

# Readiness Assessment for Cross-Border Paperless Trade: Tonga



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# **Readiness Assessment for Cross-Border Paperless Trade: TONGA**

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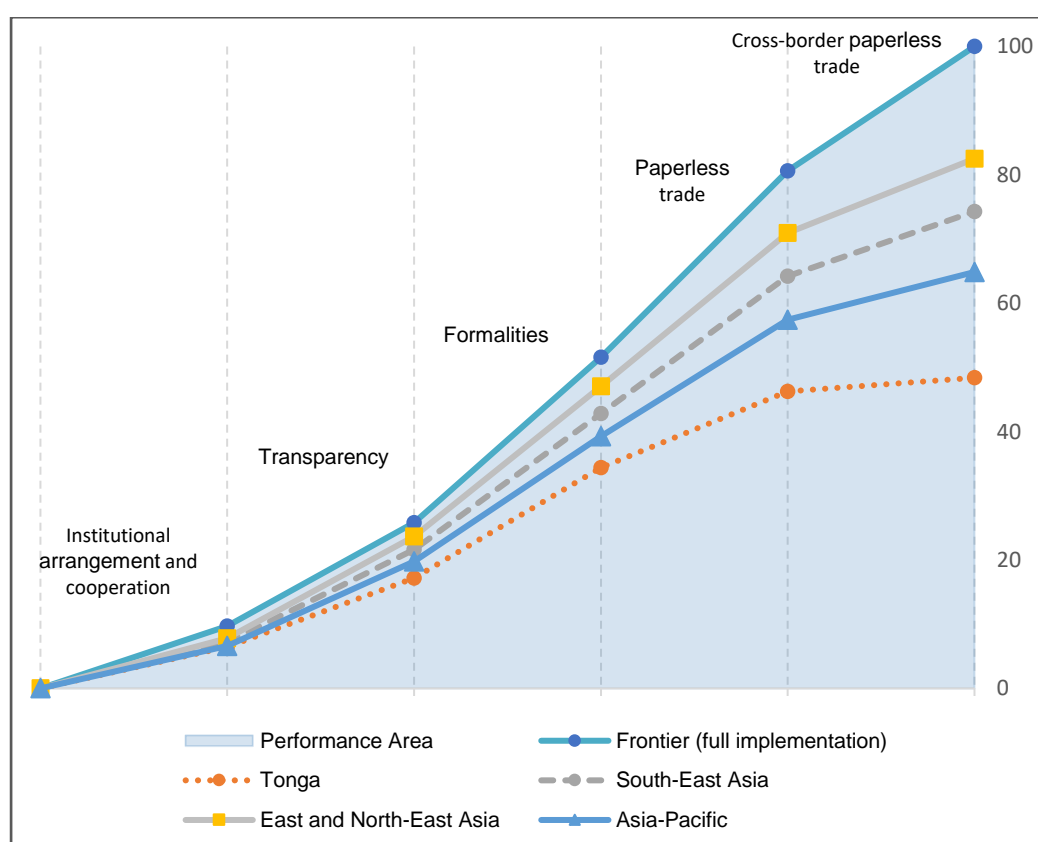


## Executive Summary

This report provides an assessment of Tonga's readiness for cross-border paperless trade, i.e., the conducting of international trade on the basis of electronic data and documents. The report provides a brief overview of trade facilitation implementation in Tonga, followed by findings from the technical and legal readiness assessments for cross-border paperless trade. This report continues with recommendations on both technical and legal aspects of cross-border paperless trade, followed by an action plan as a way forward for Tonga.

Tonga has made some progress in terms of supporting and implementing several initiatives that will pave the way for Tonga to participate in cross-border paperless trade. However, most of the initiatives are at an early stage with much progress to be made in order to enable cross-border electronic data exchange for trade-related data and documents. According to the UN Global Survey on Digital and Sustainable Trade Facilitation, with regards to “paperless trade”; Tonga has partially introduced measures but it has implemented very few cross-border paperless trade measures. Tonga faces various bottlenecks that impede its movement towards cross-border paperless trade. These include the existing trade system that is heavily reliant on manual processes for digital formats, highly cash-based society norms, and delays in the customs clearance and handling process due to crime prevention measures and COVID-19 restrictions.

Figure 1: Cumulative implementation score of core groups of trade facilitation measures, 2021



Note: Maximum possible implementation score is 100.

