



Executive Summary

The last constitutional monarchy among the Pacific Island countries, Tonga held peaceful parliamentary elections in 2010. The elections were observed by officials from the Australian and New Zealand governments, and were deemed to be free and fair. The 2010 elections for the first time allowed a majority of the parliamentary seats to be elected by the public. A secret ballot produced a noble representative, Lord Siale'ataongo Tu'ivakano, as Tonga's 15th prime minister. He is the first Tongan to become prime minister as a result of being elected by the parliament and not appointed by the monarch. Tonga is a coalition partner in Afghanistan.

The country has an estimated GDP of US\$471.6 million (TOP\$877 million) and with a population of about 104,900 (2012), it is classified as an upper middle income economy by the World Bank. The country's economy relies heavily on overseas remittances. The National Reserve Bank of Tonga reported that the average monthly remittances for the 2013 fiscal year totaled US\$9.45 million (TOP\$17.3 million). Australia accounted for the largest share of remittances at 37 percent, followed by New Zealand at 26 percent. The major export markets are Hong Kong, New Zealand, and the United States, while major import markets are New Zealand, Singapore, the United States, and Australia.

1. Openness To, and Restrictions Upon, Foreign Investment

The Government of Tonga welcomes business and investors, and the country's economy relies heavily on overseas remittances. Many Tongans have lived in or visited the United States, and American products are readily recognized. Tonga's fertile soil, English-speaking, educated workforce, and tropical island climate offer advantages to focused investors, though the country's distance from major markets affect the cost of imports and exports. The main productive sectors of the economy are agriculture and tourism. 2013 brought upgrades to the airport and improvements in the energy sector. Tonga became the 151st member of the WTO in June 2007 and underwent a Trade Policy Review by the WTO in 2014.

Reconstruction of the Nuku'alofa Central Business District, damaged by riots in 2006, is completed. In 2012 the government opened the newly reconstructed Vuna wharf accommodating increased number of cruise ship visits to Tonga since its opening. The government also negotiated a number of grant-funded projects with multilateral and development partners to improve infrastructure and sustainable livelihoods.

According to the Asia Development Bank (ADB), the international community responded well to damage caused by Tropical Cyclone Ian after it hit the northern Tonga island group of Ha'apai in January 2014. ADB expects that response to drive additional economic activity through development partner-financed reconstruction and increased remittances in response to lost livelihoods.

Most of the medium-large businesses have internet access. According to the International Telecommunications Union, roughly 35 percent of residents used the internet in 2012. 2013 saw the completion of a new underwater fiber optic cable connecting Tonga to the Southern Cross Cable, the main trans-Pacific link between Australia and the United States. The establishment and operation of the 827 km submarine cable system, which runs from Tonga to the Republic of Fiji, provides Tonga's population of 100,000 with affordable, accessible, information and communication technology services. In addition to boosting Tonga's international connectivity, the project is expected to bring significant economic and social benefits to the people of Tonga in the coming years.

The Ministry of Commerce, Tourism and Labor (MCTL) administers Tonga's foreign investment policy and regulations. Businesses with any foreign ownership must obtain and hold valid foreign investment registration certificates. The application fee is about US\$68 (TOP\$115) and can be obtained by applying to the Secretary of the MCTL. Certificates are valid until the business terminates activity. If a business does not commence activity within a year after a certificate is issued, the certificate becomes invalid.

After obtaining a foreign investment certificate, an investor must apply for a business license. The application, which must be accompanied by a valid foreign investment registration certificate, can be made to the Business Licensing Officer at the MCTL.

The MCTL also processes company registrations. A foreign company that wishes to do business in Tonga must apply for incorporation under the Companies Act of 1995. The applicant must first reserve the company name at a cost of about US\$47 (TOP\$80). The fee to register is about US\$235 (TOP\$400). For a company to qualify as a "Tongan company," the majority of shareholders must be Tongan. Partnerships and sole proprietors need not register but must have a valid business license.

Table 1: The following chart summarizes several well-regarded indices and rankings.

