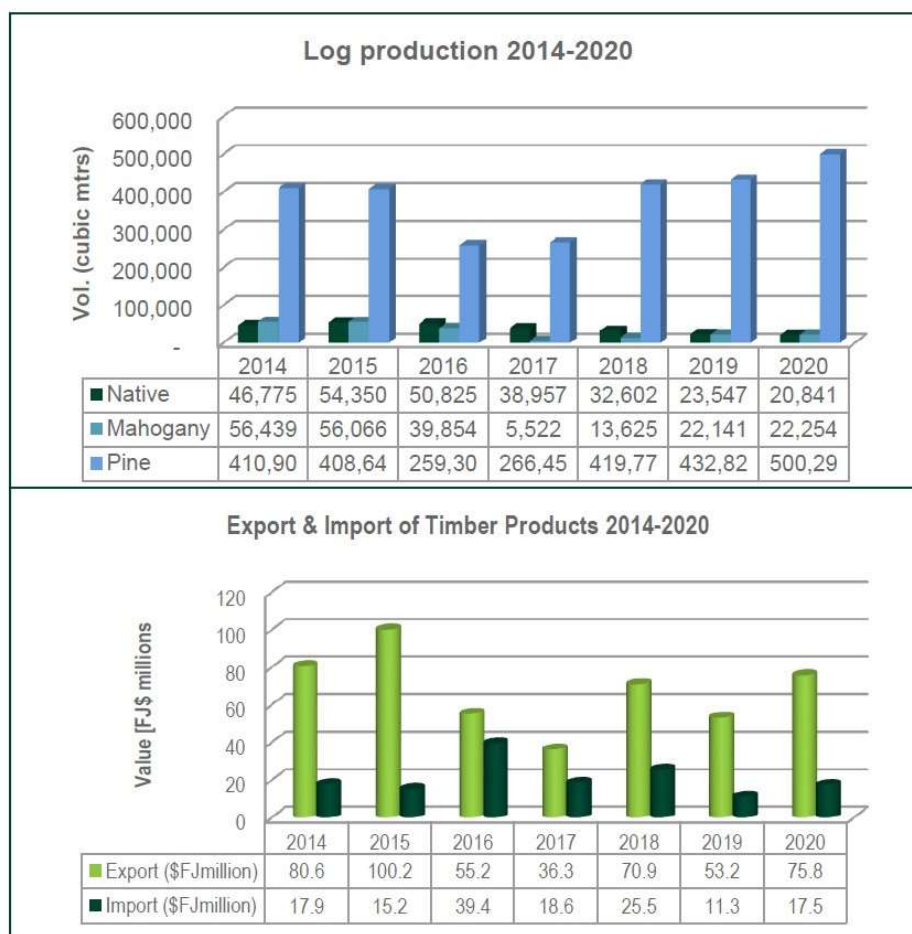
The Ministry of Forestry (MoF) has regulatory and administrative responsibility for managing the forest sector throughout Fiji, administering the *Forest Act, 1992* and the *Fiji Forest Harvesting Code of Practice (FFHCOP) 2013*.

Within MoF there has been a change in direction from extraction to sustainable management and conservation. Concerted efforts are being made in respect to new planting and conservation with a bold strategy under the 'Ridge to Reef' programme, with a target of 30 million new trees planted in 15 years. Much greater attention is being placed on biodiversity hot spots and in June 2022 Fiji will also undertake a National Forest Inventory to take stock of existing forests, both natural and planted.

Key responsibilities of MoF include issuing timber and sawmill licences, monitoring and compliance of logging operations, replanting and reforestation, and forest protection activities. *The Forest Act 1992* is currently being reviewed; however, this review process has been delayed due to the drafting of the new climate change bill.

In 2020, production from native forests was 20,841 cubic metres, whereas pine production from plantations was about 500,000 cubic metres. Mahogany production has been erratic, fluctuating from year to year.

Figure 2: Fiji log production and timber import/export data from 2014-2020



Source: Provided by Ministry of Forestry

The MoF employs approximately 250 staff, divided into six divisions. These are:

- Forest Operations and Extension Services
- Forest Parks and Nature Reserves
- Forest Resource Assessment and Conservation
- Silviculture Research and Development
- Timber Utilisation Research and Product Development
- Training and Education.

Approximately 60% of all MoF staff work in the Forest Operations and Extension Services Division, with the remaining 40% spread across the other five divisions, primarily focused on research and corporate responsibilities.

The 150 staff allocated to Forest Operations and Extension Services are spread across the three central, northern, and western regions. Of the 50 staff allocated to each region approximately 25 perform in an extension role, which involves the planting of new seedlings, raising the seedlings and field work. The remaining 25 officers are allocated to compliance work and inspections. These 25 officers have the required equipment to undertake their roles, but additional specialist equipment is needed.

Training for forestry officers from Fiji and other islands within the Pacific is provided by the MoF-run Fiji Forestry Training Centre (FTC). Here, national and international experts train MoF and other conservation agencies in courses such as Advanced Certificate in Forest Management, technical skills training courses such as chain saw operation, resource owners training and compliance courses. Refresher courses are also offered at the centre.

In terms of investigations under the *Forest Act 1992*, MoF officers have powers of entry to business premises without a search warrant, as well as powers to seize and confiscate specimens or means of committing an offence, collect evidence, and detain suspects for handover to police. There are no specific powers within the Forest Act to allow MoF staff to apply for search warrants to enter residential premises, which is a major issue when investigating any type of serious or organised crime.

The MoF has an investigations unit based within the corporate division, but this unit mainly undertakes investigations for internal matters and does not investigate alleged breaches of the Forestry Act. There is also no dedicated intelligence team within the MoF to enable the collection, analysis, and dissemination of crime trends to enable an intelligence-led approach to compliance and investigations.

At the local level, MoF is also engaged in yearly training with police who are authorised officers under the *Forest Act, 1992*. MoF teaches officers basic skills such as how to read a truck pass, how to read a removal licence and how to check the stamps on the logs. This enables officers to determine whether the truck pass is valid, outdated, or meant for another vehicle.

Logging operations in Fiji are regulated through a licensing system, which includes timber licences and sawmill licences. There are approximately 50 licences issued for sawmills, of which 23 are fixed and 27 are portable. There is also intelligence that there may be up to an additional 10 unlicensed portable sawmills in operation in Fiji.

Licensed sawmill operators are subject to random inspections where officers check for evidence of log stamps, the number of logs in the mill and the source of those logs. These operators are required to provide MoF with the input and output volumes to determine compliance with licensing regulations.

MoF also check that the mill operators are complying with waste management plans and occupational health and safety requirements.

The Conservator of Forests is authorised to issue timber export permits, while Customs and Biosecurity are the primary agencies for inspecting timber shipments and checking permits prior to export. Sometimes MoF may be involved in inspections if either Customs or Biosecurity have any queries relating to permits, quantities, species, or other technical issues.

### **Timber crime issues**

The current system managing forest resources in Fiji is susceptible to manipulation and corruption and is not robust enough to prevent its exploitation by dishonest contractors, corrupt officials, and unscrupulous representatives of the community. Lower income communities can be bought off by way of cash payments or a new vehicle or boat for ensuring access to logging companies.

Compliance operations have also shown that sawmill operators in Fiji are operating below capacity, meaning that there is either insufficient timber to sustain 50 licenced mills or that timber is being laundered through the mills. Several mills were identified as being potentially involved in laundering timber and one example was provided of a sawmill that was declaring 2,000 cubic metres of timber processed annually but failed to declare sales of an additional 7,500 cubic metres of timber worth millions of dollars through a second mill.<sup>2</sup>

Under the current system illegal logging is very rarely, if ever, subject to court proceedings. Instead, perpetrators pay a compound fine many times less than the value of the timber which creates an environment where there is minimal incentive to stop illegal logging. Although provisions exist for the seizing of machinery and equipment used in the illegal logging process, this is not utilised as suspects just pay the compound fine.

There is a general lack of powers vested in the MoF and a lack of capacity to enable them to effectively enforce their own legislation. They have no power to demand the production of support documentation such as books, records, bank account details, emails or phone records that could help ensure compliance with forestry laws and regulations. Their powers of entry only extend to any land where activities subject to a licence or other authorisation under the Act is being conducted, or any timber yard or sawmill, and does not extend to residential premises, business addresses such as accountants, or locations where servers are stored. Nor does the legislation enable inspectors to apply for search warrants to search the aforementioned premises.

MoF recognises that there are issues and is employing strategies to detect illegal logging and prosecute offenders. The MoF with the assistance of the ODPP trained six staff members of MoF to prosecute forestry matters at local court level. These six officers also have a role in investigating alleged forestry breaches which may create a conflict of interest in court matters but is certainly a step in the right direction to addressing current deficiencies in the system. Since the MoF prosecutors have been trained, they have been reporting matters to the FICAC, however no one has been taken to court yet, with issues identified around admissibility in respect to the way the evidence has been collected and presented to the court.<sup>3</sup>

Close cooperation has also been achieved between MoF and the Fiji Police in the Western region, where a joint Viber communication group has enabled a much quicker and proactive response to suspicious activity, and this is helping to drive down the offender in that division. In contrast, the

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<sup>2</sup> MoF interview

<sup>3</sup> *ibid.*

Northern region is recognised as a high-risk zone with increased incidents of illegal logging and potential pockets of corruption, and new staff are being sent in to clean up the issues there.

The MoF is also training landowners to assess their own forests with the dual approach enabling compliance with licence conditions through monitoring and ensuring that landowners receive what is due to them from contractors.

### Fiji Revenue and Customs Service

Fiji Revenue and Customs Service (FRCS) was established as a statutory body under the *Fiji Revenue and Customs Service Act of 1998*. FRCS is governed by a Board and administered by the Chief Executive Officer. FRCS is the major funder of the Fiji National Budget.

The role of FRCS is to:

- Collect taxes and duties on behalf of government.
- Provide quality advice on tax and customs matters to stakeholders.
- Facilitate trade and travel; and
- Protect the borders.

