



# VANUATU

## National Investment Policy Statement



*"Moving Forward;  
Improving Vanuatu's  
investment climate"*



## Foreword

This National Investment Policy Statement (NIPS) provides detail updates across sectoral ministries and departments with regards to policies, regulations and fees relating to undertaking investments in Vanuatu, including VIPA, Immigration, Labor and Customs. This Policy Statement replaces the 2005 National Investment Policy, which was based on the first policy document produced in 1996.

The National Investment Policy Statements are presented in a transparent and concise manner that are easily understood by the public and importantly the potential investors. It is written in an understandable language and it is predictable and consistent.

The Vanuatu National Investment Policy Statement was developed after a wide consultation with key stakeholders, including Ministries and departments, provincial and municipal governments, Vanuatu Chamber of Commerce and Industries (VCCI) as well as local Small and Medium Business Enterprises in 2018 -19. All relevant institutions which have a strong interest in investment in Vanuatu were interviewed and consulted to obtain their inputs. The draft sections was extensively reviewed and re-circulated to stakeholders to comment on and consolidate in order to reach an agreement on the policy document. Finally a validation workshop was conducted to confirm the statements in the policy document before publication. The document was then presented to the Council of Ministers (COM) for approval and adoption as the current policy.

The National Investment Policy Statement serves several purposes. It will provide a transparent and public statement of investment intentions and policies for private sector investors and potential investors to be aware of and to enhance investment prospects into Vanuatu. It is an important document for VIPA to use in its local and overseas investment promotion efforts. It informs all officials of the extent of Government's investment policy, enabling all investment efforts to be better coordinated and directed. Finally, it is a benchmark against which Government can effectively review investment policies to ensure those policies are best practices.

Yours sincerely,

**Hon. Jotham Napat**  
**Deputy Prime Minister and Minister of Trade, Commerce, Industry, Tourism and Cooperatives**

## Executive Summary

The purpose of this statement of investment policy is to clearly state and improve understanding about the Vanuatu Government's policies relating to investment by local and foreign investors and importantly by government officials. The National Investment Policy Statement is:

- *Comprehensive* – it includes all key sectors and areas related to investment;
- *Accurate* – it reflects current policies, regulations, fees as well as proposed policy changes;
- *Concise* – it avoids unnecessary details;
- *Informative* – it provides full definitions of criteria for all restrictions and approvals; and
- *Consistent* - with best practice.

The policy statement addresses the following investment related areas:

- Sectoral investment priorities;
- Investment guarantees (expropriation, intellectual property, dispute settlement, non-discrimination between source countries, national treatment, and non-commercial risk);
- Investment regulations in relation to company registration, business licensing and sectoral licensing requirements;
- Foreign investment approval;
- Access to land;
- Employment of citizens and expatriates;
- Residency;
- Government revenue raising;
- Importation and exportation;
- Monetary issues involving local borrowing, funds repatriation, foreign exchange and interest rates;
- Investment incentives;
- Infrastructure;
- Environmental protection; and
- Investment promotion and facilitation.

For each of these areas, the policy statement states the Government's intended objectives, and where possible, explains why the Government is pursuing this course of action. This will help increase the level of stability, certainty and predictability for investors, both local and foreign.

## Table of Contents

<b>1. Introduction</b> .....	<b>6</b>
<b>2. Vanuatu National Sustainable Development Plan</b> .....	<b>6</b>
<b>3. Sector priorities</b> .....	<b>7</b>
Tourism .....	7
Agriculture .....	9
<b>4. Investment Guarantees</b> .....	<b>13</b>
Expropriation.....	13
Intellectual property .....	13
Dispute settlement.....	14
Non-discrimination between source countries .....	14
National treatment.....	14
Non-commercial risk .....	15
<b>5. Investment regulation</b> .....	<b>15</b>
Foreign investment registration .....	15
Company registration.....	17
Business licensing .....	18
Planning permission and building permits .....	18
<b>6. Access to land</b> .....	<b>19</b>
Leasing land .....	20
Strata titling.....	21
<b>7. Environmental protection</b> .....	<b>21</b>
Environmental permits.....	21
Climate change and disaster risk reduction .....	22
Bioprospecting .....	23
Waste management.....	23
Ozone depleting substances.....	24
<b>8. Employment</b> .....	<b>24</b>
Labor regulation .....	24
Minimum wage.....	24
Social security .....	25
Expatriate work permits and visas .....	25
<b>9. Competition</b> .....	<b>27</b>
<b>10. Government revenue raising</b> .....	<b>27</b>
Value added tax.....	28
Trade and excise taxes .....	28
Citizenship schemes .....	29
Tax reform.....	29
<b>11. Trade</b> .....	<b>30</b>
Import and export.....	30
Trade agreements .....	31
<b>12. Monetary matters</b> .....	<b>32</b>
Local borrowing.....	33
Repatriation of funds .....	33
Foreign exchange.....	33
Interest rates .....	33
Financial inclusion .....	33
<b>13. Infrastructure</b> .....	<b>34</b>

