



Pacific Liaison and Coordination Office

Parliament of Australia
Joint Standing Committee on Foreign Affairs, Defence and Trade

Inquiry into:

The role of the private sector in promoting
economic growth and reducing poverty in
the Indo-Pacific region

Submission by:

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Pacific Private Sector Development Initiative

ASIAN DEVELOPMENT BANK

The information and analysis contained in this submission is a summary of detailed analysis produced by the Pacific Private Sector Development Initiative¹ (PSDI), which is referred to in the bibliography.

Recommendations

1. Promoting private sector development, investment, and entrepreneurship should be a focus of Australia's Official Development Assistance Program (issue 1 of the Terms of Reference).
2. There is a substantial need for domestic policy reforms in Pacific island countries to address problems with business environments in their economies (issue 3 of the Terms of Reference).
3. Public private partnerships (PPPs) are important in promoting more efficient use of public sector resources and improved service delivery in Pacific island economies (issue 5 of the Terms of Reference).
4. Policy constraints can be addressed through the provision of technical assistance that helps Pacific island economies (i) modernize their business law frameworks, (ii) improve access to finance, (iii) promote more competition, (iv) improve the efficiency of state-owned enterprises, and (v) lower barriers to women participating in the economies of the region. This can be done at comparatively low cost, compared with large scale projects.
5. Removing barriers to the economic empowerment of women is an important policy priority (one of the focus issues of the Inquiry) and can be a key driver of economic growth.

¹ The Pacific Private Sector Development Initiative (PSDI) is a regional technical assistance facility co-financed by the Asian Development Bank, and the governments of Australia and New Zealand. Established in 2006, PSDI works with Asian Development Bank's 14 Pacific developing member countries to improve the enabling environment for business and support inclusive, private sector-led economic growth.

A. THE IMPORTANCE OF THE PRIVATE SECTOR FOR ECONOMIC GROWTH

1. This submission discusses the central role of the private sector in generating long-term growth and poverty reduction in Pacific island economies. Ensuring sustainable economic development in the Pacific region is also necessary to address social needs that range from the provision of health and education, to the protection of the environment and culture. This cannot occur without resources generated by private sector growth. By contrast, public sectors cannot effectively generate their own revenues—they require resources that have been created by business activity, entrepreneurship, investment, and growth.

2. Healthy economies are dominated by a strong private sector that produces through taxation the surplus necessary for the public sector to finance services such as law and order, health, and education. Without a vigorous private sector, countries in the Pacific region will remain dependent upon aid and external transfers, limiting their ability to control their own destiny.

3. There are several components to promoting private sector development in the Pacific. Small island economies rely on foreign trade to supply many of their needs, because they are too small to generate the economies of scale necessary to efficiently produce most consumer and investment goods. At the same time, trade is necessary to export the specialized products of the islands, such as specialized agricultural products, natural resources, and services such as tourism. Earnings that seasonal migrant workers remit also contribute to prosperity at home.

4. Other potential sources of prosperity are the financial resources and the specialist know-how that foreign investors can bring. Combined with local capabilities, foreign investment has the potential to greatly increase productivity in Pacific island economies, which is key to their long-term prosperity. It also creates opportunities for Pacific islanders, as well as training in modern techniques of business management.

5. Until the early 2000s, a widely-held view was that the private sector had little or no role in the development of countries in the region. The public sector dominated Pacific economies, with inefficient State-owned Enterprises (SOEs) engaging in a wide range of activities that crowded out, or prohibited, competition in key sectors such as telecommunications, transport, and electricity generation. Because of high prices, poor service, and low productivity, these sectors held back the development of the economies of the region.

6. In the last decade, however, there has been a shift in attitudes towards acknowledging the central role of the private sector as the driver of growth and poverty alleviation. Analysis identified the many barriers to investors and entrepreneurs that resulted from a state-centric model of economic development. Work done by the Asian Development Bank²(ADB) identified the many constraints to private sector development that exist in the region. Inadequate infrastructure, outdated business laws, burdensome regulation, limited access to finance, and roadblocks to women's economic advancement placed many barriers in countries in the region—resulting in failure to achieve their growth potential.

7. The central finding of ADB's analysis is that the high cost of doing business in Pacific island economies is compromising their long-term prosperity. Without far-reaching reform, the quest for sustainable growth in the region will remain elusive. Furthermore, many of the needed reforms require relatively inexpensive technical assistance in a number of key focus areas, rather than large investments in programmatic aid.

² ADB. 2004. *Swimming Against the Tide? An Assessment of the Private Sector in the Pacific*. Manila.

8. The focus areas identified by ADB as central to promoting private sector development are:

- Improving access to finance. Unless investors, entrepreneurs and viable businesses can be financed, opportunities go to waste and growth potential is unrealized. Pacific island economies all have underdeveloped financial markets because of weak institutions.
- Reforming outdated business laws and removing regulations that are compromising investment and business growth. In many cases, business laws are unsuited to the needs of modern commerce. In many countries, starting a business involved high costs and long delays, which have an especially adverse effect on smaller businesses. In addition, overly burdensome regulations imposed significant costs on business. The result is small formal sectors, with a large amount of informality, which incurs the double cost of low productivity and less tax revenue to deliver essential services, such as health and education.
- Enhancing the efficiency of SOEs through governance reforms and, where feasible, privatization. SOEs, which in many countries provide essential services such as power generation, water, sewage, and (in some cases) telecommunications, are inefficient and often run at a loss, which in turn drains government funds from social services such as health and education.
- Promoting public-private partnerships to increase investment and improve service delivery—the private sector almost always delivers better services at a lower cost than services provided by government.
- Ensuring that Pacific island economies have a well-functioning competition and regulatory framework. The small size of countries in the region means that there is often a conflict between promoting competition and obtaining efficiency gains through economies of scale.
- Promoting the economic empowerment of women. Many systemic barriers as well as cultural attitudes hold women back from realizing their full potential in the formal sector of economies and contributing to economic growth.

B. THE BENEFITS OF BUSINESS ENVIRONMENT REFORM

9. To realize its potential, the private sector requires a business climate that is conducive to investment and entrepreneurship. Successful business environment reforms result in:

- more firms entering the formal economy, leading to increased productivity as a result of better access to the financial system, contracts to supply other, larger companies, and improved access to government services.
- greater investment by firms as a result of an improved legal and regulatory environment. Change in firm behavior as a result of investment in new technologies leads to greater productivity which, in turn, increases profitability. Profitable businesses employ more people.
- increased profits for firms (e.g., through the removal of trade barriers or savings from more efficient licensing and inspections processes). In turn, high profits lead to more investment.
- improvements in firm productivity and firm turnover and profit, which contribute to aggregate economic growth.
- inclusive growth through more and better-paying jobs, and economic opportunities for women in the formal sector.

C. IMPORTANT FACTORS IN PROMOTING BUSINESS ENVIRONMENT REFORM

10. **International Trade.** A favorable business environment encourages international trade in a number of ways. First, it provides for stable and reliable contracting between those importers and exporters based in Pacific island economies and those in countries that are selling imports into the islands or purchasing exports from the islands. Second, it provides financing for both imports and exports. Third, better infrastructure reduces the costs of trading. Finally, competition policy prevents the establishment of monopolies in distribution, which keeps Pacific island economies competitive.

11. **Business Laws.** Since the prosperity of Pacific island economies depends on international trade, firms dealing with many suppliers and customers, and trading at a distance, cannot rely solely on personalized relationships to underpin their transactions. Sound business laws that promote trade and investment are needed. Pacific economies have long suffered from outdated and inappropriate laws and regulations. In many cases, laws have simply been absent. The key legal areas of company formation, contracting, dispute resolution, and insolvency present a common theme in all Pacific countries. They have been largely uncertain and poorly enforced, increasing risks and transaction costs for business. They have done very little to provide the legal platform necessary to support a robust and developing private sector.

12. The effect of these weak business law frameworks is to encourage economic activity outside the formal sector. Typically, informal sector businesses are in the agricultural or fishing sectors, selling their products in markets or at the roadside. Transactions are usually for cash, and informal activity involves little investment in either physical or human capital.

13. In the Pacific, there are many barriers to formality. The main reasons for a business to become formal are to gain access to finance to support growth, and access the legal system for entering and enforcing contracts. Neither finance nor the legal systems are, in practice, accessible for many of the smaller businesses in the Pacific.

14. This brings with it heavy costs: informality traps participants in low wage, low productivity activities. Informality adds to economic distortions as participants do not adhere to regulations that have public good elements, such as health, safety, and product standards, and thereby have an advantage over their formal competitors. They also do not contribute to the functioning of society as well as the norms and ideals set out in countries' regulatory frameworks.

15. Without reform, business formation and licensing is complicated and costly. This means making the legal system accessible to poorer people, women engaged in business activity, and residents of remote areas. Examples include:

- enabling businesses to incorporate a company quickly and at a relatively small cost;
- making formality far simpler for small businesses through the introduction of single shareholder/single director companies;
- providing a corporate form for village and community businesses that is easy to establish and which provides a superior vehicle for the receipt of profits or revenues from royalties through the establishment of community companies.

16. Cofinanced by ADB and the governments of Australia and New Zealand, the Pacific Private Sector Development Initiative (PSDI) is assisting several Pacific countries to undertake legal reforms which enable Pacific islanders to more easily engage in formal economic activity. By September 2013, company law reforms in Papua New Guinea, Samoa, Solomon Islands, Tonga, and Vanuatu were either in process or completed. Samoa, PNG and Solomon Islands had installed electronic company registries, with new electronic registries planned for Tonga and Vanuatu.

