



Trade Policy Review Body

TRADE POLICY REVIEW

REPORT BY THE SECRETARIAT

TONGA

This report, prepared for the first Trade Policy Review of Tonga, has been drawn up by the WTO Secretariat on its own responsibility. The Secretariat has, as required by the Agreement establishing the Trade Policy Review Mechanism (Annex 3 of the Marrakesh Agreement Establishing the World Trade Organization), sought clarification from Tonga on its trade policies and practices.

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Document WT/TPR/G/291 contains the policy statement submitted by Tonga.

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SUMMARY

1. An archipelago in the South Pacific, the Kingdom of Tonga has approximately 100,000 inhabitants with roughly an equal number of Tongans living abroad, mainly in New Zealand, Australia, and the United States. With a per capita income of US\$4,500, Tonga is classified as a middle-income developing country. Remittances from expatriates provide a major boost to the local economy, and explain why merchandise imports outstrip exports by a factor of at least 10:1 in any given year. More than 50% of Tonga's imports consist of fuel (from Singapore) and food (mainly from New Zealand and Fiji). Tonga's principal export markets, essentially for a limited range of primary agricultural (mainly squash, root crops, coconuts) and marine products, are found in the Pacific Rim. The services trade is much more balanced due to tourism receipts.

2. Tonga embarked upon political reforms in the aftermath of civil unrest in 2006. In 2010, for the first time, the people elected the majority of the members of Tonga's Legislative Assembly. Some reshuffling has taken place since the new Cabinet was presented in February 2011. The Ministry of Commerce, Tourism and Labour remained responsible for foreign trade policy matters until mid-2012, when the trade portfolio was transferred to the Ministry of Foreign Affairs without a corresponding transfer of staff. The "old" trade ministry is still in charge of trade-related matters such as business licensing, foreign investment, intellectual property protection, import licensing, export promotion, consumer protection, and price controls.

3. This is Tonga's first Trade Policy Review. Tonga acceded to the WTO in July 2007 with short transition periods to implement the WTO agreements on customs valuation and TRIPS, and some reductions in tariffs. Tonga bound all its tariff lines, and no final bound rate exceeds 20%. On the other hand, as Tonga was aiming at a flat-rate (15%) tariff structure, it did not join any of the sectoral initiatives and does not participate in the Information Technology Agreement or the Agreement on Trade in Civil Aircraft. Tonga undertook specific commitments under the GATS in 90 (of around 160) services subsectors. Since accession, Tonga has submitted 17 notifications relevant to its WTO commitments, covering agricultural support, business licensing procedures, trade remedies, and intellectual property legislation. Tonga's intellectual property legislation was reviewed in the WTO Council for TRIPS in 2009.

4. Although some changes have occurred in Tonga's tariffs and trade measures since 2007, the system has overall been quite stable. Tonga's present customs tariff has six tariff bands. Thus, while the intended single-rate tariff did not materialize as the new customs tariff entered into force on 1 January 2008, 60% of the tariff lines currently face an import duty of 15% and all other imports enter at rates ranging from zero to 20%. The simple average tariff is 11.5% at present, well below the average final bound rate of 17.6%. Tonga's migration from HS2007 to the HS2012 nomenclature is almost completed. In this context, the authorities have acknowledged that the applied tariff will need to be corrected on 22 tariff lines where the current applied rate (20%) exceed the bound rate (15%).

5. Tonga does not regulate market access through tariff rate quotas, and provides no preferential tariffs to any trading partner. The transaction value is utilized in approximately 90% of all customs valuation cases; re-determinations are frequently due to non-documented consignments. Most goods can be traded without any kind of restriction. Although it is difficult to establish an exhaustive inventory of non-tariff measures applied by Tonga, trade restrictions appear to be motivated by the need to protect human, animal or plant life or health; public morals; national security; cultural heritage; the conservation of exhaustible natural resources; and to uphold intellectual property rights. Tonga does not levy export taxes on any goods.

6. Tonga derives an increasing share of government revenue from excise taxes and a broad-based consumption tax. Excise taxes are collected on alcoholic beverages, tobacco, petroleum products and, since August 2013, also on certain animal fats and sweetened soft drinks in an effort to discourage consumption of "unhealthy" food. The consumption tax is levied at a single rate of 15% with exemptions for some public, medical, and financial services, and a zero rate for electricity, certain live animals, and various agricultural inputs. In 2012/13, the Government raised almost T\$55 million in revenue from the consumption tax (on imports and domestic production), compared with nearly T\$30 million from excise taxes, and T\$14.7 million from import duties.

7. Inflows of foreign direct investment vary, and have averaged around T\$20 million annually in recent years. Tonga's investment regime is based on the Foreign Investment Act 2002, the Foreign Investment Implementing Regulations 2006, the Business Licences Act 2002, and the Business Licence Regulations. An enterprise incorporated in Tonga is considered Tongan as long as the foreign partner does not control more than 25% of the investment or enterprise voting shares. The foreign investment regulations list certain activities that are prohibited for domestic and foreign investors alike, or reserved for Tongan investors. The foreign investment regulations, including the reserved list, are currently under review. In 2011, Tongan waters were re-opened to foreign tuna-fishing vessels to revive the fishery industry. The business licence regulations were streamlined in 2012, allowing a single licence to suffice for individuals and enterprises engaged in more than one business activity, easier filing, faster processing, and reduced fees, particularly for electronic registrations.

8. Government support to agriculture and industrial sectors in the form of direct payments, grants, and credit facilities is very limited. In 2012, a T\$1 million Agricultural Export Marketing Fund was established to provide short-term concessional loans to exporters of agricultural products. In terms of revenue forgone, customs duty and tax exemptions play a significant role. In the past, tariff and tax exemptions were accorded to imports of capital goods, materials, and components under the Industries Development Incentives (IDI) Act 1978. The Act was repealed in 2007. However, Tonga's customs tariff stipulates tariff exemptions for certain uses or users, e.g. for manufacturers of beer and other alcoholic beverages. Some 40 items of materials and equipment for use in the fisheries sector were added to the exemption list in June 2013. Upon application, investors may also be granted exemptions from excise tax or consumption tax on investment goods. Electricity generation, air transport, domestic shipping, and commercial fishing are assisted through fuel concessions. According to the authorities, customs exemptions totalled T\$23.9 million in 2010/11, and other tax exemptions amounted to T\$6.7 million. Domestic production of beer, certain spirits, and tobacco products also benefits from an excise tax regime that differentiates between imported and locally made goods.

9. The Tongan economy, one of the smallest among WTO Members (with a GDP of about US\$500 million), is based on agriculture, fisheries, a small mainly domestically oriented manufacturing sector, and tourism and other services. State-owned enterprises are present in a number of sectors, including telecoms, utilities, transport, and banking. Banks and foreign exchange dealers are supervised by the central bank (National Reserve Bank of Tonga), but the insurance sector and other financial services suppliers are not regulated by any authority. Similarly, Tonga has yet to establish an independent regulator in the telecoms sector. Overall, Tonga is faced with a backlog of reforms to modernize and streamline its legal and regulatory frameworks, including in the area of agriculture and related SPS measures, air and maritime transport, and telecommunications.

10. Tonga is a member of the Pacific Islands Forum, and participates in initiatives to expand trade in the region under the South Pacific Regional Trade and Economic Cooperation Agreement (SPARTECA), the Pacific Island Countries Trade Agreement (PICTA), the Pacific Agreement on Closer Economic Relations (PACER), "PACER Plus", as well as with non-Forum countries. Negotiations to conclude an Economic Partnership Agreement (EPA) between the EU and the Pacific ACP group began in 2004. However, although progress has been made in the various negotiations, and ambitions have been raised, the original deadlines have been missed and no new agreement has been concluded so far. Preferential trading under PICTA has not yet begun for Tonga, and only the non-reciprocal SPARTECA appears to provide tangible tariff preferences to Tongan exports (to New Zealand and Australia) at present. Although exports from Tonga may be eligible under the GSP schemes of the EU, the United States, and Japan, these preferences have not been widely used. The WTO framework for rules and MFN tariffs thus continues to provide the basic parameters for Tonga's trade and economic policies.

1 ECONOMIC ENVIRONMENT

1.1 Main features

1.1. The Kingdom of Tonga is an archipelago in the South Pacific comprising 172 islands, of which 36 are inhabited. The total land area is 749 km², only slightly more than the size of Singapore. About three quarters of Tonga's small population (around 100,000) live on the main island of Tongatapu, where the capital of Nuku'alofa is located.¹ Tonga is vulnerable to natural disasters, particularly cyclones and occasionally drought and tsunamis.

1.2. The Tongan economy is very small, with a GDP of less than US\$500 million (Table A1.1). Nonetheless, with a per-capita income of about US\$4,500 Tonga ranks among the lower middle-income countries. The main reason for such relatively high incomes among the Pacific islands is remittances from Tongan expatriates. The authorities estimate that the Tongan population is roughly matched by another 100,000 Tongans living abroad, mainly in New Zealand, Australia and the United States (Hawaii). The emigration of Tongans is reflected in a relatively low population growth rate (0.4% p.a. since 2006). It has also contributed to a shortage of skilled labour in some sectors, and low productivity growth.

1.3. One of Tonga's main features is its remoteness from international markets. Its main trading partners, scattered around the Pacific Rim, are separated by thousands of kilometres of open seas, and there is little trade with the neighbouring Pacific islands of Fiji and Samoa. Tonga's remoteness, as well as the wide dispersion of the islands, translates into high costs for imports and a lack of competitiveness, which explains in part why Tonga exports so little. On the other hand, Tonga is highly dependent on imports, notably fuel and food, with consequent vulnerability to international price spikes. Customs duties and other import taxes are a significant source of government revenue (Chart 1.1).

1.2 Recent Economic Developments

1.4. The Tongan economy has been hit by the global economic crisis, as well as riots in Nuku'alofa in November 2006, in which a large part of the central business district was destroyed. GDP growth declined sharply in 2006/07, but subsequent reconstruction led to a modest recovery (Table A1.1). The past two years (fiscal years 2011/12-2012/13) are characterized by virtual stagnation. The global economic crisis affected Tonga particularly through a decline in tourism and remittances, although measurement issues cloud the picture.² Nevertheless, remittances remain one of the main cushions for sustaining private consumption and financing construction and maintenance, including of churches.

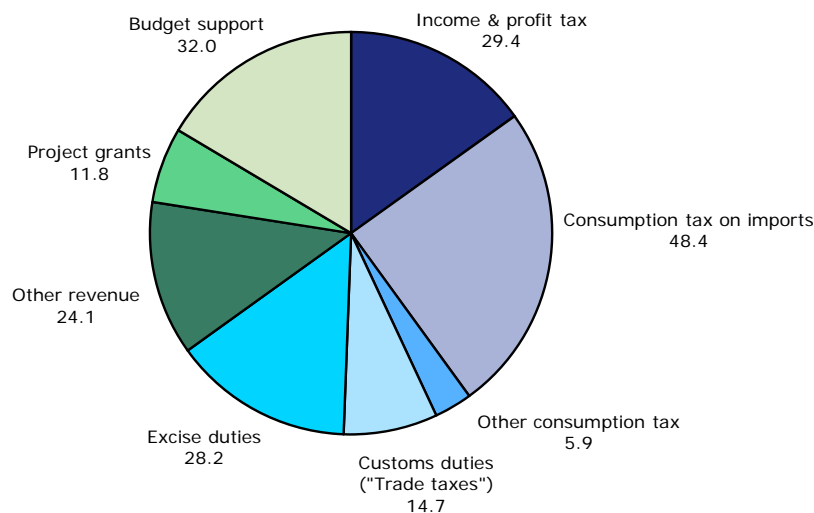
1.5. The agriculture sector is important in terms of market production (about 6.5% of GDP in 2011/12) and own consumption (about 7.5% of GDP), as most Tongan families produce some food, in particular root crops and pigs. Following several years of relatively weak performance, 2011/12 was a peak year for the agriculture sector. Growth has been driven by the export performance of the main cash crop - squash pumpkins (Chapter 1.3). The fisheries sector has been in a down-turn since 2004, which is partly of a cyclical nature due to poor tuna fishing conditions, partly due to overfishing of some marine resources (particularly bêche-de-mer), and partly due to the high cost structure and a loss of competitiveness of the industry, amongst other factors. In 2011, Tongan tuna fisheries were re-opened to foreign vessels, to revive the industry. The contribution of manufacturing output to GDP is relatively small (about 6%) and the sector continues to decline in importance, while imports increase. The main activity is food processing and beverage production. All fish processing facilities have closed down in Tonga. The services economy contributes about 50% to GDP, with tourism playing an important role in supporting transport, hotels, commerce, and other services.

¹ Tonga has three main island groups (Tongatapu, Ha'apai, Vava'u) and two tiny "outer" islands (Niuatoputapu and Niuafu'ou), which are spread over approximately 800 km north to south.

² The National Reserve Bank of Tonga is in the process of revising its methodology for measuring remittances. Therefore, the remittance data should be interpreted with caution (see Table A1.1).

Chart 1.1 Revenue and grants, 2012/13

T\$ million



Total revenue and grants: T\$194.5 million

Source: Ministry of Finance and National Planning online information. Viewed at: <http://www.finance.gov.to/publications/budget-statements>.

1.6. Tonga has run a fiscal deficit in recent years (Table A1.1). Government finances are highly dependent on project grants and budget support from donors (Chart 1.1). In the context of its WTO accession³, Tonga carried out a tax reform programme with the objective of shifting part of the government revenue collection from trade taxes to internal taxes. The first step was the introduction of a consumption tax (15%) on 1 April 2005, which replaced a sales tax (5%), port and services tax (20%), and fuel sales tax.⁴ The next step was an overhaul of the customs regime with a streamlined tariff structure (Chapter 3.2.2). The modernization of the income tax code followed in 2008⁵, and a simplified tax scheme for small businesses is currently under consideration (Chapter 4.3.2).

1.7. Some of the Government's budget statements in recent years include estimates of tax exemptions (revenue foregone), which enhances fiscal transparency.⁶ Tax exemptions are significant (T\$91.2 million in 2012/13), equivalent to about 40% of government expenditures. The exemptions include fuel subsidies (concessions) for electricity generation and transport (Table 4.2). The 2013/14 budget contains new exemptions from customs duties and consumption tax for the fisheries industry⁷; the value of the subsidies is estimated at T\$1.2 million per year.

1.8. The exchange rate of the pa'anga (T\$) is pegged by the Reserve Bank of Tonga on the basis of a weighted basket of currencies comprising the U.S. dollar, the New Zealand dollar, the Australian dollar, and the Japanese yen. The NRBT is authorized to vary the value of the pa'anga relative to the basket by 5% per month. The real effective exchange rate of the pa'anga has declined from a peak in mid-2011, implying improved export competitiveness.

1.9. Given Tonga's high import dependency, the Reserve Bank is managing foreign exchange reserves with a target of at least 3-4 months import cover. Official foreign currency reserves increased to T\$256.2 million at end-August 2013, equivalent to 8.7 months of imports. Under the Foreign Exchange Control Regulations (Amendment) Act of 2000 and subsidiary regulations, prior

³ Tonga acceded to the WTO on 27 July 2007.

⁴ WTO document WT/ACC/TON/17, para.10.

⁵ IMF (2012).

⁶ Ministry of Finance and National Planning (2012), p.116.

⁷ Consumption Tax Order 2013. Viewed at: http://crownlaw.gov.to/cms/images/LEGISLATION/SUBORDINATE/2013/2013-0006/CustomsDutyAmendmentOrder2013_1.pdf; [http://www.tongafish.gov.to/documents/Legislations/ORDER/ConsumptionTaxOrder2013\(English\).pdf](http://www.tongafish.gov.to/documents/Legislations/ORDER/ConsumptionTaxOrder2013(English).pdf).

approval is required from the Reserve Bank for (i) outward transfers of T\$100,000 and above; (ii) capital transfers⁸; and (iii) loans in excess of T\$50,000 to any corporate body resident in Tonga controlled by non-residents. The Reserve Bank has delegated approval authority to banks and authorized "restricted" foreign exchange dealers approval, for outward transfers of less than T\$100,000 with supporting documents, and for current transactions of up T\$5,000 per month without supporting documents (Chapter 4.4.2.2).⁹ Furthermore, commercial banks are authorized to underwrite forward contracts for exporters or importers totalling US\$2 million per bank without Reserve Bank approval. Efforts are under way to develop a regulatory framework to encourage repatriation of export proceeds.

1.10. The Reserve Bank's monetary policy has been accommodative, while inflation has remained below its benchmark (currently 6-8%). Despite the high level of liquidity in the domestic banking system, banks have tightened their lending standards, due to relatively high rates of non-performing loans (15% in 2011/12) linked in part to the decline in remittances. As a result of declining bank lending to the private sector, and high interest rate spreads¹⁰, the cost of finance has become one of the main business constraints in recent years. Foreign exchange margins are also high compared with Fiji or Samoa, which the authorities attribute to the lower volume of foreign exchange in Tonga.

1.11. Public sector debt, most of which is foreign debt, has increased substantially in recent years, reaching over 40% of GDP in 2012-13. The rise in public debt partly reflects large foreign loans for the reconstruction of Nuku'alofa and roads¹¹, as well as the construction of a new cruise ship terminal in Nuku'alofa, which opened in 2012. The Government adopted a "no new loan policy" in 2011 in response to Tonga's external debt vulnerability.

1.12. The Government's economic policy agenda is set out in the ninth Tonga Strategic Development Framework (2011-14), which recognizes the importance of a liberal trade policy.¹² In terms of trade policy objectives, the government is seeking, *inter alia*, to conclude the EPA negotiations with the EU, join the PACER negotiations, and promote intellectual property rights (IPR) protection, "ensuring that Tongans benefit from the effective use of IPR particularly through increased innovation, investment and trade." A national export policy is to be developed.

1.3 Developments in Trade

1.13. With the emigration of Tongans which began to intensify in the 1970s, the merchandise trade surplus turned into deficit.¹³ Remittances by Tongan expatriates have since helped to finance a growing trade deficit. Moreover, goods sent home by them (i.e. remittances in-kind) explain in part why merchandise imports outstrip exports more than ten-fold in any recent year. The high inflows of aid also contribute to the trade deficit.

1.14. Tonga's merchandise exports are small and undiversified (Chart 1.2). The main export items are fish and other marine products, and a few agricultural products, mainly squash, root crops, and coconuts (Table A1.2). In its niche markets for squash (Japan and Korea), Tonga has lost some market share, according to the authorities. The value of merchandise exports has recovered somewhat since 2009/10, following a plunge in 2008/09 in the midst of the global financial crisis (Table A1.1). Trade data are compiled by Tonga Customs based on the final destination and country of origin. However, fish caught in Tongan waters but unloaded in foreign ports (an increasing trend) is not reported in Tonga's trade statistics. Most Tongan exports are destined for countries along the Pacific Rim (Chart 1.3).

⁸ Capital transfers include transfers for purchase of property, migrant transfers, and debt forgiveness; acquisition and disposal of non-financial assets such as patents; direct investment, including equity capital; portfolio investment, including equity, debt securities and financial derivatives; and other investments, including trade credits, loans, and deposits.

⁹ For the NRBT exchange control guidelines and documentary requirements, see http://www.reservebank.to/docs/econtrol/EC_POLICY_GUIDELINES_Jun11_final.pdf.

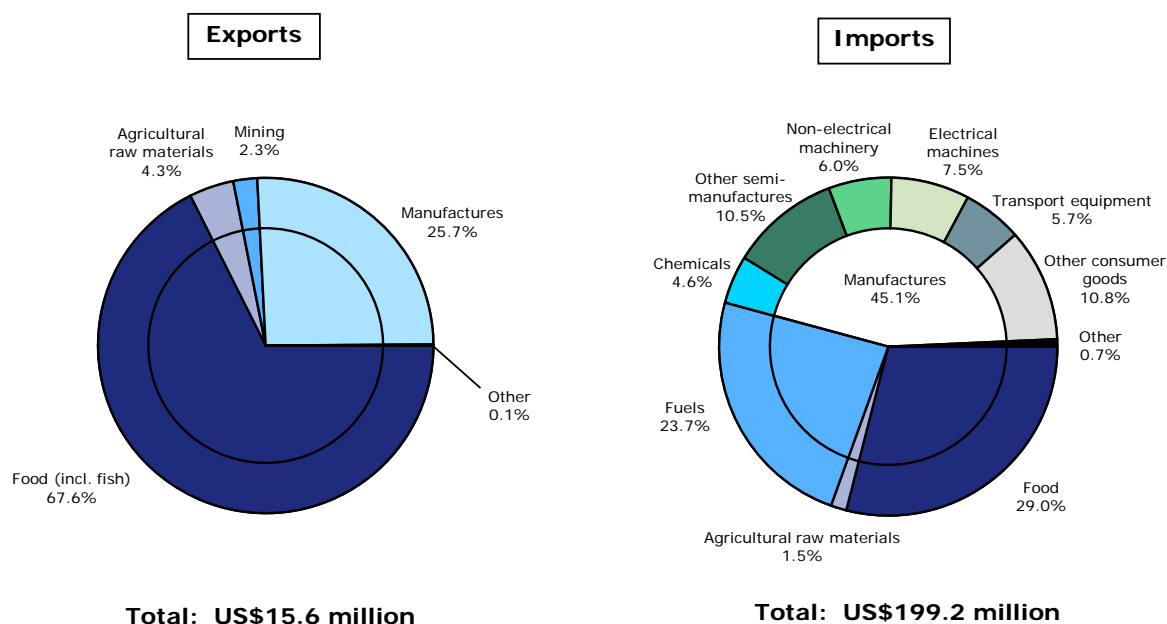
¹⁰ It appears that interest rates are high compared with those in Australia but not unusually high compared with other Pacific island countries. See Pacific Financial Technical Assistance Centre (PFTAC) (2011).

¹¹ The loans from the Export-Import Bank of China amount to about 25% of GDP, see IMF (2012).

¹² Tonga Strategic Development Framework (TSDF) 2011–2014. Viewed at: <http://www.ausaid.gov.au/countries/pacific/tonga/Documents/tonga-strat-dev-frame-2011-2014.pdf>, p. 13.

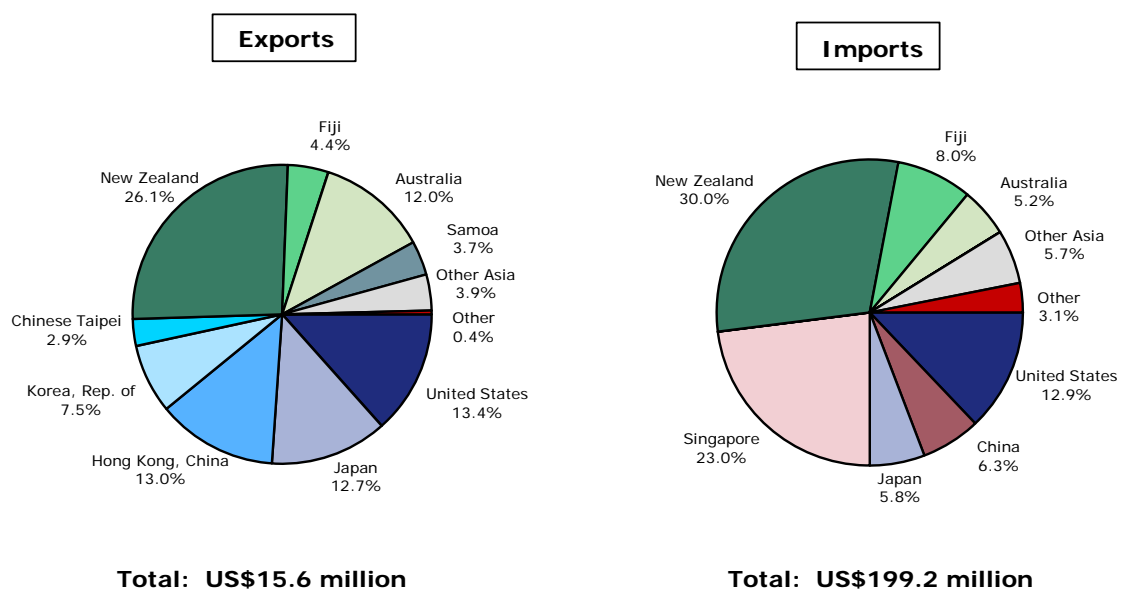
¹³ The surplus in the 1970s was earned mainly through exports of desiccated coconut and copra during a copra boom on the international commodity markets.

Chart 1.2 Product composition of merchandise trade, 2012



Source: UNSD, Comtrade database (SITC, Rev.3).

Chart 1.3 Merchandise trade by destination and origin, 2012

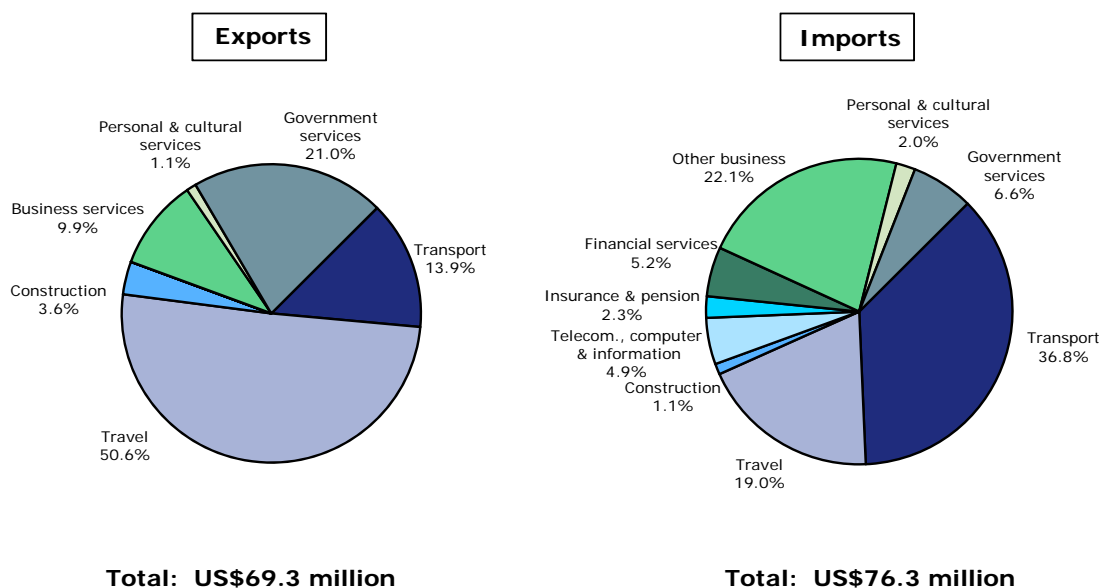


Source: UNSD, Comtrade database.

1.15. Over half of Tonga's imports are food and fuel. Imports from New Zealand, Tonga's main trading partner on the import side, include mainly mutton flaps, lard, dairy products, and fruit. Most refined petroleum products are shipped from Singapore (Chart 1.3). Goods imported from Fiji include, notably, sugar, water, biscuits, furniture, and fish.

1.16. Imports and exports of services have been roughly balanced, with tourism contributing most to Tonga's trade in services (Chart 1.4).

Chart 1.4 Trade in services, 2011-12



Source: Tonga Department of Statistics online information.

1.4 Outlook

1.17. Following a two-year phase of economic stagnation, GDP growth in Tonga is forecast to pick up to almost 2% in 2013/14, on the expectation of recovering remittances and tourism.¹⁴ As a step towards fiscal consolidation, the IMF recommends a freeze on new tax exemptions. Tonga's debt rating was recently upgraded from high-risk to medium-risk by the IMF/World Bank. Over the long-term, the IMF sees a potential for Tonga to escape a "low development trap" based on labour-intensive industries (agriculture, fisheries, niche tourism), and a well-educated, English-speaking population. This will require further structural reforms, in particular in the area of business regulation, to encourage private investment.

¹⁴ IMF News, "Kingdom of Tonga: Concluding Statement of the 2013 Article IV Consultation". Viewed at: <http://www.imf.org/external/np/ms/2013/032513.htm>.

2 TRADE POLICY REGIME: FRAMEWORK AND OBJECTIVES

2.1 General framework

2.1. Tonga is a constitutional monarchy, at present headed by His Majesty the King Taufa'ahau Tupou VI. Tonga's Constitution, enacted in November 1875, has been subject to various amendments. The most comprehensive revision of the Constitution occurred in 2010.

2.2. Legislative powers are exercised by the Legislative Assembly, which includes 17 representatives elected by the people, and 9 nobles elected by Tongan nobles. Elections are ordinarily held every four years.¹ The total number of representatives in the Legislative Assembly may vary between 26 and 30, as all members of the Cabinet are also members of the Legislative Assembly.² The Assembly is the only organ empowered to adopt laws (Clause 56 of the Constitution). Bills read and voted for by a majority of the representatives three times are presented to the King for sanction. Acts enter into force upon receiving royal assent, unless otherwise indicated.

2.3. Judicial power is exercised by the Magistrates Court, the Supreme Court, the Court of Appeal, and the Land Court. Judges are appointed by His Majesty in Council. Tonga's judicial system does not provide for specialized administrative or commercial courts. Currently, the Court of Appeal, composed of three judges including the Chief Justice, is the highest court. The lowest court, the Magistrates Court, has the jurisdiction to hear criminal cases in which the maximum punishment does not exceed three years imprisonment or a fine of T\$10,000. The Land Court adjudicates land-related cases, including cases concerning hereditary estate taxes and town allotment mortgages.³

2.4. Executive authority is vested in the Cabinet, consisting of the Prime Minister elected by the Legislative Assembly and Ministers nominated by the Prime Minister and appointed by the King. The King appoints Governors to the islands of Ha'apai and Vava'u on the advice of the Prime Minister. Without power to enact laws themselves, the Governors are responsible for the implementation of laws within their district.