Electricity.....	34
Water and sewerage.....	34
Transportation .....	35
Information communication technology (ICT) .....	36
<b>14. Investment promotion .....</b>	<b>37</b>
<b>15. Investment incentives .....</b>	<b>37</b>
Duty exemptions.....	37
Other incentives.....	38
 Table 1 - Overseas Visitors by Air and Cruise ship .....	 7
Table 2 - Visitors to other islands .....	7
 Appendix 1 – Prohibited, Reserved and Restricted Investments .....	 39
Appendix 2 – Reserved Occupations .....	44
Appendix 3 – Import Duties Categories: Economic, Personal, Temporarily Imported Goods and Miscellaneous Conditional Reliefs .....	45

## 1. Introduction

The Government of Vanuatu is committed to encouraging a nation that is stable, sustainable and prosperous. Its goal is to create conditions that encourage greater equity and inclusiveness in society through expanded opportunities for wealth generation, while maintaining the integrity of the country's natural environment and its cultural heritage.

The Government views private sector investment as the primary engine to sustain higher levels of growth. As such, it continues to strengthen the foundations of the economy, diversify and enhance its links with rural areas and improve the business-enabling environment.

The Government has made significant public investments in recent years to upgrade its airports, seaports and road network. Efforts to improve business regulatory processes are also on-going. Most notable are recent changes to foreign investment procedures that speed up the entry process and provide investors with greater certainty regarding their investments.

This statement summarizes the Government's investment policies. The Government is committed to implementing them in a transparent, efficient and effective way, as well as continuously reviewing them to further improve the environment for private sector development. While the statement is updated on an annual basis, investors are encouraged to contact the Vanuatu Investment Promotion Agency for information on the status of the Government's on-going reform efforts.

## 2. Vanuatu National Sustainable Development Plan

The Government of Vanuatu has stated its vision and objectives with regards to investments and economic development very clearly in its National Sustainable Development Plan 2016-2030 (The People's Plan). Under Economic the Pillar: Sustainable and Equitable Growth, it must have in place an enabling business environment to create investment opportunities and employment for indigenous and foreign entrepreneurs in Vanuatu.

The specific Policy Objectives are:

1. Create an improved business environment with a stable regulatory framework, which promotes competition, protects consumers, attracts investment, and reduces the costs of doing business;
2. Strengthen linkages between urban and rural business and trade between islands;
3. Increase production and processing of niche commodities, and value addition to commodities in which Vanuatu enjoys a comparative advantage;
4. Improve and expand the range of sustainable tourism products and services throughout Vanuatu and strengthen links to local production;
5. Increase the number of decent, productive employment opportunities, particularly for young women and men and people with disabilities;
6. Ensure the health and safety, employment rights and skills development of the workforce;
7. Increase labor mobility nationally and internationally, including through the collection and analysis of comprehensive labor market data;
8. Ensure processes for acquiring and using land for economic activity provides a stable platform for investment and business growth, and;

9. Strengthen dialogue between government and the private sector, and enact a robust governance framework for effective partnerships.

### 3. Sector priorities

The Government encourages investment in all sectors but believes areas of greatest comparative advantage for Vanuatu lie in tourism and agriculture.

While the Government provides a range of infrastructure services and facilitation measures to encourage their development, few specific investment incentives apart from duty exemptions on selected inputs are currently offered. Available incentives are discussed in section 14.

#### Tourism

Tourism is the mainstay of Vanuatu’s economy, and is built on the appeal of Ni-Vanuatu culture and the attractiveness of the country’s natural environment. The sector’s total contribution to GDP was approximately 46% in 2017.