17. The public accessibility of the registries adds a significant degree of transparency in dealing with corporate entities. Tax officials are able to determine who are the directors and shareholders of companies and reconcile these with tax returns. Ombudsmen, organizations such as Transparency International, and the press can also investigate ownership to ensure that political figures have declared all their interests in companies that might be awarded government contracts.

18. *Business law reform in Solomon Islands.* To date, the most extensive business law reform has occurred in Solomon Islands, where a new Companies Act was passed in 2010 and a fully electronic company registry was installed. The new laws eliminate various barriers to company formation including, for example, the need to obtain ministerial approvals for company names, the payment of stamp duty, and the requirement to produce a company seal. The average time taken to form a company has now been reduced from nearly 3 months to less than 36 hours. Improvements in the company law framework include the strengthening of shareholder rights, and more straightforward liquidation and insolvency procedures. More detail appears in the Country Appendix.

19. *Company registry reform in Samoa:* In March 2013, Samoa installed an electronic companies registry, which is now one of the most modern company registries in the world. Experience with the registry is still new, but ease of registration, searchability, and transparency have attracted much praise from the private sector. New company registrations increased from 76 in 2008, when the Companies Act commenced, to 206 in 2013 when the electronic registry was implemented. See the Country Appendix for more detail.

20. **Access to Finance.** Effective financial systems are instrumental in channeling savings to their most productive use. Countries with well-developed financial systems experience faster growth rates and lower levels of poverty than those where financial institutions are underdeveloped. There is a substantial body of empirical evidence documenting the relationship between levels of credit to the private sector relative to gross domestic product (GDP) and per capita GDP growth.³

21. Financial markets in the Pacific are generally not well developed. In many Pacific countries, most people do not have access to even the most basic financial services. Without access to financial services, businesses cannot grow and people on low incomes cannot save securely to invest, pay for unexpected expenses, or move beyond subsistence standards of living.

³ See (i) P. Holden and V. Prokopenko, 2001. *Financial Development and Poverty Alleviation: Issues and Policy Implications for Developing and Transition Countries*. IMF Working Paper 01/160: International Monetary Fund and (ii) M. Ayyagari, A. Demirgic-Kunt, and V. Maksimovic. 2005. *How Important are Financing Constraints? The Role of Finance in the Business Environment*. World Bank. The latter analyzes firm surveys to ascertain the impact of the business environment on growth. They find that access to finance is one of the most important determinants of the growth rate of firms, along with crime and political instability.

22. Specific factors that reduce access to loan financing in the Pacific include:

- inability to pledge both movable property (i.e., assets such as accounts receivable, inventory, and equipment) and fixed property (i.e., land and buildings) as collateral for lending. Inability to take collateral increases the risks of lending and reduces the supply of credit;
- ability of larger commercial banks to generate relatively lucrative profits from foreign exchange transactions, which allows banks to adopt overly cautious credit risk management policies and forgo lending from credit activities;
- misdirected lending and crowding out of commercial lenders by loan guarantee programs and development banks providing loans on subsidized terms. These distort financial markets as they fail to take into account the substantial risk factors involved in such preferential financing;
- weak legal systems and enforcement mechanisms;
- lack of credit information;
- underdeveloped capital markets, and
- lack of specialized financial products and services in certain sectors such as agribusiness.

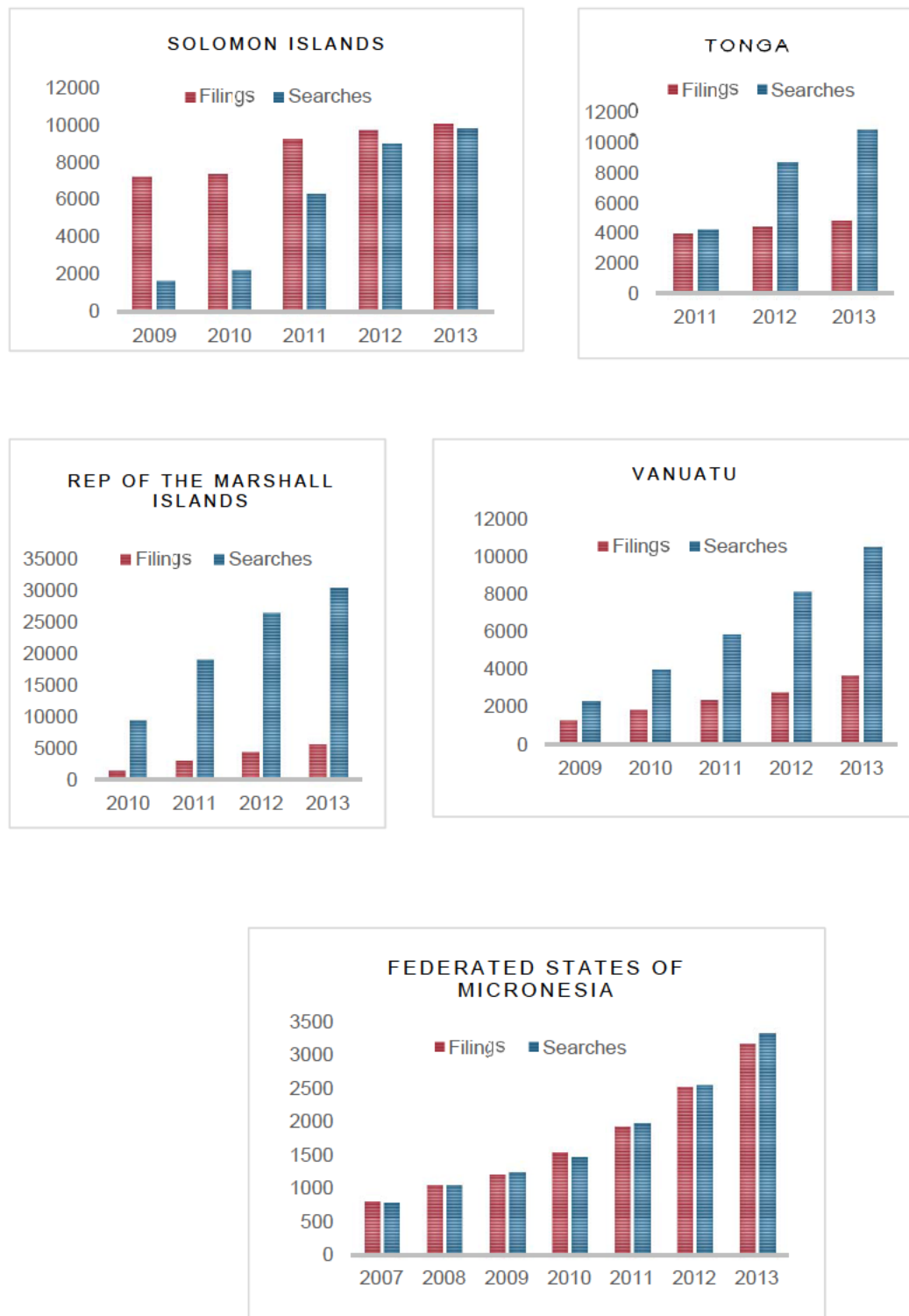
23. In the Pacific, PSDI's analysis of credit constraints for businesses concluded that one of the most important causes of financial underdevelopment was the outdated legal system and institutions that seriously inhibit lending, raise the costs of borrowing, and reduce access to credit, especially for smaller businesses.

24. As a result, PSDI has supported one of the most extensive collateral reform programs in the world, aimed at facilitating the use of movable property as security for loans. Starting with the Federated States of Micronesia in 2006, six Pacific countries have fully implemented these reforms: Federated States of Micronesia, Republic of the Marshall Islands (RMI), Palau, Solomon Islands, Tonga and Vanuatu, with PNG and Samoa on track to complete the reform in 2014.

25. Results indicate the reforms are having a positive effect on the supply of credit and loans, with more than 27,000 outstanding secured loans in the region as of end December 2013. The secured transactions electronic registries are being actively searched. There have been over 65,000 searches so far, a remarkable number given the population size of the region.

26. One main obstacle to increased access to financial services in rural areas has been the high cost of establishing traditional banking networks versus the relatively low revenue that low-income and rural customers generate for financial institutions. Efficient and low-cost approaches to outreach are needed to facilitate the dramatic increase in service provision that is required. The rapid growth in mobile phone coverage in the Pacific provides an opportunity to extend financial services to a far greater portion of the population than previously possible.

CHART 1: Security Interest Filings and Searches in five Pacific island economies.



SOURCE: ADB PSDI

27. **Improving the Performance of SOEs.** SOEs absorb large amounts of scarce capital, on which they provide very low returns. Recent analytical work revealed that SOEs owned up to 18% of total fixed assets in six of the largest economies of the Pacific, yet their output as a share of GDP amounted to far less than this, ranging from 2.4% in PNG to about 7.5% in RMI.

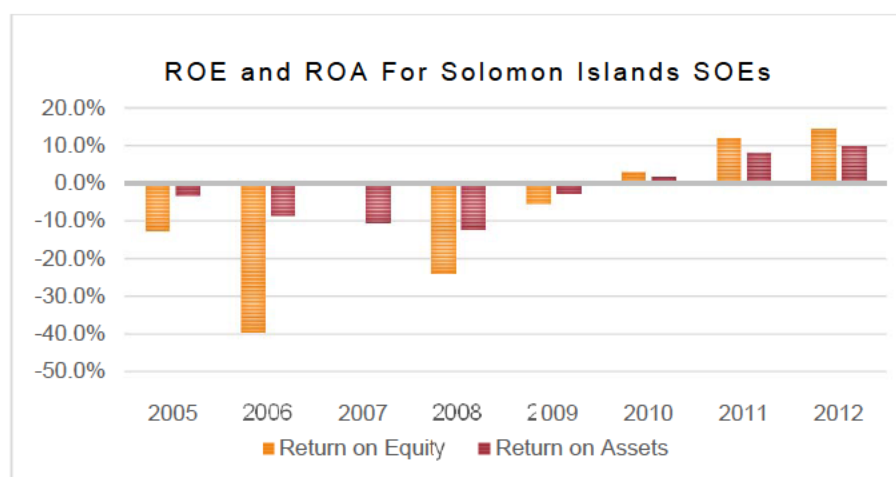
28. The low productivity of SOEs places a heavy burden on the private sector. If economies are to grow, the private sector must be correspondingly more efficient to compensate for the poor performance of such a large proportion of the capital stock. Furthermore, many Pacific countries face severe budget constraints, which limit their ability to undertake the necessary investment to improve SOE productivity.

