

SPECIAL NOTICE ON TRANSSHIPMENT CARGO

Amendments to Biosecurity Conditions for Transshipments

Biosecurity Authority of Fiji Trade Facilitation & Compliance (TFC) section was established to address the non-compliances at Fijian borders and to further strive to eliminate trade barriers. The non-compliance relating to transshipments is ongoing and TFC endeavors to collaborate with stakeholders to ascertain a solution which complies with *Biosecurity Promulgation 2008* and Sanitary and Phytosanitary Measures agreement (SPS).

Section 1 of the Biosecurity Promulgation 2008, succinctly defines “in transit” 1 as follows:

“in transit”, in relation to goods, means the goods are not imported into an area but pass through it to another area, whether by the same or another conveyance, during which time they remain enclosed, are not split up, are not combined with other goods, and do not have their packaging changed;”

Section 40 further discusses the procedures and processes for dealing with imported regulated articles and passengers in transit and describes the relevant offences for non-compliance with the said procedures and the associated penalties as follows:

“Articles and passengers in transit”

40.-(1) Regulated articles in transit are liable to biosecurity import control, and require biosecurity import clearance at a biosecurity holding area.

(2) The Authority or a biosecurity officer may in writing waive any requirement for a sanitary or phytosanitary certificate or biosecurity import permit that would otherwise apply to articles in transit.

(3) If a waiver is granted under subsection (2), the Authority or officer may attach conditions to the waiver.

(4) A person who -

(a) deals with articles to which this section applies other than by way of transit; or

(b) contravenes a condition specified under subsection (3) in relation to them, commits an offence.

(5) A request for a waiver, under this section must be -

(a) made in writing to the Authority;

(b) accompanied by the prescribed fee, if any, and the specified documents;

(c) made in sufficient time to allow the Authority or a biosecurity officer to give due consideration to the request.

(6) *In the case of regulated articles which accompany a crew member or passenger in transit -*

- (a) subsection (5) is deemed to have been complied with if the passenger or crew member complies with other requirements for regulated articles in transit;*
- (b) the requirement in subsection (2) for a waiver to be in writing does not apply.*

(7) A biosecurity officer may at any time inspect an article in transit if the officer reasonably suspects the article might pose a biosecurity threat to the Fiji Islands or a receiving country.

(8) A person in charge of an article in transit who refuses to comply with a request for inspection under subsection (7) commits an offence."

Section 49 further explains the conditions of a biosecurity quarantine as follows:

"Conditions of biosecurity quarantine"

49.-(1) The Authority may issue specifications as to -

- (a) The examination, treatment, disposal, or destruction of articles while in a biosecurity quarantine station or in transit to or from a quarantine station;*
- (b) The period for which different types of regulated articles must remain in a biosecurity quarantine station.*

(2) The fees or charges payable for keeping items in biosecurity quarantine are as prescribed by the Authority.

(3) The cost of keeping an article in biosecurity quarantine is to be borne by the importer of the article.

(4) No compensation is payable for any loss or destruction or consequential loss caused by an item being detained in biosecurity quarantine, unless negligence or malice is proved."

Section 108 outlines the transitional provisions as follows:

"Transitional provisions"

108.-(1) Permits equivalent to import permits issued under any provision of the repealed Laws remain in force until they expire in accordance with their terms, or until revoked under this Promulgation.

(2) Any bond, agreement, instrument or arrangement to which the Government is a party subsisting immediately before the commencement of this Promulgation and relating to the biosecurity functions of the Authority continues to have effect after that date and is enforceable by or against the Authority as if it had been entered into by the Authority under the provisions of this Promulgation.

(3) Subject to subsection (4), any action, arbitration, proceeding or cause of action that relates to a biosecurity function of the Authority and that immediately before the commencement of this Promulgation is pending or existing by, against, or in favor of the Government, or to which the Government is a party, may be continued and enforced by and against the Authority under the provisions of this Promulgation.

(4) A prosecution for an offence committed against a repealed law must be brought and continued under that law."

All Transshipment cargo transiting through Fijian declared port of entries via Sea freight or Airfreight will be subjected to Sections of the Biosecurity Promulgation 2008.

TFC endeavors to eliminate trade barriers and has been collaborating with all relevant stakeholders to address concerns pertaining to the transshipment of live animals.