2.5. In the present Government, the Prime Minister is also Minister for Foreign Affairs and Trade, and the Deputy Prime Minister is concurrently Minister for Infrastructure. Eleven other Ministers hold individual portfolios.⁴ The Ministry of Commerce, Tourism and Labour, which was responsible for foreign trade policy matters until 1 July 2012, continues to be in charge of Tonga's business licensing regime, foreign investment policy, consumer protection, price regulation and control, and technical work on trade matters, including import licensing and intellectual property. Import regulation for agricultural products, quarantine, food security and SPS matters, fisheries regulatory policy, etc. are under the Ministry of Agriculture, Food, Forests and Fisheries. The Tonga Customs Service is part of the Ministry of Revenue and Customs.⁵ Taxation policy for "unhealthy" goods such as alcohol is the responsibility of the Ministry of Health.⁶ The Ministry of Finance and National Planning develops Tonga's fiscal policy while monitoring the state of Tonga's economy and the fiscal balance. It is also in charge of public procurement policies. Privatization and supervision of remaining state ownership is effected by the Ministry of Public Enterprises. Tonga's policies with

¹ Clause 38 of the Constitution allows the King to convoke the Legislative Assembly at any time, dissolve it "at his pleasure", and "command" that new representatives of the nobles and the people be elected to enter the Assembly.

² Cabinet Ministers are in general chosen among the elected representatives, and they continue to represent their electoral constituencies in the Legislative Assembly during their appointment as Minister. The Electoral Boundaries Regulations 2010 establishes 17 electoral constituencies for the election of representatives of the people. Clause 51(2)(a) of the Constitution authorizes the Prime Minister to nominate up to 4 persons that are not elected representatives, provided that the Prime Minister and the Cabinet Ministers together amount to a number that is less than half the number of elected members of the Legislative Assembly, excluding the Speaker.

³ The King appoints a Privy Council to provide him with advice. Cases heard in the Land Court relating to the determination of hereditary estates and titles may be appealed to the King in Privy Council. The judgement of the King in Privy Council is final.

⁴ The present Cabinet is a result of the general elections in November 2010. Some reshuffling has taken place since the Cabinet was announced in early 2011. The portfolio structure detailed here has been in place since February 2013.

⁵ The current Minister for Revenue and Customs is also Minister for Police, Fire Services and Prisons.

⁶ On this issue, the Ministry leads a joint working group that includes the Ministry of Revenue and Customs, Ministry of Commerce, Tourism and Labour, and the Ministry of Finance and National Planning.

respect to maritime, aviation, and land transport are formulated and implemented by the Department of Transport within the Ministry for Infrastructure. The Ministry of Information and Communications, which is an integral part of the Prime Minister's Office, is the regulator of communications and telecommunications services. The Trade Coordination Committee, set up to prepare Tonga's accession to the WTO, no longer exists.⁷

2.6. The functions of the central bank, i.e. the National Reserve Bank of Tonga (NRBT), include advising the Ministry of Finance and National Planning on banking and monetary matters. The NRBT is also responsible for the licensing and supervision of financial institutions.

2.7. The private sector may interact with government agencies and influence the legislative process through associations such as the Tonga Chamber of Commerce and Industry Inc. (TCCI), the Tonga Small Business Association, the Tonga Law Society, and the Tonga Society of Accountants. A National Economic Development Committee (NEDC), established to support and engage with the private sector, has evolved into 5 national growth committees (agriculture, fisheries, manufactures, construction, commerce, and tourism) administered by the Ministry of Finance and National Planning.

2.8. Administrative decisions may be reviewed in the first instance by the Supreme Court. Its decisions may be appealed to the Court of Appeal provided that the appeal has been permitted by the first instance judge, it is lodged within 42 days from the date of judgement, and the grounds for appeal are laid down clearly. Administrative action relating to matters subject to WTO provisions, such as customs classification and valuation, tariff application, licensing, TBT, SPS, and TRIPS issues, may be brought before the Commissioner for Public Relations pursuant to the Commissioner for Public Relations Act 2001. The Commissioner is appointed for five years by His Majesty in Council. The Commissioner and his office is independent from the Executive. On the basis of complaints or on his own initiative, the Commissioner may investigate any administrative decision or recommendation, and any administrative act done or omitted by any department or organization to which the Act applies. The Commissioner, who may only formulate recommendations, addresses them to the relevant government bodies. His recommendations may be appealed to the Supreme Court. If a recommendation has not been acted upon within a reasonable period of time, the Commissioner may transmit a copy of the recommendation to the Prime Minister.

2.9. Tonga does not have a procedure for the Legislative Assembly or government agencies to disseminate draft legislation for public comment prior to enactment. Acts, as well as secondary legislation, are available electronically and free of charge from the website of the Office of the Attorney General (<http://crownlaw.gov.to/cms/>) This website contains a complete set of Tongan legislation, and is updated regularly. New laws and regulations are published in the *Tonga Legal Gazette*. Editions of the gazette are available electronically, but at present the website (<http://crownlaw.gov.to/cms/index.php/gazettes/gazette-by-year.html>) does not include editions issued prior to 2011.

2.2 Policy objectives

2.10. Tonga is dependent on trade to meet the needs for a wide range of modern consumer and capital goods. During the WTO accession process, the Government of Tonga reduced tariffs as part of economic reforms to reduce the cost of living, particularly for the poor, improve the investment climate, and generally lower the cost of doing business. Among the objectives listed in the Tonga Strategic Development Framework (TSDF) 2011-2014, Tonga is seeking a dynamic public and private sector partnership as the engine of growth, to be achieved, *inter alia*, through closer private-sector involvement in policy formulation and implementation, and through the promotion of regional and international trade.

2.11. Tonga joined the WTO and the multilateral trading system it espouses to enable trade to be conducted in a fair, secure, transparent, and predictable rules-based environment. Tonga is committed to trade liberalization at a pace sustainable for a small and vulnerable economy. At the WTO, Tonga considers itself a recently acceded Member.

⁷ The re-establishment of a trade coordination body is under consideration. In the meantime, a core group within the Government meets informally as required.

2.12. In the Doha Round, Tonga has expressed an interest in the negotiations to impose disciplines on fisheries subsidies⁸ and, together with its African, Caribbean, and Pacific Island (ACP) partners, Tonga is a "W52 Sponsor".⁹ Tonga fully supports the WTO Work Programme on Small Economies and would like Members to adopt specific measures to facilitate fuller and more meaningful integration of these economies into the multilateral trading system in accordance with their level of development.

2.13. Regional trade is to be encouraged through the elimination of non-tariff barriers in the short term and progressive removal of tariff barriers over a longer period. While Tonga is pursuing trade liberalization domestically, it will also be seeking to improve the opportunities for Tongans to work overseas, e.g. in key economic partners' temporary worker schemes.

2.14. Evolving from the TSDF, Tonga's National Export Strategy was revised in 2011 to facilitate the export of goods. The intention is to administer trade in services under the Tonga Investment Promotion Strategy and the Labour Export Strategy.

2.3 Trade agreements and arrangements

2.3.1 WTO

2.15. Tonga became the WTO's 151st member on 27 July 2007. Tonga accepted to comply with key WTO Agreements such as the Agreements on the Application of Sanitary and Phytosanitary Measures, Import Licensing Procedures, and Trade-Related Investment Measures (TRIMs) from the date of accession without recourse to any transitional period. Transitional arrangements were agreed for the implementation of the Agreement on the Implementation of Article VII of the GATT 1994 (customs valuation) until 1 January 2008, and for the Agreement on Trade-Related Aspects of Intellectual Property Rights (until 30 June 2008). Tonga did not make commitments to accede to the plurilateral WTO Agreements on Government Procurement or Trade in Civil Aircraft.

2.16. As a result of market access negotiations, Tonga undertook specific commitments under the GATS in 90 services subsectors (Chapter 4.4.2). As Tonga was advancing the introduction of a single-rate tariff applied across-the-board, it did not subscribe to any of the WTO sectoral zero-for-zero initiatives, and Tonga does not participate in the Information Technology Agreement. Further details of Tonga's tariff commitments for trade in goods are presented in Chapter 3.

2.17. Tonga has submitted 17 notifications relevant to its WTO commitments to the Secretariat (Table 2.1). It notified its legislation on intellectual property in June 2009, and the laws and regulations were reviewed in the WTO Council for TRIPS in October 2009. In other notifications, Tonga has provided information on its business licensing regime and on "green box" support to agriculture. Tonga has also informed WTO Members that it has no legislation or institutional framework for the investigation and imposition of anti-dumping or countervailing measures on trade.

2.18. As a WTO Member without a Geneva mission, Tonga's WTO participation is handled directly by the Ministry of Foreign Affairs and Trade in Nuku'alofa, by the Embassy of the Kingdom of Tonga in London, or with assistance from the Pacific Islands Forum Representative Office to the WTO.

2.19. To date, Tonga has not been involved in any trade disputes under the WTO Dispute Settlement mechanism, as a complainant, respondent, or a third party.

⁸ WTO document TN/RL/W/226/Rev.5, 22 September 2008.

⁹ Certain Members have put forward a proposal for "modalities" in the negotiations on geographical indications and the disclosure of the origin of genetic resources and traditional knowledge used in inventions. The proposal is contained in document TN/C/W/52, 19 July 2008.

Table 2.1 Tonga's WTO notifications, 2007-May 2013

Agreement provision	Subject	Year of coverage	WTO document and date
Agreement on Agriculture			
Article 18.2	Domestic support	2007/08, 2008/09 2009/10	G/AG/N/TON/2, 19/07/11 G/AG/N/TON/2/Rev.2, 11/01/12 G/AG/N/TON/3, 12/01/12
Articles 10 and 18.2	Export subsidies	2007/08, 2008/09	G/AG/N/TON/1, 27/06/11
Agreement on Implementation of Article VI of the GATT 1994 (Anti-dumping)			
Article 16.5	Competent authority (none)		G/ADP/N/193/TON, 13/10/11
Article 18.5	Legislation (none)		G/ADP/N/1/TON/1, 10/03/10
Agreement on Import Licensing Procedures			
Articles 1.4(a) and 8.2(b)	Legislation (business licensing)		G/LIC/N/1/TON/1, 06/04/11
Article 7.3	Replies to Questionnaire		G/LIC/N/3/TON/1, 05/04/11
Agreement on Subsidies and Countervailing Measures			
Article 25.1	Specific subsidies (none)		G/SCM/N/220/TON, 17/10/11
Article 32.6	Legislation (none)		G/SCM/N/1/TON/1, 13/10/11
Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)			
Article 63.2	Note on IP protection Legislation: Copyright Act 2002 Industrial Property Act 1994 - 1999 amendment - 2002 amendment Protection of Layout-Designs (Topographies) of Integrated Circuits Act Protection of Geographical Indications Act Protection against Unfair Competition Act		IP/N/1/TON/1, 02/06/09 IP/N/1/TON/C/1, 08/06/09 IP/N/1/TON/I/1, 08/06/09 IP/N/1/TON/I/1/Add.1, 08/06/09 IP/N/1/TON/I/1/Add.2, 08/06/09 IP/N/1/TON/L/1, 08/06/09 IP/N/1/TON/G/1, 05/06/09 IP/N/1/TON/O/1, 05/06/09

Source: WTO Secretariat.

2.3.2 Regional trade agreements

2.20. Tonga is a member of the Pacific Islands Forum (PIF).¹⁰ The Pacific Plan for Strengthening Regional Cooperation and Integration, to be implemented over a period of ten years from 2005, envisages increasing sustainable regional trade and investment through the lowering of trade barriers, including physical and technical measures.¹¹ Initiatives to be implemented include expansion of trade in goods under the South Pacific Regional Trade and Economic Cooperation Agreement (SPARTECA)¹², the Pacific Island Countries Trade Agreement (PICTA), the Pacific Agreement on Closer Economic Relations (PACER), and with non-Forum countries.¹³

2.21. PICTA, signed in August 2001, aims at establishing a free-trade area between the 14 Pacific island states.¹⁴ The Agreement includes schedules for the progressive elimination of tariffs on intra-regional trade.¹⁵ However, PICTA remains only partially operational as many of the participants have yet to pass the necessary legislation for its functioning.¹⁶ Tonga has submitted

¹⁰ PIF members are 14 Pacific island states, Australia, and New Zealand. New Caledonia and French Polynesia hold associate membership, while Tokelau, Wallis and Futuna are observers. Timor-Leste has been a special observer to the Forum since 2002. The institution was known as the South Pacific Forum prior to October 2000. The Forum is serviced by the Pacific Islands Forum Secretariat located in Suva, Fiji.

¹¹ The Pacific Plan was endorsed by PIF members in October 2005 and revised in October 2006.

¹² Tonga joined SPARTECA in July 1980.

¹³ WTO (2009).

¹⁴ The 14 participants are Cook Islands, Fiji, Kiribati, Marshall Islands, the Federated States of Micronesia, Nauru, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu, and Vanuatu.

¹⁵ For details, see WTO (2009).

¹⁶ According to the Pacific Island Forum Secretariat, seven members (Cook Islands, Fiji, Niue, Samoa, Solomon Islands, Tuvalu, and Vanuatu) have implemented the required domestic arrangements and

its timetables for the reduction and elimination of tariffs and notified a negative list ("excepted imports") that includes bovine meat, eggs, ice cream, paints and varnishes, barbed wire, and toilet paper.¹⁷ Nevertheless, Tonga has yet to trade under PICTA. The PICTA timetable for tariff reductions remains to be incorporated into domestic legislation. According to the authorities, technical issues are still under consideration, notably the implications on revenue.

2.22. The integration of trade in services into PICTA was endorsed in principle in 2001. Liberalization is designed to be gradual and flexible, with transitional periods agreed as appropriate. After seven rounds of negotiations, the PICTA Trade in Services (TIS) Protocol was endorsed and opened for signature on 28 August 2012.¹⁸ Tonga has signed the Protocol, but has yet to ratify it. According to the authorities, ratification remains a priority as Tonga sees significant benefits in increased services trade.

2.23. In August 2001, the Pacific island states, Australia, and New Zealand signed PACER, a framework agreement for deeper, stepwise liberalization of trade and investment among the Pacific island states. PACER entered into force in August 2002. Within the PACER framework, PICTA was designed as a vehicle for trade liberalization amongst the Pacific island states as a precursor to further liberalization between them and Australia/New Zealand. Though not a free-trade agreement, PACER includes a "trigger clause" to provide for WTO-consistent negotiations to establish a reciprocal free-trade arrangement (customs union or single FTA) that would include Australia and New Zealand within eight years from the entry into force of PICTA (i.e. in 2011), or earlier.¹⁹ In August 2009, a Pacific Islands Forum Meeting agreed to commence negotiations on a "PACER Plus" agreement, a wider free-trade and economic-development agreement than initially foreseen under PACER, between Australia, New Zealand, and the 14 Pacific island states. Although Pacific Forum Trade Ministers agreed on the negotiating framework and timelines in October 2009, the negotiations are still at a relatively early stage.²⁰ PACER Plus included funding of an Office of the Chief Trade Adviser (OCTA) to assist the Pacific island states to prepare for, and participate in, the negotiations.²¹

2.24. As part of the group of African, Caribbean, and Pacific (ACP) states, Tonga has a long-standing relationship with the European Union stemming from the Lomé Convention and the Cotonou Agreement, which entered into force provisionally to replace the Lomé Convention in March 2000.²² Under the Cotonou Agreement, the ACP Group and the European Communities (EC) agreed to conclude new WTO-compatible trading arrangements in the form of Economic Partnership Agreements (EPAs). The EPAs were to be concluded before the end of 2007, when the EC's WTO waiver for the Cotonou Agreement expired. The EPAs aim at progressive removal of trade barriers and enhanced cooperation in all areas relevant to trade between the EU and ACP states.

2.25. At the ACP Group level, EPA negotiations were launched in September 2002, while the Pacific ACP-EC EPA negotiations began in September 2004, setting out a joint roadmap for the negotiations. Since 1 January 2008, Papua New Guinea and Fiji have been able to maintain preferential access for exports to the EU under an Interim EPA.²³ The interim agreement remains open to any other interested Pacific state willing to sign it. The agreement provides for duty and quota-free exports to the EU in return for asymmetric and gradual opening of markets to EU goods. The agreement contains improved rules of origin for processed fish exports to the EU; addresses TBT and SPS matters to assist exporters to adhere to EU standards; has provisions on customs

announced their readiness to trade under the provisions of PICTA, thus benefiting from PICTA preferences since 1 January 2007. Due to the delays, the timetable for tariff elimination is now extended until 2021.

¹⁷ Pacific Islands Forum Secretariat online information. Viewed at:

<http://www.forumsec.org/pages.cfm/economic-governance/regional-trade-1/picta/tonga.html>.

¹⁸ Samoa was first country to ratify the services chapter of PICTA, in May 2013.

¹⁹ Article 5 of PACER would trigger Pacific Island Forum (PIF) countries to engage in FTA negotiations with Australia and New Zealand, either individually or jointly, if any PIF commenced FTA negotiations with any other OECD country.

²⁰ According to the authorities, the negotiations on TBT, SPS, and rules of origin are at an advanced stage, while work continues on labour mobility and development assistance.

²¹ Based in Vanuatu, OCTA began operations in March 2010.

²² The 14 Pacific island states and Timor-Leste acceded to the Cotonou Agreement in May 2003.

²³ The interim EPA was initialled in November 2007 and implemented provisionally by the EU from 1 January 2008. The European Parliament ratified the interim EPA in January 2011 and Papua New Guinea in May 2011. Fiji is apparently not yet implementing the agreement, and has temporary access to the EU market under the Market Access Regulation (Regulation 1528/2007).

administration and trade facilitation; and regulates the imposition of possible safeguard measures on imports from the EU. The interim agreement does not cover trade in services.

2.26. According to the European Commission, the negotiations to conclude a comprehensive EPA with the 14 Pacific island states are on-going.²⁴ The agreement is intended to cover development cooperation; trade in goods and services; trade-related issues such as food safety, TBT, agriculture, and fisheries; sustainable development; and competition. The authorities expect the EPA to provide improved market access for Tonga's primary agricultural and fish products and possibly higher volumes of development assistance.

2.3.3 Preferential agreements and arrangements

2.27. SPARTECA, which Tonga joined in July 1980, governs trade in goods between the 14 Pacific island states, Australia, and New Zealand. SPARTECA allows duty-free and unrestricted or conditional access into Australia and New Zealand for virtually all products originating in the Pacific island states. As a non-reciprocal preferential trade agreement, SPARTECA does not oblige Tonga to grant any preferential access to goods of Australian or New Zealand origin.

2.28. The rules of origin under SPARTECA require manufactured goods originating in the Pacific islands to incorporate a minimum of 50% local value added to benefit from duty-free, quota-free access into Australia and New Zealand. Improved rules of origin, a concern to the Pacific island states, may be an issue for the PACER Plus negotiations. Some Pacific island states are also interested in improved conditions for labour mobility into Australia and New Zealand. Part 3 of the current PACER, which provides for trade facilitation and economic and technical assistance, may be moved into PACER Plus.

2.29. For Tonga, preferential access to the EU market may be accorded under the EU's GSP scheme in the absence of an EPA. Unlike some of its Pacific partners, Tonga does not qualify for duty-free access under the EU's "Everything But Arms" initiative, as Tonga is not an LDC. Moreover, as the World Bank now ranks Tonga an upper middle-income country, Tonga's exports stand to lose the EU's standard GSP tariff treatment as from 1 January 2014.

2.30. In the United States, Tonga belongs to a group of 135 designated beneficiary developing countries and territories that may obtain duty-free GSP treatment for 3,448 products. According to U.S. data, GSP imports from Tonga amounted to US\$164,000 in 2006 (total imports US\$7.3 million). Products eligible for duty-free entry, but not claimed as such, included shipments of palmitic and stearic acid, and sweet potatoes.²⁵

2.31. Exports from Tonga are also eligible for GSP treatment in Japan, but all Tongan goods currently enter Japan at the MFN tariff rate.

2.3.4 Bilateral agreements

2.32. An agreement with Fiji, signed in 1995, is Tonga's only bilateral trade agreement. The non-reciprocal agreement was drafted shortly after a bilateral quarantine protocol had been established for 20 agricultural items exported from Tonga to Fiji.²⁶ Matters of mutual interest are discussed in a joint committee that holds bi-annual meetings.

2.3.5 Other agreements and arrangements

2.33. Tonga has signed and ratified the Pacific Islands Air Services Agreement (PIASA), which entered into force on 13 October 2007. The aim of PIASA is to gradually integrate the aviation

²⁴ European Commission online information. Viewed at: http://ec.europa.eu/trade/issues/bilateral/regions/acp/regneg_en.html. Tonga's Minister of Commerce, Tourism and Labour is lead spokesperson for the Pacific ACP countries in these negotiations.

²⁵ USTR online information, "Use of U.S. Trade Preferences by Pacific Island Economies", "Pacific Islands GSP Briefer" (May 2007). Viewed at: http://www.ustr.gov/sites/default/files/uploads/gsp/asset_upload_file288_14834.pdf.

²⁶ From 1995 to 1998, Tonga participated in a regional sugar agreement under which Fiji supplied its partners agreed quantities of sugar at pre-determined prices. The agreement was administered by the Forum Secretariat.

services of the Pacific island states in a way that supports sustainable development. A single aviation market is meant to bring benefits such as increased access to air routes among the Pacific islands, foster alliances and code-sharing among the airlines, and lower costs for airlines and passengers.

2.34. As a member of the Pacific Island Forum Fisheries Agency (FFA), Tonga participates in work to establish a regional licensing arrangement that would enable Tongan vessels to fish in regional waters. The FFA advises its 17 members about relevant developments in international trade policy and economic cooperation frameworks. The FFA also administers the implementation of a Multilateral Treaty on Fisheries Between Certain Governments of the Pacific Island States and the Government of the United States of America. The Treaty, concluded in 1987 and renewed twice, enables purse seine fishing by U.S. vessels in the waters of the Pacific island participants.

2.4 Investment regime

2.35. The Foreign Investment Act, Act 22 of 2002, entered into effect when the implementing regulations contained in the Foreign Investment Implementing Regulations 2006 entered into force on 2 April 2007.²⁷ The Act requires a foreign investor to obtain a foreign investment registration certificate before applying for a business licence. The Act defines a foreign investor as an individual who is not a Tongan subject and does not reside in Tonga. Partnerships, joint ventures, and enterprises incorporated in Tonga are considered foreign investors under the Act if the non-Tongan partner or owner controls more than 25% of the investment or enterprise voting shares. Incorporation of an enterprise is effected by applying to the Companies Office of the Kingdom of Tonga, an electronic register available to the public round-the-clock. Incorporation is governed by the Companies Act 1995 and the Companies Regulations 1999 as amended in 2010.²⁸ An enterprise may be incorporated as a Tongan company or an overseas company. The registration fees are higher for an overseas company. According to the Companies Regulations, the registration fee is T\$400 for a Tongan company, under section 16(1) of the Companies Act, and T\$800²⁹ for an overseas company (Section 354(1)). Other fees, such as the registration of changes or the filing of annual returns, are also higher for overseas companies. Consumption tax (15%) is added to all fees.

2.36. The Business Licences Act 2002 (Schedule 1) lists some prohibited business activities, i.e. closed to domestic and foreign investors alike (Chapter 3). Establishment of specific types of businesses also requires the fulfilment of certain conditions (Table 3.1). Beyond that, the foreign investment regulations set out a number of activities that are either restricted for foreign investors (Table 2.2) or reserved for Tongan investors (Table 2.3).³⁰ However, as long as the foreign share in a venture remains 25% or less, the project will be considered a Tongan investment, also in restricted or reserved activities.

Table 2.2 Restricted activities

Business activity	Condition
Commercial fishing comprising: - Tuna fishing - Bottom fishing in water deeper than 500 m - Other deep water fishing not less than 100 m - Aquaculture	Subject to their respective Resource Management Plan (administered by the Department of Fisheries, MAFF)
Agricultural supply store distributing seeds, fertilizers, chemicals	Subject to the requirements of the Pesticide Act 2002

²⁷ Prior to the entry into force of the Foreign Investment Act, Tonga's investment policy was based on the 1978 Industrial Development Incentives Act, which provided benefits, primarily in the form of tax exemptions, to domestic and foreign investors. The Legislative Assembly passed the Industries Development Incentives (Repeal) Act No. 21 of 2007 on 3 September 2007 and it received Royal Assent on 26 October 2007.

²⁸ All enterprises registered in Tonga prior to the introduction of the Companies (Amendment) Act 2009 were required to re-register. This was due to factors such as the new on-line registration procedure and damage to the registry files inflicted by civil unrest in 2006.

²⁹ The authorities maintain that the higher fees for overseas companies reflect additional costs, including the screening of foreign directors, the shareholding structure, etc.

³⁰ The foreign investment regulations, including the reserved list, are currently being reviewed. The private sector is participating in this review.

Business activity	Condition
Education facility	Subject to requirements of the Education Act (Cap. 86)
Medical or health activity	Subject to requirements of the Public Health Act 1992; Therapeutic Goods Act 2001; Nursing Act 2001; Medical and Dental Practices Act 2001; Pharmacy Act 2001; Health Practitioners Review Act 2001

Source: Foreign Investment Regulations 2006, Schedule 2.

Table 2.3 Business activities reserved for Tongan investors

No.	Product description
1	Taxis
2	Passenger vehicles for hire
3	Used-motor-vehicle dealers
4	Retailing activity that consists of the distribution of grocery products (food and household provisions) for final consumption
5	Wholesaling activity
6	Baking of white loaf bread
7	Tongan cultural activities including: <ul style="list-style-type: none"> (a) Folk tales, folk poetry, and folk riddles (b) Folk songs and instrumental folk music (c) Folk dances and folk plays (d) Production of folk art in particular, drawings, paintings, carvings, sculptures, woodwork, jewellery, handicrafts, costumes, and indigenous textile
8	Raising of chicken for the production of eggs
9	Security business
10	Export of green and mature coconuts
11	Wiring and installation of residential and commercial buildings with capital investment of less than T\$500,000
12	Production/farming of: <ul style="list-style-type: none"> (a) root crops (yams, taro, sweet potato, cassava) (b) squash (c) paper mulberry (d) pandanus; and (e) kava
13	Fishing activities comprising: <ul style="list-style-type: none"> (a) reef fishing (b) inshore fishing within 12 nm (Zone C) in water less than 1,000 metres (c) bottom fishing in water depth less than 500 metres

Source: Foreign Investment Regulations 2006, Schedule 1.

2.37. Foreign investment registration certificates are generally valid for the lifetime of the project, as long as the business activity commences within one year of the grant of the certificate. Applications are addressed to the Secretary at the Ministry of Commerce, Tourism & Labour. A certificate may be transferred to another foreign investor provided he/she also satisfies the criteria under the Act. Applications for a foreign investment registration certificate are subject to a fee of T\$100, and amended certificates are issued against a fee of T\$15.³¹

2.38. A dissatisfied applicant may appeal to the Minister of Commerce, Tourism & Labour, who will appoint an Arbitrator to decide the appeal. A decision by the Secretary to cancel a foreign investment registration certificate may be appealed to the Supreme Court, and the decision is suspended while the appeal is pending. Tonga ratified the Convention on the Settlement of Investment Disputes in 1990. Tonga has concluded one bilateral investment treaty, with the United Kingdom. The treaty entered into force on 22 October 1997. Arbitration under the Foreign Investment Act is subject to the provisions of the Arbitration Act 1996 of the United Kingdom.

³¹ Transfer of a foreign investment registration certificate is subject to a fee of T\$45. The applicable fees are set out in Schedule 3 of the Foreign Investment Regulations 2006.

2.39. Under the Land Act³², the sale of land is prohibited in Tonga. Section 3 of the Act stipulates that "all land of the Kingdom is the property of the Crown". However, according to the Constitution (Clause 104) the King may "at pleasure grant to the nobles and titular chiefs or matabules one or more estates to become their hereditary estates". Thus, certain Tongan individuals are holders of land in the form of hereditary estates, tax allotments, or town allotments. Every estate (tofia) and allotment (api) is hereditary according to the prescribed rules of succession. The majority of land in Tonga is held in hereditary estates.³³

2.40. The Minister of Lands, Environment, Climate Change and Natural Resources represents the Crown in all matters concerning the land of the Kingdom. He may grant leases or sub-leases and permits with the consent of the Cabinet. Consent of His Majesty in Council is required if the duration of a lease exceeds 99 years, or for renewals if the total period of the lease (initial lease and subsequent renewal(s)) will surpass 99 years. Most leases are for 50 years (20 years for tourism projects). Registered holders of town or tax allotments may also lease land subject, *inter alia*, to the consent of the Cabinet and provided that the lease does not exceed 20 years.

2.41. Tonga has established a 20-acre (8 hectare) industrial estate (Small Industries Center - SIC) on the main island Tongatapu, and an 8-acre (3.2 hectare) estate on the Vava'u island. The estates provide land for lease and premises for rent on long-term contracts. The Ma'fanga SIC opened in 1980, and operates under a long-term lease that will expire in October 2070. Its land has been demarcated into 42 industrial land plots of variable size; 36 have been built and are rented out. The Neiafu SIC, which opened its doors in 1990, has a lease that runs until August 2077. The entire 8-acre estate has been developed with all necessary supply utilities and demarcated into 16 industrial land plots; 4 of which are currently rented out. Enterprises located on the estates have priority access to electricity, telephone, and water connections. Residential and work permits are granted to foreign investors and their families subject to normal immigration rules.