29. Many commercial SOEs compete with the private sector, yet do so with the benefit of subsidized debt and equity. Meanwhile, the infrastructure SOEs—usually monopoly providers of goods and services such as power, ports, water and airports—are often inefficient, driving up input costs for the private sector and draining government budget resources that could be better spent elsewhere.

30. As a result of comparative analysis undertaken by PSDI that highlights the shortcomings of SOE performance in all of the countries in the region, there is now much more emphasis on improving operating performance. In almost every Pacific country, efforts are being made to:

- Improve governance and monitoring practices;
- Strengthen the legal and regulatory frameworks under which SOEs operate; and
- Restructure and/or privatize SOEs.

CHART 2:



Source: ADB PSDI

31. Results have been mixed and are directly linked to the political commitment to reform SOEs, as reform can have short-term political costs. Some notable successes have been achieved. A striking example of turnaround comes from the Solomon Islands, which passed a new SOE Act in 2007 and has focused efforts on implementing its core provisions for SOEs to operate commercially and transparently.

This, combined with the political will to place SOEs on a sustainable financial footing, has resulted in a dramatic improvement in the portfolio's return on assets and equity over the past 4 years. As Chart 2 illustrates, it is possible to achieve substantial results through determined reform.

32. There have also been a number of privatizations of SOEs in the region, including Solomon Islands Printers, Soltai, Home Finance Limited, and Sasape Marina in Solomon Islands, and Samoa Broadcasting Corporation and SamoaTel in Samoa. As at first quarter, 2014, a number of countries (including Samoa, Tonga and Vanuatu) were in the process of preparing several SOEs for privatization.

33. **Public-Private Partnerships (PPPs).** PPPs remain a relatively new concept in the Pacific. Governments have little experience with structuring long-term contracts for the delivery of infrastructure and related services and, consequently, investors see the Pacific as high risk. There is no structured process with which potential PPP projects are identified, developed, and tendered. The result is a continued focus on traditional public procurement and operation of infrastructure, typically by SOEs, with resulting lack of maintenance and rapid deterioration. PPPs offer an opportunity not only to leverage private investment and know-how, but also to lock in maintenance incentives and reduce the cost of infrastructure on a whole-of-life basis. Procuring PPPs requires a very different process from traditional public procurement, with an emphasis on outputs rather than inputs. It also generates long-term payment obligations for governments, and contingent liabilities that must be managed. For these reasons, and possibly the vested interests in the traditional procurements processes, it has been difficult to create formal PPP frameworks in any Pacific country.

34. Progress is being made, however, most notably in Timor-Leste, where a PPP legal framework is now in place and a new seaport is being developed using a PPP modality. In PNG, which endorsed a PPP policy in 2008 and finalized a PPP law for submission to Parliament in 2013, progress has been slower, but substantial opportunity exists to develop PPPs in the power, transport, water, and health sectors. In Solomon Islands, there is potential for PPPs in both the power and port sectors. In other Pacific countries, efforts are being made to identify opportunities for partnering with the private sector to deliver infrastructure and related services, such as long-term maintenance contracts, and the existence of secured transactions laws is making it possible for an increasing number of local firms to participate. Across the Pacific, the private sector continues to be a strong advocate of PPPs as an essential vehicle for opening up greater market opportunities.

35. **Competition Policy.** Competition policy encompasses the range of policies, laws, regulations, decisions, and governmental actions that aim to promote competitive behavior between business undertakings and rationally address any circumstances in which competition might not be efficient or might conflict with other important social objectives. As such, competition policy forms an important part of national economic policy and cannot be separated from SOE reform. Competition policy may advance a variety of objectives, such as:

- ensuring market efficiency;
- encouraging entrepreneurship and innovation;
- supporting good governance by restricting opportunities for rent-seeking behavior;
- supporting equality of access to economic opportunities, in particular those controlled by SOEs; and
- improving the climate for investment.

36. Competition is also a far preferable alternative to price controls, which have been widely used in many Pacific island economies. Price controls distort domestic production and fail to increase supply. These then result in raised prices.

37. However, the relative size of economies in the Pacific implies that some sectors cannot support many competitors. In some sectors, economic efficiency dictates that only one or two suppliers serve the domestic market. This does not mean, however, that competition has a small role to play in Pacific island economies. On the contrary, it strengthens the case for competition policy and competition law. Effective competition law deters foreign suppliers that might otherwise attempt to engage in anti-competitive conduct.

38. Work has commenced in some Pacific countries and is accelerating given the increased importance governments are placing on creating competitive economies. For example:

- a regional diagnostic paper is being prepared which will analyse the current legal and policy environment and highlight common issues and possible recommendations for reform;
- a diagnostic and national competition policy has been completed in Samoa and Cabinet has endorsed the policy. A Competition and Consumer Bill is currently being drafted;
- a review of the Independent Consumer & Competition Commission Act and competition policy framework in PNG has commenced;
- a diagnostic of the competition policy and law frameworks has commenced in Tonga and Solomon Islands; and
- policy advice is being provided to the Cook Islands on liberalization of the telecommunications market along with a broader competition policy.

39. **The Role of Women in Economic Development in the Pacific.** In much economic activity in Pacific economies, women are marginalized for reasons that range from deep-seated cultural practices, to structural factors and legal and regulatory constraints. For example, in a number of countries women must have written agreement from a male relative before they can enter into contracts, obtain a business name, or form a company. This confines many women to the informal sector, with all the challenges this brings in terms of foregone productivity. Without investment, productivity and returns to labor are low, which in turn perpetuates poverty.

40. Thus, the economic disenfranchising of women results not only in a loss of social well-being, but carries with it enormous economic costs. Many of the barriers are systemic and legal and cut across gender—being unable to inexpensively form a company and engage in contracts harms everybody but, because women are predominantly engaged in the informal sector, they are especially disadvantaged. Interventions to improve the business environment should be mindful of these multiple constraints and incorporate gender analysis to evaluate the impact on women.

41. The private sector reforms that have occurred across the region have opened economic opportunities for women. For example:

- In Samoa and Solomon Islands, it is now easy, quick, and inexpensive to form single shareholder companies. In the long run, this has strong potential as an instrument for formalizing women's business activities.

- In a number of countries innovative initiatives have provided women with the means to save and to access loans. One such initiative is the use of a mobile phone-linked bank account that has improved the ability of women to save money with ease. Women in remote locations are now able to call on these savings to fund business startups.
- Ongoing initiatives such as secured transactions reform and mobile banking have enabled women to access finance to create and/or expand businesses.
- Technology-based financial services provision that has occurred in PNG and Vanuatu create a safer, more secure way to save and transfer money. Women are not required to travel to a financial institution with cash, which places them in greater control of their finances as well as offers the flexibility of where and when they do their banking.
- The reforms of the Companies Acts in Samoa and Solomon Islands have increased the number of women directors and shareholders in both countries. Since the Companies Act was passed in Solomon Islands, the number of women directors has increased by nearly 200 and the number of women shareholders by over 100, demonstrating that the systemic reforms have provided greater opportunities for women. This trend appears to be accelerating. Similarly in Samoa, approximately 32% of directors and 38% of shareholders are women.

42. With women representing 40% of the global labour force, the need to target women's skills as a means of increasing the productivity of nations is clearer than ever before. Widespread acknowledgement that such gender mainstreaming efforts alone may not be sufficient to narrow persistent gender gaps have led to more directed efforts to accelerate equality. Such efforts include enhancing women's technical skills of rural women to encourage them to start up sustainable business in the emerging renewable sector, including solar maintenance and repair; and raising awareness and providing assistance in business registrations processes and accessing markets for women in the informal sector, so they can grow their businesses.

D. LESSONS FROM PRIVATE SECTOR ORIENTED REFORM IN THE PACIFIC

43. In several Pacific island economies, extensive reform has occurred in a number of key areas that relate to private sector development. By making business transactions cheaper and more transparent, the reforms support further opening of countries to trade and investment which, in turn, promote growth and poverty alleviation. The reforms that have occurred to date are significant—in some areas such as secured transactions reform, Pacific island economies have achieved more than any other region in the world.

44. While attitudes are changing, a suspicion of the private sector lingers in the Pacific. This manifests itself in lack of consultation with the private sector, a suspicion of foreign investors, a belief that government should own substantial portions of productive assets, and a reluctance to privatize SOEs. While opportunities for PPPs are opening up, actual implementation is still embryonic in most countries in the region.

45. The private sectors themselves are not above criticism. For too long, many in Pacific island business communities have relied on special concessions and favors, and have been protected from competition by formal and informal barriers to trade and to entry into particular sectors. This, and a lack of know-how from foreign investors, keeps productivity low and reduces growth rates.

46. Although economic growth in the region over the past 5 years has been on par with other parts of the world, it is fragile. Much has been based on natural resource development. The region remains vulnerable to external shocks and natural disasters. Too large a proportion of the economies of the region is still in the hands of the state. Much more needs to be done to generate growth and alleviate poverty.