FRCS has five Strategic Focus Areas including:

- Corporate Culture Change.
- Customer Service, Transparency and Communication with Stakeholders.
- Revenue Collection.
- Border Security.
- Governance.

FRCS operates from ten locations throughout Fiji including Ba, Labasa, Lautoka, Levuka, Nadi, Rakiraki, Nausori, Savusavu, Sigatoka and Suva, and has a staff of 537. FRCS has undergone a structural review which saw a realignment to enable it to take advantage of existing internal synergies and new technological advancements, which is hoped will make the organisation more efficient and effective and fit for purpose.<sup>4</sup>

The 537 staff are employed at the FRCS across its six operating arms:

1. People, Capability and Culture
2. Revenue Management
3. Intelligence, Compliance, and Investigations
4. Border Force
5. Corporate Services
6. Technology

The main legislation administered by the FRCS is the *Customs Act 1986*, which has undergone several revisions, the most recent being March 2016. The department also has responsibilities for implementing a range of other taxation, tariff and excise decrees and regulations. The FRCS operates the ASYCUDA ++ software (the UNCTAD Automated System for Customs Data), an integrated customs management system for international trade and transport operations and is implementing the Single Window.

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<sup>4</sup> Fijivillage, 31 January 2022, 'FRCS now has 537 staff after the restructure and our organisation is for purpose – New CEO', accessed at: <https://www.fijivillage.com/news/FRCS-now-has-537-staff-after-the-restructure-and-our-organization-is-fit-for-purpose--New-CEO-f84rx5/>

The ASYCUDA system enables the development of risk profiles, and the system automatically selects the appropriate Single Window Lane for the shipment according to the risks (green, yellow, red, or blue – which means it is subject to an audit). FRCS also uses the National Customs Enforcement Network (nCEN) to collect and store data on interceptions, offences, and offenders.

The primary enforcement and compliance roles for FRCS rest within the Intelligence, Compliance and Investigations, and Border Force Divisions. FRCS undertakes a combination of overt and covert investigations depending on the nature of the suspected offence but has limited covert investigative capabilities. Key units within FCRS with a responsibility for transnational organised crime are the Transnational Crime Unit (TCU) and the Intelligence Team. This is a joint unit that also contains members of the Fiji Police Force.

The TCU has a staffing of four dedicated officers, two Senior Customs Officers and two other Customs Officers. There are currently several vacant positions with the TCU which FRCS hopes to be able to fill in 2022. The TCU's mandate is to respond to transnational crime threats impacting on Fiji and to act as an intelligence sharing conduit between internal units within FRCS and national and international agencies.

In cooperation with Fiji Police, the FRCS has undertaken several controlled deliveries authorised under the *Illicit Drug Control Act, 2004*. One recent example was a controlled delivery of documents connected with an immigration scam, which resulted in the arrest of a suspect who was subsequently charged with 23 offences pertaining to 23 fake immigration documents. It was the first non-drugs case in where controlled delivery was used. When asked whether it would be possible to do a controlled delivery of wildlife or forestry products, it was deemed unlikely given a lack of legislative authority under the EPS Act.<sup>5</sup> There appears to be offences under the EPS Act 2002 that meet the minimum offence threshold, but it would need further legal analysis to determine whether the law extends to wildlife or forestry products.

The Customs Intelligence Team also consists of four analysts, made up of two Senior Customs Officers and two Customs Officers. The analysts utilise a basic intelligence database on Microsoft Access but would be better served by a more dedicated database.

Port Control Unit and Air Cargo Control Unit pre-screened cargo manifest enables them to identify suspicious cargo of interest from a revenue or crime perspective. Recently there has also been the creation of a new Container Control Programme within FRCS at Nasese, Suva. Funded by the Australian Border Force, the UNODC and WCO Container Control Programme will strengthen Fiji's ability to process containers that pass through the nation's ports, and focus on improving risk management, supply chain security, and trade facilitation at sea, land and airports, and prevent the cross-border movement of illicit goods.

Apart from narcotics offences, FRCS can conduct its own investigations and has the power to investigate outside of the customs-controlled areas and can conduct surveillance. Officers have access to basic equipment including laptops, mobile phones, and radios. FRCS also has powers to prosecute its own cases however, under Section 155 of the *Customs Act, 1986* the Comptroller of Customs has the power to compound offences where a pecuniary penalty applies and may issue monetary fines up to the level of the pecuniary penalty. This may only occur when the suspect admits that they committed the offence and agrees for the matter to be finalised in this manner. Most cases are dealt with in this manner and very few matters proceed to prosecution through the court.

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<sup>5</sup> FRCS interview



FRCS works in collaboration with other agencies, particularly Fiji Police, DOE, and the Biosecurity Authority. There is little interaction with the MoF, which was highlighted as a potential issue given the amount of timber being exported from Fiji and the potential for tax evasion. It was hoped that further collaboration would occur with the MoF leading to the signing of an MoU in 2022 and the commencement of joint operations.

The geography of Fiji makes it difficult to manage border security, with limited human resources to cover more than 330 islands across a large area of sea. Under the Integrated Border Management System, Fiji Customs officers do all the frontline processing for entries into Fiji, including checks of all vessels and yachts, and processing and monitoring cruise ships from time of entry to departure. To help facilitate this, the FCRS operates a Maritime Task Force based at Suva and Lautoka.

FRCS operates x-ray scanners stationed at the seaports and airports for containers, cargo, and passenger luggage screening. FRCS also jointly operate a Drug Detector Dog Unit with the Fiji police at Nadi Airport and Suva Port. The dogs are trained to detect drugs, firearms, and currency, and there are no current plans to expand this capability to include wildlife.

FRCS acknowledged that there have been very few smuggling cases involving wildlife, timber, or marine species in Fiji. This has been attributed to a lack of intelligence and awareness, and agencies being unable to integrate in terms of identifying common interests and goals. FRCS made a significant seizure of 1,718 kg of dried sea cucumbers during a raid at a residence in December 2020, and two tabua seizures in 2019 and 2021. While FRCS seizure data in Figure 3 indicates minimal fauna and flora seizures, some additional cases could also be recorded generally under “other prohibitions and restrictions” as appears to have occurred with the 2021 tabua seizure and the 2020 sea cucumber seizure.

*Figure 3: Number of seizures made by Fiji Revenue and Customs Service, 2017-2021*

<b>Product type</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
Beverages	0	0	0	0	0
Cultural objects	1	0	17	0	0
Currency	0	0	0	0	0
Drug precursor chemicals	0	0	0	0	0
Drugs	0	0	0	0	0
Fauna and flora	0	0	1	0	0
Hazardous materials	0	0	0	0	0
IPR	0	0	0	0	0
Medicine and pharmaceutical products	0	4	115	166	886
Other prohibitions and restrictions	21	1,387	5,742	16,055	1,083
Pornography/paedophilia	0	0	1	5	0
Radioactive and nuclear materials	0	0	0	0	0
Strategic goods	0	0	0	0	0
Tax and duty evasion	944	1,621	4,643	24,777	75,488
Tobacco	0	35,417	8,753	11,847	15,830
Weapons and explosives	0	3	116	4	0

*Source: Data provided by FRCS.*

If FRCS makes a seizure of live animals, they conform with the guidelines for the safe keeping of animals and plants and there are a few facilities where specimens could be stored, including a

Research Centre in Suva, Kula Eco Park near Nadi Airport, and veterinary facilities through the Biosecurity Authority of Fiji.

In respect to seized exhibits, the FRCS operates a paper-based system and there is no specialised exhibit storage facility, with exhibits stored in lockers with restricted key access. This was acknowledged as a potential chain of custody issue, but they lack the funding to redress the situation.

Some CITES training was provided to Customs officers by the Department of Environment in September and October 2021, and some training had previously been provided assisting them to identify orchids and some other plant species. FRCS would benefit from further training to understand current risks for wildlife and timber issues. Similarly, no training has been provided on how to undertake online wildlife crime investigations, although several species endemic to Fiji are popular globally in the reptile and bird trade. In November 2021, several customs officers received training provided by Cellebrite and are now accredited to undertake basic forensic analysis of communication devices. The Fiji Ministry of Fisheries has also provided some training and FRCS has also previously received training on profiling and investigation skills from Australia, New Zealand, and the Oceania Customs Organisation (OCO).

FRCS has a Memorandum of Understanding with Vanuatu Customs and Inland Revenue Service and has a good regional network and cooperation with other Pacific customs administrations through the OCO. It also has an excellent working relationship with Australian Border Force, Australian Federal Police, New Zealand Customs Service, and New Zealand Police.

An older case of iguana smuggling from 2011 is included below to illustrate the typical modus operandi for these crimes in Fiji and FRCS efforts in handling the case.

**Case 1: Fiji Customs arrest iguana smuggler at the border**

In 2011, a German national arrived on holiday in Fiji, and was later caught with eight Fijian crested iguanas in his hotel room after hotel staff had noticed and reported the incident to police.

Fiji Police released the man and confiscated the iguanas, and submitted a passenger alert to Fiji Revenue and Customs Service. When the suspect was later departing Fiji, FRCS checked his luggage and found a pregnant iguana concealed inside. The offender was arrested and on prosecution was fined FJD 15,000.

Six months later, the same man was arrested in Galapagos Islands attempting to smuggle iguanas again. Galapagos Customs contacted FRCS and using information from the offender's previous case in Fiji, Galapagos was able to issue the maximum penalty for the offence of four years imprisonment.

Source: APG/UNODC report *'Enhancing the Detection, Investigation and Disruption of Illicit Financial Flows from Wildlife Crime'*, 2017.

## Fiji Police Force

The Fiji Police Force (FPF) has 4,576 officers, of which 1,065 are women<sup>6</sup>. It is divided into four main divisions namely Northern, Western, Southern and Eastern. In addition, there is also the Criminal Investigation Branch and the Intelligence Bureau.

The Transnational Crime Unit (TCU) sits within the FPF and is part of the Pacific Transnational Crime Network. The TCU has four office locations at Suva, Nadi, Savusavu, and Rakiraki, and is staffed by 12 police officers and two customs officers. The focus is on proactive criminal intelligence collection, analysis, and dissemination targeting transnational crime in the region. FPF reported that since the TCU was established, they have started seeing better intelligence flow between countries in the region on drug trafficking and human trafficking issues, although there has been no intelligence relating to wildlife or forest crimes shared through the network.

