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**Trade Policy Review Body**

**TRADE POLICY REVIEW**

REPORT BY THE SECRETARIAT

TONGA

This report, prepared for the second 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/409 contains the policy statement submitted by Tonga.

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## SUMMARY

1. Since its previous Trade Policy Review in 2014 and until 2017, Tonga's economy grew at a strong pace, supported by construction and remittances-fuelled private consumption, as well as by an accommodative monetary policy stance. Real GDP grew on average by 2.35% (FY 2013/14-FY 2018/19) annually, compared with 1.27% (FY 2006/07-FY 2011/12) at the last period. A succession of natural disasters, namely the extensive damage caused by Tropical Cyclones Gita (2018), Tino (2020), and Harold (2020), and the large COVID-19-pandemic-induced contraction in global economic activity brought about a significant economic downturn. Apart from some temporary spikes in 2017-18, inflation remained low, reflecting favourable developments in international food and fuel prices. An Economic and Social Stimulus Package worth TOP 60 million was put in place to fund the National Action Plan for combatting the COVID-19 pandemic.

2. Tonga launched a comprehensive tax reform aimed at increasing revenue, addressing inequality, and discouraging consumption of various products deemed unhealthy. Changes were made, *inter alia*, to the pay-as-you-earn income tax, the consumption tax, excise taxes, and import duties. In their pursuit of fiscal consolidation, the authorities also took steps to improve public finance management and avoid non-concessional borrowing. However, Tonga's public debt remained above 41% of GDP during the review period, and the overall risk of public and external debt distress remains high. Various initiatives aimed at modernizing the monetary policy and macroprudential frameworks were undertaken as well. Despite the progress made, the toolbox of the National Reserve Bank of Tonga remains limited, comprising minimum reserve requirements for banks, the remuneration rate on required reserves, and foreign exchange controls.

3. Tonga's national currency remains in a pegged exchange rate arrangement, which may have an impact the economy's resilience to external shocks. In 2018, the legislation on capital controls was consolidated in a new Foreign Exchange Control Act and an Exchange Control Directive. Having reached 15% of GDP in FY 2014/15, the current account deficit narrowed to some 1.5% of GDP in FY 2018/19, reflecting steady improvements in the primary and secondary income balances that compensated somewhat for the widening merchandise trade deficit. The reserves coverage was in the range of seven to eight months of prospective imports during the review period. However, Tonga's foreign exchange reserves remain prone to rapid declines, given the country's high vulnerability to external shocks and significant external debt.

4. The relatively high exposure of Tonga's economy to international trade and its degree of openness continued to be reflected in a relatively high ratio of its total trade (exports plus imports) in goods and services to GDP. This ratio increased from 75% in FY 2013/14 to 87.2% in FY 2018/19. Cross-border trade trends reflect the challenges posed by Tonga's remoteness from international markets. New Zealand and Australia accounted for some 40% of Tongan exports in 2019, up from 32% in 2014. New Zealand also remained the principal origin of goods imported into Tonga, followed by Singapore and the United States. Main exports continue to be vegetable products (mainly squash, root crops, and coconuts) and live animals (mostly seafood).

5. According to the authorities, between 2014 and 2019 the bulk of foreign direct investment (FDI) into Tonga originated from China. FDI inflows were primarily channelled into services, notably professional services and tourism, followed by manufacturing/processing activities. During the review period, Tonga made efforts to ameliorate the legal framework governing its investment regime and undertook a landmark improvement in dispute settlement by acceding to the 1958 United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards. Its lists of activities prohibited, restricted for foreign investors, and reserved for Tongan investors remained unchanged. Implementation of the new Foreign Investment Act 2020 and the review of its Foreign Investment Regulations, aimed at reducing the number of reserved activities and expanding the list of restricted ones, are under way. So far, no investment promotion via income tax incentives has been in place. Tonga's limited network of international investment agreements remained unchanged.

6. Since 2014, Tonga has implemented certain institutional changes and updated some of its trade-related policies in line with its broader strategic development framework. Its constitutional framework remained unchanged. Laws were consolidated, e-government initiatives were undertaken, and Tonga acceded to the 2003 United Nations Convention Against Corruption.

7. Tonga remains committed to the multilateral trading system, but its participation in WTO activities was relatively limited due to, *inter alia*, its lack of permanent representation in Geneva. It maintained its WTO commitments unchanged, and it is making efforts towards ratifying the Trade Facilitation Agreement (TFA) in 2021. During the review period, Tonga continued to follow a regional and international integration policy mainly focused on the Pacific region; the sole substantive development was its accession to the Pacific Agreement on Closer Economic Relations Plus (PACER Plus), whose tariff commitments are to be implemented within a 25-year timeframe. A few WTO notifications indicating the absence of relevant legislation (safeguards, subsidies and countervailing measures, and preshipment inspections), contact points (TFA, Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement), and trade in services), and dates of definitive implementation of TFA Categories B and C commitments were submitted during the review period; the authorities intend to have all outstanding notifications submitted by February 2021. Tonga was a recipient of Aid for Trade support.

8. The general thrust of trade and trade-related policies was revised in several areas. The simple average applied MFN tariff decreased from 11.5% in 2013 to 10.4% in 2020, reflecting mainly an increase in the share of duty-free tariff lines. Most import duties eliminated over that period concerned agricultural products. The simple average rate on dutiable lines remained virtually unchanged. All tariff lines remain *ad valorem* and therefore transparent; the tariff structure involving four non-zero rates (one fewer than in 2013) remains simple. Overall tariff dispersion remains relatively significant, with rates ranging from zero to 20%. Tonga has bound all tariff lines at *ad valorem* rates of either 15% or 20%. In 2020, the simple average bound tariff rate was 17.6%, some 7.2 percentage points higher than the average applied MFN rate. Applied MFN rates on four tariff lines partially exceeded their bound level.

9. A business licence remains the only prerequisite for engaging in cross-border trade. Importers have the choice to fulfil customs formalities themselves or to engage the services of professional customs brokers. According to the authorities, Tonga applies the WTO Customs Valuation Agreement and uses the transaction value of goods as the primary method. The customs legislation does not contain any provisions on non-preferential rules of origin. Having ratified PACER Plus, Tonga enacted regulations on the corresponding preferential rules of origin in December 2020.

10. Import licensing requirements continue to be used mainly for national security, public safety, health, and environmental reasons. Non-automatic licensing requirements apply on a number of imports (e.g. medicines, alcoholic beverages, tobacco, and cigarettes). The legal instruments governing restricted imports are not consolidated, and the granting of licences is administered by several line ministries and government agencies. According to the authorities, an import ban on lamb and mutton breast meat was implemented on 1 July 2020 to discourage unhealthy lifestyles. No legal and institutional framework for the application of contingency measures exists.

11. Tonga does not levy any export taxes; exports also remain exempt from internal taxes (zero-rated for consumption tax purposes). The exportation of green and mature coconuts remains reserved for Tongan businesses. The Ministry of Trade and Economic Development assists exporters with overseas publicity, participation in trade fairs and exhibitions, market research and development, and facilitation of business negotiations.

12. Tonga expanded considerably the list of excisable goods and modified some of their rates as part of its broad reform to reduce the consumption of what is considered unhealthy food and to address non-communicable diseases. Excise taxes on certain imported and locally produced goods (e.g. sausages, instant noodles, toilet paper, ice cream, beer, spirits, unmanufactured tobacco, and tobacco products) are still applied in a non-uniform manner, thus affording local producers a considerable tax advantage. The consumption tax on goods and services was maintained at 15%.

13. To promote investment or achieve social objectives, Tonga maintains some indirect tax and non-tax (mostly activity-specific) incentives, involving duty and tax exemptions, preferential credit, and targeted subsidies, which are in general very limited in terms of scope. Exemptions from excise and consumption taxes were granted to various sectors, economic activities, and specific users (notably state-owned enterprises). The list of exemptions broadened with new tax exemptions for the tourism and construction sectors, as well as in response to the COVID-19 pandemic. A tax exemption remains in place for fuel used by fishing vessels, domestic airlines, and ferries, as well as in diesel power generation and village electricity and water supply. The main beneficiaries of customs duty and tax concessions were importers of fuels and public enterprises. The Government



Development Loans programme was also reviewed in 2020 and extended for another five years, with additional resources earmarked for the fisheries and tourism sectors in response to the COVID-19 pandemic and Tropical Cyclone Harold. These loans are also directed to another five sectors, i.e. agriculture and forestry, manufacturing, livestock, construction and utilities, and retail and wholesale.

14. To strengthen the development and application of food standards, Tonga updated its legislation on food safety by adopting the Food Act in 2014, which was reviewed and replaced in 2020. It has still to develop a legal and institutional framework for the adoption of standards, technical requirements, and conformity assessment procedures.

15. Tonga continues without a legal and institutional framework governing competition policy. Competition-related provisions remain limited across different laws. A price-control mechanism for certain food products, chemicals, fuels, and services remains in place. State involvement in the economy remains significant, as the implementation of the 2007 public enterprise reform programme was slow. Tonga identified seven public enterprises that could be reformed by conducting privatization, restructuring, outsourcing, or implementing another form of public-private partnership (PPP); reform plans for three of them were completed during the review period, whereas for the remaining enterprises the process is ongoing. Tonga made substantial progress in implementing its 2013 government procurement reform strategy, which involved regulatory and institutional changes leading to a more centralized procurement system by significantly reducing the relevant threshold. This threshold was subsequently increased from TOP 7,500 in 2016 to TOP 20,000 in 2019 without attaining its pre-reform level of TOP 100,000. This reform included the adoption of a new set of regulations.

16. During the review period, the regulatory framework governing intellectual property rights (IPR) remained virtually unchanged. According to the authorities, IPR protection follows to a large extent the TRIPS Agreement, with some exceptions where the level of protection under domestic legislation is in general higher, e.g. utility models and moral rights for works, which are not covered under the Agreement.

17. Agriculture remains an increasingly predominant economic activity despite the impact of natural disasters. Its contribution to GDP rose from 14.2% in FY 2013/14 to 17.7% in FY 2018/19. The main agricultural products remain root crops, squash pumpkins, and kava. Food security challenges persist, as Tonga is a net importer of staple foods whose self-sufficiency remains to be addressed together with other government policy objectives including climate-resilient agriculture, the enabling environment, subsistence-level production, import substitution, and export orientation. Certain regulatory and institutional changes were undertaken. Average tariff protection levels on agricultural products (WTO definition) dropped considerably (from 10.7% to 7.7%), and non-tariff measures were introduced to encourage healthy food consumption. Trade-related support, including a state-run pack-house, soft loans, and sector-specific tax incentives, remained available to producers and/or exporters.

18. Fisheries remain important to the economy (accounting for 26.6% of exports in 2019), despite a slight reduction of their contribution to GDP (1.9%, FY 2018/19). Government policy was aimed at maximizing the sustainable contribution of the sector to food security and economic growth. A separate Ministry of Fisheries was established in 2016. Regulatory changes related to, *inter alia*, fisheries issues of coastal communities, whereas action was taken to strengthen Tonga's framework against illegal, unreported, and unregulated fishing. Average tariff protection levels were reduced significantly, i.e. from 10.6% in 2013 to 0.9% in 2020. A resource rent on the local value of commercially exported marine products continues to be charged. Activity-specific tax and non-tax incentives were available to fisheries stakeholders.

19. Tonga remains heavily dependent on petroleum imports to meet its energy needs for electricity and transportation, but initiatives for raising renewable energy sources helped reduce its dependency level. Policy initiatives for energy efficiency were pursued. Tonga Power Limited, the vertically integrated and entirely state-owned utility, continues to own and operate virtually all in-front-of-meter electricity generation, as well as all transmission and distribution assets; its management has operated under a PPP arrangement since 2019. Electricity tariffs remain high by international standards but, despite differences in generation cost, they remain standardized across islands; a cross-subsidized "lifeline tariff" applicable to residential consumers remains in place. Legislation for seabed minerals was passed, although mining remains at the exploration stage.

20. The contribution of the manufacturing sector, concentrated in a few activities (e.g. food and beverage), slightly declined (5.2% of GDP, FY 2018/19). Average tariff protection levels for manufacturing products were slightly reduced (11.5% in 2013 to 10.8% in 2020). Activity-specific tax and non-tax incentives involving customs duty, excise tax, and consumption tax concessions on inputs and soft loans were available to manufacturers.

21. Services remain the main, albeit slightly declining, contributor to GDP (49.2% in FY 2018/19); services trade performance remained better than that of goods. Tonga's relatively extensive commitments under the General Agreement on Trade in Services (GATS) remain unchanged; its regional trade agreements also cover trade in services, and GATS+ commitments were undertaken under PACER Plus. The structure of the relatively small, well-capitalized, and profitable banking system remained virtually unchanged; its regulatory framework was updated in certain areas, and the non-performing loans ratio reduced. The insurance market is being developed; a new insurance bill is being prepared. Telecoms connectivity improved, and the market's duopolistic structure remained unchanged; new legislation was passed, and a regulator was established. Transport services remain crucial for Tonga's economic development and competitiveness. Several policy initiatives intended to address transport-related challenges were undertaken, and new air transport legislation was passed. Air and maritime transport continued to receive support including under the fuel concession scheme. Cabotage is allowed only under certain circumstances in maritime transport services. Tourism and its linkages with other activities (e.g. transport, fisheries, and e-commerce) were the subject of major policy papers, and a separate Ministry of Tourism was established in 2015. Tax and non-tax incentives supported the development of tourism business operators. Distribution services remained of major importance to the economy; concessional loans supported small-scale wholesale and retail trade, and progress was made in enhancing the legal and regulatory frameworks for e-commerce, which is at a nascent stage.

22. Tonga's growth prospects are subject to considerable uncertainty related to the impact of the COVID-19 pandemic and natural disasters on economic activity, as well as to developments in remittances inflows and assistance from development partners. Future prosperity and sustained growth depend on the implementation of further fiscal consolidation, economic diversification, and productivity-enhancing reforms, as well as on addressing issues relating to infrastructure, regulatory uncertainty, investment framework, and state involvement in the economy. These and related reforms would increase the resilience of Tonga's economy, its ability to cope with external shocks, and its integration into the multilateral trading system, thus enabling it to continue meeting its economic and welfare objectives.

## 1 ECONOMIC ENVIRONMENT

### 1.1 Main Features of the Economy

1.1. The Kingdom of Tonga is an archipelago comprising 176 volcanic and low-lying coral islands dispersed over 770,000 km<sup>2</sup> in the South Pacific. Only 36 of these islands are inhabited. Tonga's small and fragmented total surface area (749 km<sup>2</sup>) significantly limits land availability and poses considerable transportation and communication challenges. Furthermore, Tonga is placed at a competitive disadvantage by remoteness from international markets, a narrow resource base, and limited possibilities for economies of scale.

1.2. Tonga is also particularly vulnerable to adverse shocks from natural disasters and climate change. It ranked fourth in the world in terms of the ratio of its climate-related losses to its GDP for the period 1999-2018. Having borne the largest climate-related loss globally in 2018, when Tropical Cyclone (TC) Gita destroyed approximately 38% of its annual GDP, Tonga also suffered extensive damage from TC Tino and TC Harold in January and April 2020, respectively. Besides frequent tropical cyclones, Tonga experiences intermittent droughts, earthquakes, and tsunamis, and is highly exposed to sea-level rise. It is still in the early stages of building resilience so that its infrastructure and public services are better prepared to face these risks.<sup>1</sup>

1.3. Tonga's economy remained fairly undiversified, with services and agriculture accounting for about 50% and 17% of GDP, respectively, during the review period (Table 1.1). The main service activities were wholesale and retail trade, and real estate. Construction's GDP share was on an upward trend, reflecting significant public (including donor-funded) spending on infrastructure and on post-tropical cyclone reconstruction. Tonga remains a net food importer and its energy matrix continues to be dominated by imported fossil fuels, with consequent exposure to international price fluctuations.

**Table 1.1 Basic economic and employment indicators, FY 2013-19**

	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19 <sup>a</sup>
Real GDP (TOP million, 2016/17 prices)	913.5	924.2	984.9	1,017.7	1,020.7	1,028.2
Real GDP (USD million, 2016/17 prices)	502.7	475.3	441.8	460.0	465.1	452.2
Nominal GDP (TOP million)	797.2	849.1	932.6	1,017.7	1,073.2	1,164.0
Nominal GDP (USD million)	438.7	436.7	418.4	460.0	489.0	511.9
Nominal GDP per capita (USD)	4,292.5	4,295.3	4,136.5	4,571.9	4,885.7	5,142.0
<b>Real GDP by economic activity</b>	<b>(year-on-year % change)</b>					
Agriculture, forestry and fishing	2.5	-1.7	-1.3	-2.5	0.4	3.6
Fishing	3.3	10.9	22.2	-26.7	-14.6	18.6
Mining and quarrying	4.4	1.4	-10.8	3.2	14.2	-23.0
Manufacturing	0.9	3.0	7.4	1.5	-0.8	-4.8
Electricity, water and waste	3.5	1.2	8.7	9.9	0.0	11.0
Construction	18.5	-5.1	22.8	18.0	-32.4	16.2
Services	-1.0	1.4	5.5	1.8	3.3	0.8
Wholesale and retail trade	-3.2	2.6	14.8	2.5	6.3	0.4
Transport and storage	5.8	7.6	-2.1	19.6	1.8	2.2
Accommodation and food service activities	-4.3	7.3	16.6	8.6	7.5	-3.3
Information and communication	-20.3	12.9	2.0	-0.8	9.5	0.4
Financial and insurance activities	1.1	-8.3	8.2	-4.3	4.5	0.1
Real estate activities, of which:	-0.6	2.0	-0.5	1.2	-1.7	0.0
Ownership of dwellings	0.2	0.2	0.5	1.5	-2.3	-0.6
Other real estate activities	-4.5	11.1	-4.9	0.0	1.0	2.7
Professional, scientific and technical activities	-1.2	1.5	8.1	-15.0	25.2	11.0
Administrative and support service activities	23.4	10.7	22.2	-8.2	1.2	2.5
Public administration and defence	0.3	1.7	0.6	-1.5	2.8	4.0
Education	0.4	-0.2	0.1	-0.1	0.0	2.6
Human health and social work activities	2.1	-4.3	21.0	8.6	5.4	-3.2

<sup>1</sup> IMF (2020), *Tonga: Technical Assistance Report-Climate Change Policy Assessment*, Country Report No. 2020/212. Viewed at: <https://www.imf.org/~media/Files/Publications/CR/2020/English/1TONEA2020001.ashx>.

	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19 <sup>a</sup>
Arts, entertainment and recreation	-10.5	2.8	8.4	2.1	-12.1	0.1
Other service activities	6.2	-4.0	1.3	-3.4	3.5	-3.1
<b>Nominal GDP by economic activity</b>	<b>(%)</b>					
Agriculture, forestry and fishing	16.4	16.9	16.6	16.8	17.1	19.6
Fishing	2.2	2.1	2.0	1.9	1.8	1.9
Mining and quarrying	0.8	0.7	0.6	0.6	0.8	0.7
Manufacturing	6.2	6.0	6.0	6.0	5.9	5.2
Electricity, water and waste	2.9	2.6	2.5	2.4	2.4	2.2
Construction	6.2	6.1	6.8	7.4	6.4	7.0
Services	54.0	53.4	52.1	50.7	50.5	49.2
Wholesale and retail trade	9.9	9.5	9.8	9.8	10.1	9.7
Transport and storage	3.9	4.2	3.6	3.9	3.7	3.4
Accommodation and food service activities	2.6	2.6	2.7	2.9	3.1	2.9
Information and communication	2.4	2.5	2.3	2.2	2.1	2.3
Financial and insurance activities	6.0	5.1	5.0	4.7	4.8	5.0
Real estate activities, of which:	10.5	10.2	9.3	9.1	9.4	9.0
Ownership of dwellings	9.0	8.5	7.9	7.6	8.0	7.7
Other real estate activities	1.5	1.7	1.5	1.5	1.5	1.4
Professional, scientific and technical activities	0.6	0.4	0.6	0.5	0.6	0.7
Administrative and support service activities	0.4	0.4	0.5	0.4	0.4	0.4
Public administration and defence	8.0	8.7	8.6	7.7	7.1	7.2
Education	4.9	4.9	4.7	4.6	4.4	4.2
Human health and social work activities	2.3	2.3	2.7	2.7	2.5	2.3
Arts, entertainment and recreation	0.5	0.5	0.5	0.5	0.4	0.4
Other service activities	2.1	1.9	1.7	1.7	1.7	1.6
<b>Structure of national employment<sup>b</sup></b>	<b>(% of occupied population)</b>					
Agriculture forestry and fishing	26.1	25.1	24.1	23.1	22.1	21.1
Mining and quarrying	0.4	0.4	0.4	0.5	0.5	0.5
Manufacturing	20.0	18.6	17.1	15.6	14.2	12.8
Electricity, gas and water supply	1.5	1.5	1.5	1.4	1.4	1.4
Construction	6.0	6.3	6.6	6.9	7.2	7.5
Services	46.0	48.2	50.3	52.5	54.6	56.8
Wholesale and retail trade	7.3	7.4	7.6	7.7	7.8	7.9
Transport and storage	2.9	3.0	3.0	3.1	3.1	3.2
Accommodation and food service activities	3.3	3.5	3.7	3.9	4.1	4.3
Information and communication	2.0	2.0	2.0	2.0	2.0	1.9
Financial and insurance activities	2.2	2.3	2.4	2.5	2.5	2.6
Real estate activities	0.0	0.0	0.1	0.1	0.1	0.1
Professional, scientific and technical activities	0.7	0.8	0.9	1.0	1.1	1.2
Administrative and support service activities	1.7	1.9	2.1	2.3	2.5	2.7
Public administration and defence	8.4	8.3	8.2	8.0	7.9	7.8
Education	6.8	6.8	6.9	6.9	7.0	7.0
Human health and social work activities	2.3	2.6	2.9	3.1	3.4	3.6
Arts, entertainment and recreation	0.4	0.4	0.5	0.5	0.5	0.5
Other service activities	4.5	5.0	5.4	5.9	6.3	6.7
Activities of households as employers	3.3	4.0	4.8	5.5	6.3	7.0
Activities of extraterritorial organizations	0.2	0.1	0.1	0.0	0.0	0.0

a Provisional.

b Data reported on a calendar-year basis, instead of on Tonga's financial year (1 July to 30 June).

Source: Tonga Statistics Department.

1.4. Like most small island economies, Tonga has limited human and financial capacity, and a narrow production base. Unemployment remains high, with a significant part of the population working in the informal economy or on a seasonal basis in foreign markets (primarily Australia and New Zealand).<sup>2</sup> Large-scale emigration continues to be one of the main reasons for skilled labour

<sup>2</sup> According to the most recent population census, in 2016 some 16.4% of the economically active population were unemployed. When subsistence workers were also factored in, the unemployment rate reached 34.8%. Some 23.7% of all "paid workers" reported in the census participated in overseas seasonal

shortages and low productivity growth. The available data suggest that Tonga made some progress in reducing poverty between 2009 and 2015, but this did not translate into lower inequality.<sup>3</sup> Notwithstanding the authorities' prevention and control efforts, non-communicable diseases linked to unhealthy environments and lifestyles continue to pose major challenges.

1.5. Tonga remains heavily dependent on external financing, particularly funding from development partners and remittances from Tongan expatriates. Most of its public debt is external and poorly diversified, with CNY-denominated liabilities representing over 58% of total external debt. Accordingly, Tonga continues to face significant sustainability risks, given its economy's vulnerability to natural disasters and global shocks and its debt portfolio's exposure to exchange rate movements.

## 1.2 Recent Economic Developments

### 1.2.1 Overview

1.6. Tonga's economy expanded at a strong pace through FY 2016/17, supported by construction as well as private consumption fuelled by a steady inflow of remittances. Real GDP grew on average by 2.35% annually (FY 2013/14-FY 2018/19), compared with 1.27% over the previous review period (FY 2006/07-FY 2011/12). Having stagnated in FY 2017/18 following the devastation caused by TC Gita, economic growth showed signs of a modest recovery in FY 2018/19 (Table 1.2). However, the COVID-19 pandemic and tropical cyclones brought about a significant downturn, prompting downward revisions of the authorities' economic growth forecasts. Indeed, the Tongan economy is projected to contract by 2.9% in FY 2019/20 and by 5.8% in FY 2020/21.<sup>4</sup>

1.7. Tonga established a National Action Plan (NAP) for combatting the COVID-19 pandemic through its existing matrix comprising nine clusters: economic and social recovery; education; emergency and telecommunications; essential services; food security and livelihood; health, nutrition, water sanitation and hygiene; logistics and coordination; safety and protection; and shelter. An Economic and Social Stimulus Package worth TOP 60 million was put in place to fund the NAP through additional financial allocations to each cluster. The bulk of this short-term support funding was earmarked for enhancing healthcare capacity and assistance to affected businesses.<sup>5</sup>

1.8. Between 2014 and 2019, headline inflation fluctuated between a low of -0.6% and a peak of 7.3% (Table 1.2), but the average annual rate was moderate (3%). Pro-healthy-living tax reforms and domestic supply-side shocks following TC Gita triggered temporary price increases in FY 2016/17-FY 2017/18. By and large, inflationary pressures mirrored the trends in international food and fuel prices. Pandemic-related restrictions translated into low aggregate demand and declining prices (-1.4% on an annual basis) in FY 2019/20.<sup>6</sup> As a result, inflation remained well below the 5% reference rate adopted by the National Reserve Bank of Tonga (NRBT) in 2017.<sup>7</sup>

1.9. According to IMF projections, Tonga's economic performance is expected to be dented by spillover effects from the large pandemic-induced contraction in economic activity in remitting countries.<sup>8</sup> Economic growth is expected to mirror the pace of a projected global recovery, reaching 3%-4% in 2022-23. Inflation is forecast to remain low, due to weaker global food and fuel prices. However, Tonga's weak competitiveness and large import needs, coupled with the prospects of lower

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work programmes. Tonga Statistics Department, *Tonga 2016: Census of Population and Housing, Volume 1*, April 2018. Viewed at: <https://tongastats.gov.to/download/60/2016/4062/2016-census-report-volume-1-2nd-edition.pdf>.

<sup>3</sup> Whereas the share of the population living on less than USD 1.90 a day (at 2011 international prices) declined from 1.1% in 2009 to 1% in 2015 and that of Tongans living on less than USD 3.20 a day decreased from 8.9% to 7.5%, Tonga's estimated Gini coefficient increased from 37.5 to 37.6 over the same period. World Bank, *World Development Indicators*. Viewed at: <https://databank.worldbank.org/source/world-development-indicators>.

<sup>4</sup> Ministry of Finance, *Government of Tonga Budget Statement for Year Ending 30th June 2021*. Viewed at: <http://www.finance.gov.to/budgetpublication>.

<sup>5</sup> Ministry of Finance, *Government of Tonga Budget Statement for Year Ending 30th June 2021*. Viewed at: <http://www.finance.gov.to/budgetpublication>.

<sup>6</sup> NRBT, *Monthly Economic Review*, Vol. 7, No. 6, 21 August 2020. Viewed at: [http://www.reservebank.to/data/documents/Indicators/ER/2020/NRBT\\_ER\\_Jun20.pdf](http://www.reservebank.to/data/documents/Indicators/ER/2020/NRBT_ER_Jun20.pdf).

<sup>7</sup> Previously, the NRBT had an inflation reference range (6%-8%).

<sup>8</sup> IMF (2020), *Tonga-IMF Assessment Letter for the World Bank*, 2 April 2020. Viewed at: <https://www.imf.org/~media/Files/Publications/PP/2020/English/PPEA2002024.ashx>.

remittances inflows and heavy debt repayments, are likely to widen current account deficits and reduce reserve coverage to between three and four months of imports by 2023, well below the desirable buffer (about seven months of imports) for countries prone to natural disasters. Fiscal balances are also projected to be in deficit in the short term, to accommodate the extra costs of containment, healthcare, and targeted economic support.

**Table 1.2 Selected macroeconomic indicators, FY 2013-19**

	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19
<b>National accounts</b>	<b>(% change, unless otherwise indicated)</b>					
Real GDP (at 2016/17 prices)	2.0	1.2	6.6	3.3	0.3	0.7
Consumption	1.6	6.7	5.0	1.3	3.7	2.3
Private consumption	1.6	8.2	6.5	1.0	4.2	0.5
Government consumption	7.7	-1.3	5.6	1.7	4.8	4.6
Gross fixed capital formation	-0.3	3.1	-1.4	2.4	1.1	9.7
Exports of goods and services (XGS)	8.2	6.5	17.3	16.1	-27.4	13.9
Imports of goods and services (MGS)	-20.4	110.5	-73.5	149.8	70.5	-48.9
XGS/GDP (%) (at current prices)	17.0	17.0	21.7	22.2	21.4	22.0
MGS/GDP (%) (at current prices)	58.0	64.5	63.3	65.8	66.1	65.2
<b>Prices and interest rates</b>						
Inflation (CPI, % change)	2.3	0.1	-0.6	7.3	5.3	4.0
Saving deposit rate (weighted average)	2.2	2.5	2.4	2.4	2.4	2.5
Lending rate (weighted average)	8.7	8.2	7.9	7.8	7.9	8.0
Deposit rate (weighted average)	2.0	2.3	2.2	2.1	2.1	1.9
Interest rate spread (weighted average)	6.6	6.0	5.7	5.8	5.9	6.1
<b>Exchange rate</b>						
TOP/USD (annual average)	1.8	1.9	2.2	2.2	2.2	2.3
Nominal effective exchange rate (% change, end-period)	-3.6	-0.8	-6.6	0.2	-0.6	1.1
Real effective exchange rate (% change, end-period)	-3.5	-1.7	-7.7	9.2	0.3	1.1
<b>Money and credit</b>	<b>(% change, end-period)</b>					
Broad money (M2)	8.1	2.4	12.6	11.3	10.6	1.8
Total domestic credit	9.2	11.7	18.2	13.3	-2.2	2.8
Credit to private sector	-0.6	8.9	19.8	22.8	7.0	8.6
<b>Central Government balance</b>	<b>(% of GDP, unless otherwise indicated)</b>					
Revenue	37.8	34.6	38.7	43.2	42.6	41.7
Tax revenue	17.4	18.9	19.8	21.0	21.9	20.9
Grants	17.6	12.4	15.7	19.3	17.8	18.3
Other revenue	2.7	3.3	3.2	3.0	2.9	2.5
Expenditure	27.7	31.4	30.5	29.3	31.4	30.3
Gross operating balance	10.1	3.2	8.2	13.9	11.2	11.4
Net acquisition of non-financial assets	7.4	4.2	6.7	10.3	8.3	8.3
Overall balance	2.7	-1.0	1.5	3.6	2.9	3.1
Total government debt	45.9	49.9	48.2	44.3	46.4	42.7
Domestic	3.7	4.8	5.8	5.5	5.9	5.2
External	42.2	45.1	42.4	38.7	40.5	37.5
<b>External sector</b>	<b>(% of GDP, unless otherwise indicated)</b>					
Current account balance	-6.8	-15.0	-6.5	-6.4	-5.6	-1.5
Net merchandise trade	-38.6	-43.1	-40.0	-40.2	-41.4	-40.2
Exports	4.1	4.5	6.0	4.5	2.9	3.1
Imports	42.6	47.6	46.1	44.8	44.3	43.3
Services balance	-2.4	-4.5	1.0	-3.4	-3.1	-3.1
Capital account	12.9	12.5	18.6	17.6	18.5	18.9
Financial account	15.3	17.0	17.6	21.1	21.6	22.0
Direct investment, net	7.6	5.5	7.4	11.8	10.0	7.0
Goods exports (% change in USD)	19.4	9.1	29.3	-17.4	-31.2	9.9
Goods imports (% change in USD)	-0.1	11.0	-7.2	6.8	5.2	2.2

	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19
Service exports (% change in USD)	-26.2	-3.4	42.5	4.1	11.3	7.1
Service imports (% change in USD)	-29.0	10.4	-0.8	31.6	8.8	6.6
Foreign exchange reserves (end-period, TOP million)	274.4	289.7	354.9	407.9	468.7	484.3
in months of prospective MGS	7.0	6.5	7.1	7.5	8.0	7.9
External debt service (% of XGS)	9.7	11.5	9.2	7.0	6.1	8.9

Source: Tonga Statistics Department; NRBT; Ministry of Finance; IMF; and data provided by the authorities.

1.10. The Ministry of Finance expects the domestic economy's downturn and the fiscal position's deterioration to last through FY 2020/21. Thereafter, a recovery is expected to be driven by major construction-related projects, with real GDP growth projected at 3.5% in FY 2021/22 and 4.6% in FY 2022/23. After a fiscal deficit of TOP 37.4 million in FY 2020/21, the authorities project surpluses of TOP 7.4 million and TOP 27.9 million for the two subsequent years.<sup>9</sup> Both the IMF's and the Tongan authorities' forecasts are subject to considerable uncertainty, due to the unpredictable evolution and impact of the pandemic.

### 1.2.2 Monetary and exchange rate policy

1.11. During the review period, Tonga undertook various initiatives aimed at modernizing its monetary policy and macroprudential frameworks. Despite the progress made, the NRBT's toolbox remains limited, comprising minimum reserve requirements for banks, the remuneration rate on required reserves, and foreign exchange controls. During 2014-17, accommodative monetary policy fostered credit growth and a narrowing of the interest rate spread. Reserve requirements were raised to 10% of banks' total deposits in July 2017, with a view to containing excess liquidity in the banking system. The NRBT also introduced a minimum target for banks' loan-to-deposit ratio (80%), intended to serve as an indicator that would provide forward guidance to bank operations (Section 4.4.3).

1.12. The national currency, the pa'anga (TOP), remains in a pegged exchange rate arrangement with a maximum monthly adjustment limit of 5% relative to a basket of currencies comprising the Australian, Fijian, New Zealand, and US dollars.<sup>10</sup> The currency peg may affect the Tongan economy's resilience to external shocks. While the pa'anga gradually depreciated against the US dollar during the review period, the real effective exchange rate was more volatile (Table 1.2).

1.13. In 2018, Tonga's capital controls legislation was consolidated in a new Foreign Exchange Control Act and an Exchange Control Directive. Part of the NRBT's exchange control functions remained delegated to 16 "authorized persons" (banks and foreign exchange dealers).<sup>11</sup> Pursuant to the legislation in force, exporters must repatriate, within six months of the export date, at least 60% of their foreign exchange earnings from the sale of goods to a pa'anga-denominated account with a bank licensed in Tonga. Advance payments for imports worth up to TOP 500,000 are approved by authorized persons, whereas transactions exceeding that limit require NRBT approval.<sup>12</sup>

### 1.2.3 Fiscal policy

1.14. During the review period, the Tongan authorities launched a comprehensive tax reform aimed at mobilizing revenue, addressing inequality, and discouraging consumption of various products deemed unhealthy. Changes were made to, *inter alia*, the pay-as-you-earn income tax, the consumption tax, and excise taxes and import duties (Section 3). In 2015, Tonga introduced a flat "small-business tax" regime, with a view to fostering the formalization of informal businesses and thereby broadening the tax base and achieving a more equal distribution of the tax burden. Other

<sup>9</sup> Ministry of Finance, *Government of Tonga Budget Statement for Year Ending 30th June 2021*. Viewed at: <http://www.finance.gov.to/budgetpublication>.

<sup>10</sup> The Fijian dollar replaced the Japanese yen in the basket of currencies as from July 2014.

<sup>11</sup> NRBT, *Exchange Control: Frequently Asked Questions*. Viewed at: <http://www.reservebank.to/index.php/exchange-control.html>.

<sup>12</sup> The list of controlled overseas payments transactions and the corresponding delegated limits can be viewed at: [http://www.reservebank.to/data/documents/Legals/NRBT\\_ExchangeControlDirective\\_Sep18.pdf](http://www.reservebank.to/data/documents/Legals/NRBT_ExchangeControlDirective_Sep18.pdf).



revenue-raising measures included the introduction of a levy on foreign exchange transactions and the increase of the tourist departure fee in FY 2015/16.<sup>13</sup>

1.15. The authorities also took steps to enhance public finance management systems and, since 2018, have been adhering to a policy of zero non-concessional borrowing. Fiscal rules, capping total external public debt at 50% of GDP, and public employees' compensation at 53% of domestic revenue and 45% of current expenses, have been explicitly incorporated in Tonga's annual budget documents since 2017. An additional rule aims at maintaining the domestic revenue to GDP ratio above 22%.<sup>14</sup> Notwithstanding the fiscal consolidation efforts, donor grants remained central to achieving overall budget surpluses during most of the review period. The COVID-19 pandemic's negative impact on the fiscal position prompted the authorities to contain expenditure and focus on providing essential services to the public within available resources.<sup>15</sup>

1.16. Public sector debt, most of which is external debt, peaked at 49.9% of GDP in FY 2014/15. Although it declined somewhat thereafter, it remained above 41% of GDP during the review period (Table 1.2). The authorities project total public debt to exceed 50% of GDP in FY 2020/21 and gradually decline thereafter.<sup>16</sup> Tonga's overall risk of public and external debt distress remains high, particularly in light of a projected spike in debt service obligations over the medium term.

#### 1.2.4 Balance of payments

1.17. Tonga's current account was in deficit throughout the review period (Table 1.3). Having reached 15% of GDP in FY 2014/15, the current account deficit narrowed to some 1.5% of GDP in FY 2018/19, reflecting steady improvements in the primary and secondary income balances. Construction projects (financed mostly by donor grants) and remittance-led consumption were the main drivers of the widening goods deficit.

**Table 1.3 Balance of payments, FY 2013-19**

(USD million)

	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19
<b>Current account</b>	-29.7	-65.3	-27.2	-29.3	-27.2	-7.5
Goods and services balance	-179.8	-207.7	-163.2	-200.8	-217.4	-221.4
Goods balance	-169.2	-188.2	-167.5	-185.1	-202.3	-205.7
Exports	17.8	19.5	25.2	20.8	14.3	15.7
Imports	187.1	207.7	192.7	205.9	216.6	221.4
Services balance	-10.6	-19.5	4.4	-15.7	-15.1	-15.7
Credit	56.6	54.7	78	81.1	90.3	96.7
Debit	67.2	74.2	73.6	96.9	105.4	112.4
Primary income, net	3.4	4.6	8.9	18.5	30.3	40.2
Credit	22	23.4	19	37.6	49.6	54
Debit	18.6	18.8	10.1	19.1	19.3	13.8
Secondary income, net	146.7	137.7	127	153	160	173.6
Credit	154.5	145.6	155	184.3	188.3	209.1
Personal transfers	102.8	102.1	111.4	125.1	138	164.9
Debit	7.8	7.9	27.9	31.3	28.4	35.5
Personal transfers	4.3	5.8	23.5	24.4	19.1	26
<b>Capital account</b>	33.5	24	30.8	54.1	49.1	35.8
Credit	34.5	25.9	30.9	54.9	50.4	36.8
Debit	1.1	1.9	0.1	0.7	1.4	1
<b>Current and capital account balance</b>	3.8	-41.3	3.6	24.9	21.9	28.3

<sup>13</sup> IMF (2016), *Tonga: 2016 Article IV Consultation—Press Release; Staff Report; and Statement by the Executive Director for Tonga*, Country Report No. 16/178. Viewed at: <https://www.imf.org/~media/Websites/IMF/imported-full-text-pdf/external/pubs/ft/scr/2016/cr16178.ashx>.

<sup>14</sup> IMF (2018), *Tonga: 2017 Article IV Consultation—Press Release; and the Staff Report for Tonga*, Country Report No. 18/12. Viewed at: <https://www.imf.org/~media/Files/Publications/CR/2018/cr1812.ashx>.

<sup>15</sup> Ministry of Finance, *Government of Tonga Budget Statement for Year Ending 30th June 2021*. Viewed at: <http://www.finance.gov.to/budgetpublication>.

<sup>16</sup> Ministry of Finance, *Government of Tonga Budget Statement for Year Ending 30th June 2021*. Viewed at: <http://www.finance.gov.to/budgetpublication>.



	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19
<b>Financial account</b>	-5.8	6.4	-3.1	28.1	-5.5	15.8
Direct investment	-6.9	-8.7	-5.7	6.1	-19.1	0.2
Assets	0.8	1.8	-0.1	0.6	-4.1	1.4
Liabilities	7.7	10.5	5.6	-5.5	14.9	1.3
Portfolio investment	0	0	0	0	0.6	4.9
Assets	0	0	0	0	0	5
Liabilities	0	0	0	0	-0.6	0.1
Other investment	-2	9	-19.8	-1	-14.6	1.5
Assets	2.5	0.1	-2.8	-1.3	-9	-0.7
Liabilities	4.5	-8.9	17.1	-0.3	5.6	-2.2
Reserve assets	3.1	6.2	22.4	23	27.5	9.3
<b>Net errors and omissions</b>	-9.6	47.7	-6.8	3.2	-27.4	-12.4
<b>Memorandum:</b>						
TOP/USD (period average)	1.82	1.94	2.23	2.21	2.19	2.27

Source: Tonga Statistics Department; and data provided by the authorities.

1.18. Tonga's gross foreign exchange reserves grew steadily during the review period, boosted by development partners' aid and remittances inflows (Table 1.2). In November 2020, foreign reserves held by the NRBT reached TOP 590.2 million, compared with TOP 267.9 million in November 2014.<sup>17</sup> The reserves coverage remained in the range of seven to eight months of prospective imports, well above the NRBT's target of at least three months. However, Tonga's foreign exchange reserves remain prone to rapid declines, given the country's high vulnerability to external shocks and significant external debt.

### 1.3 Developments in Trade and Investment

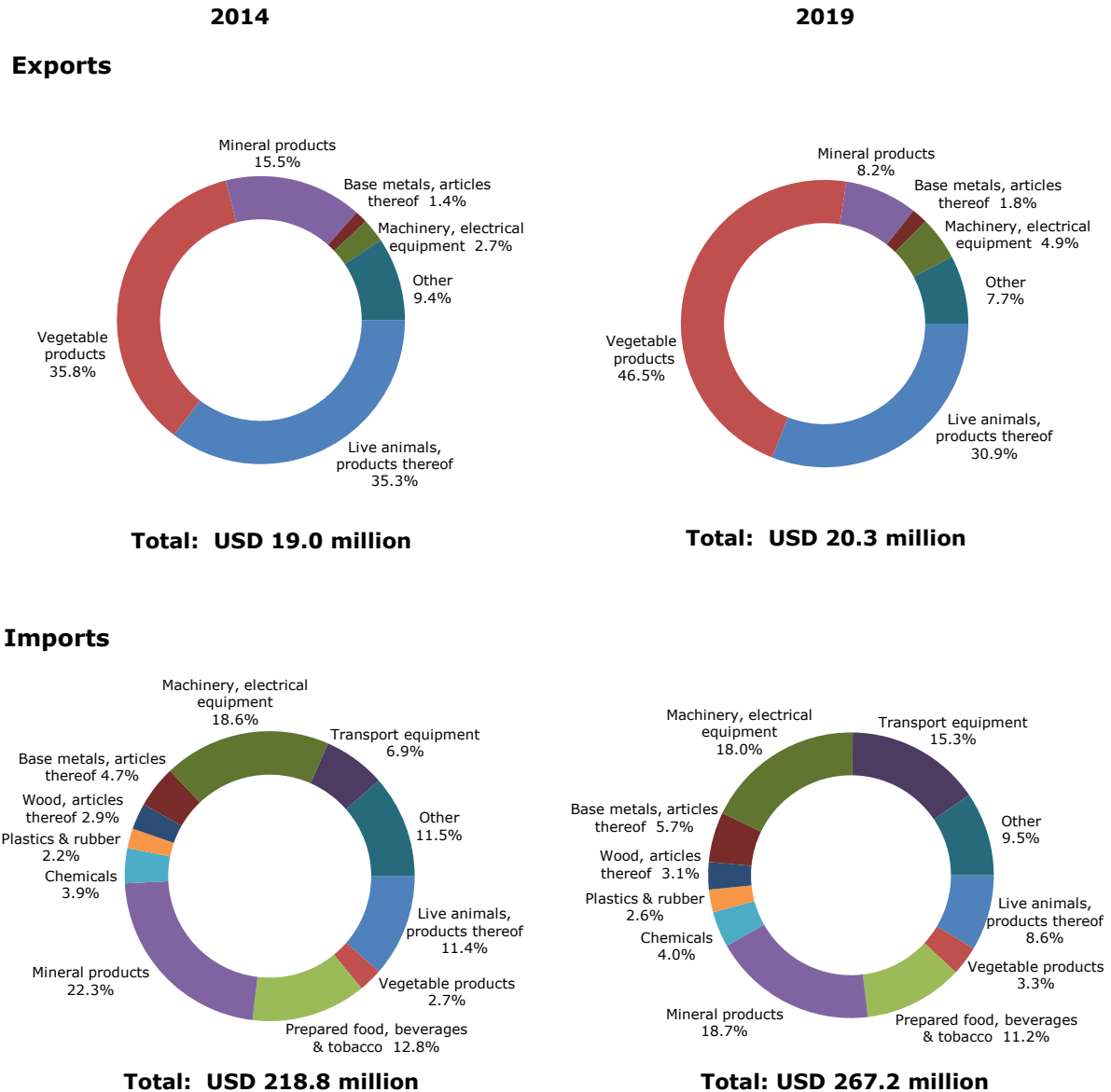
#### 1.3.1 Trends and patterns in merchandise and services trade

1.19. The relatively high exposure of Tonga's economy to international trade and its degree of openness continued to be reflected by the ratio of its trade (exports plus imports) in goods and services to GDP; this ratio rose considerably from 75% in FY 2013/14 to 87.2% in FY 2018/19 (Table 1.2). Tonga's total merchandise trade grew by approximately 21% between 2014 and 2019, although with considerable year-on-year fluctuations due to swings in international food and petroleum prices. Apart from a spike (36%) in 2016, re-exports' share of total goods exports was generally stable at about 23% during 2014-18 but contracted to 16% in 2019 (Table A1.1). Annual merchandise imports outstripped exports more than 10-fold throughout 2014-19, reflecting the continued importance of donor aid and remittances for the financing of Tonga's import bill.