**Table 1: Overseas Visitors by Air and Cruise ship**

Year	By Air	By Cruise ship	Total
2013	110,109	247,296	357,405
2014	108,808	220,205	329,013
2015	89,952	197,471	287,423
2016	95,117	256,482	351,599
2017	109,170	223,551	332,721
2018	115,634	234,567	350,201

Source: National Statistics Office.

Tourism includes visitors arriving by air, as well as cruise ship day visitors. Both sources have grown considerably over the past decade as shown in Table 1 above. In 2018, air arrivals were 115,634 of which about 91,726 were holiday visitors; cruise passenger arrivals totaled 234,567. Historically the majority of air-sourced visitation has been concentrated on the island of Efate, especially in the vicinity of Port Vila.

Visitor numbers to the outer islands have been increasing as well as indicated in Table 2 below:

**Table 2: Visitors to other islands**

Islands/ Regions	Port Vila, Efate	Efate Offshore Islands	Tanna	Santo	Malekula	Ambrym	Pentecost	Others
<b>Number</b>	60,619	4,419	11,258	10,349	1,220	874	527	2,460

Source: National Statistics Office.

There were 31,107 visitors travelled outside of Efate in 2018, with the island of Tanna receiving: 11,258, Santo: 10,349, Efate Offshore Islands: 4,419, Malekula: 1,220, Ambrym: 874, Pentecost: 527 and others: 2,460. A number of accommodation of 3 stars quality have also opened recently with Rock Water in Tanna, Barrier Beach Resort in Santo and Black Pearl in Port Vila. The main port of calls for cruise ship visitors are Port Vila, Aneityum and Santo.

The Vanuatu Sustainable Tourism Policy 2018-2030 provides a clear 10 years direction to the Department of Tourism to manage the development of Vanuatu as a tourist destination in a secure and environmentally sustainable manner. Also ensuring a balance between enjoying and protecting the pristine environment in the country, while at the same time increasing the benefits to outer islands and ensuring the tourism dollar are spread out more widely across the islands in Vanuatu.

The Vanuatu Tourism Market Development Plan 2019-2030 establishes market development goals, targets and key performance indicators for the air arrival segment of the industry. The plan charts a clear direction of tourism development in Vanuatu to reach a target of 300,000 by 2030, the level of funding required to achieve this, the roles of agencies to play in reaching this direction and the key performance indicators to measure performances against. Growth will be driven by a focus on sustaining and diversifying visitation from existing core short-haul markets (Australia, New Zealand and New Caledonia), and increasing long-haul visitation from selected European markets and China. Increased dispersal of visitors to outer islands will occur through new markets development, including use of Santo as a hub to the outer islands, and expansion into more adventure-oriented market segments. The achievements of the targets will be supported through the planned investments in marketing and aviation routes development to stimulate and enhance visitor growth from all markets into the country.

The Vanuatu Tourism Authority (VTO) is responsible for destination marketing. It is a statutory authority directed by a Board with national and provincial government members, as well as representatives from the tourism industry. In addition to government grants, VTO's marketing activities are supported by a marketing levy on accommodation providers and tourism operators, as well as donor organizations. VTO works in close cooperation with Vanuatu's national airline Air Vanuatu and Airports Vanuatu Ltd in expanding international air routes and ensuring domestic airport and terminal services meet visitor expectations.

The Vanuatu National Cruise Tourism Action Plan establishes objectives and actions aimed at strengthening Vanuatu's attractiveness as a cruise ship destination and increasing the economic impact associated with cruise ship visitation.

### **Sector licensing requirements**

To ensure provision of quality tourism services across the industry, tourism operators must meet prescribed operational standards. Vanuatu's tourism accreditation and permit system is regulated under the Tourism Councils Act No. 23 of 2012.

The Department of Tourism (DoT) administers the system using self-assessment forms tailored to different tourism related activities. Tourism permits are issued to operators' able meet all prescribed minimum standards. The permits are issued for two years, and are renewable. A tourism permit is required as prerequisite for a business license. At present, DoT does not charge a fee for issuing a tourism permit.

Operators unable to meet all minimum standards are awarded six-month conditional tourism permits. These permits are not renewable, and require operators to address any deficiencies before re-applying. DoT conducts inspections to ensure minimum standards are being maintained.