In general, wildlife and forest crimes are rarely seen as a police issue in Fiji, and FPF was not aware of any previous criminal investigations or convictions of these types of cases. However, they emphasised that this area is a significant information gap for them, and a lack of data does not necessarily mean these crimes are not occurring. Police can assist the environment, forestry, and fisheries agencies to conduct investigations, but they require the technical agencies to refer cases to them. FPF does not conduct its own proactive investigations into these matters. The TCU shared an example of an iguana smuggling case in 2012 where covert physical surveillance was conducted on persons of interest in response to the receipt of intelligence.

### **Case 2: Suspected iguana smugglers under police surveillance**

Fiji's TCU received information in July 2012 of a potential smuggling operation targeting Fijian crested iguanas at Yadua Taba, coordinated by a well-known reptile smuggler who had previous arrests and convictions in several countries. This smuggler was believed to have organised another foreign smuggler to travel to Fiji as a tourist, enter Yadua Taba to collect iguanas, and transport them possibly via Hong Kong or Korea to the final destination.

A ranger of the National Trust of Fiji reported identifying a yacht anchored at Yadua Taba lagoons and footsteps on the beach, but the yacht left as it was approached by the ranger.

The TCU conducted a covert operation to identify two persons of interest and monitored their movements in Fiji and outgoing flights from the country; however, the operation ended with negative results. Although the main suspect was not arrested in Fiji, they were later identified in New Zealand and arrested there.

*Source: Briefing report provided by Fiji Transnational Crime Unit.*

Money laundering and proceeds of crime offences in Fiji can be found in the *Proceeds of Crime Act, 1997* and fall under the police investigation mandate. The main offences under the *Endangered and Protected Species Act 2002 (EPS)* and *Fisheries Act 1941* all meet the threshold for the definition of a serious offence under the *Proceeds of Crime Act 1997*,<sup>7</sup> and as predicate offences could potentially

<sup>6</sup> Fiji Sun, 10 March 2022, '1065 Female Police Officers in Fiji', accessed at: <https://fijisun.com.fj/2022/03/10/1065-female-police-officers-in-fiji/>

<sup>7</sup> Under the *Proceeds of Crime Act*, a serious offence is defined as an offence against a law of Fiji for which the maximum penalty is imprisonment for at least 12 months.

trigger a money laundering or proceeds of crime investigation. However, FPF reported there have been no such investigations relating to wildlife or fisheries offences. Neither has there been any corruption or fraud investigations related to these offences.

The FPF has an intelligence Bureau with criminal intelligence analysts who have access to the full suite of analytical software. These analysts could be utilised to conduct threat assessments and risk profiles of wildlife and forest crimes if needed. In terms of investigation powers, police can conduct analysis of phone records without a warrant for intelligence purposes but need a warrant for it to be admissible in court. Under the *Illicit Drugs Control Act, 2004* a police officer of the rank of Inspector or above can apply to a High Court Judge for authority to use of special investigation techniques in certain situations if necessary, such as electronic surveillance or intercepting communications.

The FPF operates a Maritime Unit that is equipped with patrol vessels to cover the whole Exclusive Economic Zone (EEZ) and coastal waters. The unit works closely with the MoFs and the Republic of Fiji Navy (RFN).

FPF noted that a lack of awareness as to the size of the problem could be addressed by a greater cooperation and awareness raising. This would assist police to know what to look for and to better direct their profiling, targeting and surveillance activities, and to share with communities to collect further intelligence.

FPF has its own crime scene units and forensic evidence collection capability. The FPF forensic laboratory has the capacity to analyse human DNA but lacks the ability to analyse wildlife DNA to prove parentage, species identification, etc. Similarly, blood analysis at the laboratory can only determine if the blood is human or not.

### National Trust of Fiji

The National Trust of Fiji (NTF) is a statutory authority established under the *National Trust of Fiji Act, 1970* to manage designated areas of natural and cultural heritage significance. Key responsibilities of the NTF include:

- promoting the permanent preservation of the cultural heritage of Fiji,
- protecting and preserving natural and cultural heritage sites,
- protect plant and animal life, and
- provide for the access and enjoyment of the public to such natural and cultural heritage sites.

Among the major projects being undertaken by the NTF is the 'Fijian Crested Iguana Conservation Program', which is geared towards protecting the iconic Fijian crested iguana and the Fijian banded iguana, and includes the management of Yadua Taba island as a sanctuary for approximately 95% of the Fijian crested iguana population.

The NTF employs 15 staff across five areas:

- Operations
- Finance and Procurement
- Communication/Information
- Site Management
- Project Management

In terms of enforcement, patrolling is primarily undertaken by the Rangers and Community Liaison Officers from the Site Management Unit however there are no enforcement powers vested under the

*National Trust of Fiji Act, 1970.* NTF rangers have no powers to demand identification, no powers of arrest or seizure and no powers to enter vehicles, vessels, or premises. Accordingly, the NTF relies on the Fiji Police to assist when they have compliance issues that cannot be addressed by the rangers, or in the event of a poaching incident, the NTF would inform FRCS and hope that an arrest and seizure occurs at the border.

Capacity and training are also major issues with a lack of vehicles, no boat, and no compliance equipment. After a recent cyclone the NTF boat was damaged, and they now rely upon local villagers to transport them from island to island to do their surveys. There is no intelligence unit, however NTF rangers have developed a good rapport with local villagers on Fiji's many islands who will pass on information in respect to the poaching of endemic birds and reptiles. This information is converted into an intelligence report which is then forwarded to the Police, Customs, and DOE. Although these reports have not been consolidated into a database, they are available in hard copy at the NTF.

The NTF is part of an informal law enforcement group monitoring illegal wildlife trade, particularly iguana and other reptile smuggling. The group also involves the FRCS, Biosecurity Authority of Fiji, RFN, and the New Zealand Customs Service. The group maintains a set of profiles of persons of interest known to be connected to illegal wildlife trade, and when a person of interest enters the country or when incidents occur, information is shared within the group for enforcement action.

The NTF also monitors seizures of Fijian iguanas made elsewhere in the world and engages in international cooperation to attempt to secure the repatriation of live iguanas to Fiji.

### Ministry of Fisheries

Fisheries are an important component of the Fijian economy with the offshore sector alone contributing an estimated FJD 120 million annually. The Ministry of Fisheries (MoFs) is responsible for the sustainable management and preservation of Fiji's marine resources, and for monitoring and protecting the health of the marine populations in Fijian waters to protect the livelihood of communities that rely on fishing as a source of food and income.

The MoFs consists of eight divisions, namely:

- Corporate Services
- Economic Policy, Planning and Statistics
- Offshore Fisheries
- Research, Resource, Assessment and Development
- Aquaculture
- Inshore Fisheries Management
- Fleet and Technical Services
- Extension and Advisory Services

The main pieces of legislation administered by the MoFs are the *Fisheries Act 1941*, the *Marine Spaces Act 1977*, the *Offshore Fisheries Management Decree 2021*, and the *Offshore Fisheries Management Regulations 2014*. Fisheries Officers are also empowered under the *Endangered and Protected Species Act 2002*.

In terms of investigations under *the Fisheries Act 1941*, MoFs officers (and including police and customs as authorised officers) have powers of entry to any vessel without a search warrant as well as powers to seize and confiscate apparatus or means of committing an offence, collect evidence, and detain suspects for handover to police. There are also provisions under the Act for MoFs to sell the catch and hold the proceeds of such sale until a determination is made by a court on the case.

There are no specific powers within the Fisheries Act for MoFs staff to apply for search warrants which limits investigative options, particularly in respect to any land-based administration of a vessel or vessels or other supporting documentation.

Compliance is primarily undertaken by the Offshore Fisheries Division (OFD) with several other authorised officers spread across the remaining seven divisions. The OFD consists of 50 officers and is responsible for the various electronic systems such as the Vessel Monitoring System (VMS) and Electronic Monitoring System (EMS). The later programme is a world first with Fiji being the pilot country for the EMS trials on longline vessels under the GEF-funded Common Oceans ABNJ Tuna Project. Under this project, officers from MoFs review CCTV footage to identify potential breaches.

The OFD also manages the 30 officers from the 'Observer Programme' who work on the long line and purse-seine fishing vessels. These observers work with authorised fisheries officers to ensure that ensuring that fishing activities are lawful.

The OFD also has its own Investigations Unit of four officers who undertake more complex cases but does not have a dedicated intelligence unit or a dedicated analytical database, although several officers are attached to collecting data from the VMS and EMS systems and maintain profiles on all entities and persons involved in the sector through monitoring, control, and surveillance.

The MoFs also works in close collaboration with other agencies, particularly the Fiji Police and RFN and has utilised evidence provided by the RFN in previous court matters.

Fiji's EEZ is over 1,260,000 square kilometres and to police an area of this size requires significant resources and a very good intelligence picture. For a small country, Fiji performs very well in respect to compliance but with such a huge area to cover and so many small islands there will always be intelligence gaps.

According to data provided by MoFs, compliance officers undertook a total of 2,440 land-based inspections and 120 sea-based inspections between January 2019 to April 2022. Offences involving CITES-listed species were identified in 73 inspections (68 land-based and five sea-based), against Regulation 5 of the Offshore Fisheries Management Regulations 2014 (see Figures 4 and 5 below).<sup>8</sup> Of these offences, 32 involved giant clam species (*Tridacnidae spp.*), 21 involved humphead wrasse (*Cheilinus undulatus*), 17 for sea turtles (*Cheloniidae spp.*), and three cases with *Nautilus* species. Ten of the sea turtles were still alive when found during inspections so were able to be released, but all other seizures involved empty shells or dead fish. A total of seven fixed penalty notices were issued: six to companies for FJD 20,000 each and one to an individual at FJD 10,000. At the time of writing, three notices had been paid in full while four were still undergoing the court process.