1.20. Merchandise exports remain small-scale and undiversified (Chart 1.1 and Table A1.1). Vegetable products (mainly squash, root crops, and coconuts) and live animals (mostly seafood) were the main export categories throughout 2014-19. The former's share of total exports increased from 35.8% in 2014 to 46.5% in 2019, whereas live animals' share declined somewhat over the same period. Re-exports continued to be concentrated in mineral products, and machinery and transport equipment.

1.21. Food and fuel continue to dominate Tonga's imports, albeit with some variation in their respective shares of total imports due to international price fluctuations. During the review period, the main import categories were mineral products (mainly refined petroleum products), foodstuffs, machinery and electrical equipment, and transport equipment. The composition of imports shifted somewhat, with the share of transport equipment expanding, and those of mineral products and foodstuffs contracting (Table A1.2).

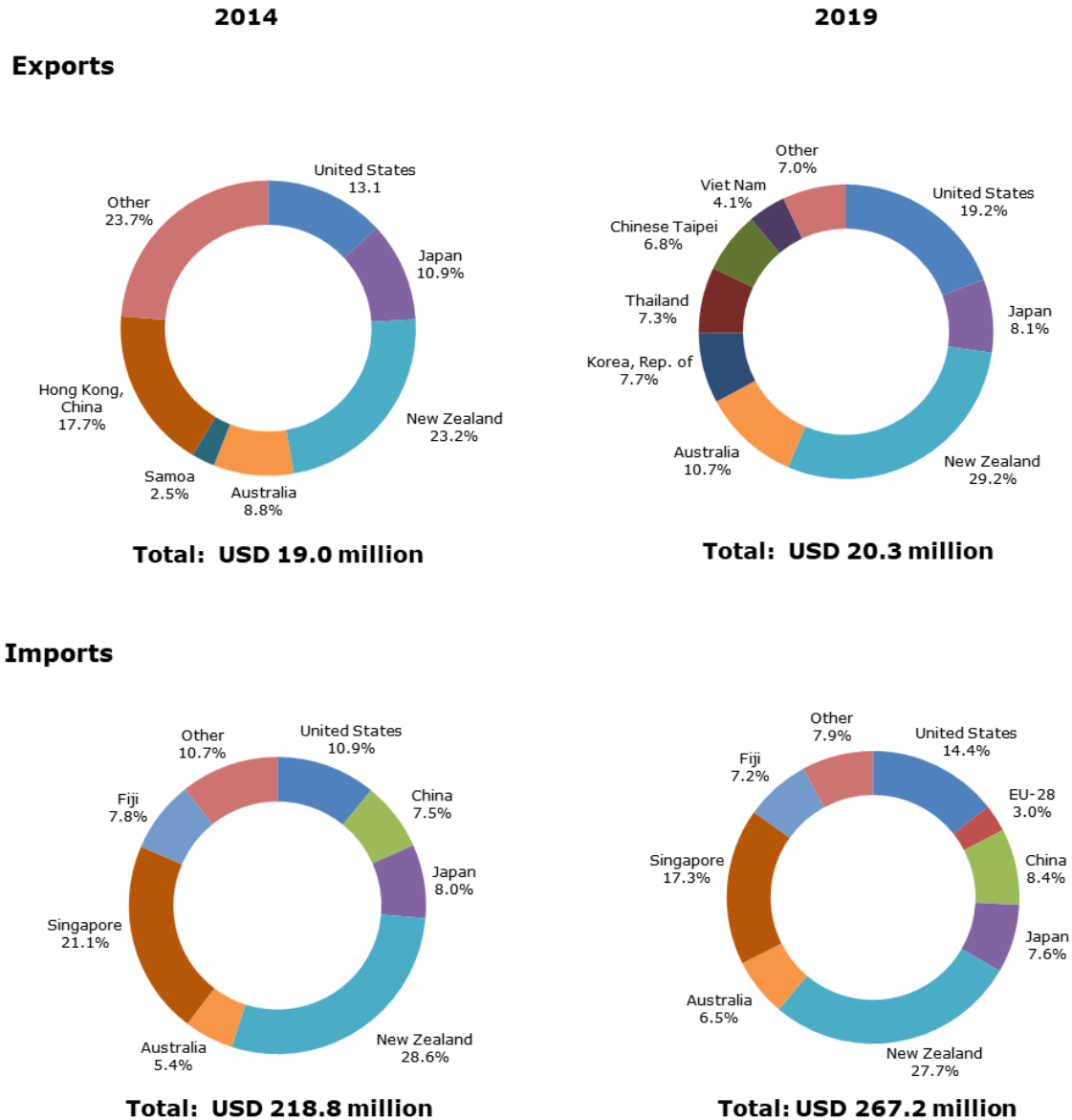
<sup>17</sup> NRBT, *Foreign Reserve Statistics for November 2020*. Viewed at: <http://www.reservebank.to/index.php/financials/financial-markets/for-res.html>.

**Chart 1.1 Product composition of merchandise trade, 2014 and 2019**

Source: WTO Secretariat calculations, based on data provided by the authorities.

1.22. Tonga's exports continue to have a significant sub-regional component, with New Zealand and Australia accounting for some 40% of total exports in 2019. The share of total exports destined to the United States increased from 13.1% in 2014 to 19.2% in 2019, whereas the share of exports to Japan decreased somewhat (Chart 1.2 and Table A1.3). New Zealand remained the principal origin of goods imported into Tonga, followed by Singapore and the United States (Table A1.4).

1.23. During most of the review period, Tonga remained a net importer of services. Apart from a modest surplus in FY 2015/16, its services balance was generally negative, with annual deficits amounting to approximately 3% of GDP. According to the authorities, the one-off services trade surplus was mainly attributable to higher transport and communication receipts during the King's coronation celebrations. Travel, transportation, and other business services remain the major traded services (Table 1.4).

**Chart 1.2 Direction of merchandise trade, 2014 and 2019**

Source: WTO Secretariat calculations, based on data provided by the authorities.

**Table 1.4 Trade in services, FY 2013-19**

	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19
<b>Total credit (USD million)</b>	<b>56.6</b>	<b>54.7</b>	<b>77.6</b>	<b>81.1</b>	<b>90.3</b>	<b>96.7</b>
<b>% of total credit</b>						
Manufacturing services on physical inputs owned by others	0.0	0.1	0.0	0.0	0.0	0.0
Maintenance and repair services, n.i.e.	0.2	1.4	0.8	0.3	0.0	0.0
Transportation	18.7	20.4	15.6	18.6	19.2	18.5
Travel	63.4	65.2	65.7	59.3	53.3	58.8
Business	4.7	4.6	6.2	5.1	4.3	4.3
Personal	58.7	60.5	59.5	54.3	49.0	54.4
Construction	0.7	2.4	4.2	2.4	1.6	6.7
Telecommunications, computer and information	2.4	3.5	5.2	9.7	16.2	6.0
Insurance and pension	0.0	0.0	0.0	0.0	0.0	0.0
Financial services	0.5	0.3	0.0	0.1	0.0	0.0
Charges of intellectual property	0.3	2.1	0.0	0.0	0.0	0.0

	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19
Other business services	7.3	0.0	3.6	4.0	5.3	6.8
Personal and cultural services	3.7	0.2	0.1	0.1	0.1	0.0
Government goods and services, n.i.e.	3.0	4.3	4.9	5.5	4.3	3.2
<b>Total debit (USD million)</b>	<b>67.2</b>	<b>74.1</b>	<b>73.2</b>	<b>96.9</b>	<b>105.4</b>	<b>112.4</b>
	<b>% of total debit</b>					
Manufacturing services on physical inputs owned by others	0.0	0.1	0.2	0.0	0.0	0.0
Maintenance and repair services, n.i.e.	0.1	1.3	2.0	0.9	0.5	1.8
Transportation	32.0	26.4	36.4	28.9	30.2	27.8
Travel	30.5	25.9	27.9	35.4	33.9	40.6
Business	11.8	6.3	7.4	12.2	12.2	12.9
Personal	18.8	19.6	20.4	23.2	21.7	27.7
Construction	10.1	0.2	0.6	0.6	0.2	0.8
Telecommunications, computer and information	2.3	2.6	4.9	8.7	6.8	4.6
Insurance and pension	3.6	2.7	1.3	1.4	1.5	1.2
Financial services	4.6	0.4	0.7	0.1	0.0	0.0
Charges of intellectual property	0.2	0.2	6.6	0.0	0.0	0.0
Other business services	11.0	27.7	13.9	17.1	20.0	16.5
Personal and cultural services	0.7	0.6	1.5	0.1	0.6	0.3
Government goods and services, n.i.e.	4.8	12.0	4.1	6.7	6.2	6.5

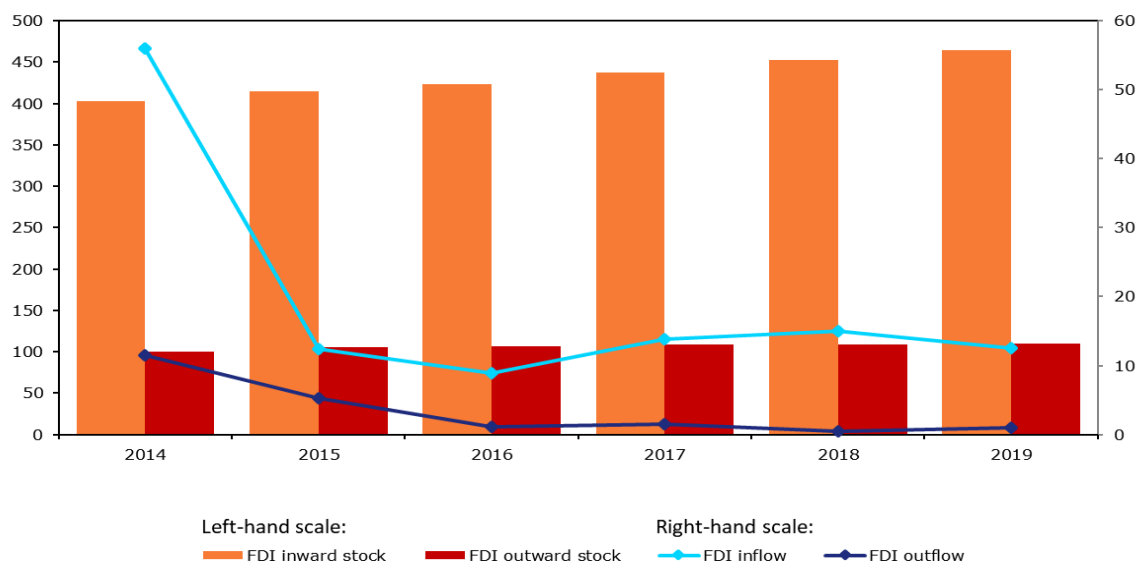
Source: WTO Secretariat calculations, based on data provided by the authorities.

### 1.3.2 Trends and patterns in FDI

1.24. Foreign direct investment (FDI) into Tonga remains relatively modest and irregular. According to UNCTAD estimates, during 2014-19 FDI inflows fluctuated between a peak of USD 56 million and a low of USD 8.8 million (Chart 1.3). According to the authorities, between 2014 and 2019 the bulk of FDI inflows originated from China. Significant investments were also received from Chinese Taipei, Indonesia, and New Zealand. FDI was primarily channelled into services, notably professional services and tourism, followed by manufacturing/processing activities.

**Chart 1.3 Foreign direct investment, 2014-19**

(USD million)



Source: UNCTAD, *World Investment Report 2020*. Viewed at: <https://unctad.org/en/Pages/DIAE/World%20Investment%20Report/Annex-Tables.aspx>.

## 2 TRADE AND INVESTMENT REGIMES

2.1. Since 2014, Tonga has updated its trade-related policies within its broader strategic development framework and undertaken certain institutional changes. Its WTO participation has been relatively limited and its commitments unchanged since accession; at the same time, it was a recipient of Aid for Trade support. Tonga's main regional and international integration efforts remained mainly focused on the Pacific region. Tonga made efforts to ameliorate the legal framework of its investment regime and undertook a landmark improvement in dispute settlement. Efforts to implement the Foreign Investment Act 2020 and review its Foreign Investment Regulation are under way.

### 2.1 General Framework

2.2. Tonga remains a constitutional monarchy headed by His Majesty King Taufa'ahau Tupou VI. During the review period, the Constitution (last amended on 3 May 2013) remained unchanged; an amendment Bill aimed at judiciary-related reforms was under consideration in 2019 but was withdrawn in 2020.<sup>1</sup>

2.3. Executive authority continues to be 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 also appoints Governors to the islands of Ha'apai and Vava'u on the advice of the Prime Minister; they are responsible for the implementation of laws within their respective districts.

2.4. Legislative powers are exercised by the unicameral Legislative Assembly, comprising the speaker, the Cabinet, 9 nobles chosen by the 33 nobles of Tonga, and 17 representatives elected by all citizens aged 21 and over.<sup>2</sup> The number of representatives in the Assembly varies between 26 and 30, as all members of the Cabinet are also members of the Legislative Assembly.<sup>3</sup> Elections are normally held every four years; the last election was held in November 2017 and the next is due in 2022. The Assembly is the only organ empowered to adopt laws (Constitution, Clause 56). Bills read and voted for by a majority of the representatives three times are presented to the King for royal assent. Upon receiving royal assent, Acts enter into force once gazetted, unless otherwise indicated in the Act.

2.5. Judicial power continues to be primarily held by the Magistrates Court, the Supreme Court, the Court of Appeal, and the Land Court.<sup>4</sup> Judges are appointed by His Majesty in Council upon recommendation of the Judicial and Discipline Panel. 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 penalty does not exceed

<sup>1</sup> WTO document WT/TPR/S/291/Rev.1, 27 February 2014.

<sup>2</sup> 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.

<sup>3</sup> The representatives represent 17 electoral constituencies, i.e. 10 from Tongatapu, 1 from the Niuaus (Niuatoputatu and Niuafafu), 1 from 'Eua, 2 from Ha'apai, and 3 from Vava'u. The nobles are chosen to represent similar areas. Cabinet Ministers are in general among the elected representatives, and they continue to represent their electoral constituencies in the Legislative Assembly during their appointment as Minister. Clause 51(2)(a) of the Constitution authorizes the Prime Minister to nominate up to four persons who 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.

<sup>4</sup> Administrative decisions may be reviewed in the first instance by the Supreme Court. Its decisions may be appealed to the Court of Appeal. Administrative actions relating to matters subject to WTO provisions, such as customs classification and valuation, tariff application, licensing, technical barriers to trade, sanitary and phytosanitary measures, and issues related to the Agreement on Trade-Related Aspects of Intellectual Property Rights, may be brought before the Commissioner for Public Relations Ombudsman pursuant to the Ombudsman Act. The Ombudsman's recommendations may be appealed to the Supreme Court. If a recommendation has not been acted upon within a reasonable period of time, the Ombudsman may transmit a copy of the recommendation to the Prime Minister. There have been no WTO-related cases under this procedure to date.

three years' imprisonment or a fine of TOP 10,000. The Land Court adjudicates and determines all disputes, claims, and questions of title affecting any land or any interest in land in the Kingdom.<sup>5</sup>

2.6. Tonga is sub-divided into five administrative divisions: 'Eua, Ha'apai, Niuas, Tongatapu, and Vava'u. Each is further divided into a total of 23 districts. According to the FY 2019/20 budget estimate, Tongatapu (the leader in terms of population and economic activity) continued to be the largest recipient of recurrent expenditure with TOP 221 million (60.8% of total); it was followed by Vava'u with TOP 15.2 million (4%), Ha'apai with TOP 8.9 million (2.4%), and the rest of the islands depending on their population size and other factors.<sup>6</sup> At the same time, Tongatapu and Vava'u ensured recurrent revenue collection equivalent to TOP 128.3 million (21.4%) and about TOP 7.9 million (1.3%), respectively.

## 2.2 Trade Policy Formulation and Objectives

### 2.2.1 Trade policy formulation

#### 2.2.1.1 Executive branches of government

2.7. In the present Government, the Ministry of Trade and Economic Development (MTED) (previously the Ministry of Commerce and Industries (MCI) and then renamed in 2014 to the Ministry of Commerce, Tourism and Labour), in coordination with other relevant agencies, is in charge of trade policy formulation and implementation, as well as foreign trade policy (including the WTO) and foreign investment policy matters.<sup>7</sup> Its responsibilities include the business licensing regime, consumer protection, price regulation and control, and technical work on trade matters, including import licensing and intellectual property.

2.8. A Tonga National Trade Negotiation Committee (TNTNC), established 27 November 2015 to formulate trade policies and negotiation strategies, reports directly to the Cabinet through the Office of the Minister of Trade and Economic Development. It is responsible for all free trade negotiations, including the Pacific Island Countries Trade Agreement (PICTA) and various economic partnership agreements (EPAs) (Section 2.4.2). The TNTNC is chaired by the Minister of Trade and Economic Development and co-chaired by the Minister of Revenue and Customs; originally its membership also comprises the CEOs of the Ministries of Agriculture, Food, Forests and Fisheries (MAFFF); Meteorology, Energy, Information, Disaster Management, Environment, Communication and Climate Change (MEIDECC); Revenue and Customs; Internal Affairs; and Finance and National Planning.

2.9. A Trade and Economic Development Working Group (TEDWG) was established on 18 July 2018 to advise the Cabinet Trade and Economic Development Steering Committee (CTEDSC). Its functions include: (i) coordinating work pertaining to mainstreaming of trade and economic development across all sectors; (ii) providing strategic guidance/direction to implementing Ministries/Agencies on how trade should be mainstreamed; (iii) making recommendations to the CTEDSC on strategic positions in trade negotiations and economic development matters; (iv) making recommendations to the CTEDSC on improvements to Tonga's Trade Policy Framework and relevant economic development policies; (v) assessing trade and economic development policy issues and appropriate recommendations to the CTEDSC; (vi) organizing meetings with development partners to support economic development and trade-related activities; and (vii) implementing directions from the CTEDSC. Its original membership consisted of the CEOs of the MTED (chair); the MAFF; and the Ministries of Tourism, Infrastructure, Internal Affairs, Finance, Public Enterprises, and Revenue and Customs; as well as the Solicitor General and representatives from the private sector, non-governmental organizations (NGOs), grassroots organizations, and academia.

<sup>5</sup> Appeals from the Land Court can be made to the Court of Appeal or the King in Privy Council (only for appeals to determine hereditary estates and titles or those of nobles), and these decisions are final and binding. The Minister of Lands represents the Crown in all land matters.

<sup>6</sup> Ministry of Finance (2019), *Budget Statement 2019/20*.

<sup>7</sup> Other government agencies involved in trade policy formulation and implementation of their areas of expertise include: the Ministry of Revenue and Customs (MoRC); the Ministry of Agriculture, Food and Forests (MAFF); the Ministry of Fisheries (MoF); the Ministry of Meteorology, Energy, Information, Disaster Management, Environment, Communication and Climate Change (MEIDECC); the Ministry of Public Enterprises; the Ministry of Lands and Natural Resources; the Ministry of Infrastructure; the Ministry of Tourism; the Ministry of Health; the Ministry of Foreign Affairs; the Ministry of Finance; and the National Reserve Bank of Tonga (NRBT).

### 2.2.1.2 Advisory bodies

2.10. Despite the lack of an official procedure for the Legislative Assembly to disseminate draft legislation for public comment, the 2019 Legislative Drafting Manual of the Attorney General's Office encourages consultation within the Government and with the broader community. In principle, all bills are now subject to public consultations. In 2020, the Legislative Assembly collaborated with the Government to undertake public consultations on pending bills. These were conducted via talk-back radio, which enabled constructive discussion with the general public. Public consultations were held in the course of the rule-making process for the Foreign Investment Regulations 2020 (Section 2.5.1).

2.11. 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. The Royal Oceania Institute (ROI), Tonga's first independent think tank, launched on 31 March 2016, and it supports Pacific-centred, ethical, and fact-based research and analysis. In recent years, the ROI hosted various fora and closed round-table discussions on themes ranging from the government budget to Tonga's international relations.

### 2.2.2 Trade and related policy objectives

2.12. Tonga is a Small Island Developing State (SIDS) that remains dependent on trade to meet its needs for the wide range of modern capital and consumer goods required for building its economy and reaching its sustainable development goals. Paragraph 107(a-d) of the 2014 SIDS Accelerated Modalities of Action (SAMOA) Pathway encourages successful engagement in trade, technical assistance through trade-related assistance, implementation of the WTO Trade Facilitation Agreement, and strengthening partnerships to enhance the participation of SIDS in international trade in goods and services.<sup>8</sup> During the review period, Tonga's trade and investment policy vision was set within the broader framework of the second Tonga Strategic Development Framework (TSDF) 2015-2025, which succeeded the first TSDF 2011-2014.<sup>9</sup> The TSDF 2015-2025 sets 7 National Outcomes and 29 Organisational Outcomes, which, together, guide the development of the Kingdom. The TSDF's purpose is to support good governance through strengthening the horizontal and vertical coherence of all secondary TSDF stakeholders. It, *inter alia*: informs all national stakeholders and development partners of the broad Organisational Outcomes that are needed to support the National Outcomes and Impact sought by the country; guides the formulation of sector plans, Ministries, Departments and Agencies' (MDAs) corporate plans, and the medium-term budgetary framework (MTBF) through which resources are allocated; guides the development of government external economic relations and the country's strategies and assistance programmes of development partners; and provides indicators, with targets, to facilitate monitoring and measurement of high-level progress.

2.13. The TSDF 2015-2025 recognizes that progressive, sustainable, and inclusive development and higher quality of life are not possible in isolation from the rest of the Pacific and the world. Access to new knowledge, progressive ideas, trade, and employment opportunities, as well as foreign investment and development assistance, that are accessible to all are essential. Pillar 1 of the TSDF 2015-2025 supports trade, overseas employment, and foreign investment, and Pillar 4 recognizes the need to provide the infrastructure and technology to facilitate these links. Its strategic concepts for better access to overseas trade, employment, and foreign investment are to: (i) ensure the capacity to engage effectively in regional and wider trade and access negotiations that support greater opportunities for Tongan exports and imports; (ii) improve protocols and negotiate for greater access to overseas markets, in particular for agricultural and fisheries products; (iii) negotiate for greater access to overseas employment schemes, in particular for more skilled workers and opportunities for women workers; (iv) provide clear and transparent rules, regulations, incentives, and information that encourage both foreign and domestic investment; and (v) build on

<sup>8</sup> UN Sustainable Development Knowledge Platform, *SIDS Accelerated Modalities of Action (SAMOA) Pathway*. Viewed at: <https://sustainabledevelopment.un.org/samoapathway.html>.

<sup>9</sup> WTO document WT/TPR/S/291/Rev.1, 27 February 2014; United Nations Office for Disaster Risk Reduction, *Strategic Development Framework (2015-2025)*. Viewed at: <https://www.preventionweb.net/english/policies/v.php?id=59665&cid=174>. Ministry of Finance and National Planning (2015), *Tonga Strategic Development Framework 2015-2025 – A more progressive Tonga: Enhancing Our Inheritance*. Viewed at: <http://www.finance.gov.to/sites/default/files/2020-09/Budget%20Statement%202015-2016.pdf>.



the opportunities of mutually beneficial exchange with the Tongan Diaspora, and in particular among groups of women.

2.14. In line with TSDF outcomes, the second National Infrastructure Investment Plan (NIIP) 2013-2023, shaped by TSDF 2011-2014, outlines the priorities and plans for major infrastructure initiatives. It is focused on economic infrastructure facilities that support everyday life and business activity, including major initiatives in energy (electricity, fuel); telecommunications (telephone, Internet, broadcasting); water and waste-related services (water supply, wastewater, drainage, solid waste); and transport (airports, roads, seaports).

2.15. Tonga's National Export Strategy (NES) was last revised in 2012, suggesting a Private Sector Development Strategy (PSDS) to address gaps in the NES, facilitate and improve private-sector performance, and increase the pace of trade development. With assistance from the Asian Development Bank, a PSDS with a five-year (2018-22) action plan was developed and approved by the Cabinet for implementation.

### 2.2.3 Trade laws and regulations

2.16. The regulatory framework of Tonga consists of the Constitution, laws/acts, regulations, orders, and notices. According to the authorities, during the review period the main trade-related legislative/regulatory amendments related to, *inter alia*: customs forms, income tax rates, seabed mining royalties, CEOs' approval thresholds on public procurement projects, sandalwood imports, civil aviation, and communications.

2.17. Under the Laws Consolidation Act 2018 (Act 22 of 2018), in force from 21 February 2019, action was taken for the publication of a consolidated and revised edition of the laws of Tonga. The Act mandates the Attorney General to, *inter alia*, prepare and bring into force a complete revised edition of laws in both Tongan and English that is to be completed by December 2020. When the consolidated set is published, Ministries responsible for implementing the laws can review, streamline, and reform their respective regulatory framework and tools. Comprehensive regulatory impact assessments have not yet been undertaken, due to the lack of extensive regulatory reform and resource constraints. Ministries are assigned the responsibility of determining impacts and consulting affected stakeholders. The Tonga Law Commission Act, which is yet to come into force, envisages the set-up of a Commission entrusted with, *inter alia*, providing advice on the general impact of a law.

### 2.2.4 Transparency

2.18. Acts, as well as secondary legislation, bills, and judgements, are available electronically and free of charge in both Tongan and English from the website of the Office of the Attorney General (<https://ago.gov.to/cms/>), which is updated regularly. New laws and regulations are published in the *Tonga Legal Gazette*. Editions of the Gazette have been available electronically on the same website since 2011. Despite the COVID-19 pandemic, the digitization of information on government processes and functions is under way.<sup>10</sup> Digitalization would allow swift access to and delivery of government services, and dissemination of information and communication among government ministries and between the Government and major stakeholders. The implementation of an e-government project would assist with E-GOV development; develop a digital media platform to disseminate information; enhance service delivery to clients (call centre and help desk); and initiate technical innovation platforms for youth. Government e-services are to be based on a digital enterprise architecture to be developed with a framework to guide and execute the development of all digital services. A consultancy firm was selected and was scheduled to begin work during the last quarter of 2020. As at 30 September 2020, all line ministries and agencies were connected to the National Information and Communication Technology (NICT) infrastructure involving the Government's secured IT network backbone, cloud services from the government data centre, and the Government Unified Communication System. Tonga ranked 108<sup>th</sup> out of 193 economies (98<sup>th</sup> out of 190 in the 2014 index) in the 2020 UN E-Government Development Index (EGDI).<sup>11</sup>

<sup>10</sup> Ministry of Finance (2019), *Budget Statement 2019/20*; and Cabinet Decision of 31 March 2017 on National ICT (NICT) Project to Implement E-Government.

<sup>11</sup> E-government should be a breakthrough in terms of providing and improving public services to be effective, efficient, transparent, and accountable. Astawa, I.P.M. and Dewi, K.C. (2018), "E-government



2.19. As in all countries, a lack of transparency, and thus a lack of public accountability, creates scope for administrative discretion and therefore corruption. The Anti-Corruption Commissioner Act 2007, providing for the appointment of an anti-corruption commissioner and commission to investigate instances of alleged corruption, has not yet been implemented, due to resource constraints. The oversight function of the Commission is to be with the Legislative Assembly. In late October 2016, the Legislative Assembly seemingly approved the third and final reading of a Bill that would lead to the appointment of an anti-corruption commissioner.<sup>12</sup>

2.20. On 6 February 2020, Tonga acceded to the 2003 United Nations Convention Against Corruption (UNCAC), becoming the 14<sup>th</sup> and last Pacific Island country to do so and the UNCAC's 187<sup>th</sup> party.<sup>13</sup> According to the authorities, the UNCAC accession reflected Tonga's renewed political commitment to address issues of corruption and ensure that domestic accountability standards met those set internationally. At the same time, it recognized the cross-boundary nature of corruption and the need for assistance from neighbouring countries. UNCAC parties are required to establish criminal and other penalties for a wide range of acts of corruption. The authorities indicate that they are undertaking reforms aimed at strengthening the legal framework to better address corruption in all its forms; the Ministry of Justice is administering these reforms. In 2019, the Attorney General's Office published a manual on legislative drafting that provides guidance to officials on how to develop and prepare laws, regulations, and other measures in a manner that supports compliance with core international principles. As at June 2020, to address financial concerns, the authorities considered housing the Anti-Corruption Commissioner in an existing institution, i.e. the Ombudsman, until sufficient funding for a separate institution becomes available.

## 2.3 Trade Agreements and Arrangements

### 2.3.1 WTO

#### 2.3.1.1 Features

2.21. Tonga has been a WTO Member since 27 July 2007. It grants at least most-favoured-nation (MFN) treatment to all trading partners. During the review period, Tonga kept its WTO commitments on tariffs and trade in services unchanged (Sections 3.1.3 and 4.4.2). Tonga does not participate in the WTO Agreements on Government Procurement or Trade in Civil Aircraft, or the Information Technology Agreement. As at December 2020, Tonga had not ratified the Trade Facilitation Agreement (TFA), but had participated in its notification process; at its August 2019, WTO notification, the new definitive implementation dates for its Category C commitments were set for end-2024 or end-2029, depending on the issue, whereas those for Category B commitments were set for end-2020 (Section 3.1.1).<sup>14</sup>

2.22. Tonga maintains an interest in the negotiations to impose disciplines on fisheries subsidies (Section 4.1.2.5) and, together with its African, Caribbean, and Pacific (ACP) partners, Tonga is a W52 Sponsor. 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. It also expects the issues of concern with which they are continuously faced, such as vulnerability to climate change (e.g. natural disasters, sea level rise, and floods), to be reflected.

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Facilities Analysis for Public Services in Higher Education", *Journal of Physics: Conference Series*, Vol. 953; and United Nations Department of Economic and Social Affairs, *UN E-Government Surveys*. Viewed at: <https://publicadministration.un.org/en/research/un-e-government-surveys>.

<sup>12</sup> Economist Intelligence Unit, "Anti-corruption Efforts Stepped Up," 9 November 2016. [http://country.eiu.com/article.aspx?articleid=234799207&Country=Tonga&topic=Politics&subtopic=For\\_9](http://country.eiu.com/article.aspx?articleid=234799207&Country=Tonga&topic=Politics&subtopic=For_9).

<sup>13</sup> United Nations Office on Drugs and Crime, *Country Profiles*. Viewed at: <https://www.unodc.org/unodc/treaties/CAC/country-profile/CountryProfile.html?code=IDN>.

<sup>14</sup> In mid-November 2020, the authorities indicated that, in collaboration with the World Bank Group and in consultation with relevant government ministries and agencies and the private sector, a roadmap for the TFA implementation would be developed. In addition, as a result of these consultations, it seems that Tonga's Category A, B, and C commitments and their definitive implementation were subject to revision. WTO documents G/TFA/N/TON/1/Add.2, 23 August 2019. Viewed at: <https://tfadatabase.org/uploads/notification/NTON1A2.pdf>; and G/TFA/N/TON/1/Add.1, 15 October 2018. Viewed at: <https://tfadatabase.org/uploads/notification/NTON1A1.pdf>.

2.23. So far Tonga has not been involved as a complainant, a respondent, or a third party in a trade dispute under the WTO dispute settlement mechanism.

2.24. As a Member without a Geneva mission, Tonga's WTO participation continues to be handled directly by the MTED in Nuku'alofa, via the Embassy of the Kingdom of Tonga in London. Whenever the MTED is unable to participate in person, the High Commissioner in London is authorized to represent the country. At the same time, the Pacific Islands Forum Secretariat (PIFS), the ACP Secretariat, and the Commonwealth Secretariat inform the authorities about ongoing trade-related discussions in Geneva.

### 2.3.1.2 Trade-related technical assistance

2.25. Aid for Trade support to Tonga grew from average disbursements of USD 31 million during 2014-16 to USD 36.5 million in 2017; in 2017, the top donors were Japan (56%), the International Development Association (IDA, part of the World Bank) (18%), the Asian Development Bank (11%), EU institutions (6%), and New Zealand (6%).<sup>15</sup> Tonga's need for WTO technical assistance and its capacity-building needs in FY 2019/20 included: (i) WTO Agreement obligations, including the TFA (Section 2.4.1.1); (ii) post-Doha negotiations; (iii) food safety; (iv) Hazard Analysis Critical Control Point (HACCP) and sanitary control related to fisheries; (v) national workshop under WTO Agreements; (vi) trade negotiation skills; (vii) customs-related Agreements and obligations; (viii) utilization of the General System of Preferences; and (ix) trade policy formulation issues.

2.26. Tonga's Trade Policy Framework 2017-2025 was developed with technical assistance from the PIFS, the WTO/UNCTAD International Trade Centre (ITC), and the Commonwealth Secretariat (Hub and Spokes programme). The Framework is considered to be a useful tool to galvanize the mobilization of Aid for Trade, especially with the implementation of key recommendations in its matrix.

### 2.3.1.3 Notifications

2.27. During the review period, Tonga submitted 10 notifications to the WTO. From January 2014 to August 2020, its notifications pertained to provisions of the Agreement on Safeguards (no relevant laws or regulations), the Agreement on Subsidies and Countervailing Measures (SCM Agreement) (neither competent authority nor countervailing actions), the Agreement on Preshipment Inspection (no relevant laws or regulations), the TFA (contact points and implementation dates (Section 2.4.1.1)), the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) (contact point), and the General Agreement on Trade in Services (GATS) (contact points).<sup>16</sup> Tonga continues to work closely with the WTO Secretariat on the submission of its notification; as at December 2020, it planned submissions on agriculture domestic support (latest in 2012 (Section 4.1.1.5)) and TFA commitments, and to have all outstanding notifications submitted by February 2021.

### 2.3.2 Regional and preferential agreements

2.28. During the review period, Tonga's regional and international integration policy remained largely focused on the Pacific region. It remains a participant in the Pacific Islands Forum (PIF), the PICTA, the Pacific Agreement on Closer Economic Relations (PACER), and agreements with non-Forum island countries. A major positive development was the ratification of PACER Plus (see below), considered by the authorities as the most economically meaningful regional trade agreement (RTA) since the country's independence, which prevails in the event of any inconsistency between it and the South Pacific Regional Trade and Economic Cooperation Agreement (SPARTECA) (see below). PACER Plus was and remains a very large undertaking in terms of administrative resources,

<sup>15</sup> WTO, *Accessions: Tonga*. Viewed at: [https://www.wto.org/english/thewto\\_e/acc\\_e/a1\\_tonga\\_e.htm](https://www.wto.org/english/thewto_e/acc_e/a1_tonga_e.htm).

<sup>16</sup> WTO documents G/VAL/N/1/TONG/1, 9 September 2020; G/SG/N/1/TONG/1, 5 May 2020; G/SCM/N/202/TONG, 5 May 2020; G/PSI/N/1/Rev.4/Add.2, 15 June 2020; G/TFA/N/TONG/2/Rev.2, 19 March 2020; G/TFA/N/TONG/2/Rev.1, 25 February 2019; IP/N/3/TONG/3, 2 July 2020; IP/N/3/TONG/2, 21 February 2019; IP/N/3/TONG/1, 19 October 2018; and S/ENQ/78/Rev.18, 1 February 2019.

negotiation, and implementation. The SPARTECA and the PICTA were notified to the GATT/WTO under the Enabling Clause in 1981 and 2008, respectively.<sup>17</sup>

### ***Pacific Islands Forum (PIF)***

2.29. Tonga remains a PIF member.<sup>18</sup> Its Pacific Plan for Strengthening Regional Cooperation and Integration, which was to be implemented over a period of 10 years from 2005, envisaged increasing sustainable regional trade and investment through the lowering of trade barriers, including technical measures.<sup>19</sup> Since July 2014, PIF work has been guided by the Framework for Pacific Regionalism (FPR), which replaces the Pacific Plan for Strengthening Regional Cooperation and Integration and sets out the strategic vision, values, objectives and approaches to achieve deeper regionalism in the Pacific. Under the FPR, there has been an increased focus on: (i) increased inclusivity and participation in regional policy making and implementation; (ii) greater cohesion of the regional architecture in the Pacific to deliver on regional priorities; and (iii) prioritization of the regional agenda, to ensure a focus on the most important regional issues. Under the FPR, Tonga anticipates furthering economic and trade ties with other South Pacific Forum Island Countries (FICs).<sup>20</sup> The PIFS, located in Fiji, harmonizes regional positions on various political and policy issues and has technical programmes in economic development, transport, and trade. The PIFS is reviewing the current trade agreements in the Pacific, such as the PICTA, PACER Plus, and the Melanesian Spearhead Group (MSG) Trade Agreement to identify areas for harmonization and to encourage intra-regional trade.<sup>21</sup>

2.30. According to the authorities, in 2019 the share of PIF countries in Tonga's total merchandise exports and imports stood at 42.5% (36.8% in 2014) and 41.9% (42.1% in 2014), respectively. The main export items were agricultural and fisheries commodities (root crops and kava), and the main imports were food products (flour and lamb flaps).

### ***Pacific Island Countries Trade Agreement (PICTA)***

2.31. Tonga continues to participate in the PICTA, signed in August 2001 and aimed at establishing a free trade area between the 14 Pacific Island States; it entered into force on 13 April 2003, and trade under the agreement became operational on 1 January 2007.<sup>22</sup> The PICTA includes schedules for the progressive elimination of tariffs on intra-regional trade, and covers trade in goods excluding alcohol and tobacco products. However, at the time of the previous Review, the PICTA was only partially operational, as many of the participants had yet to pass the necessary legislation to extend tariff until 2021.<sup>23</sup> As at November 2020, the review report of the rules of origin was completed and awaiting the PICTA Rules of Origin Committee's recommendations for consideration and

<sup>17</sup> GATT document L/5100, 20 February 1981, and WTO document WT/COMTD/N/29, 17 September 2008.

<sup>18</sup> It comprises 18 members: Australia, the Cook Islands, the Federated States of Micronesia, Fiji, French Polynesia, Kiribati, Nauru, New Caledonia, New Zealand, Niue, Palau, Papua New Guinea, the Marshall Islands, Samoa, the Solomon Islands, Tonga, Tuvalu, and Vanuatu. Pacific Islands Forum, *The Pacific Islands Forum*. Viewed at: <https://www.forumsec.org/who-we-are-pacific-islands-forum/>.

<sup>19</sup> The Pacific Plan was endorsed by PIF members in October 2005 and revised in October 2006.

<sup>20</sup> The South Pacific Forum comprises 14 FICs (the Cook Islands, the Federated States of Micronesia, Fiji, Kiribati, the Marshall Islands, Nauru, Niue, Palau, Papua New Guinea, Samoa, the Solomon Islands, Tonga, Tuvalu, and Vanuatu) and Australia and New Zealand.

<sup>21</sup> The MSG is a free trade agreement that allows trade to take place freely between Fiji, Papua New Guinea, Vanuatu, and the Solomon Islands. In 1993, the MSG signed its first trade agreement, known then as the MSG Trade Agreement One (MSGTA1), with the original three members of Papua New Guinea, the Solomon Islands, and Vanuatu. Fiji later joined the MSGTA1 in 1998, and a second agreement, the MSG Trade Agreement Two (MSGTA2), was signed by the four parties in 2005. In 2016, the MSGTA2 was extended from covering goods alone to also include trade in services, labour mobility, and cross-border investments.

<sup>22</sup> The 14 participants are the Cook Islands, Fiji, Kiribati, the Marshall Islands, the Federated States of Micronesia, Nauru, Niue, Palau, Papua New Guinea, Samoa, the Solomon Islands, Tonga, Tuvalu, and Vanuatu.

<sup>23</sup> At the time of the previous Review, seven members (the Cook Islands, Fiji, Niue, Samoa, the Solomon Islands, Tuvalu, and Vanuatu) had implemented the required domestic arrangements and announced their readiness to trade under the provisions of PICTA, thus benefiting from PICTA preferences since 1 January 2007. Due to delays, the timetable for tariff elimination was extended until 2021. Following directions from FIC Trade Ministers at their meeting in February 2020, a comprehensive review of regional trade agreements including the PICTA is currently under way.

endorsement by the FIC Trade Ministers. The revised rules of origin should provide improved conditions for trade amongst PICTA countries.

2.32. Tonga signed the agreement on 18 August 2001 and ratified it on 27 December 2001, but has yet to declare its readiness to trade under the agreement.<sup>24</sup> At the time of the previous Review, it had submitted 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.<sup>25</sup> The PICTA timetable for tariff reductions remained to be incorporated into domestic legislation. According to the authorities, technical issues were under consideration, notably the implications on revenue. Consequently, in 2018 Tonga requested technical assistance from the PIFS to conduct an in-country consultation to take stocktaking of the PICTA implementation gaps and to identify areas of necessary reform to enable trade under the Agreement. As at November 2020, the majority of the reforms were customs-related, and work was still under way for its review. Tonga was awaiting policy direction to proceed with actions for the implementation of the PICTA, pending the completion of the PICTA rules of origin reforms (see above).

2.33. According to the authorities, in 2019, the share of PICTA countries in Tonga's total merchandise exports and imports stood at 2.6% (5.6% in 2014) and 7.7% (8.3 in 2014), respectively. The main export items were re-exports of petroleum and automotive paints, and the main imports were foodstuffs (flour and cracker biscuits).

2.34. The integration of trade in services into the 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.<sup>26</sup> As at December 2020, it had been ratified by four signatories (out of eight), namely: the Marshall Islands, Nauru, Samoa, and Tuvalu; it required two additional instruments of ratification prior to its entry into force. The Protocol covers 11 services sectors: business, communication, construction, distribution, educational, environmental, financial, health, tourism, recreational, and transport. Tonga signed the Protocol, and since the previous Review its ratification remains a priority as significant benefits from increased intra-regional trade in services are foreseen. Given the COVID-19 pandemic, the PIFS reprioritized its trade programme for the Protocol, which is envisaged to be shifted to 2022.