## **Restrictions on foreign investment**

Investment by foreign investors is generally encouraged in the tourism sector, with the exception of the following activities where entry is either reserved or restricted:

### Accommodation

- Hotels and motels – Minimum capital investment of VT 10 million or annual sales of VT 20 million
- Island style bungalows – Minimum annual sales of VT 20 million
- Guest houses and backpacker accommodation – Minimum 50 beds, or 10 rooms or annual sales of VT 20 million

### Transportation services

- Road transport operators – Reserved solely for 100% citizen owned businesses
- Tour operators – Minimum capital investment of VT 20 million
- Tour agents – Minimum annual sales of VT 20 million

### Activities

- Commercial cultural feasts – Reserved solely for 100% citizen owned businesses

## **Investment opportunities**

There are considerable opportunities, particularly in the outer islands, for new investment in accommodation, land and marine based tourism activities, and ancillary services.

An integrated tourism development strategy and action plan is in the process of being developed.

## **Agriculture**

Vanuatu's islands are blessed with rich volcanic soils and generally favorable growing conditions. It is also has exclusive control over a vast ocean area.

The Government seeks to more productively use these resources. Sectors perceived to offer the greatest investment potential are: fruit and vegetables, agro-processing, livestock, forestry and fisheries.

### **Fruits and vegetables**

Approximately 40% of the country's land area is considered good agricultural land. Of this area, only one third is presently being farmed, and much of it is being done using inefficient farming practices. Fruits and vegetables represent the most significant portion of current agricultural production. However, potential is constrained by gaps in supply and linkages to end consumers.

The Vanuatu Agriculture Sector Policy guides overall development of the sub-sector, while the Vanuatu National Fruits and Vegetables Strategy 2017-2017 provides a road map for reducing reliance and dependence on imported products and developing markets in Australia and New Zealand.

## **Restrictions on foreign investment**

There are no restrictions on foreign investor involvement in the production or marketing of fruits and vegetables. However, under the recently introduced Agriculture Act No.17 of 2018 foreign investors are required to obtain an agriculture business license from the Department of Agriculture in order to farm selected vegetable, fruit and cash crops. These 19 crops are specified in the Schedule to the Act.

### **Investment opportunities**

Investment opportunities exist in farming of fruits and vegetables for the domestic market, including its growing tourism sector, as well as provision of associated accumulator, storage and distribution services.

### **Agro-processing**

Vanuatu currently produces a range of cash crops. Many of the products however are sold in an unprocessed, or semi-processed state. For example, crops such as coconut is exported primarily as copra or crude coconut oil, while cocoa is exported in the raw bean form.

The Government seeks to encourage value added processing of its agricultural commodities, along with their export. The Vanuatu Industrial Strategy 2018-2022 provides a road map for achieving this goal.

### **Sector licensing requirements**

Undertaking any type of value-added activity or international traded service other than tourism and financial services requires an industrial permit. The issuing of permits is regulated under the Industrial Development Act No. 19 of 2014 and is administered by the Industry Department. It provides Government with information on value added activities for planning purposes, and provides permit holders access to duty exemptions and initiatives supported by the Industrial Development Fund. To obtain a permit investors must submit a prescribed form and pay a fee of VT 2,500. Permits are valid for five years.

There are no restrictions on foreign investor participation in value added processing of agricultural products. However exporting of kava in an unprocessed state (root, chips and stick form) is reserved solely for 100% citizen owned businesses.

### **Investment opportunities**

Investment opportunities exist in value added processing for the domestic market as well as export. Products include: coconut (virgin coconut oil, cosmetics, tender coconut water, planks and furniture), cocoa (single origin powder, butter and specialty chocolate), coffee, kava (powdered and juice forms), tamanu nuts (oil), canarium nuts (dried and roasted snacks, oil) and spices (vanilla, pepper, turmeric, ginger, chili).

### **Livestock**

Vanuatu's benign subtropical environment is well suited to pasture fed farming systems. The country also enjoys a fortunate animal health status with no major epizootic or zoonotic diseases. Vanuatu beef has traditionally been an important export and source of domestic consumption. Other types of livestock are less well established, resulting in a heavy reliance on imports.

The Government seeks to increase export of high value beef products, and reduce the country's reliance on imported meat and dairy products. The Vanuatu National Livestock Policy 2015-2030 guides development of the sector.