2.42. In 2013, the World Bank ranked Tonga 62nd overall among 185 economies on the ease of doing business.³⁴ Tonga scored better than its average ranking on elements such as getting electricity, starting a business, obtaining construction permits, and paying taxes, while falling well below its overall score on issues such as "protecting investors", "resolving insolvency", and "registering property". Tonga has no formal bankruptcy law.

2.43. According to the authorities, on average 32 foreign companies register annually in Tonga. Most foreign businesses are engaged in trade and other services, excluding retail and wholesale of groceries (which are activities reserved for Tongan investors). UNCTAD estimates that inflows of foreign direct investment (FDI) into Tonga peaked at US\$29 million in 2007, fell sharply in 2008 and 2009, before rising to US\$10 million in 2011.³⁵ The stock of inward FDI stock was estimated at US\$98 million at end 2011. FDI outflows from Tonga are modest, typically averaging US\$1 to 2 million per year.

2.44. The Tonga Trade and Investment Board Act (Act 19 of 2005) envisaged the formation of a Trade and Investment Board to promote, stimulate, and facilitate the growth and development of trade and investment in Tonga. As the establishment of the Board was delayed, mainly due to funding concerns, the responsibilities of the Board have been absorbed by the Trade and Investment Division within the Ministry of Commerce, Tourism and Labour. The Ministry's Trade and Investment Promotion Unit provides information to domestic and foreign investors, assists them in obtaining necessary permits and licences, and provides other services as required.³⁶ The development and marketing of tourism is administered by the Tonga Tourism Authority further to the Tonga Tourism Authority Act 2012.

³² The Land Act makes it clear that any verbal or documentary disposition by a land holder to effect a voluntary conveyance or out-and-out sale is null and void (Section 6) and subject to imprisonment not exceeding ten years (Section 12).

³³ Schedule I of the Land Act lists the hereditary estate holders and their estates. All other land is Crown land. Schedules II and III of the Land Act detail royal estates and royal family estates, which are set aside from the Crown lands.

³⁴ World Bank (2013). Tonga ranks behind its Pacific island neighbours Samoa (57th) and Fiji (60th), but ahead of Vanuatu, Solomon Islands, Marshall Islands, Palau, and Kiribati.

³⁵ UNCTAD (2012).

³⁶ Ministry of Labour, Commerce and Industries (2009).

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.1 Introduction

3.1. Tonga negotiated its accession to the WTO as major customs reforms were still under way. The agreed tariff bindings and other conditions were key parameters for the new Customs Act No. 5 of 2007. The Act was implemented simultaneously with the Customs and Excise Management Act No. 4 of 2007, which stipulates basic provisions with respect to customs control, customs procedures and clearance, temporary importation, inter-island and coastal trade, warehousing, customs brokers, the powers of customs officers, administrative penalties, appeals, etc. More detailed provisions for the collection and management of customs duty and excise tax are laid down in the Customs and Excise Management Regulations 2008.

3.2. Moving towards paperless customs clearance, Tonga's Customs Service introduced a Customs Management System (CMS) for electronic processing in 2008.¹ The CMS calculates the amounts due in respect of customs duty, excise tax, consumption tax, quarantine fees, and wharfage for the Ports Authority. As individual documents are only to be presented upon request, all commercial documentation in relation to import and export transactions, including letters, e-mails, invoices, receipts, shipping, airline, and banking documents, are retained by the traders to facilitate post-clearance audits. Records must be kept for seven years.

3.3. Customs duties and other charges may be paid by company cheque, electronically (FPOS), or cash (up to T\$500). Personal cheques may only be accepted by prior arrangement. Customs duties may be paid in instalments, but all dues must be settled within four months or before the end of the financial year (whichever is earlier).

3.4. Tonga's Customs Service comprises approximately 55 staff located in the capital Nuku'alofa and in the Vava'u island group. The customs service also has mobile staff undertaking random checks at Tonga's seaports, international airports, and on business premises to ensure compliance with customs and excise legislation. All containerized goods are given a colour code (red, green, yellow) upon arrival, based on risk assessment.² All red-marked containers are inspected. Preshipment inspection is never used. The Tonga Customs Service processes approximately 30,000-35,000 customs declarations per year.

3.2 Measures Directly Affecting Imports

3.2.1 Import procedures and requirements

3.5. According to Tonga's Business Licence Act, any natural or legal person carrying out a business activity in the Kingdom must hold a valid business licence.³ The hawking or selling of fish, agricultural produce, or native articles made in Tonga is not defined as a business activity. The business licensing legislation and the licensing procedures were streamlined in 2012. Unlike in the past, a single licence now suffices for individuals or enterprises engaged in more than one type of business activity. The application should indicate the principal place of business and additional physical locations where activities may be carried out.⁴ The licence is of indefinite validity, requiring the holder to file a notice of continued business activity once a year to the Registrar (Registry & Intellectual Property Division of the Ministry of Commerce, Tourism and Labour). The establishment of an online registry during 2013 will allow easier, lower cost filing of applications and notices.

¹ The CMS replaced a system (PC Trade) that was found to be deficient for customs and trade facilitation purposes.

² A profiling committee is currently reviewing the criteria used in the colour-code system.

³ The Business Licences Act 2002 was amended in 2012, and is accompanied by the Business Licences Regulations 2012, which repealed the 2007 regulations (as amended in 2010). Tonga notified the Business Licences Act and the 2007 and 2010 regulations to the WTO Committee on Import Licensing in 2011 (WTO document G/LIC/N/1/TON/1 of 4 April 2011).

⁴ The licence should be displayed in a conspicuous place at the holder's principal place of business, and copies of it at any subsidiary location. If the holder does not carry out his/her business from any specific physical location, the licence (valid throughout the Kingdom) should be kept at the enterprise office address or residential address (for individuals).

3.6. Filing a first-time application for a business licence, the applicant is requested to indicate the beneficial owner, the ownership structure (individual, partnership, or corporate), gender composition, and the type(s) of intended business (from among 21 identified categories of activity). Export/import is one of the listed activities, and thus requires a business licence. Importation (or exportation) *per se* is not subject to any special requirement, but the distribution of certain types of goods or the provision of certain services may require additional governmental approvals, permits, or inspections prior to commencing business (Table 3.1). Foreign investors should have a valid foreign investment registration certificate before applying for a business licence.

Table 3.1 Business activities requiring the fulfilment of additional conditions

Activity	Additional requirement
Liquor sales	Liquor licence from the Ministry of Police
Fish and marine product-related business	Fishing licence from the Ministry of Agriculture, Food, Forests, and Fisheries
Restaurant and food-related business	Health Certificate
Distribution	Health Certificate
Technical trades and professions	Qualification documents or practicing certificates specific to each trade or profession
Financial institution	Letter of approval from the National Reserve Bank of Tonga
Electrical services	Letter of approval from the Tonga Electric Power Board
Construction services	Letter of approval from the Ministry of Infrastructure
Taxi services	Vehicle registration certificate
Therapeutic goods outlets	Letter of approval from the Ministry of Health
Flammable goods outlets	Letter of approval from the Fire Department
Services involving the use of gases	Letter of approval from the Department of Environment
Businesses involving agricultural products and/or plants	Letter of approval from the Ministry of Agriculture, Food, Forests, and Fisheries
Recycling operators	Letter of approval from the Waste Authority

Source: Business Licences Regulations 2012, Schedule 3 (item 8).

3.7. A business licence is issued automatically within three working days provided the application is complete and does not involve prohibited goods.⁵ The applicant should be at least 18 years of age with no prior convictions in relation to indictable offences or the failure to pay legally recognized debts.⁶ The fee for a first-time (paper copy) application is T\$100 (+15% consumption tax); and the fee for filing the annual notice of continued business activity is T\$50 (+tax).⁷

3.8. Business licences are not transferable. A licence holder wishing or needing to amend his/her business licence must notify the Registrar of the changes, in writing, within ten working days.⁸ The Registrar is obliged to record changes or amendments to the licences within seven working days of receipt of the notice. The Business Licence Register kept by the Ministry of Commerce, Tourism, and Labour is available for inspection by the public. More than 2,500 registrations had been made by end-August 2013.

3.9. The Registrar may reject or refuse a licence application, or cancel a granted licence, on statutory grounds (Sections 5 and 11 of the Act). The decision of the Registrar may be appealed to the Minister of Commerce, Tourism, and Labour, whose decision is final.

3.2.2 Ordinary customs duties

3.10. Tonga's Customs Tariff Schedule applied in 2013 is based on the HS2007 classification, containing 5,286 tariff lines at the eight-digit level.⁹ Tonga has bound its entire customs tariff (Table 3.2), with relatively minor differences in the average bound rates on agricultural and non-

⁵ Schedule 1 of the Act lists prohibited activities, i.e. the export, import or production of any products prohibited under the laws of Tonga; the processing or export of endangered species; the storage, disposal or transport of nuclear or toxic waste, production of weapons of warfare; pornography; prostitution; or any other specific activity that may constitute a threat to national security and public order (in the opinion of the Minister of Foreign Affairs and Trade).

⁶ In the case of partnerships, all partners should be at least 18 years old.

⁷ The fees are reduced by 50% for applications and notices filed electronically.

⁸ The fee for amendments to a business licence (e.g. change of address, type of business, or authorized signature(s)) amounts to T\$30 (or T\$20 for an on-line submission).

⁹ According to the Tongan authorities, the migration to HS2012 is almost completed.

agricultural products (WTO definition), as the tariff lines are bound at *ad valorem* rates of either 15% or 20%.¹⁰ Tonga does not participate in the plurilateral Information Technology Agreement, the Agreement on Trade in Civil Aircraft, or any of the sectoral initiatives.

Table 3.2 Tonga's Customs Tariffs, 2008-13

	MFN applied				Final bound ^a
	2008-2010	2011	2012	2013	
Bound tariff lines (% of all tariff lines)	100.0	100.0	100.0	100.0	100.0
Simple average rate	11.6	11.8	11.8	11.5	17.6
Agricultural products (HS01-24)	12.4	12.3	12.3	10.5	19.2
Industrial products (HS25-97)	11.4	11.7	11.7	11.7	17.3
WTO agricultural products	11.4	11.2	11.2	10.7	19.1
WTO non-agricultural products	11.6	11.9	11.9	11.7	17.4
Duty free tariff lines (% of all tariff lines)	26.7	14.9	14.9	15.0	0.0
Simple average rate of dutiable lines only	15.8	13.9	13.9	13.6	17.6
Tariff quotas (% of all tariff lines)	0.0	0.0	0.0	0.0	0.0
Non- <i>ad valorem</i> tariffs (% of all tariff lines)	0.0 ^b	0.0 ^b	0.0 ^b	0.0 ^b	0.0 ^b
Domestic tariff "peaks" (% of all tariff lines) ^c	0.0	0.0	0.0	0.0	0.0
International tariff "peaks" (% of all tariff lines) ^d	11.5	11.5	11.5	9.6	52.2
Overall standard deviation of tariff rates	7.2	6.7	6.7	6.6	2.5
Coefficient of variation of tariff rates	0.6	0.6	0.6	0.6	0.1
Nuisance applied rates (% of all tariff lines) ^e	0.0	0.0	0.0	0.0	0.0
Total number of tariff lines	5,285	5,286	5,286	5,286	5,286
Duty free	1,413	785	788	793	0
<i>Ad valorem</i> rates	3,871	4,500	4,499	4,492	5,285
3%	0	670	669	669	0
5%	0	0	0	73	0
10%	6	7	6	35	0
15%	3,258	3,216	3,215	3,206	2,529
20%	607	607	607	509	2,756
Alternate rates ^b	1	1	1	1	1

a Final bound rates are based on the 2012 tariff schedule.

b One tariff line, playing cards, applies an alternate rate (HS 9504.40.00).

c Domestic tariff peaks are defined as those exceeding three times the overall average applied rate.

d International tariff peaks are defined as those exceeding 15%.

e Nuisance rates are those greater than zero, but less than or equal to 2%.

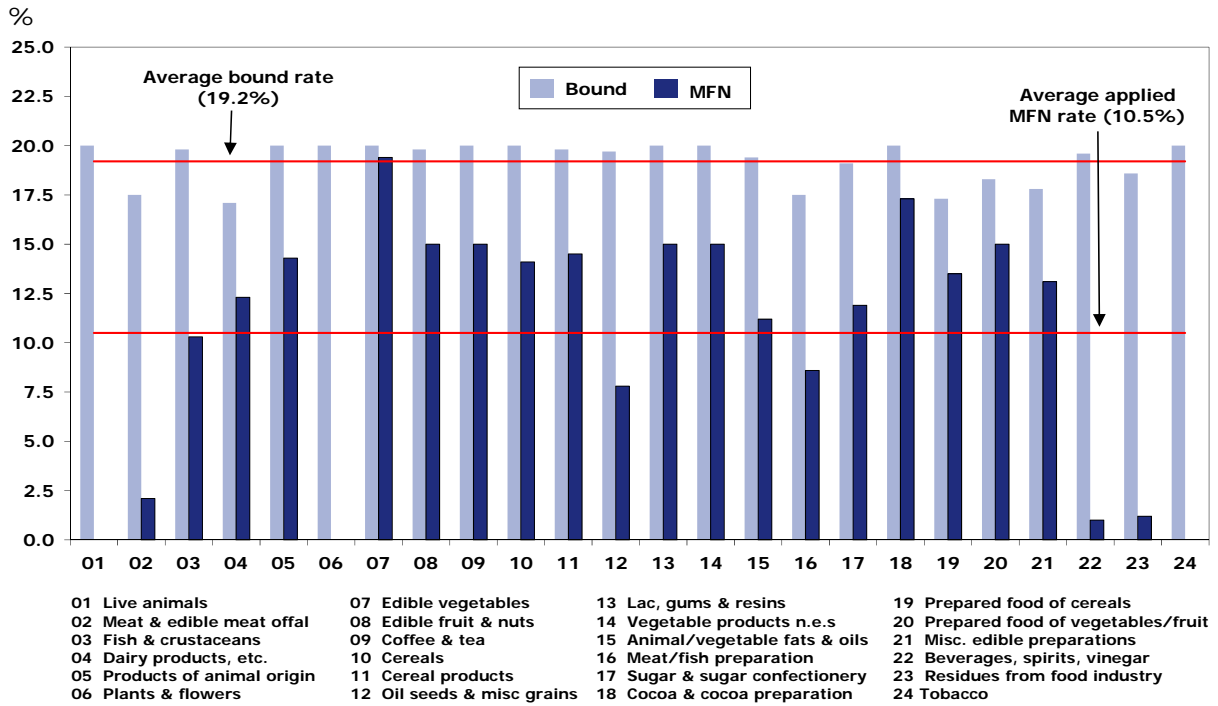
Note: All tariff schedules are based on the HS07 nomenclature. Calculations for averages are based on the national tariff line level (8-digit). The 2013 tariff schedule includes changes up to 13 August 2013 (Customs Duty (Amendment) (No.2) Order 2013).

Source: WTO Secretariat calculations, based on data provided by the authorities of Tonga; and Tonga's Revenue Services and Customs website. Viewed at: <http://www.revenue.gov.to>.

3.11. Tonga's applied MFN tariff mirrors the parameters established by the Goods Schedule (Table A3.1). The simple average applied rate was 11.5% in September 2013, compared with an average bound level of 17.6% overall. The difference between the bound and applied rates is particularly pronounced in agriculture because of duty-free treatment of live animals, meat, plants and flowers, and seeds (Chart 3.1), and in industrial goods due to zero or low tariffs on investment goods such as machinery (Chart 3.2).

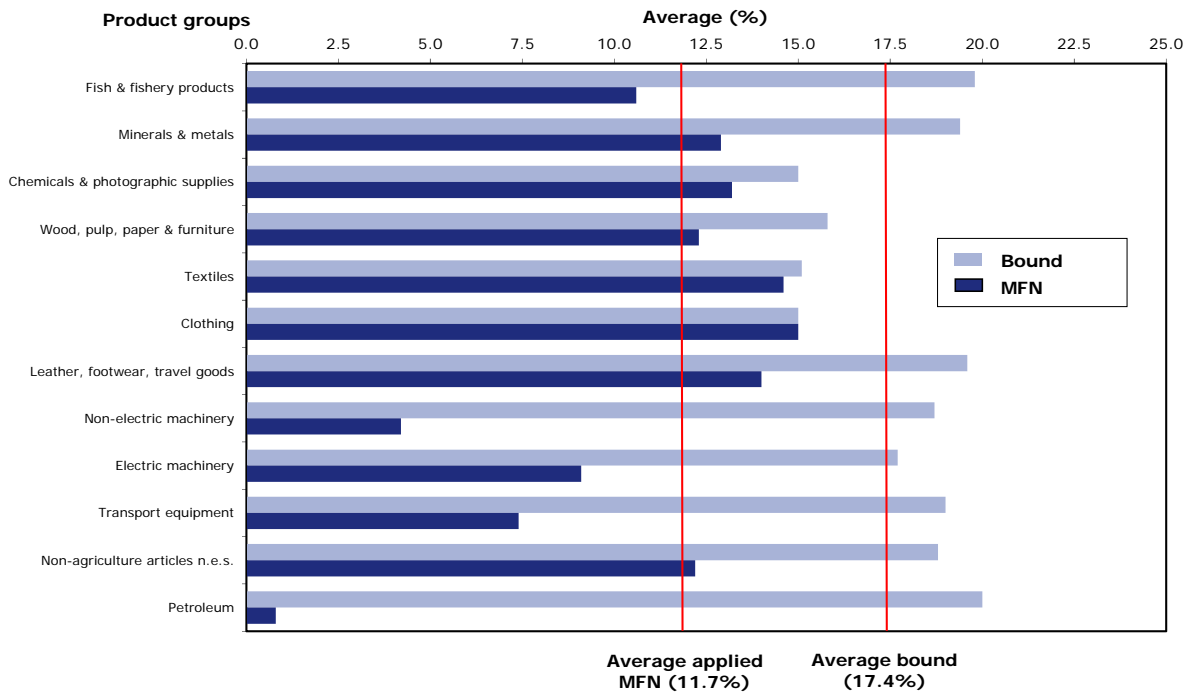
¹⁰ The tariff negotiations were conducted on the assumption that Tonga would introduce a new customs tariff based on a uniform import duty rate of 15%. Short transitional arrangements applied to revenue sensitive goods such as alcoholic beverages, tobacco products, and motor vehicles. In addition, reductions in the bound rates were agreed for some items bound at 25% upon accession. All reductions in the bound rates were foreseen to be implemented by 1 January 2007. However, Tonga was not yet a Member of the WTO at that date, hence the final bound rates became effective from the date of accession.

Chart 3.1 Average bound and MFN rates, by HS chapters 1 to 24, 2013



Source: WTO Secretariat calculations, based on data provided by the authorities of Tonga; and Tonga's Revenue Services and Customs website. Viewed at: <http://www.revenue.gov.to>. Including changes up to 13 August 2013.

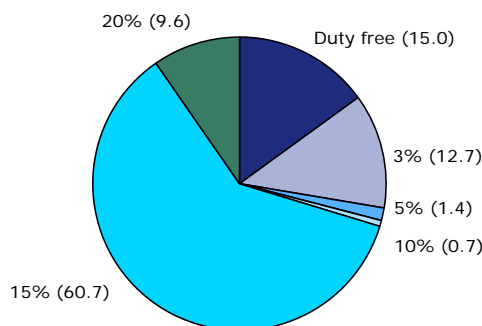
Chart 3.2 Average bound and applied MFN rates for non-agricultural products groups (WTO definition), 2013



Source: WTO Secretariat calculations, based on data provided by the authorities of Tonga, and Tonga's Revenue Services and Customs website. Viewed at: <http://www.revenue.gov.to>. Including changes up to 13 August 2013.

3.12. Six tariff bands are presently in use, ranging from 0 to 20% (Chart 3.3). All applied rates are *ad valorem*, except for playing cards (HS9504.40.00), which attract an import duty of 20% or T\$0.20 per packet, whichever is lower.¹¹ Tonga's imports tariffs have been relatively stable since the new customs tariff entered into force on 1 January 2008. The main change, effective from the beginning of 2011, made several hundred duty-free tariff lines, mostly investment goods, subject to a rate of 3%. For approximately 46% of tariff lines, the current applied rate is identical to the bound rate, i.e. 15% or 20%. The rate of 10% is applied only to vegetable oils, water, and raw materials for paint manufacturing (certain enamels, liquid lustres, etc.). The tariff rate of 5% was introduced in August 2013, as tariffs were reduced to stimulate the consumption of fish.

Chart 3.3 Distribution of MFN tariff rates, 2013



Note: Figures in parentheses denote the percentage share of total lines.

Source: WTO Secretariat calculations, based on data provided by the authorities of Tonga; and Tonga's Revenue Services and Customs website. Viewed at: <http://www.revenue.gov.to>. Including changes up to 13 August 2013.

3.13. Tonga acceded to the WTO with tariffs bound at relatively low levels and its tariff structure is not complex. However, in analysing Tonga's import tariff, the Secretariat came across certain anomalies. Notably, Tonga's applied rates have been exceeding the bound levels on 22 tariff lines.¹² According to the authorities, these breaches are technical mistakes to be corrected with the migration to HS2012.

3.14. Tonga bound the tariff on alcoholic beverages, tobacco products, certain petroleum products, and motor vehicles at 20%, but the present rate of duty is "Free, but see excise schedule". Motor vehicles and petroleum products, which are not produced domestically, are thus subject to excises only. On the other hand, while domestic producers of beer, spirits, and tobacco receive no tariff protection, they are assisted by lower rates of excise duty (see section 3.2.6).

3.15. Although Tonga is a party to a certain number of preferential trade agreements (Chapter 2), none of these give rise to preferential rates of customs duty for any goods entering Tonga at present. Tonga's Customs Tariff is a simple two-column document with (MFN) rates indicated for imports and for exports.

3.16. Government revenue from import duties amounted to T\$12.6 million in 2011/12, an increase of T\$0.3 million over the previous fiscal year. Since the overhaul of the tax system in 2007, government revenue has shifted from the collection of taxes on international trade transactions towards internal taxes, i.e. taxation of consumption, wages, and profits (Chart 1.1).

3.2.3 Other duties and charges (ODCs)

3.17. Tonga's 20% *ad valorem* Port and Services Tax on imports was replaced on 1 April 2005 by a general Consumption Tax, which is also applicable to domestically produced goods. Tonga has

¹¹ The applied rate for playing cards is identical to the bound rate, which is currently the only item in Tonga's Goods Schedule with an optional specific duty rate.

¹² These tariff lines, all bound at 15%, are subject to 20% import duty. The tariff lines concerned are HS0303.71.00; 0306.14.00; 0307.49.00; 1601.00.10; 1601.00.11; 1601.00.90; 1704.90.00; 4011.20.00; 4011.92.00; 4011.93.00; 4011.94.00; 4011.99.00; 4202.12.00; 4202.22.00; 4202.32.00; 4202.39.00; 4202.92.00; 8708.95.00; 8708.99.90; 9008.90.00; 9401.61.00; and 9403.60.00. Tariff line 8708.95 does not exist in HS02, but corresponds to ex8708.99, bound at 15%.

bound other duties and charges within the meaning of Article II:1(b) of the GATT 1994 at zero in its Goods Schedule.

3.2.4 Tariff-rate quotas, and tariff exemptions

3.18. Tonga does not apply tariff rate quotas on any product.

3.19. Tonga uses Chapter 98 of its Customs Tariff to detail tariff exemptions. Duty-free treatment applies to imported goods for the use of the reigning Sovereign; international organizations, accredited diplomatic representatives, and technical assistance officials; personal effects and accompanied luggage of travellers (within specified limits); ground equipment and fuel for aircraft; cultural and educational articles; charitable gifts; marine life-saving equipment; patterns, samples, advertising matter and documents; religious goods; trophies and medals; and photographs.

3.20. Prior to Tonga's accession to the WTO, tariff exemptions were granted to investors for imported capital goods and raw materials and components as investment incentives pursuant to the Industrial Development Incentives Act. This Act was repealed in 2007 as part of Tonga's overhaul of its customs legislation.¹³ However, many types of investment goods can be imported free of duty by all users, as the tariff has been set at zero. Although user-specific tariff exemptions are no longer generally available to industrial users, manufacturers of beer and other alcoholic beverages are exempt from customs duty on certain imported inputs by virtue of tariff items 98.17 and 98.19. A new tariff line (98.22), exempting some 40 items of materials and equipment for use in the fisheries sector, was added in June 2013.¹⁴

3.2.5 Fees and charges for services rendered

3.21. Fees and charges for customs-related operations have been laid down pursuant to the Customs and Excise Management Act No. 4 of 2007 and the Customs and Excise Management Regulations 2008, as amended. Importers who have been issued a taxpayer identification number are automatically registered by Tonga Customs for self-assessment of the customs duty (and excises, if any) payable on any goods imported by them.¹⁵ Customs declaration forms are completed by the importer or a customs broker acting on his/her behalf.¹⁶ Declarations may be submitted in hard copy or electronically (Electronic Self-Assessment Document (ESAD)). Customs clearance as such is free of charge during normal working hours, but a processing fee of T\$10 is charged for each customs declaration form (Table 3.3). The fees for customs processing, attendance fees, wharfage charges, and bond rent generated approximately T\$1.1 million in government revenue during the financial year 2011/12.

Table 3.3 Customs-related fees and charges

Description of service	Legal reference	Fee (T\$)
Entry processing fee, per Customs form	Regulation 36	10.00
Attendance fees:	Regulation 138	
- Attendance at bonded warehouse:		
-- per officer per hour, normal working hours (8:30 a.m.-4:30 p.m.)		20.00
-- per officer per hour outside normal working hours		20.00
-- per officer per hour during the weekend or public holiday ^a		20.00
- International ports and airports		
-- per officer per hour, normal working hours (8:30 a.m.-4:30 p.m.)		Free
-- per officer per hour outside normal working hours		20.00
-- per officer per hour during the weekend or public holiday		20.00
-- inwards or departing clearance, normal working hours		Free

¹³ The Industries Development Incentives (Repeal) Act No. 21 of 2007 was passed by the Legislative Assembly on 3 September 2007 and received Royal Assent on 26 October 2007. Licences already issued under the Act remained valid until the term indicated in each licence.

¹⁴ Customs Duty (Amendment) Order 2013 of 12 June 2013.

¹⁵ An importer who is not eligible for a taxpayer identification number under the Revenue Services Administration Act 2002 may register voluntarily with the Chief Commissioner of Revenue to use the self-assessment programme.

¹⁶ Customs officers are not allowed to fill in any customs declaration form (Customs and Excise Management Regulations, regulation 31).

Description of service	Legal reference	Fee (T\$)
-- inwards or departing clearance outside normal working hours		80.00
-- inwards or departing clearance during the weekend or public holiday		100.00
Certificate of landing (on request)	Regulation 13	15.00
Export cargo clearance fee (written approval for departure of ship or aircraft)	Regulation 40	20.00
Export goods declaration fee	Regulation 52	2.00
Warehouse licence application fee		50.00
Customs brokers' annual licence fees:	Regulation 127	
- natural person		200.00
- company or partnership		500.00
Requests for rulings (on Customs Form C33), per application	Regulation 131	20.00

a In addition, reasonable and actual transport and sustenance is to be paid or arranged.

Source: Tonga Customs online information. Viewed at: <http://www.revenue.gov.to>; and information provided by the Tongan authorities.

3.22. Fees for phytosanitary inspection, treatment, and quarantine are laid down in the Plant Quarantine (Fees) Regulations 1997. The fees relate to inspections (of imports and exports) and phytosanitary certification fees (exports only).

3.23. Customs brokers are licenced by the Chief Commissioner of Revenue. In addition to the annual fee, licenced brokers are required to provide a security of T\$5,000 to ensure revenue protection and compliance with Tonga's customs legislation. The Chief Commissioner is required to publish a list of licensed customs brokers in the *Gazette* at least once a year.¹⁷

3.24. Nearly 100% of Tonga's goods trade passes through the port at Tongatapu. Under the Ports Authority Act 1998, the Ports Authority levies fees for services rendered such as berthage, wharfage, mooring, slipway, boat lifter, and tug boat services. The fees are currently charged pursuant to the Standing Order 2009 (see also Chapter 4.4.4.2.3). The Port Authority establishes the appropriate fees in consultation with the Port User Advisory Committee, and the scale of fees is submitted to the Executive of the South Pacific Board of Ports, composed of members from the Pacific island countries, Australia, and New Zealand.

3.2.6 Application of internal taxes

3.25. Tonga levies excise taxes on certain animal fats, sweetened soft drinks, alcoholic beverages, tobacco products, mineral fuels and oils, and motor vehicles pursuant to the Excise Tax Act No. 6 of 2007. The scope of the excise tax regime, the tax rates, and tax exemptions are determined by the Chief Commissioner (i.e. the Minister or principal officer responsible for revenue services) with the approval of the Cabinet. The current regime is based on the Excise Tax Order 2008 as amended in 2010, 2011, 2012, and 2013.¹⁸ The tax rates differ for imported and domestically produced beer, spirits, and tobacco products, providing local manufacturers with a considerable tax advantage, particularly for beer and spirits (Table A3.2).¹⁹

3.26. Exemptions from excise tax include travellers' duty-free allowances, manufacture of limited quantities of alcohol for personal use, imports by diplomatic missions or international organizations, goods in transit, and temporary imports. Fuels and lubricants used in international air transport and for domestic commercial air and shipping services are tax exempt. In addition, diesel fuel used for the generation of electricity by the national supplier is exempt, and commercial

¹⁷ At present, there are 28 licensed customs brokers and customs agents in Tonga, of which 8 are based in Vava'u.

¹⁸ In August 2013, animal fats and soft drinks became subject to excise tax for the first time, and the tax rates were increased on tobacco and tobacco products.