### ***Pacific Agreement on Closer Economic Relations (PACER)***

2.35. Tonga remains a party to the 2001 PACER framework agreement (in force from August 2002) for deeper, stepwise liberalization of trade and investment among the Pacific Island States. Within the PACER framework, the PICTA was designed as a vehicle for trade liberalization amongst the Pacific Island States as a precursor to further liberalization between them and Australia and New Zealand.<sup>27</sup>

2.36. A PACER Plus comprehensive Free Trade Agreement between Australia, the Cook Islands, Kiribati, Nauru, New Zealand, Niue, Samoa, the Solomon Islands, Tonga, Tuvalu, and Vanuatu covering goods, services, and investment was concluded in Brisbane on 20 April 2017.<sup>28</sup> It opened for signature on 14 June 2017 in Tonga and was signed by the 11 parties. Tonga is the Depositary to the Agreement, which entered into force on 13 December 2020.<sup>29</sup> Virtually all tariffs (see below) in the eight regional non-LDC developing country signatories must fall to zero within 25 years from the date of entry into force of the Agreement, with most tariff reductions taking place in the first 10 years. The tariff reduction schedule is slower for the three LDC signatories – Kiribati, the Solomon Islands, and Tuvalu – with reductions beginning in 2028, unless the country graduates from LDC

<sup>24</sup> As at November 2020, only eight FICs (the Cook Islands, Fiji, Kiribati, Niue, Samoa, the Solomon Islands, Tuvalu, and Vanuatu) had announced their readiness to trade under the PICTA. Viewed at: <http://mted.gov.to/trade-and-investment/>.

<sup>25</sup> Pacific Islands Forum Secretariat. Viewed at: <http://www.forumsec.org/pages.cfm/economic-governance/regional-trade-1/picta/tonga.html>.

<sup>26</sup> Samoa was the first country to ratify the services chapter of the PICTA in May 2013.

<sup>27</sup> WTO document WT/TPR/S/291/Rev.1, 27 February 2014.

<sup>28</sup> Viewed at: <http://mted.gov.to/trade-and-investment/>.

<sup>29</sup> Australian Government Department of Foreign Affairs and Trade, *Pacific Agreement on Closer Economic Relations (PACER) Plus*. Viewed at: <https://www.dfat.gov.au/trade/agreements/not-yet-in-force/pacer/pacific-agreement-on-closer-economic-relations-pacer-plus>.

status.<sup>30</sup> According to the authorities, PACER Plus builds on the SPARTECA, which provides the Pacific Islands with duty- and quota-free access to Australia and New Zealand, and the PACER (2001). It prevails in the event of any inconsistency between it and the SPARTECA.<sup>31</sup> Market access under PACER Plus was broadened, while incoming services trade and investment liberalization depends on the schedule of commitments of the parties to the Agreement.

2.37. Tonga ratified PACER Plus on 27 March 2020, after completing its internal requirements. Under the Agreement, the parties are to apply originating goods preferential tariff treatment as set out in each party's tariff schedule, while time-frames for implementing the tariff commitments vary between parties.<sup>32</sup> Tonga's entire implementation of PACER Plus tariff elimination is to be completed within a 25-year time-frame except for 135 lines that will not be zero-rated. Parties are also obliged to provide non-discriminatory treatment and market access. The rules of origin under PACER Plus are modernized and contain flexible product-specific rules (PSRs), which allow country producers to obtain inputs from a range of external and domestic sources and still qualify for duty-free entry into Australia and New Zealand, allowing for more domestic value addition or regional value content (40%). Under the Agreement, Tonga received technical assistance under the Agreement, by means of help from UNCTAD (contracted by Australia and New Zealand), which developed trade portals for signatories. The portals were intended to ensure that transparency of information is reflected and accessible to exporters and importers to a PACER Plus party. As at November 2020, Tonga's trade portal (<https://tonga.tradeportal.org/?l=en>) had six products uploaded, but work was under way for the inclusion of all products as well as publication of other relevant information useful to traders.

2.38. According to the authorities, in 2019 the share of PACER countries in Tonga's total merchandise exports and imports stood at 34.6% (36.7% in 2014) and 41.3% (42.1% in 2014), respectively. The main export items were agricultural commodities (root crops and kava), and the principal imports were prepared foodstuffs and petroleum products.

### ***Economic Partnership Agreement (EPA) (European Union-African, Caribbean, and Pacific (ACP) States)***

2.39. As a party to the Cotonou Agreement, which governs relations between the European Union and the Organisation of African, Caribbean and Pacific States (OACPS) (which, until 2019, was called the ACP Group of States), Tonga is involved in the negotiations for a Post-Cotonou Agreement, which could be ready for signature in early 2021.<sup>33</sup> To emphasize support of and commitment to the ACP Group, the Tongan authorities received approval from the Cabinet and are now awaiting royal assent for ratification of the 2019 Revised Georgetown Agreement, which replaces the 1975 Georgetown Agreement. The Georgetown Agreement was the founding agreement of the Group and came into force on 5 April 2020, when it attained the requisite one-third of Member States' signatures.<sup>34</sup>

<sup>30</sup> United Nations LDC Portal, *Pacific Agreement on Closer Economic Relations (PACER Plus)*. Viewed at: <https://www.un.org/ldcportal/pacer-plus/>.

<sup>31</sup> Reportedly, one of the reasons that Forum Island Countries (FICs) did not take full advantage of the SPARTECA was that the rules of origin (RoO) that determined what qualified as a Pacific Island product were too onerous. Half of a product's value had to be added in-country. Despite calls for greater flexibility on RoO in PACER Plus, the value-addition requirement was reduced only slightly for most goods, and the Agreement introduced a so-called change in tariff classification. United Nations LDC Portal, *Pacific Agreement on Closer Economic Relations (PACER Plus)*. Viewed at: <https://www.un.org/ldcportal/pacer-plus/>.

<sup>32</sup> All schedules are available online. New Zealand Foreign Affairs & Trade. Viewed at: <https://www.mfat.govt.nz/en/trade/free-trade-agreements/free-trade-agreements-concluded-but-not-in-force/pacer/pacer-plus/>.

<sup>33</sup> The Cotonou Agreement was initially scheduled to expire on 29 February 2020. As negotiations on a new OACPS-EU Partnership are still ongoing, the parties decided to extend the Cotonou Agreement until 31 December 2020. European Commission, "Future Africa-Caribbean-Pacific States/EU Partnership: 'Post-Cotonou' Negotiations Resume at Ministerial Level", 12 June 2020. Viewed at: [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_20\\_1015](https://ec.europa.eu/commission/presscorner/detail/en/IP_20_1015).

<sup>34</sup> The revised Agreement includes significant changes to the organization, including a name change from the ACP Group of States to the OACPS. Embassy of the Kingdom of Eswatini, "Signing Ceremony of the Revised Georgetown Agreement", 17 June 2020. Viewed at: <https://www.eswatini-embassy.eu/2020/06/17/signing-ceremony-of-the-revised-georgetown-agreement/#:~:text=The%20Revised%20Georgetown%20Agreement%20came,sign%20the%20Revised%20Georgetown%20Agreement>.



2.40. The European Union's trade relationship with the Pacific States continues to be set by an EPA.<sup>35</sup> The agreement was ratified by the European Parliament in January 2011 and by Papua New Guinea in May 2011. Furthermore, Fiji started applying the agreement in July 2014, Samoa acceded in December 2018 and has been applying it since then, and the Solomon Islands on 17 May 2020. In July 2018, Tonga, the last State to take action, notified its intention to accede to the interim Economic Partnership Agreement (IEPA) between the European Union and the Pacific States (Fiji, Papua New Guinea, and Samoa, as well as the recently acceded Solomon Islands). The European Commission assisted Tonga to review and update its Market Access Offer (MAO) to reflect HS17 changes. As at August 2020, Tonga had yet to complete its internal procedures and submit its final MAO offer. In late 2019, the MTED convened public consultations with government agencies and private-sector stakeholders to finalize Tonga's MAO, but an updated analysis of the fiscal impact of trade with all parties involved, especially ACP partners, has yet to be conducted. Tonga received technical assistance under a TradeCommII project to undertake a legal review and fiscal impact assessment of its accession to the IEPA.

2.41. According to the authorities, in 2019 the share of the European Union in Tonga's total merchandise exports and imports stood at 0.4% (0.7% in 2014) and 2.8% (0.13% in 2014), respectively. The main export items were re-exports of iron or steel and electric motors, and its main imports were parts suitable for use solely with machines and other parts of electrical transformers and inductors.

### 2.3.3 Other agreements and arrangements

2.42. Tonga remains a beneficiary of the generalized system of preferences (GSP) schemes of Australia, Canada, the European Union (pending participation in the EPA and graduation state (Section 2.3.2)), Japan, New Zealand, Norway, the Russian Federation, Switzerland, Turkey, and the United States.<sup>36</sup> The authorities indicate that despite their eligibility for GSP preferences, the majority of Tonga's exports to Japan and the United States remain subject to MFN tariff rates; in 2018, 11.2% of total exports to the United States benefited from GSP preferential tariff treatment.<sup>37</sup> No data on the utilization rates of other schemes were available from the authorities.

## 2.4 Investment Regime

2.43. During the review period, Tonga undertook certain initiatives to improve its investment regime framework in the regulatory, procedural, and dispute settlement areas (Sections 2.5.1, 2.5.3, and 2.5.5). Tonga attracts relatively little foreign direct investment (FDI), most of which is in agriculture and tourism (Section 1.3.2). Despite efforts to attract investors, the country seemingly presents discouraging factors<sup>38</sup>, including vulnerability to external shocks, lack of infrastructure development,

<sup>35</sup> The EC Market Access Regulation (MAR) 1528 of 1 January 2008 provides duty-free, quota-free market access for ACP countries that have concluded an EPA. EPAs date back to the signing of the Cotonou Agreement and, *inter alia*: (i) are "tailor-made" to suit specific regional circumstances; (ii) open up EU markets fully and immediately, but allow ACP countries long transition periods to open up partially to EU imports while providing protection for sensitive sectors; (iii) provide scope for wide-ranging trade cooperation on areas such as sanitary norms and other standards; and (iv) help kick-start reform and contribute to good economic governance. European Commission, *Economic Partnerships*. Viewed at: <https://ec.europa.eu/trade/policy/countries-and-regions/development/economic-partnerships/>; European Commission, *Countries and Regions: Pacific*. Viewed at: <https://ec.europa.eu/trade/policy/countries-and-regions/regions/pacific/>; and WTO document WT/TPR/S/291/Rev.1, 27 February 2014.

<sup>36</sup> In 2013, 2014, and 2015, Tonga was classified by the World Bank as an upper middle-income country and therefore was to be removed from the European Union's list of GSP beneficiary countries in Annex II of EU Regulation 978/2012 with effect from 1 January 2017. However, in 2016 Tonga was classified by the World Bank as a lower middle-income country and was reinstated to the list of GSP beneficiary countries in Annex II of EU Regulation 978/2012 with effect from 1 January 2017. Tonga has been categorized as an upper middle-income country with expiration of its transition period for three consecutive years (2016-18) on the basis of the World Bank determination. As a result, Tonga was to graduate from the European Union's GSP as at 1 January 2021. Tonga does not qualify for duty-free quota-free access under the EU's "Everything But Arms" initiative. Viewed at: <http://mted.gov.to/trade-and-investment/>; and Government of the United Kingdom, *Tonga and Ukraine Removed from the General System of Preference (CIP7)*. Viewed at: <https://www.gov.uk/guidance/tonga-and-ukraine-removed-from-the-general-system-of-preference-cip7>.

<sup>37</sup> Office of the United States Trade Representative, *Pacific Islands*. Viewed at: <https://ustr.gov/countries-regions/southeast-asia-pacific/pacific-islands-0>.

<sup>38</sup> Santander, *Tonga: Foreign Investment*. Viewed at: <https://santandertrade.com/en/portal/establish-overseas/tonga/investing-3>; and Lloyds Bank, *Tonga: Investing*. Viewed at: <https://www.lloydsbanktrade.com/en/market-potential/tonga/investing>.

difficult/limited access to certain regions, investment restrictions, land purchase constraints, unpredictable government policies, the State's oversized role, uncertainty about the enforcement of property rights, and an inadequately resourced judiciary. Tonga's international ranking in terms of ease of doing business worsened and stood below certain neighbouring countries, although such indicators have been criticized for their statistical methodology, on the issue of whether they accurately reflect the business environment, and on conceptual grounds.<sup>39</sup>

#### 2.4.1 Regulatory and institutional framework

2.44. During the review period, the regulatory framework was changed. A new Foreign Investment Act 2020 (Act 7 of 2020), passed on 8 September 2020 with royal assent granted on 29 October 2020, is to replace the current Foreign Investment Act 2002 (Act No. 22 of 2002), which was enforced when the Foreign Investment Implementing Regulations 2006 also entered into force, i.e. on 2 April 2007.<sup>40</sup> As at December 2020, the MTED was reviewing the Foreign Investment Regulations, which include the list of restricted and reserved activities (Section 2.5.2); the reserved list is to be reduced and the restricted list increased. The Act requires a foreign investor to obtain a foreign investment registration certificate before applying for a business licence. The Foreign Investment Act 2020 defines a foreign investor (overseas person) as an individual who is not Tongan or a company with any foreign ownership share. Under the new Act, the Appeal Committee that hears appeals from the Registrar could be replaced by an arbitrator appointed by the Minister. A time-frame for an appeal and determination of an appeal could also be proposed. There would not be a custodial (imprisonment) sentence if someone is found guilty of an offence, only a fine.

2.45. No Trade and Investment Board has been established yet; the MTED's Investment Facilitation and Promotion Unit provides information to domestic and foreign investors, assists them in obtaining necessary permits and licences, and provides other services as required.<sup>41</sup>

#### 2.4.2 Restricted activities

2.46. During the review period, the lists of prohibited, restricted, and reserved activities remained unchanged, but the Foreign Investment Regulations may bring changes to these lists (Section 2.5.1). Schedule 1 of the Business Licences Act (Revised Edition 2016), incorporating the Business Licences (Amendment) Act 2012 (Act No. 21 of 2012), lists some prohibited business activities, i.e. activities that are closed to domestic and foreign investors alike (Section 3 of the Act).<sup>42</sup> Under the Foreign Investment Regulations 2006, under review as at December 2020 (Section 2.5.1), certain activities remain either restricted for foreign investors (Table 2.1) or reserved for Tongan investors (Table 2.2). However, until implementation of the new Foreign Investment Act 2020 (Section 2.5.1),

<sup>39</sup> In the World Bank's Doing Business 2020 study, Tonga ranked 103<sup>rd</sup> out of 190 economies for ease of starting a business (62<sup>nd</sup> of 185 in 2013). In the 2020 report, Tonga scored best in getting credit (48<sup>th</sup>), starting a business (62<sup>nd</sup>), and dealing with construction permits (69<sup>th</sup>). It scored lowest in registering property (166<sup>th</sup>), protecting minority investors (153<sup>rd</sup>), and resolving insolvency (138<sup>th</sup>). The authorities indicate that between DB2014 and DB2015 and from DB2016 to DB2020, Tonga's ease of doing business rating improved under the DB2015 and DB2017-20 methodologies. Between, Tonga's rating improved under the methodology. Overall, they are of the view that there has been a slight improvement in the business environment as measured by the DB methodology since the last Review. Paul Holden and Alma Pekmezovic (2020), *How Accurate Are the Doing Business Indicators? A Pacific Island Case Study*, 13 October. Viewed at: <https://onlinelibrary.wiley.com/doi/full/10.1002/app5.313>; and World Bank (2020), *Economy Profile of Tonga - Doing Business 2020 Indicators – Comparing Business Regulation in 190 Economies*. Viewed at: <https://www.doingbusiness.org/en/rankings> and <https://www.doingbusiness.org/en/data/exploreeconomies/tonga#>.

<sup>40</sup> WTO document WT/TPR/S/291/Rev.1, 27 February 2014.

<sup>41</sup> 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. At the time of the previous review, funding concerns impeded its establishment. WTO document WT/TPR/S/291/Rev.1, 27 February 2014.

<sup>42</sup> These activities are: storage, disposal, or transport of nuclear or toxic waste; pornography; export, import, or production of any products that are prohibited under the laws of Tonga; prostitution; processing or export of endangered species; production of weapons of warfare; or an activity that, in the opinion of the minister, may constitute a threat to national security and public order. Kingdom of Tonga, *Business Licences (Amendment) Act 2012*. Viewed at: <http://www.businessregistries.gov.to/wp-content/uploads/2014/11/BusinessLicencesAmendmentAct2012.pdf>; and *Business Licences Act*. Viewed at: [https://tonga.tradeportal.org/media/BusinessLicencesAct\\_2.pdf](https://tonga.tradeportal.org/media/BusinessLicencesAct_2.pdf).

as long as the foreign share in a venture remains 25% or less, the project is considered to be a Tongan investment for both restricted and reserved activities.

**Table 2.1 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; and - Aquaculture.	Subject to the relevant Resource Management Plan (administered by the Department of Fisheries of MAFFF, now Ministry of Fisheries)
Agricultural supply store distributing seeds, fertilizers, chemicals	Subject to the requirements of the Pesticide Act 2002
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; and Health Practitioners Review Act 2001

Source: Foreign Investment Regulations 2006, Revised Edition 2016, Chapter 38.18.1, Schedule 2.

**Table 2.2 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: (a) Folk tales, folk poetry, and folk riddles; (b) Folk songs and instrumental folk music; (c) Folk dances and folk plays; and (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 TOP 500,000
12	Production/farming of: (a) root crops (yams, taro, sweet potato, cassava); (b) squash; (c) paper mulberry; (d) pandanus; and (e) kava.
13	Fishing activities comprising: (a) reef fishing; (b) inshore fishing within 12 nm (Zone C) in water less than 1,000 metres; and (c) bottom fishing in water depth less than 500 metres.

Source: Foreign Investment Regulations 2006, Revised Edition 2016, Chapter 38.18.1, Schedule 1.

2.47. Under the Land Act, the sale of land is prohibited in Tonga.<sup>43</sup> Clause 104 of the Constitution and Section 13 of the Land Act vest all land in the Kingdom to the Crown (being the King). However, the lands of the Kingdom are already prescribed in the Land Act as Hereditary Estates (Schedule I of the nobles, titular chiefs, and talking chiefs), Royal Estates (Schedule II), Royal Family Estates

<sup>43</sup> 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 10 years (Section 12).



(Schedule III), and Crown Estates (all those lands not falling within Schedules I, II, or III). Individual hereditary town allotments, hereditary tax allotments, and leasehold interests can be allocated and registered from any of these estates. Every estate (*tofia*) and allotment (*api*) is hereditary, according to prescribed rules of succession. The majority of land is held in hereditary estates.

2.48. The Minister for Lands represents the Crown in all matters concerning the land of the Kingdom. He/she may grant leases, subleases, and permits with the consent of the Cabinet. Foreign investors are eligible to be granted a lease, sublease, or permit with the same terms and conditions applicable to Tongan nationals. Leases of estates and town allotments may exceed 99 years with the consent of His Majesty in Council. A lease of a town allotment is normally granted only for 50 years. The lease of a tax allotment is restricted to 20 years, in order to protect the food security and other agricultural livelihoods/income for Tongan nationals. Therefore, major infrastructure and investment projects that require long-term leases are restricted to estate or Crown land and are subject to current land-use regulations.

### 2.4.3 Registration and approval

#### *Business licensing*

2.49. During the review period, the legislation governing business licences remained unchanged. It consists of the Business Licences Act (last amended in 2012) and the Business Licences Regulations that came into effect in 2013 (Section 2.5.2). 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 starting business (Table 2.3). Foreign investors should have a valid foreign investment registration certificate (see below) before applying for a business licence.

**Table 2.3 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, now Ministry of 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.

2.50. A business licence is issued automatically within three working days provided the application is complete and does not involve prohibited goods under the Business Licences Act (Section 2.5.2). 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.<sup>44</sup> The fee for a first-time (paper copy) application is TOP 100 (+15% consumption tax (CT)); the fee for filing the annual notice of continued business activity is TOP 50 (plus tax).<sup>45</sup>

<sup>44</sup> In the case of partnerships, all partners should be at least 18 years old.

<sup>45</sup> The fees are reduced by 50% for applications and notices filed electronically.

2.51. Business licences are not transferable. A licence holder wishing or needing to amend a licence must notify the Registrar of the changes, in writing, within 10 working days of the change.<sup>46</sup> 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 MTED is available for inspection by the public. On 2 December 2014, Tonga launched the region's first integrated online business registry ([www.businessregistries.gov.to](http://www.businessregistries.gov.to)) providing up-to-date information on Tongan companies and businesses to the public 24 hours a day, 7 days a week.<sup>47</sup> Between 2014 and August 2020, a total of 6,053 business registrations (2,500 by end-August 2013) were made.

2.52. The Registrar may reject or refuse a licence application, or cancel a granted licence, on statutory grounds (Sections 5 and 11 of the Business Licences Act). The decision of the Registrar may be appealed to the Minister of the MTED, whose decision is final. No cases have been appealed since 2014.

2.53. Incorporation of an enterprise requires applying to the Companies Office of the Kingdom of Tonga; it maintains an electronic register available to the public at all times. Incorporation is governed by the Companies Act 1995 and the Companies Regulations 1999 as amended in 2010. 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 TOP 400 for a Tongan company (Companies Act, Section 16(1)), and TOP 800 for an overseas company (Section 354(1)).<sup>48</sup> Other fees, such as the registration of changes or the filing of annual returns, are also higher for overseas companies. CT (15%) is added to all fees.

### **Foreign investment certification**

2.54. Foreign investment registration certificates are required and generally valid for the lifetime of the project, as long as the business activity begins within one year of the granting of the certificate. Applications are addressed to the CEO of the MTED. A certificate may be transferred to another foreign investor provided he or she also satisfies the criteria under the Foreign Investment Act (Section 2.4.1). Applications for a foreign investment registration certificate are subject to a fee of TOP 100, and amended certificates are issued for a fee of TOP 15.<sup>49</sup> A dissatisfied applicant may appeal to the MTED, who appoints an Arbitrator to decide the appeal. A decision by the MTED CEO to cancel a foreign investment registration certificate may be appealed to the Supreme Court, and the decision is suspended while the appeal is pending. Between 2014 and 2020, there have been no appeal cases, and 23 foreign companies were registered in Tonga. Most foreign businesses remain engaged in trade and other services, excluding retail and wholesale of groceries (which are reserved for Tongan investors) (Section 2.4.2).

### **2.4.4 Investment promotion**

2.55. So far no income tax incentives have encouraged investment. Investments in specific activities (e.g. agriculture, fisheries, manufacturing, and tourism) are assisted primarily through zero or low (3%) tariffs on equipment, machinery, or raw materials and equipment/materials for packing (unlimited); tariff exemptions under Chapter 98 of Tonga's Customs Tariff; and (upon application) exemptions from payment of excise tax or CT on investment goods (Sections 4.1.1.5, 4.1.2.5, and 4.3.3). No designated free zones or free economic zones exist.

2.56. Tonga maintains a 20-acre (8-hectare) industrial estate now known as Tonga Asset Managers & Associates Ltd (TAMA) (previously Small Industries Center (SIC)) on the main island, Tongatapu, and an 8-acre (3.2-hectare) estate on the island of Vava'u. The estates provide land for lease and premises for rent on long-term contracts. Since 1980, the Ma'fanga TAMA has operated under a long-term lease that is to expire in October 2076. Its land is demarcated into 42 industrial land plots

<sup>46</sup> The fee for amendments to a business licence (e.g. change of address, type of business, or authorized signature(s)) is TOP 30 (or TOP 20 for an online submission).

<sup>47</sup> The website allows users to file and access company records, business names, and business licences. Asian Development Bank, "Tonga's Innovative Online Business Registry Goes Live", 2 December 2014. Viewed at: <https://www.adb.org/news/tonga-s-innovative-online-business-registry-goes-live-adb>.

<sup>48</sup> The fees are reduced by 50% for applications filed electronically. At the time of the previous Review, the authorities maintained that the higher fees for overseas companies reflect additional costs, including the screening of foreign directors and the shareholding structure.

<sup>49</sup> Transfer of a foreign investment registration certificate is subject to a fee of TOP 45. The applicable fees are set out in Schedule 3 of the Foreign Investment Regulations 2006.

of variable size, some of which (36 in 2013), involving 24 foreign tenants as at 2020, were built and rented out. The Neiafu TAMA, operating since 1990, has a lease until August 2097. The entire 8-acre estate was developed with all necessary supply utilities and demarcated into 16 industrial land plots, of which six (four in 2013), involving two foreign tenants, were rented out. Enterprises located on the estates have priority access to electricity, telephone, and water connections. Work permits are granted to foreign investors and their families subject to normal immigration rules. As at December 2020, the enterprises were involved in storage, processing (fish products, drinking water, cigarette, nonu juices, paints, and toilet paper) and assembly (mobile phones); they employed 186 persons, of which 74 were foreigners.

#### 2.4.5 Dispute settlement

2.57. Tonga does not currently have a legal framework for domestic or international arbitration, except for arbitration in respect of certain investment disputes subject to the provisions of the Arbitration Act 1996 of the United Kingdom.<sup>50</sup>

2.58. Tonga ratified the Convention on the Settlement of Investment Disputes Between States and Nationals of Other States (International Centre for Settlement of Investment Disputes (ICSID)) in 1990. On 12 June 2020, it acceded to the 1958 United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards, a landmark development that should improve the ease of doing business in Tonga and lead to increased confidence from foreign investors.<sup>51</sup>

#### 2.4.6 Investment treaty developments

2.59. During the review period, no new bilateral investment treaties (BITs) were signed. Tonga's only BIT is the Agreement between the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of Tonga for the Promotion and Protection of Investments (1997). The Agreement entered into force 22 October 1997 with a duration of 10 years and remains in force unless either party provides written notice of termination. In case of termination, existing investments retain protection for an additional 20 years.

2.60. So far Tonga has not been a party to bilateral Agreements for Avoidance of Double Taxation (DTAs).

<sup>50</sup> Section 16(1) of Tonga's Foreign Investment Act 2002 states: "The provisions of the Arbitration Act 1996 (UK) shall apply to any arbitration under this Act." Section 2 of the Reciprocal Enforcement of Judgments Act 1988 defines "judgment" to include an arbitral award.

<sup>51</sup> Tonga is the 6<sup>th</sup> Pacific Island State to accede to the Convention after the Marshall Islands, the Cook Islands, Fiji, Papua New Guinea, and, most recently, Palau. Reportedly, the Asian Development Bank previously reported that the absence of an effective arbitration regime in Tonga adds to the costs and uncertainty associated with business agreements, as well as the resolution of disputes that arise over them. It also highlighted that the lack of any basis for enforcing overseas arbitration awards in Tonga increases risk for foreign investors, and recommended that Tonga establish an effective arbitration regime and adopt an arbitration act to address these issues. Kluwer Arbitration Blog, "Tonga Accedes to the New York Convention", 4 August 2020. Viewed at: [http://arbitrationblog.kluwerarbitration.com/2020/08/04/tonga-accedes-to-the-new-york-convention/?doing\\_wp\\_cron=1597935389.7225821018218994140625](http://arbitrationblog.kluwerarbitration.com/2020/08/04/tonga-accedes-to-the-new-york-convention/?doing_wp_cron=1597935389.7225821018218994140625).

### 3 TRADE POLICIES AND PRACTICES BY MEASURE

3.1. During the review period, the general thrust of Tonga's trade and trade-related policies was revised in several areas. The simple average applied MFN tariff decreased from 11.5% in 2013 to 10.4% in 2020, reflecting mainly an increase in the share of duty-free tariff lines. Most import duties eliminated during the review period concerned agricultural products. Tonga has bound its entire tariff. In 2020, the simple average bound tariff rate was 7.2 percentage points higher than the average applied MFN rate.

3.2. Having ratified the Pacific Agreement on Closer Economic Relations Plus (PACER Plus), Tonga enacted regulations on the corresponding preferential rules of origin in December 2020. In the initial phase of implementation, Tonga grants preferences on 67% of its dutiable tariff lines, and the gap between the simple average rate for preferential partners and the average MFN rate is only 0.7 percentage points.

3.3. According to the authorities, Tonga continues to apply the WTO Customs Valuation Agreement and use the transaction value of goods as the primary method. Tonga notified its category commitments under the Agreement on Trade Facilitation (TFA) in 2017 but is yet to present to the WTO its instrument of acceptance of the TFA. Ratification is expected in 2021.

3.4. Non-automatic licensing requirements continue to apply on a number of imports. The legal instruments governing restricted imports are not consolidated and the granting of licences is administered by several line ministries and government agencies.

3.5. Tonga does not levy any export taxes; exports remain exempt from internal taxes and are zero-rated for consumption tax (CT) purposes. The exportation of green and mature coconuts remains reserved for Tongan businesses.

3.6. Tonga continues to support business activities through fiscal concessions, access to preferential credits, and targeted subsidies, which are in general very limited in terms of scope. Tonga reformed its taxation system of food products to reduce the consumption of food deemed unhealthy and address non-communicable diseases. In the area of sanitary and phytosanitary (SPS) measures, it adopted the Food Act in 2014 to strengthen the development and application of food standards. Six years later, it was reviewed and replaced by the Food Act 2020.

3.7. Tonga remained without a legal and institutional framework governing competition policy during the review period, and no substantial progress was made in this regard. It continues to apply a price-control mechanism to certain food products, chemicals, fuels, and services. State-owned enterprises continue to have a significant presence in the economy, and progress has been limited in the implementation of the public enterprise reform initiated in 2007. Tonga made great strides in implementing its 2013 procurement reform strategy and moved from a decentralized system to a partially centralized one.

3.8. The protection of intellectual property rights (IPRs) under Tonga's legislation continues to follow to a large extent the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement), with some exceptions where the level of protection provided under domestic legislation is in general higher. No major change took place in this area during the review period.

#### 3.1 Measures Directly Affecting Imports

##### 3.1.1 Customs procedures, valuation, and requirements

3.9. Anyone wishing to import into (or export from) Tonga goods for commercial purposes must have a valid business licence (Section 2.5.3). According to the authorities, apart from certain product-specific requirements, there are no other activity registration or licensing prerequisites for engaging in cross-border trade.

3.10. Importers may choose to fulfil customs formalities themselves (acting on their own behalf) or engage the services of professional customs brokers. In November 2020, there were 15 licensed customs brokers, down from 21 in 2014. According to the authorities, customs brokers compete freely; their fees are not regulated, and there are no geographic restrictions on their operations.

within Tonga. In addition to an annual licence fee (Table 3.4), customs brokers are required to provide a security of TOP 5,000 to ensure revenue protection and compliance with customs legislation.

3.11. Commercial imports are cleared on the basis of a declaration (C13 entry form), suppliers' invoices, a packing list, and a bill of lading (or air waybill). Where applicable, the supporting documentation must also include an import licence and/or permit, a certificate of origin, or a quarantine entry permit. According to the authorities, licences and permits are required whenever an import consignment is to benefit from duty and tax concessions, or it contains restricted goods. Customs declarations must be submitted both electronically and in hard copy, and the supporting shipping documentation is to be lodged manually.

3.12. A risk management unit became operational at Tonga Customs in March 2016. Since then, import declarations have been assigned into one of three selectivity lanes: green (immediate release), yellow (documentary check), and red (documentary and physical checks). The assessment methodology is based on a matrix of risk indicators comprising the importer's and the customs broker's characteristics and prior record, as well as the consignment's nature and origin. Some 21.3% of import declarations processed between March 2016 and September 2019 were channelled into the red lane, and the share of declarations channelled into the yellow lane was 19.6%.

3.13. Tonga notified its category commitments under the TFA in 2017. As at September 2020, its implementation record covered approximately 12% of all TFA measures. Tonga is yet to present to the WTO its instrument of acceptance of the TFA.<sup>1</sup> The Tongan authorities expect ratification to take place in 2021.

3.14. The 2020 World Bank *Doing Business* survey ranks Tonga 97<sup>th</sup> of 188 economies on the trading across borders indicator. On average, importing merchandise into Tonga is estimated to require 26 hours and USD 330 for "border compliance", and 72 hours and USD 148 for "documentary compliance". On exportation, the corresponding figures are 52 hours and USD 201, and 108 hours and USD 70, respectively.<sup>2</sup> A time release study was conducted for the first time at Tonga's main seaport, Nuku'alofa Port, in February 2020.

3.15. According to the authorities, Tonga applies the WTO Customs Valuation Agreement and uses the transaction value of goods as the primary method (approximately 90% of import declarations). The dutiable value of imports is the sum of the purchase cost and all expenses incurred for insurance and freight up to the point of entry into Tonga. Consignments can be released under bond prior to the final determination of duties.

3.16. In case of disagreement with Tonga Customs decisions, importers must first lodge an appeal to the Chief Commissioner of Revenue. The Chief Commissioner's decisions can be appealed to the Tax Tribunal within 30 days of receipt of the decision. According to the authorities, only two customs decisions were appealed in the Tax Tribunal between 2014 and 2020.

### 3.1.2 Rules of origin

3.17. Tonga's customs legislation does not contain any provisions on non-preferential rules of origin. Regulations implementing preferential rules of origin under the PACER Plus were enacted in December 2020.<sup>3</sup>

### 3.1.3 Tariffs

3.18. During the review period, customs duties and taxes on imports accounted for approximately two thirds of tax revenue. The relative importance of customs duties and CT on imports in tax receipts was in decline, whereas that of excise tax on imports was on the rise (Table 3.8).

<sup>1</sup> WTO, Trade Facilitation Agreement database. Viewed at: <https://tfadatabase.org/members/tonga>.

<sup>2</sup> World Bank, *Ease of Doing Business in Tonga*. Viewed at: [https://www.doingbusiness.org/en/data/exploreeconomies/tonga#DB\\_tab](https://www.doingbusiness.org/en/data/exploreeconomies/tonga#DB_tab).

<sup>3</sup> Tonga Government, *Gazette Supplement Extraordinary*, No. 54, 11 December 2020.

3.19. Tonga's 2020 applied MFN customs tariff is based on the 2017 version of the Harmonized Commodity Description and Coding System (HS), and comprises 5,726 lines at the 8-digit level. All tariff lines have *ad valorem* rates (Table 3.1). There are no seasonal tariffs, or tariff quotas.

**Table 3.1 Structure of MFN tariff, 2013 and 2020**

	MFN applied		Final bound <sup>a</sup>
	2013	2020	
Simple average rate (%)	11.5	10.4	17.6
Agricultural products (HS01-24)	10.5	5.5	19.2
Industrial products (HS25-97)	11.7	11.6	17.3
WTO agricultural products	10.7	7.7	19.0
WTO non-agricultural products	11.7	10.9	17.4
Duty-free tariff lines (% of all tariff lines)	15.0	22.7	0.0
Simple average of dutiable lines only	13.6	13.5	17.6
Tariff quotas (% of all tariff lines)	0.0	0.0	0.0
Non- <i>ad valorem</i> tariffs (% of all tariff lines)	0.0	0.0	0.0
Domestic tariff "peaks" (% of all tariff lines) <sup>b</sup>	0.2	0.0	0.0
International tariff "peaks" (% of all tariff lines) <sup>c</sup>	29.5	6.9	53.1
Nuisance applied rates (% of all tariff lines) <sup>d</sup>	0.0	0.0	0.0
Overall standard deviation	6.5	7.1	2.5
Total number of tariff lines	5,286	5,726	5,726
<i>Ad valorem</i> rates	5,285	5,726	5,724
of which: duty-free rates	793	1,302	0
Alternate rates	1	0	1
Unbound	n.a.	n.a.	1

n.a. Not applicable.

a Based on an uncertified concordance from HS12 to HS17 nomenclature to enable comparison with the 2020 tariff schedule.

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

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

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

Note: Calculations of averages are based on national tariff lines (8-digit level). The 2013 and 2020 tariff schedules are based on HS07 and HS17 nomenclatures, respectively, at the 8-digit level.

Source: WTO Secretariat calculations, based on data provided by the authorities.

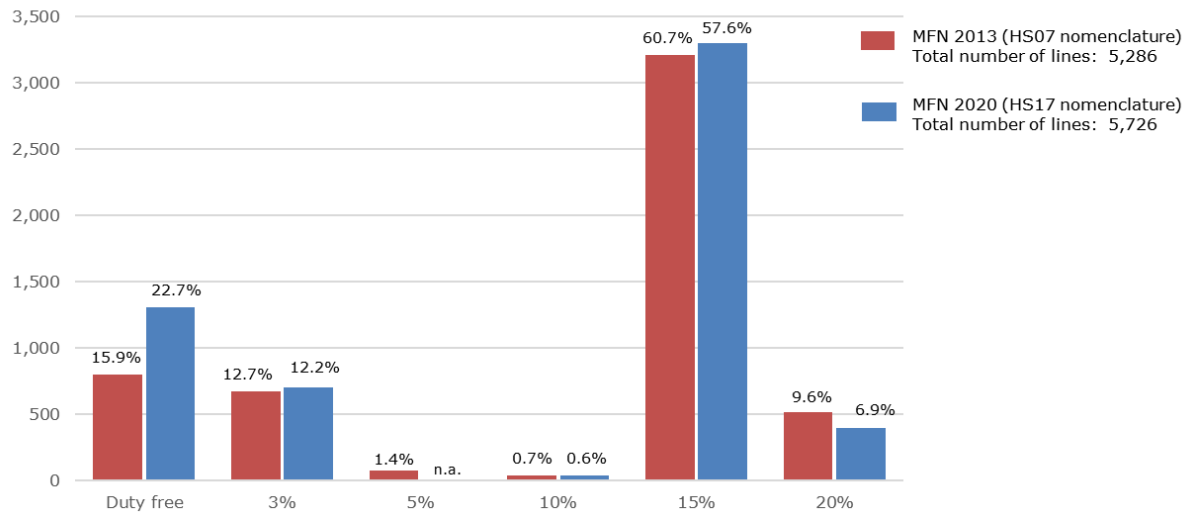
3.20. The simple average applied MFN tariff decreased from 11.5% in 2013 to 10.4% in 2020, reflecting mainly an increase in the share of duty-free tariff lines. Over the same period, the simple average rate on dutiable lines remained virtually unchanged. Some 6.9% of all lines carry rates of 20% or higher, down from 9.6% in 2013 (Chart 3.1). Overall tariff dispersion remains significant, with rates ranging from zero to 20% (Table 3.2). The average applied rate on non-agricultural products (WTO definition) is 10.9% (down from 11.7% in 2013), whereas the corresponding average for agricultural products stands at 7.7% (down from 10.7% in 2013). The drop of 3 percentage points in the latter average is mainly due to the elimination of import duties on certain fish and crustaceans, vegetables, fruit and nuts, and sausages.

3.21. Apart from one tariff line that remains unbound (monetary gold, HS 7108.20.00), Tonga has bound its tariff lines at *ad valorem* rates of either 15% or 20%. As a result, the simple average bound rates on agricultural and non-agricultural products (WTO definition) are of comparable magnitude (Table 3.1). In 2020, the simple average bound tariff rate was 17.6%, some 7.2 percentage points higher than the average applied MFN rate. At the HS section level, the gap between bound and applied rates was most pronounced for works of art, live animals, machinery, and transport equipment (Chart 3.2).



**Chart 3.1 Frequency distribution of MFN tariff rates, 2013 and 2020**

Number of tariff lines



n.a. Not applicable.

Note: Figures above bars denote the share of the respective tariff schedule's total lines.

Source: WTO Secretariat calculations, based on data provided by the authorities.

**Table 3.2 Summary analysis of MFN tariff, 2020**

	Number of lines	Average (%)	Range (%)	Standard deviation	Duty free (%)
<b>Total</b>	<b>5,726</b>	<b>10.4</b>	<b>0-20</b>	<b>7.1</b>	<b>22.7</b>
HS 01-24	1,069	5.5	0-20	7.3	63.0
HS 25-97	4,657	11.6	0-20	6.5	13.5
<b>By WTO category</b>					
WTO agricultural products	855	7.7	0-20	7.6	48.9
Animals and products thereof	124	0.8	0-15	3.5	94.4
Dairy products	28	7.5	0-15	7.5	50.0
Fruit, vegetables, and plants	221	6.8	0-20	8.1	57.5
Coffee and tea	24	12.7	0-20	5.8	16.7
Cereals and preparations	106	11.9	0-20	6.1	20.8
Oils seeds, fats, oil and their products	84	10.4	0-20	5.6	19.0
Sugars and confectionery	18	8.3	0-15	7.5	44.4
Beverages, spirits and tobacco	104	4.9	0-15	7.0	67.3
Cotton	5	15.0	15-15	0.0	0.0
Other agricultural products, n.e.s.	141	11.0	0-20	7.0	28.4
WTO non-agricultural products	4,871	10.9	0-20	6.8	18.1
Fish and fishery products	282	0.9	0-20	3.9	94.7
Minerals and metals	947	13.0	0-20	5.7	13.6
Chemicals and photographic supplies	955	13.0	0-15	5.1	12.9
Wood, pulp, paper and furniture	294	11.8	0-20	6.6	22.4
Textiles	595	14.7	0-20	2.5	2.5
Clothing	218	15.0	15-15	0.0	0.0
Leather, rubber, footwear and travel goods	162	13.9	0-20	0.5	18.5
Non-electric machinery	546	4.2	0-20	1.0	7.1
Electric machinery	254	9.1	0-20	0.7	10.6
Transport equipment	223	5.4	0-20	1.4	43.5
Non-agricultural products, n.e.s.	382	12.2	0-20	0.7	20.7
Petroleum	13	1.5	0-20	3.5	92.3
<b>By ISIC sector</b>					
ISIC 1 - Agriculture, hunting and fishing	412	5.8	0-20	7.4	61.9
ISIC 2 - Mining	96	12.3	0-20	6.2	19.8
ISIC 3 - Manufacturing	5,217	10.8	0-20	6.9	19.7
Manufacturing excluding food processing	4,515	11.6	0-20	6.5	12.9
Electrical energy	1	15.0	15	0.0	0.0
<b>By stage of processing</b>					
First stage of processing	786	7.9	0-20	7.8	49.1
Semi-processed products	1,832	13.7	0-20	4.5	9.4
Fully processed products	3,108	9.2	0-20	7.4	23.9
<b>By HS section</b>					
01 Live animals and products	408	2.1	0-20	5.3	86.8

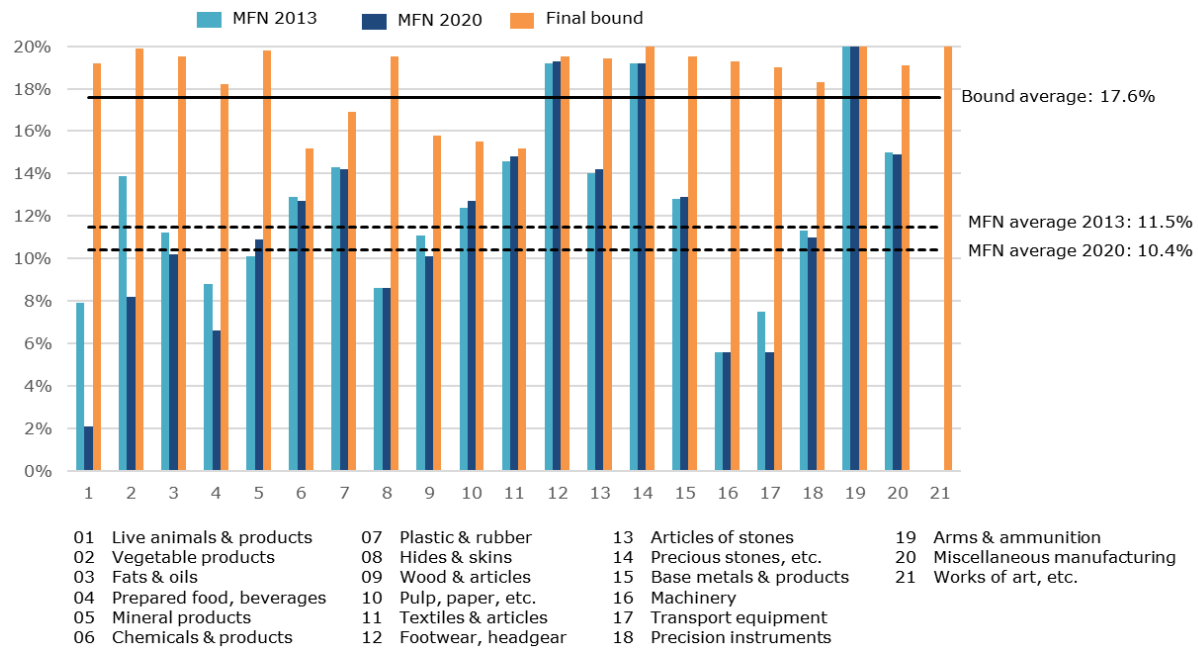


	Number of lines	Average (%)	Range (%)	Standard deviation	Duty free (%)
02 Vegetable products	331	8.2	0-20	7.9	47.1
03 Fats and oils	49	10.2	0-20	4.5	12.2
04 Prepared food, beverages and tobacco	281	6.6	0-20	7.5	56.2
05 Mineral products	155	10.9	0-20	7.1	29.0
06 Chemicals and products thereof	886	12.7	0-20	5.5	15.2
07 Plastics, rubber, and articles thereof	220	14.2	0-20	4.4	8.2
08 Raw hides and skins, leather, and its products	72	8.6	0-20	9.0	51.4
09 Wood and articles of wood	125	10.1	0-15	7.0	32.8
10 Pulp of wood, paper and paperboard	147	12.7	0-15	5.4	15.6
11 Textiles and textile articles	807	14.8	0-15	1.9	1.6
12 Footwear, headgear, etc.	47	19.3	15-20	1.8	0.0
13 Articles of stone, plaster, cement	153	14.2	0-20	3.8	6.5
14 Precious stones and metals, pearls	53	19.2	0-20	3.8	3.8
15 Base metals and articles thereof	594	12.9	0-20	5.2	10.1
16 Machinery, electrical equipment, etc.	802	5.6	0-20	5.6	9.4
17 Transport equipment	234	5.6	0-20	7.3	41.9
18 Precision equipment	210	11.0	0-20	8.6	21.9
19 Arms and ammunition	18	20.0	20-20	0.0	0.0
20 Miscellaneous manufactured articles	127	14.9	0-20	6.8	14.2
21 Works of art, etc.	7	0.0	0-0	0.0	100.0

Source: WTO Secretariat calculations, based on data provided by the authorities.