### **Sector licensing requirements**

Investors seeking to operate slaughterhouses, export cold storage facilities, poultry plants or butcheries are required to obtain approval from the Minister responsible for livestock to ensure meat processing and storage is done in a safe and hygienic manner. The requirement is regulated under the Meat Industry Act (CAP 213). Investors must submit a prescribed form to the Biosecurity Department and pay a fee. Fees vary depending on the type of facility and range from VT 18,000 to VT 48,000. Annual premises inspections are also required with fees ranging from VT 48,000 to VT 150,000.

There are no restrictions on foreign investors participating in the livestock sector.

### **Investment opportunities**

Investment opportunities exist in beef cattle, dairy farming, fresh chicken (whole and in cuts), piggeries and production of livestock feed.

### **Forestry**

While a considerable portion of Vanuatu is covered with forest, the size of remaining natural forest suitable for commercial timber harvesting is limited. At present there are no forest concessions, and timber harvesting is mostly done on a small scale. As a result, annual timber harvests are around 25,000 m<sup>3</sup>, considerably less than the established sustainable yield level.

The Vanuatu Forest Policy 2013-2023 guides forest sector management and development. It discourages conversion of natural forest to other uses, and promotes forest plantations as the basis for future commercial timber supply. The export of round logs is prohibited.

The Forest Act No. 26 of 2001 and the 1998 Code of Logging Practice regulate management and logging activities in the country's natural forest. Commercial operators must obtain a license from the Department of Forests to undertake timber harvesting and sandalwood operations. Both require submission of prescribed application forms and payments of fees. Application Forms for Timber or Mobile Sawmill is VT 2,300 and the License Permit for Timber or Mobile Sawmill operation is VT 11,500. The Forestry Management fee to be paid is VT 69,000.

### **Sector licensing requirements**

Timber harvesting in natural forest areas is currently limited to portable sawmills, and reserved solely for 100% citizen owned investments. Licenses limit annual log harvest to a maximum of 500 m<sup>3</sup> and can be issued for a period up to 5 years.

Sandalwood licenses can be issued for period up to 10 years. However terms longer than 5 years require licensees to develop processing facilities and replant. Local trading of sandalwood from natural forest, and export of sandalwood in stick and chip form are reserved solely for 100% owned citizen investments. Licenses and Management fees are calculated and charged base on a standard rate of VT 138 per kilo and the resulting Bankers Guarantee. For example: for 2 tons of harvested sandalwood, a License Fee of VT 276,000 and Management Fee of 100,000 are charged and a Bankers Guarantee of VT 322,500 is required. For 5 tons of sandalwood harvested, a License Fee of VT 690,000 and Management Fee of VT 250,000 are charged and a Bankers Guarantee of VT 645,000 is required. For 10 tons sandalwood harvested, a License Fee of VT 1,380,000 and Management Fee of VT 500,000 are charged and a Bankers Guarantee of VT 1,182,500 is required. Sandalwood exports also require an export permit at a cost of VT 2,500 per shipment.

The Government is in the process of updating the Forest Act to strengthen the sector's institutional framework, harmonize standards with other legislation and streamline regulations for forestry enterprises.

### **Timber plantations**

The Forestry Rights Registration and Timber Harvest Guarantee Act No. 28 of 2000 regulates the establishment and management of timber plantations. Investors must first negotiate a registered land lease from customary landowners granting forestry rights over the land. They can then apply to the Department of Forests for the leased area to be accredited as a timber plantation. Investors must apply to the Department of Forests using a prescribed form and pay a fee. Accreditation is open ended. There is no license requirement for harvesting timber from an accredited plantation.

### **Investment opportunities**

Investment opportunities exist in establishing forest plantations, particularly sandalwood and whitewood. The Government has 5,000 ha of leased land on Santo available for plantation development.

Value added processing of all forest products is encouraged, and as is the case with other agricultural products, requires an industrial permit.

### **Fisheries**

Vanuatu's possesses considerable fisheries potential. Its offshore and coastal fisheries are home to significant stocks of tuna and tuna like species, as well as other marine resources.

The Vanuatu National Fisheries Sector Policy 2016-2031 guides overall fishery management, conservation and development, while the Fisheries Act No. 10 of 2014 regulates implementation.