Measure	Year	Rank or value	Website Address
TI Corruption Perceptions index	2011	95 of 182	http://cpi.transparency.org/cpi2013/results/
Heritage Foundation's Economic Freedom index	2014	104 of 178	http://www.heritage.org/index/ranking
World Bank's Doing Business Report "Ease of Doing Business"	2014	57 of 189	http://doingbusiness.org/rankings
World Bank GNI per capita	2012	4,220	http://data.worldbank.org/indicator/NY.GNP.PCAP.CD

2. Conversion and Transfer Policies

The National Reserve Bank of Tonga (NRBT) exercises control on foreign receipts and payments. Repatriation of funds, including dividends, profits, capital gains, interest on capital and loan repayment and salaries, is permitted, with the following exceptions: when an industrial enterprise is partly financed by locally raised capital (including working capital), in which case the repatriation of funds will be related to the extent of foreign financing (that is, repatriation will be regulated on a pro-rata basis); in respect of capital gains, the amount eligible for repatriation will be restricted to the amount transferred inward through the banking system or by other approved methods; and expatriate employees will be allowed to remit overseas wages and salaries received in Tonga up to the amount on which income tax has been paid.

Banks and financial institutions are permitted to remit US\$5882 (TOP\$10,000) per person per year. All transfers above this amount require NRBT approval.

3. Expropriation and Compensation

Expropriation has not been an issue in Tonga

4. Dispute Settlement

Tonga has a robust judicial system, often staffed at the highest level by expatriate judges. The country's legal system is generally capable of enforcing contractual rights. Tonga is developing its bankruptcy law. There have been no high-profile investment disputes over the last five years. Legislation states that the provisions of the United Kingdom's Arbitration Act of 1996 govern arbitration under Tonga's Foreign Investment Act.

The World Bank Doing Business 2014 survey, ranked Tonga 48 out of 189 economies on the efficiency of the judicial system to resolve a commercial dispute. According to the survey, Tonga required 37 procedures to enforce a contract, took 2.7 years to complete procedures at a cost of 30.5 percent of the value of the claim.

5. Performance Requirements and Investment Incentives

Investment incentives include: guaranteed long-term space and land leasing in the Small Industries Center, a 12-acre industrial estate, located about one kilometer from the center of Nuku'alofa; residential and work visas for foreign investors and their families for as long as the enterprise is in operation; and priority for electricity, telephone, and water connections. Technical and promotional assistance from the MCTL is available to help prospective investors identify, evaluate and set up industries. Once a business license is obtained, the business can operate.

Although the Foreign Investment Act specifies activities reserved for local businesses and included a list of these activities, the government allows full ownership by a foreign investor in cases where manufacturing activities use imported raw materials for export, or where the investments are too large for local investors. Projects are considered on an individual basis. The government generally encourages joint ventures.

Tonga does not have subsidized research and development programs for U.S or other foreign firms in Tonga.

Tonga does not have forced localization.

6. Right to Private Ownership and Establishment

Both foreigners and domestic investors have equal rights for incorporating and establishing entities. Foreign investment legislation contains a list of 13 business activities reserved solely for Tongans and a separate list of business activities open to foreign investors under restricted conditions. Activities not identified on either list are open without restriction to foreign investors. Foreign investment in the restricted business areas may be permitted provided that investors satisfy the conditions prescribed in the regulations. The Business License Act also prohibits activities such as the storage, disposal or transport of nuclear or toxic waste, pornography, prostitution, processing or export of endangered species, production of weapons of warfare.

Tonga's Business Licenses Act's includes a list of activities reserved for Tongans. These include small business activities such as taxis, passenger vehicles for hire, used motor vehicle dealers, retailing activities which consist of the distribution of grocery products (food & household provisions) for final consumption, wholesaling activities, the baking of white loaf bread, the raising of chickens for the production of eggs, security related business, export of green and mature coconuts, wiring and installation of residential and commercial buildings with capital investment of less than US\$294,117.6 (TOP\$500,000), production and farming of root crops (yams, taro, sweet potato, cassava), squash, paper mulberry, pandanus, and kava, fishing activities comprising: reef fishing; inshore fishing within 12 nm (Zone C) in water less than 1000 meters; bottom fishing in water depth less than 500 meters, and Tongan cultural activities, including: folktales, folk poetry, and folk riddles; folk songs and instrumental folk music; folk dances, and folk plays; production of folk arts in particular, drawings, paintings, carvings, sculptures, woodwork, jewelry, handicrafts, costumes, and indigenous textile.