BAF sought legal opinion and the executive management has deliberated on the fees & charges relating to transit cargo and its application to animal cargo. Pursuant to Legal Notice No 76, *Biosecurity (Fees and Charges) (Amendment) Regulations 2015*, effective from 16 December 2015, BAF will levy fees & charges based on the Unit of Charge.

BAF requires the following information by an Approved Agent when an application is made for the Transit Permit:

- I. Sanitary or Phyto-Sanitary Certificate (where applicable)
- II. Re-export Certificate (where applicable)
- III. Manufacturers Declaration (where applicable)
- IV. Description of the cargo (perishable, non perishable, processed, raw or semiprocessed)
- V. Packaging of the consignment
- VI. Destination
- VII. Duration of the Transit.

The following fees & charges levied by BAF are Vat Inclusive Price (at a rate of 9%) and applicable to transshipment consignments.

Consignments where Animals are containerized, in crates or kennels:

- Inspection of transit cargo during normal working hours : \$31.88 /per container
- Inspection of transit cargo after hours : \$51.72/ per container

Consignments where (One) Animal is in an individual Container or a Kennel or a Crate:

- Inspection of live animals on transit during normal working hours : \$42.51/ per animal
- Inspection of live animal on transit after hours : \$68.02/ per animal

Supervision is standard charge which is per day

- Supervision of animal in transit/kennel :\$113.36/ per day

In the event where the security seals of the consignment, crate or kennel requires tampering for technical intervention, the additional scientific consultation fees may apply.

Supervision charges will also apply if the circumstances warrant supervision which will likely depend on the nature of the consignment and risks associated.

For Example:

If a consignment comprising of 12 crates with 12 day old chicks per crate transiting for 24 hours through Nadi Airport with an estimated time of arrival of 2000hrs, the fee calculation with Unit of Charge assessment will provide as follows:

- 12 day old chicks per crate : Unit of charge is per container
- Time of arrival- 2000hrs (8pm) : After hours fees applicable \$51.72 per crate
- Total number of crates: 12
- Animal in transit : \$113.36

Total Invoiced to Approved Agent for Consignment: 12 crates @ \$51.72 per crate + \$113.36 = **\$734.00(VIP)**

For Comparison:

However, fees calculation without a Unit of Charge assessment and instead based on activity, will result as follows:

- Total number of animals : 12 crates x 12 day old chicks per crate : 144 (chicks)animals
- Time of arrival - 2000hrs (8pm) : After hours fees applicable \$68.02 per animal
- Animals in transit : \$113.36

Total Invoiced to Approved Agent for Consignment: 144 animal (chicks) @ \$68.02 per animal + \$113.36 = **\$9908.24 VIP.**

The difference is of \$9174.24 which is saved by the client with the Unit of Charge used as per Legal NoticeNo 76 Biosecurity (Fees and Charges) (Amendment) Regulations 2015.

Based on the deliberations and comprehensive appraisal of the activities executed in facilitation of the transshipments, the UNIT OF CHARGE is most practical and appropriate. Furthermore, the Unit of Charge approach is consistent with BAF's objective under the *Biosecurity Promulgation 2008* to facilitate trade. Failing to apply a Unit of Charge calculation will result in an inflated figure which is in itself a trade barrier and contrary to BAF's obligation under the *Biosecurity Promulgation 2008*.

Note that during transit, the consignment must remain enclosed in its original packaging, must not be split up or combined with other goods and the original packaging is not tampered with.

Approved Agents failing to comply with these conditions will be in breach of Section 40 of *Biosecurity Promulgation 2008* and the cargo will no longer be classified under transshipment. In such a case, the consignment will be subjected to normal exports conditions as per Sections 41 – 46 of *Biosecurity Promulgation 2008* and listed for re-exporting which is defined as follows in section 1 of the *Biosecurity Promulgation 2008*:

“re-exporting country”, in relation any goods, means a country which is not the country of origin of the goods, but where a container or consignment of goods is opened and re-packed for export;

Enquiries relating to transshipments and transit cargo can be made directly to TFC for consultation, verification, costing and deliberations. All biosecurity services and fees & charges pertaining to transshipments will be handled by TFC with BAF Operations Team facilitating at the border.

For further clarifications do not hesitate to contact the Trade Facilitation & Compliance team at BAF Headquarters on 3312512 Ext 185, 182 or alternatively, on email: trade_facilitation&compliance@baf.com.fj

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