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<sup>8</sup> Regulation 5 of the Offshore Fisheries Management Regulations 2014 prohibits the killing, landing, selling or offering or exposing for sale, dealing in, transporting, receiving or possessing of any species listed in CITES Appendices I or II.

Figure 4: Land-based inspections that resulted in identification of offending against Regulation 5 of the Offshore Fisheries Management Regulations 2014

Year	Species	Region				Total
		Central	Eastern	Northern	Western	
2019	<i>Cheloniidae</i>	1	0	1	1	3
	<i>Labridae</i>	1	0	0	7	8
	<i>Tridacnidae</i>	4	0	1	3	8
2020	<i>Cheloniidae</i>	3	1	2	0	6
	<i>Labridae</i>	1	0	2	2	5
	<i>Nautilidae</i>	2	0	0	1	3
	<i>Tridacnidae</i>	21	0	1	2	24
2021	<i>Cheloniidae</i>	1	0	0	1	2
	<i>Labridae</i>	0	0	0	3	3
2022	<i>Cheloniidae</i>	1	0	0	0	1
	<i>Labridae</i>	2	0	1	2	5
<b>Total</b>		<b>37</b>	<b>1</b>	<b>8</b>	<b>22</b>	<b>68</b>

Source: Data provided by MoFs.

Figure 5: Sea-based inspections that resulted in identification of offending against Regulation 5 of the Offshore Fisheries Management Regulations 2014

Year	Species	Region				Total
		Central	Eastern	Northern	Western	
2020	<i>Cheloniidae</i>	0	0	0	4	4
2022	<i>Cheloniidae</i>	0	0	0	1	1
<b>Total</b>		<b>0</b>	<b>0</b>	<b>0</b>	<b>5</b>	<b>5</b>

Source: Data provided by MoFs.

### Fisheries crime issues

Sea cucumbers (*Holothuroidea*) are echinoderms, like star fish and sea urchins. There are some 1,250 known species and they are the earthworms or the vacuums of the sea, keeping the sea floor clean and productive and are critical for a healthy ecosystem.<sup>9</sup> They are also an East Asian delicacy which has seen them become targeted in the illegal trade.

There are a total of 27 different sea cucumber species found in Fiji, of which one, the *Metriatyla scabra* (sandfish), is listed on CITES and afforded protection under the *Endangered and Protected Species Act 2002*.

Like many other countries, Fiji has experienced its own issues around the illegal trade and over-exploitation in sea cucumber, leading to a 2017 ban in the trade. Unfortunately, the effectiveness of this ban is unknown as it is acknowledged by MoFs that whilst they suspect that the illegal trade continues, they do not have sufficient resources to monitor and enforce that trade. MoFs has a Fiji Sea Cucumber Management plan in draft that still needs to be endorsed, which will allow for the authority to declare sea cucumbers a fishery and control when a fishery can open or closed. There are also plans to allow companies to trade in sea cucumbers. It is hoped these measures will allow for a more sustainable use of sea cucumbers and greater compliance and enforcement.

There have been several incidents of persons arrested or detained in possession of large quantities of sea cucumber, including a 2020 FRCS seizure of 1,718.83 kg of dried sea cucumber worth an estimated

<sup>9</sup> Endangered delicacy: tropical sea cucumbers in trouble. K Wolfe et al, UQ Press, 2022 here at [Endangered delicacy: tropical sea cucumbers in trouble - UQ News - The University of Queensland, Australia](#)

FJD 1.7 million, and in September 2021 a group of fishermen from Ba and Tavua were allegedly caught harvesting ‘tonnes’ of sea cucumber by the MoFs. Both these incidents point to a potential issue around the illegal harvesting of sea cucumbers that needs additional focus and intelligence collection activities, particularly given that the 2020 seizure alone represents nearly 2% of the total estimated yearly income derived from fisheries in Fiji.

In respect to the illegal trade in shark fin, there was a historical trade in the early 2000s, but it is believed this is in decline after several shipping and airlines companies refused to transport shark fin from Fiji. As a result, several of the locally based companies that were previously involved in the shark fin trade have now closed or moved onto other commodities.

Inspections conducted on some primarily Chinese fishing vessels that docked in Fiji revealed shark fin on board. However, as these fins were not being exported through Fiji, no action was taken against the captain of the vessel. Given the sheer number of foreign vessels fishing in Fijian and surrounding waters there is certainly an opportunity for shark fin catches to be offloaded to reefer vessels at sea and never land in Fiji. This is certainly an intelligence gap that may need to be addressed.

Other potential intelligence gaps include the ornamental aquarium fish trade, and the trade in giant clams and corals. Each on their own are potentially multi-million-dollar industries but still very little is known of the size of the current trade.

### Office of the Director of Public Prosecutions

The Office of the Director of Public Prosecutions (ODPP) is an independent office by virtue of Section 117 of the State Service Act. Section 117(8) of the Constitution empowers the ODPP to:

- Institute and conduct criminal proceedings.
- Take over criminal proceedings that have been instituted by another person or authority (except proceedings instituted by the Fiji Independent Commission Against Corruption)
- Discontinue, at any stage before judgement is delivered, criminal proceedings instituted or conducted by the DPP or another person or authority (except proceedings instituted by the Fiji Independent Commission Against Corruption)
- Intervene in proceedings that raise a question of public interest that may affect the conduct of criminal proceedings or criminal investigations.

As of 8 December 2020, the ODPP had an authorised strength of 140 staff based at nine offices around Fiji with its Headquarters situated in Suva.<sup>10</sup> The ODPP Headquarters has three sub-divisions: the Serious Fraud Division, the Child Protection Division, and the General Crimes Division. The ODPP has five offices in the Western Division (Sigatoka, Nadi, Lautoka, Ba and Rakiraki), two offices in the Northern Division (Labasa and Savusavu) and one in the Eastern Division (Nausori).

There is no specialist unit within the ODPP that is tasked with prosecuting illegal logging, fishing, or wildlife crime cases, and any such case would be handled by lawyers attached to the General Crimes Division. The ODPP does not have any examples of such cases coming to prosecution for the last 10 years; however, it has successfully prosecuted other types of environmental crime cases.

For example, the case of the State v Freesoul Real Estate Development (Fiji) PTE Limited involved a tourism development project at Malolo Island in the Western Division clearing mangroves and digging a channel to the sea without a relevant environmental impact assessment, causing significant

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<sup>10</sup> Office of Director of Public Prosecutions Structure found here at <https://odpp.com.fj/wp-content/uploads/2020/12/Organisational-Structure-2020-page-001.jpg>



environmental damage. In April 2022, the High Court handed down a fine of FJD 1 million for two counts of carrying out unauthorised developments, in addition to the payment of a refundable environmental bond of FJD 1.4 million to DOE while carrying out rehabilitation of the affected area at the company's own expenses. The judgement highlighted the seriousness of the offence and that there was no comparable case in Fiji, and the high penalty imposed is a positive result.

The ODPP recognises that there has been a lack of prosecutions for wildlife, forestry and fishery matters and has supported the training of prosecutors from the MoF and the MoFs to increase the number of matters proceeding to prosecution. It acknowledged there needs to be greater engagement with the technical agencies so they can advise on handling matters, and more police involvement in investigating cases to improve the quality of admissible evidence collected.

### Fiji Independent Commission Against Corruption

The Fiji Independent Commission Against Corruption (FICAC) was established in 2007 under *the Fiji Independent Commission Against Corruption Act Number 11 of 2007*. FICAC is committed to effectively combatting corruption to promote transparency and accountability for the attainment of zero tolerance of corruption and to set the foundation for good governance and create sustainable development for the benefit of all citizens of Fiji. FICAC has both an investigatory and prosecution role but also importantly an educational and prevention role.

While the main focus of FICAC is corruption in the civil service of Fiji, including all government departments and statutory authorities, it can investigate corruption in the private sector if it is in the public interest and if the company has government contracts. Otherwise, Fiji Police will investigate private sector corruption matters.

FICAC has 139 officers, with 73 in the investigations department, including two forensic data analysts and 39 financial investigators. There is no specialist unit within FICAC that is tasked with investigating corruption matters pertaining to illegal logging, fishing, or wildlife crime cases and any such case would be handled by the investigation unit along with any other complaint.

In terms of investigations under the *FICAC Act 2007*, FICAC officers have powers of arrest, search and seizure and may take suspects to the nearest police station or the offices of the Commission. Officers also have powers of entry to a premises to effect an arrest. Officers also have power under Section 17(1) of the *Prevention of Bribery Act 2007* to apply for a search warrant before a magistrate to authorise entry into a premises and search for and seize evidence.

Under Section 10E (1) of the *FICAC Act 2007*, an officer acting under the instruction of the Commissioner may apply to a High Court Judge in writing (or if impracticable, an oral application) to enable the covert monitoring and recording, by any means, of the conduct and communications, including telecommunications of a person.

FICAC has been very active and has handled a significant number of corruption cases in the last 15 years. Since its inception, it has received 67,417 complaints, investigated 1,570 cases, charged 366 individuals, and 115 individuals were convicted. Figures 6-8 identify the number of complaints, investigations, and prosecutions undertaken between 2015-2018.

Specifically in relation to the Ministry of Forestry, FICAC has seven investigations open (as of February 2022) and two cases pending in court. There have been no cases related to DOE, and there is one case pending in court against the Ministry of Fisheries. FICAC also shared an older case from 2012 of a forestry officer convicted on five counts of abuse of office.

Figure 6: Number of complaints received<sup>11</sup>

Year	Corruption related complaints	Non-corruption related complaints
2015	335	6,030
2016	258	2,708
2017	448	5,131
2017-2018	402	2,678

Figure 7: Number of cases investigated

Year	Ongoing investigation cases
2015	79
2016	109
2017	65
2017-2018	84

Figure 8: Cases pending before the courts

Year	No. cases
2015	73
2016	78
2017	90
2017-2018	104

### Case 3: Forestry officer convicted for abuse of office

In 2008, a forestry officer from the Northern region was investigated for allegations of approving five letters of request from a logging contractor to delay the payment of outstanding royalties owed to landowners and the Government of Fiji, without the authority of the Conservator of Forests, and to continue logging and removing timber from its concessions.