¹⁹ Since 2008, the tax differential has increased for beer (from T\$17 (domestic) vs. T\$40 (foreign) to T\$10 vs. T\$50). The differential tax treatment for cigars, cigarillos, and cigarettes was introduced in 2011, as the rates for imported items was increased, but remained unchanged for locally produced articles.

fishing boats certified as such by the Chief Commissioner of Revenue may also purchase tax-exempt diesel fuel.²⁰

3.27. Domestic manufacturers of excisable goods must hold a valid licence to produce such goods at specified premises. The licence is issued by the Chief Commissioner against payment of the application fee (T\$50) and provision of an acceptable Customs security.²¹ Excise stamps must be affixed to the excisable goods. Local manufacturers pay the excise tax when their goods move off the production premises. For imports, the excise tax is paid before the goods are released from Customs.

3.28. Tonga introduced the Consumption Tax on 1 April 2005, applied on all imports and domestic sales by registered Consumption Tax payers.²² The registration threshold for the tax is T\$100,000, but businesses with an annual turnover below the threshold may register voluntarily for payment of the tax. The tax rate is 15% or zero/exempt. Most imported goods and services are taxed at 15%, levied on the c.i.f. value inclusive of import duty or excise tax.²³ Exports, international transport services, and basic provision of electricity and water to households are zero-rated. Social exemptions to the Consumption Tax include medical, dental, and nursing services; domestic public transport services; and education services. Administrative exemptions cover financial services, certain property transactions, and personal baggage accompanying passengers arriving in Tonga by sea or air (Table 3.4). Fishing vessels and various equipment and materials used on fishing vessels were added to the exemption/zero rate list in June 2013.²⁴

Table 3.4 Consumption Tax exemptions and zero rates

Measure	Affected good or service
Supplies exempt from Consumption Tax	(a) Medical prescriptions, dental nursing or health services; (b) Educational services; (c) Financial services; (d) Public transport services; (e) Lease of land for residential purposes.
Taxable supplies subject to a zero rate of Consumption Tax	(a) Exports of goods; (b) Exports of services supplied for use outside of Tonga; (c) Supply of international transport of goods or passenger services from a place outside Tonga to another place or if the transport or part of the transport is across the territory of Tonga; (d) The supply of goods as part of the transfer or part or whole of a business as a going concern by a registered person to another registered person provided that the supplier and recipient have: (i) agreed in writing that part or whole of the business is supplied as a going concern; and (ii) notified the Chief Commissioner, in writing, of the details of the transfer, at the date of the transfer on which consumption tax has been credited as input tax; (e) Supplies of goods and services by a supplier in Tonga to His Majesty to King; (f) Electricity supplied by a supplier for commercial use; (g) Electricity supplied by any supplier for domestic purposes; (h) First 20 cubic meters of water per month supplied by any supplier for domestic purposes; (i) Insecticides, pesticides and fungicides for use in agriculture; (j) Agricultural machinery and implements, including hand tools and timber milling machinery; (k) Agricultural seeds and fertilizers;

²⁰ Tax exemptions are detailed in Schedule 2 of the Excise Tax Order 2008. Altar wine was added to the exemption list through the Excise Tax (Amendment) Order 2011 of 8 June 2011. User-specific exemptions may also be accorded by Order published in the *Tonga Government Gazette*. All imported building materials for the construction of a specific building were exempted of consumption tax by Order of the Chief Commissioner of Revenue on 19 April 2012, and all materials imported by Tonga Cable Ltd for the Tonga-Fiji Submarine Cable Project during the construction period are exempt from excise tax by Order of the Minister of Revenue Services dated 24 August 2012.

²¹ The fee for the initial year is T\$50, but the fee for renewals is T\$500 per year.

²² The Consumption Tax replaced a sales tax, fuel sales tax, and port and services tax.

²³ For imports, the Consumption Tax is due and payable at the time of importation. Registered domestic manufacturers are required to file consumption tax returns within 28 days after the end of each month.

²⁴ Consumption Tax Order 2013 of 12 June 2013.

Measure	Affected good or service
	(l) Stock feed; (m) Live poultry; (n) Live bovine animals; (o) Live swine; (p) Packaging material for use in agriculture; (q) For licensed fisheries businesses: vessels, equipment and materials detailed in the Consumption Tax Order 2013.
Imports exempt from the Consumption Tax	(a) Imports which are supplied in Tonga and are an exempt supply under 1; (b) Imports not exceeding T\$ 500 in value accompanying a person arriving in Tonga; (c) Imports by diplomats according to law; (d) Insecticides, pesticides and fungicides for use in agriculture; (e) Agricultural machinery and implements, including hand tools and timber milling machinery; (f) Agricultural seeds and fertilizers; (g) Stock feed; (h) Live poultry; (i) Live bovine animals; (j) Live swine; (k) Packaging material for use in agriculture; (l) Licensed fisheries businesses: vessels, equipment and materials detailed in the Consumption Tax Order 2013.

Source: WTO document WT/ACC/TON/17, Table 7; and Consumption Tax Order 2013 of 12 June 2013.

3.29. Tonga levies stamp duties on certain commercial transactions. Agreements for the lease of buildings and land are subject to a duty of 1% of the annual rent. The conveyance of transfer of a land-lease or sublease agreement is subject to a duty of 10% of the purchase price.

3.30. The Customs and Trade Division collected almost T\$29 million in revenue from excise taxes in 2011/12. The main contribution was from taxes on fuel and other petroleum products. Consumption Tax collected on imports raised T\$46.6 million, compared with T\$7.14 million from domestic producers.

3.2.7 Import prohibitions, restrictions, and licensing

3.31. Most items can be imported into Tonga without any restriction (other than import duty, taxes, and charges). However, Tonga prohibits certain imports, and the importation of some items is restricted and requires a special licence. Tonga applies non-automatic licensing to firearms, explosives, and noxious gases.

3.32. Prior to WTO accession, Tonga maintained licensing requirements for imports of eggs, cabin and ships biscuits, brandy, whisky, and rum. Tonga agreed to eliminate these restrictions by the end of 2006, and they are not reflected in Tonga's present list of prohibited and restricted imports (see Table 3.5). However, this list is not exhaustive as it also refers to "goods the importation of which is restricted by any other law in force in the Kingdom". Notably, importation of narcotics is restricted under the Illicit Drugs Control Act 2003, and trade in endangered species is regulated by several legal instruments, including the Environment Management Act 2010.

Table 3.5 Prohibited and restricted imports

No.	Product description
Prohibited imports	
1	Base or counterfeit or imitation currency or bank notes or fictitious postage or revenue stamps of any country, and any dye, plate, instrument, or materials capable of making any such coin, currency or bank note or any such revenue or postage stamps
2	Counterfeit goods
3	Indecent or obscene books, painting, drawings, cards, lithographic or other engravings, photographs, prints, films, or other indecent products that depict child pornography

No.	Product description
4	Goods bearing the royal Arms of the Kingdom or arms so closely resembling such arms as to be calculated to deceive unless the importer of such goods holds His Majesty's written authority to use them in connection with his trade, business, calling, or profession
5	All books and any written or printed matter and sounds and visual recordings of which the Minister shall by notice declare to be prohibited imports on account of any copyright or intellectual property right laws that apply in the Kingdom
6	All books and any written or printed matter and sound and visual recordings that the Minister shall by notice declare to be seditious or that advocate violence, lawlessness, or disorder
7	All toxic and hazardous wastes
Restricted imports	
1	Firearms and ammunition except with a licence issued in accordance with the law
2	Explosives of all kinds including fuses and detonators except with a licence issued in accordance with the law
3	Noxious, stupefying or tear gas in any form, and all weapons and instruments or appliances for firing or using such gases and gas containers, or cartridges for such weapons or other instruments for appliances except in accordance with the law
4	The amount of T\$10,000 (or equivalent) or more in cash
5	Goods the importation of which is restricted by any other law in force in the Kingdom except in accordance with such law

Source: Customs and Excise Management Order, Schedule 1, published in *Government Gazette Supplement Extraordinary* No. 5, 21 January 2008, effective 1 February 2008.

3.33. Medicinal drugs may only be imported by pharmacists, veterinary practitioners, wholesalers, or retailers, under the Therapeutic Goods Act 2001 and the Therapeutic Goods Regulations 2011. The import licence is delivered subject to an application fee (T\$20), an issuance fee (T\$200), and an inspection fee (T\$50).²⁵ Before any new medicinal drug may be imported or offered for sale, the importer or the manufacturer must apply to the National Drugs and Medical Supplies Committee for the drug to be inserted in the Tongan Registered List of Medicinal Drugs.²⁶

3.34. The manufacture of arms and ammunition is prohibited in Tonga under the Arms and Ammunition Act 1968 (revised in 1988). Possession of arms and ammunition requires a licence. Applications for a licence to import arms and ammunition are addressed to the Minister of Police, and the licence together with a detailed description of the goods purchased must be returned to the Minister within 3 days of expiry of the licence terms. Importation, exportation, and storage of explosives is regulated under the Explosives Act 1971 and the Explosives Regulations. The importation of a left-hand drive motor vehicle requires a licence from the Minister of Finance as well as a licence issued by the Minister of Police.²⁷ Requirements pertaining to imports of live animals, agricultural commodities, plants and plant products, and food are described in the section 3.4.3 below.

3.2.8 Customs valuation

3.35. Tonga acceded to the WTO with a transitional period until 1 January 2008 to implement the WTO Agreement on the Implementation of Article VII of the GATT 1994 (Customs Valuation Agreement). Part 3 of the Customs Act No. 5 of 2007 establishes the basic rules for customs valuation in Tonga. Should the customs officer determine that the price actually paid or payable (the transaction value, section 12) cannot be used, the alternative valuation methods apply in hierarchical order as laid down in the Customs Valuation Agreement, i.e. the transaction value of identical goods, transaction value of similar goods, the deductive value, the computed value, and the fall-back method (sections 13-17 of the Act). According to the authorities, the Interpretative Notes to the Agreement have not been incorporated into Tonga's legislation, but are being applied.

3.36. According to Tonga's Customs Service, the transaction value is used in approximately 90% of all valuation cases. Goods for which the customs value needs to be re-determined typically concern non-documented consignments. Rulings on valuation matters are not published. An

²⁵ The premises at which the goods are to be stored must be available for inspection by an authorized officer. The manufacture of medicinal drugs in Tonga is also subject to licensing, with fees for applications (T\$20), inspection (T\$200), and issuance (T\$500).

²⁶ Registration of a new medicinal drug costs T\$10.

²⁷ Excise Tax Order 2008, Schedule 3.

informal Valuation Committee, established by the Tongan Customs Service in November 2009 is no longer operational. Work on an automated valuation database began in mid-2009, but the database is not being updated.

3.37. Upon request, the Chief Commissioner of Revenue will provide a written notice to the importer of the method used to determine the customs value of the imported goods. The Chief Commissioner may review the decision of the customs officer, but this rarely happens in practice. The Chief Commissioner's decisions can be appealed to the Tax Tribunal within 30 days of receipt of the decision.²⁸

3.2.9 Rules of origin

3.38. Tonga's Customs Act No. 5 of 2007 and Customs Regulations 2008 do not contain basic provisions on non-preferential or preferential rules of origin. Regulation 131 of the Customs and Excise Management Regulations 2008 allows any person to request a writing ruling by the Chief Commissioner of Revenue on any aspect of Customs law or administration. The Chief Commissioner is obliged to respond within 30 days of the date of the application. Regulation 131 may be used by importers, exporters, or any person with a justifiable cause to obtain assessments of the origin of imported goods, a right provided under Article 2(h) and Annex II, paragraph 3(d) of the WTO Agreement on Rules of Origin.

3.39. Currently, the lack of general or specific rules or provisions on origin has little practical effect, as Tonga applies the MFN rate of duty to all trading partners. However, Tonga has ratified the Pacific Island Countries Trade Agreement (PICTA), which aims at establishing a free-trade area between the participants. Goods complying with the rules of origin laid down in Annex I of the Agreement may obtain PICTA origin status (wholly obtained or minimum 40% value added as a result of processing in the territory of the PICTA party).²⁹ The future system for the issuance and recognition of certificates of origin is under consideration.

3.2.10 Anti-dumping, countervailing duty, and safeguard regimes

3.40. Tonga notified the WTO Committee on Anti-Dumping Practices in 2010 that it had no legislation, regulations or administrative procedures relevant to the WTO Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (the Anti-Dumping Agreement).³⁰ Tonga further informed the Committee in 2011 that it had not established any authority competent to initiate or conduct an investigation within the meaning of Article 16.5 of the Anti-Dumping Agreement, had therefore not taken any anti-dumping actions, and was not anticipating taking any such actions in the foreseeable future.³¹ Tonga also stated that the Committee would be notified promptly of any possible changes taking place in this regard, specifically the establishment of a competent authority or domestic procedures for anti-dumping investigations; any anti-dumping actions taken would be reported to the Committee without delay.

3.41. With reference to Article 32.6 of the WTO Agreement on Subsidies and Countervailing Measures, Tonga notified the Committee on Subsidies and Countervailing Measures in 2011 that it had no relevant laws and/or regulations, and that it would promptly notify any such laws or regulations to the Committee.³²

3.42. During the WTO accession negotiations, Tonga informed the accession working party that it had no legislation governing safeguard measures and that it had no plans to introduce any such legislation.³³

²⁸ Customs and Excise Management Act No. 4 of 2007, section 126.

²⁹ The Pacific Islands Forum Secretariat has compiled a 61-page rules of origin manual for the PICTA. See Pacific Islands Forum Secretariat (2004).

³⁰ WTO document G/ADP/N/1/TON/1, 10 March 2010.

³¹ WTO document G/ADP/N/193/TON, 13 October 2011. According to Tonga, this notification under Articles 16.4 and 16.5 of the Anti-Dumping Agreement remains valid until further notice.

³² WTO document G/SCM/N/1/TON/1, 13 October 2011.

³³ WTO document WT/ACC/TON/17 (paragraph 99), 2 December 2005.

3.3 Measures Directly Affecting Exports

3.3.1 Export procedures and requirements

3.43. Exporters are required to hold a valid business licence (see section 3.2.1). A foreign investor must obtain a foreign investment certificate before the business licence can be issued. Domestic and foreign investors are generally treated alike as exporters. The only activity reserved for Tongan investors is the exportation of green and mature coconuts (Table 2.3).

3.44. All commercial exports of goods from Tonga must be declared to Tonga Customs before loading. Certificates of origin are required for exports of squash to Japan. The Tonga Customs Service provides written confirmation, although this is not an official certificate.

3.3.2 Taxes, fees, and charges on exports

3.45. Tonga's Customs Tariff has one column reserved for duty on exports. However, all exported goods are currently zero-rated. Excise tax is not levied on exported goods. For businesses registered for Consumption Tax, the tax is not levied on exports of goods or services (Table 3.4). Exported goods are subject to an inspection fee of T\$20 and a processing fee of T\$2 per customs declaration form (Table 3.3). Fees for phytosanitary procedures applied to exports are detailed in the Plant Quarantine (Fees) Regulations 1997.

3.3.3 Export restrictions

3.46. The processing and exportation of endangered species is prohibited under the Business Licences Act, Schedule 1. Other items are prohibited for export under the Customs and Excise Management Order (Table 3.6).

Table 3.6 Prohibited and restricted exports

No.	Product description
Prohibited exports	
1	The following articles of Tongan culture: <ol style="list-style-type: none"> 1. Tao 2. Tao-Fotoi (Tao Foto'i Fai)(barbed spear) 3. Mataa (club) 4. Likuvalu (Akau Ta tapavalu) (club) 5. Tao Niu (spear of coconut) 6. Kolo (throwing club) 7. Kaufana (bow) 8. Ngauhau (arrow) 9. Ualulu (club) (Tau uluilulu) (spear with owl's head) 10. Tuipapanu (club) 11. Mo'ungalaulau (club) 12. Makata (club) 13. Tuitapavalu ('Akau Ta-tapavalu eni)(club) 14. Malumulekeleka (Kolo) (throwing club) 15. Tui (club) 16. Tutanga'akau (Pota'i Akau Ta) (club) 17. Soki (spikes in ground) 18. Totoko (club) 19. Povai (club) 20. Falevatu (axe) 21. Vulaono (axe) 22. Tao Ngututokotoko (bayonet) 23. Paletau (shield) 24. Meleihe ('Akau Ta) (short stick) 25. Fala Vala 26. Fala Fatu
2	Raw coral (including unprocessed black coral) except with the written permission of the Minister following approval of the Cabinet
3	Goods the exportation of which is prohibited by any other law in force in the Kingdom

No.	Product description
Restricted exports	
1	Goods the exportation of which is restricted under any other law in force in the Kingdom except in accordance with the law
2	(a) The amount of T\$10,000 or more in cash, except with the written permission of the Governor of the National reserve Bank of Tonga (b) This amount may be made up in the currency of any country in any combination that is equal to or exceeds the value of T\$10,000 in cash

Source: Customs and Excise Management Order, Schedule 2, published in *Government Gazette Supplement Extraordinary* No. 5, 21 January 2008.

3.47. Further export restrictions may be provided for in specific legislation. For example, out-of-season exports of sea cucumber are restricted for conservation purposes under the Fisheries Management Act.

3.3.4 Export subsidies, finance, and guarantees

3.48. Tonga joined the WTO with a commitment not to apply agricultural export subsidies. It notified the WTO in 2010 that it had not provided any form of export subsidy for financial years 2007/08 and 2008/09.³⁴ In the past, funds under the Export Earnings Stabilization System (STABEX) of the EU have been used to develop the production of vanilla and kava for export. However, the project ended in 2011.

3.49. Tonga does not have any broad-based government-operated or -funded export finance or export guarantee schemes. The wholly state-owned Tonga Development Bank, established in 1977, provides loans to the agriculture and fisheries sector, notably for the cultivation of squash and root crops for export. However, all its lending is based on commercial considerations and the Bank receives no compensation from the Government for its lending activities. The agricultural export marketing fund, was set up in 2012 with initial capital of T\$1 million (see Chapter 4.1.5).

3.3.5 Export promotion and marketing assistance

3.50. Within the Ministry of Commerce, Tourism and Labour, the Trade and Investment Division is dedicated to help expand the diversification of Tonga's export earnings. The core functions of the Division are export promotion, market research and development, and trade policy and information.

3.51. The Tonga Trade and Investment Board, established pursuant to the Tonga Trade and Investment Board Act No. 19 of 2005, is not operational due to funding problems.

3.4 Measures Affecting Production and Trade

3.4.1 Subsidies

3.52. With reference to Articles 1.1 and 2 of the WTO Agreement on Subsidies and Countervailing Measures and Article XVI:1 of the GATT 1994, Tonga notified the Committee on Subsidies and Countervailing Measures in 2011 that it did not grant or maintain any specific subsidies, or subsidies operating directly or indirectly to increase exports or reduce imports.³⁵

3.53. During the WTO accession negotiations, some Members found provisions in the Industrial Development Incentives Act 1978 which, in their view, implied import substitution, export performance or local-content criteria constituting trade-related investment measures (TRIMs). Tonga repealed the Industrial Development Incentives Act in 2007. At present, investments are assisted primarily through zero or low (3%) tariffs on equipment, machinery or raw materials, tariff exemptions under Chapter 98 of Tonga's Customs Tariff, and (upon application) exemptions from payment of excise tax or consumption tax on investment goods (sections 3.2.4 and 3.2.6). Electricity generation, air transport, domestic shipping, and commercial fishing are assisted through fuel concessions (Table 4.2).

³⁴ WTO document G/AG/N/TON/1, 27 June 2011.

³⁵ WTO document G/SCM/N/220/TON, 17 October 2011.

3.4.2 Technical barriers to trade, standards and certification

3.54. Tonga has no national standardization body or dedicated national legislation for the adoption of standards or technical regulations. Although the Public Health Act No. 19 of 2008 contains certain provisions authorizing the Minister for Health to define requirements, e.g. for food, motor vehicles (emission standards), and septic tanks, these provisions have so far not been used to establish any specific standards or technical regulations. Similarly, Consumer Protection Act No. 15 of 2000 authorizes the Minister of Commerce, Tourism and Labour to prescribe "approved standards" for any good (Article 10). Moreover, Section 12(2) of Act No. 26 of 2009, which amends the Consumer Protection Act, stipulates that "if a good is or contains a living modified organism the approved standards applied to it shall comply with any standards or conditions set by the National Biosafety Committee". Nevertheless, no such standards have been promulgated to date.³⁶

3.55. The Ministry of Commerce, Tourism and Labour has been designated Tonga's National TBT notification authority and enquiry point. The Ministry intends to inform WTO Members promptly of any developments relevant to Tonga's obligations under the WTO Agreement on Technical Barriers to Trade.

3.4.3 Sanitary and phytosanitary measures

3.56. Tonga's legal framework for SPS measures is largely outdated, predating the entry into force of the WTO SPS Agreement. Nonetheless, according to the authorities, Tongan SPS measures are aligned with the provisions of the SPS Agreement, and relevant international or regional standards and guidelines.³⁷ The Biosecurity and Quality Management Division within the Ministry of Food, Forests, and Fisheries (MAFFF) is responsible for phytosanitary and veterinary measures. The MAFFF is also Tonga's SPS enquiry point and notification authority.³⁸ To date, Tonga has not submitted any SPS notifications.

3.57. Imports of food, and labelling of food and beverages, are regulated by the Public Health Act of 1992. The Ministry of Health has primary responsibility for food hygiene and safety matters. However, a new Public Health Act was passed by Parliament in August 2013 (not yet in force), vesting all powers in relation to food safety and quality in the National Food Authority (the Minister of Agriculture, Food, Forestry and Fisheries).³⁹ A major public health concern is the consumption of fatty meat, such as mutton flaps or turkey tails. In response, the Government recently made adjustments to tariffs and excise duties on certain food items, to encourage healthier diets (Chapter 3.2.6).

3.58. Tonga is a member of the FAO Codex Alimentarius Commission, the Asia Pacific Plant Protection Convention, the Pacific Plant Protection Organization, and adheres to the International Plant Protection Convention (IPPC) although it has not yet ratified the convention.⁴⁰

3.59. Tonga's phytosanitary requirements are governed by the Plant Quarantine Act 1988⁴¹ (last amended in 2009), and subsidiary regulations.⁴² The Tonga Quarantine Manual 1998 is not up-to-date. Import conditions include prohibitions, permits, phytosanitary certificates, and inspection. In general, permits are required for imports of fresh fruit and vegetables, cut flowers and foliage,

³⁶ Although implementing regulations exist for the Consumer Protection Act, no staff has been recruited to perform specific functions in relation to the Act.

³⁷ Including notably the International Standards for Phytosanitary Measures (ISPM) of the IPPC.

³⁸ The address of the enquiry point is: P.O. Box 14, Nuku'alofa, Kingdom of Tonga; Phone: +676 23038/24257; Fax +676 23093/24271/24922; Email: maf-ento@kalianet.to and vailalam@kalianet.to.

³⁹ Public Health Act 2008. Viewed at: http://crownlaw.gov.to/cms/images/LEGISLATION/PRINCIPAL/2008/2008-0019/PublicHealthAct2008_1.pdf. There is also a consequential amendment to the Public Health Act 2008 removing the food part of the Act.

⁴⁰ FAO online information. Viewed at: http://www.fao.org/fileadmin/user_upload/legal/docs/1_004s-e.pdf.

⁴¹ Plant Quarantine Act 1988 Revised edition. Viewed at: <http://legislation.to/Tonga/DATA/PRIN/1988-127/PlantQuarantineAct.pdf>.

⁴² Biosecurity and Quality Management Division online information. Viewed at: <http://www.quarantine.gov.to/legislation.php>.

fresh herbs, nursery stock, and seeds, including some seeds for consumption.⁴³ Import permits are generally valid for six months, and allow for multiple shipments.

3.60. According to the authorities, Tonga allows imports of meat from Australia, New Zealand, the United States, and Vanuatu (beef), while shipments from other countries must be cleared by New Zealand. A permit is required for private and commercial meat imports from Fiji and Samoa. Imports of live animals and eggs require a permit from the Livestock Division of the MAFFF. No permit is required for commercial imports of processed products, including cheese (if packaged) and UHT milk.

3.61. Fruit fly quarantine and research is vital for Tonga's exports of fresh fruit and vegetables, such as squash. However, the plant quarantine facility at the airport (high temperature forced air treatment facility) to be operated by Tonga Export Produce Management Ltd. still needs to be certified by New Zealand. Tonga has a bilateral quarantine arrangement with New Zealand.⁴⁴ The fumigation facility is run by the MAFFF. There are no hazard analysis critical control point (HACCP) facilities in Tonga.

3.62. The Biosafety Act 2009 regulates trade in living modified organisms (LMOs), based on the Cartagena Protocol on Biosafety.⁴⁵ Its implementation is overseen by the National Biosafety Advisory Committee. The law provides for a precautionary approach and science-based risk analysis with respect to the approval of LMO trade. Imports of LMOs are subject to prior approval by the Committee, within 270 days of receipt of the advance notice (Section 12); the Committee may also prohibit imports. Exemptions from normal approval procedures may be granted by the Committee for LMOs that are in transit; for direct use as food, feed or processing; for "contained use" in Tonga; or use as a pharmaceutical (Section 15). To date, no import application has been made.

3.4.4 Free zones, special economic areas

3.63. Tonga has no designated free zones or free economic zones. A number of enterprises are located in Small Industries Centres established on the outskirts of the capital Nuku'alofa and on the island of Vava'u (Chapter 2.4). No specific customs duty exemptions or tax privileges or advantages are accorded to enterprises locating in these centres.

3.4.5 Government procurement

3.64. The Public Procurement Regulations 2010, promulgated by the Minister of Finance under the Public Finance Management Act 2002 (section 44), governs procurement by all ministries, departments, and government agencies in Tonga. Each authorized procuring entity must establish a procurement unit and a bid evaluation committee. Entities that have not (yet) been authorized as procuring entities forward their procurements for assessment and endorsement to the Procurement Division within the Ministry of Finance and National Planning. Each line ministry is required to prepare an annual procurement plan identifying the kind of goods, services, and works to be acquired during the financial year, the timing of the purchases, and the estimated expenditure.

3.65. The regulations establish a Government Procurement Committee, *inter alia*, to advise the Government on procurement policy issues, authorize the procuring entities, and monitor procurement activities in Tonga.⁴⁶ The Committee is assisted by the Procurement Division, which

⁴³ See also Ministry for Primary Industries of New Zealand online information. Viewed at: <http://www.biosecurity.govt.nz/regs/exports/plants/icpr/to>.

⁴⁴ According to the authorities, no formal quarantine agreements exist with Fiji and Samoa.

⁴⁵ Biosafety Act 2009. Viewed at: http://crownlaw.gov.to/cms/images/LEGISLATION/PRINCIPAL/2009/2009-0019/BiosafetyAct2009_1.pdf.

⁴⁶ The Minister of Finance chairs the Committee, which also comprises the Chief Secretary and Secretary to Cabinet, the Secretary for Foreign Affairs and Trade, the Solicitor General, the Commissioner of Revenue, the Secretary for Finance, and representatives of line ministries (as appropriate).

has elaborated guidelines on government procurement and standard bidding documents to be used by the procuring entities.⁴⁷

3.66. The regulations stipulate single-stage competitive bidding as the principal method of procurement.⁴⁸ Selective bidding, restrictive bidding, limited bidding, international procurement (competitive, selected, or restrictive), or request for quotations may be used depending on the value and nature of the procurement. According to the procurement thresholds and authorization levels currently in force, all procurements valued at more than T\$100,000 are forwarded to the Government Procurement Committee.⁴⁹ The Committee must issue a "letter of no objection" before the notification of award and contract can be signed by the procuring entity. Procurements of goods worth more than T\$100,000 and works exceeding T\$500,000 are subject to international competitive bidding.⁵⁰ For small procurements (up to T\$3,000), a standard request for quotation document together with one quote is sufficient. A minimum of three quotes are required for procurements between T\$3,000 and T\$100,000 (goods) or T\$75,000 (supply services or works and physical services). National competitive bidding is to be used for procurements of supply services and works (and physical services) valued between T\$75,000 and T\$500,000.

3.67. According to the Public Procurement Regulations 2010 (regulation 39), the Procurement Division is authorized to issue circulars that establish preferences for domestic suppliers/supplies, specifying, *inter alia*, the preferential margin, eligibility criteria, and documentary evidence. The regulations stipulate that the margin of preference should be between 5% and 10%. The Cabinet has approved a Procurement Reform Strategy and the Division is considering the development of preferential schemes as part of the wide-ranging reform plans. No preferential arrangements have been implemented so far.

3.68. Procurement notices (invitations to bid or pre-qualification) are published in at least one national newspaper of wide circulation, broadcast over the radio or television, and published on the Internet to the extent feasible. The website of the Ministry of Finance (www.finance.gov.to >Our services) publishes procurement notices over a certain threshold or where the project, due to its size, is unlikely to be carried out by a local contractor. When international competitive bidding is used, the notice is placed in at least two English-language newspapers or other printed media with adequate circulation to attract foreign competition, or on widely read internet websites.⁵¹

3.69. The Public Procurement Regulations 2010 foresee a complaints and appeals procedure whereby the complainant addresses his/her complaint to the head of the procuring entity in the first instance and, if the outcome is not satisfactory, to a review panel in the second instance.⁵² If a procurement contract has already entered into force, the dissatisfied bidder should be able to submit his/her complaint directly to the review panel. Review panel decisions will be binding on all parties. The mechanisms to establish these procedures are currently under way.

3.70. No procuring entities have been certified. In accordance with new reform plans, bids below a certain threshold may be decentralized to individual units within the ministries, while larger contracts may be re-centralized to the Procurement Division, with exceptions made for ministries that habitually process large projects, e.g. the Ministry of Infrastructure.