47. This submission has pointed to the importance of the private sector in promoting growth and poverty alleviation in the Pacific region. It noted that there has been a substantial change in attitude towards private sector development over the past decade. Consensus has evolved from favoring a state-centric approach to development coupled with skepticism regarding the role of business in the region to one in which the private sector is now viewed as being the primary source of growth.

48. Because of geography and scale, Pacific island economies have natural disadvantages in that the cost of supplying public goods is high. Furthermore, prosperity in these countries rests on their contact with the outside world. Trade is a vital component of efforts to achieve higher standards of living.

49. These factors all point to the importance of the business environment in achieving growth and prosperity. Without a sound foundation of business law, access to finance and financial services, and well-functioning SOEs, achieving prosperity will prove to be difficult. In this, the experience over the past 6–7 years gives solid grounds for optimism. Although much remains to be done, there have been substantial reform achievements in many countries in the region. In particular, Solomon Islands, often regarded as fragile state, has been a leading reformer and has reaped the rewards of higher growth. Although caveats apply to the sources of growth, if these lessons can be taken and converted into further progress, Pacific island economies can achieve much.

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Joint Standing Committee on Foreign Affairs, Defence and Trade

Inquiry into:

The role of the private sector in promoting economic growth and reducing poverty in the Indo-Pacific region

APPENDIX to submission by Pacific Private Sector Development Initiative

PSDI Pacific Country Activity Updates, May 2014

- Cook Islands
- Fiji
- Kiribati
- Republic of the Marshall Islands
- Federated States of Micronesia
- Nauru
- Palau
- Papua New Guinea
- Samoa
- Solomon Islands
- Timor-Leste
- Tonga
- Tuvalu
- Vanuatu

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APPENDIX

See attachment:

ADB Pacific Private Sector Development Initiative (PSDI)

Country Activity Updates, May 2014

- Cook Islands
- Fiji
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- Tonga
- Tuvalu
- Vanuatu



PACIFIC PRIVATE SECTOR DEVELOPMENT INITIATIVE

COUNTRY ACTIVITY UPDATES | MAY 2014

WHO WE ARE:

THE PACIFIC PRIVATE SECTOR DEVELOPMENT INITIATIVE (PSDI) is a regional technical assistance facility co-financed by the Asian Development Bank and the governments of Australia and New Zealand.

WHAT WE DO:

In operation since 2007, PSDI helps Pacific island countries to reform the business environment; remove the constraints to doing business; foster entrepreneurship and new business models; remove barriers to women's participation in business; help the private sector to formalise and grow their businesses, to create jobs, pay taxes, and lift people out of poverty. PSDI supports inclusive, private sector-led economic growth.

WHERE WE DO IT :

PSDI works with ADB's 14 Pacific developing member countries:

- Cook Islands
- Fiji
- Kiribati
- Marshall Islands
- Federated States of Micronesia
- Nauru
- Palau
- Papua New Guinea
- Samoa
- Solomon Islands
- Timor-Leste
- Tonga
- Tuvalu
- Vanuatu

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SOUTH PACIFIC MICROSTATES

PSDI ACTIVITY UPDATE | MAY 2014

OVERVIEW

BACKGROUND

THE PACIFIC PRIVATE SECTOR DEVELOPMENT INITIATIVE (PSDI) is a regional technical assistance facility cofinanced by the Asian Development Bank and the Governments of Australia and New Zealand.

PSDI is working with ADB's Pacific developing member countries to improve the enabling environment for business and address constraints to private sector development in support of sustainable and inclusive economic growth.

PSDI is active on a selective basis in all the South Pacific Microstates, primarily with reform of SOEs. From 2007–2013, PSDI spent over \$125,000 on competition, state-owned enterprise (SOE) reform, and company law reform in the Cook Islands; and about \$16,500 on SOE reform in Tuvalu.

COOK ISLANDS

DESCRIPTION AND RESULTS

BUSINESS LAW REFORM: PSDI is supporting company law and registry reform in the Cook Islands. It undertook a review of the existing Act in 2013 and is in discussions with the government and the New Zealand Aid Programme on the implementation plan.

STATE-OWNED ENTERPRISE REFORM: In November 2011, PSDI reviewed the legislative, governance and monitoring framework for Cook Islands' SOEs. The government endorsed the recommendations from the resulting gap analysis in July 2012. Implementation was suspended in March 2013 as the government sought clarification on a number of issues. A further review was undertaken in July 2013, and updated recommendations were submitted to government in August 2013. PSDI stands ready to support implementation in 2014.

COMPETITION: PSDI completed an assessment of competition and consumer protection laws in 2009. The government agreed to the reform recommendations, but no implementation schedule was defined. PSDI recommenced competition work in 2014. A diagnostic was undertaken, with the report to be completed in May 2014. The government is considering reform to liberalize the telecommunications market in the Cook Islands. PSDI supported a diagnostic with the report to be completed in April 2014.

TUVALU

DESCRIPTION AND RESULTS

PSDI is providing a peer review and high level support to SPSO for SPSO's work on:

- (1) contracting out the management of the government-owned Vaiaku Hotel; and
- (2) for the merge of the Tuvalu Philatelic Bureau, Tuvalu Post Office and Tuvalu Ticketing Office into one entity.

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FIJI

PSDI ACTIVITY UPDATE | MAY 2014

OVERVIEW

BACKGROUND

THE PACIFIC PRIVATE SECTOR DEVELOPMENT INITIATIVE (PSDI) is a regional technical assistance facility cofinanced by the Asian Development Bank and the governments of Australia and New Zealand.

Although PSDI activities in Fiji have been limited by political considerations, PSDI allocated \$370,000 in 2007–2013 on activities to improve access to finance, undertake a private sector assessment, and promote state-owned enterprise (SOE) reform.

With changes in the political climate likely, PSDI is preparing to undertake a comprehensive review of its Fiji work program.

ACCESS TO FINANCE

DESCRIPTION AND RESULTS

In 2012, PSDI published the results of microinsurance demand research in Fiji, in partnership with the Pacific Financial Inclusion Programme (PFIP) and Australian Aid. The research contributed to the launch of the first community based microinsurance scheme in the Pacific, targeted at Indo-Fijian communities, in June 2012.

PSDI also contributed to a workshop for insurance regulators convened by the Pacific Islands Central Bank Working Group and organized by PFIP in 2012 and 2013. The workshop brought together insurance supervisors from seven Pacific island countries to highlight the integral role that accessible insurance services plays within wider financial inclusion efforts and to build requisite regulatory capacity. The workshop was held in Nadi, Fiji in June 2012 and August 2013.

POTENTIAL PROJECTS

Upon receipt of a request from the government, PSDI may support secured transactions reform in Fiji.

BUSINESS LAW REFORM

DESCRIPTION AND RESULTS

PSDI supported electronic transactions laws in 2008 to facilitate the use of electronic payments.

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BUSINESS LAW REFORM (continued)

POTENTIAL PROJECTS

With changes in the political climate likely, PSDI is preparing to undertake a comprehensive review of its Fiji work program.

STATE-OWNED ENTERPRISE REFORM AND PUBLIC-PRIVATE PARTNERSHIPS

DESCRIPTION AND RESULTS

PSDI supported SOE reform activities in Fiji, including director training and community service obligations (CSO) training. Moreover, Fiji participated in PSDI's SOE performance benchmarking study in 2009, 2011, 2012, and 2014. PSDI provided peer review and ongoing support to an ADB stand-alone TA on SOE reform supporting SOE restructuring, outsourcing of SOE activities, and capacity building within the monitoring agencies.

POTENTIAL PROJECTS

ADB has received requests from the government to support new SOE restructuring and public-private partnership initiatives, including policy, legal, institutional, and transactional support. These requests will be discussed with the government in Q2 2014.

ECONOMIC EMPOWERMENT OF WOMEN

POTENTIAL PROJECTS

There have been ongoing discussions with the Secretariat of the Pacific Community on a pilot "Mentoring for Young Women," and PSDI will be seeking to develop this further in 2014. The pilot seeks to engage with young women (under 30 years of age) through mentoring and skills training.

CROSSCUTTING

DESCRIPTION AND RESULTS

PSDI undertook an in-depth analysis of the constraints to private sector development in Fiji, published as *Reinvigorating Private Sector Investment: A Private Sector Assessment for Fiji* in 2013.

POTENTIAL PROJECTS

A brief update of the Fiji private sector assessment will be prepared for the incoming government.



MICRONESIA

PSDI ACTIVITY UPDATE | MAY 2014

OVERVIEW

BACKGROUND

THE PACIFIC PRIVATE SECTOR DEVELOPMENT INITIATIVE (PSDI) is a regional technical assistance facility cofinanced by the Asian Development Bank and the Governments of Australia and New Zealand.

PSDI is working with ADB's Pacific developing member countries to improve the enabling environment for business and address constraints to private sector development in support of sustainable and inclusive economic growth. From 2007 to 2013, the Republic of the Marshall Islands (RMI) received \$115,000 in PSDI funds to support the preparation of an SOE policy and bill, and work related to secured transactions reform. In Kiribati over the same period, PSDI spent over \$20,000 on SOE reform.

MARSHALL ISLANDS

ONGOING AND FUTURE PROJECTS

ACCESS TO FINANCE: A Secured Transactions Act was passed and an electronic registry put in place in 2007, with technical assistance from ADB. In 2014, PSDI will upgrade of the secured transactions registry applications and review the reforms undertaken in relation to the Secured Transactions Act 2007.

