

ANNEX 4 – SAINT KITTS AND NEVIS

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1 ECONOMIC ENVIRONMENT

1.1 Main Macroeconomic Developments

1.1.1 Real economy

1.1. The three pillars of the St Kitts and Nevis economy are tourism, financial services and manufacturing. In general, services are the major contributor to GDP, having accounted for 74% in 2012 at current prices. Construction accounted for some 12.2% of GDP in 2012, manufacturing for 10.6%, agriculture for 1%, and water and electricity for 1.5%.¹ Tourism is the most important activity in terms of jobs and foreign exchange, and direct and indirect contribution to GDP. Other contributing services activities include real estate, banking and insurance, wholesale and retail trade, and transportation, as well as services provided by the Government.

1.2. The structure of the economy remained largely unchanged over the 2007-12 period with the service sectors continuing to dominate economic activity with their share in GDP increasing from 71.3% to 78.4%. This pattern continued in 2013. With net inflows equivalent to about 7% of GDP, services also play a critical role in containing the country's external current account deficit. Agriculture continued to decline during the period under review and its contribution to GDP fell from 3% (reported in the previous TPR for 2005), to just 1% (Table 1.1). The sector has not recovered from the demise of the sugar industry, although the production of other crops has increased (section 4.1).

Table 1.1 Composition of GDP by economic activity, 2007-13

(% share of GDP)

	2007	2008	2009	2010	2011	2012	2013 ^a
Agriculture, livestock and forestry	0.87	0.98	0.94	1.11	1.14	1.03	1.03
Crops	0.48	0.55	0.54	0.68	0.71	0.67	0.66
Livestock	0.36	0.40	0.36	0.40	0.39	0.33	0.34
Forestry	0.03	0.03	0.03	0.03	0.03	0.03	0.03
Fishing	0.46	0.51	0.45	0.46	0.56	0.56	0.57
Mining & quarrying	0.17	0.12	0.18	0.13	0.08	0.08	0.08
Manufacturing	6.89	6.99	8.91	10.22	9.77	10.63	10.75
Electricity & water	1.64	1.37	1.50	1.54	1.52	1.45	1.44
Electricity	1.13	0.93	0.96	0.99	1.02	1.01	1.00
Water	0.51	0.44	0.54	0.55	0.49	0.44	0.44
Construction	19.85	18.56	16.43	13.83	13.03	12.24	12.56
Wholesale & retail trade	7.69	8.42	8.22	8.17	7.59	7.17	7.36
Hotels & restaurants	7.22	6.94	5.04	5.33	5.56	5.63	5.34
Hotels	7.02	6.75	4.87	5.16	5.36	5.43	5.16
Restaurants	0.20	0.19	0.17	0.18	0.20	0.20	0.18
Transport, storage and communications	11.20	11.39	10.91	11.92	13.12	12.85	12.88
Transport and storage	6.03	7.14	6.23	6.87	8.03	7.62	7.64
Road transport	3.91	4.67	3.75	4.35	4.98	4.74	4.77
Sea transport	0.13	0.05	0.04	0.04	0.05	0.04	0.04
Air transport	0.05	0.06	0.06	0.06	0.06	0.05	0.05
Supporting and auxiliary transport activities	1.95	2.36	2.39	2.43	2.95	2.78	2.77
Communications	5.17	4.25	4.68	5.04	5.08	5.23	5.24
Financial intermediation	13.43	12.41	12.30	12.12	11.97	12.44	12.47
Banks	9.76	8.54	8.18	8.31	8.19	8.56	8.61
Insurance	1.96	1.77	1.69	1.40	1.40	1.43	1.41
Activities auxiliary to financial intermediation	1.71	2.10	2.43	2.42	2.38	2.46	2.45
Real estate, renting and business activities	14.97	15.62	16.82	17.07	16.68	16.91	16.92
Public administration, defence & compulsory social security	7.61	8.09	8.78	8.67	9.53	9.64	9.40
Education	4.48	4.68	5.07	5.32	5.25	5.36	5.28
Health and social work	2.54	2.56	2.76	2.57	2.63	2.67	2.63
Other community, social & personal services	2.56	2.60	2.78	2.56	2.65	2.49	2.47
Activities of private households as employers	0.34	0.35	0.35	0.31	0.32	0.29	0.29
Less: FISIM	1.93	1.61	1.45	1.34	1.39	1.45	1.47
GVA in basic prices	100	100	100	100	100	100	100

a Estimate.

Source: Eastern Caribbean Central Bank.

¹ Total shares do not add to 100% since financial intermediation services indirectly measured (FISIM) must be subtracted, which includes total property income receivable by financial intermediaries minus their total interest payable. For details see ECCB online information. Viewed at: http://www.eccb-centralbank.org/Media/gdp_estimates_2000to2014.xls.

1.3. In contrast with the developments in agriculture, the contribution of manufacturing (including agri-industry) to GDP increased from 6.9% in 2007 to 10.6% in 2012 (at basic prices, 8.9% at market prices), mainly due to the dynamism of a few industries, and despite a sharp contraction in the refined sugar and molasses industry. The manufacturing sector consists primarily of light manufactures including beverages (beer, malt, rum, bottled water, and other soft drinks), and pasta, with production geared mainly for the domestic market; and of enclave industries that assemble electrical or electronic components, and traps for the cable industry, mainly for export to the United States. The manufacturing sector is the major contributor to domestic exports and the production of electronic components for export to the United States accounts for an estimated 65% of the sector's output. St. Kitts and Nevis continues to be the leading OECS exporter of electronics components to the U.S. market. Food and beverage production accounts for about 17% of manufacturing output with export activity largely concentrated in the CARICOM market. Masonry products (mainly destined for the domestic construction industry) account for about 9%. Manufacturing employs an estimated 8% of the employed labour force. Construction was affected by the global crisis, as investment in new hotel facilities fell; the Government expects activities to rebound in the near future, with new investment in tourism, housing, and public sector projects.

1.4. The tourism sector's estimated share in GDP averaged 6.2% over 2008-12, down from the 7.7% average in the previous five-year period. This reduction is explained to a certain extent by weaker demand weakened in the major source markets, and hurricane damage which resulted in the closure of a major resort hotel in Nevis. The tourism sector has been recovering from this sharp decline, and stay-over arrivals increasing by 6% in the first half of 2013 over the comparable period in 2012. Tourism is the largest single private sector employer, accounting for an estimated 10% of the employed labour force.

1.5. The economy of St. Kitts and Nevis was severely affected by the global crisis, which seriously impacted its tourism revenues and FDI inflows. Reflecting this, real GDP growth was sluggish during the period under review, declining (at market prices) at a 0.3% annual average rate between 2007 and 2012 in the case of real GDP at market prices, and of 0.4% for real GDP at basic prices. Real GDP at market prices contracted in 2009 and 2010, and again in 2012; at basic prices, in every year during 2009-12 (Table 1.2). Following four consecutive years of contraction of real output, the St. Kitts and Nevis economy began to recover in the first half of 2013 and real GDP growth of 1.7% is estimated for the whole year. This incipient recovery is being led by a pick-up in stay-over tourist arrivals and increased construction activity.

1.6. Although it stagnated during the period, GDP per capita in St. Kitts and Nevis, at some US\$14,000 in 2012, is the second highest among OECS countries. St. Kitts and Nevis is now ranked by the World Bank as a high income country. The fiscal position deteriorated as tax revenue declined by almost 20% between 2008 and 2010, and the public debt increased to over 160% of GDP by the end of 2010. This led the authorities to adopt a fiscal adjustment programme at the end of 2010, including tax reform through the elimination of the consumption tax and its substitution by the VAT, and an 80% increase in electricity tariffs. Fiscal consolidation and strengthening the financial sector has been the cornerstone of St. Kitts and Nevis' policy agenda since 2010.²

1.7. The Government estimated GDP growth of over 2.5% for 2013, triggered by investment projects in tourism and to a lesser extent energy; however, actual growth was lower, at 1.7%. As pointed by the IMF and developed in section 3 of this report, investment projects benefit from income tax, VAT, and import duty incentives under the Small Business Act, the Fiscal Incentives Act, the Hotel Aids Act, and the Special Resorts Development Act. Investment flows also benefit from the requirements of the Citizenship by Investment Program. The IMF also reports that, as of end-June 2012, 11% of all applicants to the programme elected to purchase real estate for a minimum of US\$400,000 per unit. FDI flows are expected to continue expanding in the near future. The IMF projects FDI to average 17.5% of GDP in 2014-17, slightly above its pre-crisis level.³

²Government of St Christopher and Nevis (2012).

³ IMF (2013).

Table 1.2 Basic macroeconomic indicators, 2007-13

(Per cent unless otherwise specified)

	2007	2008	2009	2010	2011	2012	2013 ^a
Real sector							
Nominal GDP at market prices (EC\$ million)	1,847.2	1,983.6	1,914.0	1,869.6	1,965.7	1,976.2	2,037.3
Nominal GDP at basic prices (EC\$ million)	1,608.9	1,715.9	1,687.7	1,638.4	1,662.0	1,677.0	1,732.8
Real GDP at market prices (EC\$ million)	1,766.0	1,838.9	1,736.0	1,680.0	1,708.5	1,687.5	1,715.3
Real GDP at basic prices (EC\$ million)	1,538.2	1,590.8	1,530.8	1,472.2	1,444.5	1,432.0	1,459.0
GDP per capita at basic prices (EC\$)	37,770	38,754	36,868	36,756	37,874	37,969	..
GDP growth (real, market prices)	2.8	4.1	-5.6	-3.2	1.7	-1.2	1.7
GDP growth (real, basic prices)	4.8	3.4	-3.8	-3.8	-1.9	-0.9	1.9
GDP components	(% of GDP)						
Total consumption	71.6	86.9	86.5	88.7	84.1	83.3	86.5
Private consumption	62.5	76.6	75.6	78.0	73.6	72.7	76.3
General government consumption	9.2	10.3	10.9	10.7	10.5	10.6	10.2
Gross capital formation	44.9	40.6	40.5	33.1	30.0	28.3	28.7
Construction	36.3	33.7	30.4	25.6	23.2	21.9	22.2
Transport equipment	2.3	2.3	2.0	1.5	1.3	1.3	1.3
Other equipment	6.3	4.5	8.1	6.0	5.5	5.1	5.2
Net exports of goods and services (% of GDP)	-16.5	-27.5	-27.0	-21.8	-14.1	-11.6	-15.3
Exports	34.0	31.9	24.6	29.1	33.1	33.5	33.4
Goods	8.4	9.4	5.3	8.1	9.1	9.2	9.1
Non-factor services	25.6	22.5	19.3	21.0	24.0	24.3	24.3
Imports	50.5	59.4	51.6	50.9	47.2	45.0	48.7
Goods	35.4	42.4	37.4	35.3	32.0	30.1	33.2
Non-factor services	15.1	17.0	14.2	15.6	15.2	14.9	15.5
Gross national savings	28.4	13.0	15.1	13.7	18.2	18.8	16.2
Foreign savings	16.5	27.6	25.4	19.4	11.8	9.5	12.6
Consumer price index (end of period)	2.9	5.3	2.1	0.6	7.1	1.4	0.6 ^b
Consumer price index (period average)	2.8	6.5	1.2	5.2	2.8	0.2	-0.5 ^b
Implicit gross value added deflator (end period)	..	2.6	2.5	0.6	2.8	1.1	..
General government finance	(% of GDP)						
Current revenue	29.2	29.4	30.9	29.2	36.7	36.8	..
of which, tax revenue	22.6	22.8	22.7	19.7	23.0	22.8	..
of which taxes on international trade	10.9	10.6	9.7	9.0	5.9	5.8	..
of which							
Consumption tax	5.3	5.1	4.5	3.7	0.1	0.1	..
Import duties	3.0	2.9	2.7	2.8	2.7	2.6	..
Customs service charges	2.0	2.1	2.0	1.9	1.8	1.7	..
If which Value Added Tax	1.1	8.5	8.2	..
Current expenditure	28.3	29.0	31.4	30.5	33.0	31.2	..
Current account balance	0.9	0.4	-0.5	-1.3	3.1	3.6	..
Primary balance	3.1	5.2	2.1	-0.1	6.0	8.3	..
Overall fiscal balance before grants	-3.5	-1.8	-4.9	-7.7	-1.1	2.1	..
Overall fiscal balance after grants	-1.9	-0.3	-1.1	-4.6	2.8	12.7	..
Total public debt	131.0	148.5	163.9	153.6	144.9	92.3	..
Money and interest rates							
Broad money, M2 (end of period)	11.5	2.0	5.8	8.2	10.1	11.6	13.5 (Apr)
Weighted deposit interest rate	3.8	3.7	3.4	3.5	3.4	3.4	3.4 ^c
Weighted lending interest rate	9.0	8.6	8.5	8.5	9.1	8.4	8.4 ^c
Prime lending rate	8.5	8.5	8.5	8.5	8.5	8.5	8.5

.. Not available.

a Preliminary/estimate.

b June.

c March.

Source: ECCB (2013), *National Account Statistics 2012* and ECCB (2013), *Annual Economic and Financial Review, 2012*.

1.8. During 2007-12, inflation, as measured by the increase in the CPI, was moderate on average, at 3.1% a year; however, it has been relatively volatile since then, reaching peaks in 2008 and 2010, lows in 2011 and 2012, and declining during 2013. Data are not available on the level of employment and wage movement in St Kitts and Nevis for the period under review.

1.1.2 Fiscal policy and structural reform

1.9. The Minister of Finance is responsible for fiscal policy formulation and implementation in St. Kitts and Nevis. This power is vested on the Minister by the Constitution. The Finance Administration Act of 2007 introduced new and amended provisions for the management of public revenue, expenditure, treasury management operations, public debt, public accounts, and the oversight of statutory bodies. St. Kitts and Nevis does not have an independent monetary policy as a consequence of the common currency and the exchange rate peg to the U.S. dollar; fiscal policy is the main domestic instrument used to counter the effects of external shocks and stabilize income. As reported in the previous Review, there is still high dependency on taxes on foreign trade for revenue, although the main share has moved away from tariffs and into the VAT, which was introduced during the period under review (section 3).

1.10. The Constitution grants the Nevis Island Assembly exclusive powers to make laws relating to the mobilization of loan and grant financing and economic planning and development in Nevis. The Ministry of Sustainable Development is responsible for national development planning, and its specific responsibilities include collection and compilation of economic statistics, coordinating relationships with external development lending and donor agencies; monitoring the implementation of the national development plan; preparation and monitoring of the Public Sector Investment Programme (PSIP), and physical planning.

1.11. The global recession of 2008-09 resulted in a sharp deterioration of St. Kitts and Nevis' fiscal accounts. The negative effects of the already high public sector debt burden were aggravated by negative real growth. Since then, St. Kitts and Nevis has been making efforts to improve its fiscal accounts, and showed a primary surplus in every year of the period under review, except in 2009. However, the overall public sector continued to post a deficit until 2012; the deficit (before grants) peaked at 7.7% of GDP in 2010, as increasing debt service requirements limited fiscal flexibility, while tax revenue declined and capital outlays increased. The deficit started to decline in 2011 as a fiscal adjustment programme started to be implemented. Overall fiscal accounts before grants returned to surplus in 2012. Moreover, with domestic debt comprising an estimated 68% of the debt stock, the relatively high exposure of the financial system to sovereign risk emerged as a matter of policy concern.

1.12. In 2010, the authorities started implementing a programme of fiscal consolidation and structural reforms.⁴ The programme included replacement of the consumption tax by a value-added tax (section 3), implementing an Excise Tax Act, introduction of an unincorporated business tax to replace the traders' tax, and restructuring the housing and social development levy. These measures were formally approved and implemented between November 2010 and January 2011 and were accompanied by an electricity tariff reform, a reduction of the share of non-discretionary expenditure in total spending, the strengthening of control systems, and the prioritization of capital expenditure and a freeze of the public wage bill. Apart from achieving a sustainable fiscal position and engaging in debt restructuring, the reforms aim at securing a higher middle-term economic growth path, and strengthening the financial sector. To this end, the Banking Sector Reserve Fund was established to provide temporary liquidity support to solvent financial institutions, if needed. The specific objective of the fiscal adjustment effort, coupled with a comprehensive debt restructuring programme, is to significantly reduce the debt service burden and help set the public debt-to-GDP ratio firmly on a downward path toward the ECCU debt target of 60% of GDP by 2020.

1.13. The programme targeted the achievement of average primary fiscal surpluses of about 5.6% of GDP during 2011–13. The goal was met in both 2011 and 2012 and for 2013 the authorities estimate a primary surplus equivalent to 15% of GDP, and an overall balance of 11.7% of GDP. This was partly a result to the tax reform and expenditure-containment measures, and was supported by strong non-tax revenue flows.

1.14. The IMF backed St. Kitts and Nevis' adjustment programme. In 2011, the Executive Board of the IMF approved a three-year Stand-By Arrangement (SBA) for SDR 52.51 million (US\$84.5 million).⁵ The arrangement was intended to support the economic programme, debt restructuring, to restore debt and external sustainability, and set the stage for sustained growth.

⁴ For details of the actions taken, see Government of St. Christopher and Nevis (2010).

⁵ IMF (2011a).

SDR 22.15 million (US\$35.6 million) was made available for immediate disbursement. In its assessment, the IMF noted that "over the medium term, the structural reforms envisaged by the authorities will complement fiscal adjustment", and that "these reforms aim at strengthening public financial management, improving the business climate, enhancing the social safety nets, removing obstacles to growth, and restoring competitiveness."⁶

1.15. While the reforms introduced are expected to continue to improve fiscal accounts, the authorities still have to tackle the issue of the revenue forgone through fiscal incentives for investment and import duty concessions. Curtailing concessions and making them more transparent, may help strengthen the fragile fiscal situation, and would enhance the predictability and accountability of the investment regime. As a first step in this direction, the authorities have committed, in the context of their reform programme, to review of the system of customs duties and tax exemptions, and to continue to monitor the revenue cost of these exemptions, estimated at about 2% of GDP in the first half of 2012. The idea is to amend the laws providing incentives, including the Fiscal Incentives Act, the Small Business Act, the Hotel Aids Act, and the Special Resorts Development Act. The authorities are considering modifying the provisions of these Acts to make them more rules-based, rationalizing the list of priority sectors eligible for exemptions, streamlining provisions pertaining to reduction of consumption taxes, and favour providing incentives through accelerated capital depreciation instead of tax holidays. However, the full implementation of these measures requires regional coordination since all other OECS states and most other CARICOM countries have similar incentives laws. St. Kitts and Nevis has notified the Fiscal Incentives Act No. 17 of 1974, Cap. 20.14, to the Committee on Subsidies and Countervailing Measures (SCM), and has committed to dismantle all export subsidies provided by the Act by end 2015 (section 3.2.2).

1.16. As part of their reform programme, the authorities have included trade facilitation measures, in particular the further integrating of information technology into customs clearance practices. One of the goals is to raise the ratio of electronic to total customs declarations by facilitating their submission by all large importers. To this end, the authorities envisage improving the design of the e-filing forms to add built-in triggers to facilitate system integration and automated audits.

1.17. Total public debt rose during most of the period under review, reaching 169.3% of GDP in 2009. Considering that debt levels were unsustainable, the authorities announced their intention to seek debt restructuring, in June 2011, and initiated bilateral discussions with key creditors. The overall objective is to place the public debt on a downward path to achieve the target of 60% of GDP by 2020. All public debt was declared eligible for restructuring with the exception of multilateral debt and Treasury bills; a debt-for-land swap programme was include as part of the process of debt restructuring, and the Banking Sector Reserve Fund was created. In 2012 the Government concluded a debt exchange programme with external commercial creditors and negotiated a restructuring arrangement on bilateral debt held with Paris Club creditors. Negotiations with non-Paris Club bilateral creditors have also taken place. The Government also concluded a debt-for-land restructuring programme with its major domestic creditor in 2012.

1.18. In February 2012, the Government launched an exchange offer for external commercial creditors and bondholders, including domestic holders but excluding Treasury bills. The offer was accepted in March 2012 by a creditor committee representing some of the major foreign creditors and some EC\$369 million (US\$135 million) of debt was eligible to be exchanged; some debt holders opted to maintain the full value of their debt with long repayments periods, while others chose to accept a "haircut", but be paid in a shorter period.⁷ The debt-land swap programme was conducted through the establishment of a special purpose vehicle (SPV) in charge of selling the assigned land; proceeds of sales are passed to creditors in settlement of their original claim. The authorities announced their intention to appoint the management of the SPV and outline its operational guidelines by end 2012.⁸ The management of the SPV was subsequently appointed,

⁶ IMF (2011a).

⁷ The IMF noted that about one third of creditors opted for the "par bond", an EC\$-denominated 45-year bond with a 15-year grace period on principal payments that carries a 1.5% coupon. The remaining two thirds of creditors chose the discount bond, accepting a 50% cut in the face value of their claims. The discount bond is a US\$ denominated 20-year bond carrying a 6% coupon for the first four years, and a 3% coupon thereafter. These bonds have a guarantee from the Caribbean Development Bank for up to an aggregate limit of US\$12 million (IMF, 2011b).

⁸Government of St Christopher and Nevis (2012).

and in 2013 several board meetings were held to look at the operational guidelines, ethical standards and government mechanisms. Sales were scheduled to begin in late January 2014.

1.19. As a result of the above measures, the debt stock is estimated to have declined to just above 100% of GDP by the end of 2013. The authorities noted that there has also been some easing of interest payment commitments, which are projected to average 2% of GDP over the medium term down from an average of 6.7% of GDP over 2009-12.

1.20. Apart from dealing with fiscal and debt restructuring issues, the programme comprised a number of other structural reforms. These included changing the management of the price control for basic staples, strengthening the public financial management systems, reforming the social security and pension systems, closing the government-operated Supply Office and transferring the responsibility of managing the supply of price-subsidized staples to the private sector (section 3). The Government also engaged in negotiations with the private sector to rationalize the liquid petroleum gas (LPG) market and revise the price formula. The Government is planning to phase out the subsidies for basic staples in the medium-term in conjunction with strengthening the social safety net. As part of the reform programme and the agreement with the IMF, the Government also committed to limit central government transfers to public enterprises, and to amend the Finance Administration Act, in order to strengthen supervision through the Government Entities Oversight Board. The Government embarked on a process of privatization of the St. Kitts Electricity Company (SKELEC) in August 2011. The authorities state that SKELEC was able to cover its operating costs in 2012.

1.21. In accordance with a recent IMF report, the authorities are pursuing the dual goal of making tax policy more growth friendly, while broadening the tax base and improving revenue administration. To achieve this, the 2013 budget provides for a decrease in the corporate income tax rate from 35% to 33%. At the same time, the authorities are trying to improve tax compliance, close loopholes in the corporate income tax, and strengthen the audit and enforcement processes.⁹

1.1.3 Balance of payments, and monetary and exchange rate policy

1.22. St. Kitts and Nevis' current account of the balance of payments traditionally shows a deficit, since imports of goods largely exceed exports, and the surplus in services, although considerable, is insufficient to cover the difference. Current account deficits, although large, fluctuated widely during the period under review; they peaked at over 25% of GDP during the global financial crisis, in 2008 and 2009. The crisis impacted St. Kitts and Nevis' balance of payments largely through a sharp decline in tourism receipts, which had not yet returned to pre-crisis levels as of 2013. More specifically, while the 2008 increase in the deficit was primarily on account of higher import levels, the sharp downturn in tourism receipts was the main cause of the high deficit in 2009. The trade balance shows a traditional large deficit, as imports are almost four times the value of exports (Table 1.3). However, since 2008, it has declined considerably, mainly on account of a 38% decline in imports between 2008 and 2013. Although 2008 levels were above trend, 2013 imports were still low by historically levels, being below the levels recorded in 2007 prior to the crisis. Over 2007-13, repatriated profits by branches of foreign-owned commercial banks (averaging 2.4% of GDP) continued to be the main driver of the negative income balances. The overall balance averaged 4% of GDP over the period.

1.23. As during the previous review period, the deficits have been financed largely by high foreign direct investment (FDI), although there were also sizeable capital transfers during 2007-13. Net FDI inflows ranged from 16% to 20% of GDP. Real estate property sales to non-residents dominate FDI inflows, accounting for some 66% of the total over the period.

1.24. The external public debt service ratio, which had averaged 23% of GDP during 2007-11, fell off to 10.6% of GDP in 2012, largely reflecting, the impact of the restructuring of the country's external commercial debt.

⁹ IMF (2014).

Table 1.3 Balance of payments, 2007-13

(US\$ million)

	2007	2008	2009	2010	2011	2012	2013
Current account	-113.0	-203.3	-180.1	-138.6	-88.2	-70.8	-62.7
Goods and services	-113.3	-202.3	-191.4	-155.9	-105.5	-86.5	-83.1
Goods	-203.9	-243.0	-228.1	-194.6	-171.3	-156.8	-193.1
Merchandise	-191.3	-249.2	234.2	-200.9	-178.6	-164.7	-194.4
Exports	51.6	62.7	31.5	51.8	60.8	60.9	56.9
Imports	243.0	311.9	265.7	252.7	239.3	225.6	251.3
Repair on goods	0.1	0.1	0.2	0.2	0.1	0.2	0.1
Goods procured in ports by carriers	5.9	6.1	6.0	6.1	7.2	7.7	1.2
Services	72.1	40.6	36.7	38.7	65.7	70.3	110.0
Transportation	-30.3	-47.5	-29.2	-30.9	-29.6	-28.7	-30.7
Travel	112.3	95.6	72.0	76.5	79.9	79.3	85.5
Insurance services	-8.6	-12.6	-10.9	-11.4	-11.2	-11.0	-12.1
Other business services	-5.7	-1.4	-3.1	-12.4	-8.2	-7.1	-17.6
Government services	4.3	6.6	7.9	16.9	34.9	37.8	84.9
Income	-31.0	-34.1	-33.9	-29.2	-29.3	-31.3	-14.6
Compensation of employees	-0.5	-0.6	-0.6	-0.4	0.0	0.0	0.0
Investment income	-30.4	-33.6	-33.4	-28.8	-29.3	-31.3	-14.7
Current transfers	31.2	33.1	45.1	46.5	46.6	47.0	35.0
General government	6.6	4.6	15.4	12.7	16.5	16.7	2.8
Other sectors	24.6	28.5	29.7	33.9	30.1	30.3	32.2
Capital and financial account	130.7	218.1	206.1	171.4	150.7	89.2	75.7
Capital account	20.3	33.9	25.8	60.2	68.1	77.1	133.2
Capital transfers	20.3	33.9	25.8	60.2	68.1	77.1	133.2
Financial account	110.4	184.1	180.3	111.2	82.6	12.1	-57.5
Direct investment	134.5	177.9	130.7	116.3	109.6	100.4	110.8
Portfolio investment	-13.0	10.5	-11.1	-17.3	-15.4	-9.1	..
Other investments	-11.1	-4.3	60.7	12.2	-11.6	-79.2	-168.3
Public sector long-term loans	-4.2	25.3	-1.7	-0.7	14.3	17.1	-12.0
Commercial banks	-29.8	-55.4	64.2	20.3	-27.8	-149.0	-170.8
Other assets	6.1	-6.1	-6.3	0.0	9.5	11.3	-14.0
Other liabilities ^a	16.7	32.0	4.5	-7.4	-7.6	41.5	28.6
Overall balance	7.2	14.7	26.0	32.8	62.4	18.4	39.7
Financing	-7.2	-14.7	-26.0	-32.8	-62.4	-18.4	-39.7
Change in SDR holdings	0.0	0.0	-13.3	0.0	13.5	0.0	0.0
Change in government foreign assets	-0.1	-0.1	0.0	-0.1	-0.1	0.0	0.0
Change in imputed reserves	-7.1	-14.6	-12.7	-32.7	-75.9	-18.5	-39.7
Memorandum							
Current account balance (% of GDP)	-16.5	-27.6	-25.4	-19.4	-11.8	-9.5	-8.3
Estimated visitor expenditure (EC\$ million)	..	297.2	225.4	241.7	254.1	252.9	..
Outstanding external public debt (% of GDP)	..	44.6	43.2	42.3	46.3	41.8	..
Import cover ratio (months)	..	8.4	13.9	14.7	18.6	22.7	..

.. Not available.

a Includes errors and omissions.

Source: ECCB, *Annual Economic and Financial Review*, 2012 and 2013.

1.25. Together with the other OECS States, St. Kitts and Nevis is a member of the Eastern Caribbean Currency Union (ECCU). The Monetary Council of the Eastern Caribbean Central Bank (ECCB) is responsible for monetary policy for the whole OECS, including two territories that are not WTO Members (Anguilla and Montserrat). The exchange rate followed by the ECCB is a peg to the U.S. dollar, at a rate of EC\$2.70 per US\$1. This rate remained unchanged during the review period (as was the case in the previous review period). Although the nominal effective exchange rate followed the movement of the U.S. dollar vis-à-vis the currencies of other trading partners due to the peg, inflation movements differed. Due to an average CPI increase lower in St. Kitts and Nevis than in the United States, there was a real currency depreciation vis-à-vis the U.S. dollar. This, together with a depreciation of the U.S. dollar with respect to the euro and other major currencies, implies a gain in competitiveness for St. Kitts and Nevis during the period under review.

1.26. The growth in monetary aggregates has been accelerating since 2009. Broad money supply (M2) expanded at an annual average of 8.2% between 2006 and 2012 (end-of-period). Credit to the private sector expanded at an annual average of 3% during the period, while credit to the Central Government has been declining sharply since mid-2011, when the debt restructuring programme started. However, credit to the Government still represented some 31% of total credit in 2012, while personal credit accounted for 37% of the total and only 32% of credit was devoted to finance private sector activities, of which the biggest share was for construction.¹⁰ Also, credit to

¹⁰ ECCB (2013).

the private sector increased by just 1% in 2012. In parallel, the stock of net foreign assets doubled between mid-2011 and mid-2013, to exceed EC\$1.56 billion, some 77% of GDP. The prime lending rate remained at 8.5% throughout the period under review; other lending rates also remained relatively stable.