3.71. In acceding to the WTO, Tonga did not make a commitment to initiate negotiations to join the WTO Agreement on Government Procurement. Tonga has no plans to join this plurilateral agreement.

⁴⁷ See Ministry of Finance online information, "Procurement Publications", Viewed at: http://www.finance.gov.to/our-services/procurement/ppr_2010.

⁴⁸ In two-stage competitive bidding, the procuring entity may engage in early discussions with any or all bidders regarding technical or contractual aspects of the procurement, and then invite those whose bids have not been rejected to submit "final bids with prices responsive to the revised bidding documents".

⁴⁹ Procurements valued at less than T\$100,000 are approved and signed by the head of the procuring entity.

⁵⁰ Procurements of supply services worth more than T\$500,000 are considered unlikely.

⁵¹ The notices are posted in the Maitangi Tonga, i.e. the official website for publications in Tonga, and in the *Chronicle* newspapers.

⁵² The Procurement Division is to draw up lists of specialists to serve on review panels. Each panel should have a minimum of three members.

3.4.6 State trading, state-owned enterprises, and privatization

3.72. In a study prepared for the Asian Development Bank in 2008, the authors highlighted the need to reduce the presence of the State in the economy as it was constraining the private sector.⁵³ Noting the low yield of many government assets, the study recommended more effective management of Tonga's state-owned enterprises, and subsequent privatization or outsourcing, as well as transparent public-private partnerships. The establishment (in 2006) of a Ministry of Public Enterprises to develop a centralized, coordinated approach to the stewardship of state assets was noted as a positive development.

3.73. The Government of Tonga recognizes the private sector as an engine of economic growth, and policies formulated in the national development plans have advocated the corporatization of selected commercial activities owned by the Government, and privatization in a timely manner.⁵⁴ Privatizations are motivated by efficiency considerations, to avoid conflicts of interest between the State as an owner and a market regulator, to ease the financial burden on the Treasury, and to support private-sector development where it has already demonstrated its capacity to provide the needed services.

3.74. State-owned enterprises are thought to account for roughly 5% of Tonga's GDP. The portfolio of state-owned enterprises (Table 3.7) is managed by the Ministry of Public Enterprises.⁵⁵ As stipulated in the Public Enterprises Act No. 25 of 2002, the enterprises file their business plans (including dividend policy) with the Ministry at the beginning of the financial year, provide mid-term status reports, and submit their final audited statements and annual reports. Dividends are paid to the Ministry.⁵⁶ In case of a reported loss, the board of the enterprise will be requested to resign.

Table 3.7 State-owned enterprises in Tonga

Name of enterprise	Nominal value per share (T\$)	State-owned shares	Total State shareholding (in T\$)
Port Authority Tonga ^a	..	..	10,949,097
Tonga Airports Limited	1	36,543,226	36,543,226
Tonga Broadcasting Commission ^a	..	..	2,346,893
Tonga Communications Corporation	1	14,243,639	14,243,639
Tonga Development Bank	10	1,053,019	10,530,190
Friendly Islands Shipping Agency Ltd.			
Tongatapu Market Limited	1	1,600,000	1,600,000
Tonga Post Limited	1	1,807,915	1,807,915
Waste Authority Limited	1	1,000	1,000
Tonga Water Board ^a	..	..	2,065,040
Tonga Power Limited	33,784	1,031	34,830,892
Tonga Forest Products Limited	1	3,593,000	3,593,000

⁵³ Asian Development Bank (2008).

⁵⁴ Policy statements on state ownership and privatization are contained in the Strategic Development Plan 2006/07-2008/09, the National Strategic Planning Framework 2010, and the Tonga Strategic Development Framework 2011-2014.

⁵⁵ Not listed in Table 3.7, the publication *Tonga Weekly* is owned by the Ministry of Information and Communications.

⁵⁶ The Ministry receives approximately T\$3 million in dividends annually.

Name of enterprise	Nominal value per share (T\$)	State-owned shares	Total State shareholding (in T\$)
Tonga Export Quality Management Ltd.	..	1	..
Tonga Assets Management & Associates Ltd.	..	1	..
Tonga Cable Ltd.	40,000,000

.. Not available.

a Ports Authority Tonga, Tonga Broadcasting Commission, and Tonga Water Board are statutory bodies and hence not covered by the Companies Act 1995.

Source: Ministry of Public Enterprises.

3.75. Among the largest companies in the portfolio, Tonga Power was formed in 2008 when it was awarded a concession contract by the Electricity Commission of Tonga.⁵⁷ Tonga Power generates and distributes electricity in a four-grid system (across the islands of Tongatapu, Vava'u, Ha'apai and 'Eua), and provides infrastructure services such as electrical service lines.

3.76. Tonga Airports Limited, established in July 2007, operates six airports in Tonga. The enterprise has approximately 130 employees and is responsible for various services including passenger-processing facilities, rescue and firefighting, airside security, and aircraft and car park services. The air terminal services have been outsourced to a private company.

3.77. Tonga Cable Ltd was made a public enterprise and included in the portfolio of state-owned enterprises in May 2013. At present, the Government of Tonga owns 80% of the enterprise whilst Tonga Communications Corporation (TCC) holds 20%. The Ministry is currently looking for options for TCC to divest its stake.⁵⁸

3.78. As a first step towards privatization, the Small Industries Center, operating the Ma'ufanga and Neiafu industrial estates, was made a public enterprise (Tonga Assets Management & Associates Ltd. – TAMAL) in 2011. The Ministry of Commerce, Tourism and Labour estimated the market value of the two properties at some T\$9.6 million.

3.79. Privatization activities since 2006 include the sale of Leiola Group Limited, the operator of Tonga's duty-free shops, to a local investor in July 2008, and Tongatapu Machinery Pool Limited in late 2008. The Sea Star Fishing Company Limited was initially sold in 2007, but as no payment was made, the agreement was revoked and the company was returned to the portfolio of state-owned enterprises. Privatization is again being considered in connection with the planned renovation of its processing plant.

3.80. Following an unsuccessful attempt to privatize Tonga Print Limited in 2012, the enterprise is to become a subsidiary of Tonga Post Limited. The holding company Tonga Investment Limited was wound up during 2013 as its stakes in various projects had been sold off. The International Dateline Hotel was returned to the Ministry of Finance and National Planning in 2013 as a first step towards privatization.

3.81. In the WTO accession negotiations, Tonga maintained that it had no enterprises that met the definition of a state-trading enterprise according to Article XVII of the GATT 1994 and the Understanding on the interpretation of that Article. Tonga has not notified any state-trading enterprises to the WTO.

3.4.7 Competition policy

3.82. Tonga has no dedicated competition law or competition enforcement agency. The Consumer Protection Act No. 15 of 2000 contains elements of competition policy in provisions relating to, for example, monopolization (section 30), exclusive dealing (section 24), price discrimination (section 25), refusal to sell, false representations, and misleading or deceptive conduct. The Act

⁵⁷ Prior to that, power production was a private-owned monopoly (Shoreline).

⁵⁸ The project to build a submarine fibre optic cable to Fiji was initially financed by the World Bank, the Asian Development Bank, and TCC. The 20% stake corresponds to TCC's investment in the cable, but as TCC will also be a major user of it, TCC should not remain a long-term owner in the company.

assigns responsibilities in this area to the Ministry of Commerce, Tourism and Labour.⁵⁹ Its Inspectorate Division is currently administering the Act, and the Ministry is seeking to reinforce the capacity of the division to improve implementation of the Consumer Protection Regulations.

3.83. Provisions dealing with inappropriate business conduct liable to cause confusion with respect to another's enterprise, damaging his/her goodwill or reputation, misleading the public, or other acts such as the abuse of secret information, are dealt with in the Protection Against Unfair Competition Act No.19 of 2002. No prosecutions under the Act appear to have taken place to date.

3.4.8 Price controls

3.84. The Price and Wage Control Act (1988 revised edition) constitutes the legal basis for price regulation of goods and services in Tonga.⁶⁰ The Ministry of Commerce, Tourism and Labour has been designated the competent authority for the control of prices.⁶¹ According to the Ministry, measures (maximum prices) are currently in place for taxi fares, which are regulated by distance; bus fares; and charges for the rental of trucks and lorries. While the standard size of a loaf of bread (454 grams) is regulated, the price of bread is not.

3.85. Based on a Tonga fuel-price template, the Ministry establishes recommended wholesale prices for diesel, kerosene, and petrol. Prices are reviewed on a monthly basis, and changes mainly reflect relevant price movements in the Singapore market, the evolution of freight rates for fuel shipped to Tonga, and changes in exchanges rates.⁶²

3.86. All communication services are subject to indicative tariff ranges set by the Communications Division at the Ministry of Information and Communications (Chapter 4.4.3).

3.4.9 Trade-related intellectual property regime

3.87. Tonga acceded to the Convention establishing the World Intellectual Property Organization (WIPO) in June 2001 (Table 3.8). At the same time, Tonga became party to the Paris and Berne Conventions. The two conventions are self-executing under Tonga's legal regime. Tonga is not a member of the UPOV Convention, but holds observer status in the UPOV Council. Accession to other IP treaties and conventions, such as the Patent Cooperation Treaty, the Madrid Protocol, the Hague Agreement, the Geneva Phonogram Convention, the WIPO Copyright Treaty, the WIPO Performance and Phonogram Treaty, and the Rome Convention (1961) is still in preparation.

Table 3.8 WIPO treaties in force for Tonga

Treaty	Subject-matter (non-exhaustive list of elements)	Date of accession	Date of entry into force
WIPO Convention	Constituent instrument of WIPO	14 March 2001	14 June 2001
Berne Convention	Copyright (artistic, literary, etc. works)	14 March 2001	14 June 2001
Paris Convention, 1883 - Stockholm Act, 1967	Industrial property (patents, trademarks, utility models, trade names, industrial designs, geographical indications and appellations of origin, unfair competition, enforcement, etc.)	14 March 2001	14 June 2001

Note: The three conventions – substantive provisions – in force in WIPO, mentioned in the TRIPS Agreement, are: the Paris Convention (Stockholm Act, 1967), the Berne Convention (Paris Act, 1971), and to a lesser degree, the Rome Convention. The substantive provisions of the Washington Treaty on Intellectual Property in Respect of Integrated Circuits (IPIC) of 1989 are also incorporated into the TRIPS Agreement. However, the treaty has not yet entered into force.

Source: WTO Secretariat, based on WIPO online information. Viewed at: <http://www.wipo.int>.

⁵⁹ The Act foresees the creation of a Consumer Affairs Division, headed by a director. The director would be the principal enforcement officer, and lead the prosecution of offences under the Act; issue notices, directions, or warnings; and approve exclusive dealing arrangements, as appropriate.

⁶⁰ The original Price and Wage Control Act dates back to 1947.

⁶¹ The Ministry intends to review the list of 15 goods (mostly essential food-basket items and fuel) subject to price control.

⁶² Ministry of Information and Communication online information, "New Petroleum Prices for June-July 2013". Viewed at: <http://www.mic.gov.to/news-today/press-releases/4471-new-petroleum-prices-for-june-july-2013>.

3.88. Tonga joined the WTO with a commitment to fully implement the WTO TRIPS Agreement no later than 30 June 2008. In accordance with Article 63.2 of the TRIPS Agreement and with the procedure and practice of the Council for TRIPS⁶³, Tonga notified its main dedicated IP laws and regulations in April 2009.⁶⁴ Tonga's legislation was reviewed by other Members in October 2009.⁶⁵ The Industrial Property Act 1994 was amended in 2009, *inter alia*, to include new provisions on compulsory licensing (emergency measures) (see Table 3.9).

Table 3.9 Tonga's intellectual property laws and regulations

Relevant legislation	Brief description
All subject matters	
Industrial Property Act 1994 (Act No. 19 of 1994), Part VII	General provisions.
Copyright and related rights	
Copyright Act 2002 (Act No. 12 of 2002)	Protection is provided for original literary and artistic works, including computer programs and photographic works. Economic and moral rights protected during the life of the author and for 50 years after his death; 25 years protection for a work of applied art. Part II of the Act covers the protection of performers, producers of phonograms and broadcasting organizations.
Trade marks (including trade descriptions)	
Industrial Property Act 1994 (Act No. 19 of 1994), Part V	The Act provides protection for marks, collective marks, and trade names. Registration is valid for 10 years from the application filing date, renewable for consecutive periods of 10 years.
Geographical indications	
Protection of Geographical Indications Act 2002 (Act No. 17 of 2002)	The Act is designed to provide a system of protection for geographical indications that is uncomplicated and in compliance with international obligations. Geographical indications are applied to natural and agricultural products and to the products of handicraft and industry such as wood, sugar, fruit, wine, coffee, tea, tobacco, textile goods, and woven goods.
Industrial designs	
Industrial Property Act 1994 (Act No. 19 of 1994), Part IV	Initial protection is for five years from the filing date of the application for registration. Registration may be renewed for two further consecutive periods of five years. Right may be assigned, or transferred by succession.
Patents	
Industrial Property Act 1994 (Act No. 19 of 1994), Part II and III	A patent expires 20 years after the filing date of the application for the patent. Utility model certificates expire at the end of the seventh year after the date of filing of the application (no renewal possible). Provisions regarding non-voluntary licences are stipulated in section 15 of the Principal Act and section 16A of the 2009 (Amendment) Act.
Plant varieties	
	A Bill on the protection of plant varieties is still pending.
Layout-designs (Topographies) of Integrated Circuits	
Protection of Layout-designs (Topographies) of Integrated Circuits Act 2002 (Act No. 18 of 2002)	Act drafted along the lines of the Washington Treaty and the TRIPS Agreement. Protection may only be obtained for layout-designs or topography of integrated circuits that are original. Protection begins on the date of first commercial exploitation anywhere in the world, or on the filing date for registration, and ends 10 years after the date of commencement of protection.

⁶³ WTO Document IP/C/2, 30 November 1995.

⁶⁴ Tonga notified its Copyright Act (document IP/N/1/TONG/C/1), the Industrial Property Act (document IP/N/1/TONG/I/1), the Protection of Layout-Designs (Topographies) of Integrated Circuits Act (document IP/N/1/TONG/L/1), the Protection of Geographical Indications Act (document IP/N/1/TONG/G/1), and the Protection against Unfair Competition Act (document IP/N/1/TONG/O/1). An overview of ongoing work and planned revisions was presented in document IP/N/1/TONG/1, 2 June 2009.

⁶⁵ Tonga's introductory statement and its responses to questions raised by two Members are summarized in document IP/Q/TONG/1, IP/Q2/TONG/1, IP/Q3/TONG/1, IP/Q4/TONG/1, 7 September 2010.

Relevant legislation	Brief description
Protection of undisclosed information	
Protection Against Unfair Competition Act 2002 (Act No. 19 of 2002)	Section 9 stipulates that any act or practice, in the course of industrial or commercial activities, that results in the disclosure, acquisition or use of secret information without the consent of the person lawfully in control of that information and in a manner contrary to honest commercial practices shall constitute an act of unfair competition.

Source: Legislation notified by Tonga in 2009, revised and updated by the WTO Secretariat and the authorities of Tonga.

3.89. The Registry & Intellectual Property Office (RIPO) at the Ministry of Commerce, Tourism and Labour is responsible for administration of copyright and industrial property in Tonga. Within RIPO, the Intellectual Property Unit is responsible for the registration of trademarks, industrial designs, patents and utility models, and geographical indications (Table 3.10).⁶⁶ RIPO has an MoU with IP Australia and maintains close links, particularly for the appraisal of trademark applications. RIPO also has a network of contacts with regional counterparts.⁶⁷

Table 3.10 Trademark registrations in Tonga, 2000-2013

Year	Applications recorded	Registered marks	Renewals	Abandoned
2000	1,023	974	45	28
2001	365	300	0	0
2002	101	94	0	0
2003	72	60	0	0
2004	76	67	53	0
2005	93	88	0	0
2006	134	97	0	0
2007	71	6	57	0
2008	147	54	61	0
2009	90	55	42	2
2010	141	146	308	17
2011	215	119	11	6
2012	186	152	65	25
2013	107	54	7	0

Note: The relevant Act entered into effect in 2000, and required re-registration of existing trademarks by 2002. The examination of new applications did not commence until 2003.

Source: Ministry of Commerce, Tourism, and Labour; IP Unit Division.

3.90. Provisions relating to sanctions and enforcement are scattered across Tonga's legislation, in part in the IP laws themselves, e.g. the Copyright Act (Part III), the Industrial Property Act (section 43), the Geographical Indications Act (section 8), and the Protection of Layout-Designs (Topographies) of Integrated Circuits Act (sections 15 and 16).⁶⁸ The Police Act and the Magistrates' Courts Act contain provisions relating to search and seizures. The Customs and Excise Management Act has provisions on the suspension of the release of suspected illegal goods, and imposes penalties on those knowingly importing or offering counterfeit goods and implements for sale (section 94). The customs officer may apply to a Magistrate for a warrant to seize prohibited or restricted goods. The Customs and Excise Management Order (Schedule 1) lists "counterfeit goods" among the prohibited imports as well as "all books and any written or printed matter and sounds and visual recordings of which the Minister shall by notice declare to be prohibited imports

⁶⁶ The national data differ substantially from the WIPO database. According to WIPO statistics, one resident and 105 non-resident trademark applications were filed in Tonga in 2002. In total, 15 trademark applications were filed "abroad" 2003-10, and 6 registrations have been granted. One patent application was filed (in 1997).

⁶⁷ A regional trademark application system is under development, and Pacific island countries are seeking to adopt a regional model law for traditional knowledge.

⁶⁸ Wilful infringement of any right protected under the Copyright Act may be sanctioned with a fine not exceeding T\$20,000 or up to three years' imprisonment, or both. Criminal liability for other types of wilful intellectual property infringement typically amounts to a fine not exceeding T\$5,000 or imprisonment for up to five years, or both.

on account of any copyright or intellectual property right laws which apply in the Kingdom". Provisions in the Consumer Protection Regulations may also be used to address imports of counterfeit goods. The Supreme Court Rules 2007 govern judicial proceedings and prescribed modalities for civil proceedings in the superior courts.

3.91. Prior to its WTO accession, Tonga was preparing a draft law to strengthen the enforcement of intellectual property rights. The draft law did not impose criminal penalties for the infringement of intellectual property rights and did not stipulate any specific civil penalties, but established procedures and measures to be followed by the court and the Tonga Customs Service in the event of infringement or imminent infringement actions. According to the information provided by Tonga to the Council for TRIPS in 2009, the Enforcement and Border Measures Bill was being reviewed by the Law Committee before being tabled in the Legislative Assembly.⁶⁹ Consideration of the Bill has been delayed to minimize overlapping and inconsistencies vis-à-vis the Customs Act. The IP provisions under the Customs Act have not been effectively enforced to date.

⁶⁹ WTO Document IP/N/1/TON/1, 2 June 2009.

4 TRADE POLICIES BY SECTOR

4.1 Agriculture

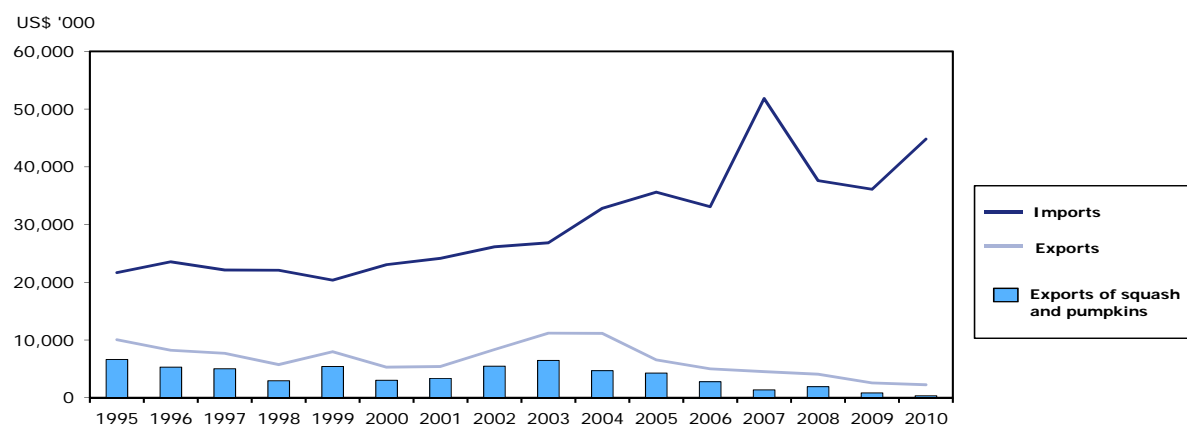
4.1.1 Main features

4.1. Agriculture is the backbone of the Tongan economy, for subsistence, as a source of cash income, employment, and export earnings.¹ The sector contributed about 14% to GDP in 2011/12² (Table A1.1), over half of which was not sold but for own consumption. The main staples are root crops, such as taro, manioc, yams, and sweet potatoes. Pigs are customarily kept for social obligations, such as weddings or funerals. Tongan agriculture is prone to natural disasters, particularly cyclones and occasional droughts.

4.2. Tonga's agricultural area covers about 31,000 ha³, and soils are generally fertile, partly of volcanic origin. In the Tongan system of land tenure, most land is held in royal estates and hereditary estates of the nobles. Each male Tongan head of household is legally entitled to a land grant, from the noble of the village or the Government, of up to 3.34 ha as a heritable "tax allotment" (Section 7 of the Land Act) but in practice there is not enough land.⁴ The sale of land is prohibited; land may be leased and mortgaged by both men and women. It appears that some fertile land is under-utilized, in part because of the large number of expatriate Tongan landowners.

4.3. Tonga is a net importer of agricultural products, with a rising trend (Chart 4.1). Squash pumpkins, manioc, taro, coconuts, vanilla, and kava are Tonga's principal export commodities (Table A4.1). Following its introduction in the 1980s, squash found a niche market in Japan and Korea during October-December and became Tonga's number one cash crop by far (Chart 4.1). Exports of root crops and kava are driven mainly by demand from Tongans living abroad. Kava exports are facing import restrictions in some countries, notably Australia.⁵

Chart 4.1 Trade in agricultural products, 1995-2010



Source: FAOSTAT online information.

4.1.2 Institutional and policy framework

4.4. The Ministry of Agriculture, Food, Forests and Fisheries (MAFFF) is responsible for the formulation and implementation of agricultural policy. While there is no formal strategy in force for the agriculture sector, the main policy objectives relate to export promotion, food security, and

¹ According to the last agricultural census in 2001, almost two thirds of the population were active in market production or subsistence agriculture.

² Agricultural GDP (excluding forestry) is estimated at T\$110 million for 2011/12, which includes an estimate of "non-market" production. See Tonga Department of Statistics online information. Viewed at: <http://www.spc.int/prism/tonga/>.

³ FAO online information. Viewed at: <http://faostat3.fao.org/home/index.html#HOME>.

⁴ According to the 2001 agricultural census, 41% of Tongan households owned a tax allotment.

⁵ Commercial imports of kava into Australia are prohibited, while a maximum of 2 kg is allowed per incoming passenger.

climate change, according to the authorities. Various projects, often donor-funded, are aimed at stimulating exports (e.g. water melons for export to New Zealand) or substituting imports, in order to contain the trade deficit in food.

4.1.3 Border measures

4.5. MFN tariffs are the only instrument of protection afforded to agricultural products. There are no tariff quotas or preferential tariffs. Import licensing (permits) is applied for SPS reasons (protection of human, plant, or animal health and safety). Applied MFN tariffs on agricultural products (WTO definition) averaged 10.7% in 2013, ranging from 0-20% (Table A3.1).

4.1.4 Domestic support

4.6. Tonga's AMS is bound at zero in its Schedule of Commitments.⁶ All domestic support measures notified by Tonga are in the general services category of the Green Box (totalling T\$1 million in 2009/10).⁷ Some general services are financed by the MAFFF, whose budget has been in the range of T\$5-6 million, covering mainly wages and salaries. Other research and infrastructure measures have been supported with EU funds through the Stabex facility⁸, including assistance for vanilla replanting, kava development, and post-harvest treatment. Stabex projects have been completed, according to the authorities. In its place the EU provides assistance through its "Vulnerability Flex" mechanism (V-FLEX), aimed at helping developing countries most affected by the global economic crisis. In line with Tonga's Strategic Development Framework 2011-14, the EU's V-Flex budget support to Tonga (T\$13.8 million or €5.5 million) has been largely allocated to the development of renewable energies (Chapter 4.2.6.3).

4.7. Cultivation of root-crops, squash, paper mulberry, pandanus, and kava is among activities reserved for Tongans (Table 2.3), although exceptions may be granted, according to the Ministry of Commerce, Tourism and Labour.

4.1.5 Export measures

4.8. Tonga has a "zero commitment" in its Schedule with respect to agricultural export subsidies.⁹ The Government notified the WTO Committee on Agriculture that no export subsidies were provided in 2007/08 and 2008/09¹⁰, and this position remains valid, according to the authorities. Tonga applies no export duties.

4.9. In 2012, an Agricultural Export Marketing Fund was established that provides short-term loans to exporters of agricultural commodities. The T\$1 million credit scheme set up within the framework of the 2012/13 Budget is administered by the Ministry of Finance and National Planning. While the loans are available to exporters of all produce, most have been disbursed to squash exporters, according to the authorities. The interest rate (1% per quarter, as of February 2013) is concessional.

4.2 Fisheries

4.2.1 Main features

4.10. The fisheries sector contributed about 2.6% to GDP in 2011/12 (Table A1.1). Tonga's major offshore fisheries are tuna long-lining, and snapper and grouper (Chart 4.2 and Table A4.2).¹¹ Tuna fishing was closed to foreign vessels between 2004 and 2011. In late 2011, the Government reopened the Tongan waters to foreign fishing vessels with the objective of reviving the tuna fishery.

⁶ WTO document Schedule CLIX - Kingdom of Tonga, Part IV, Section I.

⁷ WTO documents WT/ACC/SPEC/TON/3/Rev. 3, 28 October 2005 and G/AG/N/TON/3, 12 January 2012.

⁸ The Stabilisation of Export Earnings Programme (Stabex).

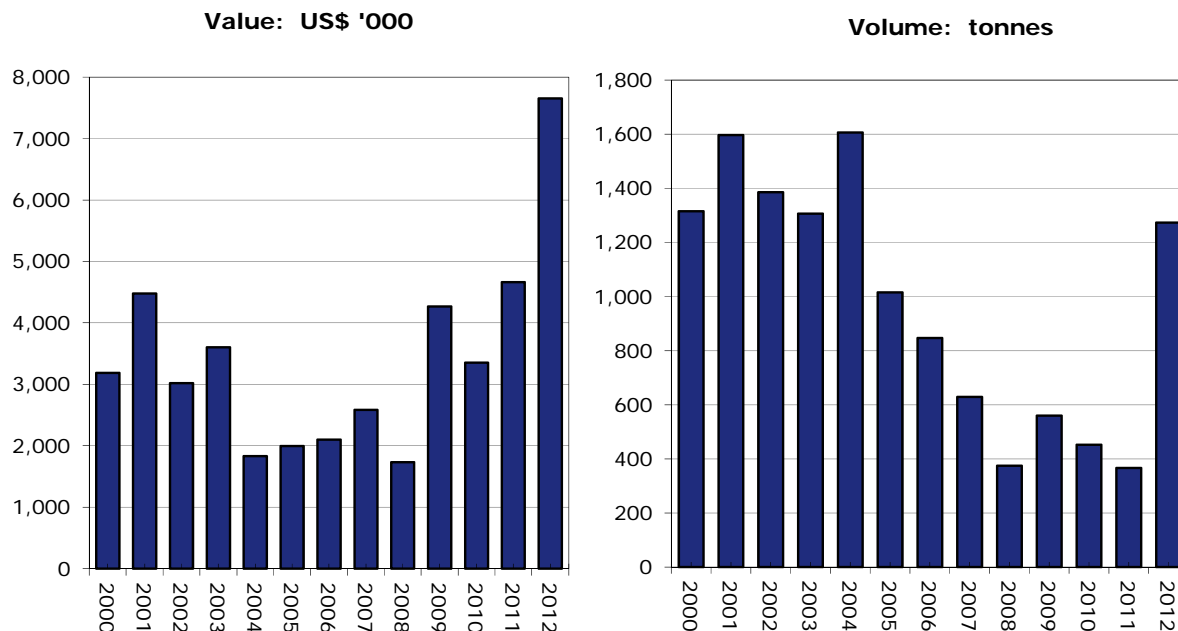
⁹ Schedule CLIX - Kingdom of Tonga, Part IV, Section II. Tonga notified its Accession working party that no export subsidies were provided during the "representative period" of 1996/97-1998/99. See WTO document WT/ACC/SPEC/TON/3/Rev. 3, 28 October 2005.

¹⁰ WTO document G/AG/N/TON/1, 27 June 2011.

¹¹ For an overview of Tonga's fisheries, see FAO (2010).

4.11. Tonga's fishery policy instruments include import tariffs on fish; tariff and consumption tax exemptions for fishing vessels and certain inputs; access (licence) fees for foreign fishing vessels; fuel subsidies; and export restrictions and licensing.

Chart 4.2 Exports of fisheries products, 2000-12



Source: Data provided by the authorities.

4.2.2 Institutional and legal framework

4.12. The Fisheries Department of the MAFFF is responsible for conservation, management, licensing, and development of fisheries resources. The Tonga Defense Services provides surveillance support and the Crown Law Department handles fisheries prosecutions. The principle fisheries legislation is the Fisheries Management Act 2002, supported by regulations and fishery management plans. Management plans are in place for tuna (2002), snapper and grouper (2007), sea cucumber, and aquarium fish.¹² Aquaculture is governed by the Aquaculture Management Act, 2003. Tonga is a member of, *inter alia*, the Pacific Island Forum Fishery Agency, and the Western and Central Pacific Fisheries Commission.