FICAC laid five charges of “abuse of office” in relation to these acts. The accused officer was found guilty of all five charges, and at a sentencing hearing in 2009 was fined FJD 1,500. FICAC appealed the decision based on the leniency of the fine, and at the appeal trial the fine was increased to FJD 20,000 with a default sentence of seven months imprisonment if not paid. In 2011, the High Court imposed the seven-month term of imprisonment for failure to pay the fine.

Source: FICAC Case 12/08, press releases published on FICAC website, and news article at <https://fijisun.com.fj/2011/05/17/former-forestry-officer-jailed/>

<sup>11</sup> Data in Figures 4-6 provided by FICAC, 2022

## Other relevant agencies

Several other agencies within Fiji have a small role to play in respect to the detection and investigation of wildlife, forestry, and fisheries related crimes. These agencies generally support other mandated agencies to perform their mandated roles within Fiji and include:

- Biosecurity Authority of Fiji
- Maritime Safety Authority of Fiji
- Republic of Fiji Navy
- Ministry of iTaukei Affairs

The Biosecurity Authority of Fiji (BAF) was established under the *Biosecurity Act, 2008* and is mandated to protect the Fiji Islands against the entry of regulated pests and disease affecting animals, human beings, and the environment, to facilitate the safe importation and exportation of plants, animals, and their products. BAF works closely with the FRCS, MoF and MoFs in compliance matters and provides veterinary support and animal holding facilities when required. In ensuring safe trade, BAF plays an important role in detecting smuggling and checking CITES permits.

The Maritime Safety Authority of Fiji (MSAF) was established under the *Maritime Safety Authority of Fiji Act, 2009*. The MSAF is responsible for safety regulation of the shipping industry and marine environment protection. The MSAF maintains the country's ship registry and undertakes ship inspections, and it can come across evidence of fisheries crimes during the course of its duties.

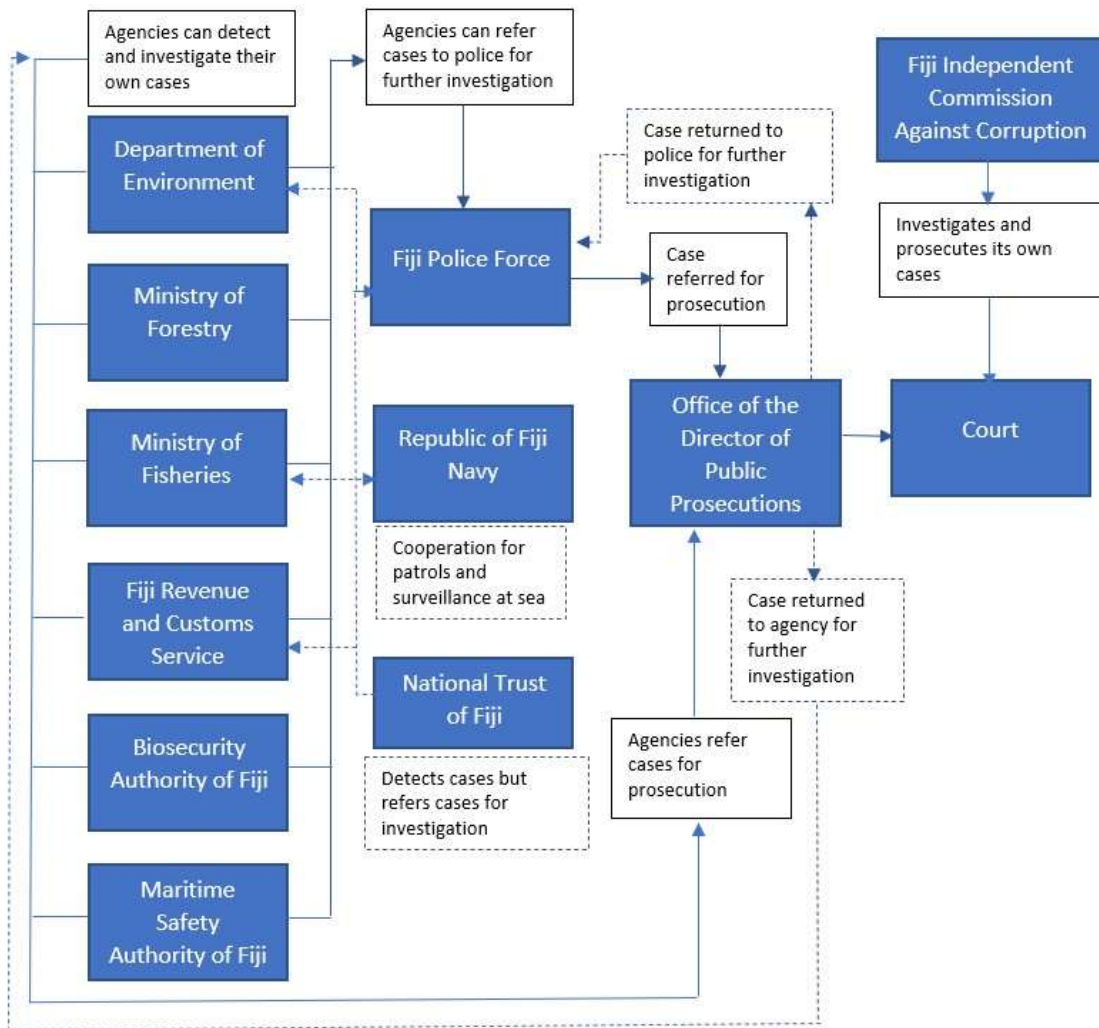
The Republic of Fiji Navy (RFN) is responsible for the protection of Fiji's maritime sovereignty, the protection and security of Fiji's maritime resources, and providing maritime search and rescue, among other responsibilities. The RFN through MOUs, interagency training, and collaboration supports maritime border agencies, namely the MoFs, FRCS, Immigration Department, and the FPF in providing surface patrol assets and/or conducting maritime surveillance patrols to the extent of Fiji's EEZ and adjacent high seas pockets. This may include the collation of data that is readily available to the relevant maritime border agency if required, for example, vessel boarding data and information that may be required in the process of an investigation.

The Ministry of iTaukei Affairs (MiTA) seeks to develop strong leadership for the Vanua (*Land/Home/Village*) and to develop relevant policies, programmes, and legislation. The MiTA consists of five divisions and in respect to wildlife, forestry, and fisheries crimes the most relevant is iTaukei Lands and Fisheries Commission (ITLFC), which does have conservation officers. Some of the ITLFC's responsibilities include confirming traditional land ownership and boundaries, confirmation of traditional fishing grounds boundaries and to investigate cases of challenging of TLFC decisions. The MiTA is also responsible for issuing permits for the import and export of tabua (sperm whale teeth) as a culturally significant item. Part of the MiTA framework is the Turaga ni Koro (village headmen) and Mata ni Tikina (responsible for raising issues from district to provincial level) which could potentially be engaged for better reporting of local wildlife and forest crime issues upwards to authorities to respond to.

## Inter-agency cooperation

Each of the technical agencies in Fiji has the mandate to detect, investigate and prosecute their own cases. Alternatively, agencies can opt to refer cases to Fiji Police Force for investigation and to the ODPP for prosecution. If the ODPP determines there is insufficient evidence for prosecution, it can return the case to either the Police or the investigating agency for further investigation. This process is illustrated in Figure 9.

Figure 9: Fiji interagency cooperation for wildlife and forest crime cases



In this framework, each agency can work independently and manage cases almost entirely within their own agency. While this may be an efficient process for handling cases, it also means there is little incentive for cooperation between agencies at the operational level, particularly in terms of intelligence sharing and there is a significant disparity in respect to the quality of investigations. Fiji Police Force is very rarely requested to assist with investigations, and the ODPP has not prosecuted any wildlife or forest crime cases through the courts.

There is currently no national mechanism for sharing wildlife and forest crime intelligence between agencies in Fiji. However, the Ministry of Defence, National Security and Policing (MDNSP) operates an intelligence gathering platform that is used by multiple agencies for some specific crime types, which could potentially be mandated for use in wildlife and forest crime issues as well. A dedicated taskforce or working group focused on wildlife and forest crimes would also be useful to strengthen intelligence sharing between agencies and develop a better picture of where the risks and threats for these types of crimes may be for Fiji. In turn, such a mechanism could also raise awareness for better targeting of law enforcement resources and interagency cooperation to address any issues identified. In this regard, the MDNSP is coordinating the development of a Fusion Centre involving the FPF, RFN, FRCS and other border agencies to focus on national security issues and serious organised crimes such

as drug trafficking and human trafficking and could be expanded to cover wildlife trafficking crimes as well.

The Turaga ni Koro and Mata ni Tikina under the MiTA could also potentially be engaged as part of interagency cooperation, feeding information and intelligence on local wildlife and forest crime issues into a national intelligence sharing mechanism.

## International cooperation

Law enforcement challenges across the Pacific are exacerbated by the vast expanses of ocean and the limited resources available to patrol it, so by the nature of this shared geography, cooperation in the region is crucial.

In this regard, there is a good level of cooperation between Pacific countries facilitated by several well-established and well-respected regional organisations. For instance, the Oceania Customs Organisation (OCO) assists Pacific customs administrations to enhance coordinated border management to combat transnational organised crime;<sup>12</sup> the Pacific Islands Forum Fisheries Agency (FFA) supports countries to prevent and control IUU fishing and conduct regional surveillance operations;<sup>13</sup> and the Pacific Transnational Crime Network (a mandated programme under the Pacific Islands Chiefs of Police) consists of 28 transnational crime units in 20 countries across the region, coordinated by a central hub based in Samoa.<sup>14</sup> The Pacific Islands Forum also fosters collaboration and cooperation between countries at the political and policy level, and Forum leaders signed the Boe Declaration on Regional Security in 2018 which declares an increasing emphasis on environmental and resource security and transnational crime, among other commitments.<sup>15</sup>

Although wildlife and forest crime issues are not a significant focus of any of the major regional bodies, good infrastructure exists for sharing intelligence and information between countries and conducting joint operations should the need arise.