1.2 Trade and Investment Flows

1.27. Exports of goods are highly concentrated on a few manufactured goods. Products such as switches, relays, fuses, and electrical capacitors (SITC 7) accounted for about 80% of total exports in 2012; beverages accounted for some 6%, and other manufactured products for 3%. (Table A1.1). Exports of agricultural products accounted for less than 2% of total exports. Some 22% of all imports are foodstuff and other agricultural products; imports of machinery of transport equipment accounted for some 27% of total imports in 2012, while other manufactured goods (SITC 6 and 8) accounted for another 35% and fuels for 3% (Table A1.2 and Charts 1.1 and 1.2).

1.28. St. Kitts and Nevis' main trading partner continues to be the United States, which was the destination for some 82% of exports in 2012, and the origin of 67% of imports. The second largest partner is Trinidad and Tobago, followed by the United Kingdom, Antigua and Barbuda and other OECS countries, Jamaica and Canada (Tables A1.2 and A1.3).

1.29. Total foreign direct investment during 2007-12 amounted to US\$1.76 billion. The main foreign investment inflows in the period were in construction, hotel development and reconstruction, and the electronics industry.

1.3 Outlook

1.30. The IMF forecasts GDP growth of 1.9% in 2013 and 3.2% in 2014; consumer prices are expected to increase by 3% in 2013 and 2.5% in 2014.¹¹ Over the medium-term, the IMF is expecting economic activity to pick up as construction and tourism are expected to continue to recover. Real GDP growth is estimated to reach 4% in 2016, supported by already approved FDI projects.¹²

1.31. The authorities consider that the economy is now well poised to consolidate its recovery from the effects of the global economic and financial crisis. They have noted that reduction of the debt stock will continue to be the focus of debt-management strategy, and public sector debt, estimated at just above 100% of GDP, is projected to reach 75% of GDP by 2016 and continue trending downwards towards the target of 60% of GDP by 2020. Over the medium term, the outlook is for the economy to continue its recovery and real GDP growth is expected to average 3% over the 2014-16 period. These projections hinge on: (i) continued recovery in key external tourism markets; (ii) a steady pick-up in construction; and (iii) the expectation that manufacturing exports will increase as a result of the planned implementation of the recently negotiated partial scope agreement with Brazil.

1.32. The authorities expect the tourism sector to grow by an average 3% rate over the medium term as stay-over arrivals to increase. After a contraction in 2013, the manufacturing sector is expected to grow at an annual average of 2.8% for the next three years supported in part by projections for duty-free access to the Brazilian market as a result of the ratification of the recently negotiated partial scope agreement. The construction sector is projected to grow by an annual average of 5% over 2014-16, based on the continued buoyancy of the real estate sector and FDI-financed tourism resort development. The wholesale and retail sector is expected to grow by an average 3.9% over the same period, as domestic demand responds to the projected expansion of economic output.

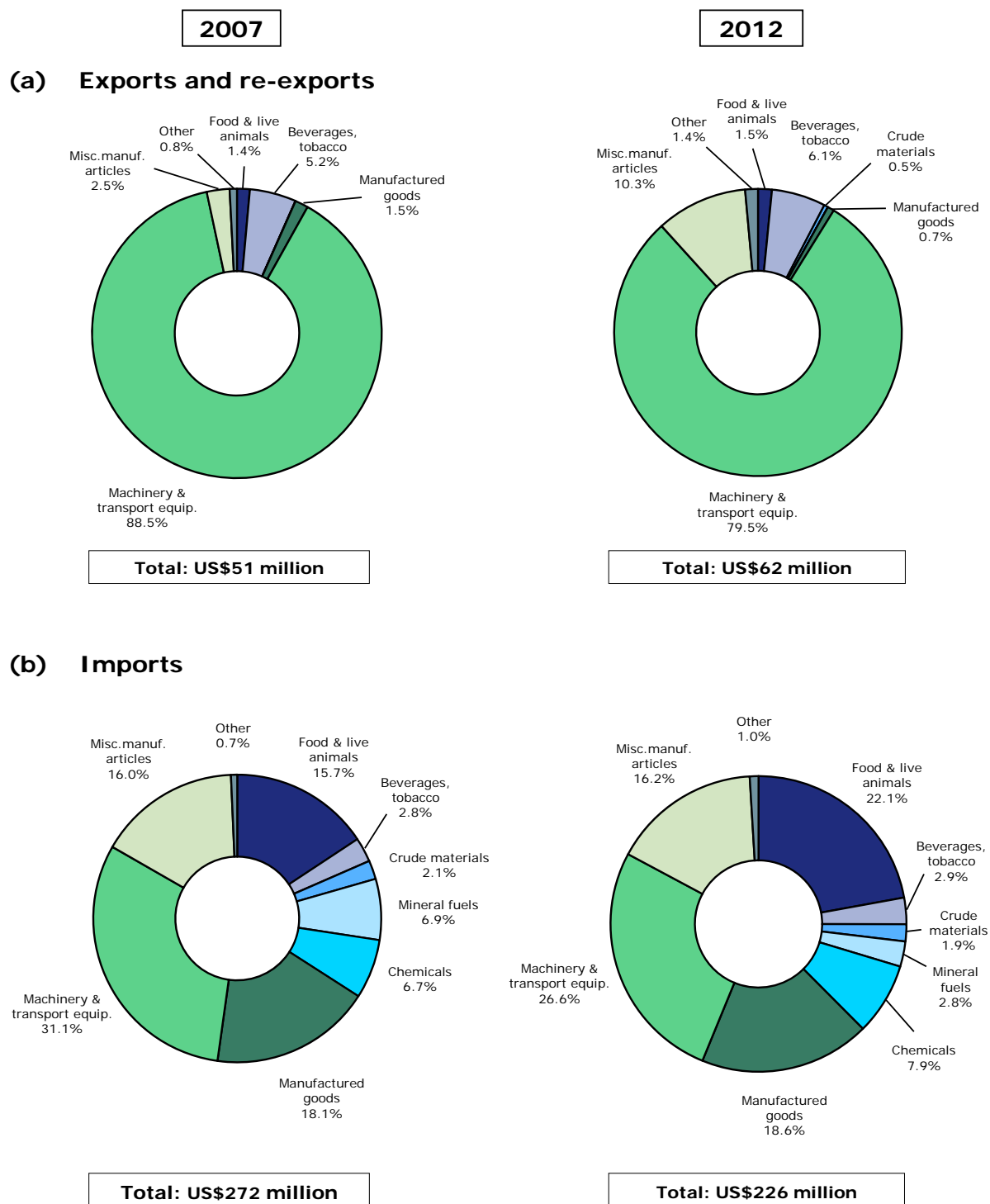
1.33. On the downside, the authorities consider that tourism remains vulnerable to the possible effects of any setback in the ongoing U.S. recovery, to weather-related shocks, and to delays in the implementation of planned private sector construction projects. The trade deficit could widen as a result of increased imports associated with the projected expansion of the real sector.

¹¹ IMF online information. Viewed at: <http://www.imf.org/external/country/KNA/index.htm>.

¹² IMF (2013).

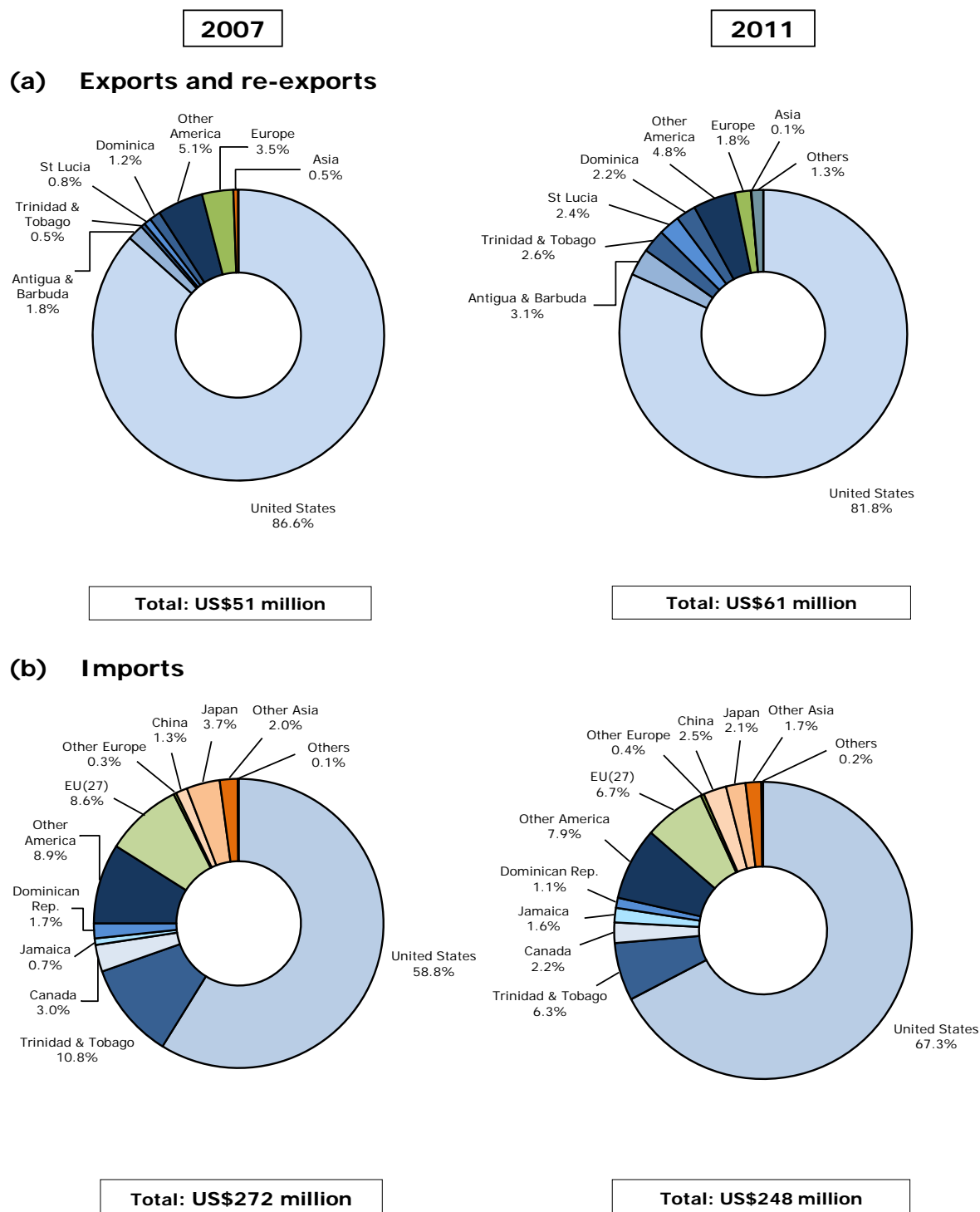
However, the impact on the current account should be mitigated by FDI inflows for the financing of the private sector projects currently in the pipeline.

Chart 1.1 Merchandise trade by SITC section, 2007 and 2012



Source: Eastern Caribbean Central Bank online statistics. Viewed at: <http://www.eccb-centralbank.org>.

Chart 1.2 Merchandise trade, by main origin and destination, 2007 and 2011



Source: Eastern Caribbean Central Bank online statistics. Viewed at: <http://www.eccb-centralbank.org>; and UNSD Comtrade database.

2 TRADE AND INVESTMENT POLICY FRAMEWORK

2.1 General Constitutional and Legal Framework

2.1. The Federation of Saint Kitts and Nevis's legal system is based on English common law. The Constitution is the supreme law and all other laws must conform to it or are void to the extent of any contradiction or inconsistency. Introducing changes to the Constitution requires at least a two-thirds majority vote in the National Assembly and may also necessitate a referendum, depending on the matter.

2.2. The Federation of St. Kitts and Nevis has a Westminster-style parliamentary system. The Queen of England, represented by the Governor General on the island, is the Head of State. Although St. Kitts and Nevis is constitutionally a single state, the Constitution grants significant autonomy to Nevis, which has a semi-autonomous Island Assembly, an Island Administration, and a Premier.

2.3. The exercise of the executive power is the responsibility of the Cabinet of Ministers, which is headed by the Prime Minister, appointed by the Governor General after each election. The appointee is the elected Member of the National Assembly who commands the support of the majority of elected members. The Cabinet is subsequently appointed by the Governor General on the advice of the Prime Minister. The Cabinet is collectively accountable to the National Assembly.

2.4. The Cabinet of Ministers has the power to conclude and sign international treaties and trade agreements; in this respect, the Prime Minister or any other Minister may be authorized to sign such agreements on behalf of St. Kitts and Nevis. International agreements to which St. Kitts and Nevis is a party are not part of domestic law per se; they must be enacted into domestic law. Only WTO Agreements that have been explicitly incorporated into the laws of St. Kitts and Nevis are part of domestic legislation and may be invoked by private individuals before national courts.

2.5. Due to the specific characteristics of the Federation, the responsibility for law-making is shared between the National Assembly in St. Kitts, and the Nevis Island Assembly, depending on the scope and nature of the law. The unicameral National Assembly has exclusive authority to enact laws of federal concern, including on defence or foreign relations, while the Nevis Island Assembly is empowered to enact ordinances related to a range of specified matters. The Nevis Island Assembly is restricted by the Constitution from enacting laws that are inconsistent with the general policy of the Government or relating to matters that are of national concern, without prior concurrence of the Prime Minister. In the event of inconsistencies between the provisions of laws enacted by the National Assembly and those of the Nevis Island Assembly, the former prevail.

2.6. The National Assembly is composed of 11 elected representatives and three senators, one appointed by the Governor General on the advice of the leader of the opposition, and two appointed on the advice of the Prime Minister. Parliamentary elections are due every five years but may be called sooner; the last elections were held in January 2010.

2.7. The law-making process at the federal level starts with the introduction of a bill by a Minister of Government in the National Assembly, generally after the draft of this has been approved by the Cabinet of Ministers. Bills go through three readings; in the course of the second reading it is debated by members of the Assembly and, where necessary, amendments are made. In the third reading, the bill is put to a vote. Bills become law only after they have received the assent of the Governor General and enter into force once they have been published in the *Government Gazette*.

2.8. The judiciary is independent from the Executive and the National Assembly. Magistrate courts deal with minor civil and criminal cases, while serious criminal matters, civil cases involving claims above EC\$5,000, and questions of interpretation of the Constitution are dealt with by the High Court. The Eastern Caribbean Supreme Court, an itinerant court based in St. Lucia, is the first level of appeal (Common Report).¹³ The final court of appeal is the Judicial Committee of the Privy Council (JCPC), based in London.¹⁴

¹³ For more information on the Court, see: <http://www.eccourts.org/>.

¹⁴ More information on the Council, see: <http://www.jcpc.gov.uk/about/role-of-the-jcpc.html>.

2.9. In 2005, St. Kitts and Nevis and other CARICOM members States established the Caribbean Court of Justice (CCJ), a regional court with both original and exclusive jurisdiction for interpreting provisions of the Revised Treaty of Chaguaramas 2001, and appellate jurisdiction for municipal appeals from the member States. However, accession to the appellate jurisdiction of the CCJ could involve a constitutional amendment and possibly a referendum. Final appeals are currently still made to the JCPC.

2.2 Trade Policy Formulation and Implementation

2.10. The Ministry of International Trade, Industry, Commerce and Consumer Affairs is responsible for managing St. Kitts and Nevis's international trade relations, and overseeing the formulation, development, implementation, and management of trade policies. The Ministry has responsibility for all WTO, international and regional trade issues and is in charge of matters related to anti-dumping, subsidies, technical barriers to trade, and competition policy, including enforcement of the two latter issues. The authorities have indicated that the Ministry's objectives are multifold and include coordinating and promoting trade policy, safeguarding and improving citizen welfare, including through consumer protection. This is done through the work of the Ministry's three departments: the Trade Policy Division; the St. Kitts and Nevis Bureau of Standards; and the Consumer Affairs Department.

2.11. The Trade Policy Division is responsible for the coordination, management, development, and implementation of all trade policy issues. This includes trade promotion, business facilitation, and facilitating capacity building in government departments and ministers whose activities affect the country's trade-policy agenda. The Consumer Affairs Department is tasked with ensuring fair trade competition and the free flow of correct information in the marketplace. The St. Kitts and Nevis Bureau of Standards' key responsibilities include protecting the health and safety of consumers; preventing deception of consumers in the purchase of goods and services, facilitating local, regional, and international trade; and assisting the development of industry and commerce locally. The Bureau is also the National Codex Contact Point, the enquiry point for the WTO TBT Agreement, the National Contact Authority for the CARICOM Regional Organisation for Standards and Quality (CROSQ), and the National Contact Authority for the Inter-American Metrology System (SIM). The Bureau is the notification and distribution point for voluntary and mandatory standards and regulations to the Codex Alimentarius Commission.

2.12. Trade policy is developed by the Ministry of International Trade, Industry, Commerce and Consumer Affairs, with input from all stakeholders in the public and private sector as well as civil society through consultations with all parties concerned. The main agencies that participate in the formulation of trade policy are: the Ministry of Finance, Sustainable Development, and Information Technology; the Customs and Excise Department; the Ministry of Foreign Affairs; the Ministry of Legal and Justice; the Ministry of Agriculture and Marine Resources; the St. Kitts Investment Promotion Agency; the Ministry of National Security; and the Chamber of Industry and Commerce. The Customs and Excise Department is directly responsible for tariffs and customs valuation, and participates in the formulation of policy relating to services and to foreign direct investment. The private sector is represented in the trade formulation process by the Chamber of Industry and Commerce, through specially organized consultations. In addition, the views of labour unions are taken into account when formulating trade policy.

2.13. Trade policy coordination across agencies and sectors is through the St. Kitts and Nevis National Trade Policy Advisory Committee (NTPAC).¹⁵ The Committee is actively involved in trade policy formulation and implementation and assists the Ministry of International Trade, Industry, Commerce and Consumer Affairs in building capacity at the national level and ensuring greater participation of a wider cross-section of stakeholders in all trade policy matters. The authorities have emphasized that the Federation's trade policy seeks extensive involvement of stakeholders throughout the process from the identification stage through the development, negotiation, education and implementation stage. This consultative process has been applied by the Ministry and will continue and be intensified mainly through the NTPAC.

¹⁵ The NTPAC is chaired by the Permanent Secretary of the Ministry of International Trade, Industry, Commerce and Consumer Affairs, and comprises representatives from the Ministry of Finance; the Customs and Excise Department; the Ministry of Agriculture; the Bureau of Standards; the Chamber of Commerce and Industry; the National Coalition of Services Industries (NCSI); the Ministry of Legal Affairs; the Nevis Department of Trade; the National Competitiveness Council; and the Trade Facilitation Task Force.

2.14. In the context of this Review the authorities highlighted that the Ministry of International Trade, Industry, Commerce and Consumer Affairs does not have the required human resource capacity to effectively contribute, follow, and participate in all the trade policy issues under discussion and negotiations in the various world arenas, including the WTO.

2.15. St. Kitts and Nevis' trade and investment policy objectives are to use openness to international trade and fuller integration into the global economy as a means to enhance competitiveness and attract foreign direct investment, particularly in tourism and manufacturing, financial services, informatics, and other services, and to promote economic diversification. St. Kitts and Nevis has traditionally considered special and differential treatment in its trading arrangements as vital for its economic development, and its participation in the multilateral system as presenting opportunities to achieve this. In particular, St. Kitts and Nevis regards participation in the WTO as critically important. However, like other OECS member States, due to relatively small human and technical resources in the area of trade policy, St. Kitts and Nevis participates in the system mainly through coordination or agreements with regional partners, as part of the OECS Economic Union, and through CARICOM (section 2.4). As with other CARICOM states, the country depends on the CRNM to facilitate negotiations on its behalf. Policy harmonization with other OECS and CARICOM member States also covers investment, international relations, tourism, and monetary policy. The effort under way to consolidate the OECS Economic Union is given utmost importance and priority.

2.3 Investment Regime

2.16. The Companies Act No. 22 of 1996 regulates the incorporation and registration of companies in St. Kitts, while the process in Nevis is regulated by the Nevis Island Business Corporation Ordinance No. 3 of 1984. In both cases, enterprises must register in the Companies Registry and all registered companies must have a registered office in the Federation of St. Kitts and Nevis. National treatment is applied to foreigners with respect to incorporation and registration of a company: once a company is registered in the Federation, it is considered national, no matter where its capital or shareholders originate. There are no nationality restrictions for directors in a company.

2.17. Taxation in St. Kitts and Nevis relies heavily on indirect taxes, especially since the introduction of the VAT. With respect to direct taxes, St. Kitts and Nevis main provisions are contained in the Income Tax Act, Cap. 20.22. Income tax is applied only to companies: corporate tax is 35% of net profits. Since 1980, there has been no personal income tax. There is a, however, a social services levy of 8% on employee earnings, half of which is paid by the employer. Corporate income tax is not levied on trusts, limited partnerships, and exempt companies, or on enterprises that have been granted a tax concession. Profits or gains derived from a sale of assets located in St. Kitts and Nevis are subject to a capital gains tax of 20%, if the sale takes place within one year of acquisition. In accordance with Section 35 of the Income Tax Act, Cap. 20.22, a withholding tax of 10% is applied on remittances of certain categories of income abroad. Land property tax rates depend on the size and nature of the land concerned.

2.18. In accordance with the Unincorporated Business Act (Act No. 5 of 2010), businesses that are not registered under the Companies Act, including any business, profession, trade, venture or undertaking, must pay a tax of 4% of the tax base relating to the supply of goods and services.¹⁶

2.19. Offshore (exempt) companies are regulated by the Companies Act and the Nevis Island Business Corporation Ordinance. They pay no income, capital gains, withholding, or stamp taxes for operations conducted outside St. Kitts and Nevis. Offshore companies may open bank accounts onshore and may hold shares in onshore or offshore companies incorporated in St. Kitts and Nevis. Offshore companies may also choose to register as exempt limited partnerships under the Limited Partnership Act No. 24 of 1996, or as offshore trusts under the Trust Act No. 23 of 1996 or the Nevis International Exempt Trust Ordinance. Trusts are exempt from the same taxes as other offshore companies, and their beneficiaries are exempt from property taxes.

¹⁶ The tax base is defined in the Act as the gross takings derived from the supply of goods for the month, reduced (but not below zero) by EC\$12,500, or the gross takings derived from the supply of services for the month, reduced (but not below zero) by EC\$2,000.

2.20. The Avoidance of Double Taxation And Prevention of Fiscal Evasion Agreement Act of 2002 (Cap. 25.01) prevents double taxation with respect to taxes on income, profits or gains and capital gains among St. Kitts and Nevis and other members of CARICOM. St. Kitts and Nevis is party to double taxation treaties with Denmark, Norway, Sweden, the United Kingdom, and the United States (limited to social security benefits).

2.21. St. Kitts and Nevis' foreign investment regime is open and foreign investors may hold up to 100% of an investment; they receive national treatment. Foreign investors seeking to purchase property for residential or commercial purposes must, however, obtain an Alien Landholders Licence at a cost of 10% of the value of the land or of the interest in the real estate to be purchased. Licences are granted only after submission to Cabinet for consideration and payment of the licence fees. Foreign investors do not need to pay a fee for a landholding licence for the purchase of land in certain parts of the island, such as Frigate Bay or the South East Peninsula. OECS nationals are exempted from fees.

2.22. Foreign investment is the responsibility of the St Kitts Investment Promotion Agency (SKIPA) and the Nevis Investment promotion Agency (NIPA) with input from the Ministry of International Trade, Industry, Commerce, and Consumer Affairs, the Ministry of Finance, and the Ministry of Sustainable Development. The Government offers a range of incentives to potential investors, particularly in the areas of tourism and hotel accommodation, and manufacturing. Fiscal incentives for foreign investment are granted under the Fiscal Incentives Act of 1974, the Hotel Aids Act, as amended, and under different investment laws in the tourism sector. Remittances to persons or entities abroad are subject to a 10% withholding tax; beneficiaries of the Hotel Aids Act may be exempted. Additionally, where a company is not exempt, there is a 20% capital gains tax on profits from the disposal of assets located in St. Kitts within a year of their acquisition, unless an exemption is granted under the Act. Investment promotion is by the SKIPA in St. Kitts, and by the NIPA in Nevis. As at November 2013, SKIPA was in the process of drafting a new Investment Code.

2.23. Section 3 of the Citizenship Act of 1984 grants the right of citizenship (without voting rights) by investment. This is the legal basis for St. Kitts and Nevis's Citizenship by Investment Programme. The Citizenship by Investment Unit in the Office of the Prime Minister is in charge of managing the programme through appointed authorized persons, who must be approached by the applicant.¹⁷ Applicants must provide comprehensive personal information; a full medical certificate; and evidence of the source of funds. Under the new regulations of the programme, issued in 2012, foreign individuals wishing to obtain citizenship have three options: they must either make a minimum real estate investment of US\$400,000, or make investments or Sugar Industry Diversification Foundation (SIDF) contributions of a minimum total of US\$250,000 for a single applicant; US\$300,000 for an applicant with up to three dependents; US\$350,000 for an applicant with up to five dependents; and US\$450,000 for an applicant with up to seven dependents. They must also pay a number of fees, including due diligence fees of US\$7,500 for the main applicant and US\$4,000 for each dependent over the age of 16 years, and registration fees for the real estate purchased of US\$50,000 for the main applicant and any dependent over the age of 18 years, other than a spouse who, together with dependent children under the age of 18 years must pay a US\$25,000 fee.

2.24. St. Kitts and Nevis has not signed any bilateral investment agreements. It has double taxation agreements with Denmark, Norway, Sweden, the United Kingdom, and the United States.

2.4 International Relations

2.4.1 World Trade Organization

2.25. St. Kitts and Nevis has been a WTO Member since 21 February 1996. St. Kitts and Nevis grants at least MFN treatment to all its trading partners. Preferential market access is granted to imports from other CARICOM countries and to a number of products from the European Union

¹⁷ Authorized person means a person licensed by the Financial Services Regulatory Commission to conduct corporate or trust services in St. Kitts and Nevis and who has paid the fee of US\$5,000, as outlined in the 2012 Regulations. The list of authorized persons must be posted on the Citizenship by Investment website. Office of the Prime Minister online information. Viewed at: http://ciu.gov.kn/sites/ciu.gov.kn/files/New_Regulations_CitizenshipbyInvestment-letter.pdf.

under the EPA. There is no umbrella legislation in St. Kitts and Nevis to enact the Uruguay Round Act into domestic law. Therefore, the WTO Agreements are only part of domestic legislation insofar as specific laws for their implementation have been put in place. As at June 2013, St. Kitts and Nevis was lagging behind in its process of incorporating the results of the Uruguay Round into domestic legislation. This situation was reported in the previous two Reviews. Private individuals may invoke WTO provisions before national courts only to the extent that the Agreements are incorporated into national legislation.

2.26. Under the GATS, St. Kitts and Nevis made specific commitments on tourism, recreational, communications, financial, and maritime transport services. It did not participate in the extended WTO negotiations on telecommunications or on financial services.

2.27. St. Kitts and Nevis does not have a national representation to the WTO in Geneva; it is represented by an OECS chargé d'affaires posted in Geneva. It is member of the following groups in the DDA negotiations: G-90 (ACP + least-developed countries); small, vulnerable economies (SVEs)-NAMA; G-33, also called Friends of Special Products, in agriculture (coalition of developing countries pressing for flexibility for developing countries to undertake limited market opening in agriculture); W52 sponsors (sponsors of TN/C/W/52, a proposal for "modalities" in negotiations on geographical indications). St. Kitts and Nevis has also supported a request by a number of small developing Members of the WTO for an extension until 2018 for the provision of export subsidies.¹⁸

2.28. St. Kitts and Nevis has made few notifications to the WTO since 2007, mostly pursuant to Article XVI of the GATT 1994 and Article 25 of the SCM Agreement, and a response to the questionnaire on import licensing procedures (Table 2.1).¹⁹ The lack of notifications is due, to a large extent, to the absence of a responsible agency and of specialized staff to deal with the issue or to institutional shortcomings, such as the lack of legislation or regulations.

Table 2.1 St. Kitts and Nevis, WTO notifications 2007-13

WTO Agreement	Description	Document symbol of most recent notification
Implementation of Article VI of GATT 1994 Anti-dumping (Article 16.4 and 16.5)	No action taken within the meaning of Article 16.4, and Article 16.5	G/ADP/N/193/KNA, 12 January 2010
Import Licensing Article 7.3	Replies to questionnaire on import licensing procedures	G/LIC/N/3/KNA/1, 8 December 2009
Subsidies and Countervailing Measures (SCM) Article 25 and GATT XVI.1	New and full notification on continuation of extension under SCM Article 27.4 of the transition period for the elimination of export subsidies	G/SCM/N/155/KNA/Suppl.1 G/SCM/N/177/KNA, 18 July 2008
SCM Article 27.4	Continuation of extension of transition period for the elimination of export subsidies	G/SCM/N/243/KNA, 1 August 2012
Articles 25.11 and 25.12	No action taken	G/SCM/N/202/KNA, 14 January 2010

Source: WTO documents.

2.29. St. Kitts and Nevis has not been a complainant or a defendant in any case before the DSB. It has been a third party in three cases, all prior to the review period.

2.4.2 Preferential agreements and arrangements

2.30. St. Kitts and Nevis is a member of the Organization of Eastern Caribbean States, since it was created by the Treaty of Basseterre in 1981. In 2008, St. Kitts and Nevis ratified the OECS Economic Union (Common Report) and is in the process of adapting legislation to fulfil the requirements of the Union. The goal is to reach a point where all policies will be common within the OECS, and economies of scale achieved by avoiding the duplication of functions. This is of particular importance to St. Kitts and Nevis due to its small population and lack of human and institutional resources.

¹⁸ WTO document G/SCM/W/535, 12 April 2006.

¹⁹ WTO documents G/ADP/N/193/KNA, 12 January 2010; and G/LIC/N/3/KNA/1, 8 December 2009.

2.31. St. Kitts and Nevis also participates in other regional agreements and arrangements. It has been a member of the Caribbean Community and Common Market (CARICOM) since 1974 and participates in the Caribbean Single Market and Economy (CSME). Through its participation in CARICOM, it has signed bilateral trade agreements with the Bolivarian Republic of Venezuela, Colombia, Costa Rica, Cuba, and the Dominican Republic. It also participates in the Association of Caribbean States.