3.22. In 2020, applied MFN rates on four tariff lines (HS 4011.70.00, 4011.80.00, 4011.90.00, and 9503.00.00) partially exceeded Tonga's bindings. According to the authorities, most of these instances were due to aggregation of previously split tariff lines following the migration to the HS17 nomenclature. Tonga has bound other duties and charges within the meaning of Article II:1(b) of the GATT 1994 at zero.

**Chart 3.2 Average applied and bound tariff rates, by HS section, 2013 and 2020**



Note: The 2013 MFN tariff is based on HS07 nomenclature; the 2020 MFN tariff and final bound rates are based on HS17 nomenclature.

Source: WTO Secretariat calculations, based on data provided by the authorities.

3.23. Tonga ratified the PACER Plus, which became effective on 13 December 2020 (Section 2.4.2). Upon the Agreement's entry into force, imports into Tonga under the PACER Plus are eligible for preferential rates on 67% of dutiable tariff lines. In the initial phase of implementation, the simple average rate for Tonga's preferential partners is only 0.7 percentage points lower than the average MFN rate (Table 3.3).

**Table 3.3 Summary analysis of preferential tariff, 2020**

	Total				WTO agriculture		WTO non-agriculture	
	Average (%)	Range (%)	Coverage <sup>a</sup> (%)	Duty-free rates <sup>b</sup> (%)	Average (%)	Duty-free rates <sup>b</sup> (%)	Average (%)	Duty-free rates <sup>b</sup> (%)
MFN	10.4	0-20		22.7	7.7	48.9	10.9	18.1
PACER+	9.7	0-20	67.1	23.1	7.2	49.7	10.1	18.5

a Share of the total number of tariff lines. Only lines with rates that are lower than the corresponding MFN rate are taken into account.

b Duty-free lines as a percentage of total tariff lines.

Source: WTO Secretariat calculations, based on data provided by the authorities.

### 3.1.4 Other charges affecting imports

3.24. Import declarations remain subject to a processing fee of TOP 10. The fees and charges for services rendered by Tonga Customs have remained unchanged since the previous Review (Table 3.4).

**Table 3.4 Customs-related fees and charges, 2020**

Description of service	Fee (TOP)
Import declaration processing fee	10
Attendance fees:	
- Attendance at bonded warehouse:	
-- per officer per hour, normal working hours (8:30 a.m.-4:30 p.m.)	20
-- per officer per hour outside normal working hours	20
-- per officer per hour during the weekend or public holiday <sup>a</sup>	20
- 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
-- per officer per hour during the weekend or public holiday	20
-- inwards or departing clearance, normal working hours	Free
-- inwards or departing clearance outside normal working hours	80
-- inwards or departing clearance during the weekend or public holiday	100
Certificate of landing (on request)	15
Export cargo clearance fee (written approval for departure of ship or aircraft)	20
Export goods declaration fee	2
Requests for rulings (on Customs Form C33), per application	20
Bonded warehouse licence application fee	50
Bonded warehouse licence renewal fee	500
Customs broker annual licence fee, natural person	200
Customs broker annual licence fee, legal person	500

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

Source: Ministry of Revenue and Customs.

3.25. Imported and locally produced goods are subject to CT and, where applicable, excise tax (Section 3.3.1.1).

### 3.1.5 Duty and tax concessions

3.26. Tonga grants duty and tax concessions under various initiatives aimed at promoting investment or achieving social objectives (Section 2.5.4). According to the authorities, during the review period, duty and tax concessions granted to imports resulted in forgone revenue in the range of TOP 38.3 million-TOP 72.3 million. Revenue losses on import-related concessions remained at approximately 13% of fiscal revenue and some 40% of revenue collections by Tonga Customs through FY 2018/19 but rose considerably in FY 2019/20 (Table 3.5). The main beneficiaries of import duty and tax concessions were importers of fuels and public enterprises (Table A3.1).

**Table 3.5 Forgone revenue from imports, FY 2014-20**

	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20
Total concessions on imports (TOP million)	38.3	45.0	63.7	55.7	65.3	72.3
Import duty	8.6	10.9	15.5	11.8	14.3	20.2
Excise tax on imports	11.7	13.0	22.0	21.9	21.9	18.0
CT on imports	17.9	21.1	26.2	22.0	29.1	34.1
<b>Memo:</b>						
Import concessions/total fiscal revenue (%)	13.0	12.5	14.5	12.2	12.7	31.8
Import concessions/fiscal revenue from customs (%)	34.5	35.1	45.1	35.7	41.9	47.7

Source: WTO Secretariat calculations, based on data provided by the authorities.

### 3.1.6 Import prohibitions, restrictions, and licensing

3.27. Tonga did not submit any notifications to the Committee on Import Licensing during the review period; its only notification dates back to 2011 (Section 2.4.1.3). The authorities affirm that licensing requirements are mainly used for national security, public safety, health, and environmental reasons. Non-automatic licensing requirements continue to apply on a number of imports, including firearms, explosives, noxious gases, ozone-depleting substances, narcotics, medicines, alcoholic beverages, tobacco and cigarettes, and endangered species. The legal instruments governing restricted imports are not consolidated, and the granting of licences is administered by several line ministries and government agencies. According to the authorities, Tonga does not maintain any licensing requirements for quantitative restrictions purposes.

3.28. Prohibited imports include counterfeit currency, pornographic or subversive materials, goods infringing on IPRs, and hazardous waste. An import ban on lamb and mutton breast meat was implemented on 1 July 2020 (Section 4.1.1.4).<sup>4</sup>

### 3.1.7 Anti-dumping, countervailing, and safeguard measures

3.29. Tonga has no legal and institutional frameworks for the application of anti-dumping, countervailing, and safeguard measures. Consequently, no contingency actions have been taken by Tonga to date.

### 3.1.8 Other measures affecting imports

3.30. Tonga applies the trade sanctions decided by the United Nations or by regional organizations to which it belongs. It is not a party to any countertrade and offsetting arrangements, or agreements aimed at influencing the quantity or value of goods or services exported to its market.

3.31. As part of its annual petroleum price review mechanism, Tonga maintains reserve stock requirements for petrol, diesel, and kerosene (Sections 3.3.5 and 4.2.2.1.2).

## 3.2 Measures Directly Affecting Exports

### 3.2.1 Customs procedures and requirements

3.32. The registration and customs clearance procedures for exports remain similar to those for imports (Section 3.1.1), requiring notably a declaration, a commercial invoice, a packing list, a bill of lading/airway bill and, where applicable, a conformity, sanitary, or phytosanitary certificate, and original export permits and/or licences.

3.33. Exporters wishing to benefit from preferential access to foreign markets may obtain the necessary certificate of origin from Tonga Customs free of charge. The exportation of green and mature coconuts remains reserved for Tongan businesses.

<sup>4</sup> Customs and Excise Management Act (Amendment) Order 2020 of 30 June 2020.

### 3.2.2 Taxes, charges, and levies

3.34. Tonga does not levy any export taxes; exports are also exempt from internal taxes and are zero-rated for CT purposes. Exported consignments are subject to a cargo clearance fee of TOP 20 and a processing fee of TOP 2 per customs declaration form.

### 3.2.3 Export prohibitions, restrictions, and licensing

3.35. No new export restrictions or bans have been introduced since 2014. In addition to the general business licence for engaging in cross-border trade, special licensing requirements remain in place for certain exports, such as fisheries and agricultural products. As with imports, the legal instruments governing export restrictions are not consolidated, and the granting of licences is administered by several line ministries and government agencies. Prohibited exports include articles of Tongan culture, raw coral, and endangered species.

### 3.2.4 Export support and promotion

3.36. Tonga has not submitted any notifications regarding export subsidies to the Committee on Agriculture or the Committee on Subsidies and Countervailing Measures since 2011.<sup>5</sup> According to the authorities, work on export subsidy notification is ongoing.

3.37. The Ministry of Trade and Economic Development (MTED) assists exporters with overseas publicity, participation in trade fairs and exhibitions, market research and development, and facilitation of business negotiations. Annual export promotion disbursements, earmarked principally for showcasing and participating in trade fairs, nearly doubled between 2014 and 2019 (Table 3.6).

**Table 3.6 Export promotion disbursements, 2014-19**

Year	Amount (TOP)	No. of trade fairs and exhibitions
2014	54,697	1 domestic and 6 overseas
2015	74,300	1 domestic and 4 overseas
2016	73,000	4 overseas
2017	67,000	5 overseas
2018	104,278	3 overseas
2019	96,809	4 overseas

Source: WTO Secretariat calculations, based on data provided by the authorities.

### 3.2.5 Export finance, insurance, and guarantees

3.38. Export credit on preferential terms is available through several Government Development Loan facilities operated by the Tonga Development Bank (TDB) (Section 3.3.1). According to the authorities, the TDB also provides short-term export credit and guarantees on market terms, and plans to launch a trade finance product in the near future. Exporters of agricultural produce can also access short-term loans on favourable conditions from the Agricultural Export Marketing Fund (Section 4.1.1).

## 3.3 Measures Affecting Production and Trade

### 3.3.1 Incentives

3.39. Tonga continues to apply various types of initiatives to support business activities in general and specific sectors such as agriculture, fisheries, and manufacturing (Sections 4.1 and 4.3). These initiatives include fiscal concessions, access to preferential credits, and targeted subsidies, and are to a large extent limited in terms of scope due to budget constraints. During the review period, Tonga conducted a broad tax reform on food products (starting in 2016) to promote healthy eating

<sup>5</sup> WTO documents G/AG/N/TON/1, 27 June 2011; and G/SCM/N/220/TONGA, 17 October 2011.

habits and address non-communicable diseases among the population.<sup>6</sup> Tonga also implemented new tax exemptions to support business operators in various sectors, including tourism, construction, and air transportation, as well as in response to the COVID-19 pandemic. COVID-19-related measures include the exemption of duties, excise tax, and CT on imports of any good used to combat the spread of COVID-19 in Tonga (e.g. medical and personal protective equipment).<sup>7</sup>

3.40. In FY 2019/20, forgone revenue resulting from the exemptions of import duties, CT, and excise tax for imported goods exceeded TOP 72 million (Table 3.5) up from TOP 38 million in FY 2014/15.

3.41. During the review period, Tonga did not make any notification regarding the existence of subsidies as defined in Article 1.1 of the Agreement on Subsidies and Countervailing Measures (SCM Agreement), which are specific within the meaning of Article 2 of the SCM Agreement, or which operate directly or indirectly to increase exports from or reduce imports into its territory within the meaning of Article XVI:1 of the GATT 1994.

### 3.3.1.1 Taxation and fiscal incentives

3.42. Tonga continued its efforts to develop a sound tax system and investment climate to attract investors and support business activities while balancing its revenue needs. During 2014-19, the share of tax revenue in GDP increased from 17.3% to 22.2%<sup>8</sup>, but Tonga's reliance on revenue from trade taxes declined, with their contribution accounting for 26% in 2019 down from about 50% in 2014.

3.43. Tonga applies a corporate tax of 25% just slightly above the world average but well below that in the Oceania region.<sup>9</sup> In FY 2019/20, Tonga collected TOP 22.1 million in corporate tax, up from TOP 13.7 million in FY 2013/14, accounting for 9.8% and 10.4%, respectively, of total tax revenue (Table 3.7).<sup>10</sup> It also applies a CT on the sale of all goods and services and an excise tax on a selected number of goods. Both taxes apply to imports and locally produced goods, but in the case of the excise tax, the rate may differ depending on the origin of the good.

**Table 3.7 Revenue from taxation, FY 2013-20**

	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20 <sup>a</sup>
Total tax revenue (TOP million)	132.5	156.3	176.3	203.8	227.1	232.1	227.4
	% of total						
<b>Direct tax</b>	22.5	24.4	20.8	22.8	22.3	24.5	23.9
Personal income tax	10.3	10.1	9.8	9.9	8.1	7.9	8.8
Corporate tax	10.4	8.9	8.9	8.5	8.5	9.6	9.8
Other taxes on income, profits and capital gains <sup>b</sup>	1.9	5.3	2.1	4.4	5.8	7.0	5.4
<b>Indirect tax</b>	77.5	75.6	79.2	77.2	77.7	75.5	76.1
Consumption tax	44.1	41.2	41.7	40.7	40.9	40.5	41.1
Imports	39.0	36.5	35.2	32.8	31.9	32.2	31.6
Domestic <sup>c</sup>	5.1	4.7	6.5	7.9	8.9	8.3	9.5
Excise tax	21.3	22.5	25.5	26.0	26.1	23.6	26.4
Imports	17.7	20.1	22.5	23.8	23.9	22.3	23.9
Domestic	3.5	2.4	3.0	2.2	2.2	1.3	2.5
Import duties	11.3	11.2	11.1	9.8	9.7	10.6	7.9

<sup>6</sup> Some reforms in this area were conducted in 2013.

<sup>7</sup> The information was published in the *Gazette Supplement Extraordinary* on 27 March 2020 as follows: Consumption Tax (Exemption) Order in No. 13; Customs Duty (Exemption) Order in No. 14; and Excise Tax (Exemption) Order in No. 15.

<sup>8</sup> Tonga budget statements FY 2015-16 and FY 2019-20.

<sup>9</sup> In 2020, the world average corporate tax rate was 23.8%, while that for the Oceania region was 28.4%. KPMG Corporate Tax Rates Table. Viewed at: <https://home.kpmg/xx/en/home/services/tax/tax-tools-and-resources/tax-rates-online/corporate-tax-rates-table.html>.

<sup>10</sup> According to the authorities, only five entities benefited from a corporate tax exemption during the review period: two hotels and three independent power producers working with Tonga Power Limited.

	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20 <sup>a</sup>
Other taxes on international trade <sup>d</sup>	0.8	0.9	0.9	0.7	1.0	0.8	0.6
Memo:							
Total customs revenue (TOP million)	95.9	110.9	128.3	141.3	156.0	155.9	151.4

a Provisional estimates.

b Other taxes on income, profits, and capital gains refer to the withholding tax and tax debt collections.

c Revenue from the CT consists of revenue from the domestic and government CTs.

d Other taxes on international trade are customs processing fees, wharfage, attendance fees, bond rent, and revolving funds.

Source: WTO Secretariat calculations, based on data provided by the authorities.

### Excise tax

3.44. During the review period, Tonga expanded considerably the list of excisable goods, and modified some of their rates as part of a broad reform to promote healthy habits (see below).<sup>11</sup> In 2020, the list of excisable goods consisted of 206 products (at the 8-digit tariff line), compared with 103 products in 2013 (Table A3.2). Additions included instant noodles, fruit juices, toilet paper<sup>12</sup>, ice cream, biscuits, sugar, confectionery, and sausages<sup>13</sup>, while existing products involved mainly certain meat products, sweetened and non-alcoholic beverages, alcoholic beverages, tobacco products, fuels, and cars.<sup>14</sup>

3.45. All excise tax rates are non-*ad valorem*, and for certain products, they are not applied in a uniform way to imported and domestic goods, thus affording local manufacturers a tax advantage. In 2020, this was the case for 11 product categories (at the 4-digit level), including some the products that became taxable during the review period, namely sausages, instant noodles, toilet paper, ice cream, and unmanufactured tobacco (Table 3.8). Other products subject to this differentiation include beer, spirits, and tobacco products.

**Table 3.8 Products subject to a different excise tax rate based on their origin in 2020**

HS code	Description	Unit	FY2020/21		FY2013/14	
			Imported (TOP)	Locally produced (TOP)	Imported (TOP)	Locally produced (TOP)
	<b>Sausages and similar products</b>					
16010011; 16010019	Sausages and similar products, of meat, meat offal or blood; food preparations based on these products (beef)	per kg	1	0.5	0	0
16010021; 16010029	Sausages and similar products, of meat, meat offal or blood; food preparations based on these products (pork)	per kg	1	0.5	0	0
16010091; 16010099	Sausages and similar products, of meat, meat offal or blood; food preparations based on these products (other than beef or pork)	per kg	1	0.5	0	0
	<b>Pasta</b>					
19021911; 19021919	Instant noodles	per kg	2	0.5	0	0
	<b>Ice cream</b>					
21050010; 21050090	Ice cream and other edible ice, whether or not containing cocoa	per litre	1.5	0.25	0	0

<sup>11</sup> Information provided by the authorities.

<sup>12</sup> The authorities indicated that the excise tax on toilet paper was imposed as a revenue measure to address misdeclaration of customs values on commercial importations. Similarly, the excise tax on certain meats was imposed due to their contribution to the high rate of non-communicable diseases and with the intention to deter their importation and consumption.

<sup>13</sup> Excise Tax (Amendment) Order 2018; and Excise Tax (Amendment No. 2) Order 2018.

<sup>14</sup> Excise Tax schedule last amended 1 July 2019.

HS code	Description	Unit	FY2020/21		FY2013/14	
			Imported (TOP)	Locally produced (TOP)	Imported (TOP)	Locally produced (TOP)
	<b>Sweetened and non-alcoholic beverages</b>					
22021011; 22021012; 22021019; 22021092; 22021099	Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured (excluding fruit or vegetable juices)	per litre	1.5; 4	0.05; 0.75; 1.5	0.5	0.5
22029111; 22029112; 22029119; 22029192; 22029199	Non-alcoholic beer	per litre	1.5; 4	0.05; 0.75; 1.5	0.5	0.5
22029911; 22029912; 22029919; 22029992; 22029999	Other non-alcoholic beverages	per litre	1.5; 4	0.05; 0.75; 1.5	0.5	0.5
	<b>Beer made from malt</b>					
22030010; 22030091; 22030092; 22030099	Beer made from malt	per litre alcohol	65	25	50	10
	<b>Fermented beverages</b>					
22060010; 22060090	Other fermented beverages (for example, cider, perry, mead); mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages, n.e.s.	per litre alcohol	60	30	42	42
	<b>Alcoholic beverages, spirits, liqueurs and other spirituous beverages</b>					
22082010; 22082090	Spirits obtained by distilling grape wine or grape marc	per litre alcohol	65	35	42	21
22083010; 22083090	Whiskies	per litre alcohol	65	35	42	21
22084010; 22084090	Rum and Tafia	per litre alcohol	65	35	42	21
22085010; 22085090	Gin and Geneva	per litre alcohol	65	35	42	21
22086010; 22086090	Vodka	per litre alcohol	65	35	42	21
22087010; 22087090	Liqueurs and cordials	per litre alcohol	65	35	42	21
22089010; 22089090	Other undenatured ethyl alcohol of an alcoholic strength by volume of less than 80 % vol.	per litre alcohol	65	35	42	21
	<b>Unmanufactured tobacco</b>					
24011010; 24011090	Tobacco, not stemmed/stripped	per kg	750	200	0	0
24012010; 24012090	Tobacco, partly or wholly stemmed/stripped	per kg	750	200	0	0
24013010; 24013090	Tobacco refuse	per kg	750	200	0	0
	<b>Cigars, cheroots and cigarillos of tobacco</b>					
24021010; 24021090	Cigars, cheroots and cigarillos, containing tobacco	per 1,000 sticks	750	580	250	238
24022011; 24022019; 24022090	Cigarettes containing tobacco	per 1,000 sticks	750	100; 580	250	238
24029010; 24029090	Other tobacco	per 1,000 sticks	750	580	250	238



HS code	Description	Unit	FY2020/21		FY2013/14	
			Imported (TOP)	Locally produced (TOP)	Imported (TOP)	Locally produced (TOP)
	<b>Other manufactured tobacco and tobacco substitutes</b>					
24031110; 24031190	Water pipe tobacco	per kg	750	200	210	210
24031910; 24031990	Other smoking tobacco	per kg	750	200	210	210
24039110; 24039190	"Homogenised" or "reconstituted" tobacco	per kg	750	200	250	250
24039910; 24039990	Other manufactured tobacco	per kg	750	200	250	250
	<b>Toilet paper</b>					
4818.10.10; 4818.10.90	Toilet paper and similar paper, cellulose wadding or webs of cellulose fibres, of a kind used for household or sanitary purposes, in rolls of a width not exceeding 36 cm, or cut to size or shape	per kg	1.1	0.3	0	0

Source: WTO Secretariat calculations, based on data provided by the authorities.

3.46. To support certain activities and based on health considerations, Tonga exempts some products from these taxes.<sup>15</sup> In 2016, Tonga introduced a broad tax reform applying to food products, with the goal of modifying the consumption habits of the population and addressing non-communicable diseases. The reform sought in particular to encourage and promote local food products as healthier substitutes for imported food. Under this reform, it imposed or increased the excise taxes on high-sugar food, certain meats, soft drinks, tobacco products, alcoholic beverages, and other food products considered unhealthy, thus exacerbating in some cases the price differences between imported and locally produced goods. The reform also included an exemption of the CT on imported healthy products such as fruits, a reduction in their import duties, and an increase in the duties of unhealthy products.<sup>16</sup>

3.47. Other goods exempted from the excise tax were fuels and lubricants used in international air transport and for domestic commercial air and shipping services; fuel for use by the National Electricity Authority for generation of electricity; fuel for use in independent communal electricity and water schemes; imports by diplomatic missions or for the development of charitable projects; goods used for disaster relief; goods in transit; and temporary imports. During the review period, additions to this list included imports of heavy machinery and its parts, imports by licensed tourism businesses, and goods to combat the spread of COVID-19, which also benefit from an exception from the CT (see below).<sup>17</sup>

3.48. Tonga also maintains a fuel subsidy known as the fuel concession scheme, under which fuel is exempted from, *inter alia*, the excise tax for users in the fisheries sector (Sections 4.1.2.5 and 4.2.2.2).

### Consumption tax

3.49. Tonga applies a CT of 15% on the sale of all goods and services, including in their importation. CT registration with the Ministry of Revenue and Customs (MoRC) is compulsory for businesses whose annual gross turnover reaches TOP 100,000. The CT on imports is calculated on the sum of the cost, insurance, freight (CIF) value plus import duties, excise tax or any other tax (where applicable), and fees and charges in connection with importation. For domestically supplied goods and services, the tax base is the sale price.<sup>18</sup> According to the authorities, the CT regime remained

<sup>15</sup> Excise tax and CT exemptions may be granted on a case-by-case basis by the Minister of the MoRC and with the approval of the Cabinet.

<sup>16</sup> World Bank (2019), *Using Taxation to Address Noncommunicable Diseases: Lessons from Tonga*. Viewed at: <http://documents1.worldbank.org/curated/en/844811561475012529/pdf/Using-Taxation-to-Address-Noncommunicable-Diseases-Lessons-from-Tonga.pdf>.

<sup>17</sup> Excise Tax (Exemption) Orders 2020 published in *Gazette Supplement Extraordinary*, Nos. 15, 23, and 25; and information provided by the authorities.

<sup>18</sup> Consumption Tax Act 2003, last amended in 2012, Articles 3, 5, 6, and 14.

largely unchanged during the review period, except for the taxation of outbound international calls, which went from zero to the regular rate of 15% in March 2019, and for the introduction of new exemptions.<sup>19</sup>

3.50. While most goods are subject to the tax rate of 15%, some goods are exempted from the CT or are zero-rated. The latter are eligible for refund of the CT paid on inputs used in their production, and include all exports; international transport services; and basic provision of electricity and water to households, agricultural machinery and implements, and seeds and fertilizers (Box 3.1).

### Box 3.1 Consumption tax exemptions and zero rates, 2014-20<sup>a</sup>

#### Supplies exempt from CT

- Medical prescriptions, dental, nursing or health services;
- Educational services;
- Financial services;
- Public transport services;
- Lease of land for residential purposes;
- Project supplies for all aid projects;
- Domestic supplies to foreign missions in Tonga;
- Supply of telecommunication services by Tonga Communications Corporation to Government;
- Supply of coral fills by contractors to Government for road maintenance;
- Supplies for specific constructions projects;
- Project supplies for the Pacific Resilience Programme (2018-2020); and
- **COVID-19-related measure:** supply of accommodation services for COVID-19 quarantining purposes.

#### Supplies subject to a zero-rate CT

- Exports of goods;
- Exports of services supplied for use outside of Tonga;
- Supply of international and domestic transport services of goods or passengers;
- Supply of goods as part of the transfer of a business as a going concern;
- Supplies of goods and services by a supplier in Tonga to His Majesty the King;
- Electricity supplied for household or commercial use;
- First 20 cubic metres of water per month supplied for household purposes;
- Insecticides, pesticides, and fungicides for use in agriculture;
- Agricultural machinery and implements, including hand tools and timber milling machinery;
- Agricultural seeds and fertilizers;
- Packaging materials for use in agriculture;
- Stock feed;
- Live poultry, bovine animals, and swine;
- Fish (expired in June 2020);
- Vessels, equipment and materials for licensed fisheries businesses; and
- Supply of waste collection and disposal services.

#### Imports exempt from CT

- Personal items valued up to TOP 500;
- Imports by diplomats, according to law;
- Insecticides, pesticides and fungicides for use in agriculture;
- Agricultural machinery, and implements, including hand tools and timber milling machinery;
- Agricultural seeds and fertilizers;
- Packaging material for use in agriculture;
- Stock feed;
- Live poultry, bovine animals, and swine;
- Licensed fisheries businesses: vessels, equipment, and materials;
- Fuel for use of fishing vessel and ferries;
- Fuel for use of domestic airlines (from 2014);
- Imports from Tonga National Emergency Management Office (from 2014);
- Packaging materials for exports of fish and aquaculture (from 2015);
- Items for the Coronation of His Majesty King Tupou VI (one-off in 2015);

<sup>19</sup> According to the authorities, such change was a correction to the previous regulations and rulings, which treated outbound international calls as an export of services.

- Imports by the Shanghai Construction Group Company Ltd for the construction of the Comprehensive Office Building Project and for the company's daily necessities (2015-2030);
- Items for the construction of Tanoa International Hotel (2015-2020);
- Items for the construction of Kongakava Hotel (2016-2031);
- Fresh fruits (HS 0803 to 0810) (from 2016);
- Imports for facilitation of the 2019 Pacific Games (from 2016);
- Imports by Tonga Power (2017, 2019, 2020);
- Imports (except tobacco and liquor) for use by approved tourist businesses (2016-2018, 2020-2035);
- Building materials and equipment imported by Vast Ocean (Tonga) Aquaculture Limited for commercial farming of sea cucumber (from 2018);
- Aircrafts and aircraft parts imported by a licensed public domestic airline operator and vessels and vessel parts imported by a licensed public domestic maritime transport operator (from 2018);
- Bitumen for government road works (from 2018);
- Building materials, food, and clothes imported for those affected by Tropical Cyclone Gita (one-off in 2018);
- Imports (except tobacco and liquor) for use by approved manufacturing businesses (one-off in 2019);
- Imports from China by Beijing Machinery Repair Company Limited (one-off in 2019);
- Materials for the construction of the Fatumu wharf (one-off in 2019);
- Tools and equipment imported by the Tonga Water Board under the Smart Water Metering Project (2019-2034);
- Heavy machinery and parts thereof (from 2020);
- Imports by licensed tourism business operators (2020-2035);
- **COVID-19-related measure:** any goods used to combat the spread of COVID-19 in Tonga, such as medical and personal protective equipment) (from March 2020); and
- **COVID-19-related measure:** all imports of food and personal consumer goods not for commercial purposes (from April to June 2020).

- a Unless indicated otherwise, the supplies of goods and services were subject to the respective measure throughout the review period.

Source: Information provided by the authorities; WTO document WT/TPR/S/291/Rev.1, 27 February 2014; and *Tonga Attorney General's Office*. Viewed at: <https://ago.gov.to/cms/>.

3.51. Imports exempted from the CT include inputs used in agriculture and fisheries such as packaging material, machinery, and navigating equipment (Box 3.1). Fuel imports for use by fishing vessels are also exempted from this tax. During the review period, other imports were added to the list of exemptions, such as fresh fruits, goods (except tobacco and liquor) for use by approved manufacturing businesses and licensed tourism business operators, fuel for use by domestic airlines, bitumen for government road works, heavy machinery and its parts, goods for use of specific companies or government agencies, and goods to combat the spread of COVID-19 in Tonga. In some cases, the new exemptions were time-limited.

3.52. Other incentives included the exemption of import duties on inputs used in the preparation of food or beverages, such as bottles, malt, yeast and sugar, and inputs used in agriculture and fisheries, such as packaging material, machinery, and navigating equipment (Section 3.1.5).<sup>20</sup> The commercial construction sector is also exempted from import duty on specific building materials.<sup>21</sup>

### 3.3.1.2 Support programmes

3.53. Tonga provides support mainly through concessional credits, and in limited cases through subsidies; this is the case particularly in the agricultural sector (Section 4.1.1.5).<sup>22</sup> For example, Tonga distributed chicks and provided the seedlings of coconut, fruit trees, and vegetables for free to farmers, as well as planting materials for various crops (e.g. cassava, sweet potatoes, swamp taro, and corn). It also subsidises electricity (Section 4.2.2.2), tractor services for land preparation, and more recently equipment (wheelbarrows, hoes, and spades) under the COVID-19 preparedness programme.<sup>23</sup>

<sup>20</sup> Government of Tonga, *Investment Incentives 2014/2015*, August 2014.

<sup>21</sup> Building materials for community projects (i.e. education projects and private dwellings) were covered by this exemption until 31 December 2020.

<sup>22</sup> One of the four components of the Tonga Agriculture Sector Plan 2016 to 2020 (TASP) consists of achieving "sustainable economic growth and foreign exchange earnings by targeting increased exports and import substitution".

<sup>23</sup> Information provided by the authorities.

3.54. Tonga also provides loans at preferential conditions known as Government Development Loans (GDL) through the TDB to support producers and exporters in various sectors. The GDL programme was reviewed in October 2020 and extended for another five years. Under the new GDL, the funds to be allocated increased by TOP 5 million to about TOP 18.2 million, and the interest rate was set at 3%, regardless of the type of loan.<sup>24</sup> The loans are currently directed to seven sectors, namely agricultural and forestry, fisheries, tourism, manufacturing, livestock, construction and utilities, and retail and wholesale (Table 3.9) (Sections 4.1 and 4.3), which together accounted for TOP 15.7 million of the available funds (or 86% of the total).<sup>25</sup> The remaining amount (i.e. TOP 2.5 million) serves to cover two non-sector-specific type of loans: (i) the "overseas medical cover" that supports patients seeking medical care overseas; and (ii) the education loan fund that supports post-secondary education. Since 2014, the GDL has benefitted 3,267 borrowers.

3.55. The former GDL programme included a micro loan to support women entrepreneurs. However, in June 2019 the fund was transferred to the MTED and became the informal sector loan. So far, this new fund has assisted small-scale farmers to plant squash for export.

3.56. As at June 2020, outstanding loans amounted to TOP 8.7 million, compared with TOP 7.6 million the previous year. Of this amount, 52% was lent to the agriculture sector, followed by the education programme (16%), fisheries (13%), and manufacturing (7%). By the end of 2020, 10% of the GDL portfolio was in arrears.<sup>26</sup> Loans (micro or short-term) and grants may also be available under activity-specific funds administered by the Ministries, and typically for the agricultural and manufacturing sectors (Sections 4.1.1 and 4.3.3).

**Table 3.9 Categories of sector-specific GDLs granted by the Tonga Development Bank, 2020**

<b>Loan category and its objectives (maximum amounts in '000 TOP and payment conditions in parentheses)</b>
<b>Agriculture and Forestry Development Fund (max TOP 300 to be repaid within 4 years)</b>
<ul style="list-style-type: none"> <li>▪ Boost exporter's confidence by providing a facility to allow the early payment to primary producers for their exports</li> <li>▪ Expand agricultural production and value-added activities</li> </ul>
<b>Fisheries Development Loan Fund (max TOP 100 to be repaid within 2.5 years)</b>
<ul style="list-style-type: none"> <li>▪ Assist fishermen, vessel owners, and exporters to generate increased exports, income, and employment in the sector</li> <li>▪ Finance and upgrade second-hand fishing vessels from overseas</li> </ul>
<b>Fisheries Development Loan Fund: COVID-19 and Tropical Cyclone (TC) Harold (max TOP 200 to be repaid within 5 years)</b>
<ul style="list-style-type: none"> <li>▪ Assist fishermen, vessel owners, and exporters affected by COVID-19 and TC Harold to generate increased exports, income, and employment in the sector</li> <li>▪ Allow refinancing of existing fishing loans</li> </ul>
<b>Tourism Loan Fund (TLF) (max TOP 50 to be repaid within 2 years)</b>
<ul style="list-style-type: none"> <li>▪ Promote the development of new tourism products and events</li> <li>▪ Improve the quality of small and medium-sized accommodations</li> <li>▪ Develop a clean and beautiful tourist environment</li> <li>▪ Support and encourage community participation in development of heritage sites and cultural events</li> <li>▪ Support coordination within the sector</li> <li>▪ Support the establishment and sustainability of Tongan-owned businesses</li> </ul>
<b>Tourism Loan Fund (TLF): COVID-19 and Tropical Cyclone Harold (max TOP 500 to be repaid within 5 years)</b>
<ul style="list-style-type: none"> <li>▪ Support the same objectives as the TLF, but prioritize the rebuilding of tourism-related businesses affected by COVID-19 and TC Harold.</li> <li>▪ Allow refinancing of tourism loans</li> <li>▪ Support coordination among tourism-related services, such as promoting transportation businesses affected by COVID-19</li> </ul>
<b>Manufacturing Loan Fund (max TOP 50 to be repaid within 2 years)</b>
<ul style="list-style-type: none"> <li>▪ Promote the development of competitive and value-added products</li> <li>▪ Stimulate innovation and product diversification</li> <li>▪ Support production and marketing capacity of export-ready manufacturers</li> <li>▪ Promote and encourage cooperation and coordination in the sector</li> </ul>
<b>Livestock Development Fund (max TOP 20 to be repaid within 2 years)</b>
<ul style="list-style-type: none"> <li>▪ Support livestock projects that will provide economic benefits for the communities, and improve living conditions in rural areas</li> </ul>

<sup>24</sup> Prior to October 2020, the interest rates were of 1% or 4%, depending on the amount of the loan.

<sup>25</sup> The additional funding of TOP 5 million allocated in October 2020 was for the fisheries and tourism sector affected by COVID-19 and Tropical Cyclone Harold.

<sup>26</sup> Information provided by the authorities.

Loan category and its objectives (maximum amounts in '000 TOP and payment conditions in parentheses)
Construction and Utilities Loan Fund (max TOP 100 to be repaid within 2 years)
<ul style="list-style-type: none"> <li>▪ Support and cater to investments that require capital equipment, tools, and safety gear</li> <li>▪ Provide capacity building and training in specialized fields</li> <li>▪ Assist and encourage local contractors who are bidding for development projects</li> <li>▪ Assist local communities with their community utility requirements</li> </ul>
Retail and Wholesale Loan Fund (max TOP 50 to be repaid within 2 years)
<ul style="list-style-type: none"> <li>▪ Support small medium enterprises in the retail and wholesale business with expansion and service development</li> </ul>

Source: Data provided by the authorities.

### 3.3.2 Standards and other technical requirements

3.57. During the review period, there was no major change in the area of technical barriers to trade (TBT). Tonga has still to develop a legal and institutional framework for the adoption of standards, technical requirements, and conformity assessment procedures. Some general provisions on standards and labelling can be found under the Consumer Protection Act (CPA) (last amended in 2012) and its regulations. Tonga does not have a national standardization body or a single agency responsible for coordinating efforts in this area.

3.58. The MTED is Tonga's TBT notification authority and WTO Enquiry Point.<sup>27</sup> Pending the creation of a national standardization body, the MTED together with other relevant Ministries are responsible for implementing TBT-related policies or initiatives.<sup>28</sup> On May 2020, the MTED launched consultations with stakeholders from both the public and private sectors on TBT measures with the goal of collecting information to develop a catalogue containing all standards, technical regulations, and conformity assessment procedures that are currently being applied (including international standards that are being adopted as a reference).<sup>29</sup> The MTED is also conducting, together with Standards Australia, the Indo-Pacific Digital Trade Standardisation Initiative to, *inter alia*, strengthen Tonga's participation in international standard organizations (e.g. the International Organization for Standardization and the International Telecommunication Union), establish a technical committee to coordinate Tonga's standards development programme, develop a trade standards strategy, and prepare a bill or regulation for the establishment of an independent National Standards Body. The initiative was launched in May 2019 and is temporarily on hold due to the COVID-19 pandemic.<sup>30</sup> As at November 2020, activities had not resumed.

3.59. In the area of metrology, Tonga has the Weights and Measures Act, which was last reviewed in 2012. During the review period, there were efforts conducted to review this Act but without success.<sup>31</sup>

### 3.3.3 Sanitary and phytosanitary requirements

3.60. Tonga's regulatory framework for sanitary and phytosanitary measures consists of various laws, which are mostly outdated (Table 3.10), and do not include procedures for the development and adoption of SPS measures. During the review period, Tonga made some progress in this regard by updating its legislation on food safety, and adopting a Food Act in 2014 to strengthen the development and application of food standards. The new Act entered into force in October 2014 but was repealed and replaced in 2020 by another one – the Food Act 2020 – following a review that was launched in 2019 to bolster its implementation. The Food Act 2020 entered into force in October 2020 upon receiving royal assent.

<sup>27</sup> As at December 2020, Tonga has not submitted any TBT-related notifications to the WTO.

<sup>28</sup> According to the authorities, the MTED contributes to the development of national standards but its enforcement is under the discretion of the relevant Government Ministry or Agency.

<sup>29</sup> The authorities indicate that this work is ongoing and will continue during 2021.

<sup>30</sup> According to the authorities, the project is on hold, as Australia diverted the funding from this project due the COVID-19 pandemic.

<sup>31</sup> Information provided by the authorities.

**Table 3.10 SPS legislation, as at December 2020**

Law (official citation)	Issued	Last amended
Food Act 2020 <sup>a</sup>	2020	n.a.
Sandalwood Regulations 2016	2016	n.a.
Forest Produce Regulations	2010	n.a.
Noxious Weeds Act	2010	2012
Biosafety Act	2010	2012
Consumer Protection (product safety and labelling standards) regulations	2006	n.a.
Aquaculture Management Act	2003	2012
Agricultural Commodities Export Act	2002	n.a.
Consumer Protection Act	2001	2012
Plant Quarantine (Fees) Regulation 1997	1997	n.a.
Plant Quarantine (Squash and Vanilla) (Fees) Regulations 1997	1997	n.a.
Plant Quarantine Regulations 1995	1995	1995
Fruit Export (Buttercup Squash) Regulations 1993	1993	1994
Fruit Export (Vanilla) Regulations 1993	1993	n.a.
Plant Quarantine Act	1982	2012
Animal Disease Act	1979	2012
Public Health (Meat) Regulations	1967	n.a.
Diseases of Plants Regulations	1964	n.a.
Forests Act	1961	2010
Copra Act	1926	2010
Proclamation of Noxious Weeds	1917	2010
Rhinoceros Beetle Act	1912	2010

n.a. Not applicable.

a The Food Act 2020 replaced the Food Act 2014, which had been in force since October 2014.

Source: WTO Secretariat based on information provided by the authorities.

3.61. In addition to the Food Act 2020, SPS measures are mainly regulated by the Plant Quarantine Act (last amended in 2012) and its regulations, and the Animal Disease Act (last amended in 2012). The Food Act 2020 regulates, *inter alia*, the production, sale, import, and export of food for commercial purposes to guarantee food safety and the protection of human health. It also includes provisions on labelling, traceability, inspections, enforcement, and sanctions, and it established the National Food Authority and the National Food Council, which were originally introduced under the Food Act 2014. The Food Act 2020, which was built upon the Food Act 2014, expanded it by making some provisions more detailed or adding new ones. For instance, the Food Act 2020 adds two sections on enforcement<sup>32</sup>, a specific provision on requirements for marine products, and more detailed provisions regarding the responsibilities of the National Food Authority, including the procedures for the application and approval for a food licence or permit to operate a food business.<sup>33</sup>

3.62. At the institutional level, the Ministry of Agriculture, Food, and Forests (MAFF) is the main agency responsible for developing SPS measures, and implementing and enforcing SPS-related legislation. Its functions are carried out through its Food Division and its Quarantine and Quality Management Division. The MAFF is also the WTO SPS Enquiry Point and notification authority. As at December 2020, Tonga had not submitted any notification to the WTO SPS Committee on its legislation or SPS measures, and did not maintain a public catalogue with all measures currently in force.

3.63. In the area of food standards, the MAFF is supported by the National Food Authority and the National Food Council. The National Food Authority is represented by the Food Division of the MAFF, and is responsible for formulating strategies and policies on food security, employing risk management tools to ensure that all safety and quality standards are met by all products sold domestically (regardless of their origin) and all Tongan products sold abroad. The National Food Authority also conducts inspections and certification services as necessary. The National Food Council consists of 10 members representing various Ministries, the Attorney General, the food

<sup>32</sup> Food Act 2020, Parts XII and XIII.

<sup>33</sup> As at December 2020, the Food Regulations had still to be developed. Pending their adoption, Tonga applies the Codex Alimentarius. According to the authorities, the Food Regulations will regulate, *inter alia*, the acceptable level of food additives, environmental contaminants, veterinary drugs, pesticides and other residues, and other chemical and microbiological contaminants in food.



industry, the food scientific community, and civil society. Its functions include advising the National Food Authority on food control, safety, and quality assurance matters.

3.64. According to the authorities, all standards are applied equally to imported and domestic goods following the quarantine policies, the Food Act 2020, and the Codex Alimentarius.

3.65. All food products, imported or locally produced, must comply with the Food Act and the Codex Alimentarius. Food imports are subject to import permits issued by the Quarantine and Quality Management Division, and require a zoosanitary, phytosanitary, or sanitary certificate from the relevant authority of the exporting country to enter Tonga. Import and export procedures are based on the Quarantine and Quality Management Division Operational Manual of 1998, which was partially updated in 2016.<sup>34</sup> Exports shall be certified by the National Food Authority and meet the corresponding standards and the importing country's requirements.

