

# WORLD TRADE ORGANIZATION

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**Working Party on the  
Accession of Tonga**

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## ACCESSION OF TONGA

### Legislative Action

The Ministry of Labour, Commerce and Industry of the Kingdom of Tonga has submitted the following information on 'Legislative Action Resulting from the WTO Accession Process', with the request that it be circulated to members of the Working Party

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Legislative Action Resulting from the WTO Accession Process

WTO Agreement or other subject-matter	Related laws and other legal provisions	Status of indicated legislation	Comment
<b>General</b>	Trade Law		Subsequent legislation to be revised where found to be incompatible with WTO provisions
	Price Control		Protocol Commitment: "Tonga would apply its price control measures in a WTO-consistent fashion, and take into account the interests of exporting WTO Members as provided for in Article III:9 of the GATT 1994. Tonga would also publish the list of any goods and services subject to price controls in its Official Gazette."
<b>Trading Rights</b>	Business Licences Act	Passed by Parliament.  To enter into force no later than date of accession.	
			Protocol Commitment: "From the date of accession, Tonga would ensure that its laws and regulations relating to the right to trade in goods and all fees, charges and taxes levied on such rights would be in full conformity with its WTO obligations, including Articles VIII:1(a), XI:1 and III:2 and 4 of the GATT 1994 and that it would implement such laws and regulations in full conformity with these obligations."
	Import Licensing Procedures (including Import Licensing Fee)	To be abolished no later than date of accession	
<b>Tariffs and Duties</b>	Excise Tax Regime		Modification to ensure equal treatment of both domestic and imported products, particularly alcoholic beverages.
	Import duties	As from the date of accession	Prohibition of introduction and maintenance of import duties above the rates bound in Tonga's Tariff Schedule, to be agreed in Tonga's negotiations on this subject with individual WTO Members.
	Tariff Quotas and Tariff Exemptions	As from the date of accession	Protocol Commitment: "Upon Tonga's accession to the WTO, any tariff quotas and tariff exemptions would only be implemented in conformity with the relevant WTO provisions including Article I of the GATT 1994 and the TRIMs Agreement."
	Other duties and charges	To enter into force no later than date of accession	Abolishment of (bound at 0%): Ports and Services Tax Wharfage Dues Berthage Dues

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<b>Quantitative restrictions</b>		As from the date of accession	Protocol Commitment: “Tonga would, from the date of accession, not introduce, re-introduce or apply quantitative restrictions on imports, or other non-tariff measures such as licensing, quotas, prohibitions, bans and other restrictions having equivalent effect that cannot be justified under the provisions of the WTO Agreement. The legal authority of the Government of Tonga to restrict or prohibit importation of goods into Tonga would be applied from the date of accession in conformity with the relevant requirements of the WTO, in particular Articles XI, XII, XIII, XVIII, XIX, XX and XXI of the GATT 1994, and the Agreements on Agriculture, the Application of Sanitary and Phytosanitary Measures, Import Licensing Procedures, Safeguards, and Technical Barriers to Trade.”
	Customs and Excise Act	To be abolished as at date of accession	Abolition of import restrictions on: - Eggs Cabin and ships biscuits Brandy and whisky not matured in wood for three years Rum not matured in wood for two years
<b>Customs Valuation</b>		See response to Q51 for proposed Legislative Action Plan.	Present valuation rules do not conform to WTO requirements. WTO-compatible system needs to be introduced.  Given the length of time required to implement the new legislation, the Government of Tonga requests a transitional period permitting it to complete this process after its accession to the WTO.
		As from the date of accession	Protocol Commitment: “From the date of accession to the WTO Tonga would abide by the provisions of WTO relating to judicial and administrative decisions, including Article X:3 of GATT 1994.”
<b>Internal taxes on imports</b>		As from the date of accession	Protocol Commitment: “From the date of accession Tonga would apply its domestic taxes in full compliance with the relevant provisions of the WTO, including Articles I and III of GATT 1994, in a non-discriminatory manner to imports from all WTO Members and to domestically-produced goods.”