STATE-OWNED ENTERPRISE REFORM: PSDI prepared an SOE Policy, which was endorsed by Cabinet in April 2012. An SOE Bill was also drafted to strengthen the governance and commercial orientation of the SOEs and further support the government's ongoing efforts to improve their performance. PSDI continues to support the government in the passage of the SOE Bill—providing ongoing TA and attending public consultation meetings. The Bill is due to be reported back to the Legislature for a second reading in August 2014.

RMI has also participated in the 2011 and 2012 *Finding Balance* studies on the comparative performance of state-owned enterprises in Fiji, Papua New Guinea, RMI, Samoa, Solomon Islands, and Tonga. A further update of the *Finding Balance* series—including three small island states outside the Pacific—will be published in the first half of 2014. The studies have raised awareness of the fiscal cost of the SOE sector in the RMI and strengthened the case for reform.

KIRIBATI

BACKGROUND

BUSINESS LAW REFORM: PSDI will undertake a review of existing laws regulating the private sector, with a focus on company law and the company registry. A fact finding mission will commence in May 2014.

STATE-OWNED ENTERPRISE REFORM: PSDI peer reviewed an SOE Bill, prepared under a separate ADB technical assistance (TA) project managed by ADB's Pacific Subregional Office in Suva, Fiji (SPSO). The Act was passed into law in April 2013. Phase 2 of the standalone SOE reform TA was approved by the ADB Board of Directors and commenced in Q1 2014. PSDI will participate in the TA inception mission provide support as necessary.

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MICRONESIA

PSDI ACTIVITY UPDATE | MAY 2014

FEDERATED STATES OF MICRONESIA (FSM)

From 2007–2013, PSDI spent approximately \$16,000 to support secured transactions registry upgrades in the Federated States of Micronesia. **ACCESS TO FINANCE:** In 2005–2006 ADB assisted the Government in implementing full-scale secured transactions reforms, with the successful passage and implementation of the Secured Transactions Act. PSDI is supporting an upgrade of the secured transactions registry application, planned for Q2 2014. Over 3,000 new loans have been granted as a result of the reform. An independent follow up review is targeted for 2014.

PALAU

ACCESS TO FINANCE: Palau undertook secured transactions reform with support from PSDI. The Secured Transactions Act was passed in May 2012, and an electronic registry was launched in January 2013. PSDI will provide ongoing support and further implementation in 2014.

BUSINESS LAW REFORM: PSDI conducted a diagnostic of the company law and the existing company registry in Palau, which was completed in late 2013. Discussions will be held between the government and PSDI on law changes in April 2014, after which, a reform roadmap will be prepared. PSDI will also provide assistance in drafting a new Bankruptcy Bill in 2014.

STATE-OWNED ENTERPRISE REFORM: PSDI continues to provide support for the development of an SOE Policy and Act. The first public consultation on the draft SOE Policy was held in November 2013, and the second in April 2014. In collaboration with the Palau Chamber of Commerce, PSDI has developed a corporate governance strengthening program, with SOE director training continuing in 2014.

NAURU

From 2007–2013, PSDI spent \$240,000 on access to finance and SOE reform in Nauru.

ACCESS TO FINANCE: Nauru has been without a financial institution capable of providing commercial banking services since the collapse of the Bank of Nauru in the early 2000s. In 2012, PSDI carried out an assessment of the financial services required, potential banking models, and interested financial service providers. Based on his assessment, PSDI supported the preparation of an information memorandum, which was circulated to shortlisted financial institutions in June 2013. Expressions of interest were submitted to the government in August 2013. Discussions between the government and the preferred financial institution are ongoing. PSDI supported the government to review the existing legislative framework for financial institutions. Policy recommendations for the regulation and supervision of financial institutions in Nauru were submitted to the government in February 2014. The drafting of a Financial Institutions Bill is expected to commence in Q2 2014.

STATE-OWNED ENTERPRISE REFORM: PSDI provided technical assistance to the Government of Nauru to restructure the senior executive management of the Republic of Nauru Phosphate Corporation (RONPHOS), including recruitment of a new chief executive officer (CEO) who commenced in October 2011. PSDI also supported the development of a new organization structure for senior management and board of the Nauru Utilities Corporation (NUC) and Nauru Rehabilitation Corporation (NRC), including assistance with the recruitment of new CEO and other senior management. A new CEO of the NUC took up his position in June 2012. Follow up assistance for performance review of the NUC CEO and recruitment of a new CEO for the NRC was provided under separate ADB funding. The new CEO of the NRC was appointed in November 2013.

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PAPUA NEW GUINEA

PSDI ACTIVITY UPDATE | MAY 2014

OVERVIEW

BACKGROUND

PACIFIC PRIVATE SECTOR DEVELOPMENT INITIATIVE (PSDI) is a regional technical assistance facility cofinanced by the Asian Development Bank and the Governments of Australia and New Zealand.

From 2007 to 2013, Papua New Guinea (PNG) received \$2.6 million in PSDI assistance focusing on:

- Access to finance including secured transactions reform, support to Nationwide Microbank, and the design of the Microfinance Expansion Project.
- State-owned enterprise reform and public-private partnerships (PPPs), such as reform of the policy and legal framework for community service obligations; reform of the legal framework for PPPs; PPP assessments for Lae Port, Jacksons Airport, and ANGAU Memorial Hospital; and participation in an SOE performance benchmarking study launched in 2012.
- Competition, particularly capacity building support to the Independent Consumers Competition Commission (ICCC).

Development of pilots has commenced to promote the economic empowerment of women in PNG.

ACCESS TO FINANCE

DESCRIPTION AND RESULTS

- PSDI provided technical assistance to Nationwide Microbank between 2011 and 2013 for the development of an innovative mobile phone-linked bank account, MiCash. Support was provided for (i) a review of the MiCash pilot in West New Britain Province, completed in June 2012; (ii) development of appropriate audit and risk management processes for MiCash, completed in April 2012; and (iii) the development of a MiCash training program for staff and agents, completed in Mar 2013.
- In August 2012, Nationwide Microbank won the 2012 PNG Institute of Directors Award for the most innovative company of the year for its MiCash product. Customers can now deposit and withdraw funds through more than 150 agents and branches, predominantly in rural areas. Discussions on future support are ongoing.
- The Personal Property Security Act was passed in December 2011. Implementation has commenced and will continue throughout 2014. The online registry has been procured and is expected to go live in Q3 2014.
- PSDI also funded the design of the Microfinance Expansion Project, a \$24 million sector-wide program, cofinanced by the governments of Australia and Papua New Guinea, with a focus on strengthening institutions, financial literacy and business development skills training for clients, developing appropriate regulation for and supervision of the sector, and establishing a risk share facility for partner institutions to promote expansion of credit to micro and small enterprises. The project was approved in 2010 and will be implemented from 2011–2017.
- The focus on access to finance in PNG is being significantly expanded to broaden financial market development.

ONGOING AND FUTURE PROJECTS

- A review of the legal framework for capital markets commenced in Q1 2014, with a view to providing recommendations for reform and exploring possible legislative and institutional support.
- PSDI commenced an analysis of financial sector issues in Q1 2014 and will also undertake a complete diagnostic of the current framework for cooperatives beginning Q2 2014.

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STATE-OWNED ENTERPRISE REFORM (SOEs) AND PUBLIC-PRIVATE PARTNERSHIPS (PPPs)

DESCRIPTION AND RESULTS

- PSDI commenced support to develop a legal and regulatory framework to promote full transparency in the identification, costing, contracting, and financing of CSOs by SOEs in 2010. A CSO policy was drafted, and endorsed by the NEC in December 2013. PSDI also provided inputs to amendments to the Independent Public Business Corporation Act, which was endorsed by Cabinet in 2012. These are intended to increase the transparency and accountability of the SOE portfolio.
- Concurrent efforts are also underway to substantially strengthen the legislative, governance, and monitoring framework for the SOEs, which is one of the weakest in the Pacific. PSDI launched an SOE performance benchmarking study in September 2012, the first time in more than a decade that the financial performance of the PNG SOE portfolio was made available to the public. The study triggered substantial public debate and preceded a public forum on the role of SOEs in the economy, opened by the Prime Minister and chaired by the Minister of Public Enterprises. PSDI presented the findings of the study at the forum, and the government is now pursuing a number of its recommendations. PSDI funded a visit by Richard Prebble, former New Zealand Minister of State-Owned Enterprises, to discuss the New Zealand experience with privatization and corporatization, and the implications for PNG.
- In the area of PPPs, a PPP Policy was prepared in 2008 and a draft PPP bill was finalized in 2011, in close collaboration with a multi-agency task force. PPP bill was endorsed by the NEC in Q4 2013 and is ready for submission to Parliament. Once passed, the bill will provide the basis for preparing PPP transactions in a transparent and predictable manner, allowing a PPP program to form and reducing the risks of participation for the private sector.

ONGOING AND FUTURE PROJECTS

- PSDI continues to provide capacity support and training to the SOE monitoring unit. Pilot implementation of the CSO Policy in three SOEs will commence in 2014. PNG also participated in the latest edition of the Finding Balance SOE performance benchmarking study, to be published in 2014.
- PSDI will support the implementation of the PPP law after it is passed by Parliament, including establishing PPP Centre and developing the PPP project pipeline. While the PPP framework is being developed, PPP transactions are being prepared, such as in the port and airport sectors. Updated Port Moresby and Lae Airport PPP assessments were presented to the NAC in November 2013. Further support is being provided to the IPBC/PNG Ports to prepare a PPP strategy for Lae Port. A PPP options analysis is expected to be completed in April 2014. A PPP assessment of the stage 2 Jackson's Airport modernization program was undertaken, with the results expected to be presented to the government in Q1 2013.