3.66. The importation of plants and plant materials<sup>35</sup> is also subject to an import permit issued by the Quarantine and Quality Management Division and must be accompanied by a phytosanitary certificate issued by the relevant agency of the exporting country. Upon arrival in Tonga, such imports may be subject to an inspection, and if found contaminated with plant pests or unauthorized material the inspector may require re-exportation, the elimination of the contamination prior to release from quarantine facilities, or destruction of the consignment.<sup>36</sup> The importation of animals and animal products also requires an import permit issued by the Quarantine and Quality Management Division and must be accompanied by a zoosanitary, or sanitary certificate issued by the relevant authority of the exporting country.<sup>37</sup> Export procedures are complemented by the requirements of the importing country and require an SPS certificate.

3.67. Tonga has a bilateral quarantine arrangement for watermelon with New Zealand and applies a high-temperature, forced-air quarantine treatment (HTFA) for fruit fly host plants to minimize the risk of pests and diseases entering into these countries while facilitating bilateral trade.

3.68. Labelling provisions are found in the Food Act 2020 and in the CPA and its regulations.<sup>38</sup> The Food Act 2020 describes requirements related to food labelling and packaging for both foreign and locally produced goods; the Food Division in the MAFF is responsible for enforcement. Tonga requires a label on every package of food intended for sale in the country, which: (i) permits its traceability; (ii) indicates its characteristics as required; and (iii) is written in English or Tongan or a combination of both.<sup>39</sup> The MTED is responsible for labelling and packaging standards of non-food items.

3.69. Tonga's legislation includes provisions on living modified organisms (LMOs) and genetically modified organisms in the Biosafety Act and the Aquaculture Management Act, respectively. Both laws were last modified in 2012. Imports of LMOs and genetically modified fish are subject to prior approval/authorization by the corresponding authorities.<sup>40</sup> Under the Aquaculture Management Act, an aquaculture officer may seize and destroy any unauthorized genetically modified fish, or take possession of the consignment to determine whether it is genetically modified. According to the authorities, the Ministry of Fisheries did not provide any authorization to import genetically modified fish during the period 2014-20.

3.70. Tonga is member of the Codex Alimentarius Commission and the International Plant Protection Convention but not of the World Organisation for Animal Health (OIE).<sup>41</sup>

<sup>34</sup> The authorities indicated that while some sections of the Quarantine and Quality Management Division Operational Manual have been updated since it was issued, no comprehensive review of the entire manual has been undertaken so far. For example, in 2016 the Export Certification System (ECS) was implemented as an upgrade for the high-temperature, forced-air quarantine treatment for fruit fly host plants to be exported.

<sup>35</sup> Plant material refers to all materials of plant origin (Plant Quarantine Act, Article 2).

<sup>36</sup> Plant Quarantine Act, Sections 18, 25, and 33.

<sup>37</sup> Animal Disease Act, Section 6.

<sup>38</sup> In the past, this was regulated by the Public Health Act of 1992, which has been now repealed.

<sup>39</sup> Food Act 2020, Section 35.

<sup>40</sup> Biosafety Act, Section 12; and Aquaculture Management Act, Section 29.

<sup>41</sup> Tonga's authorities indicate that Tonga cannot export animal products, as it is not a member of the OIE.



### 3.3.4 Competition policy

3.71. Tonga does not have a dedicated legal and institutional framework governing competition policy and, during the review period, no substantial progress was made in this regard. Under the existing legislation, competition-related provisions are limited and scattered across different laws, namely the Protection Against Unfair Competition Act, the CPA, the Financial Institutions Act, and the Industrial Property Act. Most of these laws remain unchanged during the review period. As at November 2020, a Banking Bill was being drafted. Once approved and enacted, this new legislation will repeal and replace the Financial Institutions Act.

3.72. Most of competition-related provisions are found in the Protection Against Unfair Competition Act (last amended in 2008), a 10-page document that prohibits companies from engaging in unfair practices. Such practices include misleading the public in relation to a business or product, causing confusion, discrediting another business, or disclosing secret information without the consent of the owner. No regulations complement this Act. In addition, the CPA contains provisions dealing with, for example, monopolization (Section 30), exclusive dealing (Section 24), and price discrimination (Section 25), while the Financial Institutions Act (last amended in 2014) includes provisions on the effects of mergers and acquisitions on the competitive environment of the banking sector (Sections 11A and 14A). The Industrial Property Act includes a section on unfair competition (Section 34).

3.73. Tonga does not have a competition enforcement agency or regulator. Pending the establishment of such an entity, the Division of Consumer Affairs in the MTED is responsible for, *inter alia*, receiving complaints from consumers, advising them on the Act's provisions, and investigating complaints.<sup>42</sup> The Act also includes provisions on enforcement and sanctions that can take the form of a fine and/or imprisonment (Sections 30-34 of the CPA).

3.74. According to the authorities, Tonga acknowledges the need for a competition Policy but has not been able to develop it yet. During the review period, it mainly worked on a bill on consumer protection.

### 3.3.5 Price controls

3.75. Tonga maintains a price-control mechanism for certain food products, chemicals, fuels, and services<sup>43</sup>, which is regulated by the Price and Wage Control Act and implemented by the Tonga Competent Authority under the MTED.<sup>44</sup> During the review period, the legal and institutional framework governing this mechanism did not undergo any substantial change.

3.76. According to the authorities, Tonga is drafting a new legislation, the Price Control Bill and its regulations, which will replace the Price and Wage Control Act. This new law seeks, *inter alia*, to clarify the membership and functions of the Tonga Competent Authority, strengthen the functions of the Consumers Affairs Division, revise the pricing template and mechanism fixing maximum prices, establish a process for selecting the goods and services that should be regulated, and establish the Price Control Appeals Tribunal as the body to consider appeals under the Act.<sup>45</sup> Moreover, according to the Tonga Trade Policy Framework 2017-2025, Tonga shall replace its existing price-control regime by an effective competition policy regime so as to enhance the business environment in price-controlled sectors.

3.77. The Tonga Competent Authority is responsible for implementing the Price and Wage Control Act, and for fixing maximum prices for regulated goods and services.<sup>46</sup> The Competent Authority consists of : the Minister of the MTED (Chairperson); the Minister of Finance; the CEO of the MTED; the President of the Tonga Chamber of Commerce and Industries; the President of the Tonga Small Business Association; and consumer representatives.<sup>47</sup> The Enforcement and Monitoring Unit of Tonga's Competent Authority is in charge of ensuring business compliance.

<sup>42</sup> The Division of Consumer Affairs was established as per the CPA, Section 4.

<sup>43</sup> The authorities indicate that this mechanism has been in place for more than 30 years.

<sup>44</sup> The original Price and Wage Control Act was issued in 1947 and last amended in 2013.

<sup>45</sup> Information provided by the authorities.

<sup>46</sup> Price and Wage Control Act, Sections 5 and 6.

<sup>47</sup> The authorities indicate that the consumer representatives are currently selected from the Parliament's Social Services Committee until the Consumers Council is set up.

3.78. Price controls are applied to imports and domestic goods for wholesale and retail.<sup>48</sup> In total, Tonga regulates the price for 21 types of food products, paper, and 4 types of chemicals including lubricants, fertilizers, and insecticides for agricultural use (Table 3.11).<sup>49</sup> It also regulates the retail prices for petroleum products (petrol, diesel, and kerosene) and liquid petroleum gas (LPG). The price of petroleum products is reviewed monthly, while the price of LPG is reviewed quarterly based on a template negotiated by both the regulator and the suppliers annually. The pricing template is based on the retail prices, for which the reference price for fuel is Singapore's price, and adds shipping and storage fees, as well as wholesale and retail mark-ups.<sup>50</sup>

3.79. Tonga also sets the maximum rates for bus fares and for hiring vehicles (i.e. taxi services and truck hires). A review of bus fares was completed in July 2020 based on information and feedback from relevant stakeholders, but the review of taxi rates was still ongoing as at November 2020.<sup>51</sup>

**Table 3.11 Products and services subject to price control under the Price and Wage Control Act, 2020**

N°	Sector	Items
1	Food	Flour
2	Food	Brown and white sugar
3	Food	Butter and margarine
4	Food	Milk (liquid or powder)
5	Food	Tea
6	Food	Rice
7	Food	Coffee, Milo, cocoa
8	Food	Cooking oils
9	Food	Cheese and dripping
10	Food	Salt
11	Food	Infant food for babies
12	Food	Tinfish
13	Food	Vegetables
14	Food	Potatoes
15	Food	Onions
16	Food	Chicken
17	Food	Beef
18	Food	Fruits
19	Food	Grapes
20	Food	Fish (frozen and chilled)
21	Food	Lamb flaps, sternums, and necks
22	Paper	Paper for tapa cloth
23	Chemicals	White benzene
24	Chemicals	All lubricant oils
25	Chemicals	Insecticide, weedicides, and fungicides for agricultural use
26	Chemicals	Chemical and fertilizer for agricultural use
27	Fuels	Petroleum products (i.e. petrol, diesel, and kerosene)
28	Fuels	Liquid petroleum gas
29	Services	Bus, truck, and taxi services (vehicle hire)

Source: WTO Secretariat based on information provided by the authorities.

### 3.3.6 State trading, state-owned enterprises, and privatization

3.80. Despite reform efforts, the Government continues to have a significant presence in the economy through state-owned enterprises (SOEs). During the review period, Tonga made some progress, although limited, in the implementation of the public enterprise reform programme initiated in 2007, and adopted new programmes such as the Public Enterprise Reform Policy (2014)

<sup>48</sup> The Tonga Competent Authority determines the maximum price of regulated goods by setting the mark-up for wholesale and retail. According to the authorities, it also provides add-on cost for rural areas and freight and handling costs to outer islands, and works with importers to review regulated imported goods and calculate their maximum prices upon arrival.

<sup>49</sup> The authorities indicate that the most recent product added to the list of regulated goods was lamb flaps, sternums, and necks, whose inclusion was approved by the Tonga Competent Authority and the Cabinet in 2020.

<sup>50</sup> Information provided by the authorities.

<sup>51</sup> Information provided by the authorities.

and the Public Enterprise Ownership and Divestment Policy (2015) to support this process.<sup>52</sup> These initiatives include guidelines and priority actions to advance reforms to improve transparency, governance, and performance of public enterprises; and to identify opportunities for restructuring or increasing private-sector participation.

3.81. At the legal and institutional level, no major changes took place. The operations of Tonga's public enterprises are mainly governed by the Public Enterprises Act, the Companies Act, and their regulations. These Acts were last amended in 2010 and 2012, respectively, and are complemented by sector-specific laws (Box 3.2). In 2020, Tonga owned 13 SOEs active in a variety of sectors including utilities (power, water, and waste management), transportation (air and sea), communications (telecommunications, broadcasting, and postal services), and banking.<sup>53</sup> The two largest public enterprises are Tonga Communications Corporation and Tonga Power Limited. At the institutional level, the Ministry of Public Enterprises is responsible for implementing the Public Enterprises Act and overseeing 12 of the 13 SOEs.<sup>54</sup> The remaining SOE, the TDB, has been under the responsibility of the Ministry of Finance since 2017.<sup>55</sup>

3.82. According to its authorities, Tonga does not have any state-trading enterprises as defined under Article XVII of the GATT 1994, and has therefore not made any notification in this regard since acceding to the WTO.

### Box 3.2 SOEs: activities and legislation, 2020

#### 1. Tonga Airports Limited

Activities: Oversees the airport operations and provides air navigation services.

Legislation: Civil Aviation Act 2014, Civil Aviation (Airport Charges) Regulations, Civil Aviation (Licensing Charges) Regulations, and Civil Aviation (Restrictions on Use of Land) Regulations.

#### 2. Tonga Asset Managers & Associates Limited

Activities: Operates the assets of the Small Industries Center and provides collocated factory and warehouse space for small and medium-sized businesses.

Legislation: Companies Act, Public Enterprises Act, Income Tax Act, and Consumption Tax Act.

#### 3. Ports Authority Tonga

Activities: Manages and maintains the operations and assets of the ports.

Legislation: Ports Authority Act, Ports Management Act, and Harbours Act.

#### 4. Tonga Broadcasting Commission

Activities: Manages radio and local TV stations, all free to air.

Legislation: Broadcasting Commission Act.

#### 5. Tonga Cable Limited

Activities: Is the only provider of fibre-optic services in Tonga.

Legislation: Companies Act, Public Enterprises Act, Income Tax Act, Consumption Tax Act, and Communication Act.

#### 6. Tonga Communications Corporation

Activities: Provides fixed-line, mobile, and Internet services in Tonga.

Legislation: Communications Act 2015, Broadcasting Commission Act, and Internet Corporate Register (Fees) Regulation.

#### 7. Tonga Development Bank

Activities: Promotes social and economic development through loans, savings, investments, and advisory services to individual and companies.

Legislation: Tonga Development Bank Act 2014.

<sup>52</sup> World Bank (2016), *International Development Association Program Document for the Kingdom of Tonga*; and Asian Development Bank, *Pacific Private Sector Development Initiative: Tonga Country Overview, April 2020*. Viewed at: <http://www.adbpsdi.org/assets/Uploads/PSDI-CountryFactSheet-April2020-Tonga.pdf>.

<sup>53</sup> Prior to 2019, Tonga owned 16 SOEs, but in that year it granted a 50-year concession to the private sector to control and manage Tonga Forest Products Limited, which may be renewed for another 25 years. Moreover, according to the authorities and Tonga's Financial Statement FY 2017/18, Tonga Export Quality Management and Sea Star Fishing ceased to operate as SOEs in 2018 and 2019, respectively.

<sup>54</sup> For certain decisions, the Cabinet must be consulted.

<sup>55</sup> TDB, *Annual Report 2018*.

**8. Friendly Islands Shipping Agency Limited**

Activities: Provides ferry services between Tongatapu and the outer islands.  
Legislation: Companies Act and Public Enterprises Act.

**9. Tonga Market Corporation Limited**

Activities: Is responsible for establishing the main market, Talamahu, as a prosperous market that satisfies customers' needs. Products include fresh vegetables and fruits, local handmade craft goods, and clothes. The market also hosts retail service centres, such as convenience shops.  
Legislation: Markets Act and Market Regulations.

**10. Tonga Post Limited**

Activities: Is responsible for the collection, processing, and delivery of mail; the collection and processing of outgoing mail; and the production and sale of stamps. Other responsibilities include printing production and manufacturing activities, conducted since Tonga Fast Print Limited merged with Tonga Post Limited.  
Legislation: Postal Services Act, Postal Regulations, and Postal (Insured Articles) Regulations.

**11. Tonga Power Limited**

Activities: Has been granted a concession to generate and supply power.  
Legislation: Electric Power Board Act and Electricity Act 2007.

**12. Tonga Water Board**

Activities: Is responsible for the provision of water on Tongatapu, parts of the Vava'u and Ha'apai groups, and 'Eua.  
Legislation: Water Board Act 2000.

**13. Waste Authority Limited**

Activities: Is responsible for establishing, maintaining, operating, and managing the collection and disposal of all waste in Tongatapu, including the provision of commercial, industrial, and residential waste collection, and for providing waste management facilities.  
Legislation: Waste Management Act 2000.

Source: WTO Secretariat based on information provided by the authorities.

3.83. The majority of Tonga's public enterprises are wholly owned by the Government and very often enjoy a monopoly in their markets. Some (e.g. the TDB, Ports Authority Tonga, and Tonga Market Corporation Limited) also rely on government funding (i.e. loans) to sustain their operations, which is one of the main arguments for reform.<sup>56</sup>

3.84. In accordance with its reform programme, Tonga identified a first set of seven public enterprises that could be reformed by privatizing, restructuring, or outsourcing their activities, or by forming partnerships with the private sector. These seven SOEs were: (i) Tonga Forest Products Limited (para. 3.85); (ii) Tonga Water Board; (iii) Tonga Power Limited; (iv) Tonga Cable Limited; (v) Ports Authority Tonga; (vi) Tonga Communications Corporation; and (vii) Tonga Broadcasting Commission. Reform plans for three of the seven were completed during the review period, and the process is still ongoing for the others (Table 3.12).

**Table 3.12 SOEs: capital, ownership, and market participation, 2020**

SOE name	State ownership	Participates as the sole operator	Reform plans during 2014-19	Action taken during 2014-19
Tonga Airports Limited	100%	Yes	No	n.a.
Tonga Asset Managers & Associates Limited	100%	Yes	No	n.a.
Ports Authority Tonga <sup>a</sup>	100%	Yes	Yes	Ongoing plans to enter into a PPP
Tonga Broadcasting Commission <sup>a</sup>	100%	Yes	Yes	Ongoing plans for restructuring
Tonga Cable Limited <sup>b</sup>	83.3%	Yes	Yes	Increase of private participation
Tonga Communications Corporation	100%	No	Yes	Ongoing plans for privatization
Tonga Development Bank	85%	Yes	No <sup>c</sup>	Some shares sold to the Retirement Fund Board

<sup>56</sup> Ministry of Finance, *Tonga Budget Statements 2014-2015 to 2018-2019*

SOE name	State ownership	Participates as the sole operator	Reform plans during 2014-19	Action taken during 2014-19
Friendly Islands Shipping Agency Limited	100%	Yes	No	n.a.
Tonga Market Corporation Limited	100%	Yes	No	n.a.
Tonga Post Limited	100%	Yes	No	n.a.
Tonga Power Limited	100%	Yes	Yes	Completed PPP
Tonga Water Board <sup>a</sup>	100%	Yes	Yes	Plans for outsourcing on hold
Waste Authority Limited	100%	Yes	No	n.a.

n.a. Not applicable.

- a Ports Authority Tonga, Tonga Broadcasting Commission, and Tonga Water Board are statutory bodies and hence not covered by the Companies Act.
- b Tonga Cable Limited (TCL) has three shareholders: Tonga Government, 66.6%; Tonga Communications Corporation (TCC), 16.7%; and Digicel Tonga Limited (DTL), 16.7%. Viewed at: [www.tongacable.to](http://www.tongacable.to).
- c Although not originally planned for this period, the Retirement Fund Board bought 15% of the authorized capital of the TDB in 2019.

Source: Information provided by the authorities; and Retirement Fund Board, *Annual Report 2018-2019*.

3.85. Tonga sold some of its shares of the TCL to the private sector in 2017 but remains the main shareholder. In 2019, it concluded a public-private partnership (PPP) to manage Tonga Power Limited, and granted a 50-year concession to the private sector to control and manage Tonga Forest Products Limited, which may be renewed for another 25 years. In 2018, the Cabinet also endorsed the Ports Authority Tonga strategic review, which recommends establishing a PPP through a concession.<sup>57</sup> Other plans of reform include the privatization of the Tonga Communications Corporation, the corporatization of the Tonga Broadcasting Commission<sup>58</sup>, and the outsourcing of the operations of the Tonga Water Board, which was initially scheduled for 2015 but was put on hold, according to the authorities.

3.86. In 2015 the Ministry of Public Enterprises introduced the concept of shared boards in order to improve transparency and governance and to reduce management costs. Under this scheme, SOEs were grouped according to five different areas of activity, and directors could hold positions on more than one board. Originally, the five areas were utilities, transport, information and communications technology, agriculture, and other (i.e. property management and banking), but the current classification does not include agriculture and banking, as the SOEs in these areas are no longer under the responsibility of the Ministry of Public Enterprises. With a view to further reducing costs, shared boards are also expected to encourage the development of shared services (e.g. accounting, customer services, and if possible, operations).<sup>59</sup>

### 3.3.7 Government procurement

3.87. During the review period, Tonga made substantial progress in implementing its procurement reform strategy, launched in 2013, and has since moved from a decentralized system to a partially centralized one. This reform included two major changes in the legal and institutional framework, one in 2016 and another in 2019. In 2016, a new set of regulations – the Public Procurement Regulations 2015 (PPR 2015) – was issued to replace those from 2010; in 2019, the PPR 2015 were further amended.<sup>60</sup> These changes sought to establish a partially centralized procurement system and improve the efficiency, monitoring, and enforcement of procurement procedures. Additionally,

<sup>57</sup> World Bank (2019), *International Development Association Program Document for the Kingdom of Tonga*; and Asian Development Bank (2020), *Pacific Private Sector Development Initiative: Tonga Country Overview, April 2020*. Viewed at: <http://www.adbpsdi.org/assets/Uploads/PSDI-CountryFactSheet-April2020-Tonga.pdf>.

<sup>58</sup> Asian Development Bank (2019), *Pacific Private Sector Development Initiative: Annual Progress Report, July 2018-June 2019*.

<sup>59</sup> Asian Development Bank (2016), *Finding Balance 2016: Benchmarking the Performance of State-owned Enterprises in Island Countries*.

<sup>60</sup> The Regulations were published in Tonga's *Gazette* as follows: Public Procurement Regulations on 17 July 2015 (currently subordinated), Public Procurement Regulations 2015 on 27 May 2016, and Public Procurement Regulations (Amendment) 2019 on 13 November 2019.

in May 2020 the Cabinet requested a review of the procurement provisions of emergency supplies, and as at November 2020, the corresponding amendments were being drafted.<sup>61</sup>

3.88. Tonga has not signed the WTO Agreement on Government Procurement, and does not have observer status in the WTO Committee on Government Procurement.

### 3.3.7.1 Legal and institutional framework

3.89. Public procurement is governed by the PPR 2015 and the Contracting Entity Procurement Manual, issued in 2016 and 2015, respectively. The PPR 2015 repealed the Public Procurement Regulations 2010 and were amended in 2019. The new regulations established contract thresholds so that larger contracts – those exceeding TOP 7,500 – could be re-centralized to the Procurement Division (PD) of the Ministry of Finance. Contracts below the threshold will continue to be decentralized to individual procurement units within the contracting entities.<sup>62</sup> The PPR 2015 also provided for the creation of a new Central Procurement Unit with broader responsibilities under the PD and of a new complaint and appeal mechanism to improve enforcement. This new mechanism covers practices undertaken by a bidder or a contracting entity during the selection procedure and the execution of the contract.<sup>63</sup>

3.90. In 2019, the PPR 2015 were further modified to, *inter alia*, increase the contract threshold from TOP 7,500 to TOP 20,000, so that only contracts exceeding TOP 20,000 are processed and approved by the PD (Table 3.13). The 2019 amendments also provided for changes in the responsibilities of the contracting entities and the Central Procurement Unit, and an increase in the percentage of the domestic preference to up to 15%, which until then was between 5% and 10% for eligible bids.<sup>64</sup>

**Table 3.13 Main changes in entities' responsibilities by procurement thresholds**

Procurement carried out and approved by	Contract thresholds in '000 TOP by year of adoption		
	2010	2016	2019
Contracting entity	≤100,000 <sup>a</sup>	≤7,500	≤20,000
Carried out by contracting entity / approved by the Procurement Division	n.a.	7,500 -10,000	n.a.
Central Procurement Unit	n.a.	>10,000 <sup>a</sup>	>20,000 <sup>a</sup>

n.a. Not applicable.

a Contracts of more than TOP 100,000 require authorization by the Government Procurement Committee.

Source: WTO document WT/TPR/S/291/Rev.1, 27 February 2014; PPR 2015; and Public Procurement Regulations (Amendments) 2019.

3.91. The main governmental entities responsible for public procurement are the Government Procurement Committee (GPC) and the PD under the Ministry of Finance. The GPC is the entity

<sup>61</sup> Information provided by the authorities.

<sup>62</sup> Prior to the reform launched in 2013, the procurement process of contracts worth up to TOP 100,000 was carried out and approved by the head of the procuring entity (WTO document WT/TPR/S/291/Rev.1, 27 February 2014). In subsequent years and prior to the issue of the PPR 2015, a first threshold of TOP 3,000 seems to have been applied by the authorities before adopting the threshold of TOP 7,500 to decentralize procurement to contracting entities (Treasury Circular 15/13/518, adopted on 1 July 2014; and Public Procurement Regulations issued in July 2015, currently subordinated). Under the Public Procurement Regulations issued in July 2015 but replaced in May 2016, the procurement for contracts below TOP 3,000 is carried out by the contracting entity. For contracts between TOP 3,000 and TOP 7,500, procurement is carried out by the contracting entity but endorsed by the PD. For contracts exceeding TOP 7,500, procurement is carried out the PD. Contracts of more than 100,000 require further authorization by the Government Procurement Committee.

<sup>63</sup> PPR 2015, Sections 73-79.

<sup>64</sup> PPR 2015, Section 43; and Public Procurement Regulations (Amendment) 2019, Section 17.



responsible for the formulation of Tonga's procurement policy and for proposing revisions or amendments to its existing legislation. It is also in charge of reviewing all procurements whose value exceeds TOP 100,000. The GPC is composed of senior government officials, including from the Ministry of Finance, the MoRC, the Cabinet, and the Solicitor General's Office.<sup>65</sup>

3.92. The PD is responsible for the implementation, monitoring, and enforcement of the PPR 2015. It also provides support to the GPC. The PD consists of two offices: the Central Procurement Unit (CPU) and the Public Policy Unit (PPU). The CPU is responsible for conducting government procurement for all contracts worth more than TOP 20,000<sup>66</sup>, while the PPU is responsible for assessing complaints and enforcing regulations.

### 3.3.7.2 Procurement procedures

3.93. The regulations and procedures under the PPR 2015 (and its amendments) apply to all procurements carried out by the Government. The entity responsible for procurement depends on the value of the contract. In some cases, an endorsement by the PD or the GPC is also required. The procurement process for contracts of goods, services, or works exceeding TOP 20,000 is carried out entirely by the CPU. Contracts exceeding TOP 100,000 are subject to the approval of the GPC. Once the GPC approves the contract, it will issue a Letter of No Objection. For contracts worth TOP 20,000 or less, the contracting entity is responsible for the entire procurement process up to approval.<sup>67</sup>

3.94. In addition, contracting entities must appoint an Evaluation Committee for all contracts whose value exceeds TOP 20,000. The Evaluation Committee will prepare a bid evaluation report and recommendations for the award of a contract, which shall be submitted to the procurement unit of the contracting entity or the CPU, depending on the value of the contract.<sup>68</sup> Prior to 2019, an Evaluation Committee was established for contracts exceeding TOP 7,500.

3.95. The procurement of goods, services<sup>69</sup>, and works are conducted according to the following methods, depending on the amount of the contract and product characteristics: (i) competitive bidding (national or international, single-stage or two-stage); (ii) selective bidding (national or international); (iii) restricted bidding (national or international); (iv) request for quotations; and (iv) limited bidding (PPR 2015, Sections 31-35).

3.96. In general, government procurement contracts are awarded by national competitive bidding on a single-stage basis. This method is used for contracts between TOP 50,000 and TOP 150,000 for goods and services (excluding consultancy services), and between TOP 100,000 and TOP 5 million for works. Prior to 2019, the contract threshold for works was between TOP 100,000 and TOP 1 million (Table 3.14). The procurement notice with the requirements is advertised locally but may also be advertised abroad, depending on market availability. Foreign suppliers can participate in the bidding without restrictions. The procurement notice is published: (i) in at least one national newspaper with wide circulation; (ii) on the Internet, usually on the websites of the contracting entity and the PD; and (iii) via radio or television broadcast. An international bidding is used for contracts exceeding TOP 150,000 for goods and services, and TOP 5 million for works. Prior to 2019, the contract threshold for works was TOP 1 million. International biddings are conducted on a competitive, selective, or restricted basis and used instead of national competitive bidding when better value for money could potentially be obtained by inviting foreign suppliers. The corresponding procurement notice shall be advertised locally and internationally. It is published in at least two English-language newspapers or other printed media, such as magazines. It may also be published online.

<sup>65</sup> Members of the GPC include the CEO of the Ministry of Finance, the CEO of the MoRC, the Chief Secretary and Secretary to the Cabinet, and the Solicitor General.

<sup>66</sup> Public Procurement Regulations (Amendment) 2019, Section 2, adopted on 13 November 2019. Prior to 2015, the CPU's role in this regard was mainly on processing procurements, as each ministry or agency was responsible for managing its own procurement (Treasury Circular No. 15/13/518, adopted on 1 July 2014).

<sup>67</sup> PPR 2015, Section 13, as amended in 2019. Prior to 2019, contracting entities conducted the procurement for all contracts worth less than TOP 7,500. For contracts worth between TOP 7,500 and TOP 10,000, the procurement process was carried out by the contracting entity but subject to the approval of the PD. The CPU was responsible for contracts exceeding TOP 10,000.

<sup>68</sup> PPR 2015, Sections 10 and 15, as amended in 2019.

<sup>69</sup> Excluding consultancy services. For consultancy services, additional methods and procedures may apply.



3.97. In January 2020, the procurement procedures applying to contracts up to TOP 20,000 were amended through the adoption of new Treasury Instructions. Under these new rules, the contracting entities may conduct purchases at their discretion (discretionary shopping) for contracts below TOP 12,000, and they may request quotations and require at least two quotations for contracts between TOP 12,000 and TOP 20,000.<sup>70</sup>

**Table 3.14 Type of contract and main changes in procurement thresholds**

Procurement method	Contract thresholds in '000 TOP by year of adoption					
	Goods and services			Works		
	2010	2016	2019	2010	2016	2019
Limited bidding or direct shopping	<3 <sup>a</sup>	<7.5	<20 <sup>b</sup>	<3 <sup>a</sup>	<7.5	<20 <sup>b</sup>
Request for quotations with at least three quotes	3-100 (goods) 3-75 (services)	7.5-50	20-50	3-75	7.5-100	20-100
National bidding (competitive, selective, or restricted)	75-500 (services)	50-150	50-150	75-500	100-1,000	100-5,000
International bidding (competitive, selective, or restricted)	≥100 (goods) ≥500 (services) <sup>c</sup>	≥150	≥150	≥500	≥1,000	≥5,000

a For contracts up to TOP 3,000, contracting entities may request only one quotation.

b As at 1 January 2020, contracting entities may conduct purchases at their discretion (discretionary shopping) for contracts below TOP 12,000, and use a request for quotation requiring at least two quotations for contracts between TOP 12,000 and TOP 20,000.

c Procurements of supply services worth more than TOP 500,000 were considered unlikely.

Source: Public Procurement Regulations 2010; PPR 2015; Public Regulations (Amendments) 2019; and WTO document WT/TPR/S/291/Rev.1, 27 February 2014.

3.98. In 2019, 28% of the total procurement amount was awarded through competitive methods (Table 3.15).<sup>71</sup>

**Table 3.15 Use of competitive methods in public procurement, 2016-19**

	2016	2017	2018	2019
Share (%) of value of contracts awarded through competitive methods	41%	31%	36%	28%

Source: Ministry of Finance. Viewed at: <http://www.finance.gov.to/procurementpublications>.

### 3.3.8 Intellectual property rights

3.99. Tonga's legal and regulatory framework for intellectual property (IP) did not experience any major changes between 2014 and 2020. Its IP regime is mainly regulated by the Industrial Property Act (IPA), the Copyright Act (CA), the Protection of Geographical Indications Act (PGIA), the Protection of Layout-Designs (Topographies) of Integrated Circuits Act (PLDICA), and the Protection Against Unfair Competition Act (PAUCA), and their regulations (when available) (Box 3.3). These laws were last amended in 2012, except the PAUCA, which was amended in 2008. In 2019, a bill to amend the CA was issued to criminalize the infringement of copyright by means of a computer system.<sup>72</sup> There is no legal instrument dealing with the protection of plant varieties.

<sup>70</sup> Treasury Circular No. 15/23/22, issued on 16 January 2020.

<sup>71</sup> Information provided by the authorities. Competitive methods comprise national competitive bidding, international competitive bidding, and request for quotations.

<sup>72</sup> Copyright (Amendment) Bill 2019.

**Box 3.3 IP laws and regulations, 2020**

**Industrial Property Act (last amended in 2012) and its regulations:** provide for the protection of patents, utility models, industrial designs, marks, collective marks, and trademarks.

**Copyright Act (last amended in 2012):** provide for the protection of works, including computer programmes, audiovisual and photographic works, as of performers, producers of phonograms, and broadcasting organizations.

**Protection of Geographical Indications Act (last amended in 2012) and its regulations:** provide for the protection of geographical indications for natural and agricultural products, handicrafts, and wines.

**Protection of Layout-Designs (Topographies) of Integrated Circuits Act (last amended in 2012) and its regulations:** provide for the protection of layout-designs.

**Protection Against Unfair Competition Act (last amended in 2008):** provide for the protection of undisclosed information. The acquisition or use of secret information without the consent of the person lawfully in control of that information and contrary to honest commercial practices constitutes an act of unfair competition, for which any person damaged or likely to be damaged by this is entitled to remedies. The unfair commercial use or disclosure of secret tests or other data relating to pharmaceutical or agricultural chemical products using new chemical substances and which have been submitted to a competent authority for marketing approval also constitutes an act of unfair competition.

Source: *Tonga Attorney General's Office*. Viewed at: <https://ago.gov.to/cms/>.

3.100. Tonga has been a member of the World Intellectual Property Organization (WIPO) since 2001 and is a signatory to 2 of the 26 agreements administered by this organization, namely the Paris and Berne Conventions.<sup>73</sup> Tonga has not signed any other WIPO-administered treaty since then. Tonga is not a member of the International Union for the Protection of New Varieties of Plants (UPOV) Convention but holds observer status in its Council.

3.101. At the institutional level, the main entity dealing with IP issues is the Intellectual Property Division of the MTED. The Intellectual Property Division is responsible for the administration and implementation of IP legislation, including the registration of patents, industrial designs, trademarks, utility models, and geographical indications. The MTED is also the WTO Enquiry Point for all IP issues.<sup>74</sup> In 2019, it recorded 170 trademark applications for registration and had 240 registrations, compared with 148 and 123, respectively in 2014 (Table 3.16).<sup>75</sup>

**Table 3.16 Trademark registrations, 2014-19**

	2014	2015	2016	2017	2018	2019
Applications recorded	148	170	170	185	215	170
Registered	123	91	114	145	195	240
Renewals	34	39	66	44	54	46
Abandoned	15	12	11	15	0	0

Source: MTED, IP Unit Division.

3.102. The protection of IP rights under Tonga's legislation follows to a large extent the TRIPS Agreement, with some exceptions where the level of protection provided under Tonga's legislation is higher in some cases and lower in others. For example, Tonga protects trademarks for a longer period, 10 years instead of 7 under the TRIPS Agreement, and also protects utility models, which are not included under the TRIPS Agreement. Tonga also provides for the protection of undisclosed information from clinical trials regarding pharmaceuticals and agricultural chemicals. The duration of the protection shall not be less than five years, except in exceptional circumstances.<sup>76</sup> In the case of layout-designs, the TRIPS Agreement provides for a greater period of protection: at least 10 years, compared with a non-renewable 10-year limit under Tonga's legislation (Table 3.17).

<sup>73</sup> WIPO IP Portal, *Tonga*. Viewed at: <https://wipolex.wipo.int/en/legislation/profile/TO>.

<sup>74</sup> WTO document IP/N/3/TON/3, 2 July 2020.

<sup>75</sup> The authorities indicate that the number of trademark registrations can be larger than the number of applications in a given year, as it may include the registrations of trademarks whose applications were submitted in previous years. This was, for instance, the case of the number of registrations approved in 2019.

<sup>76</sup> The authorities indicate that the duration of the protection is determined, upon application, by the Court, taking into account the nature of the tests or data and the effort and expenditure involved.

3.103. Tonga's legislation also provides for the protection of moral rights for works (including audiovisual and applied arts), which are also protected under the Berne Convention (Article 6*bis*) but not under the TRIPS Agreement.

**Table 3.17 Terms of protection, 2020**

Duration of protection	Under Tonga's legislation	Under TRIPS Agreement
Patents	20 years (IPA, Section 14).	20 years (Article 33).
Industrial designs	5 years, extendable for two successive periods of 5 years (IPA, Section 24).	At least 10 years (Article 26).
Trademarks (marks, collective marks and trade names)	10 years, extendable for consecutive periods of 10 years (IPA, Section 29).	7 years, renewable indefinitely (Article 18).
Utility models	7 years not renewable (IPA, Section 18).	Utility models are not mentioned explicitly in the TRIPS Agreement.
Copyrights and related rights	<p>Works' rights (both economic and moral) (including photographic works) are in general protected during the life of the author and for 50 years after his or her death (CA, Article 18).</p> <p>Audiovisual rights (both economic and moral) are protected for 50 years from the date on which the work was either made, first made available to the public, or first published, whichever date is the latest (CA, Article 18).</p> <p>The rights (both economic and moral) of works of applied art (i.e. artistic creation) are protected for 25 years the making of the work (CA, Article 18).</p> <p>The rights of performers and broadcasting organizations are protected for 50 years from the end of the year in which the performance was fixed in a phonogram or took place, and the broadcast took place (CA, Sections 22 and 25).</p> <p>The rights of producers of phonograms and phonograms are protected for 50 years computed from the end of year in which the phonogram was published/fixed for the first time, or from the end of the year in which the performance took place (CA, Sections 22-23).</p>	<p>Works' right, other than those for a photographic work or a work of applied art are in general protected during life of the author and 50 years after his or her death (Articles 9 and 12).</p> <p>Photographic works and works of applied art are protected for 25 years from the making of the work (Berne Convention, Article 7, as incorporated in the TRIPS Agreement).</p> <p>Performers and producers of phonograms are protected for 50 years, and broadcasting organizations for 20 years (Article 14.5).</p>
Layout-Designs (Topographies) of Integrated Circuits	10 years, non-renewable, counted from the date of registration or from the first commercial exploitation (PLDICA, Section 8).	At least 10 years counted from the date of registration or from the first commercial exploitation, wherever in the world it occurs.
Geographical indications	<p>Geographical indications, registered or unregistered, are protected:</p> <p>(a) provided there is presumption that such indication is a geographical indication;</p> <p>(b) against a geographical indication which, although true as to the territory, region, or locality in which the goods originate, falsely represents to the public that the goods originate in another territory (PGIA, Section 5).</p>	<p>Geographical indications are protected:</p> <p>(a) against being misused by misleading the public as to the geographical origin of the good, and against any use that may constitute unfair competition;</p> <p>(b) against a geographical indication which, although true as to the territory, region, or locality in which the goods originate, falsely represents to the public that the goods originate in another territory (Article 22).</p>

Duration of protection	Under Tonga's legislation	Under TRIPS Agreement
Undisclosed information	Undisclosed information on data from clinical trials for pharmaceuticals and agricultural chemicals is protected for at least five years (PAUCA, Section 9).	Undisclosed information on data from clinical trials for pharmaceuticals and agricultural chemicals shall be protected against unfair commercial use and disclosure (Article 39).

Source: WTO Secretariat based on Tonga's legislation and the TRIPS Agreement.

3.104. All of Tonga's IP-related laws except for the PAUCA provide for an enforcement mechanism and sanctions.<sup>77</sup> Sanctions for violating the law include fines and/or imprisonment that vary depending on the type of infringement. Any person who infringes the rights granted to trademarks, layout-designs, and geographical indications is liable upon conviction to a fine of up to TOP 5,000 or to imprisonment for a maximum of five years, or both. Violators of a copyright are subject to a fine and/or imprisonment not to exceed TOP 20,000 and three years, respectively.

3.105. At the border, Tongan customs authorities may suspend clearance of allegedly illegal goods (e.g. counterfeit or misleading) in accordance with the legislation on the protection of copyright and related rights (CA, Section 27). Any person who imports, offers for sale, or has in his or her possession counterfeit goods, documents, seals, or marks is liable upon conviction for a fine of up to TOP 100,000 or a term of imprisonment for a maximum of 10 years, or both. Any person receiving any imported counterfeit goods is liable upon conviction for a fine of up to TOP 50,000 or a term of imprisonment not exceeding four years, or both (Customs and Excise Management Act, Section 94).

<sup>77</sup> Enforcement provisions are described in: CA, Part III; Industrial Property Act, Section 43; Geographical Indications Act, Section 8; and PLDICA, Sections 15 and 16.

## 4 TRADE POLICIES BY SECTOR

4.1. During the review period, trade-related policy, institutional, and regulatory developments affected certain activities.

4.2. Agriculture remains the predominant economic activity with food security challenges to be addressed; its average tariff protection levels dropped considerably, and trade-related support available to producers and/or exporters remains unchanged. Fisheries policy has been aimed at maximizing the sustainable contribution of the sector to food security and economic growth; institutional and regulatory initiatives were undertaken. A resource rent of the local value of commercially exported marine products continues to be charged, and activity-specific tax and non-tax incentives remained available to stakeholders. Initiatives for raising renewable energy sources and energy efficiency helped reduce the dependency level on petroleum imports to meet energy needs. The virtual state monopoly in electricity persists, tariffs remain high, and a cross-subsidized "lifeline tariff" applicable to all small consumers remains in place. The contribution of the small and concentrated manufacturing sector slightly declined, and its average tariff protection levels were slightly reduced; activity-specific tax and non-tax incentives have been maintained.

4.3. Services continue as the main, albeit slightly declining, contributor to GDP. Tonga's substantial commitments under the General Agreement on Trade in Services (GATS) remain unchanged. The banking system regulatory framework was updated in certain areas. The insurance market is being developed. Telecoms connectivity improved, new legislation was passed, and a regulator was established. Several policy initiatives intended to address transport-related challenges and new air transport legislation were passed. Air and maritime transport continued to receive support. Cabotage is allowed only in maritime transport under certain circumstances. Tourism has been part of major policy papers and subject to institutional developments, and tax and non-tax incentives continue to support its development. Distribution services remain significant for the economy; small-scale wholesale and retail trade benefited from support, and progress was made in enhancing the regulatory framework for nascent e-commerce.

### 4.1 Agriculture, Forestry, and Fisheries

#### 4.1.1 Agriculture

##### 4.1.1.1 Features

4.4. Agriculture remains the predominant economic activity in Tonga. Its contribution to GDP (excluding fisheries (Section 4.1.2)) rose from 14.2% in FY 2013/14 to 17.7% in FY 2018/19, despite the impact of Tropical Cyclone (TC) Gita in the first half of 2018. The sector's share in total employment (including fisheries) dropped from 26.1% (FY 2014/15) to 22.1% (FY 2018/19) (Table 1.2).<sup>1</sup> This may be a cautious indication of improving labour productivity.

4.5. Fallow land takes up 33,717 acres (51%) of the total agricultural land area. In 2015, annual crops occupied 23,999 acres (36%); pastureland 4,858 acres (7%); perennial crops 3,207 acres (5%); and livestock 421 acres (1%). Most land is held in royal estates and nobles' hereditary estates. 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 hectares (ha) as a heritable "tax allotment" (Land Act, Section 7), but in practice there is not enough land.<sup>2</sup> The sale of land is prohibited; land may be leased and mortgaged by both men and women to locals and foreigners (Section 2.5.2). It appears that some fertile land is under-utilized, in part because of the large number of expatriate Tongan landowners.

4.6. Less than 10% of farmers are commercial producers who grow excess products for the formal market.<sup>3</sup> Agriculture remains largely based on traditional/subsistence farming systems, some of

<sup>1</sup> Tropical Cyclone (TC) Gita had major impact on agricultural production, such as perennial crops, fruit trees, handicraft trees (mulberry and pandanus), kava and vanilla, and also on annual crops (cassava, yam, and taro), causing significant losses. Ministry of Finance (2019), *Government of Tonga Budget Statement for Year Ending 30<sup>th</sup> June 2020*.

<sup>2</sup> According to the 2015 agricultural census, 62% (41% in 2001) of households owned a tax allotment. WTO document WT/TPR/S/291/Rev.1, 27 February 2014.