Based on interviews with the different agencies, Fijian authorities have their closest working relationships with counterparts in Australia, New Zealand, Vanuatu as well as other Pacific countries, but little direct contact with counterparts in other regions. If cooperation was needed with a jurisdiction outside the Pacific region, it is likely that assistance would be sought via the relevant regional organisation or one of the larger bilateral partners in Australia or New Zealand.

Fiji has a modern law on Mutual Legal Assistance in Criminal Matters that recognises the principle of reciprocity and enables international cooperation in investigations and prosecutions. Bilateral treaties are most often used as a basis for cooperation in transnational cases, and ODPP gave a recent example of working with New Zealand on a human trafficking case via the bilateral treaty. Fiji does not have any bilateral treaties with countries outside of the Pacific region.

Fiji Police Force is part of the Transnational, Serious and Organised Crime Pacific Taskforce, along with the Australian Federal Police, New Zealand Police, and Tonga Police. The taskforce was established in 2019 to jointly target organised crime groups that are using small craft to move illicit drugs through

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<sup>12</sup> <https://www.ocosec.org/about/strategic-plan/>

<sup>13</sup> <https://www.ffa.int/>

<sup>14</sup> <https://picp.co.nz/our-work/pacific-transnational-crime-network/>

<sup>15</sup> <https://www.forumsec.org/2018/09/05/boe-declaration-on-regional-security/>

the region through sharing intelligence and cooperating on complex investigations.<sup>16</sup> Although this mechanism is focused on drug trafficking, it demonstrates the close law enforcement connections Fiji has in the region and its focus on cooperation to combat transnational organised crime.

An area of international cooperation that Fiji has been increasingly engaging in is the repatriation of its species and wildlife products that are seized in illegal trade in other countries. For example, in 2017 New Zealand returned 146 tabua that had been seized by border agencies over the previous 15 years.<sup>17</sup> The NTF also discussed a recent case of Fijian crested iguanas seized in Argentina that it had attempted to have repatriated to Fiji with financial support from San Diego Zoo, but it was unsuccessful due to challenges with quarantine and biosecurity issues.

Fiji is a member party of many relevant international bodies and conventions, including CITES (acceded in 1997), the United Nations Convention Against Corruption (acceded in 2008), United Nations Convention against Transnational Organised Crime (acceded in 2017), INTERPOL member since November 1971, and World Customs Organisation member since November 1997.

## Advanced investigation capabilities

Advanced investigation methods enable law enforcement agencies to covertly collect intelligence and evidence used to investigate and prosecute organised crime. They generally require specific legal authority and the use of specialist equipment or training. Figure 10 indicates those agencies in Fiji that are mandated and have the capacity to undertake advanced investigation techniques.

Figure 10: Advanced Investigation Capabilities in Fiji by organisation

Agency	Undercover investigations	Surveillance	Telecom interception	Controlled deliveries	Listening devices
Fiji Police	X	X	X*	X*	X*
Fiji Revenue & Customs	-	X	X*	X*	X*
Dept. of Environment	-	-	-	-	-
Ministry of Forestry	-	-	-	-	-
National Trust of Fiji	-	-	-	-	-
Ministry of Fisheries	-	-	-	-	-
Biosecurity Authority of Fiji	-	-	-	-	-
Maritime Safety Authority of Fiji	-	-	-	-	-
FICAC	X	X	X	-	X

\*Only under Illicit Drugs Control Act.

<sup>16</sup> <https://www.afp.gov.au/news-media/media-releases/new-agreement-tackles-transnational-serious-and-organised-crime-pacific>

<sup>17</sup> <https://www.sprep.org/news/return-tabua-fiji-momentous-occasion>

## Strengths and challenges of environmental law enforcement agencies

The Pacific 'Drug Highway' linking South America drug cartels to Australian and New Zealand consumer markets has evolved significantly with the rise of local actors in transnational organised crime networks.<sup>18</sup> To respond to this change in the criminal landscape, local law enforcement agencies in Fiji with the support of regional actors have increased their capacity and capabilities in respect to investigating transnational organised crime. The Fiji Police Force and Fiji Revenue and Customs Service have developed into professional and competent law enforcement agencies that have gained extensive experience in working with international law enforcement partners to address transnational organised crime.

In respect to narcotics offences, they possess the relevant tools and expertise to investigate serious organised crime, and these are skill sets that are transferrable to the investigation of other crime types. This represents an important strength of Fiji law enforcement, that, if necessary, they have the expertise to address organised forestry and wildlife crime.

Unfortunately, these advanced investigative methodologies are never used to address forestry and wildlife crime. This stems from a lack of a legislative mandate for police and customs to use some of the more intrusive tools such as covert technical surveillance, to an almost complete absence of intelligence on the size and scale of the problem of wildlife and forestry crime in Fiji. Other agencies with a conservation mandate and compliance role within Fiji, including the Ministry of Forests and the Department of the Environment lack the necessary resources, skill set or mandate to investigate transnational crime and are struggling to identify and address domestic crime issues.

Until sufficient resources are dedicated to collecting sufficient data to determine the threat level from wildlife and forestry crime in Fiji, law enforcement will never truly be able to determine the level of response needed.

## Conclusions and recommendations

The incidence and scale of wildlife and forestry crime in Fiji is yet to be fully understood, with the lack of data being the major impediment to determining the prevalence of these crimes. While wildlife species endemic to Fiji such as the Fijian crested iguana and the Fijian banded iguana are openly available for sale in the UK, Europe, and the United States, little is known about the provenance of these reptiles. Similarly, while it was stated by the authorities that there is a problem with illegal logging in Fiji, the extent of this remains unknown.

As a result, the capacity for Fijian authorities to identify and act against wildlife crimes is completely reactive and restricted to potential seizures at air and seaports. There is confusion around some of the legislation and there are also some deficiencies in the legislation about domestic possession and trade.

Forestry and timber crimes have been identified but very little action has been taken to address these crime types, with no cases progressing to prosecution and court, with most being dealt with by way of 'compounding' or issuing fines. This approach is ineffective at addressing this crime type particularly when the value of the timber is considered. During the interviews, one company was highlighted that had allegedly sold millions of dollars of timber more than their licences permitted and yet no action had been taken.

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<sup>18</sup> Sousa-Santos (2022), 'Drug Trafficking In The Pacific Islands: The Impact of Transnational Crime', accessed at: <https://www.lowyinstitute.org/publications/drug-trafficking-pacific-islands-impact-transnational-crime>

Fijian authorities have been frank and open with the interviewers in respect to this lack of data and have concluded that there is a lack of awareness of these issues within the government and communities of Fiji.

There is also an absence of specialised systems to enable and enhance the collection, analysis, and dissemination of intelligence on wildlife and forestry crimes.

Accordingly, the recommendations of this report are focused on raising awareness, enhancing inter-agency cooperation, and developing the systems to promote a greater understanding of the wildlife and forestry crime issues in Fiji through the development of an improved intelligence capacity.

## Recommendations

### **Building national capacities**

- Strengthen data collection to enable an understanding of the size and scale of wildlife and forestry crimes within Fiji.
- Develop a formalised intelligence sharing mechanism between the Fiji Police Force, Fiji Customs and Revenue Service, Fiji Independent Commission Against Corruption, Ministry of Forestry, Department of Environment, and Ministry of Fisheries. In this regard, the existing Fiji government intelligence sharing platform operated by the MDNSP could potentially be expanded and mandated for use in wildlife and forest crime issues as well.
- Recruit two intelligence analysts and two data entry operators each within the Ministry of Forestry and the Department of Environment whose role it will be to collect, analyse and disseminate intelligence within their own organisations and to share with other relevant stakeholders.
- Acquire an intelligence database for the Ministry of Forestry and the Department of Environment. This database could be shared, with different security layers or even portioned databases on the same system.
- Provide basic and advanced intelligence analysis training to the new analysts and data entry operators within the Ministry of Forestry and the Department of Environment.
- Provided advanced intelligence training to the PPF, Ministry of Fisheries and FRCS.
- Provide awareness training to senior managers in the Ministry of Forestry and the Department of Environment on the value of intelligence analysis.
- Provide training to the Department of Environment in managing and conducting online investigations.
- Provide mentorship from experienced detectives and analysts in the Fiji Police Force to the Department of Environment and Ministry of Forestry.
- Provide awareness training to prosecutors from the Office of the Director of Public Prosecutions, Ministry of Forestry, and the Department of Environment, including training on the collection of evidence related to environmental crimes, drafting of charges, and presenting such cases in court.
- Provide awareness training to Fiji Police Force on wildlife and forest crime threats and modus operandi for detecting and investigating these types of crimes.
- Department of Environment should work in collaboration with other key agencies to conduct public outreach and raise awareness of wildlife and forest crime issues, including public reporting of incidents and training for the Turaga ni Koro and Mata ni Tikina to report intelligence and cases.
- Department of Environment should expand its training on species identification, relevant Fiji wildlife laws and international agreements for all relevant border control and law enforcement agencies.



### **Strengthening interagency cooperation**

- Consider the establishment of a Fiji Wildlife Enforcement Network made up of representatives of the Fiji Police Force, Fiji Customs and Revenue Service, Fiji Independent Commission Against Corruption, Ministry of Defence, National Security and Policing, Ministry of Forestry, Department of Environment, Ministry of Fisheries, and Ministry of iTaukei Affairs, with regular quarterly meetings for information and intelligence exchange. This network would have an operational law enforcement focus, as opposed to the existing policy-focused committees. It could potentially be incorporated as part of the Fusion Centre being developed and coordinated by the MDNSP.

### **Focusing on international cooperation**

- Consider establishing a regional forum of operational practitioners that meets annually or bi-annually to discuss emerging wildlife and forest crime issues within the Pacific region and promote the sharing of intelligence amongst agencies.
- Increase the use of international information sharing mechanisms with foreign law enforcement agencies especially at regional level, with information from other Fiji government agencies feeding into INTERPOL and World Customs Organisation channels via the FPF and FCRS, as well as the various specialised fora provided by the international aid and technical assistance providers (UNODC, USFWS, INL, CITES, etc).