4.2.3 Market access

4.2.3.1 Access to the Tongan fisheries waters

4.13. Access to the Tongan fisheries waters is governed principally by the Fisheries Management Act (FMA) in conjunction with fishery management plans and vessel-licensing requirements; the Foreign Investment Act; and access agreements with foreign countries. The 1987 Multilateral Treaty on Fisheries between Certain Governments of the Pacific Island States and the Government of the United States of America allows U.S. purse seine fishing vessels to fish in the waters of the 16 Pacific island states.¹³ So far, only two trips of U.S. purse seiners into Tongan waters have been recorded. The U.S. Treaty, due to expire in 2013, was renewed for 18 months under a transitional arrangement.

4.14. For tuna long-line fishery, the Tonga National Tuna Management and Development Plan 2012-2015 establishes a total allowable catch of 8,000 tonnes annually for all tuna species. In practice, the quota has not been exhausted, with an annual tuna catch in the range of 600 to

¹² See Fisheries Department online information. Viewed at: <http://www.tongafish.gov.to/FisheriesPlan.html>.

¹³ Australia; Cook Islands; Federated States of Micronesia; Fiji; Kiribati; Marshall Islands; Nauru; New Zealand; Niue; Palau; Papua New Guinea; Samoa; Solomon Islands; Tonga; Tuvalu; and Vanuatu.

1,900 tonnes in 2008-12. Most tuna is exported fresh or chilled to the United States (including American Samoa), Japan, and New Zealand.

4.15. Licensing requirements apply to Tongan and foreign fishing vessels (Table 4.1). In addition to the vessel registration requirement with the Marine & Ports Division (Chapter 4.4.4.2.1), fishing vessels must be re-registered with the Fisheries Department (Fishing Vessel Register). There are nominal licensing fees for local vessels, depending on the size of the fishing vessel. Foreign fishing vessel licence fees reached US\$45,000 in 2013 for vessels exceeding 500 GRT. The number of tuna fishing vessels operating in Tongan waters declined to 2-3 in 2011, from 11-15 in 2000-07. In an effort to stimulate fish exports, 24 tuna fishing vessels were licenced in 2013, 20 of which were foreign.

4.16. Tonga has an offshore fishery for snapper and grouper (deep-sea-bottom fishing), for which no total allowable catch has been established. According to the Foreign Investment Regulations 2002, "bottom fishing in water deeper than 500 m" is a restricted activity subject to the provisions of the Tonga National Snapper and Grouper Management Plan (Table 2.2).

4.17. Coastal fisheries, including sea cucumber, are reserved for Tongans (Table 2.6). Access is open to all communities on a first-come-first-served basis. To address the depletion of fish stocks, some coastal fisheries have been declared Special Management Areas by the Minister (FMA Article 13) to give local communities some management control over fishery resources. Commercial harvesting of sea cucumber started in the 1980s and became a major export business; however, due to overfishing, a ten-year moratorium was imposed in 1998-07 (Table A4.2). Since 2008, a seasonal quota has been in place for commercial harvesting (closed season from 30 September to 31 March). Sea cucumber exports are destined mainly for China.

Table 4.1 Main features of the Tongan offshore fisheries licensing regime

Fishery	Type of licence	Licence term	Licence fees per vessel	Number of licenced & operational vessels (2013)
Tuna	Local fishing vessel licence (Article 29) Vessel must be: - wholly owned by a company (society, association, persons) incorporated or established in Tonga; or - wholly owned by the Government of Tonga or statutory body; - wholly owned by a Tongan natural person(s); A locally-based foreign fishing vessel can be nominated against the licence for up to 2 years.	Valid for one year, subject to annual endorsement by the CEO of the MAFFF; transferable	depending on vessel size	2
	Locally based foreign fishing vessel licence (Article 31) Definition: - foreign fishing vessel based in and fully controlled or operated in Tonga; - fishes exclusively in the fisheries waters of Tonga; - and lands all of its catch or a substantial part of its catch in Tonga.	Same as above	depending on vessel size: US\$9,000-20,000	1
	Foreign fishing vessel licence (Article 38)	Subject to access agreements agreed with the Government of Tonga; valid for one year; non-transferable	depending on vessel size: US\$ 14,000–45,000 (50% domestic landing) US\$ 20,000-45,000 (100% landing outside Tonga)	20
Snapper and grouper	Local fishing vessel licence (Article 29)	Same as for tuna	Same as for tuna	5

Source: Fisheries Management Act (FMA), 2002; and information provided by the authorities.

4.2.3.2 Import tariffs

4.18. Applied MFN tariffs on fish and fishery products averaged 10.6% in 2013, ranging from 0-20% (Table A3.1).

4.2.4 Subsidies

4.19. A fuel subsidy (fisheries fuel concession scheme) was introduced in 2000 to support the development of fisheries as a strategic industry (Table 4.2). Licenced fishers are thus exempted from the payment of excise taxes on motor fuels. The fuel concession is granted with respect to locally registered vessels, including foreign vessels registered in Tonga, as well as foreign fishing vessels that unload 50% of their catch in Tonga. The scheme is implemented by the Fuel Concession Committee of the Fisheries Department, which issues refuel certificates.

4.20. In 2013, a tariff and consumption tax exemption was introduced, including for fishing boats, baits, engines and spare parts, fishing gear (Chapter 3.2.4).

Table 4.2 Tonga's main subsidy schemes, 2009-13

(T\$ '000)

	2009/10	2010/11	2011/12	2012/13
Diesel fuel for use in commercial fishing boats	426.6	617.2	656.5	1,133.4
Fuel and lubricants for use in aircraft for international air services	832.6	1,679.0	5,870.8	7,076.8
Fuel and lubricants for use in aircraft for domestic commercial air services	412.8	475.5	2,562.1	2,743.5
Fuel and lubricants for use in domestic shipping services	669.2	669.2	2,314.0	1,206.1
Diesel fuel for use in the generation of electricity by Tonga Power Ltd.	5,482.3	6,071.5	19,739.5	20,034.1
Other	2,818.2	8,730.9	74,426.8	59,007.4
Total	10,641.7	18,243.3	105,569.7	91,201.4 ^a

a The numbers in this column do not add up to the total.

Source: Customs Tariff, Schedule 2; Ministry of Finance and National Planning (2012), *Budget Statement 2012-2013*, Nuku'alofa; and information provided by the Tongan authorities (2011/12, 2012/13).

4.2.5 Export measures

4.21. Exports of fish, fish products and other marine products, including live aquarium fish, giant clams, and corals, are subject to licensing (FMA Article 35). Licensing conditions include compliance with the relevant fisheries management plan and any export restrictions that may be in force (Fisheries Conservation Regulations 2008). Export licences are issued by the Fisheries Department, subject to a fee of T\$20.¹⁴ Violations of export licensing requirements are liable to fines of up to T\$500,000. The export levy (tax) on fish was zero in 2013 (Chapter 3.3.2).

4.2.6 Mining, energy and water

4.2.6.1 Minerals

4.22. Mining activity for seabed minerals is at the exploration stage. The prospective deposits are located at the bottom of the Pacific Ocean in depths of 4,500-6,000 m both inside Tonga's EEZ and in international territory.¹⁵ The minerals are in the form of nuggets about the size of golf balls (so-called poly-metallic nodules) that are potentially rich in various metals, including gold, silver, copper, nickel, manganese, cobalt, zinc, and other trace metals.

¹⁴ Fisheries Management (Processing and Export) Regulations 2008.

¹⁵ The international seabed resources are administered by the International Seabed Authority under the UN Convention of the Law of the Sea, and related agreements.

4.23. The Ministry of Lands, Environment, Climate Change and Natural Resources is responsible for managing mineral resources and energy. Three companies currently hold exploration licences under the Minerals Act, valid for five years (Blue Water Metal, Tonga Offshore Mining Ltd., Korean Oceanographic Research Development Institute). In 2012, Tonga Offshore Mining Ltd. (a subsidiary of Nautilus Minerals of Canada) announced the discovery of precious metal deposits on its Tongan tenements.¹⁶ Moreover, under the sponsorship of the Government of Tonga, Tonga Offshore Mining Ltd. was awarded an exploration licence in 2011 by the International Seabed Authority, to explore in a marine area that lies in international waters.

4.24. A draft Seabed Minerals Bill is currently under consideration, according to the authorities. The Government has also undertaken to take appropriate action "to protect the economy and the political system from any possible economic disruption and potential corruption that might eventuate from a failure to effectively manage mineral wealth."¹⁷

4.2.6.2 Oil, gas and petroleum products

4.25. Tonga's energy requirements are largely met by imports, mainly diesel and other refined petroleum products. Exports of goods and services are barely sufficient to cover the soaring energy import bill, which accounts for about 25% of merchandise imports and is equivalent to about 10% of GDP (Tables A1.1 and A1.2). The suppliers of refined petroleum products are Pacific Energy Ltd., Total, and Uata Shipping Line of Tonga, mainly from Singapore, with transshipment via Fiji. Safety regulations for transport and storage of petroleum products are contained in the Petroleum Act and the petroleum regulations, 1988. Natural gas (LPG in bulk) is imported by Tonga Gas (a subsidiary of Fiji Gas/Origin Energy of Australia), and distributed by Home Gas Ltd. of Tonga.

4.26. Petroleum products are subject excise tax (Table A3.2). Activities exempt from fuel excise duties include commercial fishing; domestic and international air transport; domestic maritime passenger transport; and fuel used in electricity generation (Table 4.2). Petroleum products sold on the domestic market are subject to price controls (Chapter 3.4.8).

4.27. There is no domestic production of oil or natural gas.¹⁸ Hydrocarbon exploration and production is governed by the Petroleum Mining Act, 1988 and its regulations. In 2010, the Ministry of Lands, Environment, Climate Change and Natural Resources awarded exploration licences valid until 2018 to three companies of the Modulus Baringer Group (Modulus Pacific Tonga, Baringer Tonga Central Ltd. and Baringer Tonga South Ltd.).

4.2.6.3 Electricity

4.28. Since Tonga's accession to the WTO, significant reforms have been undertaken in the electricity sector, aimed at improving efficiency and sustainability of electricity supply. Tonga is virtually 100% dependent on long-distance imports of diesel for electricity generation. As a consequence, electricity tariffs are high by international standards, despite government subsidies for electricity generation. The Government's long-term, donor-supported, energy-sector strategy to reduce the economy's vulnerability to oil price shocks is set out in the Tonga Energy Road Map 2010-2020.¹⁹ Responsibility for (on-grid) electricity policy is shared between the Prime Minister's Office and the Ministry of Finance and National Planning.

4.29. Restructuring and regulatory reform of the electricity sector began in 2008 when the Government re-purchased the electricity assets from the Shoreline Group, a privately owned Tongan company. Tonga Power Ltd. (TPL) was established in July 2008, as a 100% state-owned utility (Table 3.7). TPL provides electricity under an exclusive concession regime governed by the Electricity Act of 2007 and the Electricity Concession Contract between the Government and TPL. The contract sets, *inter alia*, safety and performance standards, regulates tariffs, and is

¹⁶ See Nautilus Minerals online information at: <http://www.nautilusminerals.com/s/Home.asp>.

¹⁷ Tonga Strategic Development Framework (TSDF) 2011–2014. Viewed at: <http://www.ausaid.gov.au/countries/pacific/tonga/Documents/tonga-strat-dev-frame-2011-2014.pdf>.

¹⁸ Shell began exploration for hydrocarbons on Tongan land in the 1970s, albeit without success.

¹⁹ Tonga Energy Roadmap 2010-2020. Viewed at: <http://www.tonga-energy.to/>. See also World Bank (2010).

administered by the Electricity Commission, established in 2008.²⁰ The contract, a publicly available document under Section 20(8) of the Electricity Act, ends on 30 June 2015 and may be extended for seven-year periods.

4.30. Tonga Power Ltd. generates, distributes, and sells electricity to approximately 20,500 customers, including 3,963 commercial customers, on Tongatapu, Vava'u, Ha'apai, Eua, and the outer islands of Niuatoputapu and Niuafo'ou. Electricity tariffs follow international oil price trends (T\$0.9274/kWh as of August 2013, equivalent to about US\$ 0.52/kWh).²¹ Since May 2009, TPL has charged a standard tariff across all grids and customers without any discounts. The subsidy for electricity generation (i.e. fuel exemption from excise taxes) rose to about T\$20 million in the 2011/12 and 2012/13 budgets (Table 4.2). Electricity tariffs are subject to approval by the Electricity Commission, following a review of TPL's tariff adjustment proposals in a public hearing. TPL is permitted by law to pass on the fuel costs to consumers (on a quarterly basis) and charge an inflation-indexed non-fuel tariff.²² The non-fuel component includes a regulated return on investment; investment plans require approval from the regulator.

4.31. The Tonga Energy Road Map contains a target of 50% renewable energy by 2012, which has proved to be elusive.²³ About 25% of electricity production in 2000 was off-grid, mainly from biomass and solar PV. Renewable energy (off-grid only) is regulated by the Renewable Energy Act 2008, which is administered by the new Renewable Energy Authority under the Ministry of Lands, Environment, Climate Change and Natural Resources. In 2012, the first solar facility (Maama Mai with a capacity of 1.3 MW) was connected to the grid on Tongatapu. There is currently no legal framework for a feed-in tariff regime. TPL may enter into purchase agreements (generation connection contracts) with independent power producers (IPPs). TPL permits IPPs to use its grid as a "storage battery" (i.e. selling and buying from the operator).

4.2.6.4 Water

4.32. Tonga has limited fresh water resources, primarily in the form of groundwater.²⁴ In rural areas, the population relies mainly on collection of rain water. Rainfall is variable, depending on El Niño climate patterns and cyclones, with an annual average of 2,500 mm, and 1,800 mm in the capital of Nuku'alofa.

4.33. The Tonga Water Board (TWB) is responsible for water supply, and operation and maintenance of the supply infrastructure in urban areas, in accordance with the Tonga Water Board Act, 2000. The TWB is a 100% state-owned corporation (Table 3.7) with ownership of the infrastructure. TWB is required by law to operate on commercial principles, though it remains dependent on international financial assistance for infrastructure upgrading and extensions. At present, there is no sectoral regulator. TWB's flat tariffs (as of September 2013) are T\$2.09./m³ in Nuku'alofa, T\$2.13/m³ in Vava'u, 2.11/m³ in Ha'apai, and 1.34/m³ in Eu'a.

4.3 Manufacturing

4.34. Tonga's small manufacturing sector contributes around 6% to GDP (Table A1.1). The main activity is food and beverage production (baking products, juices, soft drinks, coffee, water bottling, beer etc.). Other small-scale manufacturing activities and products include arts and handicrafts (e.g. tapa cloth), printing, paints, construction materials, and small boats. Few enterprises engage in exports (e.g. Nonu Juice company, Tupu'anga Coffee, APCO Paints, Heilala Vanilla). Non-governmental institutions active in private-sector development include the Tonga Chamber of Commerce and Industries, Manufacturers Association of Tonga, and Tonga Business

²⁰ The 3-5 member Electricity Commission is financed through a fee included in the electricity price charged to customers.

²¹ In 2011, the Government provided a temporary consumption subsidy of T\$0.11/kWh (government policy obligation grant) to mitigate the impact of a TPL tariff increase to an all-time high of T\$0.98/kWh (without subsidy).

²² See Electricity Act 2007, First Schedule. The fuel cost is the landed price of diesel as fixed by the "Competent Authority" (MRTL).

²³ See International Renewable Energy Agency (2013).

²⁴ SOPAC online information. Viewed at: <http://www.pacificwater.org/pages.cfm/country-information/tonga.html>.

Enterprise Centre (TBEC). The TBEC provides targeted assistance to SMEs registered and licenced in Tonga, through advice, mentoring, training, and information on access to credit.²⁵

4.35. Tonga's industrial policy has evolved as part of a broader tax reform programme that was carried out within the framework of Tonga's WTO accession.²⁶ The Industrial Development Incentives Act, 1978 provided a range of tax incentives and exemptions from customs duties for activities such as manufacturing, until it was repealed in 2007. Recent regulatory reforms (e.g. business licensing) are aimed at improving the business environment in Tonga (Chapter 3.2.1). The introduction of a simplified tax regime for small enterprises with a turnover of less than T\$100,000 (small business tax) is pending.²⁷

4.36. Tariffs are the main trade policy instrument. Applied MFN tariffs for manufacturing products (ISIC 3) averaged 11.5% in 2013 (Table A3.1). Local beer brewers, producers of alcoholic beverages, and tobacco manufacturers benefit from tariff exemptions on certain inputs under Chapter 98 of the Customs Act. Moreover, Tonga's excise taxes on certain tobacco products and alcoholic beverages are structured in a way that gives local production an advantage over imported products (Chapter 3.2.6).

4.4 Services

4.4.1 Main features

4.37. Services contribute over half of Tonga's GDP (Table A1.1). Most service sectors are overseen by sectoral regulators. The Ministry of Commerce, Tourism and Labour acts as Tonga's services enquiry point. Service suppliers are subject to business licensing requirements (Chapter 3.2.1).

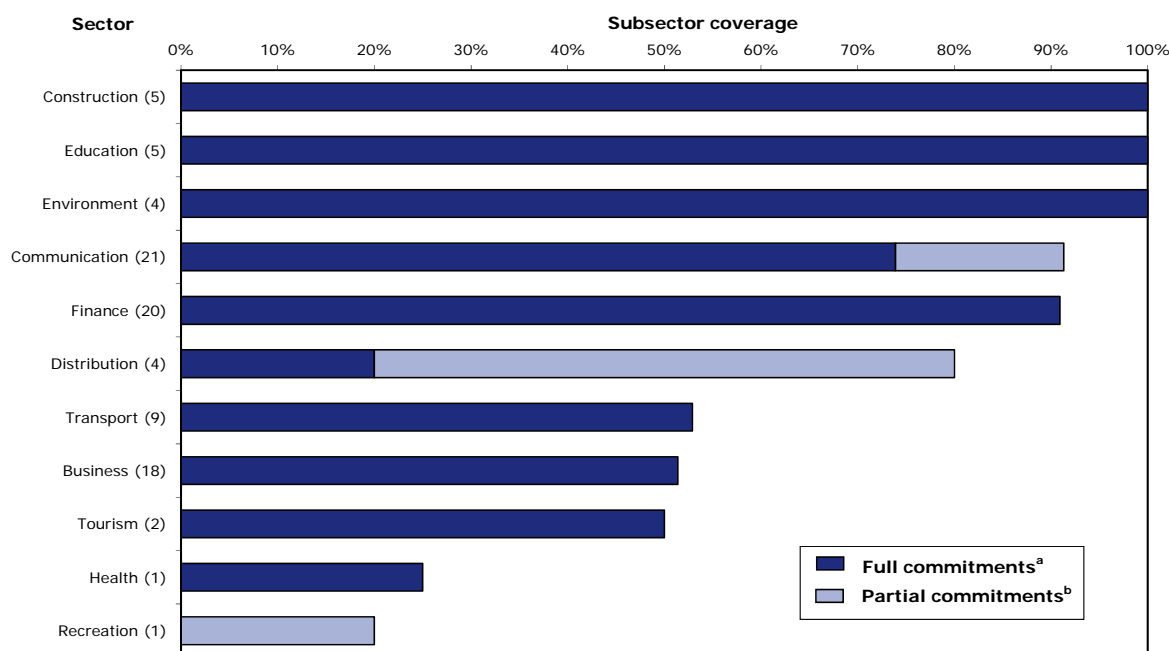
4.38. Tonga made substantial commitments under the GATS within the framework of its WTO accession.²⁸ It scheduled open and non-discriminatory regimes for 90 out of about 160 service subsectors. Most sector-specific commitments are "full commitments" (77) without any limitations on market access or national treatment, except mode four, which is governed by Tonga's horizontal commitments. In certain service sectors, such as telecommunications, the commitments ensure open access across all sub-sectors and for all modes of supply, except mode four (Chart 4.3). Financial services also account for a significant number of commitments (20). On the other hand, few commitments were made in some commercially important subsectors, notably in maritime services and business services.

²⁵ See Tonga Business Enterprise Centre online information. Viewed at: <http://www.tbec.to/>.

²⁶ WTO document WT/ACC/TON/17, 2 December 2005.

²⁷ Ministry of Information and Communications online information. Viewed at: <http://www.mic.gov.to/public-notices/4246-proposed-small-business-tax>.

²⁸ WTO document WT/ACC/TON/17/Add.2, 2 December 2005.

Chart 4.3 Sector-specific commitments for services

a No limitations on market access and national treatment in modes one to three. Mode four is unbound, except as indicated under horizontal commitments. Horizontal commitments have not been taken into account.

b Certain modes of supply are unbound.

Note: Figures in brackets refer to the number of sector-specific commitments.

Source: WTO Secretariat.

4.39. In the communication sector, the commitments on audio-visual services do not cover radio and TV broadcasting services, and motion picture production services. Furthermore, Tonga has scheduled three Article II (MFN) exemptions for audio-visual services, in order to allow for national treatment under (existing or future) bilateral or plurilateral agreements.

4.40. Under its horizontal GATS commitments that apply to trade in all services, Tonga has scheduled exemptions and reservations with respect to national treatment in the areas of taxation of foreign nationals (unbound), access to subsidies (unbound), access to land by foreigners²⁹, and foreign investment approval under the Foreign Investment Act (Chapter 2.4). Tonga has also reserved flexibility to regulate the entry and temporary stay of foreign nationals (mode four is unbound). For services sales persons and intra-corporate transferees (managers, executives, specialists, and personnel engaged in establishment), Tonga has scheduled the maximum duration of stay (respectively, 90 days and 2 years, renewable).

4.4.2 Financial services

4.4.2.1 Banking services

4.4.2.1.1 Market structure and performance

4.41. Tonga's financial sector contributed about 6% to GDP in 2012/13 (see also Table A1.1), with bank and foreign exchange dealers employing some 460 people. The total assets of the financial sector amounted to T\$515 million (as of December 2012), of which 87% were held by commercial banks and 13% by credit institutions.³⁰

²⁹ "The Tongan Constitution prohibits the sales of land to all foreigners. Foreigners can only attain land through leasing, with the right to lease land for up to 99 years as well as sub-lease property." See WTO document WT/ACC/TON/17/Add.2, 2 December 2005, p. 3.

³⁰ National Reserve Bank of Tonga (2012b).

4.42. In addition to the state-owned Tonga Development Bank, Tonga has four foreign commercial banks: ANZ, Westpac of Tonga Bank, MBf Bank, and Pacific International Commercial Bank (licenced in July 2013). There is some competition in the credit market from institutions such as the Retirement Fund Board, and the South Pacific Business Development Microfinance Ltd. There are also numerous small money-lenders that are not regulated, although they require a business licence. A credit bureau provides information to banks on potential borrowers to assist their lending decisions.³¹

4.43. According to the IMF, Tonga's banking system is "adequately capitalized and profitable".³² Capital adequacy was well above the Reserve Bank's minimum requirement of 15%³³, based on the Basel I framework (banks' risk-weighted capital ratio was 26.3% in 2010/11 and 31.4% in 2011/12). Liquidity in the banking sector was high at over 15% of GDP, reflecting the Reserve Bank's accommodative monetary policy as well as banks' reduced appetite to lend and take risks in the weak economic environment.³⁴ Credit ceilings have not been imposed by the Reserve Bank since February 2007. The level of non-performing loans remains high (15% in 2011/12, down from 23.7% in 2008/09). Borrower defaults have occurred mainly in the tourism and wholesale/resale sectors, and for private housing loans; defaults have been partly linked to the decline in remittances. The IMF has recommended that Tonga facilitate the use of land as collateral and improve loan recoveries through a bankruptcy law.³⁵ Interest rates, as well as banks' fees and charges, are market-determined.³⁶ Despite excess liquidity in the banking system, interest rates and spreads are high, partly due to banks' write-off costs for bad loans.³⁷ Access to (affordable) finance remains one of the main business concerns in Tonga.

4.4.2.1.2 Regulatory framework

4.44. Tonga has made "full commitments" under the GATS with respect to financial services, which cover virtually all subsectors, with the exception of services auxiliary to insurance, including broking and agency services, and "other" financial services (Chart 4.3). In line with its GATS commitments, Tonga allows the establishment of foreign commercial banks, merchant banks, and other financial services companies in the form of wholly owned subsidiaries or direct branches. ANZ is operating through a branch in Tonga.

4.45. The National Reserve Bank of Tonga is responsible for regulating, licensing, and supervising financial institutions (i.e. banks and credit institutions). The legal framework for banking services comprises the Financial Institutions Act 2004³⁸, the National Reserve Bank Act 1988, the Tonga Development Bank Act, the Westpac Bank of Tonga Act, the Foreign Exchange Control Act 1988, and the Money Laundering and Proceeds of Crime Act 2000.

4.46. A bank licence is granted by the Reserve Bank subject to, *inter alia*, comprehensive supervision, regulation, and consent by the authorities in the home country.³⁹ In practice, the banks are required to have at least two independent local directors; revisions to the Prudential Statement No. 9 on governance will formalize this requirement. Bank mergers require the approval of the Reserve Bank.⁴⁰ Bank licences are not subject to numerical or geographical limitations. Permitted bank activities are: deposits, loans, buying and selling money-market instruments and debt securities, money transmission services, buying and selling foreign currencies (with prior approval of the Reserve Bank for transactions above exchange control limits), issuing and administering means of payments, safekeeping and administration of securities, credit reference

³¹ The banks are currently the only members of the credit bureau.

³² IMF (2012).

³³ 18% for credit institutions.

³⁴ National Reserve Bank of Tonga (2012a).

³⁵ IMF (2012), p. 27.

³⁶ In 2010/11, the high level of interest rates was under parliamentary review and the Government briefly considered the imposition of interest rate caps under the Consumer Protection Act.

³⁷ The weighted lending rate is 9.73% (September 2013) with housing loans at 9.02% and business loans at 9.81%.

³⁸ The Financial Institutions Act 2004 (see: <http://legislation.to/Tonga/DATA/PRIN/2004-017/FinancialInstitutionsAct2004.pdf>) superseded the Financial Institutions Act 1991 (in force at the time of accession).

³⁹ Section 7 of the Financial Institutions Act.

⁴⁰ Section 11 of the Financial Institutions Act.

services, and other activities approved by the Reserve Bank.⁴¹ The provision by banks of financial information and advisory services or insurance-related activities are not part of the permitted activities listed in Section 27 of the Financial Institutions Act. The minimum capital requirement for a bank or credit institution is T\$2 million; annual licence fees are T\$3,000.

4.4.2.2 Other financial services

4.47. Tonga permits the establishment, including through direct branches, of foreign life and non-life insurance companies, insurance brokers and agencies, and insurance underwriting and management companies servicing the domestic market. There are no laws on insurance, and the insurance sector is not regulated by any authority. Tongans are permitted to purchase insurance policies abroad.

4.48. There are numerous insurance brokers in Tonga. Dominion Insurance (Tonga) Ltd. is a subsidiary of Dominion Insurance Ltd. based in Fiji. Since August 2007, Insurance Corporation of Tonga Ltd. is the exclusive agent of Dominion Insurance and responsible for the marketing of its products. ANZ acts as agent for National Pacific Insurance Ltd.⁴²

4.49. Authorized foreign exchange dealers are supervised and licensed by the Reserve Bank in accordance with the Foreign Exchange Control (Amendment) Regulations of 2000.⁴³ There were ten licenced foreign exchange dealers as of September 2013. Banks and "restricted" authorized foreign exchange dealers are permitted to approve current payments of up to T\$100,000 per transaction⁴⁴; current payments over T\$100,000 and all capital payments require prior approval from the Reserve Bank.⁴⁵ In 2010, the telecommunications company Digicel Tonga introduced mobile banking in collaboration with the Tonga Development Bank (Chapter 4.4.3). Digicel is registered by the Reserve Bank as an authorized foreign exchange dealer, restricting its financial services to inward remittances only.

4.50. Tonga's small domestic capital market comprises mainly government bonds, treasury notes, and Reserve Bank notes. About 70% of domestic debt is in the form of long-term government bonds. The current value of government bonds is T\$29.45 million (September 2013). Retirement funds are not regulated.

4.4.3 Telecommunication services

4.4.3.1 Market structure

4.51. The liberalization of Tonga's telecommunications market began in 2002, following the adoption of the Communications Act 2000 aimed at stimulating competition for telecom services (Section 4 of the Act). The Tonga Communications Corporation (TCC), a 100% state-owned enterprise (Table 3.7), provides network infrastructure and communications services, and has a de facto monopoly for fixed telephone services (Table 4.3).⁴⁶ The Tongan company TonFon entered the market in 2002, and started providing mobile telephone and internet services. In 2007, TonFon was acquired by Digicel Tonga Ltd. According to the authorities, the competition with the incumbent has resulted in a significant price decline for international mobile calling services, to about T\$0.10-0.45/minute (September 2013). Mobile penetration in Tonga is among the highest in the Pacific region and tariffs are among the lowest.⁴⁷

4.52. Internet services are provided by TCC's Kalianet, and Digicel Tonga Ltd. There are about 3,000 subscribers of internet services in Tonga (as of September 2013). WiFi services are available

⁴¹ Section 27 of the Financial Institutions Act.

⁴² ANZ online information, viewed at: <http://www.anz.com/tonga/en/personal/insurance/home-contents-insurance/>.