2.32. Until 2001, this benefited St. Kitts and Nevis' sugar exports to the United Kingdom but otherwise did not have a strong impact on exports. As a result of changes to the EC pricing regime for sugar, which was challenged in WTO, the arrangements came to an end. St. Kitts and Nevis abandoned sugar production in 2005. As part of CARIFORUM (a negotiating partnership involving CARICOM and the Dominican Republic), St Kitts and Nevis signed an Economic Partnership Agreement (EPA) with the EU in 2008 (Common Report). The EPA, although in force, is still in the process of full implementation on the part of St. Kitts and Nevis and other OECS countries, as a number of legal and institutional changes are required. Before the signature of the EPA, St. Kitts and Nevis' exports were granted preferential access to the EC market, under the ACP-EC Revised Cotonou Agreement.

2.33. The authorities consider that the EPA has brought many challenges to St. Kitts and Nevis while also offering opportunities, in particular in services. They consider that the EPA offers export opportunities to the manufacturing sector. The main challenges relate to the implementation of the EPA, in particular addressing the legislative requirements that will ensure that domestic legislation complies with the requirements of the agreement. The lack of adequate human resources to facilitate the implementation process, and the technical and administrative input needed by both the private and public sector to generate the possible benefits from the agreement, are also considered challenges. In the context of this Review the authorities noted that despite those challenges, St. Kitts and Nevis is committed to implementing the EPA, including its tariff reduction commitments.

2.34. As a step to facilitate the implementation of the EPA, in July 2012, the Government established the Economic Partnership Agreement (EPA) Unit within the Ministry of International Trade, Industry, Commerce and Consumer Affairs, to realize the objectives and provisions of the EPA through public sector coordination and private sector development initiatives. The EPA Unit has implemented a public awareness campaign and has accessed technical assistance through the Centre for Development Enterprise (CDE).

2.35. A number of exports from St. Kitts and Nevis benefit from preferential access to the United States under the U.S. Caribbean Basin Initiative (CBI). St. Kitts and Nevis has applied for enhanced CBI benefits. Its exports also benefit from preferential access to the Canadian market through CARIBCAN. Through its participation in CARICOM, St. Kitts and Nevis is currently negotiating a CARICOM/Canada Trade and Development Agreement.

2.36. St. Kitts and Nevis joined the Brazil-Guyana Partial Scope Agreement (PSA) in May 2012. Administrative procedures are being put in place to effect the agreement for St. Kitts and Nevis. The agreement is of particular importance for St. Kitts and Nevis expanding electronic components industry due to its rules of origin, which allow for regional cumulation.

2.37. Products from St. Kitts and Nevis are eligible for the GSP schemes of Australia, Canada, the European Communities, Japan, New Zealand, Switzerland, Russia, and the United States. The range of products varies according to each country's scheme.

2.38. St. Kitts and Nevis' aid-for-trade strategy is pursued at the regional level through the CARICOM Secretariat.

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.1 Measures Directly Affecting Imports

3.1.1 Customs procedures, documentation, and registration

3.1. Chapter 20.04 of the St. Christopher and Nevis's laws contains all the legislation relevant to customs issues, that is the Customs (Control and Management) Act (Cap. 20.04, originally Act 4 of 1992 in force since 11 December 1995, amended by Act 7 of 2001), and the Customs (Prescription of Customs Declaration Forms) Regulations-Sections 26 and 34 (SRO 4 of 1996) and subsidiary legislation. St. Kitts and Nevis is not a member of the World Customs Organization. However, through membership in the Caribbean Customs Law Enforcement Council it derives certain WCO benefits, *inter alia*, in terms of capacity building. Although there were no major changes with respect to customs legislation during the review period, there were some procedural changes with respect to passenger processing at the airports, personal cargo inspection at the sea ports, courier services, the introduction of risk management, and post clearance. A Customs Export and Import procedures Manual was introduced in 2012.

3.2. Goods imported into St. Kitts and Nevis are subject to control by Customs and by the Port Authority. Notice must be given to Customs and the Port Authority at least one working day prior to the arrival of vessels, along with an advance copy of the cargo manifest. Cargo consignments transferred between St. Kitts and Nevis remain under customs control if duty has not been paid.²⁰ A Customs entry or declaration is required for all consignments imported into St. Kitts and Nevis. Customs entries may be submitted electronically but at least three hard copies of the entry forms (C100) must also be presented with the relevant commercial invoices, air waybill/bill of lading, and a worksheet on the classification and value of the goods. An importer's declaration form may be required if the invoice is unsigned or deemed insufficient by Customs. Customs entries are verified to ensure that the items are properly classified, the value for duty purposes is correct, the relevant duties and taxes are accurately computed and that any other regulatory requirement is complied with. The entry is then finalized by Customs and an Assessment Notice is generated with the details of the customs duty to be paid. After payment of the duties and the charges due to the Port Authority, Customs issues a document authorizing the release of the goods. Goods may be allowed entry even if the relevant import documents are not ready, provided a surety is made and the documents are presented within a week. Importers are not required to register, and it is not necessary to use a customs broker.

3.3. St. Kitts and Nevis has used the Total Revenue Integrated Processing System (TRIPS) for electronic customs clearance since May 2006, prior to which it used the ASYCUDA system. As at November 2013, the Customs administration was in the process of migrating from TRIPS to ASYCUDA World.

3.4. Customs inspects commercial cargo and validates the relevant documents for compliance. In the case of non-commercial cargo, the goods are inspected and valued for duty purposes before the Customs entry is completed. Prior to verification of documentation, cargo imported in full container loads (FCL) may be released from the port under customs control for inspection at the importer's premises; the inspection is done within 24 hours. To decide on inspection, the customs service classifies shipments according to risk: operations undertaken by importers with an import history in St. Kitts and Nevis, and arriving from countries that are not considered to pose risks are generally deemed low-risk and subject to a lower rate of inspection. On the other hand, for shipments involving new importers and/or countries that are deemed to pose higher risks, the rate of inspection is much higher, with the vast majority of goods subject to physical inspection.

3.5. St. Kitts and Nevis legislation allows for the use of special regimes for clearing customs in certain cases. Under the Provisional/Deposit Entry Procedure (Section 27(4) of the Customs Act), an importer unable to present a proper entry form immediately may expedite the clearance of goods by filing a provisional entry, prior the payment of a deposit. The amount to be deposited usually exceeds the provisionally assessed customs duty. The authorities have indicated that this is to secure any additional duty that may be payable at the time of the proper and final assessment.

²⁰ In this case, a customs entry using suspense regime along with an Application for Relief of Duty and Taxes form (C101) must be presented to the Administration Section of Customs for approval.

The final entry form must be presented within three months from importation, after which a refund of any sum in excess of the duty payable is refunded.

3.6. The customs entry for a consignment to be cleared under a concession must be accompanied by an application for relief of duty and taxes (C101) form.

3.7. In special circumstances Customs may allow certain goods to be pre-released provided that the importer agrees to meet stipulated conditions. Pre-releases may be granted for perishables, precious goods, inventory for factories, and goods import for government purposes. Other requests are dealt with on a case-by-case basis at the discretion of the Comptroller. The customs entry in respect of the transaction must be finalized within one week of the date of the release. The usual time to clear Customs is one or two days.

3.8. St. Kitts and Nevis does not have a pre-shipment inspection system.

3.9. In the course of the present Review, the authorities noted that the Government has taken steps to reform the Customs Department, including programmes to train staff in modern techniques of revenue management and collection. Under the Customs Reform Project, customs officers have received management training, and management procedures at the Customs Department have been upgraded. According to the authorities, there has been a significant improvement in trade facilitation. Customs is moving to a single-window environment to facilitate trade. A trade facilitation needs assessment was carried out in May 2013 from which a National Implementation Plan was developed.

3.1.2 Customs valuation

3.10. Customs valuation legislation has not been updated since the previous review in 2007. The Second Schedule of the Customs (Control and Management) (Amendment) Act No. 4 of 1992, based on the GATT Valuation Code, continues to rule customs valuation. In accordance with the Act, the customs value of imports must be the transaction value. If Customs finds it impossible to determine the transaction value or if the buyer and seller are related, then the other methods set out in the GATT code are to be used.

3.11. The use of minimum customs values is explicitly prohibited in St. Kitts and Nevis, in accordance with the Customs Act. Also prohibited is the use for valuation purposes of the selling price in St. Kitts and Nevis of similar locally produced goods, the price in the domestic market of the country of exportation, or the price for export in a country other than St. Kitts and Nevis. Price guidelines based on international price information are used for imports of used vehicles.²¹ The authorities indicated in the context of this Review that when there is any suspicion of under-invoicing, customs officials may request proper supporting documents from the importer.

3.12. Sections 136 and 137 of the Customs (Control and Management) Act Cap. 20.04 provide for appeals. The Customs Appeal Commission deals with appeals regarding decisions on valuation, duties, and other customs issues. If the appellant is not satisfied with the Commission's decision, the case may be taken to a high court or to the Eastern Caribbean Court of Appeal.

3.13. St. Kitts and Nevis did not invoke the special and differential treatment provisions in the Customs Valuation Agreement. It has not responded to the WTO checklist of issues on customs valuation, nor has it notified its customs valuation regime.²²

3.1.3 Rules of origin

3.14. St. Kitts and Nevis applies the rules of origin introduced by CARICOM in 1998. In accordance with CARICOM origin rules, duty-free treatment is accorded only to goods shipped between member states that satisfy the CARICOM origin rules. The CARICOM Treaty contains a derogation facility to the application of Common Market Rules of Origin for MDCs, known as the Safeguard Mechanism. St. Kitts and Nevis, like other CARICOM members, was expected to

²¹ For example, the prices of used vehicles imported from Japan, the main source of imported used vehicles, are verified using price guidelines on such vehicles in Japanese websites.

²² WTO document G G/VAL/W/219, 15 October 2012.

implement the rules of origin contained in Amended Schedule I of the revised Treaty of Chaguaramas, based on the 2012 HS from 1 January 2013. As at March 2014, this had not been done in any OECS country.

3.15. The EPA with the European Union contains specific rules of origin (Common Report).

3.16. St. Kitts and Nevis has not notified preferential or non-preferential rules of origin to the WTO.²³

3.1.4 Tariffs and other charges on imports

3.17. International trade taxes, particularly on imports, continue to be a major source of fiscal revenue for St. Kitts and Nevis and their share of total taxes has increased since the introduction of the value-added tax. Imports are subject to tariffs, a customs service charge and VAT. Some imports are also subject to excise duties. Taxes on international transactions raised EC\$157.4 million in 2012, accounting for 48.1% of the Government's tax revenue, and equal to 7.8% of GDP. The main components of these international taxes were the value-added tax on imports (EC\$66.6 million); import duties (EC\$46.3 million); and the customs service charge (EC\$30.2 million), which together provided 45.2% of government tax revenue (Table 3.1).

Table 3.1 Trade-related taxes, 2010-13

(EC\$ '000)

International trade/transactions taxes	2010	2011	2012 ^a	2013 ^b	2012 (% of total tax revenue)
Total	139,561	151,226	157,401	165,269	48.1
Import duty	41,517	41,555	46,277	48,460	14.1
Export/excise duty	226	104	31	31	0.9
Excise duty on alcohol & tobacco ^c	424	1,376	n.a.	n.a.	0.0
Consumption tax ^c	49,810	1,513	n.a.	n.a.	0.0
Parcel tax ^c	10	n.a.	n.a.	n.a.	0.0
Non-refundable duty free store levy	1,782	3,414	3,760	4,017	11.5
Duty-free shop tax ^d	883	2,051	-	-	0.0
Customs service charge	27,881	26,550	30,197	31,715	9.7
Travel tax	2,529	2,874	3,075	3,229	1.0
Environmental levy	1,996	1,208	1,304	1,365	0.3
Excise tax	12,222	5,912	6,188	6,480	2.0
VAT	279	64,667	66,569	69,945	21.4

n.a. Not applicable.

a Estimates.

b Projections.

c Taxes eliminated in 2010.

d Tax eliminated in 2011.

Source: St. Kitts and Nevis Government Estimates for the Year 2012, Vol. 1.

3.1.4.1 MFN applied tariff structure

3.18. St. Kitts and Nevis' 2013 applied tariff is based on the Harmonized Commodity Description and Coding System 2007. It comprises 6,282 tariff lines at the seven-digit level. At the time of this Review, St. Kitts and Nevis (together with other OECS member States) was in the process of transposing its tariff schedule to the HS2012 nomenclature. St. Kitts and Nevis last notified its applied tariff to the WTO in 2011.

3.19. St. Kitts and Nevis applies the CARICOM Common External Tariff (CET) with exceptions included in Lists of Exceptions A and C of the CET. Tariff rates in the CET Schedule range from 0 to 20% for industrial products, and up to 40% for agricultural products. Exceptions to the CET may exceed these rates. In the case of products included in List A of the CET exceptions, mainly agricultural products, packaging material, ceramics, washing machines and dryers, and sanitary fixtures, which may be subject to a maximum customs duty of 40%, St. Kitts and Nevis applies

²³ Dominica is the only OECS State that has made such a notification (WTO document G G/RO/W/141, 1 November 2012).

rates generally below the CET. Products included in List C, which contains mainly alcoholic beverages, tobacco, oil products, jewellery, electrical appliances, and motor vehicles, generally face rates above the CET.

3.20. Although CET changes take place at CARICOM level, until the introduction of the OECS Economic Union in 2011, ultimate authority for tariff determination in St. Kitts and Nevis rested with the National Assembly, following a Cabinet initiative. In principle, since the adoption of the Economic Union, the OECS Economic Affairs Council is responsible for tariff changes, which are made at the OECS level. However, as at September 2013, this was not the case in practice, and the National Assembly continued to have responsibility for tariff determination and changes, within the framework of the CARICOM CET.

3.21. Under Act No. 6 of 2005 (Customs Tariff (Amendment)), St Kitts and Nevis continues to apply a customs service charge (CSC) of 6% on all imports, including those from other OECS states and from CARICOM countries. However the CSC will be applied at a rate of 12% of the value of goods inclusive of cost, insurance and freight in the case of all goods exempt from tariffs for specific purposes (not on zero-rated tariffs). The CSC is applied on the c.i.f. value of the customs declaration. Imports by governmental institutions and enclave manufacturers are exempt from the CSC, as well as imports of foodstuffs in packages of less than 30 kg. A drawback is available for manufacturing enterprises that paid the CSC on imported inputs and subsequently exported the processed goods. St. Kitts and Nevis has bound this drawback and other import charges, in the WTO, at a rate of 18%.

3.22. St. Kitts and Nevis does not apply seasonal tariffs. Some 99.7% of its tariff rates are *ad valorem*; 19 tariff headings, accounting for some 0.3% of all tariff lines (all agricultural) are subject to specific rates (Table 3.2).²⁴ Some 24% of tariff lines are granted duty-free treatment. Around two thirds of all tariff lines are subject to rates between 0 and 10%. Some 24.8% of tariff lines are subject to international peaks, while 3.7% of lines are subject to domestic peaks (25.4% and 3.9% respectively if AVEs are taken into account). Tariff rate quotas are not used.

Table 3.2 Structure of the tariff schedule in St Kitts and Nevis, 2013

(Per cent)

	2006	2013 excluding AVEs	2013 Including AVEs
1. Total number of tariff lines	6,340	6,291	6,291
2. Non- <i>ad valorem</i> tariffs (% of all tariff lines)	0.4	0.3	0.3
3. Non- <i>ad valorem</i> with no AVEs (% of all tariff lines)	0.4	0.3	0.0
4. Lines subject to tariff quotas (% of all tariff lines)	0.0	0.0	0.0
5. Duty free tariff lines (% of all tariff lines)	23.5	24.0	24.0
6. Dutiable lines tariff average rate (%)	13.5	13.3	13.5
7. Simple average tariff (%)	10.3	10.1	10.3
8. WTO agriculture	14.2	15.0	16.1
9. WTO non-agriculture (incl. petroleum)	9.6	9.2	9.2
10. Agriculture, hunting, forestry and fishing (ISIC 1)	13.6	14.1	14.2
11. Mining and quarrying (ISIC 2)	2.6	2.1	2.1
12. Manufacturing (ISIC 3)	10.2	10.0	10.2
13. First stage of processing	10.2	10.4	10.7
14. Semi-processed products	4.7	4.7	4.7
15. Fully processed products	13.1	12.8	13.1
16. Domestic tariff "peaks" (% of all tariff lines) ^a	3.3	3.7	3.9
17. International tariff "peaks" (% of all tariff lines) ^b	25.4	24.8	25.4
18. Overall standard deviation	11.1	11.0	11.4
19. Nuisance applied rates (% of tariff lines) ^c	0.0	0.0	0.0
20. Bound tariff lines (% of all tariff lines)	97.5	97.3	97.3

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

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

c Nuisance rates are greater than 0% but inferior or equal to 2%.

Source: WTO Secretariat calculations, based on data provided by the authorities of St. Kitts and Nevis.

²⁴ These are: refined sugar (HS 1701.9990); undenatured ethyl alcohol (HS 2207.1000, 2207.2000, 2208.2010, 2208.2090, 2208.3010, 2208.3090, 2208.4010, 2208.4090, 2208.5010, 2208.5090, 2208.6000); cigars and cigarettes (HS 2402.1000, 2402.2000, and 2402.9000); and other manufactured tobacco and tobacco substitutes (HS 2403.1000, 2403.9100, 2403.9910, 2403.9990).

3.23. The tariff structure and level have remained virtually unchanged since the last review of St. Kitts and Nevis, with the main exception of the change in HS tariff nomenclature. The simple average MFN tariff in 2013 was 10.1% (10.3% in 2006). Tariff protection was higher for agriculture (WTO definition), reaching 15.0%, than for non-agricultural products which faced an average MFN tariff of 9.1% (Table 3.3). Tariff rates range from 0 to 70%. If *ad valorem* equivalents for the lines subject to specific rates are included, the MFN average increases slightly, to 10.3% (to 16.1% for agricultural products, while for non-agricultural products, it remains the same). The highest average rates by WTO category are on sugar and confectionery (22.7%), and on beverages and spirits (22.2%). Other products facing higher tariffs than average include fruit and vegetables (16.1%); and animal products (15.6%). The highest tariff rate is applied only on arms and ammunition (70%), followed by beer and stout (50%).²⁵ This tariff is the result of the tariffication of previously existing quantitative restrictions in 2005. Motor vehicles, which are included in List C, are subject to tariffs as high as 45%. The lower tariff rates, by WTO category, are applied on cotton, non-electric machinery, chemicals, dairy products, metals and minerals, and petroleum.

3.1.4.2 Bound tariffs

3.24. St. Kitts and Nevis's WTO bindings are independent and different from those of other OECS countries. In the Uruguay Round, St. Kitts and Nevis bound 97.3% of its tariff lines, the main exception being fish products. Bindings on agricultural products were at a ceiling level of 100% for the majority of products, with immediate effect (1995). Products not subject to the ceiling bindings were bound at rates ranging between 10% and 250%, with implementation periods of up to ten years. In the case of non-agricultural products, most tariff lines were bound at a ceiling rate of 70% with a number of exceptions, such as cement, petroleum products, some textiles, and industrial goods subject to import restrictions under Article 56 of the CARICOM Treaty (Article 164 of the revised Treaty), which were bound at rates between 87% and 150%. The average bound tariff is 77.4%, almost seven times the applied rate; the bound rates are 108.9% for agricultural products (WTO definition), and 71% for non-agricultural goods.

3.25. St. Kitts and Nevis is the only OECS country to have included other duties and charges applied on imports in its WTO tariff schedule of bindings. Other duties and charges are bound for all tariff lines at a general rate of 18% with a number of exceptions subject to lower rates or to specific rates.

3.1.4.3 Tariff and tax concessions

3.26. Under CARICOM rules, members are allowed to apply tariff rates lower than the CET provided these are included in the List of Conditional Duty Exemptions to the CET. This list also spells out the purposes for which the goods may be admitted free of import duty or at a rate lower than the CET. St. Kitts and Nevis, as well as all other OECS countries, having been classified as a less developed country within CARICOM, may import all inputs duty-free instead of at the CET rate of 5%. St. Kitts and Nevis makes use of this prerogative for the majority of imported inputs.

3.27. Tariff concessions and exemptions are also granted under St. Kitts and Nevis' incentives schemes for goods to be used in approved industries. Under the Fiscal Incentives Act of 1974, import duty relief is provided on raw materials and inputs, tools, plant, machinery, and building materials. The Hotel Aids Act, as amended by the Hotel Aids (Amendment) Act (1998), grants duty-free treatment on imports of building materials and articles of hotel equipment for the construction or equipment of hotels. There are also tariff concessions for the agriculture and fisheries industries. Farmers are allowed to import vehicles and machinery to be used in agriculture duty free.

²⁵ A 25% tariff rate is applied on imports from CARICOM MDCs, while imports from CARICOM LDCs, which include all OECS member States, are zero-rated (see Saint Christopher and Nevis Statutory Rules and Orders No. 10 of 2005. Viewed at: http://www.skncustoms.com/pdfs/Statutory_Rules_and_Orders_No10_of_2005.pdf).

Table 3.3 Summary analysis of the St Kitts and Nevis MFN tariff, 2013

Description	No. of lines	Average (%)	Range (%)	Coefficient of variation (CV)	Final bound average (%)
Total	6,291	10.1	0 - 70	1.1	77.4
HS 01-24	1,123	15.0	0 - 50	1.0	109.8
HS 25-97	5,168	9.1	0 - 70	1.1	71.4
By WTO category					
WTO Agriculture	1,026	15.0	0 - 50	1.0	108.9
- Animals and products thereof	149	15.6	0 - 40	1.0	97.3
- Dairy products	24	6.5	0 - 25	1.0	99.0
- Fruit, vegetables and plants	307	16.1	0 - 40	0.8	101.6
- Coffee and tea	29	15.2	0 - 25	0.7	99.1
- Cereals and preparations	125	16.1	0 - 40	0.8	101.6
- Oil seeds, fats and oils and their products	95	13.8	0 - 40	1.2	125.7
- Sugars and confectionary	21	22.7	5 - 40	0.7	108.6
- Beverages, spirits and tobacco	118	22.2	0 - 50	0.7	119.1
- Cotton	6	0.0	0 - 0	..	100.0
- Other agricultural products, n.e.s.	152	8.3	0 - 40	1.5	104.3
WTO Non-agriculture (including petroleum)	5,265	9.2	0 - 70	1.1	71.0
- WTO Non-agriculture (excluding petroleum)	5,239	9.2	0 - 70	1.1	71.0
- - Fish and fishery products	175	10.3	0 - 40	1.2	100.0
- - Minerals and metals	1,115	7.3	0 - 25	1.1	70.0
- - Chemicals and photographic supplies	1,006	6.4	0 - 25	1.0	70.1
- - Wood, pulp, paper and furniture	329	10.3	0 - 25	0.9	79.5
- - Textiles	638	6.8	0 - 25	1.1	70.8
- - Clothing	277	24.3	5 - 25	0.1	71.7
- - Leather, rubber, footwear and travel goods	179	9.6	0 - 25	1.1	70.0
- - Non-electric machinery	588	5.5	0 - 25	1.4	70.1
- - Electric machinery	264	11.6	0 - 25	0.8	70.0
- - Transport equipment	185	12.5	0 - 45	1.2	70.0
- - Non-agriculture articles, n.e.s.	483	14.5	0 - 70	0.9	71.7
- Petroleum	26	8.3	0 - 25	1.0	75.1
By ISIC sector^a					
Agriculture and fisheries	411	14.1	0 - 40	1.1	108.0
Mining	107	2.1	0 - 25	3.0	70.0
Manufacturing	5,772	10.0	0 - 70	1.1	75.7
By HS section					
01 Live animals & products	330	12.4	0 - 40	1.2	98.5
02 Vegetable products	382	14.4	0 - 40	1.0	113.2
03 Fats & oils	53	21.3	0 - 40	0.8	149.3
04 Prepared food, etc.	358	17.5	0 - 50	0.7	106.0
05 Minerals	187	3.6	0 - 25	1.7	70.7
06 Chemical & prod.	937	6.3	0 - 25	1.0	71.7
07 Plastics & rubber	244	7.4	0 - 25	1.1	70.0
08 Hides & skins	80	9.6	0 - 25	1.2	73.8
09 Wood & articles	133	11.2	0 - 25	0.6	70.1
10 Pulp, paper, etc.	172	7.8	0 - 25	1.1	70.0
11 Textile & articles	902	11.5	0 - 25	0.9	72.0
12 Footwear, headgear	60	18.6	0 - 25	0.5	70.0
13 Articles of stone	186	11.2	0 - 25	0.6	70.0
14 Precious stones, etc.	62	15.1	0 - 25	0.7	70.0
15 Base metals & products	712	7.1	0 - 25	1.0	70.0
16 Machinery	869	7.5	0 - 25	1.2	70.1
17 Transport equipment	196	12.0	0 - 45	1.3	70.0
18 Precision equipment	229	10.2	0 - 25	0.9	70.0
19 Arms and ammunition	24	41.9	0 - 70	0.6	87.7
20 Miscellaneous manufacturing	167	16.5	0 - 25	0.6	88.8
21 Works of art, etc.	8	25.0	25 - 25	0.0	70.0
By stage of processing					
First stage of processing	797	10.4	0 - 40	1.4	95.1
Semi-processed products	1,860	4.7	0 - 40	1.0	71.5
Fully-processed products	3,634	12.8	0 - 70	0.9	77.0

a ISIC (Rev.2) classification, excluding electricity (1 line).

Source: WTO Secretariat estimates, based on data provided by the authorities of St. Kitts and Nevis.

3.28. SRO No. 22 of 1974 contains a revised list of products that may be imported into St. Kitts and Nevis free of import duties. The exemptions apply to products destined for specific industries or uses: (a) air navigation companies authorized by the Government: motor and in general petrol spirits, lubricating oil, machinery and parts and accessories for their aeroplanes; scientific instruments, appliances, tools, and apparatus for use in the repair of aeroplanes; and wireless apparatus for use in communications; (b) the fruit and vegetable industry: cord, twine, rope, and

wire to be used growing any fruit or vegetable for exportation; barrels, boxes, bottles, crates, and all packages or containers and materials for making packages or containers to be used for packing fruit or vegetables and their products for exportation; machinery of all kinds, and parts thereof used in manufacturing or preserving fruit or vegetables; (c) fishing industry: fishing gear, including seine twine, gillnet twine, fishing lines, and galvanized mesh wire, other than for sport fishing; (d) apiculture: bees, beehives, and bee-keeping apparatus; (e) chemical industry: sulphuric acid for the manufacture of citric acid; and (f) textiles and clothing industry: dyeing materials.

3.29. Apart from the concessions granted to the above-mentioned activities, tariff exemptions are also granted on *inter alia* imports of arms and ammunition for the armed forces; artificial limbs, invalid carriages, and wheel chairs; books; bullion and coin; trophies; articles imported solely for installation as fixtures or for the decoration, construction, and repair of churches; vaccines; drugs and appliances, vaccine lymph, medical/serums, and radium imported with the approval of the Governor for the relief and control of any diseases; educational, scientific, and cultural materials; articles for the official use of any foreign Consulate; gift parcels; articles for Government or public institution use; orthopaedic appliances; re-imports; salt; scientific apparatus for academic research; and surgical equipment.

3.30. Under CARICOM regulations goods included in the List of Items Ineligible for Duty Exemption may not be exempted in part or in whole from tariffs or imported at a reduced rate under some incentives programmes. Goods included in this list are generally produced in the CARICOM region in quantities considered adequate to meet regional needs.

3.1.4.4 Tariff preferences

3.31. Duty-free access is granted by St. Kitts and Nevis to imports from other CARICOM countries, provided they meet the CARICOM rules of origin criteria. Under the EPA with the European Union, St Kitts and Nevis grants preferential access to most EU products; gradual implementation began on 1 January 2009, and is expected to be completed by 1 January 2033. By that date all products originating in the EU, except for exempted products (mostly agricultural and agri-industry products) are expected to be granted duty-free access to St. Kitts and Nevis and other OECS countries (Common Report). The pace of implementation varies by country; in the case of St. Kitts and Nevis, most products will be liberalized following the general schedule of tariff reductions; only in a few cases, implementation will be either ahead or slightly slower than the general schedule. The average preferential rate granted on EU products in 2013 was 6.3%.

3.1.5 Other levies and charges

3.32. Indirect taxes on imports are an important source of income, since a considerable part of the goods consumed are imported. Although most imports receive national treatment with respect to the application of taxes, there are a few instances in which this is not the case. During the period under review, St. Kitts and Nevis, together with other OECS states introduced a value added tax and an excise tax; these replaced the consumption tax applied until October 2010. As part of its Uruguay Round Schedule of Tariff Concessions, St. Kitts and Nevis bound combined other duties and charges including the customs service charge, the consumption tax, and any other applicable tax, at a general rate of 18%.

3.33. The consumption tax was applied on imports as well as domestic products and was ruled by the Consumption Tax (Amendment) Order, S.R.O: No. 4 of 2003. The general rates were 22.5% for goods and 4% for professional services; some products were subject to higher *ad valorem* rates, while specific duties were levied on a few products such as tobacco, acetylene, and cement. The tax was calculated, in the case of imports on the c.i.f. value plus import duties; the consumption tax was levied upon importation and collected at the point of entry. For goods the consumption tax was calculated on the ex-factory price. Domestically produced agricultural products as well as produce of CARICOM origin, were exempt from the consumption tax.

3.34. The value added tax (VAT) was introduced in 2010, through the Value Added Tax Act, 2010 (Act No. 3 of 2010).²⁶ The regulations are contained in the Statutory Rules and Orders (SRO) No. 38 of 2011 (Value Added Tax Regulations, 2011). VAT is charged on all domestic supplies and imports. The general rate is 17% for both domestically produced and imported goods and services. A lower 10% rate is applied on hotel bills.

3.35. VAT on imported goods is charged and payable under the Value Added Tax Act, but the Customs (Control and Management) Act, Cap. 20.04 is applied for the purposes of collecting and enforcing the payment of the tax. The Comptroller of Customs collects any tax due under the Act at the time of importation of any goods. The importer must furnish the Comptroller of Customs with an import declaration upon the entry of the goods and pay the tax due.

3.36. The VAT is applied on their "fair market value" defined as "the consideration in money which the supply or importation would generally fetch if (domestically) supplied or imported in similar circumstances at that date in Saint Christopher and Nevis, being an importation freely offered and made between persons who are not related persons".²⁷ If the fair market value cannot be determined in this way, then it will be defined as the monetary value of a similar supplied or imported good, imported or offered in similar circumstances.²⁸ Failing fair market value determination through this method, the Customs Controller is entitled to approve the use of any method that can provide a sufficiently objective approximation of the monetary value of the supplied or imported good.