COMPETITION

ONGOING AND FUTURE PROJECTS

- A review of PNG's competition policy commenced in 2014. An implementation plan will be prepared for discussion with relevant stakeholders after the diagnostic is completed.
- PSDI also continues to support PNG's Independent Consumer and Competition Commission in formulating competition policy, promoting competition, and investigating violations and prosecuting enforcement actions.

CROSSCUTTING

ONGOING AND FUTURE PROJECTS

- In February 2014, PSDI and the Institute of National Affairs launched The Challenges of Doing Business in Papua New Guinea, an analysis of business impediments in Papua New Guinea drawn from a survey of 130 firms. Two presentations were held. The first was a breakfast organized by the Port Moresby Chamber of Commerce attended by business people and senior politicians, including the Prime Minister and the Treasurer. The second was at the National Research Institute, attended by civil servants, academics, and some from the business community. PSDI is undertaking a private sector assessment for PNG in 2014.

ECONOMIC EMPOWERMENT OF WOMEN

ONGOING AND FUTURE PROJECTS

- In 2014, PSDI will be developing two pilots: the first will boost women's capacity and skills to enter fisheries related businesses through the provision of training, mentoring, and assistance with accessing finance; and the second will enable women in the informal sector to grow their businesses by assisting them to diversify products and access new markets.



SAMOA

PSDI ACTIVITY UPDATE | MAY 2014

OVERVIEW

BACKGROUND

PACIFIC PRIVATE SECTOR DEVELOPMENT INITIATIVE (PSDI) is a regional technical assistance facility cofinanced by the Asian Development Bank and the governments of Australia and New Zealand.

From 2007 to 2013, Samoa received \$1.6 million in PSDI assistance focusing on:

- access to finance, in particular, secured transactions reform;
- business law reform, including company law and registry reform, and support for the establishment of the Customary Land Advisory Commission;
- state-owned enterprise reform, including participation in the *Finding Balance* comparative studies of SOE performance in the Pacific, support for SOE privatization, and SOE training and capacity building; and
- competition policy.

ACCESS TO FINANCE

DESCRIPTION AND RESULTS

PSDI assisted Samoa with the drafting of a new personal property securities (secured transactions) bill, which was passed in February 2013.

ONGOING AND FUTURE PROJECTS

PSDI will support implementation of the personal property securities act through the design and installation of an electronic registry, along with broad implementation and public awareness on the application of the new law. Procurement of the registry has commenced, with implementation planned for Q3 2014.

BUSINESS LAW REFORM

DESCRIPTION AND RESULTS

After updating the Companies Act Regulations in early 2013, PSDI assisted with the procurement and installation of a new electronic registry. This is being accompanied by significant public awareness activities and capacity building in coordination with the New Zealand Companies Office. The registry implementation has also revealed various elements of company law which would benefit from an updating amendment. PSDI has been asked to provide drafting and policy support for those legislative changes.

PSDI surveyed company administrators and business services providers to evaluate the performance of the Samoa company registry one year after its launch and found that:

- (i) registering and maintaining companies was significantly easier since launch,
- (ii) company searching from their desk saves large amounts of time and money, and
- (iii) the ease of access to information assisted with their company administration, accounting, and auditing activities.

PSDI also provided assistance for the drafting of legislation to support the establishment of the Customary Land Advisory Commission.

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BUSINESS LAW REFORM (continued)

PSDI will undertake a review of the business names, business licensing, and electronic transactions laws going forward. PSDI may also support the promotion of e-payment facilities with government, with the company registry as a pilot project.

STATE-OWNED ENTERPRISE REFORM AND PUBLIC-PRIVATE PARTNERSHIPS

Samoa participated in the PSDI-funded comparative studies on the performance of SOEs in the Pacific in 2009, 2011, and 2012. After the 2009 study was published, the Prime Minister, recognizing that the practice of appointing ministers and public servants as SOE directors was directly contributing to the poor performance of Samoa's SOEs, sponsored the introduction and passage of the Composition Act through Parliament.

With the enactment of the Composition Act in early 2012, the boards of all SOEs were restructured to remove all elected officials and substantially reduce the number public servants. In 2010, almost 50% of all SOE directors were either ministers or public servants. Following the reforms in 2012, only 11% of SOE directors are public servants—none are elected officials. The move to professional boards is intended to provide the SOEs with greater focus on their commercial mandate.

In 2012, the government requested PSDI to support the privatization of three SOEs: Agriculture Stores Corporation (ASC), Polynesian Airlines (Investment) Limited (PAIL), and Samoan Shipping Services (SSS). The Cabinet approved PSDI's recommended sales strategy for ASC but the Privatization Committee has opted for a more complex sales process to be completed by Q2 2014. PSDI's privatization options study paper for PAIL was submitted in October 2012, but has not yet been presented to Cabinet. PSDI also provided technical support for the development of SOE reform policy conditions for inclusion in the joint donor policy matrix approved in 2013.

Samoa has participated in all editions of the Finding Balance SOE performance benchmarking study and will also participate in the edition to be published in 2014.

PSDI will continue to support the privatization of ASC and PAIL. Work on the scoping study for SSS will be deferred pending clarification of government's intentions.

Following a request from the Government of Samoa, PSDI will support the government identify and structure outsourcing PPP (service) contracts to the private sector.

ECONOMIC EMPOWERMENT OF WOMEN

An assessment of the constraints to women's economic empowerment in Samoa is planned for 2014.

CROSSCUTTING

In 2008, PSDI prepared the Samoa Private Sector Assessment: *Consolidating Reform for Faster Growth*.

An update of the 2008 private sector assessment for Samoa is underway will be published in 2014.



SOLOMON ISLANDS

PSDI ACTIVITY UPDATE | MAY 2014

OVERVIEW

BACKGROUND

THE PACIFIC PRIVATE SECTOR DEVELOPMENT INITIATIVE (PSDI) is a regional technical assistance facility co-financed by the Asian Development Bank and the governments of Australia and New Zealand.

Solomon Islands has been leading reform efforts among Pacific island economies and PSDI has provided substantial support to the country. From 2007 to 2013, Solomon Islands received \$3.3 million in PSDI assistance.

These funds were allocated to

- business law reform, principally on company law and customs law reform;
- state-owned enterprise (SOE) reform, including the privatization of Sasape Marina and the design and implementation of the community service obligation (CSO) framework;
- access to finance activities such as secured transactions reform and a review of the regulatory framework for microfinance and mobile banking.

Assistance on developing competition policy is just commencing in the country, as are pilots promoting the economic empowerment of women.

ACCESS TO FINANCE

DESCRIPTION AND RESULTS

An extensive reform of the collateral framework for moveable property allows the pledging of business assets such as accounts receivable, inventory, and equipment as security for loans. PSDI supported the passage of the Secured Transactions Act in 2008 and the establishment of an electronic registry in 2009.

As a result, more than 10,000 security interests have been filed (as of end 2013). On average, loan processing times have also declined from several weeks to 1-2 days. The largest finance company in Solomon Islands reports an increase in its loan portfolio by a factor of six as a result of the reform.

ONGOING AND FUTURE PROJECTS

In 2014, PSDI commenced secured transactions implementation support, including designing financial products to expand the use of the secured transactions framework. A financial sector assessment is being undertaken in conjunction with a broader Solomon Islands private sector assessment. PSDI also continues to support the Central Bank of Solomon Islands and the Ministry of Finance in credit union policy and legal reform, and is working with a commercial bank on a pilot mobile banking project using technology on coastal shipping vessels to service remote rural communities.

The Ministry of Finance and Treasury has requested PSDI support to draft new legislation for the Solomon Islands National Provident Fund and PSDI has also commenced discussions with Solomon Islands National Provident Fund and the Central Bank of Solomon Islands on a package of assistance to further develop the Fund's portfolio management decisions and investment capability.

BUSINESS LAW REFORM

DESCRIPTION AND RESULTS

To date, PSDI's most extensive business law reform has occurred in Solomon Islands, where the Companies Act was passed in 2010, accompanied by the installation of a fully electronic company registry, Company Haus. (www.companyhaus.gov.sb) Company Haus is accessible from anywhere with internet access, 24 hours a day, 7 days a week. The online registry has made it cheaper and faster for new businesses to incorporate, by cutting through red tape, such as ministerial approvals for company names, requirements to produce company seals, and eliminating the need to travel to Honiara.

As a result, the average time taken to form a company has now been reduced from up to 3 months to less than 36 hours. There is now an average of 271 new companies incorporating each year, more than double the pre-reform registration rate. The new company laws also include innovative company structures, such as the single shareholder company, designed to allow maximum flexibility for entrepreneurs, especially women, to set up and manage a business without other external ownership influences. The community company structure has also been introduced, which is a more transparent and accountable alternative to informality or establishing trusts and cooperatives. It has great potential for managing royalties received from resources, and payments received from leases of customary land. There are now 17 community companies in Solomon Islands.

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BUSINESS LAW REFORM (continued)

ONGOING AND FUTURE PROJECTS

A complementary reform following on from the company law reform is the simplification of the business names registration system. Business names are a form of license used extensively by small and medium enterprises across Solomon Islands. The passage of the Business Names Bill through Parliament will pave the way for significant reductions in processing the near 1,000 licenses per year. The bill is going through the final stages of government approval, with a target of tabling in Parliament by the end of 2014.

PSDI is also undertaking a diagnostic of the Foreign Investment Registry, with a view to building a common online registry platform encompassing foreign investment, companies, and business name registrations. PSDI is also assisting the Solomon Islands government with a modernized customs and excise regime, which currently operates in an outdated legislative framework. The reform aims to promote faster clearing procedures, reduce informality in processes, improve revenue collections, improve border protection, and facilitate trade. The bill is in final stages of technical consultation, which will be followed by Cabinet and Attorney General's Chambers approvals. It is intended for the bill to be tabled in Parliament by the end of 2014.