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<b>Rules of Origin</b>	Legislation to enforce the rules of the WTO Agreement on Rules of Origin	To enter into force no later than date of accession	Protocol Commitment: “From the date of accession, Tonga’s preferential and non-preferential rules of origin would comply fully with the WTO Agreement on Rules of Origin, including the provisions of Article 2(h) and Annex II, paragraph 3(d) of the Agreement, i.e. that for non-preferential and preferential rules of origin, respectively, the customs authority will accept requests from an exporter, importer or any person with a justifiable cause for an assessment of the origin of the import.”
<b>Contingency Protection (Anti-dumping duties, countervailing duties, safeguards)</b>	Legislation to ensure that Tonga will not apply any anti-dumping, countervailing or safeguard measures until it has implemented appropriate laws in conformity with the provisions of the WTO Agreements on these matters.	To enter into force no later than date of accession	Protocol Commitment: “Tonga would not apply any anti-dumping, countervailing or safeguard measures until it had implemented appropriate laws in conformity with the provisions of the WTO Agreements on these matters. Tonga would ensure the full conformity of any such legislation with the relevant WTO provisions, including Article VI and XIX of the GATT 1994 and the Agreement on the Implementation of Article VI, the Agreement on Subsidies and Countervailing Measures and the Agreement on Safeguards. After such legislation was implemented, Tonga would only apply any anti-dumping duties, countervailing duties and safeguard measures in full conformity with the relevant WTO provisions.”
<b>Technical Barriers to Trade</b>		To enter into force no later than date of accession	Protocol Commitment: “Tonga would ensure that no technical regulations, standards and conformity assessment procedures are adopted or implemented until Tonga has implemented appropriate laws ensuring conformity with the provisions of the Agreement on Technical Barriers to Trade. Tonga would ensure the full conformity of any such legislation with the Agreement on Technical Barriers to Trade.”
	Establishment of a TBT enquiry point	To enter into force no later than date of accession	
	Discretionary powers under the Public Health Act	To enter into force no later than date of accession	Action to ensure that the Minister of Health does not use his powers under the Public Health Act to regulate the size, dimensions, and other specifications of packages of food.

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<b>Agreement on the Application of Sanitary and Phytosanitary Measures</b>	<p>Animal Diseases Bill (Amendment) Act 2002 Agricultural Commodities Export Act (2002) Pesticides Act (2002)</p> <p>Require passage of legislation making observation of the SPS Agreement mandatory.</p> <p>Adoption of regulations containing the administrative procedures necessary to administer the SPS Agreement.</p>	Implementation as from the date of accession.	Protocol Commitment: “Tonga would apply the agreement on the application of sanitary and phytosanitary measures from the date of its accession without any transitional period.”
<b>TRIMS Agreement</b>	Legislation to ensure that no measure inconsistent with the TRIMs Agreement is taken, including specific prohibition of import substitution measures and trade-balancing measures, as defined in the Annex to that Agreement	To enter into force no later than from date of accession	Protocol Commitment: “Tonga would not maintain any measures inconsistent with the TRIMs Agreement and would apply the TRIMs Agreement from the date of accession without recourse to any transitional period.”
	Foreign Investment Act	Passed by Parliament but yet to complete draft regulations.	

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<b>State-trading Practices</b>			Protocol Commitment: “Tonga would apply its laws and regulations governing the trading activities of State-owned enterprises and other enterprises with special or exclusive privileges and would act in full conformity with the provisions of the WTO Agreement, in particularly Article XVII of the GATT 1994 and the Understanding on that Article and Article VIII of the GATS. Tonga would notify any enterprise falling within the scope of Article XVII.”
<b>TRIPS Agreement</b>	Industrial Property Act 1994 Bill for the Copyright Act 2002 Bill for the Protection of Geographical Indications Act 2001 Bill for the Protection of Layout-Designs (Topographies) of Integrated Circuit Act 2001	Legislative Action Plan detailed in response to Question 82.	Given the length of time required to implement the new legislation, the Government of Tonga requests a transitional period permitting it to complete this process after its accession to the WTO.
<b>Trade-preferences</b>			Protocol Commitment: “Tonga’s Government would observe the provisions of the WTO, including Article XXIV of the GATT 1994 and Article V of the GATS in its trade agreements.”