3.37. The fair market value of imports is generally understood as the value of the goods for the purposes of customs duty under the Customs (Control and Management) Act plus: the cost of insurance and freight, any customs duty, excise tax, environmental surcharge, or any other fiscal charge, other than tax, payable on the importation of such goods; and the customs service charge.

3.38. A number of products are zero-rated, including: white and brown rice (except packaged cooked rice, and microwaveable rice meals, HS 1006.20, 1006.30, and 1006.40); brown and white sugar (HS 1701.11 and 1701.999); diapers (HS 4818.402 and 4818.40910); locally produced white whole wheat and whole grain bread (imported bread is taxable); white and whole wheat flour (HS 1101); infant formula (HS 1901.10); certain types of milk (except condensed or flavoured milk, HS 0401,0402.10, 0402.20, 0402.21,0402.29, and 0402.91); raw, unprocessed uncooked oats (HS 1004.00); gasoline (HS 2710.10) kerosene and other medium oils (except gas oils, HS 2710.20); gas oils, including diesel (HS 2710.30); fuel oils not elsewhere specified or included (HS 2710.40); and petroleum gases and other gaseous hydrocarbons (including LPG, HS 2711.10). Exports of goods and services, goods used in repair and maintenance, goods under the temporary admission regime, and services engaged by the Ports Authority are also zero-rated.

3.39. The Act contains a schedule of Exempt Import Goods (First Schedule), which include: locally grown fruits and vegetables and animal products; domestically produced or imported goods, including packing containers, which are exported and thereafter returned to or brought back by the exporter or any other party, without having been subjected to any process of manufacture or adaptation and without a permanent change of ownership; bona fide unsolicited gifts of food that do not exceed 45 kg; passenger allowance of: 1.5 litres of spirits or wine and 250 grams of manufactured tobacco or 200 cigarettes or 100 cigarillos or 50 cigars; goods conveyed for

²⁶ "An Act to make provision for the imposition and collection of value added tax; and to provide for related or incidental matters". Published on 24 August 2010 in the *Extra-Ordinary Gazette* No. 41 of 2010. A number of amendments to the Act have since then been introduced.

²⁷ Under the Act, a supply of goods means: (a) a sale of goods; (b) a grant of the use or right to use goods, whether with or without a driver, pilot, crew, or operator, under a rental agreement, credit agreement, freight contract, agreement for charter, or other agreement under which such use or right to use is granted; or (c) a transfer or provision of thermal or electrical energy, heat, gas, refrigeration, air conditioning, or water. A supply of services means anything done which is not a supply of goods or money, including: (a) the granting, assignment, cessation, or surrender of a right; (b) making available a facility or advantage; or (c) refraining from or tolerating an activity.

²⁸ "Similar importation", in relation to goods or services, means goods or services produced in the same country which, although not alike in all respects, have the characteristics and like component materials which enable them to perform the same functions and to be commercially interchangeable; and "similar supply", in relation to a supply of goods or services, means any other supply of goods or services which, in respect of the characteristics, quality, quantity, functional components, materials, and reputation of the first-mentioned goods or services, is the same as, or closely or substantially resembles, that supply of goods or services.

transshipment to any other country; goods imported by Saint Kitts and Nevis nationals returning home for permanent residence; containers temporarily imported under Customs Tariff Heading 8609.00, and goods temporarily imported for processing or repair, cleaning or reconditioning. In this case, the Comptroller of Customs and Excise may demand a deposit upon an importation as security to guarantee that the repaired or reconditioned machines are exported. Equipment temporarily admitted for specific economic development purposes is also exempt from VAT, but the Comptroller of Customs and Excise may demand a deposit of half of the value of the equipment upon importation as security to guarantee that the equipment will be exported upon completion of the project. Imports of approved goods by an importer qualified as a licensed duty-free operator are also exempt from the VAT.

3.40. Goods imported by a taxable person qualifying for incentives as an Enclave Industry under section 2 of the Fiscal Incentives Act, Cap. 20.14 (section 3.2.2) are VAT-exempt. The goods must be consigned directly to the person and must be used in a taxable activity.

3.41. The application of the VAT resulted in a slight increase in charges on imports compared to when the Consumption Tax was applied. The main reason is that the calculation of the Consumption Tax excluded the Customs Service Charge from its base, while the calculation of the VAT includes it.²⁹

3.42. Excise tax is regulated by the Excise Tax Act of 2010 (Act No. 4 2010)³⁰. For imports, excise tax is applied on the "fair market value" instead of on the transaction value. Fair market value is defined as "the consideration in money which the importation would generally fetch if imported in similar circumstances at that date in Saint Christopher and Nevis, being an importation freely offered and made between persons who are not related persons". Products subject to the tax include aerated beverages (generally taxed at 5%), beer and stout (15%), wine and other alcoholic beverages (25%), cigars and cigarettes (20%), motorcycles (8%), weapons (6%), and some petroleum products (15% or specific duties) (Table 3.4).

Table 3.4 Products subject to excise taxes

HS Code	Description	Tax rate
2202.10.10	Aerated beverages	5%
2202.10.90	Other	5%
2202.90.10	Beverages containing cocoa	5%
2202.90.20	Malt beverages	5%
2202.90.90	Other	5%
2203.00.10	Beer	15%
2203.00.20	Stout	15%
2203.00.90	Other	15%
2204.10.00	Sparkling wine	25%
2204.21.00	Other wine; in containers holding 2 litres or less	25%
2204.29.10	Grape must with fermentation prevented or arrested by the addition of alcohol with plants or aromatic substances	25%
2204.29.90	Other	25%
2204.30.00	Other grape must	25%
2205.10.00	Vermouth and other wine of fresh grapes flavoured in containers holding 2 Litres or less	25%
2205.90.00	Other	25%
2208.20.10	Brandy, in bottles of a strength not exceeding 46%	25%
2208.20.90	Other	25%
2208.30.10	Whiskies in bottles of a strength not exceeding 46%	25%
2208.30.90	Other	25%
2208.40.10	2208.40.00 Rum and other spirits obtained by distilling fermented sugarcane products in bottles of a strength not exceeding 46%	25%
2208.40.90	Other	25%
2208.50.10	Gin and Geneva in bottles of a strength not exceeding 46%	25%
2208.50.90	Other	25%
2208.60.00	Vodka	25%
2208.70.00	Liqueurs and cordials	25%
2402.10.00	Cigars, cheroots and cigarillos, containing tobacco	20%

²⁹ An example of this is provided by the Customs Department. On a c.i.f. value of EC\$1,500, with an import tariff of 25%, and the previous consumption tax of 17% plus the Customs Service Charge of 6%, the calculated cost to the retailer is EC\$2,283.75, with import taxes totalling 52.25% of the c.i.f. value. With the adoption of the VAT system the landing cost to the retailer is EC\$2,299.05, with import taxes totalling 53.27% of the c.i.f. value. Customs Department online information, "Implication of VAT on Imports". Viewed at: <http://www.skncustoms.com/pdfs/VAT%20System.pdf>.

³⁰ "An Act to provide for the imposition and collection of excise tax on imported and locally manufactured goods, and to provide for related or incidental matters." Published in the Official Gazette No. 51 of 2010, 28 October 2010.

HS Code	Description	Tax rate
2402.20.00	Cigarettes containing tobacco	20%
2402.90.00	Other	20%
24.03	Other manufactured tobacco and manufactured tobacco substitutes; "homogenized" or "reconstituted" tobacco; tobacco extracts and essences.	20%
87.11	Motorcycles (including mopeds) and cycles fitted with an auxiliary motor, with or without side-cars; side-cars.	8%
93.01	Military weapons, other than revolvers, pistols and the arms of heading 9307.00	6%
93.02	Revolvers and pistols, other than those of heading 93.03 or 9304	6%
93.03	Other firearms and similar devices which operate by the firing of an explosive charge	6%
9304.00.00	Other arms, excluding those of heading 9307.00.00	6%
2710.10.00	Motor Spirit (Gasoline) and other light oils and preparations	\$2.25/g
2710.19.10	Kerosene type jet fuel	\$0.28/g
2710.19.20	Illuminating kerosene	\$0.28/g
2710.19.30	Vaporizing oil or white spirit	\$0.28/g
2710.19.40	Diesel oil	15%
2710.19.50	Gas oils (other than diesel oil)	15%
2710.19.60	Bunker "C" grade fuel oil	15%
2710.19.70	Partly refined petroleum, including topped crudes	15%
27.11	Petroleum gases and other gaseous hydrocarbons (including LPG).	\$0.03/lb

Source: Excise Act No. 4 of 2010.

3.43. The second schedule of the Act contains the list of Exempt Goods, which includes: (a) alcohol and spirits (under Customs Tariff Heading 2207); (b) aromatic bitters (2208.90.10 and 2208.90.20); (c) lubricating oils and greases (2710.90); (d) passenger allowance of 1.5 litres of spirits or wine or proportionate mixes and 250 grams of manufactured tobacco or 200 cigarettes or 100 cigarillos or 50 cigars; and (e) imports classified under Customs Tariff Heading 93.01, 93.02, 93.03 and 93.04 by a Department approved by the Ministry of National Security.

3.44. Under Environmental Levy (Used Motor Vehicles) (Amendment of Schedule) Order No. 12 of 2005, an environmental levy is charged on imports of used vehicles. An amendment introduced in 2010 (SRO No 17 of 2010) extended the levy to new vehicles and to vehicles of up to two years old, at a rate of EC\$1,000. In 2013, the environment levy rates were: EC\$1,000 for used vehicles imported less than two years after the date of manufacture; EC\$3,500 for vehicles imported between two and four years after the date of manufacture; and EC\$5,000 for used vehicles imported four years or more after the date of manufacture.

3.45. A deposit levy of EC\$0.30 per container is charged on imported beer, stout, malt, ale, and aerated drinks in non-returnable bottles, under the Trade (Bottle and Can Deposit Levy) Act, Cap. 20.35 (Act No. 1 of 2002). The levy is refunded on re-export of the bottles or if disposal arrangements acceptable to the relevant authorities are made within six months of payment of the deposit.

3.1.6 Import prohibitions, restrictions, and licensing

3.46. Import prohibitions and restrictions are in general regulated by the Customs Control and Management (Amendment) Act No. 7 of 2001. In most cases, prohibitions relate mainly to counterfeited, indecent or obscene goods, or goods that are considered a health or safety hazard. The list of prohibited imports is contained in the Customs (Control and Management) (Amendment) Act, 2001 (Act No. 7 of 2001). The Act also contains the list of restricted goods, including: firearms and ammunition, which require the written permission of the Commissioner of Police for importation; radio and television transmitting equipment, which require a licence from the Minister of Communication; narcotic drugs and psychotropic substances including controlled drugs, which require a licence from the Chief Medical Officer; tear gas or any ingredient that may produce it, laser pointers and any goods that bear the coat of arms or the flag of Saint Christopher and Nevis, which require the written authority of the Minister responsible for National Security; rare or threatened species of animals or plants, their products and derivatives, whose international trade is regulated by CITES, unless such goods are accompanied by the appropriate permits signed by the CITES authorities in the country of exportation or importation; ozone-depleting substances to be restricted under the Montreal Protocol on Substances that Deplete the Ozone Layer, 1987 and specified under Annexes A to E, unless under licence from the Minister responsible for the Environment.

3.47. Article 164 (Promotion of Industrial Development) of the revised Treaty of Chaguaramas allows less developed CARICOM countries to petition COTED to suspend Community-origin

treatment to products "as a temporary measure in order to promote the development of an industry". Article 164 replaced Article 56 of the CARICOM Treaty, which allowed the use of quantitative restrictions on imports of certain products from other CARICOM countries until 2005. St. Kitts and Nevis applied quantitative restrictions on imports of aerated beverages, beer, and pasta products. The restrictions have been generally tariffed, with the exception of beer, which is subject to zero rate of import duty and to a 50% alcohol duty. The level of taxation on some imported products (e.g. on beer or aerated beverages) can be very high, and increased during the review period due to the introduction of the VAT.³¹

3.48. Until recently, St. Kitts and Nevis applied import restrictions in the form of quantitative limits, other than those allowed by Article 164, on some agricultural imports from non-CARICOM countries. Eggs could be imported only by domestic egg producers when domestic production was insufficient; and some vegetables (cabbages, carrots, onions, sweet peppers, tomatoes, and white potatoes) were subject to seasonal import restrictions and to import licensing requirements. Import licences were granted only when domestic production could not meet demand. The authorities noted that these practices have been discontinued.

3.49. St. Kitts and Nevis notified its import licensing regime to the WTO in 1998³², and responded to the questionnaire on import licensing procedures in 2009.³³ In its notification to the WTO, St. Kitts and Nevis stated that the import licence system is designed to control the quantities of specific imported goods, to assist in reducing the importation of trans-boundary diseases, and to provide statistical data on the importation of specific imported goods. St. Kitts and Nevis operates two licensing systems, one for imports and one for exports. The first regime applies to the importation of "general goods". The Supply Office, in the Ministry of International Trade, Industry and Commerce was in charge of processing and granting import licences until end 2012. The Office was closed in January 2013, and, since then, the functions have been carried out by the Customs Department.

3.50. Licences are required for all imports under the Importation of Restricted Goods Licensing Regime described in SRO No. 19 of 1975, No. 14 of 1992, and No. 31 of 1976, and section 11 of the External Trade Order Chapter 338. The procedures and rules, and the list of products subject to licensing are recorded in SRO No. 14 of 1992. The products range from vegetables, eggs, and meat, to motor vehicles and agricultural machinery. Except for eggs and some agricultural products produced in commercial quantities, licensing is automatic. There is no provision for administrative discretion as to the list of goods that appear in the SRO's different schedules. As notified to the WTO in December 2009, an import licence must be obtained for plant and plant products to ensure that the exporting country and the products do not appear on the schedule of restricted or prohibited goods.

3.51. There is a separate licensing regime for the importation of meat and meat products and live animals. Applications must be submitted by the importer to the Veterinary Division of the Agriculture Department in the Ministry of Agriculture, Marine Resources and Cooperatives. In addition the exporting country must provide a health certificate for the goods. If the goods meet the necessary health standards then the application is signed and the import permit is issued.

3.52. In accordance with domestic legislation, until January 2013, when the St. Kitts Supply Office was closed, the importation of goods produced locally could be temporarily restricted and subject to licensing whenever there was an abundance of local fresh produce. In this case, the Supply Office was required to notify the major importers of their allocated quotas, and import licences could be refused if there was abundant domestic production.³⁴ The overall quota was determined by the level of domestic production, but individual quotas were allocated based on the import

³¹ The products subject to quantitative restrictions were: aerated beverages (2202.101), waters; other waters (201.10), beer (22.03), malt (2202.90.20), candles/paraffin wax (34.06), curry powder (0910.50), pasta (19.02), animal feed (23.09), wooden furniture (9401.60 /9403.60), solar water heaters (8419.19), and industrial gases/oxygen, carbon dioxide, acetylene (2804.40, 2811.21, 2901.292). These products have been tariffed at rates of 50%, 25%, 50% (alcohol duty); 25%, 15%, 40%, 10%; 5, 15 or 25% (according to the subheading); and 10 or 25%, respectively. The level of taxation for imported beer, considering the 50% alcohol duty, the 6% customs service charge, the 15% excise duty, and the 17% VAT is 134.6%. The level of taxation for aerated beverages is 95.4%, while that for curry is 48.4%.

³² WTO document G/LIC/N/1/KNA/1, 31 July 1998.

³³ WTO document G/LIC/N/3/KNA/1, 8 December 2009.

³⁴ In this case, the applicant was informed of the refusal and given the reasons.

history of the importer. Applicants were allowed at least one month to submit applications for licences upon the announcement of the opening of quotas. Quotas were allocated on a yearly basis, while licences were issued at least one month prior to importation. The authorities have noted that licences were allotted for certain goods to domestic producers; the Supply Office monitored these licences to ensure that they were used for imports. The transfer of licences for succeeding periods was not allowed. There was no specific published list of authorized importers; however, the names of importers who received licences were made available to any other government agency upon request. In the course of this review, the authorities have noted that this practice has been discontinued as the St. Kitts Supply Office no longer exists. In relation to meat, meat products, and plants, import restrictions are activated when there is a disease outbreak. There are no country quotas for imports originating from disease-free countries.

3.53. Applications for import licences for general goods are processed immediately and for plants, animals, and meat and meat products processing takes from two days to a month. Import licences are granted at least one month prior to the importation of goods. Licences are valid for one shipment, for up to three months, and their duration cannot be extended. They are transferable to another person.

3.54. Permits are required for imports of any live animals, poultry or birds or carcasses and parts thereof, plants, planting materials, and pesticides, as well as ozone-depleting substances. The importation of arms and ammunition requires a licence from the Commissioner of Police under the Firearms Act. No. 23 of 1967.

3.1.7 Contingency measures

3.1.7.1 Anti-dumping and countervailing measures

3.55. St. Kitts and Nevis has no domestic legislation on anti-dumping or countervailing duties. Since there is no umbrella legislation to enact overall the Uruguay Round Act into domestic law, the provisions of the WTO Agreement on Antidumping are not part of domestic legislation and hence cannot be invoked in Court. The legislation currently available with respect to contingency measures dates from 1958 and, hence, is not in accordance with the Anti-dumping Agreement.

3.56. St. Kitts and Nevis notified to the WTO in December 2009 that it had not established an authority competent to initiate and conduct an investigation within the meaning of Article 16.5 of the Agreement. Thus it had not taken any anti-dumping actions within the meaning of Article 16.4 of the Agreement and did not anticipate taking any for the foreseeable future. St. Kitts and Nevis would promptly notify the Committee on Anti-Dumping Practices of any changes that might take place in this regard, including the establishment of a competent authority to initiate and conduct anti-dumping investigations, as well as the domestic procedures governing the initiation and conduct of such investigations, and would report without delay to the Committee any anti-dumping actions in accordance with Article 16.4.³⁵

3.1.7.2 Safeguards

3.57. St. Kitts and Nevis does not have any national legislation with respect to safeguards. However, it may invoke regional rules for the application of safeguards, under CARICOM rules. St. Kitts and Nevis, as a less developed CARICOM member, may invoke the special provisions in Chapter 7 of the Revised Treaty of Chaguaramas, in particular Article 150 (Safeguard Measures). Under this Article, it may limit imports of goods from other CARICOM members, for up to three years and take such other measures as COTED may authorize. Members may not apply safeguard measures against the products of a disadvantaged country where such products do not exceed 20% of the market of the importing member.

3.58. St. Kitts and Nevis did not implement any safeguard measures during the period under review.

3.59. St. Kitts and Nevis did not make use of the safeguard provisions included in the Uruguay Round Agreement on Agriculture.

³⁵ WTO document G/ADP/N/193/KNA, 12 January 2010.

3.1.8 Technical regulations and standards

3.60. St. Kitts and Nevis made no notifications to the TBT Committee during 2007-13. In the course of the current Review, the authorities noted that technical assistance is required to build capacity of the TBT National Enquiry Point.

3.61. Technical regulations and standards are developed by the Saint Christopher and Nevis National Bureau of Standards, established under the National Bureau of Standards Act No. 7 of 1999, now the National Bureau of Standards Act CAP. 23:15 Revised Edition 2002. The Bureau started operating in 2000. The National Bureau of Standards functions under the umbrella of the Ministry International Trade, Industry, Commerce and Consumer Affairs and is governed by the Standards Council, composed of representatives of the public and private sectors.

3.62. The St. Kitts and Nevis Bureau of Standards is a member of the Caribbean Regional Organization for Standards and Quality (CROSQ), Inter-American Metrology System (SIM), Pan-American Standards Commission (COPANT), and an Affiliate Member of the International Electro-Technical Commission (IEC) Country Programme.

3.63. The Bureau's statutory function is to prepare, promote, and generally adopt standards on a national, regional or international basis relating to structures, commodities, materials, articles, and other things offered to the public commercially.³⁶ The Bureau also has the mandate to prepare, frame, modify or amend specifications and codes of practice, and to maintain testing facilities, to carry out testing, calibration, and certification, and to publish standards marks. The Bureau acts as the technical authority for the National Metrology Service, established by the Metrology Act No. 30 of 2012. It is also the certification and conformity assessment body for products, commodities, and processes with respect to national standards. The Bureau also acts as the Enquiry Point for the WTO TBT Agreement and the Contact Point for the Codex Alimentarius Commission. The Ministry of Trade is the designated Notification Point for the WTO-TBT Agreement.

3.64. Standards are drafted or adapted by technical committees established by the Standards Council in the Bureau's Departments of Chemistry, Entomology, Metrology, Microbiology, and Soil. The committee must reach consensus on the technical content of the draft standard. The draft standard is then circulated to stakeholders for feedback and comments, for a period of 60 days. Upon receipt of the comments and after the 60 days comment period, the final draft is prepared for the approval of the Council. If a technical regulation will be based on the standard the draft is sent to the legal draftsman for vetting and comment. A revised and edited final draft standard, approved by the Standards Council and a letter seeking approval for the draft is sent to the Minister responsible for the Bureau. If the draft standard is intended to become a technical regulation, this is stated in the letter, and the comments of the legal draftsman are included. When the Minister approves the draft, it is declared a St. Kitts and Nevis National Standard; and is printed and gazetted, and copies are sent for notification to the relevant bodies regionally and internationally.

3.65. International standards and CARICOM standards adopted/adapted by the Bureau as National Standards may be declared mandatory to protect health and safety, ensure quality in goods for export, prevent fraud from misleading advertising, and give information to consumers. The Bureau is also responsible for facilitating the development and implementation of regulations on labelling, on the sale, import or export of goods for which mandatory standard specifications have been declared, and for granting licences for use of a standard mark.

3.66. Non-conformity with technical regulations (mandatory standards) is punishable by a fine of up to EC\$5,000, or up to two years imprisonment. Conformity with a national or regional standard may be verified at the border in the case of imports, and through internal checks in the case of domestic products.

3.67. Technical regulations are also developed by the Government and interested regulatory bodies. The main ministries involved in developing and implementing technical regulations are the Ministries of Health; Information and Technology; Agriculture; Environment and Sustainable Development; Energy; and Public Works, Utilities, Transport and Posts. The need to develop or

³⁶ Bureau of Standards online information. Viewed at: <http://miticca.gov.kn/ContentAreas/2.asp?CID=15>.

adopt standards and technical regulations is identified by a Government agency, manufacturers, consumers or the St. Kitts and Nevis Bureau of Standards (SKNBS).

3.68. The authorities stated in the course of this Review, that an updated list of the technical regulations adopted during 2007-13 was not available.

3.1.9 Sanitary and phytosanitary measures

3.69. The enquiry point under the WTO Agreement on Sanitary and Phytosanitary (SPS) Measures is the Department of Agriculture in the Ministry of Agriculture, Marine Resources and Cooperatives. St. Kitts and Nevis is a contracting party to the International Plant Protection Convention (IPPC), but is not a member of the Codex Alimentarius Commission or the World Organisation for Animal Health (OIE).

3.70. St. Kitts and Nevis has not made any notification to the WTO SPS Committee. In the previous Review, the authorities indicated that St. Kitts and Nevis had very few resources in this area, and was in need of technical assistance. The situation remains the same in the context of the current Review. The authorities noted that St. Kitts and Nevis maintains a number of SPS measures but an exhaustive and up-to-date list is not available. Although St Kitts and Nevis has legislation on SPS, it lacks the infrastructure necessary to conduct testing of plants and animals. The authorities have noted that there is a food and water testing facility, which helps to identify pathogen agents that affect food. However, the capabilities are not in place to test plant pathogens and pesticide residues. So control is mostly based on inspection of imports and examination of any documentation issued in the exporting country, such as sanitary or phytosanitary certificates. The authorities stated that such test results are accepted from all countries that implement CODEX and OIE standards and that the Ministry of Agriculture uses the facilities of regional and international laboratories when and if necessary.

3.71. The Quarantine Unit, a subsection of the Department of Agriculture, is tasked with preventing the entry, establishment, and spread of agricultural pests and diseases. This objective is fulfilled through inspection, certification, prohibition of entry, treatment, or destruction. The Unit comprises two divisions: Plant Quarantine and Animal Quarantine. The Plant Quarantine Division conducts pest and disease surveillance and monitoring activities, and pest and import risk analysis. It enforces international import/export regulations, ensures that international sanitary and phytosanitary standards are adhered to and implements exotic pest emergency response, control, and eradication. Plant quarantine officers inspect agricultural and horticultural containers to ensure that pests and diseases requiring quarantine are not present.

3.72. The Animal Quarantine Division regulates imports and exports of animal and animal parts (including meat and poultry). The Division's regulatory responsibilities include pest and disease surveillance, import risk analysis, and maintaining animal health. The Veterinary Authority (Chief Veterinary Officer, in charge of the section of the Quarantine Unit for animal, meat, and meat products) is responsible for the inspection and certification of animals, animal products, genetic material, including semen and embryos, livestock feeds, veterinary biologicals, and veterinary drugs imported into or exported from St. Kitts and Nevis. The Veterinary Authority is also responsible for providing certificates and documentation for the exportation of any animal or animal-related item from St. Kitts and Nevis. The Authority monitors, evaluates, and establishes areas free of, or with low prevalence for, animal pests and diseases.

3.73. The Plant Protection Act, Cap. 14.09 of the Laws of St. Kitts and Nevis sets up the phytosanitary conditions for imports of plants. All plants, plant products, plant pests, live beneficial organisms, and soils imported into St. Kitts and Nevis must be accompanied by a phytosanitary certificate issued by the appropriate agricultural authority of the exporting country. Plants, planting materials, plant products, and soil also require an import licence from the Minister of Agriculture. Imports of any plant, plant part, plant product, or fruit and vegetables from any country infested with the pink/hibiscus mealy bug are prohibited unless certain conditions are met. In the context of this Review, the authorities noted that, in practice, this is no longer enforced. A draft Plant Protection Bill is currently being discussed with the Ministry of Agriculture; it is on the legislative agenda for 2014.

3.74. The Animals (National and International Movement and Prescribed Diseases Prevention) Act, 2012 (Act No. 7 of 2012) provides for the control of the movement of animals and animal-related items into and within St. Kitts and Nevis. The Act repealed the Animal (Disease and Importation) Act, Cap. 107 which contains provisions to prevent the introduction and spread of prescribed animal diseases within St. Kitts and Nevis and to ensure the safe and humane movement of animals to and from St. Kitts and Nevis. The Act is administered by the Chief Veterinary Officer, and establishes the Veterinary Authority. The authorities have noted that the 2012 Act enhances the scope for decisions to be made based on risk assessment.

3.75. The importation of an animal or an animal-related item requires an import permit issued by the Veterinary Authority and an international veterinary certificate from the relevant authority of the exporting country. The Minister, on the recommendation of the Authority, may prohibit the importation of any animal or animal-related item where the importation would result in the introduction or spread of any vector, disease or toxic substance, or is not done in accordance with established international standards and guidelines issued by the WTO and other international organizations. Animals, animal-related items and other regulated articles, upon importation, are subject to inspection at the port of entry. In accordance with the Act, an inspector will order animal to be placed within a quarantine station where the animal: may be suffering from an animal disease; may have been in contact with another animal suffering from an animal disease; or has not been tested or inspected to determine if it is suffering from an animal disease. All imported animals, on being landed, may be required by the Veterinary Authority to be placed in quarantine for such period and subject to such conditions as may be prescribed. The authorities indicated that, in practice, the majority of animal imports are subject to quarantine, usually for at least one month, depending on the animal and on where it comes from; this requirement does not apply to animals imported from other Caribbean countries, which supply about one tenth of these imports. The large majority of animal imports are from the United States and Canada.

3.76. The Pesticides and Toxic Chemicals Control Act of 1999 provides for the regulation and control of the importation, storage, manufacture, sale, transportation, disposal, and use of pesticides and toxic chemicals. The Act is implemented by the Pesticides and Toxic Chemicals Control Board, which comprises ten members from the Government and non-governmental organizations. The main function of the Board is to evaluate applications submitted for registration, to obtain licence or a research permit, and to grant or cancel licences. The board also advises the Minister on matters relevant to the making of regulations under the Act and monitors the implementation of these regulations. Imports of pesticides require a licence from the Pesticide Board, under the Drugs (Prevention and Misuse) Act No. 37 of 1978.

3.77. The implementation of permanent SPS measures, such as modifications to the Animal (Disease and Importation) or the Plant Protection Acts require the enactment of legislation by Parliament. However, emergency measures may be implemented the Minister of Agriculture without parliamentary approval. These measures are expected to have a limited duration; they require legislation and parliamentary approval to become permanent.

3.78. Although there are no written guidelines for the adoption of SPS measures, the authorities indicated that it is based on a review of the risks involved, both in scientific and economic terms, of not taking any action. However, there is no mechanism to inform national stakeholders and trading partners prior to the adoption of the measures, and consequently, there is no provision for the solicitation or consideration of comments prior to their entry into force. This is the case for both emergency and permanent measures. Notification to stakeholders takes place after the implementation of a measure through its publication in the *Gazette*. Measures are also advertised through the media, postings at the air- and seaports, and in meetings of the Caribbean Veterinary Association. In the course of the previous Review, the authorities indicated that there were no plans to change the procedures for adopting or publicizing SPS measures. This seems to be the current situation, which prevents St. Kitts and Nevis from complying with several of the requirements of Annex B of the SPS Agreement.

3.79. St. Kitts and Nevis introduced legislation to regulate Genetically Modified Organisms (GMOs) in 2012. Act No. 14 of 2012, known as the Biosafety Act, 2012 regulates the registration and licensing of GMOs. There are licences for intentional introduction of GMOs in the environment, for domestic use, for contained use, for imports, and for exports. A Biosafety Board was established to implement the provisions of the Act, but as at February 2014 was not yet functioning.

3.2 Measures Directly Affecting Exports

3.2.1 Documentation, export taxes, and restrictions

3.80. Exporters are not required to register: they must submit an export declaration (shipping bill) and invoice/packing list, and when required, a phytosanitary or CITES certificate, or, for preferential trade, a certificate of origin.