STATE-OWNED ENTERPRISE REFORM AND PUBLIC-PRIVATE PARTNERSHIPS

DESCRIPTION AND RESULTS

Solomon Islands SOEs have registered dramatic improvement in their efficiency and profitability over the past 6 years. Rates of return on both assets and equity, which were negative from 2002-2009, are now positive, demonstrating that with strong government commitment, SOE reform provides one of the best opportunities to improve economic performance. As greater awareness develops on the outcomes of SOE reforms, momentum will increase for more. PSDI supported the SOE monitoring unit in implementing the CSO framework by piloting CSO guidelines in four SOEs, with the first-ever CSO contracts being signed in 2011.

This has required ongoing training for SOEs and Ministry of Finance officials responsible for SOE monitoring. PSDI also supported the development of shared accounting services for the smaller SOEs and the successful privatization of Solomon Island Printers, which was completed in early 2012. This follows the successful privatization of Home Finance in 2008 and Sasape Marina in 2010. Solomon Islands participated in the PSDI-funded comparative study on the performance of SOEs in the Pacific completed in 2011 and 2012, and is participating in a further edition to be published in 2014.

PSDI continues to provide assistance toward the implementation of the SOE Act and supporting regulations and the development of individual SOE restructuring strategies. The Solomon Islands Ports Authority has sought PSDI support for restructuring and commercialization, which is likely to be undertaken in 2014. PSDI is also working with the Ministry of Finance on the formulation of an SOE recapitalization strategy designed to promote increased private sector participation.

ECONOMIC EMPOWERMENT OF WOMEN

SUMMARY

In 2013, PSDI completed its first study of the constraints to women's economic empowerment for Solomon Islands. A number of projects were identified and feasibility assessments undertaken, with four pilots having been designed:

- Boosting women's technical skills to engage in the private sector: starting businesses with 60% women's participation to maintain and repair solar panels, providing training and access to spare parts.
- Mentoring women to management roles: developing gender sensitive materials and providing training on corporate governance, targeting women. A Memorandum of Understanding has been signed with the Solomon Islands Chamber of Commerce to support their Corporate Governance Services Programme, which will be implemented in 2014-2015.
- Collaborating with businesses to encourage women's entrepreneurship: working with companies to identify opportunities and markets for women's business activities.
- Empowering women in the informal sector: working with other stakeholders to introduce legal structures that will encourage collective activities by market vendors.

CROSSCUTTING

SUMMARY

PSDI is undertaking a private sector assessment for Solomon Islands with a view to assessing reform progress in recent years and determining the scope for future reforms.



TIMOR-LESTE

PSDI ACTIVITY UPDATE | MAY 2014

OVERVIEW

BACKGROUND

THE PACIFIC PRIVATE SECTOR DEVELOPMENT INITIATIVE (PSDI) is a regional technical assistance facility co-financed by the Asian Development Bank and the governments of Australia and New Zealand.

From 2007 to 2013, Timor-Leste received \$1.9 million in PSDI assistance to assist with developing the financial sector. In particular, it has provided extensive assistance to establish the country's first commercial bank. PSDI is now broadening its scope to other areas in financial sector development, specifically in mobile banking, secured transactions reform, and anti-money laundering. It is also broadening its assistance in the area of public-private partnerships (PPPs).

ACCESS TO FINANCE

DESCRIPTION AND RESULTS

In 2011, the Microfinance Institute of Timor-Leste (IMfTL) became the National Commercial Bank of Timor-Leste (BNCTL), Timor-Leste's first locally owned commercial bank. PSDI was instrumental in supporting this major achievement. Since the transformation was completed, PSDI has supported the institutional strengthening of BNCTL in the areas of risk management, accounting and credit.

At 31 May 2013, BNCTL had a significant financial market presence with 12 branches, almost 17,000 borrowers with approximately \$19.7 million in loans, and more than 128,000 depositors with approximately \$24.1 million in deposits. This represents a significant increase in the number of depositors (+138%), volume of deposits (+152%), number of borrowers (+53%), and volume of loans (+68%) compared to end 2011, which is largely attributable to the decision by the Democratic Republic of Timor-Leste to channel welfare payments through BNCTL. This resulted in savings accounts being opened for a large number of new customers, many of whom previously received cash payments and did not have access to financial services.

In 2012, PSDI commenced support to the Central Bank of Timor-Leste to review the laws and policies affecting branchless banking operations, which will continue in 2014. PSDI assessed the potential for introducing a third party provider for branchless banking services, in partnership with the Inclusive Finance for the Under-Served Economy (INFUSE) Programme. The report was finalized in February 2013.

ONGOING AND FUTURE PROJECTS

Following a review of the operations of BNCTL in 2013, PSDI continues to support the evolution of BNCTL into a fully commercial financial services provider. In 2014, assistance to BNCTL will include a facilitator for a BNCTL business planning/strategy workshop. An Operations Advisor will also be recruited in Q2 2014, following the appointment of an Operations Manager.

The Central Bank of Timor-Leste has indicated that it will request assistance on implementation of selected aspects of an anti-money laundering/combating the financing of terrorism (AML/CFT) regime. This assistance could cover the preparation of an AML/CFT strategy, the establishment of a financial intelligence unit, and support to reporting entities.

PSDI will also continue to support the Central Bank in developing the legal and regulatory framework for branchless banking.

A legal diagnostic is being finalized for secured transactions legal reform in Timor-Leste. Presentations of the findings and consultations are planned for Q2 2014.

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STATE-OWNED ENTERPRISE REFORM AND PUBLIC-PRIVATE PARTNERSHIPS

DESCRIPTION AND RESULTS

A new PPP policy and law, prepared with PSDI support, were endorsed by Cabinet and promulgated in September 2012. PSDI is currently assisting in the implementation of this policy and legal framework.

PSDI and the International Finance Corporation (IFC) assessed 22 potential infrastructure projects, resulting in four pre-feasibility studies in 2011. PSDI focused on PPP contract development for the operation and maintenance (O&M) of Timor-Leste's new power plants. An interim contract was signed for Hera and the plant is now fully operational and supplying Dili.

PSDI also financed the preparation of a PPP pre-feasibility analysis for the Dili Water Supply System, which concluded that a PPP could be structured for Dili. The Council for the Infrastructure Fund (CAFI) endorsed the recommendations in early 2014, and the government is now funding a full PPP feasibility study. PSDI provided support to develop the terms of reference for this work and will assist the PPP Unit and Project Team in managing the study.

The Dili Water Supply full PPP feasibility study is being done in parallel with the preparation of ADB's Urban Water Supply and Sanitation Enhancement Sector Project and the Directorate of Water and Sanitation's ongoing system upgrade planning.

ONGOING AND FUTURE PROJECTS

PSDI continues to support the development and implementation of the PPP framework, and engage in advocacy to improve the understanding of PPP concepts in Timor-Leste. This includes the development of detailed PPP project cycle procedures, a business plan for the PPP Unit, and ongoing technical support to the PPP Unit in managing the PPP project cycle.

At the request of the government, PSDI will also collaborate with ADB in the development of a power sector strategy, including the identification of opportunities for increased private sector participation in generation, transmission, and distribution.

PSDI continues to work with the PPP Unit and Ministry of Finance to implement the PPP Policy and legal framework, in particular in support of the Tibar Bay Port, Dili Water Supply, and other potential PPP projects. This work will inform the more detailed PPP Project Cycle procedures, which will be formally issued by the Ministry of Finance in 2014.

ECONOMIC EMPOWERMENT OF WOMEN

ONGOING AND FUTURE PROJECTS

PSDI has undertaken an assessment to identify the constraints to the economic advancement of women in Timor-Leste, which includes highlighting social and customary barriers to economic empowerment; legal and regulatory barriers restricting participation in the private sector; deterrents to accessing employment; limits to accessing finance; and the restrictions to business ownership. PSDI will also work with local non-government organizations to conduct a workshop titled "Supermarkets and Large Buyers Forum" to discuss how women groups/producers can better meet supermarkets and large buyers' needs, and design strategies to assist in linking retailers and grassroots producers.

CROSSCUTTING

ONGOING AND FUTURE PROJECTS

A private sector assessment for Timor-Leste will be undertaken in 2014.



OVERVIEW

BACKGROUND

THE PACIFIC PRIVATE SECTOR DEVELOPMENT INITIATIVE (PSDI) is a regional technical assistance facility cofinanced by the Asian Development Bank and the governments of Australia and New Zealand.

From 2007–2013, Tonga received over \$2.4 million, in PSDI assistance toward:

- crosscutting initiatives, such as the preparation and launch of the Tonga private sector assessment and the funding of a private sector development adviser to work in the Office of the Prime Minister from August 2008 to March 2010;
- a broad-based state-owned enterprise (SOE) reform program; and
- promoting access to finance, in particular secured transactions reform.

ACCESS TO FINANCE

DESCRIPTION AND RESULTS

PSDI assistance in access to finance has focused on secured transactions reform. The Cabinet and Legislative Assembly approved the Personal Property Securities Act in September 2010, and electronic registry design commenced shortly thereafter. In April 2011, the Tongan personal property securities registry went live, with more than 600 notices filed by the year's end.

PSDI also supported some minor amendments to the Act, which were passed in December 2012, as well as an upgrade of the registry. This was part of a regional upgrade in a bid to continually improve the operation of the registries.

ONGOING AND FUTURE PROJECTS

PSDI will continue to support secured transactions implementation in 2014.