<sup>3</sup> Ministry of Agriculture and Food, Forests and Fisheries (MAFFF) (2019), *The Kingdom of Tonga: Tonga Agriculture Sector Plan 2016-2020*.

which are under pressure from declining organic matter in the soils and declining crop diversity. Most farmers maintain multi-crop systems based on root crops (e.g. taro, manioc, yams, and sweet potatoes), which satisfy their basic food needs; vegetable crops are also cultivated. The majority of land holdings are small (eight acres or about 3.24 ha). Most Tongan households keep livestock.<sup>4</sup> Roaming livestock (mainly pigs) cause major crop losses, and even though this is a "community problem", there are few examples of successful resolution. Livestock productivity is low, and cattle, in particular, suffer from inadequate supplies of feed and water.<sup>5</sup> Few commercial livestock operations are in place. Forestry accounts for a very small share of GDP (0.3% in FY 2017/18) in the primary sector; in 2016, Tonga granted a 50-year concession to the Maori trust from New Zealand Aotearoa Tonga Forest Products Limited to control and manage the formerly state-owned Tonga Forest Products Limited, which was responsible for producing and marketing quality logs and wood products in the Kingdom and the South Pacific Region at the 'Eua Forest Reserve, the Vaitaki Sawmilling Site, and the Mataliku Forest Plant (Section 3.3.6).<sup>6</sup>

4.7. During the review period, agriculture continued to dominate exports. Its share of total merchandise exports (excluding fisheries (including crustaceans and coral)) ranged from 38.2% (2016) to 54.4% (2018) (Table A1.1). The main agricultural export commodities remain squash pumpkins, root crops, and kava, representing 11.5%, 14%, and 12.2% of domestic merchandise exports in 2019, respectively. The sector continued to account for a small part of merchandise imports; its share ranged from 23.6% (2019) to 30% (2017), with the main import items involving prepared food, beverages, and tobacco (11.2% of imports) and live animals and products thereof (8.6%) in 2019 (Table A1.2).

4.8. Similar to other Pacific countries, Tonga has persistent food security challenges, as it is a net importer of staple foods; its self-sufficiency remains to be addressed (Section 4.1.1.2). No self-sufficiency indicators of staples, or targets set for raising them, were available with the authorities. Concerns include reliance on imported food products with poor nutritional value, high prices of food products, and over 50% of average household income spent on food.<sup>7</sup>

4.9. Agricultural development continues to face several constraints with, *inter alia*, some food security implications. They include land availability, transportation logistics of servicing many islands over a large expanse of ocean, remoteness, a narrow resource base, the small size of the economy, and the drain on resources from the damage caused by frequent natural disasters such as cyclones and occasional droughts. Notwithstanding these limitations, rural communities appear to have been able to sustain their food security and general livelihoods through an integrated approach to the management of a productive and natural ecosystem.<sup>8</sup>

#### 4.1.1.2 Policy and institutional framework

4.10. During the review period, certain policies were put in place. The Tonga Agriculture Sector Plan (TASP) 2016-2020 aimed to: promote a balance between export-oriented objectives, import substitution, and subsistence agriculture; and incorporate a strong focus on sustainability and building resilience against climate change and natural disasters.<sup>9</sup> The TASP is based on designing groups of activities (in the form of Programmes) for achieving four strategic objectives: (i) develop a climate-resilient environment; (ii) improve the enabling environment; (iii) develop diverse, climate-resilient farming systems for the Kingdom's islands; and (iv) increase and sustain rural incomes across the Kingdom. The TASP focuses on four areas: (i) climate-resilient agricultural production systems, which are determined by healthy soils, secure and sustainable water supplies, diverse farming systems, and adaptive communities; (ii) the enabling environment in which the

<sup>4</sup> According to the 2015 agricultural census, about 92% or 12,589 households raised livestock, consisting mainly of pigs and chickens.

<sup>5</sup> According to the 2015 agricultural census, only about 4% of the cultivated land area (4,858 acres) was under pasture for cattle.

<sup>6</sup> Radio New Zealand, "Maori Trust to Control Tongan Forests", 21 June 2016. Viewed at: <https://www.rnz.co.nz/international/pacific-news/306960/maori-trust-to-control-tongan-forests>; Ministry of Finance (2019), *Government of Tonga Budget Statement for Year Ending 30<sup>th</sup> June 2020*.

<sup>7</sup> Parliament of Tonga, "Food Security Challenge Needs to Be Addressed", 24 July 2015. Viewed at: <https://www.parliament.gov.to/media-centre/latest-news/latest-news-in-english/375-food-security-challenge-needs-to-be-addressed>.

<sup>8</sup> MAFF (2015), *The Kingdom of Tonga: Tonga Agriculture Sector Plan 2016-2020*; and Ministry of Finance (2019), *Government of Tonga Budget Statement for Year Ending 30<sup>th</sup> June 2020*.

<sup>9</sup> MAFF (2015), *The Kingdom of Tonga: Tonga Agriculture Sector Plan 2016-2020*.



sector operates, in terms of country systems and international relationships, human resource availability and capacity, regulations and compliance, and quarantine; (iii) subsistence-level staple food, cash crop, and livestock production, associated with rural livelihoods, and including income from local domestic sales; and (v) increasingly active and export-oriented agriculture, with a strong focus on vegetables, plus import replacement.

4.11. Under the TASP, staple food self-sufficiency and food import replacement are equally important objectives in the longer term.<sup>10</sup> It is envisaged to replace the importation of some chicken, pork, mutton, and to a lesser extent, beef. Continued and sustained self-sufficiency in staple foods is arguably as important as increasing exports, particularly in the face of greater weather extremes.

4.12. As at 2020, the authorities planned to better utilize agriculture roads and certified pack-houses to increase exports, as well as to improve the productivity of root crops, watermelons, and vegetables.<sup>11</sup> These prioritized national projects support four policy priorities: National Food Security; Rural Livelihood and Commercial Farming; Conservation of Sustainable Agricultural Resources; and Climate-Smart and Resilient Agriculture. The policies are to be implemented by the Ministry of Agriculture, Food and Forests (MAFF) through its FY 2020/21-FY 2022/23 Corporate Planning and Budgeting Process.

4.13. During the review period, certain institutional changes were undertaken in the responsibilities of the Ministry in charge of the formulation and implementation of agricultural policy (Section 4.1.2). The Ministry of Agriculture, Food, Forests and Fisheries (MAFFF) was turned into the Ministry of Agriculture, Food and Forests (MAFF), and the Ministry of Fisheries (MoF) was approved by the Cabinet to be established as an independent Ministry on 11 August 2017 (Section 4.1.2.2).

#### 4.1.1.3 Regulatory framework

4.14. During the review period, the main changes to the regulatory framework governing agriculture included: the Food Act 2014 reviewed and replaced by the Food Act 2020 (Section 3.3.3); the Plant Quarantine Act 2012 revised in 2016 (Section 3.3.3 and Table 3.10); and the Sandalwood Act 2016 and Sandalwood Regulations 2016 created. The Food Act regulates the manufacture, sale, import, and export of food for commercial purposes to guarantee food safety and fitness for human consumption, promote fair trade practices, and provide for related matters.<sup>12</sup> It provides for the establishment of the National Food Authority and the National Food Council, which was established in 2016 but has not yet met, and provides for the control on the quality of food, including imported food or food intended for exportation (Section 3.3.3). It also regulates the labelling and packaging of all food products imported or exported for sale. As at December 2020, the Food Regulations implementing the Food Act 2020 were to be yet to be developed.

4.15. Tonga maintains tax and non-tax import and/or consumption restricting measures on some food products (Section 4.1.1.4), e.g. fat and sweet food and drinks. Further information on the legal instruments enforcing these restrictions and their scope (products) and type (import/manufacture/consumption restriction/prohibition/control) was not available from the authorities. A sweetened beverage excise tax of TOP 0.50/L, introduced in 2013, was increased in 2016 (to TOP 1.00/L) and in 2017 (TOP 1.50/L; USD 0.02/oz), as part of the reform to reduce the number of food products considered unhealthy (Section 4.1.1.5); according to international findings, the sugar-sweetened beverage taxes in Tonga were seemingly associated with increased prices, decreased taxed beverage imports, increased locally bottled water, and, more concerning, a small increase in the local manufacturing of soft drinks.<sup>13</sup>

4.16. Egg production, farming of a number of crops (including root crops, squash, paper mulberry, pandanus, and kava), and export of coconuts are restricted to Tongan nationals or a

<sup>10</sup> Tonga has an "unwritten" objective of not becoming dependent on imported rice, not only because of the impact on the balance of trade, but also because of the "food vulnerability" element. MAFFF (2015), *The Kingdom of Tonga: Tonga Agriculture Sector Plan 2016-2020*.

<sup>11</sup> MAFF (2020), *Corporate Plan for the Financial Year 2020/21-2022/23*.

<sup>12</sup> Ecolx, *Food Act 2014 (No. 18 of 2014)*. Viewed at: <https://www.ecolx.org/details/legislation/food-act-2014-no-18-of-2014-lex-faoc141352/>.

<sup>13</sup> Teng, A. Puloka, V., Geng, M., et al. (2020), "Sweetened Beverage Taxes and Changes in Beverage Price, Imports and Manufacturing: Interrupted Time Series Analysis in a Middle-income Country", *International Journal of Behavioral Nutrition and Physical Activity*, Vol. 17, Article 90, 9 July. Viewed at: <https://ijbnpa.biomedcentral.com/articles/10.1186/s12966-020-00980-1>.



company/partnership with 75% ownership by a Tongan (Table 2.2), although exceptions may be granted.<sup>14</sup>

#### 4.1.1.4 Border measures

4.17. During the review period, the simple average applied most-favoured-nation (MFN) tariff rate on agricultural products dropped considerably from 10.7% to 7.7% (WTO definition) and from 10.5% to 5.5% (HS basis), resulting in higher gaps with the corresponding average bound rates (11.3 percentage points (WTO definition) and 13.7 percentage points (HS basis)), and remained well below the overall (10.4%) and the industrial products averages (Table 3.2). Applied MFN tariffs on agricultural products continued to range from zero to 20% (Table 3.2).

4.18. Imports of all agricultural products, including fruits, vegetables, root crops, processed food products, and meat, remain subject to licensing and import permits from the MAFF's Quarantine and Quality Management Division. There are no import quota policies. All food imports must comply with the Food Act 2020 and the Codex Alimentarius standards requirements (Sections 3.3.3 and 4.1.1.3). An April 2020 policy approval for absolute import prohibition of meat of lamb and mutton breast to prevent the importation and consumption of this unhealthy food was passed through the Customs and Excise Management Act (Amendment) Order, which was published on 30 June 2020 and became effective as from 1 July 2020.

4.19. Exports of fruit and vegetables, including root crops, remain subject to licensing. Licences/permits are granted for exports of specific commodities, subject to quarantine requirements and production line and export pathways inspections. There are no export bans or controls in place on most agriculture products; however, the Sandalwood Act 2016 restricted the export of sandalwood for the purposes of security and conservation of limited natural resources.

4.20. As from 2010, the MAFF has operated a pack-house at its main office building in Ma'ufanga for farmers and exporters who want to use the facility to prepare and pack produce for export for free.<sup>15</sup> The MAFF is responsible for the operation and management of the fumigation facility for which farmers and exporters are charged TOP 7.75/m<sup>3</sup> and TOP 130 per 20-foot container of produce such as watermelon, which is the main and most common produce treated for export. UNDP-India funded the reconstruction of the MAFF pack-house and fumigation facility after they were damaged in TC Gita, but work had not yet started as at December 2020 as the MAFF was still in the procurement process. A second privately owned registered pack-house, the Nishi Trading Co. in 'Utulau, is also operational.

4.21. Since 2012, an Agricultural Export Marketing Fund has provided short-term loans to exporters of agricultural commodities.<sup>16</sup> Its concessional interest rate (1% per quarter) remained unchanged during the review period. Since 2014, Tonga also provided loans at preferential conditions under the Government Development Loans (GDL) facility of the Tonga Development Bank (TDB) to support producers and exporters in various sectors (Sections 3.3.6, 4.1.1.5, 4.1.2.5, 4.3.3, 4.4.3.1.1, 4.4.4.1, and 4.4.7). According to the authorities, the TDB's short-term loans for agricultural export and marketing are provided at commercial rates; its GDL at low interest rates finances stakeholders requiring funding assistance to produce and export agricultural products. As from 2019, an informal sector loan scheme under the Ministry of Trade and Economic Development (MTED) has assisted small-scale farmers to plant squash for export (Section 3.3.1.2).

<sup>14</sup> WTO document WT/TPR/S/291/Rev.1, 27 February 2014; Revenue Policy Committee, Ministry of Finance and National Planning, Ministry of Revenue and Customs, and Ministry of Commerce, Tourism and Labour (2014), *Partnership in Driving Economic Growth – Government of Tonga Investment Incentives 2014/2015*, August.

<sup>15</sup> The pack-house established with EU STABEX funding in 2010 is equipped for washing, peeling, cutting, bagging, chilling, and freezing produce with a capacity of between 4 and 5 tonnes per day. It also includes a methyl bromide fumigation chamber with a capacity of around 20 tonnes per day. The facility operated by Nishi Trading was Tonga's first international-standard export pack-house and food-processing plant, and was partly financed by a grant from the EU-funded Increasing Agricultural Commodity Trade programme.

<sup>16</sup> At the time of the previous Review, the TOP 1 million credit scheme set up within the framework of the FY 2012/13 budget was administered by the Ministry of Finance and National Planning. While the loans are available to exporters of all produce, most were disbursed to squash exporters, according to the authorities.

4.22. Tonga maintains a "zero commitment" in its Schedule with respect to agricultural export subsidies.<sup>17</sup> At the time of the previous Review, Tonga had notified the WTO Committee on Agriculture that no export subsidies were provided in FY 2007/08 and FY 2008/09, but since then no notification on this issue has been submitted. The authorities indicate that a new submission was to be made in January 2021.<sup>18</sup>

#### 4.1.1.5 Domestic support

4.23. During the review period, sector-specific tax and non-tax incentives were available to agricultural producers. Agricultural tools, live animals, stock feed, and packaging materials, including timber milling equipment, insecticides, pesticides, fungicides, agricultural equipment, and implements (including hand tools, seeds, fertilizer, and packaging materials), remain free from customs duty and consumption tax (CT).<sup>19</sup> Tax expenditure relating to customs duty, excise tax, and CT to support agriculture stood at TOP 1,191,000.70 in FY 2014/15 (3.1% of all eligible activities), TOP 1,406,396.64 in FY 2015/16 (3.2% of all eligible activities), TOP 1,605,241.85 in FY 2016/17 (2.8% of all eligible activities), TOP 1,939,120.68 in FY 2017/18 (3.7% of all eligible activities), and TOP 2,027,135.25 in FY 2018/19 (3.3% of all eligible activities). In 2016, excise taxes on healthy foods decreased, and oranges and apples were exempt from the CT, whereas taxes on unhealthy foods, soft drinks, and tobacco increased (Section 3.3.1.1).<sup>20</sup>

4.24. During the review period, the MAFF provided seedlings of coconut, vegetables, fruit trees, various crops' planting materials (for six months for cassava, sweet potatoes, swamp taro, and corns), and distribution of one-week checks for free to all farmers and communities, including women and youth groups.

4.25. Since 2014, low interest rate loans through the GDL scheme administered by the TDB have been provided at interest rates of 1% and 3% (4% prior to 2020) for farmers participating in agricultural development programmes (Section 3.3.1.1).<sup>21</sup> The total outstanding loan under this scheme as at June 2020 was at TOP 8.7 million, compared with TOP 7.6 million in June 2017. Of the outstanding loans as at June 2020, 52% (47.3% in 2018) was lent to the agricultural sector, followed by the education, fisheries, and manufacturing sectors at 16%, 13% (17.9% in 2018), and 7%, respectively (Sections 4.1.2.5 and 4.3.3). Concessional loans were been provided under the Credit Union and Micro Finance Development Scheme.<sup>22</sup>

4.26. Tonga maintains a price control mechanism under which it fixed the maximum price for 21 food products (Section 3.3.5).

4.27. Tonga's aggregate measure of support (AMS) remains bound at zero in its Schedule of Commitments.<sup>23</sup> At the time of the previous Review, all domestic support measures notified by Tonga were in the general services category of the Green Box (TOP 1 million in FY 2009/10), but since then no notification on this issue has been submitted. As at December 2020, the authorities planned to submit a new one by February 2021 (Section 2.4.1.3).<sup>24</sup>

<sup>17</sup> Kingdom of Tonga, Part IV, Section II, Schedule CLIX. Tonga notified its Accession working party that no export subsidies were provided during the "representative period" of FY 1996/97-FY 1998/99. WTO document WT/ACC/SPEC/TON/3/Rev.3, 28 October 2005.

<sup>18</sup> WTO document G/AG/N/TON/1, 27 June 2011.

<sup>19</sup> Revenue Policy Committee, Ministry of Finance and National Planning, Ministry of Revenue and Customs, and Ministry of Commerce, Tourism and Labour (2014), *Partnership in Driving Economic Growth – Government of Tonga Investment Incentives 2014/2015*, August.

<sup>20</sup> Cardno (2018), *Final Report of the Australian Department of Foreign Affairs and Trade (DFAT)'s evaluation of the Economic and Public-Sector Reform Program III (EPSG III) to the Kingdom of Tonga 2015/16 to 2017/18*.

<sup>21</sup> National Reserve Bank of Tonga (NRBT) (2018), *Annual Report 2018 for the Year Ended 30 June 2018*. Viewed at: [http://www.reservebank.to/data/documents/Publications/AnnualReports/NRBT\\_AR\\_1718\\_TON\\_ENG\\_FINAL.pdf](http://www.reservebank.to/data/documents/Publications/AnnualReports/NRBT_AR_1718_TON_ENG_FINAL.pdf).

<sup>22</sup> Ministry of Finance (2019), *Government of Tonga Budget Statement for Year Ending 30<sup>th</sup> June 2020*.

<sup>23</sup> Kingdom of Tonga, Part IV, Section I, Schedule CLIX.

<sup>24</sup> WTO documents WT/ACC/SPEC/TON/3/Rev.3, 28 October 2005; and G/AG/N/TON/3, 12 January 2012.

## 4.1.2 Fisheries

### 4.1.2.1 Features

4.28. Tonga remains dependent on fisheries and ocean resources for food, employment, income, and economic development.<sup>25</sup> During the review period, the sector's contribution to GDP dropped progressively from 2.2% in FY 2013/14 to 1.9% in FY 2018/19 (Table 1.2).<sup>26</sup> Tonga's Exclusive Economic Zone (EEZ) of approximately 700,000 km<sup>2</sup>, compared with its land area of 749 km<sup>2</sup>, creates both a massive challenge and a huge opportunity for the effective management and development of sustainable fisheries, and maximizing the economic benefits of the country's fisheries resources.<sup>27</sup> The share of fisheries (including crustaceans and coral) in total merchandise exports dropped from 35.5% (2014) to slightly above 19% (2016, 2017) and to 15.5% (2018), possibly due to TC Gita damages, after rising to 26.6% in 2019 (Table A1.1).<sup>28</sup> The three main export marine products are tuna, snapper, and aquarium species. The Sea Star Fishing Company Limited has operated as a state-owned enterprise in the sector until 2019.

### 4.1.2.2 Policy and institutional framework

4.29. During the review period, action was taken to develop the fisheries policy framework. The MOF's first Corporate Plan FY 2016/17-FY 2018/19 (see below), which is directly linked to the Tonga Strategic Development Framework (TSDF) (Section 2.3.2), provides a renewed focus on the development and management of the country's sustainable fisheries.<sup>29</sup> It supports the establishment of community-based special management areas (SMAs), and fosters sustainable and profitable commercial fisheries and aquaculture.

4.30. The Tonga Fisheries Sector Plan (TFSP) 2016-2024 aims to maximize the sustainable contribution of the fisheries sector to food security and economic growth.<sup>30</sup> It provides a solid foundation for seeking financial assistance from development partners for high-priority projects. The implementation of the TFSP is ongoing, with potential funding from the World Bank Pacific Islands Regional Oceanscape Program (PROP). A USD 10 million grant from the World Bank supports funding of TFSP implementation over six years, starting in July 2019, through the Halafononga Ki Ha Ngatai Tu'ulua – Pathway to Sustainable Oceans (Tongafish Pathway) project.<sup>31</sup> The Tongafish Pathway project has four components: Strengthening Fisheries Governance (national International Development Associations (IDA): USD 0.4 million; regional IDA: USD 1.7 million); Strengthened Knowledge Base for Fisheries and Aquaculture (national IDA: USD 1.17 million; regional IDA: USD 3.38 million); Investing in Sustainable Fisheries Management and Development (national IDA: USD 1.22 million; regional IDA: US 0.5 million); and Supporting Effective Project Management (national IDA: 1.56 million; regional IDA: USD 0.06 million).

4.31. The National Fisheries Policy, aimed at maximizing the sustainable contribution of the sector to food security and economic growth by presenting key policies to support the implementation of the TFSP, was announced in March 2018 and is currently being implemented.<sup>32</sup> The authorities' 10 policy priorities for the period FY 2019/20-FY 2021/22 were: (i) implementing the TFSP (e.g. Expanding of Special Management Area (SMA) Program); (ii) developing aquaculture (farming of pearls, giant clams, sea cucumber, tilapia, mud crab, seaweed, and prawns); (iii) building institutional capacity (infrastructure and additional staff); (iv) developing new fisheries (e.g. squid fishery and mini-longline); (v) developing and managing tuna and deep-water snapper fisheries; (vi) implementing fisheries assessment, monitoring, and data collection (survey of sea cucumber,

<sup>25</sup> Ministry of Finance (2019), *Government of Tonga Budget Statement for Year Ending 30<sup>th</sup> June 2020*.

<sup>26</sup> Damages of TOP 1.3 million were caused by TC Gita, mainly on fisheries assets including fishing vessels; engines; fishing gear; fish fences; and pearl, clam, and seaweed farms and hatcheries. Ministry of Finance (2019), *Government of Tonga Budget Statement for Year Ending 30<sup>th</sup> June 2020*.

<sup>27</sup> MoF, *Annual Report – Financial Year 2016/17*.

<sup>28</sup> WTO calculations based on data provided by the authorities.

<sup>29</sup> MoF (2018), *Tonga National Fisheries Policy*, Parts 1, 2, and 3, March. Viewed at: <http://www.tongafish.gov.to/index.php/policies-legislation/tonga-national-fisheries-policy>.

<sup>30</sup> Pacific Community, *Tonga Fisheries Sector Plan 2016-2024*. Viewed at: <https://pafpnet.spc.int/resources/628-tonga-fisheries-sector-plan-2016-2024>; and MoF (2018), *Tonga National Fisheries Policy*, Parts 1, 2, and 3, March. Viewed at: <http://www.tongafish.gov.to/index.php/policies-legislation/tonga-national-fisheries-policy>.

<sup>31</sup> MoF (2019), *Corporate Plan and Budget 2019/20–2021/22*.

<sup>32</sup> MoF (2019), *Corporate Plan and Budget 2019/20–2021/22*.

data collection for all fisheries etc.); (vii) reviewing legislation to facilitate fisheries development and management; (viii) developing local fishing industry human resources capacity (trainings for crews, e.g. Safety and Master Class); (ix) implementing the Strengthening Monitoring, Control and Surveillance (MCS) Program – Port State Measure Agreement, Regional Air Surveillance, and Regional MCS programmes; and (x) planning a fishing port and onshore infrastructure.

4.32. In 2017, the Fisheries Division of the MAFF was granted by the Cabinet the independence to function as the MoF.<sup>33</sup> The MoF relies on the Cabinet and the Parliament for high-level strategic direction, and for support for policy and legislation, and budget resources.<sup>34</sup> Support for its activities is provided by the Ministry of Finance, the Tonga Navy through fisheries patrols, and Tonga Customs through border controls for imports and exports of fish products. The MoF maintains ties with two regional agencies, the Forum Fisheries Agency (FFA) and the South Pacific Community (SPC). Bilateral memoranda of understanding (MOUs) with many development partners for the provision of services to Tonga, such as support for management planning, compliance, resource assessment, and aquaculture development, are in place. Tonga is a member of, *inter alia*, the Pacific Island Forum Fishery Agency and the Western and Central Pacific Fisheries Commission.

#### 4.1.2.3 Regulatory and operational framework

4.33. During the review period, the regulatory framework governing fisheries was subject to a few changes, including the Fisheries (Coastal Communities) (Amendment) Regulations 2016 (enacted on 16 December 2016) and the Fisheries (Coastal Communities) (Amendment) Regulations 2017 (enacted 29 June 2017).<sup>35</sup>

4.34. The main fisheries legislation remains the Fisheries Management Act (FMA) 2002, supported by regulations and fishery management plans. As at December 2020, a Fisheries Management (Amendment) Bill 2016 was still with the Legislative Assembly's Law Committee. Aquaculture is governed by the Aquaculture Management Act 2003. As at September 2020, the following management plans were in force: Tonga National Marine Seaweed (Limu Tanga'u) Fisheries Management and Development Plan 2012-2013; Tonga Bareboat Charter Policy Framework 2016; Tonga Marine Aquarium Plan 2017-2019; Tonga Deepwater Fishery Management Plan (TDFMP) 2017-2019; Tonga National Tuna Fisheries Management And Development Plan 2018-2022; Tonga National Sea Cucumber Fishery Management and Development Plan; Kingdom of Tonga – Revised Shark-Plan 2018-2022; and the National Aquaculture Management and Development Plan 2018-2022.<sup>36</sup>

4.35. The TDFMP 2017-2019 is the third plan for this fishery and is based on the TDFMP 2014-2016 and the previous Snapper Fisheries Management Plan (SFMP) 2007.<sup>37</sup> It encourages co-management of the resources to foster an active partnership with fishermen, stakeholders, and the Government. The nature of the fisheries has changed; the majority of the target species are exported, while the by-catch and shallow-water species are sold on the local market. The TDFMP set, *inter alia*, the total allowable catch (TAC) of 200 metric tonnes for all deep-water snapper species combined annually (Table 4.1); and gear and boat restrictions. At the same time, the tuna TAC dropped considerably from 8,000 to 2,500 metric tonnes (Table 4.1). In practice, TAC ceilings for both species were exceeded in certain years.

**Table 4.1 Total allowable and actual catch, 2014-20**

Year	Tuna (mt)		Snapper (mt)	
	Quota	Actual	Quota	Actual
2014	8,000	1,275.02	200	79
2015	8,000	4,111.48	200	161
2016	2,500	5,520.81	200	197
2017	2,500	4,552.63	200	251

<sup>33</sup> MoF, *About Us*. Viewed at: <http://www.tongafish.gov.to/index.php/about-us>.

<sup>34</sup> MoF (2019), *Corporate Plan and Budget 2019/20-2021/22*.

<sup>35</sup> MoF (2017), *Annual Report – Financial Year 2016/17*.

<sup>36</sup> All management plans are available online. MoF, *Management Plans*. Viewed at: <http://www.tongafish.gov.to/index.php/policies-legislation/management-plans>. At the time of the previous Review, there were management plans for tuna (2002), snapper and grouper (2007), sea cucumber, and aquarium fish.

<sup>37</sup> MoF (2017), *Tonga Deepwater Fishery Management Plan 2017-2019*, March. Viewed at: <http://www.tongafish.gov.to/index.php/policies-legislation/management-plans>.

Year	Tuna (mt)		Snapper (mt)	
	Quota	Actual	Quota	Actual
2018	2,500	1,449.80	200	216
2019	2,500	3,237.19	200	177
2020	2,500	1,559.24	200	146

Source: Data provided by the authorities.

4.36. Access to the Tongan EEZ remains mainly governed by the FMA in conjunction with the fishery management plans (see above), vessel-licensing requirements (see below), the Foreign Investment Act (see below), and access agreements with foreign countries. All foreign fishing vessels/companies planning to fish for tuna in the EEZ must complete and sign the access agreement provided by the MoF. Tonga is a party to the 1987 Multilateral Treaty on Fisheries between Certain Governments of the Pacific Island States and the Government of the United States of America.

4.37. Licensing requirements apply to local and foreign fishing vessels.<sup>38</sup> In addition to the vessel registration requirement with the Marine and Ports Division (Section 4.4.4.5.2), fishing vessels must be re-registered with the MoF. There are nominal licensing fees for local vessels, depending on their size. Foreign fishing vessel licence fees reached USD 45,000 in 2013 for vessels exceeding 500 gross register tonnage (GRT). Between July 2016 and July 2017, 40 fishing vessels held a valid licence to fish within the EEZ<sup>39</sup>, including 7 foreign fishing vessels, 5 local tuna-fishing vessels, 4 commercial sport-fishing vessels, and 24 snapper-fishing vessels. During the same period, 76 licences were issued, including 4 for local tuna vessels; 19 for snapper vessels; 7 for foreign fishing vessels; 3 for the export of tuna, snapper, or reef fish; 2 for export of other marine products; 2 for aquarium fish, and 39 for fish fences.

4.38. Foreign investment is not allowed in a number of fisheries (Tables 2.1 and 2.2), including reef fishing, inshore fishing within 12 nautical miles and in water less than 1,000 metres deep, and bottom fishing in water less than 500 metres deep.<sup>40</sup> Foreign investment in commercial fishing, such as tuna fishing, deep-water bottom fishing (in water deeper than 500 metres), and other deep-water fishing (not less than 100 metres), are subject to their respective management plans (Section 2.5.2). Foreign investment in aquaculture is also subject to the requirements of the Pesticide Act 2002, and the Tonga Marine Aquaculture Fishery Management and Development Plan (see above). As at 2017, foreign investments in fisheries were in tuna fishing and game fishing, mainly for access to Tongan waters. There is very little foreign investment for onshore fisheries activities, such as processing and value-added activities, partly due to the high cost of transport to international markets.

#### 4.1.2.4 Border measures

4.39. During the review period, the average applied MFN rate on fish and fishery products dropped considerably from 10.6% in 2013 to 0.9% in 2020, as most tariff rates at 5% and 20% in 2013 were cut to zero in 2020, and the tariff lines for fish and fish products rose from 136 in 2013 to 282 in 2020 due to nomenclature change (Table 3.2). Rates continue to range from zero to 20% (five lines under HS 0301.9 – live fish, excluding ornamental fish, and one line under HS 1603.00.00 – extracts and juices of meat, fish or crustaceans, molluscs or other aquatic invertebrates).<sup>41</sup>

4.40. As from 1994, a resource rent at rates of 0.5%, 1%, and 5% of the local value of commercially exported marine products has been collected by the MoF.<sup>42</sup> The export levy on fish was zero in 2013 and seemingly remains unchanged.

4.41. Exports of fish, fish products, and other marine products, including live aquarium fish, giant clams, and corals, remain subject to licensing (FMA, Article 35). Licensing conditions include compliance with the relevant fisheries management plan (Section 4.1.2.3) and any export restrictions that may be in force (Fisheries Conservation Regulations 2008). As at 2017, there were 10 exporters with valid licences: four for tuna, snapper, or reef fish; four for aquarium fishery; one

<sup>38</sup> More information on the FMA vessel licensing requirements is available in WTO document WT/TPR/S/291/Rev.1, 27 February 2014.

<sup>39</sup> MoF (2017), *Annual Report – Financial Year 2016/17*.

<sup>40</sup> MoF (2018), *Tonga National Fisheries Policy* Parts 1, 2, and 3, March. Viewed at: <http://www.tongafish.gov.to/index.php/policies-legislation/tonga-national-fisheries-policy>.

<sup>41</sup> WTO document WT/TPR/S/291/Rev.1, 27 February 2014.

<sup>42</sup> MoF (2017), *Annual Report – Financial Year 2016/17*.



for giant clam shell; and one for seaweed.<sup>43</sup> Between July 2016 and June 2017, 17,050 export permits were issued, including 572 for tuna and snapper, 147 permits for aquarium fishery, 10 for seaweed, and 1 for other export.

#### 4.1.2.5 Domestic support

4.42. During the review period, sector-specific tax and non-tax incentives were available to fisheries stakeholders. The fuel subsidy (fuel concession scheme) introduced in 2000 to support the development of fisheries as a strategic industry remains in place (see below). Licensed fishers remain exempt 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 MoF, which issues refuel certificates. Since 2013, a customs tariff and CT exemption for fuel fishing boats, baits, engines and spare parts, and fishing gear has been granted.

4.43. Tax expenditure relating to customs duty, excise tax, and CT to support fisheries-related activities stood at TOP 1,217,877 in FY 2014/15 (3.2% of eligible activities), TOP 2,240,323 in FY 2015/16 (5.1%), TOP 897,264 in FY 2016/17 (1.6%), TOP 664,022 in FY 2017/18 (1.3%), and TOP 452,114 in FY 2018/19 (0.7%). Furthermore, tax expenditure relating to customs duty, excise tax, and CT for the equipment, engines, devices, or parts of domestic fishing vessels stood at TOP 4,879 in FY 2014/15 (0.01% of eligible activities), TOP 66,810 in FY 2015/16 (0.1%), and TOP 1,824,311 in FY 2018/19 (2.9%).

4.44. Tax expenditure relating to customs duty, excise tax, and CT for the operation of the fuel concession scheme (covering fuel for use by fishing vessels, diesel power generation, village electricity, village water schemes, domestic airlines, and ferries) stood at TOP 13,392,348 in FY 2014/15 (about 35% of eligible activities), TOP 14,116,088 in FY 2015/16 (32.2%), TOP 21,875,202 in FY 2016/17 (38.7%), TOP 12,226,434 in FY 2017/18 (23.3%), and TOP 10,345,979 in FY 2018/19 (16.6%).

4.45. In the FY 2016/17, fuel accounted for 86% of the total exemption, with the remaining 14% accounted for by fishing gear and bait.<sup>44</sup> Out of 3,501,860 litres of duty- and tax-exempt fuel, 67.4% benefited foreign fishing vessels, 25% deep-sea long-line vessels, and the rest deep-sea bottom-fishing vessels. A total of 43 fishing vessels were eligible under this scheme, and they were predominantly tuna and snapper boats. The total value of exemption was increased by 40% from the previous financial year, due to the increase in the number of fishing vessels from 39 to 43.

4.46. Low interest rate loans through the Fisheries Development and Export Fund administered by the TDB continued to be provided at rates of 3% (maximum TOP 100,000) with a 2.5-year repayment period.<sup>45</sup> The Fisheries Development Loan Fund: COVID-19 and TC Harold is at 3% interest (maximum TOP 200,000) repayable within 5 years. These loans are to assist fishermen, vessel owners, and exporters generate increased exports, income, and employment.

#### 4.1.2.6 Illegal, unreported, and unregulated (IUU) fishing

4.47. Tonga faces challenges in monitoring fishing vessels and enforcing regulations in combatting IUU fishing due to the lack of capacity within the MoF. At the regional level, collaboration with FFA members in combatting IUU fishing increased. Tonga signed the FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (PSMA) in June 2017.<sup>46</sup> It has started a monitoring programme to review its legislation to facilitate PSMA implementation. The first review of its legislation was conducted in February 2017. As at

<sup>43</sup> MoF (2017), *Annual Report – Financial Year 2016/17*.

<sup>44</sup> MoF (2017), *Annual Report – Financial Year 2016/17*.

<sup>45</sup> Revenue Policy Committee, Ministry of Finance and National Planning, Ministry of Revenue and Customs, and Ministry of Commerce, Tourism and Labour (2014), *Partnership in Driving Economic Growth – Government of Tonga Investment Incentives 2014/2015*, August.

<sup>46</sup> The PSMA complements an existing suite of measures in place internationally to combat IUU; 47 States or regional economic integration organizations are parties, including 4 FFA member countries (Australia, New Zealand, Palau, and Vanuatu). United Nations, *Implementation of Port Measures Agreement (PSMA) to Prevent, Deter and Eliminate IUU Fishing Which Support Target 14.4 and 14.6*. Viewed at: <https://oceanconference.un.org/commitments/?id=21404>.

December 2020, Tonga was at the initial stage of PSMA implementation, which includes the amendment of its fisheries legislation.

## 4.2 Mining and Energy

### 4.2.1 Minerals

4.48. Mining for seabed minerals remains at the exploration stage.<sup>47</sup> The prospective deposits are located at the bottom of the Pacific Ocean in depths of 4,500 m-6,000 m at the Clarion-Clipperton Zone (CCZ) beyond national jurisdiction and within the EEZ.<sup>48</sup> The minerals are in nuggets about the size of golf balls (so-called polymetallic nodules) that are potentially rich in various metals, including gold, silver, copper, nickel, manganese, cobalt, zinc, and other trace metals.

4.49. During the review period, the contribution of mining and quarrying to GDP and employment ranged from 0.6% to 0.8% and from 0.4% to 0.5%, respectively (Table 1.2). In 2019, minerals (other than petroleum oils), and base metals and articles thereof, accounted for 6.6% and 5.7%, respectively, of total merchandise imports (Table A1.2).

4.50. Tonga maintains exploration licences within the EEZ, which were granted in 2007.<sup>49</sup> At the time of the previous Review, three companies – Blue Water Metal, Nautilus Minerals Tonga Ltd., Korean Oceanographic Research Development Institute – held exploration licences under the Minerals Act, valid for two years (renewable). In 2012, Nautilus Minerals Tonga Ltd., a subsidiary of Nautilus Minerals of Canada, announced the discovery of precious metal deposits on its tenements within the EEZ.<sup>50</sup> Moreover, Tonga Offshore Mining Ltd., another subsidiary of Nautilus Minerals of Canada, was awarded an exploration licence in 2012 by the International Seabed Authority to explore seabed minerals in the CCZ within international waters or what is defined as the "Area" under the United Nations Convention on the Law of the Sea. In April 2020, DeepGreen Metals Inc., a Canadian-based seafloor mining developer, took over the Tonga Offshore Mining Ltd., and expanded its footprint of mining for polymetallic nodules in the central Pacific, as it plans to extract cobalt and other battery metals from the seafloor.<sup>51</sup>

4.51. Tonga remains committed 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."<sup>52</sup> The Ministry of Lands and Natural Resources remains entrusted with managing exploration and mining.

4.52. In 2014, Tonga passed the Tonga Seabed Minerals Act, to regulate exploration and exploitation activities within its national jurisdiction.<sup>53</sup> The Seabed Minerals Authority, established under the Act 2014, drafted Licensing Regulations and also Seabed Minerals Trust Fund Regulations, a mechanism to protect income from seabed minerals activities through appropriate investment financing mechanisms, for the Government's consideration.

<sup>47</sup> WTO document WT/TPR/S/291/Rev.1, 27 February 2014.

<sup>48</sup> The international seabed resources are administered by the International Seabed Authority under the United Nations Convention of the Law of the Sea, and related agreements.

<sup>49</sup> Secretariat of the Pacific Regional Environment Programme, *Tonga Seeks Support to Determine the Best Way Forward to Explore Seabed Minerals While Protecting Its Marine Environment*, 23 November 2018. Viewed at: <https://www.sprep.org/news/tonga-seeks-support-to-determine-the-best-way-forward-to-explore-seabed-minerals-while-protecting-its-marine-environment>.

<sup>50</sup> Nautilus Minerals. Viewed at: <http://www.nautilusminerals.com/s/Home.asp>.

<sup>51</sup> Matangi Tonga Online, *DeepGreen Metals Acquires Tonga Offshore Mining Ltd's Exploration Rights*, 23 April 2020. Viewed at: <https://matangitonga.to/2020/04/23/deepgreen-metals-takes-over-tonga-offshore-mining>.

<sup>52</sup> 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>.

<sup>53</sup> Secretariat of the Pacific Regional Environment Programme, *Tonga Seeks Support to Determine the Best Way Forward to Explore Seabed Minerals While Protecting Its Marine Environment*, 23 November 2018. Viewed at: <https://www.sprep.org/news/tonga-seeks-support-to-determine-the-best-way-forward-to-explore-seabed-minerals-while-protecting-its-marine-environment>.



4.53. During the review period, the simple average MFN rate applied for minerals and metals remained virtually unchanged (12.9% in 2013, and 13% in 2020 (WTO definition); and 12.4% in 2013, and 12.3% in 2020 (ISIC 2)), with tariffs continuing to range from zero to 20% (Table 3.2).

#### 4.2.2 Energy

4.54. Tonga remains heavily dependent on petroleum imports to meet its energy needs for electricity and transportation (Section 4.2.2.1). Electricity generation consumes nearly 13 million litres of fuel per year, at a cost equivalent to about 10% of total GDP, and transportation consumes 25 million litres at a cost close to 20% of GDP.<sup>54</sup> This situation keeps Tonga in a vulnerable position due to volatile fuel prices, which have a downstream effect on electricity, transportation, and cost-of-living expenses.

4.55. A 2009 Tonga Energy Road Map (TERM) 2010-2020 focused on reducing Tonga's fossil fuel dependence through increased energy efficiency and improved supply chains in an effort to mitigate the price volatility of imported products, as well as to reduce greenhouse gas emissions and improve national energy security.<sup>55</sup> The TERM initially set a goal of approving a policy to supply 50% of electricity generation through renewable energy (RE) resources by 2020; the TSDF 2015-2025 (Section 2.3.2) revisits the original TERM goal of 50% renewable by 2025, and by 2020 for rural communities. The TERM includes improvements in the petroleum supply chain by reducing the price and price fluctuation of imported petroleum products, increasing the efficiency of converting petroleum to electricity (e.g. through increases in efficiency and reductions in losses at Tonga Power Limited (TPL) (Section 4.2.2.2)), and improving the efficiency of converting electricity into consumer electrical services (demand-side management measures). It also includes replacing a portion of current or future grid-based generation with RE. Several energy efficiency policies and initiatives that, *inter alia*, set goals and launch projects have been implemented since the creation of the TERM.<sup>56</sup> The Tonga Energy Efficiency Master Plan (TEEMP), complementing the TERM's approach, was endorsed by the Cabinet in September 2020.

4.56. As at 2019, Tonga's energy-related priorities consisted of reviewing the existing energy sector bill, developing new legislation and policies for rural electrification, implementing an energy roadmap and RE projects for Tongatapu and outer islands, and revising the electricity tariff (Section 4.2.2.2).<sup>57</sup> A total of TOP 44.02 million of the development budget was estimated to contribute to energy projects in FY 2019/20.

4.57. Since 2014, the Ministry of Meteorology, Energy, Information, Disaster Management, Environment, Climate Change, and Communications (MEIDECC) has been responsible for managing energy.

##### 4.2.2.1 Hydrocarbons

###### 4.2.2.1.1 Upstream

4.58. Tonga continues to lack domestic production of oil and natural gas.<sup>58</sup> Hydrocarbon exploration and production remain governed by the Petroleum Mining Act 1969 and its regulations. Exploration licences valid until 2018 were awarded to three companies of the Modulus Baringer Group (Modulus Pacific Tonga, Baringer Tonga Central Ltd., and Baringer Tonga South Ltd.). As at December 2020, the licence holders had made progress in their desktop studies, revealing a potential hydrocarbon reservoir underwater between Tongatapu and 'Eua. Investors and exploration companies are invited to apply for licences.

<sup>54</sup> United Nations' Climate Technology Centre and Network (2018), *Government of Tonga Energy Efficiency Master Plan*, August.

<sup>55</sup> United Nations' Climate Technology Centre and Network (2018), *Government of Tonga Energy Efficiency Master Plan*, August.

<sup>56</sup> Projects since 2014 include Promoting Energy Efficiency in the Pacific (2014), the Outer Island Renewable Energy Project (2017), and the Tonga Renewable Energy Plan (2017). United Nations' Climate Technology Centre and Network (2018), *Government of Tonga Energy Efficiency Master Plan*, August.

<sup>57</sup> Ministry of Finance (2019), *Government of Tonga Budget Statement for Year Ending 30<sup>th</sup> June 2020*.

<sup>58</sup> WTO document WT/TPR/S/291/Rev.1, 27 February 2014.

#### 4.2.2.1.2 Downstream

4.59. During the review period, the share of petroleum oils and oils obtained from bituminous minerals in total merchandise imports dropped considerably from 20.3% (2014) to 12% (2019), *inter alia*, as a result of changes in world prices and reduced energy dependence on fossil fuels related to RE initiatives, despite the growth of the liquid fuels market being driven by domestic economic growth (Table A1.2 and Section 4.2.2.3). The suppliers of refined petroleum products remain Pacific Energy Ltd. and Total (Fiji) Ltd., with imports from Singapore, with transshipment via Fiji. Natural gas (LPG in bulk) continues to be imported by Tonga Gas (a subsidiary of Fiji Gas/Origin Energy of Australia), and distributed by Home Gas Ltd. of Tonga. Gogas, a new supplier, entered the LPG market in 2016, importing gas in isotainers from New Zealand.