3.81. Exports of vegetables require a phytosanitary certificate. Exports of all live animals require an Export Health Certificate, while exports of all animal meat (fresh or frozen) require an export certificate provided by the Government Veterinary or an authorized veterinary. The exportation of several types of seafood (conchs, crustaceans, fish, and lobsters) requires a permit, a certificate, and a completed customs declaration. The permit must be obtained from the Department of Marine Resources, and the sanitary certificate from the Veterinary Unit (Department of Agriculture).

3.82. Exports are exempt from internal taxes, and zero-rated for VAT purposes. Until 2010, export taxes were applied on some live animals, lobsters, and cotton, in accordance with the Export Duty Ordinance (Amendment) Act No. 4 of 1970. The adoption of the VAT eliminated export taxes.

3.83. There is no export promotion agency in St. Kitts and Nevis, although the St. Kitts Investment Promotion Agency (SKIPPA) and the Nevis Investment Promotion Agency (NIPA) are tasked with promoting investments, and economic activities, among which exports.

3.84. External Trade Order No. 32 of 1958 rules export restrictions and licensing; restrictions are generally for safety and health purposes. Until recently, export licences were managed by the now closed Supply Office; they are currently under the Ministry of International Trade, Industry, Commerce and Consumer Affairs. Exports of wild birds are forbidden, in accordance with the CITES, and exports of narcotic drugs and psychotropic substances, as well as goods bearing the coat of arms or flag of St. Kitts and Nevis are restricted.

3.2.2 Export subsidies, financing, support, and promotion

3.85. St. Kitts and Nevis has not notified to the WTO Committee on Agriculture whether it provides export subsidies to agricultural products. In the context of this Review, the authorities have stated that St. Kitts and Nevis does not provide such export subsidies. However, as mentioned above, the fruit and vegetable industry benefits from certain advantages on its exports, including the duty-free importation of certain inputs and materials and of machinery and parts used by the industry.

3.86. St. Kitts and Nevis has notified the Fiscal Incentives Act No. 17 of 1974 to the Committee on Subsidies and Countervailing Measures (SCM), as providing export subsidies, requesting an extension as per Article 27(4) of the SCM Agreement.³⁷ In July 2007, the General Council decided to extend the date for the dismantlement of export subsidies to end 2015. Members benefiting from the extension must take, from 1 January 2008, the necessary internal steps to eliminating export subsidies under the programme before the end of the final two-year phase-out period.

3.87. St. Kitts and Nevis, like other OECs countries, grants some fiscal benefits that are contingent upon exportation, especially those available after the end of the 15-year tax holiday granted to some enterprises. Concessions in the form of tax credits are granted under the Fiscal Incentives Act, which provides for income tax relief on the profits accruing from a company's exports. This benefit is granted only to enterprises that are exporting, and may not be granted while enjoying a tax holiday and duty-free imports of raw materials and capital goods. Enclave enterprises, exporting their entire production, may receive the maximum tax-holiday period, 15 years, under the Fiscal Incentives Act. The authorities indicate that they could not provide estimates of revenue forgone under the Fiscal Incentives Act for the period 2007-13.

³⁷ WTO documents G/SCM/N/74/KNA, 17 December 2001; G/SCM/N/71/KNA, 4 March 2002; G/SCM/N/95/KNA and G/SCM/N/99/KNA, 3 July 2003; G/SCM/N/114/KNA, 28 July 2004; G/SCM/N/123/KNA and G/SCM/N/128/KNA, 25 July 2005; SCM/N/128/KNA, 25 July 2005; and G/SCM/N/146/KNA, 13 July 2006.

3.88. St. Kitts and Nevis does not have legislation that would provide for the establishment of free zones. The duty-free regime, established under the Duty Free Shops (Licensing and Taxation) Act No. 6 of 2010, consists of two types of approved duty-free licences, one for alcohol and tobacco (licence B) and the other for a specific list of goods (A). There is duty-free operator fee of EC\$10,000 per year. The advent of the VAT changed some of the parameters of the regime, whereby locals are subject to the tax, and non-residents are zero-rated. They pay a non-refundable duty-free store levy of 6%, excluding CSC, import and excise duties.

3.89. The OECS Export Development Unit (EDU) offers export promotion support, with assistance from the Caribbean Export Development Agency. Until 2009, when this scheme ended, St. Kitts and Nevis' exporters could make use of the insurance and export credit guarantee facilities provided by the Eastern Caribbean Central Bank (ECCB), covering political and commercial risks.

3.3 Measures Affecting Production and Trade

3.3.1 Incentives and assistance

3.90. St. Kitts and Nevis uses incentives schemes to attract investment, encourage new employment opportunities, and promote diversification of the economy. The St. Kitts Investment Promotion Agency (SKIPA) and the Nevis Investment Promotion Agency (NIPA) are in charge of managing these schemes. The incentives available generally take the form of income and profits tax holidays and import duty exemptions. The average value of tax concessions granted over the period 2008-12 is estimated at EC\$142.8 million.

3.91. St. Kitts and Nevis has, on various occasions, notified to the Committee on Subsidies and Countervailing Measures the Fiscal Incentives Act No. 17 of 1974, and was granted an extension for its modification or elimination until end 2015, under the decision relating to Article 27.4 of the SCM Agreement.³⁸ This is the only subsidies programme notified by St. Kitts and Nevis. Under the Fiscal Incentives Act, a tax holiday of up to 15 years may be granted for the manufacture of approved products by approved enterprises. The length of the tax holiday depends on the local value added generated or on whether the company exports all its production. To this end, companies are classified as: (i) Group 1 enterprises, where local value is 50% or more of sales, which may be granted a tax holiday of up to 15 years; (ii) Group 2 enterprises, with local value of between 25% and 50% of sales, which are granted concessions for up to 12 years; (iii) Group 3 enterprises, with local value of between 10% and 25% of sales, which may benefit from a tax holiday of up to 10 years; and (iv) enclave enterprises, where production is exclusively for export, which may be granted a tax holiday of up to 15 years.

3.92. Additional benefits, in the form of income tax rebates at the termination of the tax holiday period, are based on the company's share of export profits in its total profits. Accordingly, the income tax rebate is 25% when export profits are between 10% and 20% of total profits; 35% for profits between 21% and 40%; 45% when they are between 41% and 60%; and 50% when export profits exceed 60% of total profits. In addition, companies benefiting from a tax holiday under the Fiscal Incentives Act may import duty-free machinery, equipment, spare parts, building materials, raw and packaging materials, and other inputs, as appropriate, to be used in eligible enterprises.

3.93. In addition, there are sector-specific incentives for tourism, as included in the Income Tax Act Cap. 20.22 (Act No. 17 of 1966) and the Hotel Aids (Amendment) Act (Cap. 18.17, as amended by Act No. 19 of 1998) (section 4.3.6). Tax incentives are also granted to investors on a case-by-case basis by Cabinet for infrastructure projects, with preference given to the construction of hotels, casinos, and villas; these ad hoc incentives do not require approval by the National Assembly.

3.94. During the period under review, St. Kitts and Nevis introduced a scheme to assist locally owned small enterprises. The Small Business Development Act of 2009 (Cap. 20.61) provides for the establishment of a regulatory framework to facilitate the growth and development of small businesses. For the purposes of the Act, a small business is defined as: (a) not having more than 25 employees; (b) annual turnover not exceeding EC\$2 million; (c) net assets or paid up capital

³⁸ Most recently through WTO document G/SCM/N/243/KNA, 1 August 2012.

not exceeding EC\$1 million; (d) locally owned³⁹; (e) no more than 25% owned or controlled by a company whose annual turnover and net assets or paid-up capital do not exceed the annual turnover and net assets or paid up capital mentioned above; (f) where the composition of its board of directors is not controlled by a company whose annual turnover and net assets exceed the annual turnover and net assets mentioned above; and (g) having no agreement for the purpose of fees on a continuing basis for managerial or other services to persons who are not nationals of St. Kitts and Nevis or other CARICOM states and who are not resident in St. Kitts and Nevis, where those services do not form part of the normal business operations of the enterprise.

3.95. To benefit from the programme, a company must be declared "approved small business" by the Minister of Trade, Industry and Consumer Affairs. Applications for this status must be accompanied by a certificate of incorporation issued pursuant to the Companies Act, 1996 or a business licence issued pursuant to the Licences on Businesses and Occupations Act, 1972. If all requisites are met, the Minister of Trade will issue a declaration of approved small business within 90 days of the application; this declaration is published in the *Official Gazette* and the company will receive a Certificate of Registration.

3.96. Approved small businesses benefit from a number of incentives: (a) a concession on the VAT (originally on the consumption tax); (b) a reduction on income tax for a minimum of the first three and a maximum of the first five years of establishment or reconstruction of the small business; (c) relief on income tax by way of an allowable deduction on any money borrowed from any financial institution including any bank, non-bank or credit union; (d) export incentives for research and development and export promotion activities; (e) a rebate on corporate tax; (f) an exemption from or reduction in customs duty on inputs imported for use in the small business; (g) an exemption from or reduction in customs duty on any plant, machinery, equipment or motor vehicle imported for use in the small business; and (h) a reduction of property tax of up to 75% pursuant to the Property Tax Act, 2006, in respect of any land and building used in the operation of the approved small business.

3.97. To benefit from these incentives, the business must show that it has met at least five of the following criteria: (a) it has produced a strategic plan or business plan and financial projections for the next 24 months; (b) it has adopted industry standards and compliance methods relevant to that industry; (c) it has shown equity capital improvements; (d) it has in the immediate preceding year made serious efforts to become more efficient, as measured by financial ratio indicators; (e) it has achieved significant growth in the last two years of its operation measured by production levels, revenue performance, increase in market share and other growth performance indicators; (f) it has combined or intends to combine with another small business to share relevant services or with respect to the bulk importation of raw materials or other goods; (g) it has created additional employment within the small business; (h) it has utilized or intends to utilize new skills and technologies; and (i) it has demonstrated a strong likelihood to generate new investment, products, processes, employment or production capacity.

3.98. The priority sectors for the establishment of small businesses are specified in the First Schedule of the Act and include: (a) tourism related services (excluding hotels and restaurants); (b) transport and storage; (c) information, communication, and technology activities; (d) agriculture, forestry and related service activities; (e) arts and cultural activities; (f) construction services; (g) entertainment services; (h) fishing and mariculture; (i) manufacturing; (j) personal care services; (k) repair of personal and household goods and vehicles; (l) sanitation, sewage and refuse disposal services; (m) sporting and recreational services; and (n) financial services (excluding qualified entities providing services to non-residents only).

3.99. Beneficiaries are also entitled to receive government technical assistance in the areas of management, accounting, and production techniques; the development of product package and label design; the development and maintenance of quality control; the provision of marketing and storage assistance for the local and export market; the provision of assistance to businesses seeking to participate in overseas trade shows; the preparation of business plans to facilitate the

³⁹ Under the Act, "locally owned" company means (a) a company that is not under foreign control within the meaning of the Aliens Landholding Regulation Act, Chapter 102; or (b) a business of which not more than one third of the assets are under the control of a person who is not a national or who is not licensed to undertake business under the Licences on Businesses and Occupations Act, 1972.

initial financing and management of the business; and any other activity necessary to start, continue or expand specified operations in the approved small business.

3.100. Approved small businesses must submit annual audited statements of accounts in accordance with generally accepted international auditing standards. A Small Business Advisory Committee was created to advise the Minister of Trade, Industry, Commerce and Consumer Affairs on matters relating to the small business sector.

3.101. The Development Bank of St. Kitts and Nevis (DBSKN) provides credit for agriculture, tourism, agri-industry, manufacturing, and mortgage financing. The DBSKN was established by Act No. 1 of 1981, amended in 1983 and is wholly owned by the Government, but with full operational autonomy under the direct responsibility of the Minister of Finance. In 2007-13, the bank approved 1,000 loans amounting to EC\$41 million.

3.102. Assistance to the different sectors of the economy is provided through the Sugar Industry Diversification Foundation (SIDF). The SIDF was founded in September 2006 by the National Bank Trust Company; it is one of three approved options for obtaining citizenship, along with real estate and investments. The SIDF was created with the primary goal of assisting the Government in the transition from sugar as the main industry to a more diversified economy by researching and funding the development of alternative industries. The SIDF has been designated a specially approved project for the purpose of Citizenship-by-Investment. Since its inception, the SIDF's aim has been broadened to include providing support to the Government in its efforts to diversify the national economy and maintain economic stability, and to support, finance or undertake the development of new and existing industries, projects or enterprises. The Foundation may also provide grants, loans, budget support, debt forgiveness or assistance of any kind to the Government or to persons or institutions that qualify for such assistance under its policies. Up to mid-2013, the SIDF had invested over US\$60.3 million by way of grants, loans, and share holdings: 20.2% were channelled to the Government, 16.1% to resort development, 13.7% to tourism, 13.2% to electricity, 9.4% to agriculture, 6.7% for construction, 6.7% for financial investments, 6.2% for training, 3% for entrepreneurship, and the rests for art, culture, education, and sports projects. In total, 24 projects have been financed.⁴⁰

3.103. SIDF funds have been destined to the Government for budgetary purposes; allocations have also been made to the Development Bank of St. Kitts and Nevis to establish several funds including the Agricultural Fund, the Small Hotel and Restaurant Modernization Fund (SHARM), and the recently introduced Fund for the Realization of Economic Empowerment through Subsidized Housing (FREESH). The SIDF has also invested in Kittitian Hill, a five-star luxury resort under construction, and the St. Kitts Tourism Authority has received financing for the airlift support programme. A number of agricultural projects have been financed with SIDF resources (see section 4.1).

3.104. Enterprises from St. Kitts and Nevis (and other CARICOM countries) may receive concessionary credits funded or guaranteed by the Caribbean Development Bank (CDB) for projects of between US\$750,000 and US\$5 million. Loans from ordinary capital resources (OCR) are at an annual rate of 6.03% (public sector) or 8.03% (private sector), with a repayment period of up to 22 years. Loans from special fund resources are granted to St. Kitts and Nevis (a Group 3 country) at an annual interest rate of 2.5%, with a repayment period of 30 years, including a grace period of 10 years.⁴¹ On loans made from OCR, the CDB also levies a commitment fee of 1% per annum on the amount undisbursed, and a 1% front-end fee on loans directly to the private sector.⁴²

3.105. During the period under review, the authorities established the St. Kitts Investment Promotion Agency (SKIPA), which promotes investment in St. Kitts at international, regional, and local levels. SKIPA focuses on attracting potential long-term investors as well as investments that will diversify the economic base of St. Kitts, in line with its strategic objectives outlined in the National Adaptation Strategy 2006-13. SKIPA also undertakes investment facilitation, which include providing information, assistance in finding business opportunities, and acting as the point

⁴⁰SIDF online information. Viewed at: http://www.sknsidf.org/projects/projects_details.cfm?prz=6&p=19.

⁴¹ Caribbean Development Bank (2008).

⁴² Caribbean Development Bank (2008).

of contact for procedures to be taken to establish a business, for local and foreign investors. SKIPA facilitates investments in all economic activities, but concentrates its marketing efforts in activities finding defined as priority sectors (agriculture, tourism, financial services, and information technology).

3.106. SKIPA also provides support for business expansion and lobbies the Government to implement policy changes to improve the investment environment. SKIPA has been focusing on documenting, standardizing and streamlining procedures, reforming the investment incentives regime, and providing for a transparent and level playing field for all investors regardless of origin, project size or years in operation.⁴³ SKIPA does not provide financing for investments and does not charge any fees for its services.

3.107. A similar agency operates in Nevis: the Nevis Investment Promotion Agency (NIPA) provides pre-investment and after-care guidance to investors pursuing investment opportunities on the island. NIPA's mandate is to: promote key sectors for investments; disseminate general and sector specific information, assist in business start-up facilitation; facilitate meetings with key government ministries; and provide support to the investor after the investment takes place.⁴⁴ Like SKIPA, NIPA does not provide financial support.

3.108. During the period under review, the construction sector benefited from a Building Materials Incentives programme consisting in exemptions of customs duties and the customs service charge on building materials. The scheme was introduced in 2011 and scheduled to expire in December 2012 but was extended to end 2013.

3.3.2 Competition policy and regulatory issues

3.3.2.1 Competition policy

3.109. St. Kitts and Nevis does not have a competition law, only legislation that protects the consumer, the Consumer Protection Act Cap. 18.38 (Act No. 9 of 2003). Amendments are being drafted to update the legislation. The provisions of the Consumer Protection Act of 2003 protect consumers from misleading and deceptive practices in promotion, supply and sale of goods and services. The Act also addresses fair contract terms individually negotiated between suppliers and consumers.

3.110. Chapter VIII of the revised CARICOM Treaty deals with competition policy and provides for the enactment and harmonization of legislation in CARICOM member states. The CARICOM Competition Commission established in January 2008 and headquartered in Paramaribo, Suriname is in charge of competition issues and enforcement in the CSME (Common Report). Under engagements in the EPA, there are provisions with respect to competition policy (Common Report). The authorities indicated that a regional competition policy will be implemented, but no specific date has been set for this. Draft model legislation is being prepared by the CARICOM Secretariat.

3.111. The Department of Consumer Affairs of the Ministry of International Trade, Industry, Commerce and Consumer Affairs is responsible for the enforcement of the Consumer Protection Act and promoting fair, consumer-friendly business practices that encourage and educate businesses to comply with the Act. The Department is also in charge of liaising with the CARICOM Secretariat in providing current, harmonized consumer-protection legislation. The Price Control Order of 2007, SRO No. 41 of 2007 gives the Department of Consumer Affairs the legislative authority to enforce prescribed margins on a list of goods (section 3.3.2.2). To this end, the Department receives input from the Ministries of Agriculture and Health, and of financial institutions.

3.3.2.2 Price controls

3.112. Price controls on basic consumer items have been in place for over 45 years. The legal foundation for the controls is the Distribution of Goods and Price Control Act No. 7 of 1968, now

⁴³SKIPA online information. Viewed at: http://www.stkittsipa.org/about_SKIPA_what_we_do.asp.

⁴⁴NIPA online information. Viewed at: <http://www.nevisipa.org/about.php>.

Cap. 18.09 of the laws of St. Kitts and Nevis. The controls are focused on goods and services that are particularly influential on the cost of living and on the quality of life of lower income families. The Act identifies special districts, which encompass the island of Nevis, and areas of St. Kitts outside the boundaries of the town of Basseterre, for which prices may be fixed. The Government's rationale for the controls is that in small island States with only a few suppliers of a number of important products, competitive forces may sometimes be bridled.⁴⁵

3.113. During the period under review, modifications were introduced to the scope and manner of applying price controls, to depend less on rigidly fixed prices, and more on market conditions. In the 2007 Budget Address, the Government stated the need to monitor consumer prices and that Government would tighten up the price-control regime. This led to the passing of SRO No. 41 of 2007.

3.114. The previous Price Control Order (SRO No. 15 of 1999) fixed maximum wholesale and retail prices for a large number of goods, including, cement, milk, and cooking gas. Although prices for these goods were periodically updated, they did not always follow market movements. Prices were fixed at the wholesale and retail levels. Maximum wholesale prices were the same throughout the Federation, but maximum retail prices were fixed for Basseterre, the capital, and for Special Districts, which encompass the island of Nevis, and areas of St. Kitts outside the boundaries of the town of Basseterre.

3.115. A new system was put in place through the Price Control Order of 2007, SRO No. 41 of 2007. The new Order does not fix maximum wholesale or retail prices, but allows the wholesaler to make a 20% mark-up on the landed cost of goods, while the retailer is allowed to make an additional 20% mark-up on the wholesale price of goods. The landed cost of the goods is calculated at the c.i.f. level adding duties and taxes as well as handling and portage charges. Under the S.R.O., the prices are monitored for: chicken wings, leg quarters, drumsticks, backs, thighs, and neck; turkey wings; salt fish; mackerel; king fish; marlin; mutton; pig snout; pig tail; elbow; processed pasta; spaghetti; margarine; butter; processed cheese; sardines; corned beef; Vienna sausage; tuna; honey; cereal; rice; detergent; and diapers. The Department of Consumer Affairs has the responsibility of monitoring prices and ensuring the correct landed cost is used before adding the mark-up. Areas identified as special districts under the Distribution of Goods and Price Control Act may apply the maximum price system set out for special districts in SRO No. 60 of 2011.

3.116. The Government has provided subsidies for cement, milk, LPG, and cooking gas and electricity under provisions of the Distribution of Goods and Price Control Act. Currently, subsidies apply only to LPG, cooking gas and electricity. The price of fuels is subject to maximum profit margins for dealers and retailers.

3.117. The importation, distribution, and pricing of LPG and cooking gas in St. Kitts and Nevis is governed by the Distribution of Goods and Price Control Act, Cap. 18.09 of the laws of the Federation. The Act gives the Government control over the pricing and the supply of certain basic and important commodities to protect consumers from "arbitrary and market-driven pricing schemes". The price of cooking gas has remained stable since 2005 as a result of the application of the Price of Goods Act, fixed at EC\$30 for a 20 lb tank and at EC\$140 for a 100 lb tank. The difference is subsidized by the Government.⁴⁶

3.118. St. Kitts abolished its Supply Office in January 2013. This office applied price controls and was governed by the provisions of the Price Control Order of 2007, except for cement, milk, LPG and cooking gas and electricity which were governed by different regulations. Nevis continues to operate its own independent Supply Office. Through the new Supply Office, prices are controlled under the Distribution and Price of Goods Act, where Nevis is distinguished as a special district, and as such, uses the maximum price system for special districts contained in SRO No. 60 of 2011.

⁴⁵ Government of St. Kitts (2006).

⁴⁶ The subsidy for 2011 has been calculated to be as much as EC\$33.58 on each 20 lb tank of gas and EC\$136.00 on each 100 lb tank of gas, sold to consumers, totalling around EC\$5 million for the year (Office of the Prime Minister, St. Kitts and Nevis, "Post-Cabinet Briefing", 28 March 2012. Viewed at: http://www.cuopm.com/pcbtext.asp?PCB_ID=60).

3.3.3 State-owned enterprises and privatization

3.119. St. Kitts and Nevis has not notified any state-trading enterprises to the WTO.

3.120. Until January 2013, the Supply Office had an import monopoly on wheat flour in bulk (packages bigger than 5 lb), rice in bulk (packages bigger than 10 lb), and evaporated milk. The monopoly did not extend to imports in retail-size packages.

3.121. The Central Marketing Corporation (CEMACO) acted as a marketing agent for non-sugar agricultural produce, competing with private retailers until its demise in 2009.

3.122. There are three other major public enterprises, the Air and Seaport Authority, the Development Bank of St. Kitts and Nevis, and the Frigate Bay Development Corporation, but they do not engage in trading activities.

3.3.4 Government procurement

3.123. There are no official statistics regarding the value of government procurement in St. Kitts and Nevis. IMF public finance figures indicate that public sector current expenditure on goods and services represented some 5.4% of GDP, while capital expenditure accounted for some 2.7% of GDP in 2012.⁴⁷ These levels are considerably lower than in the previous year, due to the corporatization of the Electricity Department in 2011.

3.124. St. Kitts and Nevis is not a party to the WTO Plurilateral Agreement on Government Procurement. There are no expressed indications towards St. Kitts and Nevis joining the GPA. The CARIFORUM-EU EPA, signed in October 2008, contains public procurement conditions that require transparency in all government procurement above a threshold of approximately €164,000 (see Common Report). The FRIP (Framework Regional Integration Policy on Public Procurement) contains elements of procurement legislation at a CARICOM basis. It contains transparency thresholds and procurement thresholds. The FTA that CARICOM is currently negotiating with Canada contains provisions on government procurement.

3.125. Under the Finance Administration Act of 1990, Cap. 20.13, the Ministry of Finance is responsible for government procurement. During the period under review, St. Kitts and Nevis introduced specific legislation on government procurement. This is a very important step, since in the past the Ministry regulated procurement by issuing Financial Regulations (FR) and Financial (Stores) Regulations in accordance with The Financial Rules, 1998 (First Schedule) and The Stores Rules 1998 (Second Schedule) of the Finance and Audit Amendment Act 1998 (Act No. 25 of 1998). However, these were executive acts and did not contain permanent prescriptions. Observers had indicated that these rules could be easily changed by the Minister of Finance and did not reflect established government procurement principles and practices.⁴⁸ The new Law aims at closing this gap and introduces legislation that is permanent and in accordance with international practice.

3.126. As a measure to enhance transparency and further the centralization of the procurement process, a Central Purchasing Unit (CPU), created under the Ministry of Finance in 2000, procures stationary, furniture, and equipment for all sectors of government. All other supplies are procured at ministry or public agency/enterprise level. In the procurement of supplies, local purchase orders are used in many cases and procurement is at ministry level; quotations from three local suppliers are obtained, and the supplier is chosen on the basis of lowest price. Tendering for small local public works projects is decentralized, while procurement for large projects for governmental agencies is centralized, and tenders must be submitted to the Government's Tenders Board. Tender notices are published in the *Government Gazette*.

3.127. In the quest to further improved transparency and to fulfil its engagement under the Stand-By Arrangement with the IMF, draft legislation with respect to Government Procurement was sent to Parliament in June 2012. The Procurement and Contract Administration Act 2012 was

⁴⁷ IMF (2013).

⁴⁸Third Caribbean Procurement Conference (CPPC) online information. Viewed at: <http://www.cppc2012.org/home/islands.html>.

enacted on 14 September 2012. The Act mandates public competition by companies bidding for government contracts and contains conditions for the use of the various procurement methods. The Act also contains information on principles guiding the selection among bids, typical periods involved in the procurement process, publication and other transparency requirements, appeal and review procedures, and sanctions. The entry into force of the FRIP may require adjustments to the Act. No regulations have been issued for the implementation of the FRIP, but the authorities noted that CARICOM has launched needs-assessment consultations to see where member states are in their implementation efforts.

3.128. The Procurement and Contract (Administration) Act, 2012 appoints procurement officers: the director of Public Works will be the procurement officer for works; the Manager of Procurement in the Ministry of Finance, will be procurement officer for most goods, but the accounting officer for the Ministry, department or entity requiring the procurement will be the procurement officer for food, pharmaceuticals, vehicles, explosives, firearms, petroleum products, water equipment, and restricted goods under the Customs Act. The Act establishes the Procurement Board, headed by the Financial Secretary, which has the authority to determine when sole source or emergency procurement may take place and grant or refuse contract awards based on its satisfaction with the procurement procedures.

3.129. Procurement must be made using one of the following methods: (a) competitive tender, under either sealed bids or sealed proposals; (b) sole source procurement; (c) emergency procurement; and (d) competitive quotations. Tenders are mandatory above a threshold to be determined in the implementing regulations. Below that threshold, procurement can take place through competitive quotations. Sole-sourced procurement may be used when the goods, services or works required can only be procured from one source; if it is above the threshold for mandatory tendering, it must be approved by the Procurement Board. The thresholds have not yet been defined. In February 2014, the authorities stated that regulations and thresholds were being developed and finalized by the line ministry responsible.

3.130. A contract for procurement by tender procedures must be awarded to the qualified bidder who submits the best responsive evaluated tender with respect to quality, availability, capability, and price.

3.131. Imports for government consumption are not subject to customs duties or consumption tax, but they are subject to the customs service charge.

3.3.5 Intellectual property rights

3.3.5.1 Overview

3.132. The administration of intellectual property laws is under the responsibility of the Minister of Justice and Legal Affairs, in particular, the Intellectual Property Office, created by virtue of section 3 of the the Patents Act Cap. 18:25. The registration of patents, trademarks, and service marks is done in the Intellectual Property Registry in the Intellectual Property Office.

3.133. Legislation on trademarks, patents, and copyright was updated in 2000 to make it more compatible with the TRIPS Agreement. Three laws dealing with intellectual property protection issues were passed by Parliament in that year and entered into force in 2002. However, the authorities have noted that enabling regulations are either in draft form (trade marks) or do not exist (copyright, patents). In March 2007, Parliament approved the Geographical Indications Act No. 6 of 2007 (Cap. 18:39), and passed the Protection of Layout Designs Act but these are not yet in effect. A Protection on New Plant Variety Act is currently in draft form.

3.134. As at July 2013, St. Kitts and Nevis had not notified its IPR legislation to the TRIPS Council⁴⁹, or its IPR contact point. St. Kitts and Nevis is a member of the World Intellectual Property Organization (WIPO) and a signatory to various WIPO-administered treaties (Table 3.5). In the context of the present Review, the authorities noted that St. Kitts and Nevis is undertaking a comprehensive review of all its intellectual property legislation to ensure compliance with all its obligations under various treaties, conventions, and agreements. This is being done with the

⁴⁹ WTO document IP/C/M/53, 22 March 2007.

assistance of WIPO. They stated that the current laws had not been notified to the TRIPS Council because they require amendments to become TRIPS compliant, and that the necessary enabling regulations need to be drafted and passed by Parliament to give effect to some of the provisions therein.

Table 3.5 Membership in WIPO-administered intellectual property treaties, 2013

Convention/Agreement	Accession
The Convention Establishing the World Intellectual Property Organization (1970)	9 April 1995
The Paris Convention for the Protection of Industrial Property, Stockholm Text (1883)	9 April 1995
The Berne Convention for the Protection of Literary and Artistic Works, Paris Text (1886)	9 April 1995
Patent Cooperation Treaty (1970)	27 October 2005
Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks (1957)	27 October 2005

Source: World Intellectual Property Organization online information. Viewed at: www.wipo.int.

3.135. St. Kitts and Nevis is a member of various other IP-related treaties, such as the International Plant Protection Convention (ratified on 2 October 2005); the Cartagena Protocol on Biosafety to the Convention on Biological Diversity (11 September 2003); and the Convention concerning the Protection of the World Cultural and Natural Heritage (10 October 1986).

3.3.5.2 Trademarks

3.136. Trademarks are regulated by the Marks, Collective Marks and Trade Names Act Cap. 18:22 (Act No. 10 of 2000 as amended), which entered into force in 2002 and is known as the Trademarks Act. The Act extends protection to all visible signs capable of distinguishing goods (trademarks) or services (service marks), as well as collective marks and trade names. In accordance with the Act, the exclusive right to a trademark is acquired through registration in the Register of Marks. The term of protection is the standard ten years, renewable for consecutive periods of ten years each. The Act provides for the right of priority of an earlier national or regional application filed by the applicant in any WTO Member or State party to the Paris Convention, as well as provisions on licences.