Source: United Nations Global Survey on Digital and Sustainable Trade Facilitation, untfsurvey.org, 2021

Readiness assessment for cross-border paperless trade conducted in Tonga found that the country is at an early stage of implementing paperless trade systems in technical areas. The governance structure is currently in the process of being fully established and Tonga continues to follow through a strong manual process. The ICT infrastructure, which is crucial for paperless trade systems, is still impeded with fragmented and limited network services. There has been continued progress in improving the ICT infrastructure, supported by the National ICT Project. However, the recent unfortunate tsunami is a reminder of Tonga's need to have a reliable Internet connectivity back-up service in the case of natural disasters. Tonga has not conducted business process re-engineering and is in the preliminary stages of data harmonization and standardization. It has only started limited capacity-building activities on ASYCUDA systems. It has very limited activities on cross-border data exchange, once again at the preliminary stage with ASYCUDA system, only being introduced recently.

On the legal side, Tonga also has much progress to make towards cross-border paperless trade. The existing frameworks in Tonga pertaining to the legal and institutional policies related to paperless trade are out-of-date. Tonga has an Evidence Act that recognizes electronic signatures in transactions. However, the main gap identified in e-transaction laws in Tonga is that there is no specific legislation to recognize electronic transmissions. In addition, as the primary legislation protecting consumers, the Consumer Protection Act does not provide specific protection for online transactions. To date, there are no laws in Tonga that expressly permit the admissibility of electronic evidence in the country's court system. There is also no law on electronic signatures, electronic transmissions, information exchange via online nor service level agreements among ministries for data sharing or exchange. Tonga also lacks adequate laws in the area of ownership of information, liability issues, dispute settlement, electronic payments and competitive law.

Over the years, the Government of Tonga has shown commitments to the development of upgraded paperless trade legal and institutional frameworks, with draft Bills on privacy and electronic transactions. However, due to competing government priorities, these Bills have not been processed through the government legislative process. There are also some engagements on cross-border aspects, specifically via its participation in the PACER+ Agreement and the WTO membership – although it has yet to ratify the Trade Facilitation Agreement.

A list of recommendations and an action plan is presented in this report, based on these findings. First, on the technical side, Tonga is recommended to undertake the development of government policies and direction to strengthen the components that will drive cross-border paperless trade, including both public and private stakeholders. Second, it is recommended that Tonga expedite the implementation of the ASYCUDA World System and enable the relevant ministries to be made ICT-enabled so that they can be connected to the ASYCUDA systems. Third, it is recommended that Tonga finalize a strategic plan and guidelines on business continuity of Information and communication technology (ICT) as well as establish partnership in the deployment of ICT networks. Fourth, it is recommended carrying out business process re-engineering, data harmonization as well as capacity-building activities.

On legal side, Tonga needs to establish and amend laws to support national and cross-border trade-related data exchange. Tonga needs to continue pushing to amend its Bills and pass the laws pertaining to electronic transaction as well as the Consumer Protection Act and Computer Crimes Bill. In addition, it should consider establishing electronic data protection and privacy laws and a National Single Window law. Also, the Government of Tonga should proactively review current and potential multilateral and bilateral trade agreements to align to a cross-border paperless trade system. Tonga should ensure that laws allow electronic payments for all purposes and give provision to all participants in international trade transactions.

For cross-border paperless trade to continue developing in Tonga, the crucial constraints highlighted in this report need to be addressed through a comprehensive and collaborative effort from both the public and private sectors.

To facilitate reforms, it is recommended that Tonga accede to the Framework Agreement on Facilitation of Cross-border Paperless Trade in Asia and the Pacific ("Framework Agreement") as soon as possible. By doing so, Tonga can more effectively plan and implement its trade digitalization strategy, and ensure the activities prioritized under the Framework Agreement are fully aligned with its needs. The Framework Agreement will assist Tonga to develop its national capacity, design a long-term plan, engage in pilot exchange of selected data and documents, and keep abreast of emerging legal standards and solutions in the area of cross-border paperless trade.

The readiness assessments, together with the action plan featured in this report, provide a foundation for elaborating more detailed activities at the national and agency levels in this area, with identifiable timelines and budget sources. It is hoped that this report will contribute to the Government of Tonga's quest to accelerate progress towards cross-border paperless trade, including through its accession to the Framework Agreement.

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