4.60. Although free from customs duty, petroleum products remain subject to excise tax (Section 3.3.1.1). Activities exempt from fuel excise duties include commercial fishing, domestic and international air transport, domestic maritime passenger transport, and fuel used in electricity generation (Section 3.3.1.1). Petroleum products and LPG sold on the domestic market are subject to price controls (Section 3.3.5). The Tonga Competent Authority sets the price of petroleum on a monthly basis and the price of LPG on a quarterly basis. A price template endorsed by the Tonga Competent Authority covers all the cost components and returns to suppliers. Prices are based on the lowest cost submitted by the suppliers. The components are reviewed annually by the Tonga Competent Authority and the suppliers.<sup>59</sup>

#### 4.2.2.2 Electricity

4.61. During the review period, Tonga's installed capacity increased, and its dependence on diesel generators decreased as more RE generation was deployed. As at June 2019, the total installed electricity-generating capacity connected to the grid stood at 70.6 GWh, consisting of diesel generation (88.07%), solar photovoltaics (8.27%), and wind (3.66%), as compared with 54.7 GWh composed of diesel generation (94.47%) and solar (5.57%) in 2014.<sup>60</sup> Tonga has one of the highest levels of access to electricity in the region, with 98.89% of the population on-grid in 2018, and high levels of supply reliability, but at the same time it has historically had one of the highest costs of electricity.<sup>61</sup> The overall losses for all four-grid island systems decreased significantly from 16.01% in 2011 to 10.12% as at end-June 2019, largely reflecting improvements to the network. In 2019, the residential sector accounted for 80.2% (44% in 2017) of electricity consumption, with commercial, religious, government, and public service accounts making up the remaining (56% in 2017).<sup>62</sup>

4.62. TPL, the vertically integrated entirely state-owned utility, continues to own and operate virtually all in-front-of-meter electricity generation, as well as all transmission and distribution assets.<sup>63</sup> Following the introduction of independent power producers (IPPs), TPL no longer owns and operates all in-front-of-meter generation; as at December 2020, IPP generation was not a large amount but more is anticipated in the near future. Three IPPs working with TPL benefit from corporate tax exemption (Section 3.3.1.1). As at 2019, TPL generated, distributed, and sold electricity to approximately 24,054 customers on Tongatapu, Vava'u, Ha'apai, 'Eua, and the outer

<sup>59</sup> The Annual Petroleum Price Review is an annual negotiation between the MTED and suppliers to develop the pricing template to determine the maximum prices of petroleum products on a monthly basis. The national reserve component of the Government of Tonga was built into the pricing template to ensure there is sufficient stock to address any shortage in supply and is also reflected in the price paid by domestic consumers. The pricing template established 40-day reserves in Vuda, Fiji, and 22-day reserves in Nuku'alofa for petrol; 49-day reserves in Vuda, 31-day reserves for Pacific Energy Limited, and 20-day reserves for Total Limited in Nuku'alofa for diesel; and 53-day reserves in Vuda, and 30-day reserves in Nuku'alofa for kerosene.

<sup>60</sup> TPL (2014), *Annual Report for Year Ended June 2014*; and TPL (2019), *Annual Report 2019*.

<sup>61</sup> World Bank, *Development Indicators*. Viewed at: <https://tradingeconomics.com/tonga/access-to-electricity-percent-of-population-wb-data.html>; and Government of the Kingdom of Tonga/Pacific Region Infrastructure Facility (undated, possibly 2013), *Tonga National Infrastructure Investment Plan 2013-2023*.

<sup>62</sup> United Nations' Climate Technology Centre and Network (2018), *Government of Tonga Energy Efficiency Master Plan*, August.

<sup>63</sup> 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 administered by the Electricity Commission, established in 2008. The contract, a publicly available document under Section 20(8) of the Electricity Act, ended on 30 June 2015 and may be extended for seven-year periods. United Nations' Climate Technology Centre and Network (2018), *Government of Tonga Energy Efficiency Master Plan*, August.

islands of Niuatoputapu and Niuafu'ou. According to the authorities, it remains profitable and invests its own resources to rehabilitate and increase the efficiency and safety of the electricity generation and supply system. Additionally, it is working with development partners to upgrade village power supply systems and off-grid supply.<sup>64</sup> In 2019, Tonga concluded a public-private partnership (PPP) with Sunergise New Zealand, which will finance, build, operate a 6 MW solar farm, and sell its output to TPL for 25 years.

4.63. Responsibility for (on-grid) electricity policy is shared between the Prime Minister and the Ministry of Finance.

4.64. During the review period, three IPPs working with TPL benefited from corporate tax exemption.

4.65. Electricity tariffs remain subject to approval by the Electricity Commission, following a review of TPL's tariff adjustment proposals. TPL is permitted by law to pass on fuel costs to consumers (on a quarterly basis) and charge an inflation-indexed non-fuel tariff.<sup>65</sup> The non-fuel component includes a regulated return on investment; investment plans require approval from the regulator.

4.66. Electricity tariffs remain high by international standards due to Tonga's diesel dependence and remote location, involving a high cost of transport. As a consequence, electricity tariffs follow international oil price trends and are high by international standards, despite the provision of tax expenditure subsidies (i.e. fuel exemption from excise taxes, Sections 3.3.1.1 and 4.1.2.5) for electricity generation. Between July 2014 and June 2019, they ranged from TOP 0.6999 per kWh to TOP 0.9173 per kWh. The tariff set-back in November 2019 of TOP 0.8316 per kWh was subsidized under the fuel concession scheme to remain at TOP 0.7990 per kWh, up to March 2020 (Section 3.3.1.1).<sup>66</sup> Despite differences in generation cost, the TPL tariff rates remain standardized across the four main islands.<sup>67</sup> There is also a cross-subsidized "lifeline tariff" of TOP 0.7 for the first 100 kWh of monthly consumption, applicable to residential customers.

#### 4.2.2.3 Renewable energy

4.67. RE is a major element of the strategy to enhance energy security, as reflected in the TERM (see above) and other policy tools. During the review period, a number of projects were under way to contribute to meeting the TERM RE target and objectives, including installation of a 1.3 MW solar generation facility on Tongatapu, an on-grid solar generation facility on Vava'u, investment in off-grid solar power systems for households on outer islands, research into other sources of RE (such as wind power, tidal power, and producing bio-fuel from coconuts), and investigation of options for stabilizing and potentially reducing the cost of petroleum fuels by measures such as hedging and/or improving the fuel supply chain.<sup>68</sup>

4.68. The MTED and the MEIDECC are tasked with technical and financial advisory and finance auditing of off-grid RE projects. The functions of the RE division at the MEIDECC's Energy Department include: management and monitoring off-grid systems on the outer islands; implementing off-grid projects on the outer islands; seeking donor funding on RE projects, such as solar water pumps, solar freezers, and solar home systems; and conducting trainings for local technicians on RE equipment. An RE Authority under the MEIDECC is operational.

4.69. RE is regulated by the Renewable Energy Act 2008. Off-grid RE is regulated by the Incorporated Society Act/Regulation 2016 and Corporative Society Act/Regulations 1973 with

<sup>64</sup> Government of the Kingdom of Tonga, Pacific Region Infrastructure Facility (undated, possibly 2013), *Tonga National Infrastructure Investment Plan 2013-2023*.

<sup>65</sup> Electricity Act 2007, First Schedule. The fuel cost is the landed price of diesel as fixed by the "Competent Authority".

<sup>66</sup> TPL, Electricity Tariff Reduction Effective 1<sup>st</sup> April 2020, 31 March 2020. Viewed at: <http://www.tongapower.to/NewsRoom/TariffNews/ElectricityTariffReductioneffective1stApril2.aspx#:~:text=Electricity%20Tariff%20Reduction%20effective%201st%20April%202020&text=The%20tariff%20set%20back%20in,kWh%20up%20to%20March%202020>.

<sup>67</sup> Given that most of Tonga's electricity is generated from diesel, the price of electricity is sensitive to fluctuations in fuel costs. United Nations' Climate Technology Centre and Network (2018), *Government of Tonga Energy Efficiency Master Plan*, August.

<sup>68</sup> Government of the Kingdom of Tonga, Pacific Region Infrastructure Facility (undated, possibly 2013), *Tonga National Infrastructure Investment Plan 2013-2023*.

diverse roles shared among key stakeholders including the MTED and the MEIDECC. TPL permits IPPs to use its grid as a "storage battery" (i.e. selling and buying from the operator), but there has been no such case since 2014. TPL may enter into purchase agreements (generation connection contracts) with IPPs. In 2016, TPL signed a long-term Power Purchase Agreement with Zhuhai Singyes Green Building Technology Co. for the construction and commissioning of a 2 MW solar facility on Matatua, which was commissioned in 2017. In addition to achieving the 50% RE target, TPL signed a power purchase agreement (PPA) with Sunergise New Zealand Limited in 2019 to finance, build, and operate the 6 MW solar farm on Tongatapu. No legal framework for a feed-in tariff regime exists. Electricity tariffs have important implications for incentivizing or disincentivizing energy efficiency investments.<sup>69</sup> As at 2017, RE capacity stood at 4.2 MW, of which 6.7% was off-grid household generators, solar home systems, and solar water pump systems.<sup>70</sup>

### 4.3 Manufacturing

#### 4.3.1 Features

4.70. During the review period, the share of Tonga's small manufacturing sector in GDP and employment dropped considerably from 6.2% (FY 2013/14) to 5.2% (FY 2018/19) and from 20% (FY 2014/15) to 12.8% (FY 2018/19), respectively (Table 1.2). These changes in shares imply persistent low, albeit rising, labour productivity in manufacturing. The main activity remains food and beverage production (e.g. baking products, juices, soft drinks, coffee, water bottling, and beer); other small-scale manufacturing activities and products include arts and handicrafts (e.g. tapa cloth), furniture, printing, paints, construction materials, and small boats. Manufacturing continues to account for a large part of merchandise imports. During the review period, its share in merchandise imports (excluding minerals/petroleum products) ranged from 48.9% (2014) to 57.8% (2019) (Table A1.2); the main import items were machinery and electrical equipment, transport equipment (seemingly re-exported in part), precision instruments, and chemicals.

#### 4.3.2 Policy, institutional, and regulatory framework

4.71. During the review period, the MTED "Buy Tonga Made" was aimed at promoting and encouraging the manufacture and production of locally made goods, encouraging import substitution, and reducing dependency on key imports. According to the authorities, the Ministry of Public Enterprises and Tonga Asset Managers & Associates Ltd. are in charge of policies in this area.

4.72. Baking of white bread and production of various Tonga artefacts are reserved for Tongan nationals or registered companies/partnerships with 75% Tongan ownership (Section 2.5.2).

#### 4.3.3 Border and domestic support measures

4.73. The average applied MFN tariff rate for manufacturing products (ISIC 3) was slightly reduced from 11.5% in 2013 to 10.8% in 2020, and continued ranging from zero to 20% (Table 3.2). Customs duty-free access remains in place for: compound alcoholic preparations, bottles, malt, yeast, and sugar imported for the manufacture of beer; egg trays; packaging, bottles, bottle caps, resins, dyes, pigments, benzoic acids, etc., for paint making; sugar; powdered milk for ice cream; carbonates; and materials for the manufacture of roofing iron.<sup>71</sup> Concessional customs duty for capital items is 3%, and basic building materials are duty free. Moreover, Tonga's excise taxes on certain tobacco products and alcoholic beverages are structured to give local production an advantage over imported products (Section 3.3.1.1).

4.74. Tax expenditure relating to customs duty, excise tax, and CT to support manufacturers stood at TOP 630,910 in FY 2016/17 (1.1% of eligible activities) and TOP 599,019 in FY 2017/18 (1.1%).

<sup>69</sup> Given that most of Tonga's electricity is generated from diesel, the price of electricity is sensitive to fluctuations in fuel costs. United Nations' Climate Technology Centre and Network (2018), *Government of Tonga Energy Efficiency Master Plan*, August.

<sup>70</sup> Given that most of Tonga's electricity is generated from diesel, the price of electricity is sensitive to fluctuations in fuel costs. United Nations' Climate Technology Centre and Network (2018), *Government of Tonga Energy Efficiency Master Plan*, August.

<sup>71</sup> Revenue Policy Committee, Ministry of Finance and National Planning, Ministry of Revenue and Customs, and Ministry of Commerce, Tourism and Labour (2014), *Partnership in Driving Economic Growth – Government of Tonga Investment Incentives 2014/2015*, August.

Tax expenditure relating to customs duty, excise tax, and CT to support local manufacturers of goods subject to excise tax (excisable) (e.g. cigarettes, alcohol, toilet paper, sausages, soft drinks, and ice cream) stood at TOP 25,742 in FY 2014/15 (0.07% of eligible activities), TOP 62,369 in FY 2015/16 (0.1%), and TOP 1,269,264 in FY 2018/19 (2%). Tax expenditure relating to customs duty, excise tax, and CT to support local manufacturers of goods not subject to excise tax (non-excisable) stood at TOP 136,241 in FY 2014/15 (0.4% of eligible activities), TOP 673,595 in FY 2015/16 (1.5%), and TOP 5,155,325 in FY 2018/19 (8.3%). According to the authorities, in FY 2019/20, total duty and tax exemptions for local manufacturers relating to all raw materials, machinery, and equipment for manufacturing and materials for packaging for retail sale represented a tax expenditure amount of TOP 3.5 million.

4.75. Low interest rate loans through the TDB-administered Manufacturing Fund continued to be provided at 3% for a maximum of TOP 50,000 with a two-year repayment period.<sup>72</sup> These loans are intended to support export-ready manufacturers, stimulate innovation, promote development of competitive value-added products, and promote and encourage cooperation and coordination in the manufacturing sector. Since 2015, grants of TOP 250,000 have been provided by the Handicrafts Fund to increase demand and production of Tongan handicrafts.

## 4.4 Services

### 4.4.1 Features

4.76. Services continue to be the main, albeit slightly declining, contributor to GDP; their share dropped from 54% (FY 2013/14) to 49.2% (FY 2018/19) (Table 1.2). Conversely, their share in total employment rose from 46% in FY 2014/15 to 56.8% in FY 2018/19, possibly indicative of a deterioration of labour productivity in the sector overall. In FY 2018/19, the leading services sectors were wholesale and retail trade, real estate activities, public administration, and education. Moreover, public administration, wholesale and retail trade repair of motor vehicles and motorcycles, and education accounted for almost 23% of total employment. Compared with merchandise trade (Table 1.3), services trade performance remained better during the review period; the services trade deficit was much lower than that of goods, which in FY 2018/19 was at least 14 times higher, as a result of significantly higher exports, much lower imports, and faster growth.<sup>73</sup> Similar to goods exports, trade in services remains highly concentrated. Transportation and personal travel partly related to tourism remain the main components of trade in services (Section 1.3.1 and Table 1.4); in 2018, it ranked as the 188<sup>th</sup> largest exporter and the 191<sup>st</sup> largest importer of commercial services in the world.<sup>74</sup>

4.77. Most services remain overseen by sectoral regulators, and suppliers are subject to business licensing requirements (Section 2.5.3 and Table 2.3).

### 4.4.2 GATS and RTAs commitments

4.78. Tonga's specific commitments under a relatively large range of services activities under the GATS, covering the substantial commitments of 89 of 160 subsectors, remain unchanged.<sup>75</sup> They include open and non-discriminatory regimes for 90 of about 160 services subsectors. Most sector-specific commitments are "full commitments" (i.e. unrestricted). Horizontal limitations relate to tax measures and subsidies, approval procedures for foreign investments, and a prohibition on the ownership of land by foreigners. Mode 4 commitments are limited to intra-corporate transferees, services salespersons, and persons engaged in the establishment of a commercial presence. Tonga has additional commitments on maritime transport (access to and use of port services) and on

<sup>72</sup> Revenue Policy Committee, Ministry of Finance and National Planning, Ministry of Revenue and Customs, and Ministry of Commerce, Tourism and Labour (2014), *Partnership in Driving Economic Growth – Government of Tonga Investment Incentives 2014/2015*, August.

<sup>73</sup> Pacific Islands Forum Secretariat, Department of Foreign Affairs and Trade (DFAT) Australia (undated, possibly 2020), *Tonga National e-Commerce Readiness Assessment*.

<sup>74</sup> WTO, *Tonga and the WTO*. Viewed at: [https://www.wto.org/english/thewto\\_e/countries\\_e/tonga\\_e.htm](https://www.wto.org/english/thewto_e/countries_e/tonga_e.htm).

<sup>75</sup> More information on these commitments is available at WTO document WT/ACC/TON/17/Add.2, 2 December 2005; and WT/TPR/S/291/Rev.1, 27 February 2014.



telecommunications services (Reference Paper on Regulatory Principles in Basic Telecommunications).

4.79. Tonga maintains three Article II (MFN) exemptions for audiovisual services, in relation to preferential treatment linked to co-production agreements, support programmes, and broadcasting services.

4.80. Concerning RTAs commitments, the Pacific Island Countries Trade Agreement (PICTA) Trade in Services (TiS) Protocol and the Pacific Agreement on Closer Economic Relations (PACER) Plus Agreement also deal with trade in services liberalization (Section 2.4.2). Tonga signed and ratified the PACER Plus Agreement (between Australia, New Zealand, and other Pacific Island countries), which includes commitments on trade in services and entered into force on 13 December 2020.<sup>76</sup> Tonga undertook certain GATS+ commitments in the context of PACER Plus, including in Business Services.

4.81. At present, the MTED acts as Tonga's services enquiry point under GATS; at the time of the previous Review, the then Ministry of Commerce, Tourism and Labour ensured this function.

### 4.4.3 Financial services

4.82. During the review period, the financial sector's contribution to GDP had an overall declining trend and ranged from 4.7% (FY 2016/17) to 6% (FY 2013/14), and its employment rose slightly from 2.2% (FY 2014/15) to 2.6% (FY 2018/19) (Table 1.2).

#### 4.4.3.1 Banking services

##### 4.4.3.1.1 Features

4.83. Since the previous Review, the structure of the banking system has remained virtually unchanged. In addition to the state-owned TDB, three (four in 2013) foreign commercial banks operate: Australia New Zealand Banking Group (ANZ), MBF Bank Ltd (MBF Bank), and Bank of the South Pacific Tonga Ltd (BSP).<sup>77</sup> 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 moneylenders that are not regulated, although they require a business licence. A private-sector Credit Bureau continues to provide information to banks on potential borrowers to assist their lending decisions; the Bureau will soon be required to obtain a licence under the Moneylenders Act 2018 (Section 4.4.3.1.2), effective as from 30 September 2020.<sup>78</sup> According to the IMF, the banking system has a simple structure and is appropriately regulated.<sup>79</sup> Financial inclusion remains an issue in Tonga; in 2017, only 41% of adults had a bank account, with 34% completely excluded from any type of financial services.<sup>80</sup> Mobile payment services are available (Section 4.4.4.1).

<sup>76</sup> As at 1 October 2020, seven signatories had completed ratification procedures.

<sup>77</sup> Westpac Bank of Tonga was bought by BSP, and its bank licence was cancelled in 2015. The TDB competes with other commercial lenders in almost all of its market segments, and with the Retirement Fund Board for some consumer loans. The TDB is the only commercial bank that lends to the agriculture and fisheries sectors. Since 2016, TDB has been required to keep a minimum of 10% of its assets in a non-interest-bearing account with the NRBT. The TDB maintained high capital adequacy levels from 2010 to 2018, far exceeding the 18% minimum set by the NRBT (Section 4.4.3.1.3). Asian Development Bank (2019), *Finding Balance 2019 – Benchmarking the Performance of State-owned Banks in the Pacific*, August. Viewed at: <https://www.adb.org/sites/default/files/publication/521901/finding-balance-2019.pdf>; and NRBT, *Financial Institutions in Tonga*. Viewed at: [http://reservebank.to/index.php/financials/financial-institutions/financial\\_institutions.html](http://reservebank.to/index.php/financials/financial-institutions/financial_institutions.html).

<sup>78</sup> The banks are currently the only members of the credit bureau.

<sup>79</sup> IMF (2018), *Tonga: 2017 Article IV Consultation–Press Release; and the Staff Report for Tonga*, IMF Country Report No. 18/12. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2018/01/17/Tonga-2017-Article-IV-Consultation-Press-Release-and-the-Staff-Report-for-Tonga-45566>.

<sup>80</sup> Pacific Islands Forum Secretariat, Department of Foreign Affairs and Trade (DFAT) Australia (undated, possibly 2020), *Tonga National e-Commerce Readiness Assessment*.

4.84. Banking system assets rose from TOP 515.0 million (December 2012) to TOP 892.7 million (January 2019); in 2012, 87% were held by commercial banks and 13% by credit institutions.<sup>81</sup> No recent data on the allocation of the sector's assets by financial institution (both banks and non-bank financial institutions (NBFIs)) were available from the authorities.

#### 4.4.3.1.2 Regulatory framework

4.85. During the review period, the regulatory framework for banking was updated. The National Reserve Bank of Tonga (NRBT) Act was amended in 2014 and 2017.<sup>82</sup> New legislation included the Microfinance Institutions Act 2018, the Moneylenders Act 2018, and the Foreign Exchange Control Act 2018.<sup>83</sup> These acts regulated the licensing and supervision of microfinance institutions and moneylenders, and amended legislation for the licensing of foreign exchange dealers. Separate legislation for the licensing and supervision of insurance companies and retirement funds has been in process since 2018 (Section 4.4.3.2). The NRBT issued the Credit Bureau Licensing Guidelines in July 2017 pursuant to its power under the NRBT (Amendment) Act 2014 to licence and regulate systems that disseminate credit information amongst financial institutions. In 2018, a new Banking Act, which according to the IMF is to enhance regulatory capacity of the NRBT, especially regarding bank liquidation, was being prepared.<sup>84</sup> As at December 2020, the Banking Bill was with the Minister of Finance and about to be submitted for a Cabinet Decision approving its processing; it was anticipated that it would be submitted to Parliament soon. At the same time, a bill to regulate credit reporting was at the drafting stage; consultation will be conducted prior to submitting it to the Minister for processing. According to the NRBT, there is need to develop and implement comprehensive supervision and disclosure frameworks covering the entire financial sector, beyond the banking system as stipulated under the amended NRBT Act. This includes the supervision of NBFIs, such as microfinance, foreign exchange dealers, and money lenders.

#### 4.4.3.1.3 Institutional and prudential developments

4.86. The NRBT, the central bank, remains responsible for regulating the issue and supply of domestic and international currencies, as well as promoting monetary stability and economic development. It is responsible for regulating, licensing, and supervising financial institutions (i.e. banks and credit institutions).<sup>85</sup> Under the NRBT Act, the NRBT is independent and accountable in the pursuit of its objectives and the performance of its functions.<sup>86</sup>

4.87. According to the IMF, as at 2018 the banking system remained well capitalized and profitable (see below).<sup>87</sup> Capital adequacy remained well above the NRBT's unchanged minimum requirement of 15%<sup>88</sup>, based on the Basel I framework (banks' risk-weighted capital ratio was 26.3% in FY 2010/11 and 30.8% in January 2019).<sup>89</sup> The NRBT continued to closely monitor the implication

<sup>81</sup> WTO document WT/TPR/S/291/Rev.1, 27 February 2014; Ministry of Finance (2019), *Government of Tonga Budget Statement for Year Ending 30th June 2020*.

<sup>82</sup> NRBT, *Our Regulatory Framework*. Viewed at: <http://reservebank.to/index.php/about/about-the-nrbt-others/regulatory-framework.html>.

<sup>83</sup> NRBT (2018), *Annual Report 2018 for the Year Ended 30 June 2018*. Viewed at: [http://www.reservebank.to/data/documents/Publications/AnnualReports/NRBT\\_AR\\_1718\\_TON\\_ENG\\_FINAL.pdf](http://www.reservebank.to/data/documents/Publications/AnnualReports/NRBT_AR_1718_TON_ENG_FINAL.pdf).

<sup>84</sup> IMF (2018), *Tonga: 2017 Article IV Consultation–Press Release; and the Staff Report for Tonga*, IMF Country Report No. 18/12. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2018/01/17/Tonga-2017-Article-IV-Consultation-Press-Release-and-the-Staff-Report-for-Tonga-45566>.

<sup>85</sup> Bank licensing information is available at WTO document WT/TPR/S/291/Rev.1, 27 February 2014.

<sup>86</sup> Reportedly, the NRBT lacks sufficient independence to pursue the requisite monetary operations, because its establishing Act allows it to provide direct credit to the Government (Article 48A (Government securities and credits to the Government) of the NRBT Act, Chapter 38.20 Arrangement, 2016 Revised Edition). IMF, *Pacific Island Economies: Tonga*, 2006. Viewed at: <https://www.elibrary.imf.org/view/IMF071/05081-9781589065161/05081-9781589065161/ch16.xml?language=en&redirect=true>.

<sup>87</sup> IMF (2018), *Tonga: 2017 Article IV Consultation–Press Release; and the Staff Report for Tonga*, IMF Country Report No. 18/12. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2018/01/17/Tonga-2017-Article-IV-Consultation-Press-Release-and-the-Staff-Report-for-Tonga-45566>.

<sup>88</sup> 18% for credit institutions.

<sup>89</sup> According to the IMF, notwithstanding the large increase in risk-weighted assets associated with strong credit growth, the capital ratio remains high. IMF (2018), *Tonga: 2017 Article IV Consultation–Press Release; and the Staff Report for Tonga*, IMF Country Report No. 18/12. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2018/01/17/Tonga-2017-Article-IV-Consultation-Press-Release-and-the-Staff-Report-for-Tonga-45566>; and Ministry of Finance (2019), *Government of Tonga Budget Statement for year ending 30th June 2020*.

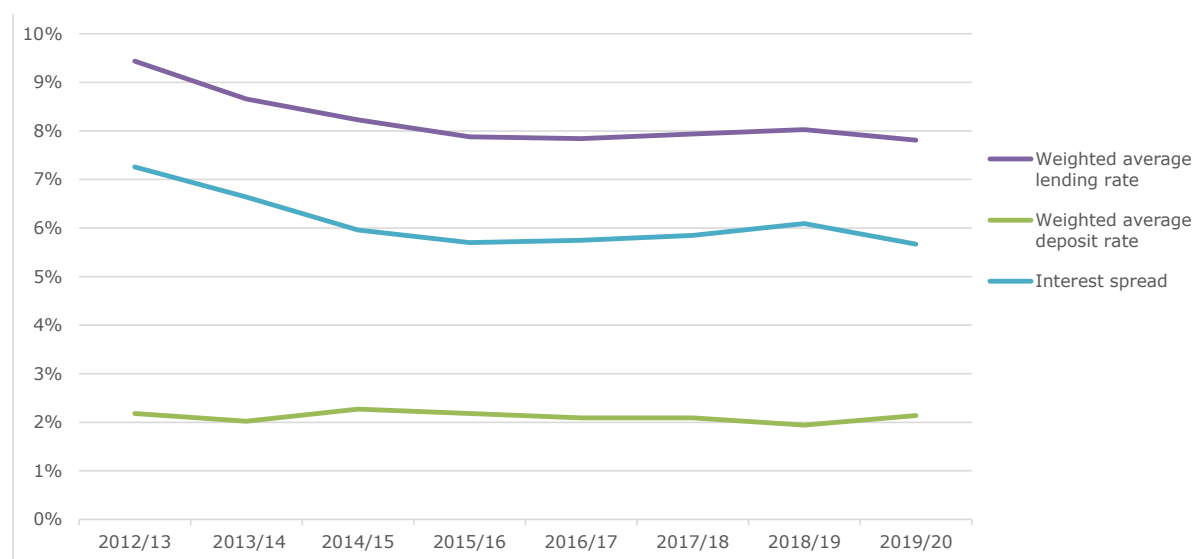


of the increase in the Statutory Reserve Deposit requirement from 5% to 10%, in July 2017, on banks' liquidity. In addition, it monitored banks' compliance with the NRBT minimum target requirement on the loans to deposit ratio of 80% intended to serve as an indicator that would provide forward guidance to bank operations; as at June 2018, no bank had achieved this target. The excess liquidity in the banking system (credit/GDP) rose from 33.1% of GDP (FY 2013) to 44.6% (FY 2017) and remained high in FY 2017/18; this resulted in continued active competition amongst banks, which contributed to the lowest weighted average lending rate since June 2012 (Chart 4.1).<sup>90</sup> At the time of the previous Review, liquidity in the banking sector was also high, at over 15% of GDP, reflecting the NRBT's accommodative monetary policy and banks' reduced appetite to lend and take risks in the then weak economic environment.

4.88. During the review period, non-performing loans (NPLs) decreased. The NPL ratio declined from 13.6% in FY 2013 to 4% in FY 2017 and 3.7% in January 2019, reflecting, *inter alia*, a decrease in NPLs, driven by a large write-off that occurred in FY 2017 and high credit growth.<sup>91</sup> A slight decline in the NPLs ratio between 2018 and 2019 was driven by continuous loan growth, the settlement of some NPLs loans, and write-offs mainly of private business loans and some housing loans.

4.89. Despite excess liquidity in the banking system, access to (affordable) finance remains one of the main business concerns in Tonga. Interest rates and spreads are relatively high, partly due to banks' write-off costs for bad loans. During the review period, Tonga's bank interest rate spread between the weighted lending and deposit rates bottomed to 5.7% in FY 2015/16 and then rose to 6.09% in FY 2018/19 (Chart 4.1). Changes in the spread are an indicator of profitability developments, as the spread is where the bank makes its money. The increased profitability of the banking system in recent years has been due to, *inter alia*, a rise in net interest income.<sup>92</sup>

**Chart 4.1 Interest rate spread, FY 2012/13-FY 2019/20**



Source: NRBT. Viewed at: [http://www.reservebank.to/data/documents/statistics/QB/2020/NRBT\\_QB\\_Sep20.pdf](http://www.reservebank.to/data/documents/statistics/QB/2020/NRBT_QB_Sep20.pdf).

<sup>90</sup> IMF (2018), *Tonga: 2017 Article IV Consultation—Press Release; and the Staff Report for Tonga*, IMF Country Report No. 18/12. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2018/01/17/Tonga-2017-Article-IV-Consultation-Press-Release-and-the-Staff-Report-for-Tonga-45566>.

<sup>91</sup> IMF (2018), *Tonga: 2017 Article IV Consultation—Press Release; and the Staff Report for Tonga*, IMF Country Report No. 18/12. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2018/01/17/Tonga-2017-Article-IV-Consultation-Press-Release-and-the-Staff-Report-for-Tonga-45566>; and Ministry of Finance (2019), *Government of Tonga Budget Statement for Year Ending 30th June 2020*.

<sup>92</sup> NRBT (2018), *Annual Report 2018 for the Year Ended 30 June 2018*. Viewed at: [http://www.reservebank.to/data/documents/Publications/AnnualReports/NRBT\\_AR\\_1718\\_TON\\_ENG\\_FINAL.pdf](http://www.reservebank.to/data/documents/Publications/AnnualReports/NRBT_AR_1718_TON_ENG_FINAL.pdf); and Ministry of Finance (2019), *Government of Tonga Budget Statement for Year Ending 30th June 2020*.

#### 4.4.3.2 Insurance

4.90. The insurance market is being developed. 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.<sup>93</sup> There are no laws on insurance. As at December 2020, draft bills to regulate insurance companies and pension funds were in the consultation phase with the industries; the draft bills will be subsequently submitted to the Minister of Finance for processing. The NRBT is the insurance sector regulator. Tongans are permitted to purchase insurance policies abroad.

4.91. A few Tongan-based companies provide insurance services. As at December 2020, three overseas insurance companies operated as general insurers, while only one Tongan-based insurer provided life insurance service. The National Pacific Insurance (NPI) and Federal Pacific Insurance (FPI) are branches with Head Offices in Samoa, whereas Capital Insurance is a subsidiary of the Fiji-based Capital Insurance Limited (formerly known as Dominion Insurance). NPI, FPI, and Capital Insurance offer several insurance services for both general personal and business risks. Family Assurance Limited offers only life insurance policies, and is the only locally incorporated insurance company.

#### 4.4.4 Telecommunication services

##### 4.4.4.1 Features

4.92. During the review period, the share of information and communication services in GDP ranged from 2.1% (FY 2017/18) to 2.5% (FY 2014/15), whereas their share in total employment remained unchanged at 2% (Table 1.2). Tonga's telecoms connectivity improved in all services except for Internet broadband (Table 4.2). The voice services penetration rate (unique subscribers) was estimated to be 68% in 2018.<sup>94</sup> It seems that while the partly state-owned Tonga Cable Limited (TCL) built an optical fibre backbone on Tongatapu, business and household deployment of optical fibre has so far been limited, and fixed broadband services are primarily provided through asymmetric digital subscriber lines (ADSL).<sup>95</sup> Wireless and mobile connectivity for Internet services through Wi-Fi is limited to Nuku'alofa and other urban centres; as at December 2020, only 15 of 45 base stations were upgraded to 4G, and 5G was still being planned. As at 2015, Tonga had the highest and most affordable mobile-broadband connectivity among developing Pacific region islands.<sup>96</sup>

4.93. The virtually duopolistic structure of the telecoms market remains unchanged (Table 4.2). The TCC, a 100% state-owned enterprise (Section 3.3.6), provides network infrastructure and communications services, and retains a *de facto* monopoly on fixed telephone services.<sup>97</sup> The remaining services are shared with Digicel Tonga Ltd. (Digicel), and from 2017 to 2019 with Ocean Tel (mobile Internet only, 2% of the market). Since 2012, mobile payment services providing an alternative payment method for people without a bank account, credit card, or smart phone have been operated by Digicel (Beep & Go) in collaboration with the TDB.

<sup>93</sup> Commonwealth Network, *Tonga: Find Insurance and Reinsurance Expertise in Tonga*. Viewed at: [http://www.commonwealthofnations.org/sectors-tonga/business/insurance\\_and\\_reinsurance/](http://www.commonwealthofnations.org/sectors-tonga/business/insurance_and_reinsurance/).

<sup>94</sup> Pacific Islands Forum Secretariat, Department of Foreign Affairs and Trade (DFAT) Australia (undated, possibly 2020), *Tonga National e-Commerce Readiness Assessment*.

<sup>95</sup> A submarine fibre-optic cable laid between Fiji and Tonga connects Tonga to the Southern Cross Cable system that links the United States and Australia. As at 2018, work was under way to extend this cable to two other major island groups (Ha'apai and Vava'u), which will cover more than 90% of Tonga's population. TCL, which manages and builds submarine fibre-optic cable, is the only provider of fibre-optic services. TCC holds a 20% stake in TCL. In 2017, Tonga sold 16.7% of its shares to the private-sector company Digicel (Section 3.3.6). UNESCAP (2018), *Broadband Connectivity in Pacific Island Countries*, January.

<sup>96</sup> UNESCAP (2018), *Broadband Connectivity in Pacific Island Countries*, January.

<sup>97</sup> TCC. Viewed at: <http://www.tcc.to/about>.

**Table 4.2 Telecommunications market, 2013 and 2018**

Service	Penetration (% of population) 2013	Penetration (% of population) 2018	Market structure
Fixed-line telephone	13	14.24	Tonga Communications Corporation (TCC) (100%)
Mobile telephone	70	99	TCC/Ucall (50% market share) and Digicel Tonga Ltd. (50%) with about 20,000 subscribers each in 2013 and 2020
Internet (mobile broadband)	<1	50	TCC/Ucall 51%, Digicel Tonga Ltd. (49%)
Internet (fixed broadband)	3	2.4	TCC (51%), Digicel Tonga Ltd.(49%) (2020)

Source: Information provided by the authorities; TCC, *Company Overview*. Viewed at: <http://www.tcc.to/company-overview-0>; *Digital 2018 Tonga*. Viewed at: <https://www.slideshare.net/DataReport/digital-2018-tonga-january-2018>; and World Data Info, *Telecommunication in Tonga*. Viewed at: <https://www.worlddata.info/oceania/tonga/telecommunication.php>.

#### 4.4.4.2 Policy and institutional framework

4.94. Telecommunications policy and regulation remain the responsibility of the MEIDECC. As at December 2020, the issuance of a policy in this area and the establishment of a four-member Communications Commission (including one information and communication technology (ICT) expert), mandated to enforce a regulatory framework that encourages competition as stipulated under the Communication Commission Act 2015 (Section 4.4.4.3), were pending.

#### 4.4.4.3 Regulatory framework

4.95. During the review period, the regulatory framework governing telecommunications was updated. New legislation and its implementing rules included the Communications Act 2015; Communications Act (Amendment) 2016; Communications Commission Act 2015; Interconnection and Access (Submarine Cable Services) Rules 2017; Communication Numbering Rules 2018 Tariff; Numbering & Technical Gazette Notice No. 43, 2018; Communication Tariff Rules 2018; Communication Radio Spectrum Rules 2019; Communication Licensing Rules 2017; and Communications Licensing Amendment Rules 2019.<sup>98</sup> The comprehensive Communications Act 2015, which replaced the Communications Act 2000, was an important milestone that introduced a new regulatory and licensing regime. It regulates, *inter alia*: the powers of an independent Regulator (the Communications Commission, Section 4.4.4.2); the licensing of network operators; conditions for service providers; consumer protection; tariffs; the universal service regime; numbering and electronic addressing (including number portability); Internet service providers (ISPs); and hosting service providers.

4.96. All proposed tariff changes for communication services require approval by the MEIDECC, pending the establishment of the Communications Commission. Despite the extensive coverage of the Communications Act 2015, interconnection and roaming rates, as well as number portability provisions, are not regulated. Similarly, Tonga has not yet implemented a formal universal service policy or mechanism, as envisaged in Division 4 of the Communications Act 2015. The TCC and Digicel remain under universal service obligations, although Digicel does not have coverage for the Niua islands. At the time of the previous Review, a universal service fund was to be established to help cover under-served areas; as at December 2020, no further information was available on progress in this respect.

<sup>98</sup> Viewed at: <https://mic.gov.to/index.php/regulator>.

#### 4.4.5 Transport services

4.97. Transport services remain crucial for Tonga's economic development, competitiveness, and social well-being of its population.<sup>99</sup> Over the review period, the share of transport and storage in GDP declined overall, ranging from 3.4% (FY 2018/19) to 4.2% (FY 2014/15), whereas their share in total employment rose from 2.9% (FY 2014/15) to 3.1% (FY 2018/19) (Table 1.2). High transport costs continue to affect domestic stakeholders that depend on imported inputs, supplies, and capital goods; they need affordable transport infrastructure and services.<sup>100</sup> Tonga faces serious challenges in developing and maintaining sustainable domestic, regional, and international transport linkages; it is ranked second in the world for disaster risk, with the transport sector considered to be one of its most vulnerable elements.<sup>101</sup> International passenger and cargo volume levels varied and remained concentrated in air and maritime transport, respectively (Chart 4.2).

4.98. During the review period, several policy initiatives were intended to address transport-related challenges. The National Infrastructure and Investment Plan (NIIP) 2013-2023 was aimed at a comprehensive overhaul of the transportation infrastructure, with particular emphasis on improving connectivity to the outer islands.<sup>102</sup> The strategic concepts of the TSDF 2015-2025 (Section 2.3.2) emphasized reliable, safe, and affordable transport services and aimed to: (i) provide improved transport infrastructure construction, management, and maintenance; (ii) improve road networks on islands; (iii) develop a minimum transport infrastructure policy, providing the minimum standard for connecting each island to the national transport network; (iv) ensure adherence with international shipping and aviation safety regulations and standards; (v) support strong private-sector aviation, shipping services, and land transport services; (vi) encourage more international shipping and aviation links; and (vii) maintain and enforce appropriate air, sea, and land transport regulatory standards and requirements.<sup>103</sup> The Tonga Trade Policy Framework (TTPF) 2017-2025 envisages initiatives for a regional pooling of transport infrastructure and a strategy on optimum use of existing services providers (in particular, air transport services) as a means to reduce transport costs.<sup>104</sup> In addition, the TTPF envisages the further development of domestically operated transport services; no market access or national treatment commitments were scheduled as part of Tonga's WTO accession.<sup>105</sup>

4.99. The Ministry of Infrastructure (MOI) remains responsible for transport policy formulation and implementation.

4.100. Air and maritime transport continued to receive support, including under the fuel concession scheme (Section 3.3.1.1). Customs duty-free treatment is available for life-saving equipment, equipment for use within airports, communication and signal equipment, and basic building materials.<sup>106</sup> Exemptions from customs duties and taxes on the importation of aircrafts, vessels, and their parts are also available to the public domestic transport sector. Tax expenditure relating to customs duty, excise tax, and CT for the operation of the fuel concession scheme (covering fuel for use by fishing vessels, domestic airlines, and ferries) stood at TOP 13,392,348 in FY 2014/15 (about 35% of eligible activities), TOP 14,116,088 in FY 2015/16 (32.2%), TOP 21,875,202 in FY 2016/17 (38.7%), TOP 12,226,434 in FY 2017/18 (23.3%), and TOP 10,345,978 in FY 2018/19 (16.6%).

<sup>99</sup> Pacific Islands Forum Secretariat, Department of Foreign Affairs and Trade (DFAT) Australia (undated, possibly 2020), *Tonga National e-Commerce Readiness Assessment*.

<sup>100</sup> MTED (undated), *Tonga Trade Policy Framework 2017-2025*.

<sup>101</sup> Pacific Islands Forum Secretariat, Department of Foreign Affairs and Trade (DFAT) Australia (undated, possibly 2020), *Tonga National e-Commerce Readiness Assessment*.

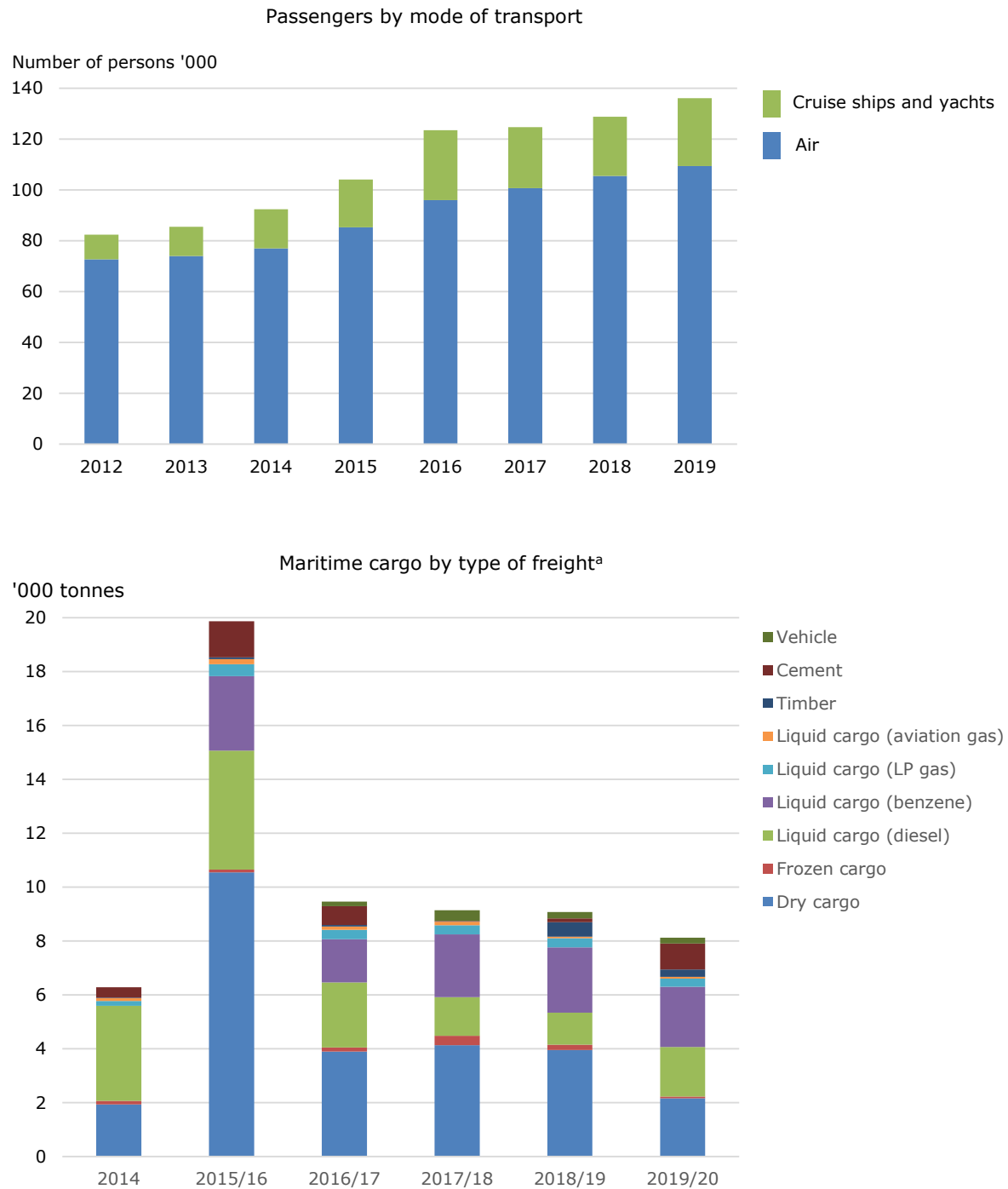
<sup>102</sup> Pacific Islands Forum Secretariat, Department of Foreign Affairs and Trade (DFAT) Australia (undated, possibly 2020), *Tonga National e-Commerce Readiness Assessment*; Government of the Kingdom of Tonga, Pacific Region Infrastructure Facility (undated, possibly 2013), *Tonga National Infrastructure Investment Plan 2013-2023*.