3.137. As at February 2014, the Trademark Act and Draft Regulations were being reviewed before passage by Parliament. The revision of the Act and the Draft Regulations includes: customs/border protection measures in accordance with the TRIPS Agreement and the EPA; other enforcement measures; and issues related to the implementation of the Internet Treaty, the Madrid Protocol, and the WIPO Trademark Treaty.

3.138. According to Intellectual Property Office data, there were 1,807 trademark applications over the 2007-13 period. According to WIPO data, 524 trademarks were registered during 2007-11 period.

3.3.5.3 Patents

3.139. The Patents Act No. 9 of 2000 entered into force in 2002. Patent protection is for 20 years. Patentability is granted to new inventions involving an inventive step and capable of industrial application.

3.140. The Act contains provisions to grant the right of priority to WTO Members and parties to the Paris Convention, and provisions on compulsory licensing in cases of public interest, in particular, national security, health or the development of vital sectors for the economy, or if the exploitation of the patent is deemed to be anti-competitive by the Government, or there has been non-use of a patent.

3.141. According to WIPO statistics, there were 32 patent applications over 2007-11; 8 were for industrial designs (none for utility models). All applications were made abroad. Of the total of patent and industrial design applications, nine were international application made under the Patent Cooperation Treaty (PCT) and the rest were national or regional applications. Over the same period, 19 patents and one industrial design registration were granted. Patent applications

over 1997-2011, by field of technology, were as follows: computer technology (22.19%); audio-visual technology (10.94%); medical technology (8.51%); civil engineering (7.60%); mechanical elements (5.17%); digital communication (4.86%); basic communication processes (3.95%); IT methods for management (3.65%); pharmaceuticals (3.65%); handling (3.65%); others (25.83%).⁵⁰

3.3.5.4 Copyright

3.142. Copyright legislation is contained in the Copyright Act Cap. 25:08 (Act No. 8 of 2000), which entered into force in 2002. The term of copyright protection is life plus 50 years for literary, dramatic, musical, and artistic works, 50 years for sound recordings, films, broadcasts, and cable programmes, and 25 years from the end of the calendar year in which the edition was first published for typographical arrangements of published editions. The meaning of literary works encompasses computer programs and tables and compilations. The Copyright Act also extends protection of moral rights to producers of phonograms and to performers. Copyright owned by international organizations is protected for 50 years from the date of creation of the work.

3.143. The Copyright Act provides for copyright protection in audio-visual production made by foreign performers and foreign producers, as well as neighbouring rights in a broadcast made by a foreign broadcasting organization. The Act contains provisions with respect to copyright licensing.

3.3.5.5 Enforcement of intellectual property rights

3.144. St. Kitts and Nevis has not submitted to the WTO the Checklist of Issues on Enforcement of intellectual property rights.

3.145. The different IP laws contain dispositions with respect to enforcement. The Patents Act sets out various enforcement mechanisms, including: an injunction to restrain the defendant from causing the infringement; an order to deliver up or destroy the infringing product, which can include the seizure of imports; an award of damages; a payment on account of the profits derived from the infringement by the defendant; or any other relief mandated by the Court.

3.146. Under the Trademarks Act, infringement of the right to a mark may lead to: a High Court injunction; an award of damages; an order to seize, forfeit or destroy any infringing product or article; or to other remedies as decided by the High Court. Customs is authorized to seize imports to prevent goods infringing marks from entering the country. Forging a mark or a collective mark, or importing products containing a forged mark or infringing the right to a mark is liable to a fine of not less than EC\$15,000 but not more than EC\$40,000, or to imprisonment of five to 12 years.

3.147. The Copyright Act contains provisions on civil and criminal proceedings for copyright infringement through the sale, hire or importation of goods. Infringement of copyright is punishable by a fine of up to EC\$250,000, up to five-year imprisonment, or both. Remedies for infringement of economic rights include seizure of infringing copies and adjudication of damages.

3.148. No information was available to the Secretariat on enforcement activities.

⁵⁰WIPO online information. Viewed at: http://www.wipo.int/ipstats/en/statistics/country_profile/countries/kn.html.

4 TRADE POLICIES BY SECTOR

4.1 Agriculture

4.1. St. Kitts and Nevis has a small agriculture sector. Since the closure of the sugar industry, agriculture has lost considerable share of GDP, as sugar was by far the main crop. The contribution of agriculture, livestock and forestry to GDP in current prices declined to just 1.03% in 2012, of which the contribution of farming was 0.67%, livestock 0.33%, and forestry 0.03% of GDP; fishing contributes some 0.56%. Fish landings declined by 3% to 692,780 lb down 3% from 2011, with a total value of EC\$6.8 million.

4.2. After the closure of the St. Kitts Sugar Manufacturing Corporation (SSMC), the sole producer and exporter of sugar in July 2005, some 12% of the labour force was left unemployed. These workers were given EC\$44 million in July 2005 in severance payments, and a Sugar Industry Diversification Foundation (SIDF) was established to facilitate their insertion in other parts of the economy. With time, the SIDF has become an important investor in the economy (sections 2 and 3), including in the agriculture sector, which has received some 9% of its total funds.

4.3. The main crops are now fruits such as pineapple, papaya, and watermelon, as well as tomatoes, together with potatoes, sweet potatoes, onions, sweet peppers, and peanuts. Agri-processing activities revolve around the production of beer and dehydrated fruit products as well as juices. These activities have been developing particularly since the demise of the sugar industry.⁵¹ There are currently some 35 agri-processors in operation. There was a substantial decrease in livestock production during 2012, affected by diseases and the high cost of animal feed.⁵²

4.4. The Ministry of Agriculture and Marine Resources is responsible for agricultural, livestock, and marine resources policy formulation and management. The Ministry of Sustainable Development is responsible for forestry. The Department of Agriculture in the Ministry is responsible for the development of non-sugar agriculture in St. Kitts, and provides a wide range of services as well as technical support. The Department's stated mission is "to be a high quality provider of leadership and support in non-sugar agriculture; to secure food self-sufficiency and satisfy export markets towards sustainable development in St. Kitts and Nevis".⁵³ The Department promotes production diversification, economic linkages with other sectors, and conservation of the eco-system. It operates with specific programmes for crop and livestock development; the programmes are guided by a Strategic Plan and implemented through the Annual Work Programme, which reflects a broader Agricultural Development Strategy. The Annual Work Programme is implemented in collaboration with the institutions including CARDI, FAO, and IICA. The Department of Marine Resources is responsible for fisheries policies.

4.5. The Ministry of Agriculture provides some support services to farmers, such as a Farmer Training Programme, and market research and marketing assistance. Financial incentives are also granted to the sector, for example, a special rate for water used by farmers for agriculture, and duty and tax concessions on farm vehicles, farm equipment, and farm inputs.

4.6. The Government's strategy for the development of agriculture continues to focus on seeking an increase in non-sugar agricultural production in a sustainable manner to satisfy local demand and to supply selected export markets. The Government is attempting to foster competitiveness in the sector, by promoting larger farms and cooperatives of production; to this end, the Government has facilitated the establishment of a new agri-processors group, the St. Kitts Agro Processor Cooperative.

4.7. Food security remains a policy priority. To this end, work intensified at the Capisterre Farm in 2012 in an attempt to increase production of fresh vegetables. The objective is to increase the supply of selective crops to a point where consumers can benefit from lower local prices of

⁵¹ Among the products identified for development are: cassava products; cookies; tarts; jams and jellies; coconuts oils; fruit wines; fruit drinks; fermented drinks; hot sauce; cakes; pastries; chips; candies; condiments; dried fruit; vinegar; and sweet potato products.

⁵² Government of St. Kitts and Nevis (2012).

⁵³ Ministry of Agriculture and Marine Resources online information. Viewed at: <http://agriculture.gov.kn/?q=node/28>.

vegetables on the local market. Farm development also contributes to another of the goals of agricultural policy, to create employment. The Department of Agriculture provides technical support to farmers to protect crops from severe weather and pests through projects such as the Agriculture Resource Management Project.

4.8. To meet the goal of diversifying food production, and promoting the development of agri-industry the Ministry of Agriculture has taken control over an agri processing facility and a demonstration farm in need. The Ministry, with resources from the Basic Needs Trust Fund (BNTF), has also been assisting farmers and processors to improve their packaging and labelling by providing equipment to generate and affix labels and barcodes to their products. Assistance to the livestock subsector, which suffered from a major contraction (26%) in 2012, has been mainly through the provision of medicaments to combat animal diseases at a subsidized price and assistance to foster artificial insemination.

4.9. Assistance for fisheries focuses on expanding the use of fishing aggregate devices (FADs)⁵⁴ and on providing training to fishermen. The authorities are concerned about potential changes in the distribution and structure of species, their habitats and the impact of extreme weather associated with abnormally high sea surface temperatures. They have deemed it necessary to explore adaptive measures to build resilience within the subsector, and protect the marine species in the surrounding waters from over-fishing. The Department of Marine Resources has taken steps to explore the viability of aquaculture on a wider scale following the success of the St. Kitts and Nevis Aquaculture Pilot Project (SNAPPER). Assistance has been received through the ACP FISH II Project, financed by the European Union to formulate an Aquaculture Development Strategy. St. Kitts and Nevis, together with other Caribbean countries has signed a memorandum of understanding endorsing the partnership between the Caribbean Regional Fisheries Mechanism (CRFM) and the Organization for Fisheries and Aquaculture of the Central American Isthmus (OSPESCA) for the conservation, management, and sustained development of marine life.⁵⁵

4.10. Under the Agricultural Produce and Livestock (Registration of Vendors) Act, 2012 (Act No. 8 of 2012) registration in the Register of Vendors of Agricultural Produce and Livestock is mandatory for persons who sell, trade in, deal in, supply or dispose of agricultural produce or livestock exceeding EC\$100 in value or 10 kg in weight. A certificate of registration is valid for five years from the date of issue, upon payment of the prescribed fee, and is renewable.

4.11. Until its closure in 2009, the Central Marketing Corporation CEMACO was a marketing agent for non-sugar agricultural produce. CEMACO acted as an outlet for farmers to dispose of excess supply of a product, and functioned as a price stabilizer, absorbing excess supply and preventing prices from falling.

4.12. Reflecting CARICOM's tariff schedule features, tariff protection in St. Kitts and Nevis is higher for agricultural products than for non-agricultural goods. In 2013, the applied MFN tariff on imports of agricultural products (WTO definition) averaged 15% or 16.1% including AVEs. Considering the sectoral approach defined by the ISIC classification, the average tariff on agriculture and fisheries was 14.1 excluding AVEs in the same year, compared to an average tariff of 10.1%. Fruit and vegetables, animals and products thereof, beverages and spirits, coffee and tobacco are subject to higher tariff rates than the average for agriculture (Table 3.3). Specific import duties are applied on some agricultural and agri-industrial goods, included in 19 tariff HS headings (section 3.1.4). The supply of agricultural products grown in St. Kitts and Nevis is

⁵⁴ FADs are man-made objects used to attract over 300 species of pelagic fish such as marlin, tuna and dolphin fish. FADs generally consist of buoys or floats fastened to the ocean floor with concrete blocks.

⁵⁵ The Caribbean Regional Fisheries Mechanism (CRFM) is an inter-governmental organization to promote and facilitate the responsible utilization of the region's fisheries and other aquatic resources for the economic and social benefits of the current and future population of the region. The Agreement Establishing the CRFM was signed by Anguilla, Antigua and Barbuda, the Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Suriname, Trinidad and Tobago, and the Turks and Caicos Islands in February 2002 and officially inaugurated in March 2003. The CRFM consist of three bodies: the Ministerial Council, responsible for policy formulation, comprises the Ministers responsible for Fisheries in each member state; the Caribbean Fisheries Forum, made up of one representative from each Member; and the Secretariat provides technical, consultative, and advisory services to Member States. CRFM online information. Viewed at: <http://www.caricom-fisheries.com/WhatisCRFM/AboutCRFM/tabid/56/Default.aspx>.

exempt from VAT.⁵⁶ Tariff quotas are not used. Import licences are required for vegetables, eggs, and meat from non-CARICOM countries. Import restrictions in the form of quantitative limits are applied to some agricultural products from non-CARICOM countries, such as eggs, which may be imported only by domestic egg producers when domestic production is insufficient. Also, imports of some vegetables (cabbages, carrots, onions, sweet peppers, tomatoes, and white potatoes) are subject to seasonal import restrictions. Import permits are required before introducing into St. Kitts and Nevis any live animals, poultry or birds or carcasses and parts thereof, plants, and planting materials, and pesticides. St. Kitts and Nevis has not notified any SPS measures to the WTO.

4.13. The agriculture sector has been benefiting since 2005 from SIDF financing. Assistance has concentrated on six projects: (a) the Capisterre Farm Project, which is a 113 acre Farm funded by the Foundation through a total investment of EC\$7 million over five years; (b) the Hydroponics Community Farms project, focused on training to help grow crops vertically in stacked pots of coconut; (c) the Agricultural Resource Management Project, which helps farmers to use soil conservation and land management techniques to improve the quality and yield of their produce; and deals with the construction of shade houses and training farmers in the production of vegetables under shade houses; (d) the Agricultural Subsidized Loans Programme established in 2008, to encourage entrepreneurship and foster growth through access to credit at contained cost, and which had benefited 84 farmers up to late 2012; (e) a Floricultural Project at La Valley, St. Pauls; and (f) an Agricultural Training Employment Project (ATEP), established in October 2007 to enhance the personal development of unemployed former sugar-industry workers.

4.2 Manufacturing

4.14. Manufacturing, including food processing, accounted for 10.6% of current GDP in 2012. The sector regained some GDP share during the review period since the ending of refined-sugar productions was mitigated by the expansion of light manufacturing and, in particular electronic components. St. Kitts and Nevis is the largest OECS exporter of goods, especially manufactures, to the United States; and it is seeking extended access to the Brazilian market. However, the sector remains concentrated mainly in light manufactures such as alcoholic and non-alcoholic beverages (beer, malt, rum, bottled water, and soft drinks), pasta for the domestic market; and products from enclave industries that assemble electrical or electronic components, and traps for the cable industry, for the external market, particularly the United States.

4.15. The 2012 average MFN tariff on imports of industrial products (ISIC-3 definition) was 10%, with a peak of 70% (for arms and ammunition); the average MFN tariff for non-agricultural products (WTO definition), was 9.2%. The highest average tariffs are applied on beverages and tobacco, clothing and apparel articles, footwear, fats and oil and prepared food. The manufacturing industry benefits from the incentives granted under the Fiscal Incentives Act. This includes tax relief from corporate tax and customs duties to approved enterprises for up to 15 years (section 3.3.2).

4.16. During the review period, production of electronic components, bottled water, and concrete, continued to increase. In general terms, the enclave sector was resilient to the effects of slow growth in the major economies. Exports of electronic components to the United States continued to increase, reaching EC\$108.2 million in 2012, up from EC\$91.7 million in 2011 and two major manufacturers in the sector expanded their capacity to meet the increasing demand.⁵⁷ The Government's strategy is to focus on high quality products, trying to keep reasonable prices. In this respect, the authorities have shown concern about the high cost of energy, which they deem has a profound impact on the capacity of the manufacturing sector to operate efficiently and expand its operations. To deal with this issue, the Ministry of International Trade, Industry, Commerce and Consumer Affairs and the St. Kitts Investment Promotion Agency (SKIPA), with the assistance of the Caribbean Development Fund (CDF), have undertaken an initiative to conduct a comprehensive energy audit of the sector under the Manufacturers Competitiveness for Energy Efficiency (MACEE) Project. The project is expected to help identify areas for improving energy

⁵⁶ In accordance with the VAT Act of 2010, this includes: cover plants, trees, vines, and their produce; flowers, fruits, and vegetables; locally raised poultry; fish; pigs, goats, cows, or other animals and their related products, whether supplied live or not.

⁵⁷ Government of St. Kitts and Nevis (2012).

efficiency, for example by reducing leakages and waste, promoting energy conservation, and developing renewable and energy efficient technologies.

4.17. The authorities are also trying to encourage the expansion of manufacturing production by diversifying markets. In May 2012, the Government completed negotiations to join the Brazil-Guyana Partial Scope Agreement (PSA) considering Brazil a promising market for exporting manufactures. The Government has also established a special EPA Unit to assess the challenges to the ability of manufacturers to benefit fully from the EPA, and guide them on using the provisions of the agreement to maximize their benefits. The Unit is also conducting studies for the establishment of a microfinance facility for small businesses.

4.3 Services

4.3.1 Main features

4.18. Services activities are, by far, the largest contributors to GDP and employment in St. Kitts and Nevis. Services account for about 75% of GDP and their economic importance has been growing, particularly since the demise of the sugar industry.

4.19. St. Kitts and Nevis made sector-specific commitments under the GATS, in 5 of the 12 main service areas: financial services (other financial services), tourism and travel related services (hotels and restaurants); recreational, cultural and sporting services (entertainment and sporting services); communications services (telecommunication services); and transport services (maritime transport). With the exception of hotel and restaurant services, there are no limitations on sector-specific commitments in the cross-border supply and consumption abroad modes. For commercial presence, however, sector-specific reservations are maintained in most subsectors in which commitments were made. In tourism, a market access commitment, without restrictions, is granted for hotels in excess of 50 rooms, but not for smaller ones. For the presence of natural persons mode, market access and national treatment are generally unbound or subject to limitations.

4.20. St. Kitts and Nevis made horizontal commitments for the movement of natural persons and commercial presence. The provision of services through commercial presence requires that foreign service providers incorporate or establish a business locally in accordance with the regulatory requirements of St. Kitts and Nevis. Foreign companies and individuals wishing to hold property in St. Kitts and Nevis must first obtain a licence in accordance with the Alien Landholding Act (section 2). St. Kitts and Nevis reserved a number of small business service opportunities for nationals; however, a comprehensive listing has not been included. Market access for the presence of natural persons is confined to people with managerial and technical skills that are in short supply or not available in St. Kitts and Nevis. St. Kitts and Nevis has not listed any Article II (MFN) exemptions.

4.21. The authorities consider that due to the increasing reliance of the economy on services, it is necessary to develop a structured approach to exploring market opportunities. An institutional review and marketing plan was developed for professional services, through technical assistance from the Commonwealth Secretariat. The plan is expected to identify options for enhancing competitiveness within the area of professional services. This is considered by the authorities as critical to capitalize on the opportunities that can be derived through the CARIFORUM-EU EPA Agreement, the CSME and the CARICOM-Canada Trade and Development Agreement, presently being negotiated.⁵⁸

4.3.2 Telecommunications

4.22. St. Kitts and Nevis' telecommunications sector is open to foreign investment. There are no limits on foreign ownership of telecom companies or citizenship requirements for directors. However, telecom licensees must be domestically registered and established as local companies.

4.23. St. Kitts and Nevis did not participate in the extended WTO negotiations on basic telecommunications services, but made commitments with respect to the provision of some value-added telecommunications services in its GATS Schedule. These commitments cover

⁵⁸ Government of St. Kitts and Nevis (2012).

electronic mail, voice mail, and online information and data processing all of which were bound without limitations, except as regards the presence of natural persons. There are no sector-specific fiscal incentives.

4.24. Telecommunications policy formulation is the responsibility of the Ministry of Telecommunications. The National Telecommunications Regulatory Commission (St. Kitts and Nevis) (NTRC) is the body responsible for regulation of the sector. At the regional level, the Eastern Caribbean Telecommunications Authority (ECTEL) plays an important advisory and policy-coordinating role (see Common Report).

4.25. The NTRC was established pursuant to the Eastern Caribbean Telecommunications Authority Treaty and the Telecommunications Act No. 2 of 2000 to regulate the liberalized telecommunications market in St. Kitts and Nevis in collaboration with ECTEL, to ensure fair competitive practices by telecommunications providers and to promote and maintain high quality services at competitive prices for consumers. The NTRC is charged with advising the Minister of Telecommunications on the formulation of national policy on telecommunications matters and ensuring compliance with the Government's international obligations on telecommunications. The NTRC is also responsible for the technical regulation of the sector and for setting technical standards and ensuring their compatibility with international standards. It also regulates and manages the use of the radio frequency spectrum in conjunction with ECTEL, including the assignment and registration of radio frequency to be used by all stations operating in St. Kitts and Nevis or on any ship, aircraft or vessel registered in St. Kitts and Nevis. The Telecommunications Act grants the NTRC the power to regulate telecommunications services prices and to receive and review applications for licences and advise the Minister accordingly. It also has the power to review proposed interconnection agreements, investigate and resolve any disputes relating to interconnections or sharing of infrastructure between telecommunications providers, monitor anti-competitive practices in the telecommunications sector, and manage the universal service fund.⁵⁹

4.26. The main legislation ruling the sector is the Telecommunications Act No. 2 of 2000, as amended by Act No. 12 of 2000 and Act No. 11 of 2011, which deregulated the sector and opened it to competition. There are also a number of regulations issued through Statutory Rules and Orders (SROs).⁶⁰ New regulations on interconnection were issued during the period under review (2008), setting out the rights and obligations of public network operators.

4.27. The Telecommunications Act, as amended, is similar to the telecom laws of the other OECS ECTEL-member states. The Act lists the criteria required for the granting of a licence; sets the universal service conditions that may be applied; and determines the procedures for concluding interconnection agreements. In the Second Schedule to the Telecommunications Act (as amended), the Minister responsible for telecommunications is empowered to attach terms and conditions to licences granted. These conditions have usually included universal service requirements, and, in one case, a licensee was required to establish a joint venture with a local company.

4.28. As at March 2012, 12 individual licences had been issued in St. Kitts and Nevis: three for fixed public services; three for public mobile services; four for Internet networks and services; and two for submarine cable operators (Cable and Wireless (LIME) and Southern Caribbean Fibre). In the fixed-line market, although three licences have been granted, there are only two providers, the incumbent, Cable and Wireless (LIME), and Caribbean Cable Communications. The mobile market was, in practice, opened to competition in April 2005, when two additional licensees, DIGICEL and UTS-CariGlobe Mobile services started operations in addition to Cable and Wireless (LIME). Currently, these are the three suppliers of the service. The number of post-paid mobile subscriptions has been gaining share in recent years, although it is still relatively small. According

⁵⁹ NTRC online information. Viewed at: http://ntrc.kn/?page_id=10.

⁶⁰ The main regulations are: SRO No. 44 of 2008 (Interconnection); SRO No. 31 of 2008 (wholesale); SRO No. 28 of 2008 (quality of service); SRO No. 29 of 2008 (numbering); SRO No. 30 of 2008 (exemption); SRO No. 04 of 2008 (Universal Service Fund Order); SRO No. 02 of 2008 (Universal Service Fund); SRO No. 13 of 2007 (fees); SRO No. 23 of 2006 (spectrum management); SRO No. 25 of 2006 (spectrum management); SRO No. 17 of 2004 (retail tariff); SRO No. 08 of 2002 (terminal equipment and public network); SRO No. 06 of 2002 (confidentiality in networks and services); SRO No. 03 of 2002 (private network licensing); and SRO No. 02 of 2002 (licensing and authorization).

to ECTEL, 88% of mobile subscribers had pre-paid mobile phones in March 2012, down from 90% reported in the previous Review.

4.29. Of the four companies licensed to provide internet networks and services, three are currently operational (Cable and Wireless (LIME), The Cable, and Caribbean Cable Communications). All providers offer high-speed internet access and, as in other OECS countries, there has been a marked shift from dial-up to high-speed Internet access, as a result of rate reductions for broadband.

4.30. Telecommunication tariffs are determined with a dual system, depending on whether there is competition in the market segment. Licensees may set their own tariffs where there is effective market competition, as provided under the Telecommunications (Tariff) Regulations No. 17 of 2004. Tariffs are regulated for telecommunications services designated by the NTRC as a regulated service, generally when it deems that there is insufficient competition. In this case, the service provider must file their tariff proposal to the NTRC for approval. The tariffs for regulated services in St. Kitts and Nevis are determined in accordance with the price Cap. plan agreed between Cable and Wireless and the ECTEL member states. Mobile and landline calls are subject to a 5% tax.

4.31. Licences for public mobile telecommunications, for fixed public telecommunications, for public radio paging, and for internet service provision are subject to an application fee of EC\$1,000, an initial fee of EC\$20,000, and an annual fee of 3% of gross revenue. Licences for submarine cable landing are subject to an application fee of EC\$1,000, an initial fee of EC\$50,000, and an annual fee of EC\$50,000.⁶¹

4.32. According to information provided by ECTEL, the electronic communication sector's performance was affected in 2011-13 by the effects of the global crisis. Revenue fell 5.2%, to EC\$110 million in the April 2011-March 2013 period (ECTEL's reference period), direct employment remained flat, and overall the communications sector's contribution to gross value added (was 6.69% in 2013). However, there were positive developments in investment, which rose by 36% to EC\$19 million at the end of March 2013 (Table 4.1).⁶² The fall in sector revenue was a result of declines in the revenue generated by fixed voice, and mobile services, which declined by 8%, while revenue from fixed internet service increased 20% and accounted for 17% of total sector revenue.

Table 4.1 Telecommunications statistics, 2008-13

	2008	2009	2010	2011	2012	2013
Provider revenues (EC\$ million)	125	122	129	116	112	110
Fixed-line penetration (%)	40	40	38	37	26	36
Mobile penetration (%)	146	154	55	148	143	145
Broadband internet penetration (%)	22	23	23	24	24	25
Investment (EC\$ million)	23	13	14	14	15	19
Employment	178	180	171	176	175	149
Local traffic from a fixed line (million minutes)	73	65	60	45	50	47
Local traffic from a mobile phone (million minutes)	33	30	31	39	40	43
International incoming traffic (fixed and mobile) (million minutes)	34	41	43	18	18	18
International outgoing traffic (fixed and mobile) (million minutes)	21	26	33	34	39	23

Note: Information is provided for year ending on 31 March.

Source: Information provided by ECTEL.

4.33. St. Kitts and Nevis has the highest mobile service penetration in the ECTEL member States, but there has been a decline in mobile penetration in recent years. In March 2012, the mobile penetration rate was 145%, 10 percentage points lower than in 2010; the number of subscriptions totalled 77,000. It was estimated that 21% of mobile subscriptions also included a mobile data package. Fixed-voice penetration reached 36% in March 2013, down 1 percentage point

⁶¹ More information on fees may be found at: http://ntrc.kn/?page_id=76.

⁶² ECTEL (2014).

from 2011, while fixed broadband penetration was 25%. At the end of March 2013, there were more than 13,000 fixed broadband subscriptions.

4.34. At the end of March 2013, local call minutes originating from fixed networks reached 47 million minutes (Table 4.1); fixed to fixed voice minutes accounted for 91% of local fixed traffic. The volume of outgoing international minutes from fixed lines accounted for 44% of international call traffic from St. Kitts and Nevis. For the period ended March 2013, more than 43 million local call minutes originated from mobile networks on St. Kitts and Nevis; 14 million international minutes of international calls (42% of the total) originated in mobile phones.

4.35. The rates for fixed voice services are regulated under a price cap plan. The rate for fixed to fixed on-net voice service has remained unchanged at EC\$0.07 per minute since 2008. In contrast, the fixed to mobile voice service fee has been falling, and was EC\$0.40 per minute at the end of March 2013, down 26% from the previous year. This price reduction was in compliance with the terms of the new price cap plan, but prices are still high by international comparison.

4.36. The published rates for mobile services on St. Kitts and Nevis in March 2013 were: average on-net mobile rate, EC\$0.58 per minute; average off-net mobile rate, EC\$0.92 per minute; and mobile to fixed rates averaged EC\$0.67 per minute. These rates remained unchanged in 2013. They are only slightly lower than those reported in the previous review and remain high by international standards. The monthly rate for basic fixed broadband service (2 Mbps download) remained at EC\$99, also high by international standards. ECTEL has noted that this rate represented 4% of monthly GNI per capita, a percentage point below the ITU's 5% benchmark for fixed broadband affordability.⁶³

4.37. Subscriber TV is provided by two operators. The Cable, which offers service on St. Kitts; and Caribbean Cable Communications, which offers service on Nevis; their monthly rates for basic cable service offered by The Cable and Caribbean Cable Communications were EC\$37 and EC\$50, respectively.

4.38. The telecommunications law states that the National Telecommunications Commission St. Kitts and Nevis will "plan, supervise, regulate and manage the use of the radio frequency spectrum in conjunction with ECTEL". The NTRC is responsible for issuing licences and frequency authorizations and for monitoring the use of radio frequencies.

4.3.3 Financial services

4.39. Financial services are of considerable importance for St. Kitts and Nevis, accounting for some 12.4% of GDP in 2012.

4.40. St. Kitts and Nevis has limited GATS commitments in financial services and did not participate in the extended WTO negotiations on financial services. It made commitments only with respect to the "registration of offshore companies and trusts (not including insurance companies and banks) to do offshore business".⁶⁴

4.41. The Financial Services Regulatory Commission (FSRC), established under the Financial Services Regulatory Commission Act, No. 22 of 2009, Cap. 21.10, regulates and supervises the non-bank financial sector.⁶⁵ This includes insurance companies (domestic and captive (offshore)); private pension plans; money services businesses; credit unions; the Development Bank of St. Kitts and Nevis; and trust and corporate service providers. The FSRC is also responsible for monitoring compliance with anti-money-laundering and counter financing of terrorism legal provisions. The FSRC houses the company, trust, foundation and limited partnership registries. It reviews the operations of all regulated entities, monitors financial services business carried on in or from within St. Kitts and Nevis and may take action against persons carrying on unauthorized businesses. The creation of the FSRC to replace the previous Financial Services Commission led to a reinforcement of regulatory powers and supervision, a step taken amidst the negative effects of the global financial crisis of 2008-09.

⁶³ ECTEL (2014).

⁶⁴ WTO document GATS/SC/119, 16 November 1995.

⁶⁵ Prior to 2009, the non-banking financial sector was regulated by the Financial Services Commission.