7. Protection of Property Rights

Land cannot be bought or sold in Tonga, but may be leased through formal lease arrangements. Leases are usually 50 years in duration, although the law permits terms up to 99 years. The government has designated areas for small industry development, known as Small Industry Centers, on the two island areas of Tongatapu and Vava'u.

Tonga has legislation protecting patents, utility models, designs and trademarks. Legislation includes the Industrial Property Act 1994, Copyright Act 2002, Geographical Indication Act, Integrated Circuit Act, and Unfair Competition Act, however enforcement is weak. Counterfeit products are available on the local market. Counterfeit home entertainment items are common as there is no theater in Tonga to show legitimately distributed movies. Tonga is currently developing a Border Measure Bill.

Resources for Rights Holders:

Ministry of Commerce, Tourism and Labor
Registry and Intellectual Property Office
Phone: +676 23688

U.S. Embassy point of contact: U.S. Embassy Suva Commercial Office
Address: 158 Princes Road, Tamavua, P.O. Box 218, Suva, FIJI
Telephone: (679) 331 4466
Email Address: suvacommercial@state.gov

Local attorneys list: [http://suva.usembassy.gov/tonga - attorneys .html](http://suva.usembassy.gov/tonga_-_attorneys_.html)

“For additional information about treaty obligations and points of contact at local IP offices, please see WIPO’s country profiles at <http://www.wipo.int/directory/en/>.”

8. Transparency of the Regulatory System

While it remains somewhat challenging to establish a business, the government has instituted reforms to make the procedures and processes easier and quicker for investors. Tonga is placed 57 (out of 189 economies) in the “Ease of Doing Business 2014” ranking, increasing 3 places from 2013.

It is normal practice in Tonga for government agencies to conduct public consultations on draft bills or regulations for public comment. The Foreign Investment Act is currently under review.

9. Efficient Capital Markets and Portfolio Investment

Foreign investors are generally able to obtain credit on the local market. There are four international commercial banks, with the recent entrant, Pacific International Commercial Bank (PICB) opening in March 2014. The PICB is a Chinese-Tongan private partnership. As of December 2013, the banks had approximately US\$269.7 million (TOP\$458.5 million) in assets and liabilities.

10. Competition from State-Owned Enterprises (SOEs)

Private enterprises are allowed to compete with public enterprises under the same terms and conditions. Laws and rules do not offer preferential treatment to SOEs. SOEs are in most cases registered companies and operate under the Companies Act. SOEs are subject to the same taxes and the same value added tax rebate policies as private sector competitors. State-owned enterprises are subject to budget constraints and these are enforced.

Currently there are 15 SOEs: Tonga Communication Corporation, Ports Authority Tonga, Tonga Airports Limited, Tonga Broadcasting Commission, Tonga Development Bank, Tonga Cable Limited, Friendly Islands Shipping Agency Ltd, Tongatapu Market Limited, Tonga Water Board, Tonga Power Limited, Tonga Forest Product Limited, Tonga Export Quality Management Limited, and Tonga Asset Managers and Associates Limited. Laws do not provide for a leading role for SOEs or limit private enterprise activity in sectors in which SOEs operate. All SOEs undertake commercial activities as stipulated in the Public Enterprise Act.

SOEs have independent boards of directors and are not obligated to consult with government, though directors coordinate with appropriate cabinet agencies on major policy issues.

All SOEs are under the governance of a Board of Directors which report to the Minister for Public Enterprises. Directors are appointed by Minister for Public Enterprises, with the consent of cabinet for a term of up to three years. Cabinet approved guidelines on the selection of directors which includes advertising vacant director positions.

Tonga has no Sovereign Wealth Fund (SWF) or Asset Management Bureau (AMB). All SOEs are required by law to submit their annual report together with their audited financial statements to the Minister for Public Enterprises. These reports are made public.