<sup>103</sup> Ministry of Finance and National Planning (2015), *Tonga Strategic Development Framework 2015-2025 – A More Progressive Tonga: Enhancing Our Inheritance*, May. Viewed at: <https://www.preventionweb.net/english/policies/v.php?id=59665&cid=174> and <http://www.finance.gov.to/tonga-strategic-development-framework>.

<sup>104</sup> MTED (undated), *Tonga Trade Policy Framework 2017-2025*.

<sup>105</sup> WTO, *Trade Policy Review of Tonga*, WT/TPR/S/291/Rev.1, 27 February 2014.

<sup>106</sup> Revenue Policy Committee, Ministry of Finance and National Planning, Ministry of Revenue and Customs, and Ministry of Commerce, Tourism and Labour (2014), *Partnership in Driving Economic Growth – Government of Tonga Investment Incentives 2014/2015*, August.

**Chart 4.2 International passengers arrivals and type of maritime freight, 2012-19**

a Including imported freight at Queen Halaevalu Wharf, Neiafu, only.

Source: Data provided by the authorities.

#### 4.4.5.1 Air transport

##### 4.4.5.1.1 Air services

4.101. Aviation plays a vital connecting role in terms of tourism; inter-island and international commerce; and travel for social, educational, and medical needs.<sup>107</sup> At the time of the previous Review, Tonga handled about 70,000 international and 50,000 domestic air passengers each year; commercial air cargo amounted to about 2,500 tonnes per year, comprising mainly agricultural and marine products.

4.102. Tonga continues without a national carrier for international routes. Prior to the COVID-19 lockdown, regular international air services were provided to and from Fiji by Fiji Airways (six times weekly to Nadi and Suva), to and from Auckland by Air New Zealand (five times weekly), to and from Sydney and Auckland by Virgin Australia (twice weekly), and to and from Samoa by Talofa Airways (twice weekly).<sup>108</sup> There are no air services on Sundays, as the Tongan airports are closed (Constitution, Clause 6). Since March 2013, domestic services have been operated by the private Tongan-owned airline Real Tonga, which was replaced by the state-established Lulutai Airlines, which was operational as at 24 September 2020. Domestic and international air services remain partly subsidized (see above).

#### *Policy, institutional, and regulatory framework*

4.103. The primary policy objectives in the aviation sector (aside from safety and security) are to encourage competition and attract market entrants to Tonga.

4.104. The sector remains regulated by the Civil Aviation Division of the MOI. Its 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), and oversight of the airport operator.

4.105. The sector's regulatory framework was updated with the Civil Aviation Act 2014<sup>109</sup>, using New Zealand legislation as a model, and replacing the Civil Aviation Act 1990. The main changes included the authority to make emergency rules resting with the Director of the Civil Aviation Division, as well as the transfer of the authority to issue, renew, and revoke aviation licences and approvals from the Minister to the Director. In 2015, the New Zealand Civil Aviation Rules were adopted as the Tonga Civil Aviation Rules. 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.

#### *International cooperation*

4.106. During the review period, participation in international air transport services agreements remained unchanged. Tonga concluded both bilateral and plurilateral Air Services Agreements with no cabotage allowed (Table 4.3). As indicated at the time of the previous review, a 2013 "open skies" separate bilateral agreement with Singapore (a Multilateral Agreement for the Liberalization of International Air Transportation (MALIAT) party, see below) has been maintained since March 2013, and a bilateral air services agreement with China was still at the draft stage as at December 2020.

<sup>107</sup> Government of the Kingdom of Tonga, Pacific Region Infrastructure Facility (undated, possibly 2013), *Tonga National Infrastructure Investment Plan 2013-2023*.

<sup>108</sup> More flights are deployed by Fiji Airways, depending on demand.

<sup>109</sup> Kingdom of Tonga, *Civil Aviation Act 2014*. Viewed at: [https://tonga.tradeportal.org/media/CivilAviationAct\\_2\\_1.pdf](https://tonga.tradeportal.org/media/CivilAviationAct_2_1.pdf).

**Table 4.3 Air Transport Agreements<sup>a</sup>, 2020**

Partner	Date	Entry into force	5 <sup>th</sup> <sup>1</sup>	7 <sup>th</sup> <sup>2</sup>	Cabotage <sup>3</sup>	Coop <sup>4</sup>	Designation <sup>5</sup>	Withholding <sup>6</sup>	Pricing <sup>7</sup>	Capacity <sup>8</sup>	Stat <sup>9</sup>	Air Liberalisation Index (ALI)
Australia	14/08/2002	14/08/2002	Y	N	N	Y	M	PPoB	FP	PD	Y	29
Fiji	17/11/1971	06/05/2008	Y	N	N	N	S	SOEC	DA	PD	Y	6

a The term "Air Transport Agreements" is used here to refer to Air Services Agreements, MoUs, Exchange of Notes, and other such relevant instruments.

1 If 5<sup>th</sup> freedom rights are subject to approval by the aeronautical authorities, they are coded as NOT granted, i.e. "N".

2 If 7<sup>th</sup> freedom rights are subject to approval by the aeronautical authorities, they are coded as NOT granted, i.e. "N".

3 If cabotage rights are subject to approval by the aeronautical authorities, they are coded as NOT granted, i.e. "N".

4 Clauses allowing cooperation between airlines, e.g. code-sharing is coded as Y.

5 Single designation is coded as "S", multiple as "M".

6 The type of withholding clause is coded as Substantial Ownership and Effective Control "SOEC", or Principal Place of Business "PPoB".

7 The type of pricing clause is coded as Double Approval "DA", or Free Pricing "FP".

8 The type of capacity clause is coded as Pre-Determination "PD".

9 An exchange of statistics foreseen by the agreement is coded as "Y".

Source: WTO Secretariat based on information provided by the authorities.

4.107. On the plurilateral front, Tonga is a signatory to the MALIAT and the Pacific Islands Air Services Agreement (PIASA). The MALIAT, in force for Tonga since January 2004, is an "open skies" agreement providing for unlimited 3<sup>rd</sup>, 4<sup>th</sup>, and 5<sup>th</sup> freedom rights, free determination of capacity and tariffs, multiple designation, and the right to enter into cooperative arrangements.<sup>110</sup> A Protocol to the Agreement extends the "open skies" provisions to 7<sup>th</sup> freedom rights and limited cabotage rights, but Tonga has not yet signed it; this continues to be motivated essentially by the need to protect the interests of its domestic carrier. PIASA, which entered into force in October 2007, aims to create a "single Pacific aviation market", involving progressive allowance of 3<sup>rd</sup>, 4<sup>th</sup>, and 5<sup>th</sup> freedom rights, free determination of capacity and tariffs, multiple designations, and the right to enter into cooperative arrangements.<sup>111</sup> The MALIAT and the PIASA apply between Tonga and Samoa, and between Tonga and the Cook Islands, as all three are signatories to both agreements. In both the MALIAT and the PIASA, capacity limitations remain in place, although existing limits have not yet been reached.

#### 4.4.5.1.2 Airport management and ground-handling services

4.108. During the review period, the airport setting remained unchanged. Under the regulatory oversight of the Civil Aviation Division, the state-owned Tonga Airports Ltd. (TAL) continued to manage Tonga's six airports, including two international airports, and provide air navigation services.<sup>112</sup> There are no plans to build additional airports. The airport operator is required to comply with the standards and regulations of the Civil Aviation Act, New Zealand civil aviation legislation, and International Civil Aviation Organization (ICAO) guidelines. According to the authorities, Tonga already meets required service standards and complies with ICAO requirements, or has been granted a temporary exemption from some requirements during a transition period.<sup>113</sup> In July 2015, the

<sup>110</sup> Other MALIAT signatories are Brunei Darussalam, Chile, the Cook Islands, Mongolia (for all-cargo only), New Zealand, Singapore, and the United States.

<sup>111</sup> Other PIASA signatories are the Cook Islands, Nauru, Niue, Samoa, and Vanuatu.

<sup>112</sup> The main international airport and domestic feeder is Fua'amotu on Tongatapu. TAL also operates five other airports: Lupepau'u International Airport on Vava'u, Salote Pilolevu Airport on Ha'apai, Kaufana Airport on 'Eua, and Lavinia Airport and Mata'aho Airport on Niuatoputapu.

<sup>113</sup> Government of Tonga, Pacific Region Infrastructure Facility (undated, possibly 2013), *Tonga National Infrastructure Investment Plan 2013-2023*.



airport operator issued revised aeronautical charges and conditions of use.<sup>114</sup> Changes of aeronautical charges require Government approval.

4.109. Ground-handling services continue to be provided, under concession, by Air Terminal Services, a private company duly incorporated in Tonga. The airport duty-free shop (Leiola Duty Free) was privatized and operates on a lease from Tonga Airports Ltd. The concession for refuelling services is held by Pacific Energy Ltd. The new domestic airlines, Lulutai (Section 4.4.5.1.1), holds a Part 145 Certificate on Aircraft Maintenance Organizations and is the only authorized aircraft maintenance organization.

#### 4.4.5.2 Maritime transport

##### 4.4.5.2.1 Shipping services

4.110. The maritime services sector supports: tourism; inter-island and international cargo transport; and inter-island travel for social, educational, and medical needs.<sup>115</sup> International cargo liner services are provided by the shipping agents Dateline Shipping, Pacific Forum Line Ltd., TRANZAM, and 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 for use in domestic shipping services are exempt from excise taxes (see above); the authorities indicated that, as at December 2020, the MoRC was processing legislation for the exemption of lubricants too.

#### *Policy, institutional, and regulatory framework*

4.111. As at December 2020, Tonga's maritime policy and Strategy were still in draft; there were plans for development projects of the domestic and outer island wharves.

4.112. The Marine and Ports Division of the MOI remains responsible for, *inter alia*, the management of the outer islands ports (excluding the Port of Nuku'alofa) (Section 4.4.5.2.2), ship registration, enforcement of relevant conventions of the International Maritime Organization (IMO), monitoring the activities of Tongan ships operating overseas, issuing certificates for ships and seafarers, and pilotage for ships outside Nuku'alofa.

4.113. The main pieces of legislation on maritime shipping services remain the Shipping Act 1988 (last reviewed in 2016) and the Marine Pollution Prevention Act, as amended. Tonga generally applies the regional Secretariat of the SPC standards for domestic shipping and smaller vessels, and IMO standards for larger vessels and vessels operating outside the EEZ. The authorities indicate that Tonga applies IMO standards, but there are other maritime standards reflected in the Shipping Act that set the relationship between the SPC and the IMO (<https://www.spc.int/partners/transport-energy/international-maritime-organization>).

4.114. To fly the Tongan flag, ships (15 metres or longer, and unless exempted) must be recorded in the National Registry of Ships, which is administered by the registrar of ships of the Marine and Ports Division.<sup>116</sup> Under the Shipping Act, vessels must be 100% crewed with Tongans, but these levels are being reviewed due to lack of domestic maritime training capacity for seafarers. Tonga's International Registry of Ships was closed in 2002.

<sup>114</sup> Tonga Airports Limited, *Aeronautical Charges and Conditions of Use*. Viewed at: <http://www.tongaairports.com/about/aeronautical-charges-and-conditions-of-use/>.

<sup>115</sup> Government of the Kingdom of Tonga, Pacific Region Infrastructure Facility (undated, possibly 2013), *Tonga National Infrastructure Investment Plan 2013-2023*; Pacific Islands Forum Secretariat, Department of Foreign Affairs and Trade (DFAT) Australia (undated, possibly 2020), *Tonga National e-Commerce Readiness Assessment*.

<sup>116</sup> Most registered ships are fishing vessels, which must also be registered with the MoF.

#### 4.4.5.2.2 Port management and port services

4.115. Tonga's three main ports are Port of Nuku'alofa, which serves both domestic and international trade; Port of Neiafu (Vava'u); and Port of Pangai (Ha'apai), which is used by inter-island ferries and smaller inter-island shipping vessels. Most of Tonga's maritime traffic is from Auckland, and is handled by the port at Nuku'alofa. Between 2015 and 2019, the number of vessels arriving at Tonga's ports rose by 52.4% to 218 and dropped to 193 in 2020; during the same period, trade cargo and container throughput increased by 48.6% to 430,656 cargo tonnes with a decline to 423,172 cargo tonnes in 2020, and by 47.8% to 26,046 20-foot equivalent units (TEUs) with a drop to 23,206 TEUs in 2020, respectively.<sup>117</sup>

4.116. Tonga's main port at Nuku'alofa and its assets are owned, operated, and managed by the Ports Authority Tonga Ltd. (PAT). The smaller ports are operated and managed by the MOI's Marine and Ports Division. The PAT is required by law to operate on commercial principles (Ports Authority Act 1998, Section 12) and, according to the authorities, it does not receive subsidies.<sup>118</sup> Services provided by the PAT include berthing, towing, and mooring; loading and unloading vessels; embarking and disembarking passengers; pilotage; maintenance of marine navigation aids; and supply of fuel, water, and telephone services.<sup>119</sup> The port fees and charges applied by the PAT were last revised in December 2013 (Ports Authority Tariff Fees Standing Order 2007).<sup>120</sup> 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.<sup>121</sup> There are no ship repair services in Tonga. According to the authorities, the international ports comply with relevant international and IMO operating requirements.<sup>122</sup> During the review period, the PAT continued to address the challenges of upgrading aging wharf infrastructure and port facilities to maintain safety and operational efficiency.<sup>123</sup>

#### 4.4.6 Tourism

4.117. Tourism continued to support the upward trend of economic growth. Over the review period, the share of accommodation and food service activities in GDP ranged from 2.6% (FY 2018/19) to 3.1% (FY 2017/18), and their share in total employment rose from 3.3% (FY 2014/15) to 4.3% (FY 2018/19) (Table 1.2). Between 2014 and 2019, overall arrivals rose by 41.2% to 90,748, of which 72.6% by air, 25.5% by ship, and the rest by yacht; tourist arrivals grew by 18% in January 2020 but rapidly dropped by 86% by March 2020 as the borders closed in response to the COVID-19 pandemic.<sup>124</sup> Nevertheless, most of the annual arrivals are those visiting relatives and friends; therefore, the number of genuine tourists is thought to be small, and no tourist arrivals were recorded from April to December 2020. Reportedly, in 2019 there were 58,783 international visitors arriving from: New Zealand (49%); Australia (22%); the United States (14%); China (3%); and Fiji (2%).<sup>125</sup> The accommodation rooms remain limited but rose from 916 FY (2016/17) to 939 (FY 2017/18).<sup>126</sup> Tonga remains 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. TC Gita is estimated to have caused physical damage and economic losses to the tourism sector estimated at TOP 40.6 million (TOP 26.3 million in approximate damages and TOP 14.3 million in expected losses).<sup>127</sup> The tourism stakeholders expanded during the review period; as at December 2020, there were 149 (127 in 2017) accommodation establishments, 108 restaurants (74 in 2017), 28 travel agents (6 in 2017), 27 tour operators (16 in 2017), and 52 marine activities (43 in 2017).

<sup>117</sup> PAT (2019), *Annual Report 2019*, 20 December.

<sup>118</sup> WTO document WT/TPR/S/291/Rev.1, 27 February 2014.

<sup>119</sup> PAT. Viewed at: <http://www.portsauthoritytonga.com/>.

<sup>120</sup> PAT, *Ports Authority (Tariff Fees)*. Viewed at: [https://www.portsauthoritytonga.com/index.php?option=com\\_phocadownload&view=file&id=11&Itemid=472](https://www.portsauthoritytonga.com/index.php?option=com_phocadownload&view=file&id=11&Itemid=472).

<sup>121</sup> Ports Management Act 2001, Section 29. As at 2013, the PAT had one pilot boat.

<sup>122</sup> Government of the Kingdom of Tonga, Pacific Region Infrastructure Facility (undated, possibly 2013), *Tonga National Infrastructure Investment Plan 2013-2023*.

<sup>123</sup> Ports Authority Tonga (2019), *Annual Report 2019*, 20 December.

<sup>124</sup> Ministry of Tourism (2020), *Tourist Statistics Report 2018 & 2019*.

<sup>125</sup> New Zealand MFAT, Pacific Tourism Organization (2020), *Pacific Tourism: COVID-19 Impact & Recovery Sector Status Report: Phase 1B*, 5 May.

<sup>126</sup> Ministry of Tourism (2018), *Annual Report 2017/2018*.

<sup>127</sup> Ministry of Finance (2019), *Government of Tonga Budget Statement for Year Ending 30<sup>th</sup> June 2020*.

### ***Policy, institutional, and regulatory framework***

4.118. During the review period, tourism development and its linkages with other activities (e.g. transport, fisheries, and e-commerce) were part of major policy papers. The TTPF 2017-2025 identifies tourism as a priority sector, and its diversification was to be considered by developing new products and feeder markets (Sections 2.3.2, 2.4.1, and 4.4.5).<sup>128</sup> A corresponding tourism strategy was to be envisaged and implemented, and linkages with other sectors to be ensured. The TTPF also refers to targeted regional interventions, such as the promotion of community-based tourism.

4.119. Since 2015, the Ministry of Tourism, which took over from the then Ministry of Labour, Commerce and Tourism, has been responsible for the formulation and implementation of policy in this area.<sup>129</sup> As from 2013, the Tonga Tourism Authority (TTA) under the Ministry of Tourism has been in charge of policy and strategies for the development, promotion, and marketing of tourism under the Tonga Tourism Authority Act 2012 (last revised in 2016).<sup>130</sup> The TTA is also responsible for promoting tourism products, empowering tourism operators, and safeguarding culture and heritage. No other changes were made to the main legislation during the review period.

4.120. Hotels, restaurants, and other tourist establishments require a business licence issued from the MTED upon submission of a letter of support/recommendation from the Ministry of Tourism. According to the authorities, foreign investors wishing to operate a tourism venture do not need to have a local partner that owns at least 51% of the business. Land leases for tourism projects are considerably shorter than for other investments (Section 2.5.2). The Tonga Quality Mark Assessment Star rating programme is divided into five major categories: hotel, guesthouse, resort, apartment, and eco beach fales. Each category has specific marking criteria and eight areas that reflect the quality of the visitor experience: exterior, arrival, public area, bedrooms, bathrooms, dining, facilities cleanliness and business practices, and checkout. Ratings range from 1 (low) to 5 (high) stars.

4.121. Whale Watching and Swimming Regulations require that all whale-watching companies, including foreign-based operators, obtain a licence issued by the Ministry of Tourism. At the time of the previous Review, the licence fees were TOP 3,000 for whale watching, and TOP 3,450 for whale-watching and swimming operations. During the review period, action was taken to enforce the Whale Watching Act 2008 and Regulation 2013, as well as to coordinate training for whale-watching guides, and Restricted Skipper Master Class 6, aimed at lowering fees for training and thus encouraging local participants. In 2020, there were 41 licensed whale-watching and swimming operators (26 in 2013), of which 20 were on Vava'u, 10 on Ha'apai, 7 on Tongatapu, and 4 on 'Eua.

### ***Domestic support***

4.122. During the review period, tax and non-tax incentives supported the development of business operators in the tourism industry. Two establishments benefited from corporate tax exemptions: the Tonoa International Dateline Hotel and the Kongakava Hotel. Customs duty on goods imported (excluding tobacco or tobacco-making materials, and liquor or liquor-making materials) by approved and licensed tourist businesses, including basic building materials (timber, roofing iron, cement, guttering, and plumbing pipes (PVC)), has been fully exempt, whereas the relevant CT part has been 50% exempt as long as importation has been carried out within two years of the date of this order.<sup>131</sup> Tax expenditure relating to customs duty, excise tax, and CT to support tourism was TOP 120,531 in FY 2014/15 (0.3% of eligible activities), TOP 1,181,927 in FY 2015/16 (2.7%), TOP 49,439 in FY 2016/17 (0.09%), TOP 13,046 in FY 2017/18 (0.03%), and TOP 283,039 in FY 2018/19 (0.5%). As at FY 2017/18, 52 tourism businesses utilized these exemptions/incentives.<sup>132</sup>

4.123. New tax exemptions were introduced in 2019 and seemingly implemented as from 2020.<sup>133</sup> Licensed businesses were eligible for duty, excise, and CT exemptions on goods imported for their

<sup>128</sup> MTED (undated), *Tonga Trade Policy Framework 2017-2025*.

<sup>129</sup> Ministry of Tourism (2018), *Annual Report 2017/2018*.

<sup>130</sup> WTO document WT/TPR/S/291/Rev.1, 27 February 2014.

<sup>131</sup> Revenue Policy Committee, Ministry of Finance and National Planning, Ministry of Revenue and Customs, and Ministry of Commerce, Tourism and Labour (2014), *Partnership in Driving Economic Growth – Government of Tonga Investment Incentives 2014/2015*, August; and Ministry of Tourism (2018), *Annual Report 2017/2018*.

<sup>132</sup> Ministry of Tourism (2018), *Annual Report 2017/2018*.

<sup>133</sup> *Gazette* No. 5 of 2019 containing the Excise Tax Order 2019, the CT Order 2019, and the Customs Duty Order 2019, 5 February 2019; Consumption Tax (Exemption) Order, *Gazette Supplement Extraordinary*,

business, up to their total value (cost, insurance, freight (c.i.f.)). There is no expiry date for this new initiative. In 2018 and 2019, the threshold for tax incentives was increased to c.i.f. value of TOP 100,000, and both CT and duty were fully exempted. In May 2020, the Cabinet approved an increase from TOP 100,000 to TOP 500,000 (food items excluded). Total forgone tax revenue from these incentives was TOP 5,949 in 2015, TOP 71,482 in 2016, TOP 9,797 in 2017, TOP 91,604 in 2018, and TOP 423,379 in 2019, when the threshold of TOP 100,000 was introduced. As at December 2020, the total forgone tax revenue was estimated at TOP 1.78 million.

4.124. Low interest rate loans through the TDB-administered GDL Tourism Fund Loans continued to be provided for amounts up to TOP 50,000 with a two-year repayment period, and through the Tourism Loan Fund: COVID-19 and TC Harold (maximum loan TOP 500,000) with a five-year repayment period available at an interest of 3% (as at 2020). Previous GDL loans seemed to be available at rates of 1% (maximum TOP 500,000) or 4% (maximum TOP 1 million) with an one-year repayment period.<sup>134</sup> The Tourism Loan Fund: COVID-19 and TC Harold Loan is similar to the GDL Tourism Loan Fund but includes assistance to rebuild affected tourism-related businesses. These loans are intended to promote the development of new tourism products and events, improve the quality of small and medium-sized accommodations, develop a clean and beautiful tourist environment, support and encourage community participation in the development of heritage sites and cultural events, and promote and encourage cooperation and coordination within the sector.

#### 4.4.7 Distribution services including e-commerce

4.125. Distribution services remained of major importance to the economy. During the review period, the share of the wholesale and retail trade services in GDP ranged from 9.5% (FY 2014/15) to 10.1% (FY 2017/18), and their share in total employment rose slightly from 7.3% (FY 2014/15) to 7.8% (FY 2018/19) (Table 1.2). The retail and wholesale industry consists of a few large stores in the main towns and hundreds of little stores scattered throughout towns and villages.<sup>135</sup> In addition, there are retailers in produce markets, as well as along the foreshore, selling fish and marine products. The industry also includes the people selling imported second-hand clothing and other goods at flea markets. Businesses are not officially classified by size or other criteria (e.g. number of outlets by size, or number of local markets); registration for a business licence is issued according to business activities.

4.126. Low interest rate loans administered by the TDB continued to be provided through GDL Retail and Wholesale Loan Fund at rates of 3% (maximum TOP 50,000) with a repayment of two years, available to small- and medium-scale operators of the wholesale and retail sector to assist their expansion and service development.<sup>136</sup>

4.127. Tonga's e-commerce sector is in the nascent stage.<sup>137</sup> However, it appears that the dynamic C2C scene, although informal and involving social media platforms, proved that the market is ripe for more B2B and B2C transactions, with local e-commerce platforms appearing in recent years. Certain services activities, e.g. ICT, tourism, and transport, could be among the early adopters and earners. Issues of physical addresses and ICT capacity at the Tonga Post may constrain e-commerce logistics. Two Tongan-owned and -operated marketplaces (Made in Tonga (madeintonga.com, a marketplace for Tonga-made products (export focus)) and EZ Tonga<sup>138</sup> (retail (food, grocery shopping, delivery))) gained traction. Both have a vision of helping local producers and micro, small, and medium enterprises (MSMEs) get digital, sell online, and therefore improve their distribution.

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No. 24, 2020; Excise Tax (Exemption) Order, *Gazette Supplement Extraordinary*, No. 25, 2020; and Customs Duty (Exemption) Order, *Gazette Supplement Extraordinary*, No. 24, 2020.

<sup>134</sup> Revenue Policy Committee, Ministry of Finance and National Planning, Ministry of Revenue and Customs, and Ministry of Commerce, Tourism and Labour (2014), *Partnership in Driving Economic Growth – Government of Tonga Investment Incentives 2014/2015*, August.

<sup>135</sup> Harkness, L. (2001), "Recent Economic Developments in the Kingdom of Tonga", *Pacific Economic Bulletin*, Vol. 16, No. 1, May.

<sup>136</sup> Revenue Policy Committee, Ministry of Finance and National Planning, Ministry of Revenue and Customs, and Ministry of Commerce, Tourism and Labour (2014), *Partnership in Driving Economic Growth – Government of Tonga Investment Incentives 2014/2015*, August.

<sup>137</sup> Pacific Islands Forum Secretariat, Department of Foreign Affairs and Trade (DFAT) Australia (undated, possibly 2020), *Tonga National e-Commerce Readiness Assessment*.

<sup>138</sup> EZ Tonga. Viewed at: <https://eztonga.com>.

4.128. Through the MTED, Tonga secured funding from the Government of Australia, e-Commerce Aid for Trade Fund. TradeWorthy, as the implementing agency, is to implement a one-year project in partnership with the MTED focused on three objectives: (i) development of a National Digital Economy Roadmap; (ii) development of a Roadmap on E-Commerce Legal Framework; and (iii) capacity building for Tonga's Cross-Border Digital Trade commitments.

4.129. With support from development partners, Tonga recently made progress in enhancing its legal and regulatory frameworks for e-commerce.<sup>139</sup> Some laws are nearing completion; the inclusion of relevant and up-to-date provisions (e.g. on consumer protection and data privacy) would make them e-compatible. An e-Transactions Bill (based on the United Nations Commission of International Trade Law's (UNCITRAL) Model Law on Electronic Commerce and the Model Law on Electronic Signatures) was prepared but, as at August 2019, is yet to be enacted.

#### **4.4.8 Professional services**

4.130. Legal services remain governed by the Law Practitioners Act 1989. The Act requires a legal practitioner to be included in the Roll of Law Practitioners held by the Supreme Court, 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, but no such firms operate in the country.

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

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<sup>139</sup> Pacific Islands Forum Secretariat, Department of Foreign Affairs and Trade (DFAT) Australia (undated, possibly 2020), *Tonga National e-Commerce Readiness Assessment*.

## 5 APPENDIX TABLES

Table A1.1 Merchandise exports and re-exports by HS section, 2014-19

	2014	2015	2016	2017	2018	2019
Total exports (USD million)	19.0	17.7	21.5	18.9	13.0	20.3
Domestic exports	15.3	13.6	13.7	14.5	9.9	17.0
Re-exports	3.7	4.1	7.7	4.4	3.1	3.3
	<b>(% of total exports and re-exports)</b>					
<b>HS Chapters 01-24</b>	<b>73.6</b>	<b>62.9</b>	<b>57.7</b>	<b>62.0</b>	<b>70.0</b>	<b>77.9</b>
01 Live animals and products	35.3	19.4	20.3	21.1	16.9	30.9
02 Vegetable products	35.8	39.6	37.0	39.7	52.5	46.5
03 Fats and oils	0.2	0.0	0.0	0.0	0.0	0.0
04 Prepared food, beverages and tobacco	2.4	3.9	0.5	1.2	0.6	0.5
<b>HS Chapters 25-97</b>	<b>26.4</b>	<b>37.1</b>	<b>42.3</b>	<b>38.0</b>	<b>30.0</b>	<b>22.1</b>
05 Mineral products	15.5	11.5	7.0	8.5	16.1	8.2
06 Chemicals and products thereof	1.7	1.1	0.9	0.4	0.9	0.7
07 Plastics and rubber	0.3	0.1	0.3	0.1	0.0	0.1
08 Raw hides and skins; leather and articles thereof	0.0	0.0	0.1	0.0	0.0	0.0
09 Wood, cork, straw	2.6	2.3	1.6	1.5	3.3	1.3
10 Pulp of wood; paper and paperboard	0.1	0.1	0.1	0.1	0.1	0.0
11 Textiles and textile articles	0.1	0.2	0.3	0.1	0.1	0.1
12 Footwear, headgear, etc.	0.0	0.0	0.0	0.0	0.0	0.0
13 Articles of stone, plaster, cement	0.1	0.1	0.1	0.8	0.0	1.1
14 Precious stones and metals	0.6	0.4	0.3	0.6	0.3	0.2
15 Base metals and articles thereof	1.4	1.1	1.0	1.5	1.2	1.8
16 Machinery, electrical equipment	2.7	5.0	10.8	8.2	3.9	4.9
17 Transport equipment	0.6	7.9	19.0	14.6	1.1	1.2
18 Precision equipment	0.6	5.9	0.5	0.7	2.8	1.9
19 Arms and ammunition	0.0	0.0	0.0	0.0	0.0	0.0
20 Miscellaneous manufactured articles	0.2	0.2	0.3	0.4	0.1	0.4
21 Works of art, etc.	0.0	1.2	0.0	0.3	0.0	0.0
Memorandum:						
Fisheries (incl. crustaceans and coral)	35.3	19.7	19.5	19.4	15.5	26.6

Source: WTO Secretariat calculations, based on data provided by the authorities.



**Table A1.2 Merchandise imports by HS section, 2014-19**

	2014	2015	2016	2017	2018	2019
Total imports (USD million)	218.8	209.1	225.7	237.5	228.0	267.2
	<b>(% of total imports)</b>					
<b>HS Chapters 01-24</b>	<b>27.3</b>	<b>29.1</b>	<b>27.3</b>	<b>30.0</b>	<b>27.5</b>	<b>23.6</b>
01 Live animals and products	11.4	10.6	10.2	12.1	11.2	8.6
Meat and edible offals	8.7	7.7	6.7	7.4	8.5	5.7
02 Vegetable products	2.7	3.0	2.9	3.1	3.2	3.3
03 Fats and oils	0.4	0.6	0.6	0.5	0.5	0.5
04 Prepared food, beverages and tobacco	12.8	14.8	13.6	14.2	12.6	11.2
<b>HS Chapters 25-97</b>	<b>71.2</b>	<b>69.7</b>	<b>72.1</b>	<b>70.0</b>	<b>72.5</b>	<b>76.4</b>
05 Mineral products	22.3	19.3	16.0	19.0	21.3	18.7
Oils from petroleum and bituminous minerals	20.3	16.8	14.4	14.1	14.2	12.0
06 Chemicals and products thereof	3.9	4.3	3.5	4.0	3.8	4.0
07 Plastics and rubber	2.2	2.6	2.4	2.3	2.5	2.6
08 Raw hides and skins; leather and articles thereof	0.1	0.1	0.1	0.1	0.1	0.1
09 Wood, cork, straw	2.9	3.6	4.0	3.6	4.3	3.1
10 Pulp of wood; paper and paperboard	2.7	2.8	1.9	1.8	2.3	1.6
11 Textiles and textile articles	2.0	2.3	2.1	1.9	1.9	1.6
12 Footwear, headgear, etc.	0.5	0.5	0.5	0.5	0.4	0.5
13 Articles of stone, plaster, cement	1.1	1.2	1.2	1.3	2.4	1.1
14 Precious stones and metals, pearls	0.0	0.3	0.1	0.0	0.0	0.0
15 Base metals and articles thereof	4.7	5.4	7.1	6.1	6.0	5.7
16 Machinery, electrical equipment	18.6	12.6	18.8	14.0	13.7	18.0
17 Transport equipment	6.9	11.1	9.8	9.8	10.0	15.3
Vehicles	5.2	8.7	7.4	8.3	8.4	5.7
18 Precision instruments	0.7	0.9	1.2	2.2	1.3	1.4
19 Arms and ammunition	0.0	0.0	0.0	0.0	0.0	0.0
20 Miscellaneous manufactured articles	2.4	2.8	3.2	3.2	2.4	2.6
21 Works of art, collectors' pieces and antiques	0.0	0.0	0.0	0.0	0.0	0.0
<b>Other</b>	<b>1.5</b>	<b>1.2</b>	<b>0.6</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Source: WTO Secretariat calculations, based on data provided by the authorities.



**Table A1.3 Merchandise exports, by destination, 2014-19**

	2014	2015	2016	2017	2018	2019
Total exports (USD million)	19.0	17.7	21.5	18.9	13.0	20.3
	<b>(% of total exports)</b>					
Americas	13.2	30.0	19.7	17.9	23.8	19.3
United States	13.1	29.9	19.9	17.9	23.8	19.2
Europe	0.2	0.3	0.1	0.2	0.1	0.4
EU-28	0.1	0.3	..	..	0.1	0.4
EFTA	0.1	0.0	0.0	0.0	0.0	0.0
Commonwealth of Independent States (CIS)	0.1	0.4	0.0	0.0	0.0	0.0
Africa	0.0	0.0	0.2	7.5	0.1	0.0
Middle East	0.0	0.0	..	..	0.0	0.0
Asia/Oceania	71.2	69.4	78.4	73.5	75.9	80.3
China	0.0	0.1	0.3	1.1	1.7	1.9
Japan	10.9	8.6	9.3	11.2	5.5	8.1
Other Asia/Oceania	60.3	58.4	68.8	61.2	68.8	70.4
New Zealand	23.2	22.6	28.9	25.3	35.1	29.1
Australia	8.8	8.3	22.1	25.5	16.7	10.7
Korea, Republic of	1.9	4.1	4.4	9.1	10.0	7.8
Thailand	0.2	0.2	0.0	0.8	0.2	6.7
Chinese Taipei	0.6	0.6	0.5	0.8	1.8	6.6
Viet Nam	0.5	3.9	0.0	0.0	0.0	4.1
American Samoa	0.8	1.6	0.0	0.0	1.3	1.8
Fiji	1.1	4.7	2.0	1.4	1.7	1.1
Samoa	2.5	5.2	0.0	0.0	0.9	1.0
Vanuatu	0.9	0.1	0.0	0.0	0.1	0.2
Papua New Guinea	0.0	0.1	0.0	0.0	0.4	0.1
Cook Islands	0.0	0.0	0.0	0.0	0.0	0.1
Hong Kong, China	17.7	3.0	0.0	0.0	0.0	0.1
Niue	0.0	0.0	0.0	0.0	0.0	0.1
Korea, Democratic People's Republic of	0.2	0.0	0.0	0.0	0.0	0.1
Other	15.5	0.0	1.5	0.8	0.0	0.0

.. Not available.

Source: WTO Secretariat calculations, based on data provided by the authorities.

**Table A1.4 Merchandise imports, by origin, 2014-19**

	2014	2015	2016	2017	2018	2019
Total imports (USD million)	218.8	209.1	225.7	237.5	228	267.2
	<b>(% of total imports)</b>					
Americas	12.0	10.7	10.8	10.6	10.7	15.2
United States	10.9	9.6	10.0	9.5	9.9	14.4
Other America	1.2	1.1	..	..	0.8	0.9
Brazil	0.1	0.4	..	..	0.5	0.4
Chile	0.4	0.5	..	..	0.2	0.3
Canada	0.5	0.3	..	..	0.0	0.2
Europe	1.3	2.5	0.8	1.4	0.6	3.8
EU-28	0.7	2.1	..	..	0.3	3.0
France	0.0	0.1	..	..	0.0	2.2
Spain	0.0	0.0	..	..	0.0	0.4
United Kingdom	0.4	1.5	..	..	0.1	0.2
EFTA	0.4	0.2	..	..	0.1	0.7
Switzerland	0.4	0.2	..	..	0.1	0.7
Other Europe	0.2	0.2	..	..	0.1	0.1
Commonwealth of Independent States (CIS)	0.0	0.0	..	..	0.0	0.0
Africa	0.1	0.1	0.1	0.1	0.1	0.0
Middle East	0.1	0.1	..	..	0.0	0.1
Asia/Oceania	86.4	86.4	88.3	88.0	88.5	80.8
China	7.5	9.4	11.3	8.6	9.3	8.4
Japan	8.0	5.3	8.4	9.8	8.0	7.6
Other Asia/Oceania	70.9	71.6	68.5	69.6	71.2	64.8
New Zealand	28.6	31.5	31.4	28.6	29.8	27.7
Singapore	21.1	9.7	11.3	18.4	19.4	17.3
Fiji	7.8	17.5	11.6	8.0	7.7	7.2
Australia	5.4	6.5	7.6	6.7	7.5	6.5
Indonesia	1.6	1.7	1.5	1.5	1.5	1.6
Thailand	1.4	1.2	1.1	1.7	1.7	1.1
Malaysia	1.5	0.7	0.8	0.9	1.0	0.6
Viet Nam	0.3	0.4	..	..	0.6	0.5
Hong Kong, China	1.2	0.4	0.6	1.2	0.5	0.5
Chinese Taipei	0.8	0.8	0.7	0.6	0.6	0.4
India	0.3	0.5	..	..	0.2	0.4
Vanuatu	0.1	0.0	..	..	0.0	0.3
Philippines	0.2	0.3	..	..	0.2	0.2

.. Not available.

Source: WTO Secretariat calculations, based on data provided by the authorities.

**Table A3.1 Forgone revenue from imports, sectoral breakdown, FY 2014/15-FY 2018/19**

(TOP)

	<b>Duty forgone</b>	<b>Excise tax forgone</b>	<b>Consumption tax forgone</b>	<b>Total dues forgone</b>
Total	61,123,995.8	90,379,388.9	116,477,083.0	268,285,548.5
Agricultural sector	1,138,794.3	5,375.7	6,935,601.3	8,080,880.6
Construction projects	6,197,204.1	174.6	9,048,511.6	15,245,890.2
Building supplies	8,299,289.5	1,726.3	1,577,637.8	10,137,202.2
Charitable activities	256,237.3	4,399.6	371,308.4	631,945.3
Development projects	3,783,927.5	8,950.7	5,503,048.3	9,295,926.5
Diplomatic mission	2,662,699.6	695,729.9	4,531,610.8	7,890,040.2
Fisheries sector	840,072.2	1,666,618.2	3,176,816.3	5,683,506.7
Fuel concession	12,184.3	59,334,954.5	14,489,365.2	73,836,504.0
Government ministries	2,715,163.9	28,291.7	7,453,047.3	10,241,926.0
Health sector	219,513.9	0.0	2,157,359.1	2,376,873.0
Licensed excisable local manufacturer	149,273.6	100,598.4	503,434.4	753,306.4
Licensed non-excisable local manufacturer	1,606,249.3	5,136.3	2,523,618.0	4,135,003.6
Manufacturing sectors	1,576,329.3	0.0	252,618.8	1,828,948.1
Palu Aviation/Real Tonga	978,345.9	288,283.5	2,377,029.9	3,643,659.3
Domestic vessels	20,423.9	0.0	51,264.5	71,688.4
Passenger allowances	203,617.8	1,965,362.9	476,701.1	2,645,681.8
Legal residents	31,493.7	14,799.3	16,244.4	62,537.4
Education sector	1,815,692.2	11,236.4	613,853.9	2,440,782.5
Sports sector	466,618.9	0.0	317,433.6	784,052.4
Ground equipment for airport	32,430.0	19.6	8,309.0	40,758.5
Temporary imports	68,967.9	665.0	163,931.0	233,563.9
Public enterprises	16,529,120.5	153,621.0	27,963,343.2	44,646,084.7
Tongan Mat/Ta'ovala	163,933.0	0.0	32,311.5	196,244.5
Tourism	611,141.4	3,669.2	763,178.7	1,377,989.3
Water scheme development	79,052.4	776,488.5	309,905.7	1,165,446.6
Disaster relief	1,741,686.4	88,774.9	4,860,431.8	6,690,893.1
Statutory boards	4,089,529.1	430,777.5	7,554,896.9	12,075,203.5
Goods for upgrade of domestic wharf	297,579.5	4,605.4	873,051.3	1,175,236.2
2019 Pacific Games	41,555.2	0.0	69,710.5	111,265.7
Tonga Power Limited	2,349,297.2	22,149,070.9	6,666,366.1	31,164,734.2
Teufaiva Stadium project	106,100.0	52.0	192,362.9	298,514.9
Other	2,040,472.1	2,640,006.7	4,642,780.1	9,323,258.9

Source: WTO Secretariat calculations, based on data provided by the authorities.

**Table A3.2 List of excisable goods, by product heading (HS 4-digit level), as at November 2020**

HS heading	Description	Number of tariff lines	Average excise duty 2020 (TOP)
0204	Meat of sheep or goats, fresh, chilled or frozen: mutton breast and flaps	4	1.15/kg
0207	Turkey tails, fresh or chilled	2	2/kg
1501	Pig fat (including lard) and poultry fat	3	2/kg
1502	Fats of bovine animals, sheep or goats	2	2/kg
1601	Sausages and similar products, of meat, meat offal or blood; food preparations based on these products	6	0.75/kg
1602	Other prepared or preserved meat of bovine animal	1	2.5/kg
1701	Cane or beet sugar and chemically pure sucrose, in solid form: flavours in powdered and ready-to-drink form	1	4/kg
1704	Sugar confectionery (including white chocolate), not containing cocoa	2	5/kg
1806	Chocolate and other food preparations containing cocoa	4	5/kg
1902	Instant noodles	2	1.25/kg
1905	Sweet biscuits; waffles and wafers	2	1.5/kg
2009	Fruit juices and vegetable juices, unfermented and not containing added spirit	23	2.8/kg
2103	Mayonnaise	1	2/kg
2105	Ice cream and other edible ice	2	0.875/kg
2202	Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter	15	1.56/kg
2203	Beer made from malt	4	55/kg
2204	Wine of fresh grapes	5	42/kg
2205	Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances	2	42/kg
2206	Other fermented beverages	2	45/kg
2208	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80% vol.; spirits, liqueurs and other spirituous beverages	14	50/kg
2401	Unmanufactured tobacco; tobacco refuse	6	475/kg
2402	Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes	7	584/1,000 sticks
2403	Other manufactured tobacco and manufactured tobacco substitutes	8	475/kg
2710	Petroleum oils and oils obtained from bituminous minerals	12	0.75/litre
2711	Petroleum gases and other gaseous hydrocarbons	7	300/metric tonne
4818	Toilet paper and similar paper	2	0.7/kg
8703	Motor cars and other motor vehicles principally designed for the transport of persons	67	0.52/cc of engine capacity

Source: WTO Secretariat calculations, based on data provided by the authorities.