4.42. The St. Kitts and Nevis Financial Intelligence Unit (SKNFIU), in the Ministry of Finance, is responsible for combating money laundering and terrorist financing.⁶⁶ The SKNFIU is the national centralized agency for the collection, receipt, and analysis of suspicious transaction reports (STRs), financial transactions/activities suspected of being related to money laundering and terrorist financing. If the analysis of an STR finds that there are reasonable grounds of a money laundering and/or terrorist financing offence, a report is submitted to the Commissioner of Police for action. The SKNFIU may liaise with foreign FIUs and enter into arrangements with them if deemed necessary to the fulfilment of the unit's mandate.⁶⁷ It has the authority to freeze bank accounts for up to five days.⁶⁸

4.43. Legislation to combat money laundering is contained in the Proceeds of Crime Act 2000, Cap. 4.28; the Proceeds of Crime (Amendment) Act 2008; the Proceeds of Crime (Amendment) (No. 2) Act, 2008; the Proceeds of Crime (Amendment of Schedule) Order, 2012; the Financial Services (Exchange of Information) Regulations, 2002 (SRO No. 15 of 2002); the Anti-Money Laundering Regulations, 2011 (SRO No. 46 of 2011), Cap. 9.04; the Anti-Money Laundering (Amendment) Regulations, 2012; and the Financial Services (Implementation of Industry Standards) Regulations (SRO No. 51 of 2011). Anti-terrorism laws and regulations include: the Anti-Terrorism Act, No. 21 of 2002; the Organised Crime (Prevention and Control) Act 2002; the Anti-Terrorism De-Listing Procedures Regulations 2011 (SRO No. 62 of 2011); the Anti-Terrorism (Prevention of Terrorist Financing) Regulations, 2011 (S-R.O. No. 47 of 2011); and the Anti-Terrorism (Prevention of Terrorist Financing) (Amendment) Regulations, 2012.

4.3.3.1 Onshore banking and insurance

4.3.3.1.1 Banking

4.44. Banking activities accounted for 8.6% of GDP in 2012. Domestic banks in St. Kitts and Nevis are jointly regulated by the Eastern Caribbean Central Bank (ECCB) and the Minister of Finance. The latter is normally required to act in consultation with, and on the recommendation of the ECCB in areas where it has ultimate responsibility. The ECCB has primary responsibility for the supervision of domestic banks.

4.45. Onshore banking legislation is uniform among all OECS Member States. The regulatory framework of the domestic banking system has two main legislative components: the ECCB Agreement Act, 1983 and its amendments, which gives the ECCB power to regulate banking business on behalf of and in collaboration with participating governments. In the case of St. Kitts and Nevis, the Banking Act No. 4 of 2004 is the main domestic law governing onshore banking. The international financial services sector is governed by the Offshore Banking Acts in the respective countries and is primarily the responsibility of the national regulators.⁶⁹

4.46. To conduct banking business in St. Kitts and Nevis, banks must be licensed by the Minister of Finance, and fulfil the conditions required for licensing, including having a place of business there. Citizens and companies of St. Kitts and Nevis may borrow from, or place deposits with, banks located abroad. St. Kitts and Nevis maintains no exchange controls on capital or non-trade current transactions. Foreign ownership and control of onshore banks in St. Kitts and Nevis are permitted with no limitations. Foreign-owned banks licensed and incorporated in St. Kitts and Nevis are subject to the same requirements as locally owned and locally incorporated banks and may provide the same services. Foreign banks may establish subsidiaries or branches. The latter must submit additional information when applying for a licence to show that they are subject to effective supervision at home, and confirm that the regulatory body in their home jurisdiction does not object to the application. There are no residency or citizenship requirements applied to bank managers or directors.

4.47. As at December 2013, there were six commercial banks operating in St. Kitts and Nevis: three are branches of foreign banks (Bank of Nova Scotia, Royal Bank of Canada, Ltd. and First

⁶⁶ Financial Intelligence Unit Act Cap 21.09, amended by the Financial Intelligence Unit (Amendment) Act, No. 23 of 2008; the Financial Intelligence Unit Act, No. 26 of 2005; and the Financial Intelligence Unit (Amendment) Act, No. 16 of 2005.

⁶⁷ SKNFIU online information. Viewed at: <http://fiu.gov.kn/?q=node/3>.

⁶⁸ Financial Intelligence Unit Act, No. 15 of 2000.

⁶⁹ ECCB online information. Viewed at: <http://www.eccb-centralbank.org/Financial/fin-intro.asp>.

Caribbean International Bank (Barbados) Ltd.); one is a subsidiary of a foreign bank that has been locally incorporated (RBTT Bank (SKN) Ltd); the other two are locally incorporated and locally owned (Bank of Nevis and St. Kitts-Nevis-Anguilla National Bank Ltd.).⁷⁰

4.48. As of April 2013, the assets held by the commercial banks totalled \$5.87 billion, up from EC\$5.36 billion a year earlier. During the same period, deposits grew by 12.2% to EC\$3.95 billion while loans and advances contracted by 4.8% to EC\$2.39 billion. Still reflecting the effects of the global financial crisis, the approval of loans and advances has remained subdued as a result of the very cautious stance of banks and the slow rate of recovery in the construction sector during 2012.⁷¹ In December 2012, the weighted average spread between deposit and lending interest rates was 4.96 percentage points (3.40% deposit, 8.36% lending).⁷² This was three quarters of a percentage point below the spread reported in the previous report for December 2006, mainly reflecting lower lending rates. In 2012, some 37% of commercial bank credits were personal loans, 31% were loans to the Government, and the rest (32%) was allocated among the main productive sectors. The main users among the latter are construction (11.1% of total credit allocation), utilities (5.2%), distribution (5%), and tourism (3.6%).

4.49. Prudential control is based on Basel criteria. In 2009, the ECCB issued Guidelines on Credit Risk Management for Institutions Licensed to Conduct Banking Business under the Banking Act, which seek to promote sound credit risk management at licensed financial institutions. They outline the minimum requirements of a comprehensive credit risk management programme, which financial institutions should develop and implement in accordance with a defined credit risk strategy. The guidelines reflect the Basel Committee's 17 Principles for Management of Credit Risk (September 2000). In accordance with the guidelines, the prudential benchmark for non-performing loans (NPL) ratio (loans 90 days and more in arrears plus non performing overdrafts as a percentage of total loans and advances) is 5%; the net liquid asset ratio is 20%; and the capital adequacy ratio (CAR) 8%.

4.50. As at mid-2012, domestic banks were adequately capitalized, and according to the authorities, capable of withstanding the impact of the public sector debt restructuring (section 1).⁷³ The actual NPL ratio was also 5% in mid-2012 and the provisioning against these loans 50.7%; the CAR ratio was 45%; the net liquid asset/total deposit ratio was 54.8%; the return on equity 10.9%; and the return on assets 2%.⁷⁴ In particular, the net liquid asset ratio far exceeds the regional prudential limit of 20%.⁷⁵ The IMF notes that, although profitability indicators have softened following the restructuring of government bonds, the banking sector's capitalization remains above regional norms. However, it recommends that any weaker banks are strengthened so as to respect the prudential limit even in the case of a liquidity shock.⁷⁶

4.51. St. Kitts and Nevis has one government-owned development bank, established by the Development Bank of Saint Kitts and Nevis Act No. 1 of 1981 (Cap. 21.05). The Bank is tasked with facilitating and encouraging savings and investment; it grants loans and other forms of financial assistance to help establish and maintain development enterprises, and expand small manufacturing and retail businesses. In late 2013, St. Kitts and Nevis had four credit unions, governed by the Cooperative Societies Act No. 31 of 2011.

⁷⁰ ECCB online information. Viewed at: http://www.eccb-centralbank.org/Financial/fin_banks.asp.

⁷¹ Government of St. Kitts and Nevis (2012).

⁷² ECCB (2013).

⁷³ In its 2013 Budget address, the Government noted that the level of exposure to the public sector had been trending downward over the last year and was expected to contract sharply with the completion of the debt-land swap. It considered that one of the important challenges of the economic programme in the coming months could be to facilitate the movement of some of the excess liquidity into productive investment activity (Government of St. Kitts and Nevis, 2012).

⁷⁴ IMF (2013).

⁷⁵ Liquidity levels have been growing and coverage of total deposits remains well above 40% and the regulatory requirement. This is partly explained by the slow pace of recovery of private investment in particular and the reduction of credit to the public.

⁷⁶ A stress test conducted by the IMF to illustrate the impact of the debt restructuring based on data for end-June 2012, shows that: (a) the banks' operating income would decline by about one-fourth; (b) the NPL ratio would increase to 15.4% since, considering the high weight of government assets in the portfolio of domestic banks (68%), the debt/land swap would impact the NPL ratio by reducing total loans in the denominator by the amount of government loans subject to the debt land swap; and (c) the CAR would decline to 20.7%, but still be above the 8% regional benchmark. IMF (2013).

4.3.3.1.2 Insurance

4.52. The insurance business represented 1.4% of GDP in 2012. At end 2013, there were 13 registered insurance companies in St. Kitts and Nevis, of which ten agencies and one branch of foreign companies, and two locally incorporated companies.⁷⁷ Insurance companies must be registered with the Registrar of Insurance within the Ministry of Finance. Insurance licences are renewed annually and subject to an annual fee.

4.53. New legislation with respect to insurance was introduced during the period under review. The Insurance Act 2009 (Act No. 8 of 2009), the Insurance Amendment Act 2009 (Act No. 10 of 2009), and the Insurance Amendments Act 2011 (Act No. 8 of 2011) redefined the legal framework to make it uniform with that of the other OECs Member countries. The Insurance Act applies to: (a) all local insurance companies; (b) all other insurance companies, whether or not incorporated in St. Kitts and Nevis, that carry on any class of insurance business there; (c) all associations of underwriters registered to carry on insurance business in St. Kitts and Nevis; (d) all insurance intermediaries, whether or not locally incorporated, that carry on insurance intermediary activities in St. Kitts and Nevis; and (e) privately administered pension fund plans whether administered by individual trustees or by trust corporations. The Act also applies to the re-insurance business, whose policies are treated as insurance business of the class and type to which the policies would have belonged if they had been issued by the reinsurer.

4.54. The Registrar of Insurance is responsible for the general administration of the Act. The Registrar must maintain separate registries for local, and foreign insurance companies, and for associations of underwriters. Registration as one of these three types of entities is a pre-requisite for the provision of insurance services.

4.55. The application fees for registration are EC\$1,500. Registered firms must pay also annual licence fees of EC\$2,500 for local insurance companies, and EC\$5,000 for foreign insurance companies. Re-insurance companies are not subject to these fees. Registered insurance service providers (individuals) must pay an annual fee of EC\$1,000 (insurance brokers, adjusters, and agents), while sales representatives pay an annual fee of EC\$500. Registration of a pension fund plan is subject to the payment of an EC\$1,000 fee.

4.56. A foreign insurance company must maintain a principal office in St. Kitts and Nevis and must appoint, by power of attorney, a citizen of St. Kitts and Nevis as its principal representative. Foreign insurance companies (parent or subsidiary) are allowed to establish as a branch. In the case of merged companies, one must have undertaken insurance business in its country of incorporation for at least three years before the date of the application for a licence. There are no citizenship requirements for managers or directors of insurance companies. There is no legal restriction on companies located abroad from offering insurance coverage to locals.

4.57. Licences are granted for one year, renewable. The Act requires insurers to maintain a statutory deposit equivalent to the greater of EC\$1 million or 40% of net premiums for general insurance companies, and EC\$1 million for life insurance companies. In addition, all companies must maintain an insurance fund equivalent to the insurance liabilities of the company. The statutory deposits and insurance fund must be approved by the Registrar of Insurance.

4.58. Capital requirements vary according to the origin of the insurance company. Local insurance companies must have share capital, fully paid-up in cash, of not less than EC\$2 million; foreign insurance companies must have world-wide share capital fully paid-up in cash of not less than EC\$5 million. Mutual companies must have uncommitted reserves of not less than EC\$5 million. The Act also contains detailed provisions on insolvency and intervention.⁷⁸

⁷⁷ FSRC online information. Viewed at: <http://fsrc.kn/?q=regulated-entities>.

⁷⁸ A registered insurance company carrying on only long-term insurance business is deemed to be insolvent if the value of its liabilities exceeds its assets. A company carrying on only general insurance business is considered insolvent if the excess of assets over liabilities is less than the greater of EC\$500,000 or 20% of its premium income in its last preceding financial year; a company carrying on both long-term insurance business and general insurance business is deemed insolvent if the excess of its total assets over its total liabilities is less than EC\$500,000. The business in St. Kitts and Nevis of a foreign insurance company declared insolvent in its jurisdiction of incorporation or registration is also considered insolvent.

4.59. All insurers must pay an annual tax of 5% of all non-life premiums in respect of policies issued or applicable in St. Kitts and Nevis. Individuals and companies remitting payments to persons outside of St. Kitts must deduct a 10% withholding tax from non-life insurance premiums.⁷⁹ This withholding tax does not apply to reinsurance premiums.

4.3.3.2 Offshore financial services

4.60. There are no federal regulations on offshore financial services, with the exception of captive insurance. St. Kitts and Nevis maintain separate offshore financial institutions and laws. Offshore banking is regulated by the Financial Services Department in the Ministry of Finance in St. Kitts, and by the Nevis Financial Services Department in the Ministry of Finance and Development in Nevis.⁸⁰ Despite the lack of common regulations, the Financial Services Regulatory Commission (FSRC) acts as the ultimate regulatory body for non-banking financial services both for St. Kitts and for Nevis. In both St. Kitts and Nevis, the FSRC regulates and supervises its areas of competence, including enforcement of anti-money-laundering legislation. The ECCB supervises St. Kitts and Nevis' offshore banks for compliance. The SKNFIU investigates transactions by any financial institution or natural person suspected of being linked to money-laundering or terrorism activities.

4.61. The Nevis Financial Services Regulation and Supervision Department (the Nevis Branch of the FSR) is responsible for authorizing and licensing companies or persons to conduct financial services business and for monitoring regulated financial services provided by businesses operating within or from Nevis. Through the Corporate Registry, it is also responsible for the registration of all international companies, for the formation of trusts, mutual funds and foundations, and international insurance companies.

4.62. There are no offshore banks licensed in St. Kitts; there is one offshore bank (the International Bank of Nevis), registered in Nevis. Some 200 captive insurance companies are licensed in St. Kitts and some 217 in Nevis, mostly from the United States and Canada.⁸¹ The FSRC regulates six money services businesses (cash advance, money transfer, currency exchange), which are governed by the Money Services Business Act No. 26 of 2008.

4.63. Under the Financial Services (Regulations) Order No. 25 of 1997 an authorization from the Minister of Finance is required to carry out any offshore finance business (deposit-taking, investment, insurance, assurance, trust, corporate business) within St. Kitts. Offshore banks and insurance companies in St. Kitts are regulated by the Companies Act No. 22 of 1996 (as amended); the Limited Partnerships Act of 1996; and, the Captive Insurance Companies Act No. 12 of 2006.⁸² Companies and limited partnerships providing offshore financials services are exempt from all taxes as long as they conduct their business exclusively with non-residents. Captive insurance companies may only provide insurance for risks that take place abroad.

4.64. Offshore financial sector laws and regulations that are applicable both in St. Kitts and in Nevis include: the Enactment of the Proceeds of Crime Act No. 16 of 2000, the Anti-terrorism Act of 2002, the Anti-terrorism Regulations No. 47 of 2011; and the Anti-Money Laundering Regulations No. 46 of 2011, as well as the Financial Services (Exchange of Information) Regulations. These regulations set out the powers of the FSRC to obtain information and to assist a foreign regulatory authority with its inquiries. The industry standards are contained in the Financial Services (Implementation of Industry Standards) Regulations No. 51 of 2011.

4.65. The Nevis Island Administration has issued several Ordinances that govern offshore business in Nevis.⁸³ Offshore companies must be incorporated under the Nevis Business

⁷⁹ St. Kitts Financial Services online information. Viewed at: <http://www.skbfinancialservices.com/taxation.php>.

⁸⁰ ECCB online information. Viewed at: http://www.eccb-centralbank.org/Financial/fin_offshore.asp.

⁸¹ Information provided by the authorities; and Nevis FSRC online information. Viewed at: <http://www.nevisfsrc.com/regulated-entities>.

⁸² Captive Insurance Company Act, No. 12, 2006. Viewed at: <http://fsrc.kn/sites/fsrc.kn/files/Law%20Library/Laws%20Relevant%20to%20Insurance%20Businesses/Captive%20Insurance%20Act.pdf>.

⁸³ The Nevis International Insurance Ordinance, 2004; the Nevis International Insurance (Amendment) Ordinance, 2006; the Nevis International Insurance (Amendment) Ordinance, 2009; the Nevis International Insurance Regulations 2004; and the Nevis International Insurance Regulations 2006.

Corporation Ordinance, 1984 (as amended).⁸⁴ Corporations must have a registered agent in St. Kitts and Nevis, who must be a barrister or solicitor admitted to practice in the Federation or a corporation having a paid-in capital of at least EC\$500,000. Offshore companies not concluding business in Nevis are exempt from taxes.⁸⁵

4.66. The Nevis Offshore Banking Ordinance, 1996 (as amended) governs the activities of offshore banks in Nevis.⁸⁶ The establishment of offshore banks requires the consent of the Nevis Minister of Finance. At least one director must be a citizen of St. Kitts and Nevis with a residence in Nevis. Wholly owned subsidiaries of St. Kitts and Nevis banks and qualified foreign banks are eligible to apply for a licence to provide offshore banking services. If the licence is granted, separate accounts must be kept.⁸⁷ Offshore banks are not allowed to accept deposits from Nevis residents or keep Nevis residents as customers for any offshore banking services. Offshore banks must have an authorized and paid-up capital of EC\$2 million, and EC\$1 million must be subscribed and paid-up in cash for deposit into an account maintained by the ECCB.

4.67. The Nevis Offshore International Insurance Ordinance (2004) - as amended by the Nevis International Insurance Island of Nevis (Amendment) Ordinance, 2006 and 2009 - together with the Nevis International Insurance Regulations (2004) and the Nevis International Insurance Regulations (2006), govern the offshore insurance sector.⁸⁸ Offshore insurance companies must be registered with the Nevis Registrar of International Insurance; registration requires that they keep an office in Nevis, and either a management in Nevis or an appointed registered agent. There are no citizenship requirements for directors of captive insurance companies. The minimum paid-up share capital is set at US\$185,000 for long-term and for general business, and US\$75,000 for reinsurance. Lower amounts are required for captive insurance and allied reinsurance business and where more than one category of insurance is carried out, the minimum paid-up capital amounts are aggregated.⁸⁹ Offshore insurance companies are exempt from income tax and stamp duty. There are also margin of solvency requirements: in the case of an insurer not carrying on long-term business, the minimum margin of solvency must be at least 20% of the net retained premium when it does not exceed US\$5 million; where the net retained premium of the insurer exceeds US\$5 million, the prescribed amount is US\$1 million plus 10% of the amount by which the net retained premium exceeds US\$5 million. The application, registration, and renewal fees are set out in the Nevis International Insurance Regulations: registration fees range from US\$500 to US\$2,000 depending on business type; and annual renewal fees range from US\$500 to US\$1,000 (or the aggregate for more than one class of business).

4.3.4 Air transport and airports

4.68. Overall responsibility for air transport policy formulation and implementation in St. Kitts and Nevis rests with the Minister of Transport, currently in the Ministry of Tourism and International Transport. The Air Transport Licensing Board reviews applications for air transport licences, and sets landing charges. Regulatory oversight for safety and security issues is provided by the Eastern Caribbean Civil Aviation Authority (ECCAA). There is no legislation precluding foreign participation

⁸⁴ The Nevis Business Corporation Ordinance, 1984 (as amended) by the Nevis Business Corporation (Amendment) Ordinance 2009, the Nevis Business Corporation (Amendment) Ordinance 2011, and the Nevis Business Corporation Regulations No. 15 of 2009. Viewed at: <http://www.nevisfsrc.com/products/insurance/legal-framework>.

⁸⁵ In accordance with Nevis legislation, offshore companies may conduct some activities in Nevis, including: maintaining bank accounts in Nevis; investing in stocks or entities of Nevis corporations or being a partner in Nevis partnership or a beneficiary of a Nevis trust or estate; and acquiring real property in a local or industrial tourist facility provided always that such property is situated in a project or development approved and authorized by the Nevis Island Administration.

⁸⁶ Nevis Offshore Banking Ordinance, 1996 (as amended).

⁸⁷ A qualified foreign bank is one licensed under the Banking Act or licensed to do domestic banking business in its jurisdiction of incorporation (or a wholly owned subsidiary of such foreign bank).

⁸⁸ Nevis FSRC online information. Viewed at: <http://www.nevisfsrc.com/>.

⁸⁹ The amounts are: US\$10,000, for single-owner captive; US\$20,000 for less-than-five-owners captive; US\$50,000 for five-or-more-owners captive; US\$10,000 for allied reinsurance business and for allied annuity insurance business. An "allied reinsurance company" is defined as a company carrying on insurance business where the registered insurer is allied to a primary insurer who typically initiates insurance contracts as part of its normal course of business, and the allied reinsurer will only assume risks and accept premiums from this primary insurer. Captive insurance business is defined as business where the insured is a parent or affiliated company of the registered insurer or is a person in respect of whom the registered insurer is authorized by the Registrar to provide insurance.

in the provision of auxiliary air transport services. There appear to be no foreign investment restrictions on ownership of domestically incorporated carriers; the authorities consider that, since there are no domestic carriers, there is no need to be concerned with foreign investment restrictions on ownership. However, despite the fact that there are no domestic carriers, there are restrictions on cabotage.

4.69. St. Kitts and Nevis has two airports, the Robert L. Bradshaw International Airport in St. Kitts and the Vance W. Amory International Airport (previously known as Newcastle Airport) in Nevis. Both airports are owned by the Government, although this is not mandated by law. In 2008, the last year for which statistics were available, there were just over 106,400 air passenger arrivals.⁹⁰ According to the authorities, the vast majority of imports arrive by maritime transport, rather than air.

4.70. There are scheduled services to Canada, the United Kingdom, and the United States (Atlanta, Charlotte, Miami, and New York) as well as destinations within the Caribbean. Carriers include American Eagle, American Airlines, Delta, British Airways, Sky Service, and LIAT. St. Kitts and Nevis does not have any domestically incorporated airlines. Aircraft handling services such as air-start units, high-loaders, passenger stairs, and ground power units are offered on a rental basis. Air cargo services are provided by a number of freight forwarders including FedEx, DHL, and UPS. Cargo facilities include a bonded warehouse, a transit zone, a domestic-cargo-only zone, an animal quarantine station, a fresh meat inspection area and an express courier centre.⁹¹

4.71. During the period under review, the authorities have been seeking to increase the frequency of flights from and to St. Kitts and Nevis and to achieve a better direct connection with international flights. In this respect, the Government welcomed American Airlines' decision to add two weekly non-stop flights between the R. L. Bradshaw airport and Miami from end 2012, as well as the British Airways service from London, and the seasonal Air Canada service from Toronto.

4.72. The St. Christopher Air and Sea Ports Authority (SCASPA) has responsibility for the administration of the Robert L. Bradshaw International Airport in St. Kitts, while the Vance W. Amory International Airport is managed by the Nevis Air and Sea Ports Authority. These authorities provide all airport management and auxiliary services, with the exception of ground handling services, which are provided by private local companies.

4.73. The main legislation governing the sector is the Civil Aviation Act, 2004, together with the Civil Aviation Regulations, 2004. The Act specifies the criteria to be considered in the granting of an air transport licence: the existence of other air services; the need/demand for the proposed service; and any unfair advantage of the applicant over other operators by reason of the terms of employment of persons employed. The Minister responsible for Transport has final authority to suspend consideration of the application. For countries with which St. Kitts and Nevis has a bilateral air agreement (currently only the United States and Canada), the above issues are not considered, unless the Minister directs otherwise. However, consideration is given to whether the airline is fit, willing, and able to operate the service.

4.74. St. Kitts and Nevis collects a travel tax, a departure tax, and a cruise passenger tax.

4.75. St. Kitts and Nevis is a contracting state of the ICAO. It has one bilateral air services agreement, recorded by ICAO, with Canada. It also has an open-skies agreement with the United Kingdom signed in 2009, and with the United States, signed in 2012.

4.3.5 Maritime transport and ports

4.76. In its GATS Schedule, St. Kitts and Nevis has inscribed commitments on "ship registration for the control, regulation and orderly development of merchant shipping" subject to certain registration requirements.⁹²

⁹⁰ Caribbean Tourism Organization online information. Viewed at: <http://www.onecaribbean.org/content/files/>.

⁹¹ SCASPA online information. Viewed at: http://www.scaspa.com/RLB_Airport.asp.

⁹² WTO document GATS/SC/119, 16 November 1995.

4.77. Maritime transport is of considerable importance for St Kitts and Nevis' economy. Some 95% of imports arrive by sea and most agriculture products are exported by sea. Thus, the authorities consider that shipping and the supporting infrastructure, such as ports and harbours, are vital to the economic growth of the country.⁹³ St Kitts and Nevis operates a sizeable register of international ships, it also derives significant revenue from ships listed on the National Register of Ships. St. Kitts and Nevis acceded to the International Maritime Organization in 2001, and since that time has signed onto a number of its international conventions.⁹⁴

4.78. The main ports in St. Kitts are Basseterre and Port Zante, owned and administered by the state-owned St. Christopher Air and Sea Ports Authority. The main port in Nevis is Charlestown, which is owned and administered by the Nevis Air and Sea Ports Authority. Each authority has a monopoly in the provision of port services, and approval from the relevant Authority is required to discharge and load general cargo.

4.79. Overall responsibility for maritime transport formulation and implementation lies with the Minister of Transport, currently acting in the Ministry of Tourism and International Transport. The Department of Maritime Affairs in the Ministry of Tourism and International Transport is the National Maritime Authority executing government policy on maritime matters. The Department directs, coordinates, and monitors maritime activities, exercising its competence as a port State, flag State, and coastal State administration. The Department is also the jurisdictional authority for investigating matters relating to maritime disasters, and the administrative authority for investigating and sanctioning violations of merchant marine standards under its jurisdiction. The Department represents the Government in international forums and conferences relating to maritime activities, and acts as a consultant in all maritime transport matters. The Minister may appoint special agents for shipping and maritime affairs in accordance with the Merchant Shipping (Agreement) Act Cap 7.06. These agents may be called upon to carry out various duties as authorized officials of the Government linked to obligations under International treaties, including IMO conventions.⁹⁵

4.80. The Government is committed to promoting shipping and regulatory reforms to ensure efficient and competitive shipping services. The authorities consider that St. Kitts and Nevis needs to follow international approaches to shipping regulation to ensure international economic competitiveness. Under the United Nations Convention on the Law of the Sea, St Kitts and Nevis has rights and responsibilities over approximately 20,400 square kilometres of maritime space, roughly 80 times its land space. The authorities consider coastal and ocean areas and their marine biological diversity as core national assets that also provide a range of essential environmental services that would be costly or impossible to restore or replace if damaged or lost.⁹⁶

4.81. The St. Kitts and Nevis International Ship Registry (SKANReg), an international open register, with its operational head office located in London, is under the jurisdiction of the Department of Maritime Affairs. The Ports of Registry are Basseterre for St. Kitts and Charlestown for Nevis. The International Registrar of Shipping and Seamen is the sole authority for the registration of St. Kitts and Nevis ships and seamen. The Registrar controls the issuance of all documentation issued on behalf of SKANReg. A maritime resident agent is required for every ship registered with SKANReg. There are no vessel age restrictions, but vessels over 20 years old may be subject to inspection by SKANReg.

4.82. The Merchant Shipping (Agreement) Act Cap. 7.06 is the main legislation governing maritime transport in St. Kitts and Nevis. There are no registration limitations for foreigners. However, under the Act, foreign companies or individuals may register a ship as domestically

⁹³ Ministry of Tourism and International Transport (2013).

⁹⁴ St. Kitts and Nevis has acceded to the following IMO conventions: IMO Convention 1948, with 1991 and 1993 amendments; SOLAS, 1974 and Protocols of 1978 and 1988; STCW 78; MARPOL 73/78; ILL 1966; LL Prot, 1988 - Protocol of 1988 relating to the International Convention on Load Lines, 1966; COLREG 72, 1972; ITC 1969 - International Convention on Tonnage Measurements of Ships (Tonnage), 1969; CLC Prot. 1992 (CLC69 and CLC 92); and SAR, 1979, among others. For a complete list, see IMO online information. Viewed at: <http://www.imo.org/About/Conventions/StatusOfConventions/Pages/Default.aspx>.

⁹⁵ These duties may include, boarding St. Kitts and Nevis ships; investigating marine casualties and crew disputes; inspecting log books; and issuing certificates and other official documents on behalf of the Government of St. Kitts and Nevis. St. Kitts and Nevis International Ship Registry online information. Viewed at: <http://www.stkittsnevisregistry.net/>.

⁹⁶ Ministry of Tourism and International Transport (2013).

owned, only if they are registered or established locally. Persons qualified to own ships registered as St. Kitts and Nevis vessels are: St. Kitts and Nevis citizens; CARICOM citizens resident in a CARICOM member state, as long as the ship is engaged in international voyages; individuals or corporations in a joint-venture shipping enterprise with St. Kitts and Nevis citizens; corporations established and with a registered office in St. Kitts and Nevis; and any other persons determined by the Minister. In general, the Act permits non-qualified persons to register a ship under the St. Kitts and Nevis flag if over 51% of the shares of the ship are owned by persons qualified to own a St. Kitts and Nevis ship, and provided a maritime agent resident in St. Kitts and Nevis is appointed.⁹⁷ The advantage of domestically owned over foreign-owned ships is that the former pay only 50% of the registration fees.

4.83. There are no legal restrictions on cabotage. There are no government-owned cargo vessels, and government cargo is not reserved for domestically flagged vessels. There are no restrictions on the nationality of the Master, officers and crew on board.

4.84. The Merchant Shipping (Port State Control) Regulations 2008 (SRO No. 34 of 2008) mandates the inspection of ships by the Department of Maritime Affairs to ensure compliance with the 1996 Memorandum of Understanding on Port State Control in the Caribbean Region, and a number of international conventions.⁹⁸ The Department is charged with inspecting at least 15% of the ships that enter St. Kitts and Nevis' ports in a year.

4.85. Taxes and fees, including registration fees, administration fees for registration, and annual fees and taxes, are levied on maritime transport activities; these often vary according to the gross tonnage. The fees range from US\$160 for ships of 500 GT or less to US\$1,200 for ships of 20,000 GT or more. Ships wholly owned by a St. Kitts and Nevis company with its registered office in the Federation, or a St. Kitts and Nevis national or citizen resident in the Federation are entitled to a 50% reduction of registration fees. Locally flagged vessels may benefit from duty concessions for imports of spare parts, fuel, and other items.