⁴³ Foreign Exchange Control (Amendment) Regulations. Viewed at: [http://legislation.to/Tonga/DATA/AMD/1988-103-01/ForeignExchangeControl\(Amendment\)Regulations2000.pdf](http://legislation.to/Tonga/DATA/AMD/1988-103-01/ForeignExchangeControl(Amendment)Regulations2000.pdf).

⁴⁴ Gifts and miscellaneous payments are limited to T\$10,000 per applicant and year; travel allowances are limited to T\$20,000 per application.

⁴⁵ Exchange Control Policy Guidelines for Banks and Authorised Restricted Foreign Exchange Dealers. Viewed at: <http://reservebank.to/docs/econtrol/EPOLICYGUIDELINES-Jan2010-amend.pdf>.

⁴⁶ TCC online information. Viewed at: <http://www.tcc.to/index.php/aboutus/>.

⁴⁷ World Bank (2011), p.28.

throughout Tonga. Until recently, Tonga relied on costly international satellite connections for internet services. To improve broadband internet connectivity and bring down internet costs for end-users, a submarine fibre-optic cable was laid between Fiji and Tonga, connecting Tonga to the Southern Cross Cable system that links the United States with Australia.⁴⁸ Tonga Cable Ltd, a state-owned enterprise established in 2010 and in which TCC holds a 20% stake, owns and operates the submarine cable. TCC is to offer wholesale high-speed internet access to the TCC, Digicel Tonga Ltd. and others. Currently, only TCC is connected to the submarine cable.

Table 4.3 Tonga's telecommunications market (September 2013)

Service	Penetration (% of population)	Market structure
Fixed-line telephone	13	TCC
Mobile telephone	70	TCC, Digicel Tonga Ltd. with a about 20,000 subscribers each
Internet (mobile)	<1	Digicel Tonga Ltd.
Internet (broadband)	3	TCC, Digicel Tonga Ltd.

Source: Information provided by the authorities.

4.53. In 2012, mobile payment services were introduced by Digicel Tonga Ltd. (Beep & Go) in collaboration with the Tonga Development Bank. These provide an alternative payment method for people without a bank account, credit card or smart phone.

4.4.3.2 Regulatory framework

4.54. Tonga has made commitments under the GATS to provide open telecom access across all subsectors and modes of supply, except mode four. Tonga has also undertaken to respect the principles of the WTO Reference Paper on basic telecommunications services.⁴⁹

4.55. Telecommunications policy and regulation are the responsibility of the Prime Minister who also heads the Ministry of Information and Communications established in May 2009. The legal framework for telecommunications services comprises the Communications Act 2000⁵⁰ and the Tonga Communications Corporation Act 2000. No telecoms regulations have been promulgated. A revision of the Communications Act is pending. The authorities are considering, amongst other matters, the establishment of an independent telecom regulator or multi-sectoral utilities regulator.

4.56. Under the 2000 Communications Act, domestic or international communication services, including television, radio, internet, and mobile phone services are subject to licensing. Licences are granted by the Department of Communications, subject to "standard" licence conditions (set out in the Schedule to the Act), and approval by Cabinet. Individual licences are held by TCC and Digicel; licence fees are 1.5% of gross turnover. Licence fees for class licences (TV, internet, FM radio) are T\$5,000 per year. A licence is granted for 5-10 years and may be renewed; it lapses after 12 months of non-use. Mobile virtual network operators are not permitted in Tonga for economic viability reasons of the carriers.

4.57. All proposed tariff changes for communication services require approval by the Ministry. Interconnection and roaming rates are not regulated. Interconnection agreements are to be negotiated between carriers in accordance with prevailing market conditions. In August 2008, the Government mandated an increase of termination rates for incoming fixed and mobile calls from US\$0.13/minute to US\$0.30/minute.⁵¹ The government-mandated termination rate was later cancelled.

⁴⁸ The Pacific Regional Connectivity Program (US\$34 million), partly financed with grants from the World Bank and the Asian Development Bank.

⁴⁹ WTO document WT/ACC/TON/17/Add.2, 2 December 2005.

⁵⁰ Communications Act 2000. Viewed at: <http://legislation.to/Tonga/DATA/PRIN/2000-022/CommunicationsAct2000.pdf>. Tonga adopted a Computer Crimes Act in 2003.

⁵¹ The USTR has reported that its carriers have rerouted their traffic to Tonga through third countries because negotiations with the two Tongan carriers on termination rates failed. See United States Trade Representative (2013).

4.58. Tonga does not have a formal universal service policy, as envisaged in Section 50 of the Communications Act. The TCC and Digicel are under universal service obligations, although Digicel does not have coverage for the Niuaus islands. According to the authorities, a universal service fund is to be established to help cover under-served areas.

4.4.4 Transport services

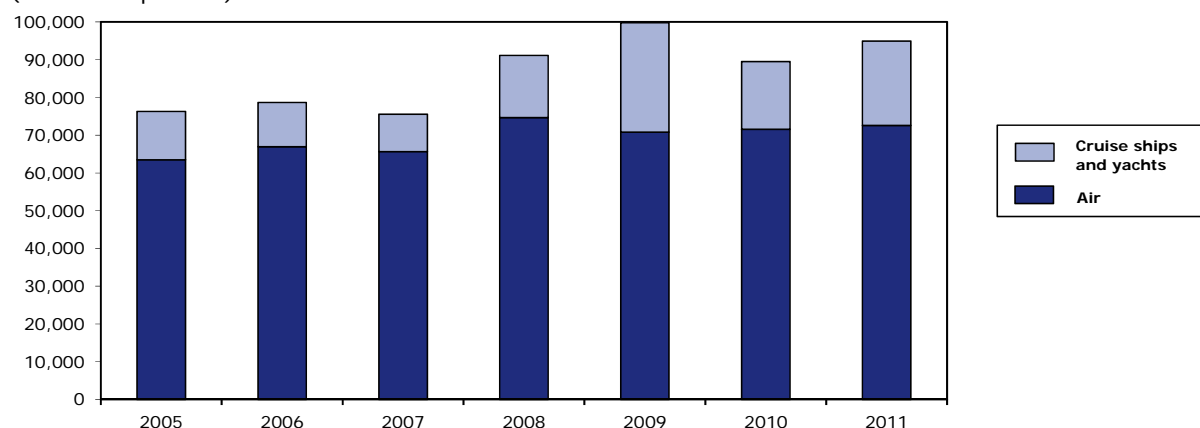
4.59. In view of the large distances from product and input markets, and the dispersion of the Tongan population across the islands, efficient transport is vital for the competitiveness of the Tongan economy. The importance of transport is further increased by its supporting role for tourism. Significant regulatory reforms and infrastructure projects have been launched since Tonga's accession to the WTO.⁵² In 2005, the World Bank concluded a review of Tonga's transport sector, which forms the platform for reforms aiming to improve the performance of road, maritime, and air transportation services (reflected in Tonga's eighth Strategic Development Plan).⁵³

4.4.4.1 Air transport

4.60. Tonga handles about 70,000 international and 50,000 domestic air passengers each year. The number of international air passengers has grown modestly in recent years (Chart 4.4). Commercial air cargo amounts to about 2,500 tonnes per year, comprising mainly agricultural and marine products.

Chart 4.4 International arrivals by mode of transport, 2005-11

(Number of persons)



Source: Tonga Statistics online information. Viewed at: <http://www.sps.int/prism/tonga>.

4.4.4.1.1 Air services

4.61. Tonga does not have a national carrier.⁵⁴ Regular international air services are provided to Fiji by Fiji Airways (four times weekly to Nadi and Suva), to Auckland by Air New Zealand (five times weekly), and to Sydney and Auckland by Virgin Australia (twice weekly). There are no air services on Sundays, as the Tongan airports are closed (Clause 6 of the Constitution). The domestic carrier Chatham Pacific of New Zealand ceased operations on 2 March 2013. Domestic services resumed in March 2013 with the entry of a new Tongan-owned airline (Real Tonga). Domestic and international air services are partly subsidized in the form of an exemption from excise taxes for fuels and lubricants. The "fuel concession" scheme is administered by the Ministry of Revenue and Customs (Table 4.2).

⁵² Tonga National Infrastructure Investment Plan, 2010. Viewed at AusAID online information: <http://www.aid.gov.au/Publications/Pages/tonga-national-infrastructure-investment-plan-2010.aspx>

⁵³ See World Bank (2005); and Strategic Development Plan Eight 2006/07—2008/09. Viewed at: <http://www.sprep.org/att/IRC/eCOPIES/Countries/Tonga/13.pdf>.

⁵⁴ The state-owned Royal Tongan Airlines went out of business in 2004.

4.62. The Government's primary policy objectives in the aviation sector (aside from safety and security) are to encourage competition and attract market entrants to Tonga. Tonga is a signatory to the Multilateral Agreement for the Liberalization of International Air Transportation (MALIAT), although it has not yet signed the MALIAT Protocol that extends the "open skies" provisions to unlimited 7th freedom rights and limited cabotage rights (domestic access) for international services continuing a service beyond the gateway. The Government's reluctance is motivated essentially by the need to protect the interests of its domestic carrier. Tonga is a member of the Pacific Islands Air Services Agreement (PIASA), which entered into force in October 2007 and aims to create a "single Pacific aviation market" involving the 3rd, 4th, and 5th freedoms of access.⁵⁵ Air services to/from Australia and Fiji are governed by bilateral air services agreements. In both agreements, capacity limitations are in place, although existing limits have not yet been reached. Tonga's latest air services agreement is an "open skies" agreement with Singapore concluded in March 2013. According to the authorities, a bilateral services agreement with China is close to conclusion.

Table 4.4 Tonga's international air services agreements

Partner	Air services agreement	Description
New Zealand	MALIAT	Open skies structure; Unlimited 3 rd , 4 th and 5 th freedom access for scheduled and non-scheduled services; 7 th freedom cargo rights; Multiple designation of airlines; No restrictions on aircraft type, capacity, and frequency; Incorporation and principal place of business, and effective control vested in the designating country or its nationals (no substantial ownership provisions); Compliance with safety and security regulations.
United States	MALIAT	As above.
Samoa (also Cook Islands, Vanuatu, Nauru and Niue)	PIASA	Single aviation market structure; Unlimited 3 rd , 4 th , 5 th and 6 th freedom access; Multiple designation; No restrictions on aircraft type, capacity, and frequency; Substantial ownership and effective control by one or more parties to the agreement and/or of their nationals; or place of residence and principal place of business in the designating country.
Australia	Bilateral	Limited to 1,200 seats each way; No restriction on aircraft type or frequency; Multiple designation; designation based on incorporation/principal place of business in the designating country; Commercially based tariffs; Specified destinations – any points in Australia, and Nuku'alofa; Australian carriers may operate beyond Tonga to any three points in Pacific Islands Forum countries; Intermediate stops allowed in Noumea and four points in Pacific Islands Forum countries; Own stop-over rights within the territory of each country.
Fiji	Bilateral	3 rd , 4 th freedom rights capped at 1,000 weekly seats each way; 5 th freedom rights for Fijian carriers to serve New Zealand via Tonga (Nuku'alofa or Vava'u); and for Tongan carriers to serve Australia via Fiji (Nadi or Suva); No restriction on aircraft type or frequency.
Singapore	Bilateral	3 rd , 4 th and 5 th freedom traffic rights for passenger services; 3 rd , 4 th , 5 th and 7 th freedom cargo traffic rights; No restrictions on aircraft type, capacity, and frequency.

Note: MALIAT – Multilateral Agreement for the Liberalization of International Air Transportation
PIASA – Pacific Islands Air Services Agreement.

Source: Information provided by the authorities.

⁵⁵ Pacific Island Forum Secretariat online information. Viewed at: <http://www.forumsec.org.fj/resources/uploads/attachments/documents/PIASA%20text%2010%20signatures.pdf>.

4.63. The sector is regulated by the Civil Aviation Division of the Ministry of Infrastructure. The Division's responsibilities include development of air transport policy; negotiation of air services agreements (in collaboration with the Ministry of Foreign Affairs); licensing (including of airlines, aircraft, personnel, and aircraft maintenance)⁵⁶, and oversight of the airport operator. The main legislation is the Civil Aviation Act 1990 and its subsidiary regulations.⁵⁷ According to the authorities, a new aviation bill is being drafted, using New Zealand legislation as a model; policies, and revised regulations and procedures are to follow. In the meantime, the Civil Aviation Division has been authorized by government order to apply New Zealand aviation rules, if necessary. Air fares are not regulated. The Pacific Aviation Safety Office (PASO) conducts the air services certification (pilots, engineers, and aircraft) on behalf of the Government, and carries out the main (user-paid) audits.

4.4.4.1.2 Airport management and ground-handling services

4.64. Under the regulatory oversight of the Civil Aviation Division, the Tonga Airports Ltd. operator manages Tonga's six airports and provides air navigation services (Section V of the Civil Aviation Act).⁵⁸ The regulatory functions were separated from airport operation with the establishment (corporatization) of Tonga Airports Ltd. in 2007 (Table 3.7). The airport operator is required to comply with the standards and regulations of the Civil Aviation Act 1990, New Zealand civil aviation legislation, and International Civil Aviation Organization (ICAO) guidelines. In 2011, the airport operator issued revised aeronautical charges and conditions of use.⁵⁹ Changes of aeronautical charges require government approval. A number of airport infrastructure projects (US\$26.2 million) are under way, including resurfacing of the runway at Fua'amotou International Airport, which would allow larger aircraft to land in Tonga; improvements of security and safety (navigational aids); and upgrading of terminal buildings.⁶⁰

4.65. Tonga has made "full commitments" under the GATS for three air transport service sub-sectors (maintenance and repair of aircraft, computer reservation systems, and supporting services for air transport). In addition, Tonga has made "full commitments"⁶¹ for services auxiliary to all modes of transport (cargo handling, storage and warehousing, freight transport agency services, and other) but these commitments exclude maritime services.⁶²

4.66. Ground-handling services are provided, under concession, by Air Terminal Services, a private company (formerly owned by Air New Zealand). The airport duty-free shop (Leola) was privatized and operates on a lease from Tonga Airports Ltd. The concession for refueling services is held by Pacific Energy Ltd.

4.4.4.2 Maritime transport

4.67. Most of Tonga's maritime traffic is from Auckland and is handled by the port at Nuku'alofa. The traffic flow is very unbalanced, as about 200,000 tonnes of (non-containerized) cargo are imported and only about 20,000 tonnes are loaded/exported per year (Table A4.3). A number of shipping companies have consolidated their shipments in recent years, resulting in few ships calling at Nuku'alofa, but the tonnage has remained more or less stable. Annual container throughput is in the range of 10,000-12,000 TEU.

4.68. Tonga made no market-access commitments with respect to maritime transport services, an exception to its generally open services regime under the GATS.⁶³ On the other hand, Tonga has undertaken to ensure non-discriminatory access to a range of port services.

⁵⁶ Licensing fees were last amended in 2012 under the Civil Aviation Licensing Charges Amendment Regulations 2012.

⁵⁷ Civil Aviation Act 1990. Viewed at: <http://legislation.to/Tonga/DATA/PRIN/1990-017/CivilAviationAct1990.pdf>.

⁵⁸ Fua'amotou International Airport in Tongatapu; Vava'u; Ha'apai; Eu'a, and the two Niua.

⁵⁹ Tonga Airport Ltd. online information. Viewed at: <http://www.tongairports.com/about/aeronautical-charges-and-conditions-of-use/>.

⁶⁰ These investments are within the framework of the regional Pacific Aviation Investment Program with grants from the World Bank.

⁶¹ See definition in Chart 4.3.

⁶² WTO document WT/ACC/TON/17/Add.2, 2 December 2005.

⁶³ WTO document WT/ACC/TON/17/Add.2, 2 December 2005.

4.4.4.2.1 Shipping services

4.69. The Marine & Ports Division of the Ministry of Infrastructure is responsible, *inter alia*, for the management of the ports (apart from the port of Nuku'alofa); ship registration; enforcement of relevant conventions of the International Maritime Organization (IMO); supervision of the activities of Tongan ships operating overseas; issuing certificates for ships and seafarers; and pilotage for ships outside Nuku'alofa. The main piece of legislation on maritime shipping services is the Shipping Act 1988, as amended.⁶⁴ According to the authorities, Tonga generally applies the regional (SPC⁶⁵) standards for domestic shipping and smaller vessels, and IMO standards for larger vessels and vessels operating outside the EEZ.

4.70. To fly the Tongan flag, ships (15 meters or longer, and unless exempted) must be recorded in the National Registry of Ships administered by the Marine & Ports Division (Section 7 of the Shipping Act and Shipping Registration Regulations 2002).⁶⁶ Under the current Shipping Act, vessels must be 100% crewed with Tongans, but these levels are being reviewed due to lack of domestic capacity. Tonga's International Registry of Ships was closed in 2004.

4.71. International cargo liner services are provided by the shipping agents Dateline Shipping, Pacific Forum Line Ltd., TRANZAM, Matson Shipping, and a domestically registered shipping agent (JAWS) for cargo trade between New Zealand, Samoa, and Tokelau. Domestic shipping services for passengers and cargo are provided by the state-owned Friendly Island Shipping Agency Ltd. (FISA), Pacific Tonga Trading, South Seas Shipping (cargo only), Eua Sea Transport Council, and Tofa Ramsay. Foreign shipping companies are permitted to offer domestic services (cabotage), provided they engage a Tongan agent or an agent based in Tonga. Fuel and lubricants for use in domestic shipping services are exempt from excise taxes (Table 4.3).

4.4.4.2.2 Port management and port services

4.72. Tonga's main port at Nuku'alofa and its assets are owned, operated, and managed by the Ports Authority Tonga Ltd. established in 1999 as a statutory body under the Ports Authority Act 1998. The port of Nuku'alofa comprises the Queen Salote Wharf (four berths for container handling, inter-island roll-on-roll-off, general cargo), the cruise ship terminal at the Vuna Wharf, and the Yellow Pier. The Vuna Wharf, the largest port infrastructure project in recent years, opened in 2012, and is to be leased to the Port Authority.⁶⁷ The smaller ports are managed by the Marine & Ports Division.

4.73. The Ports Authority is required by law to operate on commercial principles (Section 12 of the Ports Authority Act)⁶⁸; according to the authorities, it does not receive subsidies from the Government. Services provided by the Ports Authority include berthing, towing, mooring; loading and unloading vessels; embarking and disembarking passengers; pilotage; maintenance of marine navigation aids; and supply of fuel, water and telephone services.⁶⁹ Tonga has made commitments under the GATS to provide non-discriminatory access to certain port services, excluding berthing.⁷⁰ The port fees and charges applied by the Port Authority were last revised in 2007 (Ports Authority Tariff Fees Standing Order 2007).⁷¹ According to the authorities, the tariffs and fees are charged independent of the vessel's flag. Pilotage is compulsory for foreign vessels exceeding a certain length or tonnage.⁷² There are no ship repair services in Tonga.

⁶⁴ Shipping Act 1988. Viewed at: <http://legislation.to/Tonga/DATA/PRIN/1988-136/ShippingAct.pdf>.

⁶⁵ Secretariat of the South Pacific Community.

⁶⁶ Most registered ships are fishing vessels, which must also be registered with the Fisheries Department.

⁶⁷ The project has been financed with a T\$32 million loan from the EXIM Bank of China.

⁶⁸ Ports Authority Act 1998. Viewed at: <http://legislation.to/Tonga/DATA/PRIN/1998-008/PortsAuthorityAct1998.pdf>.

⁶⁹ Ports Authority Tonga online information. Viewed at: <http://www.portsauthoritytonga.com/>.

⁷⁰ Towing and tug assistance; provisioning, fuelling and watering; garbage collecting and ballast waste disposal; emergency repair services; lightering and water taxi services; ship agencies; customs brokers; stevedoring and terminal services; and surveying and classification services (WTO document WT/ACC/TON/17/Add.2, 2 December 2005).

⁷¹ Two amendments to the 2007 Standing Order were made in 2008 and 2009. See Ports Authority Tonga online information. Viewed at: <http://www.portsauthoritytonga.com/>.

⁷² See Section 29 of the Ports Management Act 2001. The Port Authority has one pilot boat.

4.4.5 Professional services

4.74. Legal services are governed by the Law Practitioners Act 1989. The Act requires any legal practitioner to be included in the Roll of Law Practitioners held by the Supreme Court, to possess a practising certificate, and be a member of the Tonga Law Society. Membership in the Tonga Law Society requires documented professional knowledge and experience in a common law jurisdiction, a minimum of three character references, and an expressed intent to practice law in Tonga. Residence in Tonga is not required. Foreign lawyers are subject to the same rules as domestic legal practitioners, according to the authorities. Foreign law firms and lawyers are allowed to provide consultations on Tongan legislation.

4.75. Providers of accounting services require a business licence; approval from the Tonga Society of Accountants is not needed. No specific requirements apply to practice engineering or architectural services in Tonga, except a business licence. Licences are issued upon presentation of a certificate from recognized university, irrespective of the country, and a reference document from the former employer in the same business activity (optional).

4.4.6 Tourism

4.76. The hotel and restaurant sector contributes about 3% to GDP (Table A1.1).⁷³ Most of the 90,000-100,000 annual arrivals in Tonga are visiting relatives and friends; the number of genuine tourists is thought to be small.⁷⁴ The main attractions include water sports, fishing, whale watching and whale swimming, and cultural tourism. Visitors come mainly from New Zealand, Australia, and the United States.⁷⁵ Tonga's market share of visitor arrivals in the Pacific region declined from about 7.5% in 2000 to about 5% in 2010.⁷⁶ Tonga is a high-cost destination, and the Sunday Observance Act also poses constraints to the tourism sector due to limitations on Sunday trading and associated travel restrictions. The Government expects the new cruise ship terminal at the port of Nuku'alofa (opened in 2012) to enhance Tonga's attractiveness as a tourist destination.

4.77. Tonga has made specific commitments under the GATS in two out of four tourism subsectors (i.e. tourism and travel-related services, covering hotels and restaurants, including catering; and travel agencies and tour operator services).⁷⁷ Mode three (commercial presence) with respect to hotels and restaurants, including catering, is unbound for investments below T\$ 200,000. Otherwise, there are no limitations on market access or national treatment in both scheduled subsectors. However, measures concerning the presence of natural persons (mode four) are unbound, except for services sales persons and intra-corporate transferees (Chapter 4.4.1).

4.78. The Ministry of Commerce, Tourism and Labour is responsible for formulating and implementing tourism policies. A Tonga Tourism Roadmap is being developed under the auspices of the Ministry.⁷⁸ The Tonga Tourism Authority, established under the Tonga Tourism Authority Act 2012, is responsible for designing and implementing of marketing strategies to promote Tonga as a tourist destination.⁷⁹

4.79. Hotels, restaurants and other tourist establishments require a business licence from Ministry of Commerce, Tourism and Labour. According to the authorities, foreign investors wishing to operate a tourism venture no longer need to have a local partner that owns at least 51% of the business.

⁷³ There is a lack of up-to-date tourism data. This is being addressed by the MCTL in collaboration with the IFC.

⁷⁴ Tonga Statistics Department (2012), p. 8.

⁷⁵ Tonga Statistics Department (2012).

⁷⁶ National Reserve Bank of Tonga online information. Viewed at: <http://www.reservebank.to/EconomicDialogue.htm>.

⁷⁷ WTO document WT/ACC/TON/17/Add.2, 2 December 2005. No commitments were made with respect to tourism and travel-related services for tourist guide services; and "other" services.

⁷⁸ Tonga Tourism Sector Road Map. Viewed at: <http://www.mic.gov.to/ministrydepartment/14-govt-ministries/mctl/4353-the-tonga-tourism-sector-road-map->

⁷⁹ Tonga Tourism Authority Act 2012. Viewed at: http://crownlaw.gov.to/cms/images/LEGISLATION/PRINCIPAL/2012/20120025/TongaTourismAuthorityAct2012_1.pdf. The Tourist Act 1976 was repealed.

4.80. Whale watching has developed into an important tourist attraction in Tonga since its beginnings in the early 1990s. Whale Watching and Swimming Regulations entered into force in May 2013. To operate in Tongan waters, all whale-watching companies, including foreign-based operators, require a licence issued by the Ministry of Commerce, Tourism and Labour.⁸⁰ Licence fees are T\$3,000 for whale watching, and T\$3,450 for whale watching and swimming operations. As of September 2013, there were 25 licensed whale-watching operators.

⁸⁰ Ministry of Commerce, Tourism and Labour online information. Whale Watching and Swimming Regulations 2013. Viewed at: <http://www.mctl.gov.to/wp-content/uploads/2013/07/WhaleWatchingandSwimmingRegulations2013English-2.pdf>.

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5 APPENDIX TABLES

Table A1. 1 Selected economic indicators, 2006-12

	2006/07	2007/08	2008/09	2009/10	2010/11	2011/12
Output and prices						
Real GDP annual growth (%)	-4.5	1.9	3.2	3.3	2.9	0.8
GDP per capita at current market prices (US\$)	2,864.7	3,298.4	3,067.0	3,586.4	4,101.5	4,556.9
Current GDP (T\$ million)	602.8	659.3	664.3	712.2	775.0	799.3
Current GDP (US\$ million)	292.3	337.3	314.4	368.6	422.6	470.7
of which (%):						
Agriculture and forestry	14.0	12.6	13.2	13.7	14.5	14.1
Fishing	2.7	2.2	2.1	2.7	2.5	2.6
Mining and quarrying	0.3	0.3	0.4	0.8	0.8	1.0
Manufacturing	7.1	6.7	6.5	6.1	5.9	5.6
Electricity and water supply	2.4	2.5	2.7	2.4	2.6	2.8
Construction	6.0	6.0	7.0	8.7	9.7	9.3
Services	54.2	55.1	57.3	55.6	53.8	53.4
Trade	8.6	9.9	10.7	9.7	10.1	10.1
Hotels and restaurants	2.4	2.4	2.5	2.5	3.0	2.9
Transport and communication	5.5	5.7	6.7	6.9	6.2	6.2
Financial intermediation	7.3	7.5	6.3	5.8	5.8	5.6
Real estate and business	1.7	1.7	1.8	1.8	1.9	1.8
Public administration	11.9	11.7	12.2	12.5	11.8	11.8
Other services	18.5	17.9	19.0	18.2	17.0	16.9
Other ^a	13.4	14.5	10.7	10.0	10.1	11.1
Inflation (CPI, %age change, annual average) ^b	5.8	10.4	1.4	3.5	6.3	1.2
Base lending rate (% , end-period)	9.38	10.00	10.00	9.58	9.58	..
Saving deposit rate (% , end-period)	3.20	3.20	2.06	1.52	3.39	..
Government finances (% of GDP)						
Overall balance	3.9	0.9	1.3	-2.7	-7.6	-7.1
External sector (T\$, unless otherwise indicated)						
Current account	-65.7	-59.2	-101.0	-156.2	-160.5	-175.2
Net merchandise trade	-220.6	-265.9	-285.9	-298.4	-347.7	-317.3
Merchandise exports	25.9	26.5	17.9	20.2	24.9	27.4
annual %age change	20.9	2.1	-32.3	12.8	23.0	10.2
Merchandise imports	246.6	292.3	303.8	318.6	372.6	344.7
annual %age change	4.4	18.6	3.9	4.9	16.9	-7.5
Service balance	-41.2	-0.7	-8.9	-21.2	16.1	-11.9
Services exports	47.1	78.0	76.7	67.5	110.9	117.1
annual %age change	-26.4	65.5	-1.7	-11.9	64.3	5.6
Services imports	88.3	78.7	85.6	88.7	94.8	129.0
annual %age change	30.1	-10.9	8.8	3.6	6.9	36.1
Remittances ^c	138.0	162.2	142.4	119.9	114.0	82.1
Capital account	57.5	25.3	114.1	100.7	167.5	113.3
Financial account	-21.6	-53.5	-2.0	-13.0	-35.7	-18.2
Foreign direct investment inflows	30.9	9.6	21.6	7.1	25.7	18.4

	2006/07	2007/08	2008/09	2009/10	2010/11	2011/12
Memorandum items:						
T\$/US\$ (annual average)	2.063	1.954	2.113	1.932	1.834	1.698
Population ('000)	102.0	102.3	102.5	102.8	103.0	103.3

.. Not available.

a "Other" includes taxes on products, less subsidies on products and imputed bank service charges.

b Numbers refer to calendar year. 2006/07 refers to 2007 and so on.

c Data are subject to review.

Note: Tonga's fiscal year is 1 July-30 June.

Source: Tonga Department of Statistics online information. Viewed at: <http://www.spc.int/prism/tonga/> [11/06/2013]; and Asian Development Bank online information. Viewed at: <http://www.adb.org/sites/default/files/ki/2013/pdf/TON.pdf>.