### **Addressing corruption**

- FICAC to lead the development of an anti-corruption strategy that would include wildlife and forestry crimes. Assist the stakeholders to undertake a corruption risk assessment to identify corruption risks across the supply chain, including the issuance of licences, permits and the potential exploitation of iTaukei land.

### **Addressing the Legal Framework**

- The environment is currently in crisis and global warming and biodiversity loss threatens Pacific people's very means of survival. The Pacific Islands are at the forefront of this crisis and as natural resources become scarcer the value of those resources that remain increase substantially. The current penalties in Fiji under the *Endangered and Protected Species Act 2002*, the *Forestry Decree 1992*, and the *Fisheries Act 1941* are manifestly insufficient to pose a deterrent to offenders who would plunder such resources. There is also a need to review the powers of agencies mandated to protect scarce resources to ensure they are fit for purpose and can maintain pace with the increasing sophistication of crime.
- Review the protection under the law for native wildlife other than CITES listed species.

## Annex I: Selected provisions from the Endangered and Protected Species Act

Endangered and Protected Species Act 2002	
Section	Provision
3	<p>This Act applies to any endangered or protected species listed –</p> <ul style="list-style-type: none"> <li>(a) in Appendix I, which lists all species threatened with extinction which are or may be affected by trade;</li> <li>(b) in Appendix II, which lists all species that are not actually threatened with extinction but may become threatened with extinction if trade in those species is not regulated;</li> <li>(c) in Appendix III, which lists all species identified by state parties that require regulation in their jurisdiction to prevent and restrict their exploitation which require the cooperation of other state parties to control trade in those species;</li> <li>(d) in Schedule 1 to this Act, which lists all species indigenous to Fiji but are not listed in Appendix I and are believed to be threatened with extinction;</li> <li>(e) in Schedule 2 to this Act, which lists all species indigenous to Fiji but are not listed in Appendix I, II or III or Schedule 1 to this Act.</li> </ul>
9	<ul style="list-style-type: none"> <li>(1) No person must export any specimen mentioned in section 3 except with an export permit.</li> <li>(2) A person who intends to export any specimen mentioned in section 3 may apply, in the prescribed form and accompanied by the prescribed fee, to the Management Authority for a permit to export the specimen.</li> <li>(3) A person who contravenes subsection (1) commits an offence and is liable on conviction – <ul style="list-style-type: none"> <li>(a) In the case of a first offence, to a fine of \$20,000; and</li> <li>(b) In the case of a second of subsequent offence, to a fine of \$100,000 or to imprisonment for 5 years.</li> </ul> </li> </ul>
10	<ul style="list-style-type: none"> <li>(1) No person must import any specimen mentioned in section 3 except with an import permit.</li> <li>(2) A person who intends to import any specimen listed in Appendix I may apply, in the prescribed form and accompanied by the prescribed fee, to the Management Authority for a permit to import the specimen.</li> <li>(3) A person who contravenes subsection (1) commits an offence and is liable on conviction – <ul style="list-style-type: none"> <li>(a) In the case of a first offence, to a fine of \$20,000; and</li> <li>(b) In the case of a second of subsequent offence, to a fine of \$100,000 or to imprisonment for 5 years.</li> </ul> </li> </ul>
11	<ul style="list-style-type: none"> <li>(1) No person must re-export any specimen mentioned in section 3 except with a re-export permit.</li> <li>(2) A person who intends to re-export any specimen mentioned in section 3 may apply, in the prescribed form and accompanied by the prescribed fee, to the Management Authority for a permit to re-export the specimen.</li> <li>(3) A person who contravenes subsection (1) commits an offence and is liable on conviction – <ul style="list-style-type: none"> <li>(a) In the case of a first offence, to a fine of \$20,000; and</li> <li>(b) In the case of a second of subsequent offence, to a fine of \$100,000 or to imprisonment for 5 years.</li> </ul> </li> </ul>
12	<ul style="list-style-type: none"> <li>(1) No person must import or transport an introduction from the sea of any specimen mentioned in section 3 except with a permit for introduction from the sea.</li> <li>(2) A person who intends to import or transport any introduction from the sea may apply, in the prescribed form and accompanied by the prescribed fee, to the Management Authority for a permit to import or transport any introduction from the sea.</li> <li>(3) A person who contravenes subsection (1) commits an offence and is liable on conviction – <ul style="list-style-type: none"> <li>(a) In the case of a first offence, to a fine of \$20,000; and</li> <li>(b) In the case of a second of subsequent offence, to a fine of \$100,000 or to imprisonment for 5 years.</li> </ul> </li> </ul>
23	<ul style="list-style-type: none"> <li>(1) A person who forges – <ul style="list-style-type: none"> <li>(a) A permit issued under this Act or by state party; or</li> </ul> </li> </ul>

	<p>(b) Any other document required under this Act for the purpose of any permit or of any registration under this Act, commits an offence and is liable on conviction to a fine of \$5,000 or to imprisonment for 2 years.</p> <p>(2) A person who has in his or her possession or control, offers or exposes for sale or displays to the public, any specimen mentioned in section 3 without being registered under this Act commits an offence and is liable on conviction to a fine of \$5,000 or to 2 years imprisonment.</p> <p>(3) The burden of proof of the lawful possession of a specimen mentioned in section 3 lies with the person in possession or control of the specimen.</p> <p>(4) A person who provides, makes, or attempts to provide or make any false or misleading statement in, or in connection with, an application for a permit issued under this Act or any other document required under this Act commits an offence and is liable on conviction to a fine of \$2,000 or to imprisonment for 12 months.</p> <p>(5) A person who obstructs or hinders the performance of duties under this Act by an authorised officer commits an offence and is liable on conviction to a fine of \$1,000 or to imprisonment for 6 months.</p> <p>(6) A person who alters, defaces, or erases a mark authorised by the Management Authority to be used by another person to permanently identify any specimens commits an offence and is liable on conviction to a fine of \$1,000 or to imprisonment for 6 months.</p>
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## Annex II: Selected provisions from other laws

<b>Forest Act 1992</b>	
<b>Section</b>	<b>Provision</b>
28	<p>Any person who –</p> <ul style="list-style-type: none"> <li>(a) negligently causes any damage in felling or extracting any tree;</li> <li>(b) damages, alters, shifts, removes, or interferes in any way whatsoever with any beacon, boundary mark or fence, notice or notice board;</li> <li>(c) forges or fraudulently uses upon any forest produce any registered hammer mark or any mark used by an officer to indicate that such forest produce is the property of the State or of some person or that it may lawfully be felled or removed;</li> <li>(d) makes a material misrepresentation, omission or misstatement of fact in an application for a licence;</li> <li>(e) without lawful authority alters, obliterates, removes or defaces any stamp, mark, sign, licence or other document lawfully issued under the authority of this Act;</li> <li>(f) counterfeits or issues any licence or document purporting to be a licence or document issued under the provisions of this Act;</li> <li>(g) wears any uniform or part of a uniform or any badge or other mark issued by the forestry department to be worn by officers;</li> <li>(h) in any forest reserve or nature reserve, damages or destroys vegetation, obstructs any roads, paths or waterways, sets any trap, snare or net or uses or is in possession of any gun, poison or explosive substance, or, without lawful authority, clears land, fells or extracts timber, takes other forest produce, takes peat, rock, sand, shells and soil other than minerals as defined in the Mining Act 1965, grazes animals or allows them to be therein, erects any buildings or livestock enclosures, plants any crops or trees, hunts or fishes, lights a fire or causes to be lit a fire, cuts or uproots vegetation, constructs any roads or paths;</li> <li>(i) in a fire hazard area, unless authorised under this Act, lights a fire or causes to be lit a fire;</li> <li>(j) on unalienated State land or unalienated iTaukei land, not being land in a forest reserve or nature reserve, unless authorised under this Act, fells or extracts timber, takes other forest produce or clears land;</li> <li>(k) in any unalienated land covers any tree stump with brushwood or earth or by any other means whatsoever conceals, destroys or removes or attempts to conceal, destroy or remove such tree stump or any part thereof;</li> <li>(l) violates any terms or conditions of a licence;</li> <li>(m) unreasonably refuses to assist in extinguishing a fire as prescribed under section 27;</li> <li>(n) refuses to produce or make available for inspection by any officer authorised under this Act a licence or other document required to be kept under this Act,</li> </ul> <p>shall be guilty of an offence against this Act.</p>
29	<ul style="list-style-type: none"> <li>(1) Any person guilty of an offence against this Act shall be liable to a fine not exceeding \$10,000 or to a term of imprisonment not exceeding 12 months or to both such fine and imprisonment.</li> <li>(2) Any person guilty of felling or extracting timber in contravention of this Act shall be liable, in addition to the fine imposed under subsection (1), to a fine equal to the amount of any royalties and fees which would have been payable unless he or she has agreed to compounding under section 33.</li> </ul>
30	<p>Where any person is convicted of an offence against this Act whereby any forest produce has been damaged or injured or taken to court may in addition to any other penalty order such person to pay to the owner of such forest produce compensation not exceeding the value thereof.</p>
31	<p>Where any person is convicted of an offence against this Act, the court may, in addition to any other penalty, order that all forest produce and other things in respect of which such offence has been committed, and all tools, boats, conveyances and livestock used in the commission of such offence be forfeited to the State.</p>
33	<ul style="list-style-type: none"> <li>(1) The Conservator and such deputy conservator of forests, principal forestry officer, senior forestry officer, forestry officer or forester as he or she may empower for the purposes of this section may, if he or she is satisfied that a person has committed an offence against this</li> </ul>

	<p>Act, and such person consents in writing to compounding under this section, compound such offence by accepting from such person a sum of money not exceeding one-half the amount of the fine prescribed for that offence.</p> <p>(2) Where any property has been seized in connection with the offence compounded under this section, the officer compounding the offence may –</p> <p>(a) if such property belongs to the offender, either release it to him or her on payment of a sum of money not exceeding the value thereof, or forfeit it to the State;</p> <p>(b) if the property does not belong to the offender, require that such property be returned to its owner at the expense of the offender.</p> <p>(3) In any proceedings brought against any person for an offence against this Act it shall be a good defence if such person proves to the satisfaction of the court that he or she has compounded the offence under the provisions of this section.</p>
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### Fisheries Act 1941