4.86. In 2008, St. Kitts and Nevis implemented the International Safety Management (ISM) Code through the passage of the Merchant Shipping (International Safety Management (ISM)), 2008 (SRO No. 15 of 2008). The regulations require that passenger ships, oil and chemical tankers, and other cargo ships of 500 tonnes or more comply with the ISM Code and obtain a document of compliance. This document may be procured in St. Kitts and Nevis from the Department of Maritime Affairs, and is generally valid for five years. Documents of compliance issued by the competent authorities in foreign countries are also accepted. Other regulations regarding the maritime transport sector include the Shipping (Pleasure Vessel) Regulations 2007 and the Merchant Shipping (Ship and Port Facility Security) Regulations 2004.

4.87. In 2013, the Government issued a final draft of the policy and Action Plan. The overall goal for the policy is the effective and sustainable management of the marine environment and marine resources of St. Kitts and Nevis.⁹⁹ The strategic objectives are to secure rights to marine resources; reform ocean governance; preserve and protect the marine environment; promote sustainable economic development; promote public awareness, participation, and accountability; increase knowledge and capacity building; and build resilience and managing for uncertainty.

4.88. The policy underscores the importance for the Government of managing marine resources use in a manner that aims at sharing the benefits arising from their utilization in a fair and equitable way, including by appropriate access to resources and by appropriate transfer of relevant technologies. In accordance with this, access to common marine resources for private profit should be priced to give a reasonable rate of return to the community. Charges for access to, use of and damage to marine resources should reflect the community interest and short- and long-term economic, environmental, social, and cultural costs and benefits.

⁹⁷ Merchant Shipping Act (2002), Part II (Art. 3-8). Viewed at: <http://www.st.kittsnevisregistry.net>.

⁹⁸ The International Convention on Load Lines, 1966 (LL 66); the International Convention for the Safety of Life at Sea, 1974 (SOLAS 1974); the International Convention for the Prevention of Pollution from Ships, 1973 and 1978 (MARPOL); the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW); the International Convention on Tonnage Measurement of Ships, 1969; the Convention on the International Regulations for Preventing Collision at Sea, 1972 (CLOREG 72); and the Merchant Shipping (Minimum Standards) Convention, 1976.

⁹⁹ Ministry of Tourism and International Transport (2013).

4.89. The policy's specific goal for maritime transport is to make it safe, secure, clean, and internationally competitive. Strategic objectives for the sector include: (i) facilitating and enhancing the expansion of international trade, particularly tourism and exports; (ii) promoting an internationally competitive maritime industry; and (iii) ensuring safety, security, and protection of the marine environment. The first objective is to be achieved by developing regular shipping services and related infrastructure as well as a well-defined regulatory framework; promoting St. Kitts and Nevis as a cruise ship destination and ensuring the provision of effective support services; ensuring that all ports fulfil requirements regarding depth, width, harbour channel markings, and other navigational safety items; and establishing bilateral agreements to support maritime developmental activities. The second objective is to be achieved by implementing measures to attract ship owners to register their vessels in St. Kitts and Nevis; promoting St. Kitts and Nevis as a crewing nation by ensuring that training continues to comply with international standards and supporting, possibly through legislation, the hiring by shipping companies of St. Kitts and Nevis nationals; by promoting the expansion of ship repair and maintenance activities; and by facilitating the development of marina facilities. The safety, security, and protection of the marine environment objective will be achieved with measures to ensure that St. Kitts and Nevis' flagged ships and foreign ships operating in St. Kitts and Nevis' waters operate in accordance with local and international maritime safety, security and environmental protection standards, including promulgating appropriate safety and marine protection legislation, and implementing the key international shipping treaties.

4.90. The policy also calls for the continued use and reinforcement of the Port State Control (PSC) regime through regional collaboration and by ensuring that PSC inspection targets are met.¹⁰⁰ The authorities have indicated that these targets are currently set at 15% of all ships making a port call. It also aims at promoting the development of domestic ferry services as an alternative transport mode, where practicable.

4.91. A number of private, including foreign, organizations have agreements with the St. Kitts and Nevis' administration to carry out statutory surveys and issue statutory certificates on behalf of the Government of St. Kitts and Nevis.¹⁰¹

4.3.6 Tourism

4.92. In its GATS schedule, St. Kitts and Nevis has made commitments on hotel services, limited to development of hotels in excess of 50 rooms, as well as full commitments for restaurant services relating to ethnic food. No commitments have been made with respect with other tourism-related activities.

4.93. Tourism accounts, directly and indirectly, for a large percentage of GDP. Although hotels and restaurants represented just 5.6% of GDP in 2012, there are important spill over effects from tourism on construction, distribution services, electricity, agriculture, and manufacturing. The sector was affected by the global economic crisis; in 2008, just before the crisis, St. Kitts and Nevis had some 106,000 stay-over tourist arrivals, 11% less than the previous year. Following a further 26.8% contraction in stay-overs in 2009, the sector recorded growth of 3.3% in 2010 and of 5.9% in 2011.¹⁰² The authorities indicated that they expect the number of stay-overs to increase in the near future as new hotel facilities will open, and the increase in weekly flights to Miami. The opening of the new marina is expected to increase the number of yachting tourists, an area the authorities consider of importance due to the revenue generated.

4.94. Cruise passenger arrivals have been expanding since 2008, when they passed the 500,000 mark for the first time; they grew by over 15% in 2011 but declined in 2012. The Government projects in excess of 650,000 passenger arrivals for the 2013/14 season

¹⁰⁰ The PSC is a mechanism instituted through the IMO by which a state may conduct limited safety inspections of all foreign vessels calling at its ports to ensure their conformity to maritime safety, security, and pollution prevention standards.

¹⁰¹ These organizations are: the American Bureau of Shipping (ABS); Bureau Veritas (BV); Germanischer Lloyd (GL); the Indian Register of Shipping (IR Class), the International Register of Shipping (IRS); the Korean Register of Shipping (KRS); Lloyds Register of Shipping (LR); Nippon Kaiji Kyokai (Class NK); Polski Rejestr Statkow (PRS); Registro Italiano Navale (RINA); Russian Maritime Register of Shipping (RS); and Turkish Loydu.

¹⁰² Government of St. Kitts and Nevis (2011).

and 700,000 passengers in 2014/15.¹⁰³ In 2012, total visitor expenditure was estimated at over EC\$256.4 million (some US\$95 million). The United States is the main source of tourist arrivals to St. Kitts and Nevis (64.2% of the total in 2012), followed by other Caribbean countries (16.6%), the United Kingdom (7.7%), and Canada (6.8%) (Table 4.2).

Table 4.2 Annual tourism data, 2007-12

	2007	2008	2009	2010	2011	2012
Total visitors	379,473	533,353	547,561	621,275	715,250	635,426
Stay-over visitors	123,062	127,705	93,081	98,329	101,701	104,240
United States	69,894	76,455	54,410	58,710	64,245	66,988
Caribbean	28,822	28,982	22,410	21,176	18,893	17,317
United Kingdom	12,162	9,970	6,496	8,455	8,047	7,975
Canada	7,116	7,805	6,413	6,054	5,961	7,073
Other countries	5,068	4,493	3,352	3,934	4,555	4,887
Excursionists	5,177	3,920	3,718	3,547	3,682	3,230
Cruise ship passengers	249,323	400,916	450,553	515,787	605,407	526,305
Yacht passengers	1,911	812	209	3,612	4,460	1,651
Number of cruise ship calls	242	232	235	293	337	298
Total Visitor Expenditure (EC\$M)	336.92	297.17	225.41	241.74	254.06	256.39

Source: St Kitts Statistics Office; Nevis Statistics Office; and Eastern Caribbean Central Bank online information. Viewed at: <http://www.eccb-centralbank.org/Statistics/index.asp>.

4.95. Overall responsibility for the formulation and implementation of tourism policy in St. Kitts and Nevis at the federal level is with the Minister of Tourism, currently the portfolio is in the Ministry of Tourism and International Transport. Marketing and promotion activities are carried out by the St. Kitts Tourism Authority and the Nevis Tourism Authority, as well as the private sector St. Kitts Hotel and Tourism Association and the Nevis Hotel and Tourism Association.¹⁰⁴

4.96. The authorities continue their policy of trying to attract investment in tourism-related facilities and infrastructure, with special efforts to attract a more upscale clientele. In this regard a private jet terminal has been constructed at the R. L. Bradshaw International Airport. Also, at the Kittitian Hill Development, a 85 room boutique cottage hotel has been constructed as well as an 18-hole golf course. Phase One of the project is expected to open for the 2013–14 tourist season. Similarly, work is being carried out in the Christophe Harbour Development for the construction of a yacht marina, together with a complex of homes (Harbour Side) and villas. The Government has also negotiated an agreement for the construction of a Park Hyatt Hotel with 200 hotel rooms and 50 residential condominiums, scheduled to be opened in the winter of 2014. Other projects include the Silver Reef Resort Development, for the construction of apartments and an almost US\$40 million private investment projects for the construction of three condominium complexes and a commercial complex in Frigate Bay.¹⁰⁵

4.97. In early 2013, the authorities undertook a formal review of their Tourism Strategy which had guided developments in the sector since 2006. Among the main points of the new strategy are the development of education tourism and an assessment of the small hotel sector in order to formulate an approach for its development.

4.98. Licences to run hotels and guest houses are granted by the Minister responsible for Finance. The Government of St. Kitts and Nevis offers fiscal incentives to encourage the construction or renovation of hotels. The Hotel Aids (Amendment) Act (1998) provides for the granting of licences to import building materials and hotel equipment free of customs duties or duty drawbacks for the construction or renovation of a hotel. St. Kitts and Nevis also provides corporate income tax breaks for the construction or extension of hotels, under the Income Tax Act No. 17 of 1966. No information was available on the revenue forgone as a result of these benefits.

¹⁰³ Government of St. Kitts and Nevis (2012).

¹⁰⁴ For more information on the two local Government promotion activities, see: <http://www.stkitts.tourism.kn>; and <http://www.nevisisland.com>.

¹⁰⁵ Government of St. Kitts and Nevis (2012).

4.99. The Cricket World Cup 2007 (Tourism Accommodation Incentives) Act (No. 11, 2005), provided limited-period tax incentives for the construction of hotels or the conversion of buildings into hotels, villa resorts, condominiums or residential complexes of at least eight bedrooms. Incentives under this Act include income tax holidays, the duration of which varies according to the number of rooms.¹⁰⁶ There are also customs duty exemptions on imports of building materials for a period to be determined by the Cabinet although imports are still subject to the Customs Service Charge. Applications for tax benefits had to be made to the Cabinet for approval before 31 May 2006, but benefits under the Act may continue, in some cases, up to 2021. Tax relief granted under this Act, was not in addition to relief and customs duty exemptions available under the Hotel Aids Act.

4.100. St. Kitts and Nevis levies a number of tourism-related taxes and charges: a US\$22 departure tax for passengers departing both by air and by sea; a US\$1.50 cruise passenger tax; and a 12% Hotel Room Tax, which comprises a 10% VAT and a 2% Island Enhancement Tax.¹⁰⁷ A travel tax is levied on tickets for air and maritime travel originating in St. Kitts and Nevis at a rate of 10% of the cost of the fare (Travel Tax (Amendment) Act 1997, Travel Tax Act, 1981).

4.3.7 Professional services

4.101. In its GATS Schedule, St. Kitts and Nevis has made no specific commitments on professional services. According to best available information, no professions are specifically reserved for nationals. St. Kitts and Nevis has not signed any mutual recognition agreements on professional services.

4.102. Professional services are regulated by the Government. Under the Licences on Business and Occupations Act (Act No. 6, 1972), as amended, certain professional service providers must obtain a licence from the Minister of Finance in order to practice. These include medical doctors, dentists, lawyers, architects, and accountants (public, certified, and chartered). The licences are valid for up to one year, and are renewable; application fees and annual renewal fees range from EC\$500 to EC\$1,000 depending on the profession.¹⁰⁸ Certain professional service providers are also subject to the VAT.¹⁰⁹

4.103. Under the Caribbean Community Skilled Nationals Act, No. 12, 1997, a regional initiative to enhance the free movement of skilled persons, CARICOM nationals who are university graduates may enter and work in St. Kitts and Nevis without a work permit. During the period under review, the CARICOM Secretariat continued its efforts towards regional service sector development to give effect to requirements of Chapter III of the Revised Treaty of Chaguaramas. Six versions of a draft model professionals bill have been developed at the CARICOM level since 2003, the latest in 2010. The model bill is intended to serve as a basis from which member states would enact legislation for the various professions and make amendments where legislation already exists. The bill consists of six parts dealing with: (i) interpretation and definitions, in which the CARICOM national is defined; (ii) the establishment of a council; (iii) the requirements and procedures for registration and licensing; (iv) discipline; (v) offences and penalties; and (vi) miscellaneous provisions. Once enacted, the legislation should facilitate free movement of professionals; maintain high standards of service delivery in the CSME; and enhance international competitiveness of regional professionals so that they can exploit the opportunities available in existing and emerging free-trade agreements. Up to date consultations regarding in the draft bill have been undertaken with representatives of medical practitioners, pharmacists, veterinarians, nurses and midwives, engineers, architects, and management consultants at both national and regional levels. However, no agreement has been reached at the regional level, mainly on account of some contentious issues such as the movement of service providers.¹¹⁰

¹⁰⁶ Ten-year income tax holiday for accommodation projects between 8 and 29 rooms; and a 15-year income tax holiday for accommodation projects of 30 rooms and above.

¹⁰⁷ The legislative basis of the hotel room tax is The Hotel Accommodation and Restaurant (Amendment) Act No. 16, 1999.

¹⁰⁸ These fees are set out in the St. Christopher and Nevis Statutory Rules and Orders, No. 9, 1997.

¹⁰⁹ Value Added Tax Act, 2010.

¹¹⁰ CARICOM online information. Viewed at: http://www.caricom.org/jsp/single_market/services_regime/development_regulatory_framework.jsp.

4.104. The legal profession is regulated by the Legal Profession Act, 2008 (Act No. 33 of 2008) and the legal Profession (Amendment) Act, 2010. The Legal Profession Act created the St. Kitts and Nevis Bar Association to promote and maintain the highest standards of practice, conduct, and proficiency of the legal profession and to represent and protect its interests. An attorney-at-law may not practise as such unless he has been issued a practicing certificate. The Act mandates that every attorney-at-law to whom a practicing certificate is issued must be a member of the Association and must remain a member for so long as his or her practising certificate is in effect.

4.105. The Architects Registration Act, 2010 (Act No. 16 of 2010) regulates the registration and practice of architects in St. Kitts and Nevis.

4.106. St. Kitts and Nevis is a contracting party to the CARICOM Agreement Establishing the Council of Legal Education (see Common Report). As per Annex III to the agreement, the Government of St. Kitts and Nevis must recognize that any person holding a legal education certificate fulfils the training requirements for practice in its territory.¹¹¹

4.3.8 Other offshore services

4.107. There is special domestic legislation for offshore businesses. Offshore companies in St. Kitts are regulated by the Companies Act of 1996, as amended, and in Nevis by the Nevis Business Corporation Ordinance, 1984 (as amended).¹¹²

4.108. Companies providing online betting and gaming services from St. Kitts and Nevis must be registered at the Financial Services Department of the Ministry of Finance. A registration fee of US\$80,000 and an annual licence fee of US\$40,000 must be paid. The registered company must consult with the Ministry of Finance on the content of any advertisement placed on the Internet and must carry out its banking operations with a local commercial bank. These activities must be strictly offshore: nationals of St. Kitts and Nevis are not permitted to place bets on these gaming activities. As at early 2014, there were two offshore betting and gaming companies in operation in St. Kitts and Nevis.

4.109. The Nevis Business Corporation Ordinance regulates the establishment of offshore companies generally known as International Business Companies (IBCs). Under the Ordinance, IBCs must be incorporated in Nevis prior to conducting any business; a registered agent with a registered office in Nevis must be engaged. The office of the registered agent may act as the office of the company.

4.110. Companies incorporated as IBCs under the Nevis Business Corporation Ordinance may make use of nominee shareholders, officers, and directors, who may be of any nationality and who may reside anywhere; the identity of the shareholders is not required to be filed in any public record. Companies may serve as directors, and alternate or substitute directors may be appointed. All shareholders and directors may act by unanimous consent, without a meeting and are allowed to issue proxies in writing. No annual reports are required to be filed in the public records of Nevis. Corporate records may be kept anywhere in the world. Changes of shareholders, directors or officers do not have to be reported to the Registrar of Companies and are confidential. The authorized share capital of a Nevis IBC may be demonstrated in any currency. Bearer shares are only permitted with the approval of the Registrar of Companies or the Regulator. In the case of approval, the registered agent must maintain custody of the bearer share certificate on behalf of the beneficial owner and must maintain a register of each bearer share.

4.111. In accordance with the Ordinance, Nevis IBCs may amend their articles of incorporation, merge or consolidate with foreign corporations or other Nevis corporations; the Ordinance allows corporations formed in another jurisdiction to re-domicile into Nevis. The Ordinance also provides for the emergency transfer of domicile to Nevis upon the approval of the Registrar of Companies.

¹¹¹ CARICOM online information. Viewed at: http://www.caricom.org/jsp/secretariat/legal_instruments/agreement_cle.jsp?menu=secretariat.

¹¹² The Companies Act (Chapter 21.03) has been amended by: the Companies (Amendment) Act 2004; the Companies (Amendment) Act 2005; the Companies (Amendment) Act 2010; and the Companies (Amendments) Act No. 4 of 2011. As at February 2014, there were 1,457 local companies registered, 57 external companies, 8 public companies, and 1,977 exempted (offshore) companies.

REFERENCES

Caribbean Development Bank (2008), Basic Information. Viewed at: <http://www.caribank.org/uploads/2012/03/basicinformation1-1-1.pdf>.

ECCB (2013), *Financial Statistics Yearbook 2013 for the period ended 31 December 2012*. Viewed at: http://www.eccb-centralbank.org/PDF/fsybook_2013.pdf.

ECTEL (2014), *Annual Electronic Communications Sector Review 2012 – 2013 ECTEL Member States*. Viewed at: <http://www.ectel.int/index.php/resources/publications?download=93:ectel-2013-annual-sector-review>.

Government of St. Kitts and Nevis (2006), *Prime Minister's Budget Address for 2007*. Viewed at: http://www.cuopm.com/pdf/Budget_Addresses/2007_Budget_Address_20061212.pdf.

Government of St. Christopher and Nevis (2010), *2011 Budget Address*. Viewed at: <http://www.gov.kn>.

Government of St. Kitts and Nevis (2011), *2012 Budget Address*. Viewed at: http://www.cuopm.com/pdf/Budget_Addresses/2012_Budget_Address_20111213.pdf.

Government of St. Christopher and Nevis (2012), *2013 Budget Address*. Viewed at: <http://www.gov.kn/sites/default/files/docs/2013%20Budget%20Address%20-Final%20April%202013.pdf>.

IMF (2011a), *IMF Executive Board Approves Three-Year US\$84.5 Million Stand-By Arrangement with St. Kitts and Nevis*, Press Release No. 11/295, 28 July 2011. Viewed at: <http://www.imf.org/external/np/sec/pr/2011/pr11295.htm>.

IMF (2011b), *St. Kitts and Nevis: 2011 Article IV Consultation and Request for Stand-By Arrangement-Staff Report; Staff Supplements; Public Information Notice and Press Release on the Executive Board Discussion; and Statement by the Executive Director for St. Kitts and Nevis*. IMF Country Report No. 11/270, September 2011. Viewed at: <http://www.imf.org/external/pubs/ft/scr/2011/cr11270.pdf>.

IMF (2013), *St. Kitts and Nevis—Fourth Review Under the Stand-By Arrangement, Financing Assurances Review and Request for Waivers of Applicability—Staff Report and Press Release, IMF Country Report No. 13/42*, February 2013. Viewed at: <http://www.imf.org/external/pubs/cat/longres.aspx?sk=40324.0>.

IMF (2014), *St. Kitts And Nevis: Fifth and Sixth Reviews under the Stand-By Arrangement, Request for Waiver of Non-observance of Performance Criterion and request for Waiver of Applicability; Staff Report; Press Release*. Country Report No. 14/49, February 2014. Viewed at: <http://www.imf.org/external/pubs/ft/scr/2014/cr1449.pdf>.

Ministry of Tourism and International Transport (2013), *National Maritime Policy and Action Plan*, Department of Maritime Affairs, Final Draft, January 2013. Viewed at: <http://www.stkittsnevisregistry.net/>.

St. Kitts and Nevis Customs Department (undated), *Implication of VAT on Imports*. Viewed at: <http://www.skncustoms.com/pdfs/VAT%20System.pdf>.

5 APPENDIX TABLES

Table A1. 1 Merchandise exports and re-exports by SITC section, 2007-12

(US\$ million and %)

Description	2007	2008	2009	2010	2011	2012
Total exports and re-exports	51.1	60.1	47.3	51.8	60.5	61.5
Domestic exports	48.4	51.4	44.3	45.6	48.8	53.2
Re-exports	2.7	8.7	2.9	6.2	11.8	8.3
	(% of exports and re-exports)					
0 Food and live animals	1.4	1.4	2.5	2.0	2.2	1.5
1 Beverages and tobacco	5.2	6.4	6.0	4.7	5.5	6.1
2 Crude materials, inedible, except fuels	-	1.0	-	0.1	0.1	0.5
3 Mineral fuels and related materials	-	-	-	0.1	-	0.1
4 Animal and vegetable oils, fats and waxes	..	-	-	-
5 Chemicals and related products	0.2	0.8	0.3	0.5	0.4	0.2
6 Manufactured goods classified by material	1.5	0.9	1.1	2.9	0.6	0.7
7 Machinery and transport equipment	88.5	83.2	86.0	78.7	74.6	79.5
8 Miscellaneous manufactured articles	2.5	5.3	3.8	9.6	15.2	10.3
9 Commodities and transactions not classified elsewhere in SITC	0.6	1.0	0.2	1.5	1.4	1.2

.. Not available.

- Trade share lower than 0.05%.

Source: Eastern Caribbean Central Bank online information. Viewed at: <http://www.eccb-centralbank.org/Statistics/index.asp>.

Table A1. 2 Merchandise imports by SITC section, 2007-12

(US\$ million and %)

Description	2007	2008	2009	2010	2011	2012
Total imports	272.2	324.8	285.1	268.0	248.0	225.6
	(% of imports)					
0 Food and live animals	15.7	15.1	17.8	16.9	20.7	22.1
1 Beverages and tobacco	2.8	2.4	3.0	2.5	2.5	2.9
2 Crude materials, inedible, except fuels	2.1	2.1	2.5	2.5	2.3	1.9
3 Mineral fuels and related materials	6.9	8.1	4.0	3.7	2.8	2.8
4 Animal and vegetable oils, fats and waxes	0.2	0.3	0.2	0.3	0.3	0.4
5 Chemicals and related products	6.7	6.6	7.2	7.3	8.2	7.9
6 Manufactured goods classified by material	18.1	18.1	24.0	18.4	18.7	18.6
7 Machinery and transport equipment	31.1	23.9	21.2	26.9	26.8	26.6
8 Miscellaneous manufactured articles	16.0	23.4	19.9	21.1	17.1	16.2
9 Commodities and transactions not classified elsewhere in SITC	0.5	-	0.2	0.4	0.6	0.6

- Trade share lower than 0.05%.

Source: Eastern Caribbean Central Bank online information. Viewed at: <http://www.eccb-centralbank.org/Statistics/index.asp>.

Table A1. 3 Merchandise exports and re-exports by trading partner, 2007-12

(US\$ million and %)

Description	2007	2008	2009	2010	2011	2012
Total exports and re-exports	51.1	60.1	47.3	51.8	60.5	61.5
	(% of exports and re-exports)					
America	96.0	94.3	97.3	95.3	96.8	..
United States	86.6	84.7	81.0	74.0	81.8	..
Other America	9.4	9.6	16.2	21.3	15.1	..
Antigua and Barbuda	1.8	1.5	4.0	2.9	3.1	..
Trinidad and Tobago	0.5	0.4	0.5	1.9	2.6	..
St Lucia	0.8	1.0	2.3	3.5	2.4	..
Dominica	1.2	0.4	0.9	1.9	2.2	..
Grenada	0.4	1.2	0.6	1.6	1.2	..
St Vincent and the Grenadines	0.9	0.5	1.5	1.6	1.0	..
Anguilla	0.5	0.4	1.1	1.0	0.7	..
Montserrat	0.3	0.4	1.1	0.7	0.7	..
British Virgin Islands	0.3	0.5	0.3	0.7	0.4	..
Barbados	0.5	0.7	0.6	2.1	0.3	..
Panama	0.0	0.0	0.0	0.8	0.2	..
Canada	0.1	0.1	0.3	0.3	0.1	..
Belize	0.1	0.0	0.0	0.0	0.1	..
Dominican Republic	0.0	0.0	0.0	0.0	0.1	..
Europe	3.5	5.3	1.6	1.8	1.8	..
EU(27)	3.4	5.2	1.6	1.7	1.8	..
France	1.0	0.6	0.5	0.7	1.3	..
United Kingdom	2.3	4.5	1.0	0.7	0.2	..
Germany	0.0	0.1	0.1	0.1	0.1	..
Netherlands	0.0	0.0	0.0	0.1	0.1	..
EFTA	0.0	0.1	0.0	0.0	0.0	..
Other Europe	0.0	0.0	0.0	0.0	0.0	..
Albania	0.0	0.0	0.0	0.0	0.0	..
Commonwealth of Independent States (CIS) ^a	0.0	0.0	0.0	0.0	0.0	..
Africa	0.0	0.0	0.2	0.0	0.0	..
Middle East	0.0	0.0	0.0	0.0	0.1	..
Qatar	0.0	0.0	0.0	0.0	0.1	..
Asia	0.5	0.4	0.0	0.6	0.1	..
China	0.0	0.0	0.0	0.0	0.0	..
Japan	0.5	0.3	0.0	0.0	0.0	..
Six East Asian Traders	0.0	0.0	0.0	0.1	0.0	..
Other Asia	0.0	0.0	0.0	0.5	0.1	..
United States minor outlying islands	0.0	0.0	0.0	0.5	0.0	..
Other	0.0	0.0	0.9	2.3	1.2	..

.. Not available.

a Commonwealth of Independent States (CIS) includes Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russian Federation, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

Note: Shares are based on UNSD Comtrade data. 0.0% in the table represents negligible trade.

Source: UNSD, Comtrade database (SITC Rev.3); and Eastern Caribbean Central Bank online information. Viewed at: <http://www.eccb-centralbank.org/Statistics/index.asp>.

Table A1. 4 Merchandise imports by trading partner, 2007-12

(US\$ million and %)

Description	2007	2008	2009	2010	2011	2012
Total imports	272.2	324.8	285.1	268.0	248.0	225.6
	(% of imports)					
America	84.0	86.2	87.1	86.8	86.4	..
United States	58.8	61.0	66.1	68.0	67.3	..
Other America	25.1	25.2	21.0	18.9	19.1	..
Trinidad and Tobago	10.8	11.5	7.7	6.5	6.3	..
Canada	3.0	2.1	1.6	2.0	2.2	..
Jamaica	0.7	1.1	1.9	1.4	1.6	..
Dominican Rep.	1.7	1.7	1.1	1.1	1.1	..
Barbados	1.6	1.7	1.3	1.3	1.1	..
St Vincent and the Grenadines	0.5	0.6	0.6	0.6	0.9	..
Grenada	0.5	0.6	0.7	0.6	0.8	..
Guyana	0.5	0.5	0.5	0.6	0.6	..
Brazil	0.5	0.4	0.5	0.4	0.6	..
Mexico	0.3	0.3	0.2	0.4	0.4	..
Colombia	0.7	0.2	0.3	0.3	0.4	..
Dominica	0.5	0.4	0.3	0.3	0.3	..
St Lucia	0.3	0.3	0.3	0.3	0.3	..
Peru	0.4	0.4	0.6	0.2	0.3	..
Costa Rica	0.1	0.2	0.1	0.2	0.2	..
Panama	0.4	0.5	0.3	0.3	0.2	..
Antigua and Barbuda	0.8	0.3	0.2	0.2	0.2	..
Bahamas	0.0	0.0	0.0	0.0	0.1	..
Argentina	0.1	0.0	0.2	0.1	0.1	..
Chile	0.1	0.1	0.2	0.2	0.1	..
Europe	8.9	7.2	7.5	7.3	7.1	..
EU(27)	8.6	6.5	6.9	7.0	6.7	..
United Kingdom	3.6	4.5	4.2	2.6	4.1	..
France	0.7	0.5	0.4	0.5	0.6	..
Germany	1.7	0.1	0.2	2.8	0.5	..
EFTA	0.3	0.6	0.4	0.3	0.2	..
Switzerland	0.3	0.4	0.3	0.3	0.2	..
Other Europe	0.0	0.1	0.2	0.1	0.1	..
Albania	0.0	0.0	0.1	0.1	0.1	..
Commonwealth of Independent States (CIS) ^a	0.0	0.0	0.0	0.0	0.0	..
Africa	0.1	0.1	0.1	0.1	0.1	..
Algeria	0.0	0.1	0.0	0.0	0.0	..
Middle East	0.0	0.0	0.1	0.0	0.1	..
Israel	0.0	0.0	0.1	0.0	0.1	..
Asia	7.0	6.4	5.2	5.7	6.3	..
China	1.3	1.1	0.9	1.1	2.5	..
Japan	3.7	3.0	2.5	2.6	2.1	..
Six East Asian Traders	1.4	1.6	1.0	1.2	0.8	..
Other Asia	0.6	0.6	0.8	0.7	0.9	..
India	0.2	0.2	0.3	0.3	0.3	..
Indonesia	0.2	0.2	0.2	0.2	0.2	..
Other	0.0	0.0	0.0	0.0	0.0	..

.. Not available.

a Commonwealth of Independent States (CIS) includes Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russian Federation, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

Note: Shares are based on UNSD Comtrade data. 0.0% in the table represents negligible trade.

Source: UNSD, Comtrade database (SITC Rev.3); and Eastern Caribbean Central Bank online information. Viewed at: <http://www.eccb-centralbank.org/Statistics/index.asp>.