11. Corporate Social Responsibility

There is a general awareness of corporate social responsibility among both producers and consumers, and foreign and local enterprises to follow generally accepted corporate social responsibility (CSR) principles such as the OECD Guidelines for Multinational Enterprises. Firms that pursue CSR are viewed favorably but consumers generally prioritize value for money ahead of CSR claims.

12. Political Violence

The parliamentary government and constitutional monarchy function without signs of political violence. The elected government, in January 2011, lifted a state of emergency imposed during the 2006 riots. The risk of civil disorder is low. Reconstruction of damaged buildings in the Nuku'alofa Central Business District is now complete.

There are no significant border disputes at risk of military escalation. The November 2010 Parliamentary elections were free and peaceful.

13. Corruption

Tonga ranked 95 out of 183 countries with an index of 3.1 out of 10 in the 2011 Transparency International Corruption index. The law provides criminal penalties for official corruption, however the government did not implement the law effectively and officials sometimes engaged in corrupt practices with impunity.

The Office of the Auditor General reported a case of official corruption relating to a diplomatic passport issued to a Chinese national. The Office of the Anti-Corruption Commissioner is charged with investigating official corruption; however the office was not sufficiently resourced.

There are no international non-governmental "watchdog" organizations represented locally.

Contact at government Agency - Office of the Anti-Corruption Commissioner

- **NAME: Mr Aisea Taumoepeau**
- **TITLE: Commissioner for Public Relation**
- **ORGANIZATION: Ministry of Justice**
- **ADDRESS: Nuku'alofa, Tonga**
- **TELEPHONE NUMBER:67626980**

14. Bilateral Investment Agreements

Tonga is party to bilateral investment treaties with the United Kingdom and Fiji.

15. OPIC and Other Investment Insurance Programs

Overseas Private Investment Corporation (OPIC) insurance is available to investors in Tonga, and OPIC can provide political risk insurance, finance, direct loans, and loan guarantees.

16. Labor

Tonga's labor force in 2012 was estimated at 42,090 with women accounting for 42.6 percent of workers. The unemployment rate stood at 6.5 percent. This rate does not reflect the significant number of people who are underemployed.

The Ministry of Commerce, Tourism and Labor is responsible for enforcing labor laws and regulations in the wage sector of the economy. The law stipulated specific occupational health and safety standards for each sector, e.g. fisheries, agriculture, etc., and the Ministry of Health enforced these standards. There is no minimum wage law although the government set guidelines for wage levels. Wages and salaries are comparatively low and are directly negotiation between employers and workers.

There are currently no trade unions in Tonga, although there is legislation permitting unions to form. The Public Servants Association operates as a de facto trade union for civil servants. Local skilled labor is available in sufficient quantities to undertake most types of building work, except for some specialized skills and supervisory-level manpower, which is generally recruited from abroad.

17. Foreign Trade Zones/Free Ports

Tonga does not operate any foreign trade zones or free port facilities.

18. Foreign Direct Investment (FDI) and Foreign Portfolio Investment Statistics

Table 2: Key Macroeconomic Data, FDI in Tonga

Economic Data	Year	Amount	
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Tonga Gross Domestic Product (GDP) (<i>Millions U.S. Dollars</i>)	2012	471.6	http://www.worldbank.org/en/country
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The U.S. Commerce Department's Bureau of Economic Analysis records no U.S.-sourced FDI stocks for Tonga. No recent data is available for total inward FDI. According to the World Bank, total investment (gross fixed capital formation) in 2012 amounted to 33.4 percent of GDP. Foreign businesses are largely in the retail sector, and many are owned by ethnic Chinese and Indians. The Tonga Chamber of Commerce and Industry is the country's peak private sector organization and its membership covers businesses in all sectors.

19. Contact Point at Post for Public Inquiries

- TITLE: U.S. Embassy Suva Commercial Office
- ADDRESS: 158 Princes Road, Tamavua, P.O. Box 218, Suva, FIJI
- TELEPHONE: (679) 331 4466
- EMAIL ADDRESS: suvalcommercial@state.gov