Section	Provision
2	<p>In this Act, unless the context otherwise requires –</p> <p><b>fish</b> means any aquatic animal whether piscine or not, and includes shellfish, sponges, holothurians (beche-de-mer), sea urchins, crustaceans and turtles and their eggs.</p>
10	<p>(1) Any person who, being required to be the holder of a licence, takes or attempts to take fish in Fiji waters or is in possession of fishing apparatus in such circumstances as to satisfy the court before which he or she is tried that he or she intended to use the apparatus for the purpose of taking or destroying fish without being licensed under this Act shall be liable to imprisonment for 3 months or to a fine of \$500 or to both such penalties.</p> <p>(2) Any person who –</p> <p>(a) being the holder of a licence under this Act, fails to comply with any of the conditions of his or her licence; or</p> <p>(b) commits any offence against this Act for which no special penalty is provided; or</p> <p>(c) contravenes or fails to comply with the provisions of any regulation made hereunder, shall be liable to imprisonment for 3 months or to a fine of \$500 or to both such penalties.</p> <p>(3) The master, owner, and charterer, if any, of any fishing vessel registered elsewhere than in Fiji using such vessel for the purpose of taking fish within Fiji fisheries waters without the prior approval of the Minister or under the authority of a licence issued under the provisions of section 14 of the Marine Spaces Act 1977 shall be liable on conviction to a fine not exceeding \$100,000.</p> <p>(4) Any person who takes and destroys or attempts to take or destroy any fish by the use of dynamite, gelignite or other explosive substance, or who, being the holder of a licence under this Act, is found in possession of dynamite, gelignite or other explosive in such circumstances as to satisfy the court before which he or she is tried that he or she intended to use the substance for the purpose of taking or destroying fish, or any person possessing, transporting, or selling or exposing for sale or hawking fish which has been taken by the use of aforesaid explosives, shall be liable for a first offence to imprisonment for 6 months and to a fine of \$1,000; for a second offence to imprisonment for 12 months and a fine of \$2,000, and if he or she is the holder of a licence to take fish it shall be cancelled and may not be renewed for a period of 3 years from the date of the second conviction; for a third and any subsequent offence to imprisonment for 2 years and a fine of \$5,000, and if he or she is the holder of a licence to take fish it shall be cancelled and may not be renewed for a period of 6 years from the date of such conviction.</p> <p>In all cases where dynamited fish is seized, it shall be confiscated and destroyed.</p> <p>(4A) Persons convicted of offences under subsection (4) shall be sentenced to a minimum of –</p> <p>(a) a fine of \$1,000 in the case of a first offence;</p> <p>(b) a fine of \$2,000 in the case of a second offence;</p> <p>(c) a fine of \$5,000 in the case of a third and subsequent offences.</p> <p>(5) Any person, whether he or she be the salesman or saleswoman or the owner of illegally caught fish, who fails to supply on demand to any officer named in section 7, information regarding the source of his or her supply, shall be guilty of an offence under this Act.</p>

	<p>(6) Any person who obscures the registration number of a vessel with intent to evade any of the provisions of this Act shall be guilty of an offence against this Act.</p> <p>(7) The court may order the forfeiture to the State of any vessel, apparatus or catch or the proceeds of sale on any catch detained under section 7(c), employed in the commission of, or derived from, any act proved to be an offence under this Act or any regulation thereunder, provided that in every case of a conviction under subsection (3) the fishing apparatus employed shall be forfeited to the State.</p> <p>(8) A certificate under the hand of a fisheries certification officer, Government veterinary officer, or Government chemist stating that a fish has been killed by dynamite, gelignite or other explosive substance shall be <i>prima facie</i> evidence of that fact until the contrary be proved.</p>
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### Crimes Act 2009

Section	Provision
288	<p>Offences against Property.</p> <p>In this Part, unless the context otherwise requires –</p> <p><b>property</b> includes –</p> <ul style="list-style-type: none"> <li>(a) real property;</li> <li>(b) personal property;</li> <li>(c) money;</li> <li>(d) a thing in action or other tangible property;</li> <li>(e) electricity; and</li> <li>(f) a wild creature that is – <ul style="list-style-type: none"> <li>(i) tamed;</li> <li>(ii) ordinarily kept in captivity; or</li> <li>(iii) reduced (or in the course of being reduced) into the possession of a person.</li> </ul> </li> </ul>
291	<p>Theft.</p> <p>(1) A person commits a summary offence if he or she dishonestly appropriates property belonging to another with the intention of permanently depriving the other of the property. Penalty – Imprisonment for 10 years.</p> <p>(2) For the purposes of this Act an offence against subsection (1) is to be known as the offence of theft.</p>
335	<p>False or misleading documents.</p> <p>A person commits a summary offence if he or she –</p> <ul style="list-style-type: none"> <li>(a) produces a document to another person; and</li> <li>(b) does so knowing that the document is false or misleading; and</li> <li>(c) the document is produced in compliance or purported compliance with any law.</li> </ul> <p>Penalty – Imprisonment for 5 years.</p>
368	<p>Injuring animals.</p> <p>A person commits a summary offence if he or she wilfully and unlawfully kills, maims or wounds any animal or bird capable of being stolen.</p> <p>Penalty – Imprisonment for 5 years.</p>

### Customs Act 1986

Section	Provision
137	<p>A person who –</p> <ul style="list-style-type: none"> <li>(a) prepares, passes, presents or causes to be prepared, passed or presented as genuine any document required to be produced under any customs law which is not in fact a genuine document or which is untrue or incorrect in any material particular;</li> <li>(b) makes any entry which is false or incorrect in any material particular;</li> <li>(c) makes in any oral declaration to an officer or in any document produced to an officer, any statement which is untrue or incorrect in any material particular or produces or delivers to an officer any declaration or document containing such statement;</li> <li>(d) misleads an officer in any material particular likely to affect the discharge of his or her duty;</li> <li>(e) refuses or fails to give an officer his or her correct name or correct address;</li> </ul>

	<p>(f) without the authorisation of the Comptroller previously obtained, sells or exposes for sale or has in his or her possession for sale or for any purpose of trade on board an aircraft or ship in a port, any goods;</p> <p>(g) delivers, removes or withdraws any goods from an aircraft or ship, wharf or other place, where such goods are under customs control, previous to their examination by an officer or without the authority of an officer;</p> <p>(h) unlawfully conveys or has in his or her possession any smuggled goods; or</p> <p>(i) refuses or fails to stop or neglects to stop any means of conveyance when called upon to do so by an officer or police officer,</p> <p>is guilty of an offence and is liable to a fine not exceeding \$25,000 or a term of imprisonment not exceeding 10 years, or both.</p>
143	A person who is guilty of an offence against this Act for which no special penalty is imposed, is liable to a fine not exceeding \$25,000 or a term of imprisonment not exceeding 10 years, or both, and the goods, if any, which are the subject matter of the offence are liable to forfeiture.
<b>Customs (Prohibited Imports and Exports) Regulations 1986</b>	
<b>Section</b>	<b>Provision</b>
15	Any person who contravenes any provision of these Regulations or who contravenes any of the conditions for the time being specified in a licence issued pursuant to these Regulations or specified in the Schedules to these Regulations shall be guilty of an offence and shall be liable to a fine not exceeding \$10,000, and any goods forming the subject matter of any such contravention shall be liable to forfeiture.
Schedule 1	Goods the importation of which is absolutely prohibited: 16. Shark fins 17. Live coral
Schedule 2	Goods which may be imported only on conditions: 8. Whale's teeth (commonly known as "Tabua") – Imported by the Ministry responsible for iTaukei affairs and rural development or in accordance with the conditions of a licence issued by that Ministry produced to the Comptroller. The exporter shall produce to the Comptroller an export permit issued by the Department of Environment as required under the Endangered and Protected Species Act 2002.
Schedule 6	Goods the exportation of which is prohibited absolutely: 3. Shark fins 4. Live coral
Schedule 7	Goods the exportation of which is prohibited unless specific conditions, restrictions or requirements are complied with: 3. All reptiles with the exception of the marine turtle; all amphibians, with the exception of the toad ( <i>Bufo marinus</i> ); all bats; and the Fiji Goshawk ( <i>Accipiter rufitorques</i> ) – The exporter shall produce to the Comptroller export permits issued by the Department of Environment as required under the Endangered and Protected Species Act 2002. 4. Whale's teeth (commonly known as "Tabua"), breast plates of pearl and ivory ("civa vonovono") and ivory necklaces ("Wasekaseka") – The exporter shall produce to the Comptroller the written permission of the permanent secretary responsible for iTaukei affairs. The exporter shall produce to the Comptroller export permits issued by the Department of Environment as required under the Endangered and Protected Species Act 2002. 5. Unprocessed turtle shell - The exporter shall produce to the Comptroller export permits issued by the Department of Environment as required under the Endangered and Protected Species Act 2002.
Schedule 9	Goods the exportation of which is prohibited under other laws relating to the exportation of goods from Fiji: 5. Live fish of any kind whatsoever; turtle flesh, turtle shell the length of which is less than 45.72 centimetres; Any shell – (a) of the species <i>Trochus niloticus</i> (Sici) (Trocas shell) measuring less than 8.89 centimetres across the whorl; (b) of the species <i>Pinctada margaritifera</i> (Civa) (pearl oyster shell) of which the nacre of mother-of-pearl measures less than 10.16 centimetres from the butt or hinge to the opposite

	edge or lip; Beche-de-mer (Holothurians) of the species <i>Holothuria scabra</i> ( <i>Metriatyla scabra</i> ) (Dairo) (sand fish) or of any other species, of a length less than 7.6 cm; Meat of giant clam (Tridacnid clam) ( <i>Vasua</i> ) of the species <i>Tridacna derasa</i> ( <i>Vasua dina</i> ), <i>Tridacna squamosa</i> (Cega) and <i>Tridacna maxima</i> (Katavatu).
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