Table A1. 2 Major exports and imports by HS 2-digit, 2006-12

(US\$ million and %)

HS Chapter	2006	2007	2008	2009	2010	2011	2012
Total exports (US\$ million)	9.6	8.0	9.3	7.8	8.3	14.4	15.6
	(% of total)						
03 Fish, crustaceans, molluscs, aquatic invertebrates	39.8	35.6	26.1	54.4	63.5	32.6	29.9
07 Edible vegetables and certain roots and tubers	36.0	39.1	28.3	17.4	10.2	17.9	21.4
12 Oil seed, oleagic fruits, grain, seed, fruit, etc., ne	11.4	10.7	6.5	5.6	7.1	27.8	12.6
49 Printed books, newspapers, pictures etc.	0.0	0.0	0.0	3.4	0.1	5.6	7.3
84 Nuclear reactors, boilers, machinery, etc.	0.1	0.0	0.3	0.1	0.0	0.2	7.1
08 Edible fruit, nuts, peel of citrus fruit, melons	1.1	2.9	4.7	4.5	5.7	4.5	5.3
90 Optical, photo, technical, medical, etc. apparatus	0.0	0.0	0.0	0.0	0.0	0.0	2.6
72 Iron and steel	0.0	0.0	18.1	1.8	1.0	1.5	2.3
87 Vehicles other than railway, tramway	0.0	0.0	0.3	1.3	0.0	0.0	2.3
24 Tobacco and manufactured tobacco substitutes	0.0	0.3	0.5	1.2	0.7	0.4	1.6
32 Tanning, dyeing extracts, tannins, etc.	2.9	4.7	4.7	3.2	4.4	2.0	1.4
85 Electrical, electronic equipment	0.0	0.0	1.1	0.0	0.0	0.0	1.3
46 Manufactures of plaiting material, basketwork, etc.	2.0	2.6	0.9	1.0	2.6	1.9	1.2
89 Ships, boats and floating structures	0.0	0.0	0.0	0.0	0.0	0.0	0.6
05 Products of animal origin, nes	0.0	0.0	3.8	1.5	1.4	0.4	0.6
97 Works of art, collectors' pieces and antiques	0.0	0.0	0.0	0.0	0.0	0.0	0.4
82 Tools, implements, cutlery, of base metal	0.0	0.0	0.1	0.0	0.0	0.0	0.3
09 Coffee, tea, mate and spices	0.0	1.7	0.2	2.7	1.4	2.2	0.2
92 Musical instruments, parts and accessories	0.0	0.0	0.1	0.0	0.0	0.0	0.2
Total imports (US\$ million)	116.5	142.6	165.9	144.6	158.8	192.9	199.2
	(% of total)						
27 Mineral fuels, oils, distillation products, etc.	26.0	24.9	26.1	20.5	22.9	24.0	23.8
02 Meat and edible meat offal	8.8	8.4	8.7	11.8	9.1	9.1	10.0
84 Nuclear reactors, boilers, machinery, etc.	4.0	5.0	5.4	5.2	6.5	6.0	7.8
85 Electrical, electronic equipment	5.1	5.8	8.2	6.6	8.9	5.3	6.1
87 Vehicles other than railway, tramway	3.5	4.4	4.3	6.8	4.2	4.4	5.2
19 Cereal, flour, starch, milk preparations and products	2.4	2.8	2.6	2.8	2.6	3.5	3.0
16 Meat, fish and seafood food preparations nes	2.8	3.3	2.9	2.9	3.0	2.9	2.8
94 Furniture, lighting, signs, prefabricated buildings	1.7	1.6	1.4	0.9	1.6	1.3	2.6
22 Beverages, spirits and vinegar	3.5	3.5	3.3	3.6	2.8	2.6	2.5
73 Articles of iron or steel	1.9	1.8	2.0	1.9	2.6	3.7	2.5
44 Wood and articles of wood, wood charcoal	3.4	3.1	2.8	2.2	3.6	2.6	2.4
04 Dairy products, eggs, honey, edible animal products nes	2.1	2.1	1.6	2.4	2.0	2.7	2.3
48 Paper & paperboard, articles of pulp, paper and board	3.0	2.2	2.2	2.4	2.2	2.2	2.1
39 Plastics and articles thereof	1.6	1.5	1.5	1.3	1.7	1.7	2.1
11 Milling products, malt, starches, inulin, wheat gluten	2.0	1.8	2.1	2.2	2.2	2.1	2.0
49 Printed books, newspapers, pictures etc.	0.7	0.9	0.9	1.3	0.9	1.3	1.6
21 Miscellaneous edible preparations	1.2	1.2	1.0	1.2	1.0	1.0	1.3
17 Sugars and sugar confectionery	1.3	1.2	0.9	1.5	1.8	1.7	1.2
25 Salt, sulphur, earth, stone, plaster, lime and cement	1.5	1.4	1.1	1.2	1.2	1.7	1.1
90 Optical, photo, technical, medical, etc. apparatus	0.3	0.4	0.3	0.7	0.7	1.9	1.0
30 Pharmaceutical products	0.3	0.4	0.8	1.2	1.1	1.0	1.0
61 Articles of apparel, accessories, knit or crochet	0.5	0.5	0.8	0.8	1.0	0.9	0.9
68 Stone, plaster, cement, asbestos, etc.	0.4	0.3	0.2	0.2	0.2	0.2	0.8
24 Tobacco and manufactured tobacco substitutes	1.2	1.7	2.4	2.0	1.7	1.0	0.8
72 Iron and steel	0.8	0.9	0.7	0.8	2.1	1.8	0.7
38 Miscellaneous chemical products	0.7	0.6	0.6	0.8	0.5	0.7	0.7
33 Essential oils, perfumes, cosmetics, toiletries	0.6	0.5	0.6	0.6	0.7	0.7	0.7
32 Tanning, dyeing extracts, tannins, paints, etc.	0.7	0.8	0.7	0.7	0.7	0.8	0.7
76 Aluminium and articles thereof	1.2	1.4	0.8	0.8	0.9	0.8	0.6
20 Vegetable, fruit, nut, etc. food preparations	1.3	1.1	0.7	0.6	0.6	0.6	0.6

HS Chapter		2006	2007	2008	2009	2010	2011	2012
34	Soaps, lubricants, waxes, candles, modelling pastes	0.6	0.7	0.5	0.6	0.6	0.6	0.5
83	Miscellaneous articles of base metal	0.3	0.3	0.5	0.2	0.4	0.4	0.5
15	Animal, vegetable fats and oils, cleavage products	0.5	0.5	0.5	0.6	0.5	0.5	0.5
64	Footwear, gaiters and the like, parts thereof	0.3	0.4	0.3	0.3	0.5	0.5	0.5
40	Rubber and articles thereof	0.3	0.4	0.3	0.4	0.3	0.5	0.5

Source: UNSD, Comtrade database.

Table A3. 1 Tonga's tariff summary, 2013

	Number of lines	Average (%)	Range (%)	Standard deviation	Duty free (%)
Total	5,286	11.5	0-20	6.6	15.0
By WTO category					
WTO agricultural products	712	10.7	0-20	7.5	31.0
Animals and products thereof	93	1.9	0-20	5.3	88.2
Dairy products	20	12.0	0-15	6.0	20.0
Fruit, vegetables, and plants	200	15.0	0-20	5.7	11.0
Coffee and tea	24	16.0	15-20	2.0	0.0
Cereals and preparations	80	13.8	0-20	4.3	8.8
Oils seeds, fats, oil and their products	73	10.6	0-20	5.3	16.4
Sugars and confectionary	16	11.9	0-20	7.0	25.0
Beverages, spirits and tobacco	69	3.8	0-15	6.4	73.9
Cotton	5	15.0	15-15	0.0	0.0
Other agricultural products, n.e.s.	132	10.9	0-20	7.2	29.5
WTO non-agricultural products	4,574	11.7	0-20	6.5	12.5
Fish and fishery products	136	10.6	0-20	7.4	5.1
Minerals and metals	957	12.9	0-20	5.9	14.9
Chemicals and photographic supplies	865	13.2	0-15	4.9	11.9
Wood, pulp, paper and furniture	270	12.3	0-20	6.3	19.6
Textiles	598	14.6	0-20	2.9	3.5
Clothing	219	15.0	15-15	0.0	0.0
Leather, rubber, footwear and travel goods	166	14.0	0-20	7.1	18.7
Non-electric machinery	535	4.2	0-20	4.2	6.2
Electric machinery	253	9.1	0-20	6.7	11.9
Transport equipment	157	7.4	0-20	7.9	26.8
Non-agricultural products, n.e.s.	392	12.2	0-20	8.3	21.4
Petroleum	26	0.8	0-20	3.8	96.2
By ISIC sector					
ISIC 1 - Agriculture, hunting and fishing	304	11.3	0-20	7.3	24.7
ISIC 2 - Mining	97	12.4	0-20	6.2	19.6
ISIC 3 - Manufacturing	4,884	11.5	0-20	6.6	14.3
Manufacturing excluding food processing	4,375	11.7	0-20	6.4	12.4
Electrical energy	1	15.0	15-15	0.0	0.0
By stage of processing					
First stage of processing	633	11.8	0-20	6.7	18.5
Semi-processed products	1,722	14.1	0-20	4.0	7.0
Fully processed products	2,931	10.1	0-20	7.3	19.0
By HS section					
01 Live animals and products	239	7.9	0-20	7.7	34.7
02 Vegetable products	275	13.9	0-20	6.2	14.9
03 Fats and oils	45	11.2	15-20	3.5	4.4
04 Prepared food, beverages and tobacco	221	8.8	0-20	7.8	41.6
05 Mineral products	169	10.1	0-20	7.4	34.3
06 Chemicals and products thereof	800	12.9	0-20	5.3	14.3
07 Plastics, rubber, and articles thereof	221	14.3	0-20	4.5	8.1

	Number of lines	Average (%)	Range (%)	Standard deviation	Duty free (%)
08 Raw hides and skins, leather, and products thereof	69	8.6	0-20	9.4	53.6
09 Wood and articles of wood	100	11.1	0-15	6.6	26.0
10 Pulp of wood, paper and paperboard	154	12.4	0-15	5.7	17.5
11 Textiles and clothing	810	14.6	0-15	2.3	2.3
12 Footwear, headgear, etc.	49	19.2	15-20	1.8	0.0
13 Articles of stone, plaster, cement	152	14.0	0-20	4.0	7.2
14 Precious stones and metals, pearls, articles thereof	53	19.2	0-20	3.8	3.8
15 Base metals and articles thereof	605	12.8	0-20	5.4	12.2
16 Machinery, electrical equipment, etc.	792	5.6	0-20	5.6	9.3
17 Transport equipment	168	7.5	0-20	7.8	25.6
18 Precision equipment	217	11.3	0-20	8.6	22.1
19 Arms and ammunition	20	20.0	20-20	0.0	0.0
20 Miscellaneous manufactured articles	120	15.0	0-20	6.9	14.2
21 Works of art, etc.	7	0.0	0-0	0.0	100.0

Note: Calculations for averages are based on national tariff line level (8-digit). The 2013 tariff schedule includes changes up to 13 August 2013.

Source: WTO Secretariat calculations, based on data provided by the authorities of Tonga; and Tonga's Revenue Services and Customs website. Viewed at: <http://www.revenue.gov.to>.

Table A3. 2 Goods subject to excise tax in Tonga (as per August 2013)

HS Code	Product description	Calculation unit	Tax rate (T\$)
15	Animal or vegetable fats and oils and their cleavage products; prepared edible fats; animal or vegetable waxes		
1501.00.00	Pig fat (including lard) and poultry fat, other than that of heading 02.09 or 15.03	Kg	1.00
1502.00.00	Fats of bovine animals, sheep or goats, other than those of heading 15.03	Kg	1.00
22	Beverages, spirits and vinegar		
22.02	Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured, and other non-alcoholic beverages, not including fruit or vegetable juices of heading 20.09 - Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured		
2202.10.10	-- containing added sugar	Litre	0.50
2202.10.20	-- containing other sweetening matter	Litre	0.50
2202.90.00	- Other	Litre	0.50
22.03	Beer made from malt		
2203.00.10	--- Beer imported, not more than 3% alcohol by volume	Litre alcohol by vol.	50.00
2203.00.20	--- Beer imported, more than 3% and not more than 5% volume by alcohol	Litre alcohol by vol.	50.00
2203.00.30	--- Beer imported, more than 5% alcohol by volume	Litre alcohol by vol.	50.00
2203.00.40	Beer domestic	Litre alcohol by vol.	10.00
2203.00.90	--- Other	Litre alcohol by vol.	50.00
2204	Wine of fresh grapes, including fortified wines; grape must other than that of heading 20.09.		
2204.10.00	- Sparkling wine	Litre alcohol by vol.	42.00
	- Other wine; grape must with fermentation prevented or arrested by the addition of alcohol:		
2204.21.00	-- In containers holding 2 litres or less	Litre alcohol by vol.	42.00
2204.29.00	-- Other	Litre alcohol by vol.	42.00
2204.30.00	- Other grape must	Litre alcohol by vol.	42.00
22.05	Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances		
2205.10.00	- In containers holding 2 litres or less	Litre alcohol by vol.	42.00
2205.90.00	- Other	Litre alcohol by vol.	42.00
22.06	Other fermented beverages (for example, cider, sherry, mead); mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages, not elsewhere specified or included.	Litre alcohol by vol.	42.00
22.08	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80% vol; spirits, liqueurs and other spirituous beverages.		
	- Spirits obtained by distilling grape wine or grape marc		
2208.20.10	--- Mixed drinks, not exceeding 10% by volume of alcohol	Litre alcohol by vol.	42.00
2208.20.80	Locally manufactured	Litre alcohol by vol.	21.00
2208.20.90	--- Other	Litre alcohol by vol.	42.00
	- Whiskies		
2208.30.10	--- Mixed drinks, not exceeding 10% by volume of alcohol	Litre alcohol by vol.	42.00
2208.30.80	Locally manufactured	Litre alcohol by vol.	21.00
2208.30.90	--- Other	Litre alcohol by vol.	42.00
	-Rum and tafia		
2208.40.10	--- Mixed drinks, not exceeding 10% by volume of alcohol	Litre alcohol by vol.	42.00
2208.40.80	Locally manufactured	Litre alcohol by vol.	21.00
2208.40.90	--- Other	Litre alcohol by vol.	42.00
	- Gin and Geneva		
2208.50.10	--- Mixed drinks, not exceeding 10% by volume of alcohol	Litre alcohol by vol.	42.00

HS Code	Product description	Calculation unit	Tax rate (T\$)
2208.50.80	Locally manufactured	Litre alcohol by vol.	21.00
2208.50.90	--- Other	Litre alcohol by vol.	42.00
	- Vodka		
2208.60.10	--- Mixed drinks, not exceeding 10% by volume of alcohol	Litre alcohol by vol.	42.00
2208.60.80	Locally manufactured	Litre alcohol by vol.	21.00
2208.60.90	--- Other	Litre alcohol by vol.	42.00
	- Liqueurs and cordials		
2208.70.10	--- Mixed drinks, not exceeding 10% by volume of alcohol	Litre alcohol by vol.	42.00
2208.70.80	Locally manufactured	Litre alcohol by vol.	21.00
2208.70.90	--- Other	Litre alcohol by vol.	42.00
	- Other		
2208.90.10	--- Mixed drinks, not exceeding 10% by volume of alcohol	Litre alcohol by vol.	42.00
2208.90.80	Locally manufactured	Litre alcohol by vol.	21.00
2208.90.90	--- Other	Litre alcohol by vol.	42.00
24	Tobacco and manufactured tobacco substitutes		
24.02	Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes.		
	- Cigars, cheroots and cigarillos, containing tobacco		
2402.10.00	Imported cigars, cheroots and cigarillos, containing tobacco	1,000 cigarettes	250.00
2402.10.10	Locally manufactured cigars, cheroots and cigarillos, containing tobacco	1,000 cigarettes	238.00
	- Cigarettes containing tobacco		
2402.20.00	Imported cigarettes containing tobacco	1,000 cigarettes	250.00
2402.20.10	Locally manufactured cigarettes containing tobacco	1,000 cigarettes	238.00
	- Other		
2402.90.00	Imported	1,000 cigarettes	250.00
2402.90.10	Locally manufactured	1,000 cigarettes	238.00
24.03	Other manufactured tobacco and manufactured tobacco substitutes; "homogenised" or "reconstituted" tobacco; tobacco extracts and essences		
2403.10.00	- Smoking tobacco, whether or not containing tobacco substitutes in any proportion	Kg	250.00
	- Other		
2403.91.00	- "Homogenized" or "reconstituted" tobacco	Kg	250.00
2403.99.00	-- Other	Kg	250.00
27	Mineral fuels, mineral oils and products of their distillation; bituminous substances; mineral waxes		
27.10	- Petroleum oils and oils obtained from bituminous minerals (other than crude) and preparations not elsewhere specified or included, containing by weight 70% or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations; waste oils:		
	-- Light oils and preparations		
	--- Gasoline and other motor spirit		
2710.11.11	---- For use as a fuel in aircraft	Litre	0.50
2710.11.19	---- Other	Litre	0.50
2710.11.90	--- Other light oils and preparations	Litre	0.50
	-- Other		
2710.19.10	--- Jet fuel and kerosene for use as fuel in aircraft	Litre	0.50
2710.19.20	--- Other kerosene and other white spirit	Litre	Free
2710.19.30	--- Distillate fuels	Litre	0.50
2710.19.40	--- Residual fuel oils	Litre	0.50
2710.19.50	--- Unleaded petrol	Litre	0.50

HS Code	Product description	Calculation unit	Tax rate (T\$)
2710.19.90	--- Other	Litre	0.50
	- Waste oils:		
	-- Containing polychlorinated biphenyls (PCBs), polychlorinated terphenyls (PCTs) or polybrominated biphenyls (PBBs)		
	--- Gasoline and other motor spirit		
2710.91.11	---- For use as a fuel in aircraft	Litre	0.50
2710.91.19	---- Other	Litre	0.50
2710.91.20	--- Jet fuel and kerosene for use as a fuel in aircraft	Litre	0.50
2710.91.40	--- Distillate fuels	Litre	0.50
2710.91.50	--- Residual fuel oils	Litre	0.50
2710.91.60	--- Unleaded petrol	Litre	0.50
2710.91.90	--- Other	Litre	0.50
	-- Other		
	--- Gasoline and other motor spirit		
2710.99.11	---- For use as a fuel in aircraft	Litre	0.50
2710.99.19	---- Other	Litre	0.50
2710.99.20	--- Jet fuel and kerosene for use as fuel in aircraft	Litre	0.50
2710.99.30	--- Other kerosene and other white spirit	Litre	0.50
2710.99.40	--- Distillate fuels	Litre	0.50
2710.99.50	--- Residual fuel oils	Litre	0.50
2710.99.60	--- Unleaded petrol	Litre	0.50
2710.99.90	--- Other	Litre	0.50
27.11	Petroleum gases and other gaseous hydrocarbons		
	- Liquefied:		
2711.11.00	-- Natural gas	Metric tonne	300.00
2711.12.00	-- Propane	Metric tonne	300.00
2711.13.00	-- Butanes	Metric tonne	300.00
2711.14.00	-- Ethylene, propylene, butylene, and butadiene	Metric tonne	300.00
2711.19.00	-- Other	Metric tonne	300.00
	- In gaseous state		
2711.21.00	-- Natural gas	Metric tonne	300.00
2711.29.00	-- Other	Metric tonne	300.00
87	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof		
8703	Motor cars and other motor vehicles principally designed for the transport of persons (other than those of heading 87.02), including station wagons and racing cars		
8703.10.00	- Vehicles specially designed for travelling on snow; golf cars and similar vehicles	cc engine capacity	0.50
	Vehicles with spark-ignition internal combustion reciprocating piston engine:		
8703.21.10	New of a cylinder capacity not exceeding 1,000 cc	cc engine capacity	0.50
8703.21.20	Used of a cylinder capacity not exceeding 1,000 cc	cc engine capacity	0.50
8703.22.10	New of a cylinder capacity exceeding 1,000 cc but not exceeding 1,500 cc	cc engine capacity	0.50
8703.22.20	Used of a cylinder capacity exceeding 1,000 cc but not exceeding 1,500 cc	cc engine capacity	0.50
8703.23.10	New of a cylinder capacity exceeding 1,500 cc but not exceeding 3,000 cc	cc engine capacity	0.75
8703.23.20	Used of a cylinder capacity exceeding 1,500 cc but not exceeding 3,000 cc	cc engine capacity	0.75
8703.24.10	New of a cylinder capacity exceeding 3,000 cc	cc engine capacity	1.00
8703.24.20	Used of a cylinder capacity exceeding 3,000 cc	cc engine capacity	1.00
	Vehicles with compression-ignition internal combustion piston engine (diesel or semi-diesel)		
8703.31.10	New of a cylinder capacity not exceeding 1,500 cc	cc engine capacity	0.50
8703.31.20	Used of a cylinder capacity not exceeding 1,500 cc	cc engine capacity	0.50

HS Code	Product description	Calculation unit	Tax rate (T\$)
8703.32.10	New of a cylinder capacity exceeding 1,500 cc but not exceeding 3,000 cc	cc engine capacity	0.75
8703.32.20	Used of a cylinder capacity exceeding 1,500 cc but not exceeding 3,000 cc	cc engine capacity	0.75
8703.33.10	New of a cylinder capacity exceeding 3,000 cc	cc engine capacity	1.00
8703.33.20	Used of a cylinder capacity exceeding 3,000 cc	cc engine capacity	1.00
8703.90.10	New other	cc engine capacity	1.00
8703.90.20	Used other	cc engine capacity	1.00

Source: Excise Tax Order 2008; Excise Tax (Amendment) Order 2010; Excise Tax (Amendment) (No. 2) Order 2011; Excise Tax (Amendment) Order 2012; and Excise Tax (Amendment) Order 2013.

Table A4. 1 Trade of major agricultural products, 2000-10

(US\$ '000)

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Exports											
Total agriculture	5,295	5,401	8,335	11,186	11,152	6,566	5,004	4,495	4,063	2,581	2,219
Squash and pumpkins	3,010	3,326	5,460	6,454	4,685	4,283	2,748	1,350	1,898	802	340
Manioc, dried	130	59	104	176	488	244	108	192	257	188	191
Yams	124	113	219	401	536	316	296	1,155	43	54	0
Taro (cocoyam)	625	824	291	141	286	192	258	405	48	82	166
Roots and tubers nes.	9	50	56	6	7	5	2	4	4	4	127
Watermelons	37	30	28	21	61	14	18	23	23	23	53
Other melons (inc. cantaloup)	0	0	0	0	0	0	0	0	0	0	25
Vanilla	331	291	1,214	2,856	463	172	0	133	97	61	113
Sugarbeet	3	0	0	0	0	0	0	0	0	0	40
Coffee, green	0	0	0	0	1	7	3	6	47	47	0
Coconuts	24	42	26	15	6	15	68	212	398	425	383
Coconuts Desiccated	0	4	15	18	46	14	0	0	0	0	0
Coconut (copra) oil	400	400	400	5	3	2	0	0	0	0	0
Cigarettes	1	0	0	20	20	20	0	23	23	23	0
Cigars	0	0	0	0	0	0	0	0	0	0	58
Cheroots											
Cabbages and other brassicas	1	1	6	8	22	14	13	26	26	26	11
Citrus juice, concentrated	0	0	0	0	0	0	0	0	0	0	20
Vegetable prod, fresh/dried	216	166	264	274	482	218	409	409	79	26	500
Imports											
Total agriculture	23,050	24,165	26,149	26,851	32,819	35,618	33,114	51,841	37,596	36,108	44,799
Apples	169	122	194	130	99	170	170	247	95	152	272
Butter	707	463	665	648	843	829	861	983	828	1,127	1,030
Milk, dried	405	385	508	479	522	491	697	822	508	486	625
Milk, fresh	738	792	558	513	585	778	641	1,072	988	957	698
Poultry meat, fresh	2,402	1,633	1,885	2,733	3,072	4,022	4,116	6,087	4,409	6,941	8,871
Sheep meat, fresh	2,442	3,378	3,072	3,100	4,184	5,160	5,079	6,807	5,589	5,463	3,219
Bovine meat, fresh	209	565	545	691	681	709	509	448	90	18	1,883
Preparation of beef meat	80	1,659	1,481	1,335	1,583	2,163	0	0	0	0	16
Flour of wheat	1,568	1,397	1,743	2,114	2,148	1,753	1,991	2,288	3,535	2,473	3,195
Bread	25	45	78	59	40	59	78	153	566	333	296
Breakfast cereals	267	388	470	464	438	484	641	1,165	684	631	1,349
Sugar, raw centrifugal	592	673	650	852	879	961	900	877	852	754	1,729
Sugar, refined	7	21	18	30	20	14	37	22	209	209	441
Sugar confectionary	445	413	422	297	388	394	453	568	363	320	568
Pastry	445	372	411	414	548	799	843	1,525	1,275	1,081	1,082
Ice cream and edible ice	101	239	212	360	436	634	615	985	449	707	745
Macaroni	632	560	596	637	898	973	1,096	1,477	622	862	1,146
Beer of barley	134	120	246	155	155	412	755	2,018	386	405	1,407
Cigarettes	887	560	641	743	855	1,006	886	5,221	2,201	1,654	2,336

Source: FAOSTAT online information.

Table A4. 2 Exports in fisheries products, 2000-12

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Total (US\$ '000)	3,186.8	4,476.6	3,020.1	3,600.1	1,829.3	1,997.1	2,100.6	2,585.6	1,732.4	4,265.3	3,353.3	4,661.4	7,651.8
Clams	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.1	3.5	1.0	0.0	0.0	0.0
Crustacean	1.1	0.0	1.8	144.2	0.0	3.0	15.1	23.2	56.8	5.0	2.8	0.0	0.0
Octopus	0.0	0.0	1.4	0.0	0.0	0.0	0.1	0.0	0.4	0.3	0.0	0.0	0.0
Other reef product	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	18.3	23.2	0.0	0.0	0.0
Reef fish	0.0	0.0	1.0	0.1	0.0	0.0	0.1	45.1	18.2	22.2	10.4	1.2	0.0
Shellfish	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	2.4	0.0	0.0
Seaweed (Mozuku)	124.6	63.1	88.7	59.5	478.0	216.7	125.0	43.1	0.1	6.3	0.0	52.2	146.7
Shark	0.0	248.9	207.1	295.0	35.0	92.2	201.7	101.9	93.1	79.1	65.2	113.4	2,041.6
Snapper	506.2	608.5	535.8	554.1	535.9	583.1	566.3	471.8	373.7	271.0	440.7	555.9	560.7
Tuna	2,494.7	3,540.3	2,174.8	2,544.2	780.4	1,098.5	1,192.4	1,900.5	857.7	310.0	131.3	744.7	4,352.9
Tuna or snapper	60.2	15.7	9.7	2.9	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Sea cucumber	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	310.6	3,547.3	2,700.6	3,194.0	544.5
Other	0.0	0.0	0.0	0.0	0.0	3.6	0.0	0.0	0.0	0.0	0.0	0.0	5.4
Total (tonnes)	1,316.0	1,597.2	1,386.1	1,306.6	1,607.3	1,015.1	846.8	628.8	374.7	560.1	451.8	366.2	1,273.5
Bluenose	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.3	0.0	0.0
Clams	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.2	0.0	0.0	0.0	0.0
Deep reef fish	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	4.3	0.0	0.0
Crustacean	0.0	0.0	0.5	7.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Grouper	15.6	14.5	10.1	5.0	5.2	10.2	6.4	3.7	2.6	2.1	2.2	0.0	0.0
Holothuria	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Lobster	0.0	0.0	0.1	0.0	0.0	0.1	0.0	0.0	0.0	0.0	0.0	0.0	0.0
ReefFish	0.0	0.0	0.3	0.0	0.0	0.2	0.0	12.9	5.2	6.3	3.0	0.2	0.0
Seaweed	309.9	157.7	239.7	148.7	1,195.0	516.3	299.5	107.7	0.3	15.8	0.0	104.4	311.3
Shark	0.0	5.4	4.2	5.9	0.7	2.3	4.0	2.2	1.9	1.7	1.3	8.9	249.8
Snapper	124.6	170.6	265.0	153.3	147.9	154.5	166.6	131.1	103.7	75.3	89.2	81.8	81.1
Tuna	848.7	1,244.5	862.2	985.6	258.5	331.5	370.1	371.2	246.0	88.8	38.2	91.3	562.7
Tuna or snapper	17.2	4.5	3.9	0.8	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Sea cucumber	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	14.8	369.9	313.2	79.5	67.9
Others	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.7

Source: Data provided by the Tongan authorities.

Table A4. 3 Vessels and tonnage of goods through Tonga's sea ports, 2007-11

Wharf, vessel, tonnage, containers	2007	2008	2009	2010	2011
(a) Queen Salote wharf (Tongatapu)					
Tonnage of goods					
Unloaded (imported)	223,738	220,188	190,016	193,153	218,869
Dry cargo	121,088	120,607	106,880	102,503	110,700
Freezer	18,582	16,449	15,557	18,961	22,208
Break bulk	2,987	2,468	431	1,937	2,529
Cement	12,852	12,698	10,322	11,663	16,456
Vehicles	23,816	20,345	17,505	13,748	15,979
Timber	4,727	5,934	3,965	4,572	4,992
Light oils	38,499	40,484	34,181	38,478	44,592
LPG	1,187	1,203	1,176	1,291	1,412
Loaded (exported)	18,864	33,548	18,882	16,902	16,328
Dry cargo	5,759	12,257	7,692	9,323	7,995
Freezer	3,947	7,270	6,110	4,637	5,885
Break bulk	655	572	431	694	667
Squash	8,257	3,328	4,612	1,593	1,580
Vehicles	246	614	38	518	201
Timber	0	9,507	0	0	0
Light oils	0	0	0	138	0
LPG	0	0	0	0	0
Containers					
Inwards	5,810	6,073	5,615	5,341	2,635
Outwards	5,806	5,864	5,599	4,962	5,895
Type of vessel (total)					
Yacht	..	..	..	..	..
Cruise	14	14	12	5	14
Cargo	126	94	101	105	87
Tanker	15	29	29	33	32
Gas	13	19	18	17	14
Warship	..	..	..	..	7
Squash	6	2	0	0	0
Others	0	0	0	0	8
(b) Halaevalu wharf (Vava'u)					
Tonnage of goods					
Unloaded	20,358	9,698	7,297	..	..
Loaded	944	1,022	323	..	..
Containers					
Inwards	378	350	234	268	..
Outwards	400	414	440	211	..

.. Not available.

Source: Secretariat of the Pacific Community online information. Viewed at: <http://www.spc.int/prism/tonga/>.