BUSINESS LAW REFORM

DESCRIPTION AND RESULTS

In 2009, PSDI assisted in preparing the Companies (Amendment) Bill, in close consultation with the International Finance Corporation (IFC). The IFC was responsible for the design and implementation of the company registry. The bill, approved by the Cabinet and Legislative Assembly in September 2009, streamlines the Companies Act 1995 and provides for an electronic registry.

The IFC-funded registry went live in December 2009. However, the registry was still a hybrid paper/electronic registry at the end of 2011, which prevented legal reform benefits from becoming fully realized. The government requested ADB to undertake registry design and implementation of a fully electronic company registry in 2013, similar to that of Solomon Islands. PSDI completed the diagnostic, with procurement to be completed in Q1 2014.

The Tonga private sector assessment identified the business licensing laws as one of the most significant impediments to the private sector. The licensing rules were complex. They required businesses to obtain multiple licenses annually. The government undertook business licensing reform with assistance from PSDI. A diagnostic was completed and amendments to the Business License Act were drafted and passed by Parliament in late 2012. These would simplify the entire licensing regime and reduce transaction costs to business. PSDI also assisted with the advocacy and drafted regulations.

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BUSINESS LAW REFORM (continued)

ONGOING AND FUTURE PROJECTS

In 2012, Parliament passed a new Business License Act and it commenced in 2013. PSDI supported this reform and will support the implementation process. The Business Names Act was passed in 2013, with implementation to commence in Q1 2014.

PSDI will support a new registry, which will combine company, business names, and business licenses.

A Receiverships Bill has been finalized and is now with Crown law. It is scheduled for submission to Parliament in Q3 2014. Policy consultations and drafting of a Bankruptcy Bill will commence in Q2 2013 with the bill to be finalized and tabled in Parliament Q3 2014.

Consultation will commence on the amendments to the Foreign Investment Bill in 2014.

An electronic transactions diagnostic has been completed with a Bill to be finalized in Q2 2014.

STATE-OWNED ENTERPRISE REFORM AND PUBLIC-PRIVATE PARTNERSHIPS

DESCRIPTION AND RESULTS

PSDI supported a broad-based state-owned enterprise (SOE) reform program that has impacted all of Tonga's SOEs. This included the preparation of an amended SOE Act, governance training, the development of a director performance appraisal system and a skills-based director selection process, the development and implementation of community service obligation guidelines, and training to assist in implementing the provisions of the amended SOE Act. PSDI also assisted the Ministry of Public Enterprises in publishing SOE financial results, as required by the amended act. Tonga is the first Pacific country to publish SOE financial and operational performance information in local newspapers.

PSDI has supported the merge of Tonga Print with Tonga Post, the corporatization and commercialization of the biosecurity heat treatment facility and the Small Industries Centre, development of restructuring options for Tonga Communications Corporation, and undertaken an outsourcing scoping study for Tonga Water Board.

PSDI has worked closely with ADB's Pacific Subregional Office and other donor partners in the design of SOE reform policy actions for inclusion in program grants and loans in Tonga.

Throughout 2012, ongoing capacity support and training was provided to the SOE monitoring unit in Tonga. Ongoing policy dialogue has led to agreement to undertake further SOE restructuring and governance reforms in 2013. Outsourcing of subsidized air ferry services in Tonga has demonstrated the benefits of contracting with the private sector through PPPs.

Tonga participated in the three PSDI-funded *Finding Balance* benchmarking studies on the performance of SOEs in the Pacific in 2009, 2011, and 2012, and is participating in the update due for publication in the first half of 2014.

PSDI has agreed to provide SOE reform technical assistance that will deliver on-the-ground reform support and capacity development in 2014.

COMPETITION

PSDI undertook a diagnostic of Tonga's competition framework in 2013. Policy design has commenced and is on track for completion by Q4 2014.

CROSSCUTTING

DESCRIPTION AND RESULTS

In 2008, PSDI published *Transforming Tonga: A Private Sector Assessment*, triggering a significant range of reform measures, including: company law reform; secured transactions reform; engagement on microfinance; and various initiatives supporting private sector growth. In 2011, PSDI prepared an update to the 2008 private sector assessment to assess reform progress as recommended in the earlier version, and identify and prioritize Tongan private sector-led reforms. In October 2011, the update's results were presented to key policy-making ministries and the cabinet subcommittee responsible for economic development. In March 2012, the study's findings and recommendations were presented at the Central Bank's sponsored Economic Summit in Tonga. The results have significantly influenced government policy development, and the final report (*Continuing Reform to Promote Growth: An Update of the Private Sector Assessment for Tonga*) was published in December 2012.

From August 2008 to March 2010, at the request of the Tongan government, PSDI funded a private sector development (PSD) adviser to work in the Office of the Prime Minister. The PSD adviser provided general support for the government's PSD reform program and supported the Ministry of Public Enterprises in implementing its SOE reform agenda.



VANUATU

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OVERVIEW

BACKGROUND

THE PACIFIC PRIVATE SECTOR DEVELOPMENT INITIATIVE (PSDI) is a regional technical assistance facility co-financed by the Asian Development Bank and the governments of Australia and New Zealand.

From 2007 to 2013, Vanuatu received over \$1 million in PSDI assistance. More than half of spending in Vanuatu has been in the area of access to finance. Assistance was also provided in business law reform and state-owned enterprise reform. PSDI undertook a private sector assessment in 2009, which is being updated in 2014. Some work in the area of competition is underway in the maritime sector.

ACCESS TO FINANCE

DESCRIPTION AND RESULTS

PSDI provided assistance to strengthen the institutional capacity of the Vanuatu Financial Services Commission (VFSC), the main regulatory and supervisory body of the non-banking financial services industry (both offshore and onshore). It also reviewed the structure and operation of the International Financial Centre and provided recommendations for a corporate strategy.

PSDI supported the reform of the secured transactions framework through the drafting and passage of the Personal Property Securities Act, which was passed in July 2008. Accompanying the reform, an electronic registry was installed in April 2009 to record the filing of security interests, at which point the new system became operational. Training of VFSC staff was also provided to support the implementation of the Act and registry. An upgrade of the registry was completed in February 2012. PSDI continues to support secured transactions implementation in 2014.

A diagnostic was prepared for the Reserve Bank of Vanuatu and the VFSC on the legislative framework for microfinance to ensure that unregulated microfinance institutions that take deposits are adequately regulated to protect the interests of deposit holders.

In 2012, PSDI provided assistance to the Vanuatu Women's Development Scheme (VANWODS) to strengthen its strategy and governance through a series of workshops with the management and board. PSDI also facilitated the participation of VANWODS at the Microfinance Winter Academy hosted by ACLEDA Bank and the Frankfurt School of Finance and Management in Siem Reap, Cambodia.

ONGOING AND FUTURE PROJECTS

PSDI is providing assistance to the Central Bank on improving the legal and regulatory framework for finance, including microfinance. A financial sector assessment is being undertaken as part of the 2014 update of the Vanuatu private sector assessment. Early discussions are ongoing with the National Provident Fund on possible assistance to strengthen portfolio and investment management.

PSDI is assisting with the drafting of a new trustee bill to improve Vanuatu's compliance with international commitments and its reputation as an offshore financial center. PSDI is also in early discussions on a range of issues related to the financial action taskforce guidelines, in particular, the anti-money laundering framework and ensuring that the international companies regime is in line with best practices.

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BUSINESS LAW REFORM

DESCRIPTION AND RESULTS

PSDI is supporting the Vanuatu Financial Services Commission (VFSC) and State Law Office (SLO) on the introduction of the new Companies Act, which was passed by Parliament in September 2012, and the Companies (Insolvency and Receiverships) Act and Insolvency (Crossborder) Act passed by Parliament in Q3 2013.

ONGOING AND FUTURE PROJECTS

Procurement of the electronic company registry is ongoing to support the implementation of the Companies Act. Registry migration and capacity building across all stakeholder groups, including the company registry will be undertaken as a next step.

While PSDI supported the drafting of a Personal Insolvency Bill as part of the insolvency reform package, the government indicated in 2014, that this has become a lower priority. PSDI will keep a watching brief and stands ready to recommence assistance in this area when government priorities change.

STATE-OWNED ENTERPRISE REFORM AND PUBLIC-PRIVATE PARTNERSHIPS

DESCRIPTION AND RESULTS

PSDI supported the preparation of a new SOE Policy to serve as a blueprint for subsequent SOE legislation, to place the SOEs on a firm commercial footing and enhance the governance, monitoring, and accountability frameworks. The SOE Policy was approved in October 2013. PSDI assisted the government prepare one SOE for liquidation. Three others were also identified for liquidation.

ONGOING AND FUTURE PROJECTS

PSDI continues to support a separate ADB technical assistance (TA) project to undertake SOE reform in Vanuatu. The ADB TA will help in the preparation of a new SOE Act based on the approved policy, strengthen the governance arrangements, implement SOE restructuring measures, and provide capacity training for directors and SOE monitoring staff.

PSDI continues to provide ongoing capacity support and training to the SOE monitoring unit in Vanuatu.

In collaboration with ADB's Port Vila Urban Development Project, PSDI will provide assistance to structure a public-private partnership (PPP) contract for the operation and maintenance of a new wastewater treatment facility in Port Vila. Other corporatization and PPP opportunities are being explored in the power and water sectors.

COMPETITION

SUMMARY

PSDI is reviewing the economic and competition implications of the proposed new maritime regulatory arrangements in Vanuatu.

CROSSCUTTING

SUMMARY

PSDI published *Sustaining Growth: A Private Sector Assessment for Vanuatu* in 2009. An update of the Vanuatu private sector assessment is underway and will be published in 2014.

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