#### **Tuna fishery**

Tuna species are the most commercially important fishery, and are managed under Vanuatu's Tuna Fishery Management Plan. Sustainable annual catch limits have been set for each of the main tuna species: albacore (8,376 MT), yellowfin (3,000 MT), skipjack (3,000 MT) and bigeye (1,000 MT). Catches have been consistently below these levels over the past decade and are landed in foreign ports for processing and export. Vanuatu seeks to capture a greater share of the economic benefits associated with tuna caught in its waters by having the fish landed and processed in Vanuatu.

The tuna fishery is managed using a system of annual fishing licenses, with the following maximum limits set according to type of fishing gear: 70 long line licenses, 30 purse seine licenses and 30 pole and line licenses. Domestic and locally based fishing vessels have priority in allocation of long line licenses, but are restricted to a maximum of 20 purse seine and pole and line licenses. The issuing of fishing licenses to foreign fishing vessels and locally based foreign vessels requires prior issuance of a bilateral fish access agreement. Limits of 10 purse seine and pole and line licenses are placed on foreign fishing vessels. Licenses encompass a range of monitoring and surveillance requirements including on board observers.

The Department of Fisheries issues licenses based on submission of a prescribed form and payment of the license fee. License fees are designed to provide a return on the fishery, as well as cover fishery management costs. As an incentive to encourage onshore fish processing, fishing vessels agreeing to land their fish and source supplies in Vanuatu are charged a lower license fee. The Government is in the process of reviewing its Tuna Fishery Management Plan to ensure it is aligned with the domestication objective.

Commercial fishing within Vanuatu's inshore waters (first 6 nautical miles from land) is reserved solely for 100% citizen owned businesses.

No restrictions are placed on foreign investor participation in onshore fish processing or ancillary services.

#### **Aquaculture**

The country's aquaculture sector is in the early stages of development and is guided by an Aquaculture Development Plan, which is currently under review.

Investors wishing to carry out an aquaculture activity must obtain a license from the Department of Fisheries. It requires submitting a prescribed form and paying a fee. Licenses may be issued for a maximum period of 5 years. Fees vary depending on the type of activity and license duration.

No restrictions are placed on foreign investor participation in aquaculture.

### **Investment opportunities**

Investment opportunities exist in onshore fish processing, as well as provision of services to fishing vessels including vessel refit and repair.

Aquaculture opportunities include marine shrimp, freshwater prawns and tilapia, trochus and marine ornamentals for the aquarium trade such as clams, coral and fish.

## **4. Investment Guarantees**

### **Expropriation**

The Government guarantees it will not expropriate or nationalize investments. The exception is expropriation for a designated public purpose. In such instances, it will be done in a non-discriminatory manner in accordance with due process of law and subject to timely and fair payment of compensation.

### **Intellectual property**

To protect and safeguard intellectual property in Vanuatu, the Government has passed a range of legislation including:

- Trademarks Act No. 1 of 2003 – Protects the use of a symbol, words, logo or slogan that uniquely distinguishes the goods or services of a firm.
- Patents Act No. 2 of 2003 – Provides patent owners with the exclusive right to make, use and sell a patented invention.
- Design Act No. 3 of 2003 – Protects the overall appearance of a product resulting from one or more of its visual features.
- Copyrights and Related Rights Act No. 42 of 2000 – Protects exclusive rights of artistic inventors to benefit from their work. Works are protected by the sole fact of their creation, irrespective of their mode or form of expression, content, quality or purpose.
- Circuit Layout Act No.51 of 2000 which provides for the protection for integrated circuits.
- Trade Secrets Act No.52 of 2000 which provides for the protection of trade secrets and other undisclosed information.
- Geographical Indication (wines) Act No.53 of 2000 which provides for the control of the use of false or misleading geographical indications for the origin of wine.
- Vanuatu Copyright Management Society passed by Parliament in 2017, (not yet gazette). This provides for the establishment of a corporate entity to manage commercial interests of all copyright owners such as Musicians, etc.

A Memorandum of Understanding (MOU) is in place with the Department of Customs and Inland Revenue and Border Control to regulate and enforce any Intellectual Property (IP) infringements, and once detected at the border, will be confiscated and dealt with under the law.

It also intends to implement new legislation protecting traditional knowledge and expression of culture in the near future.

The Vanuatu Intellectual Property Office (VanIPO) administers the country's intellectual property legislation. Application to register a trademark, patent or design must be done using a prescribed form. Registration fees are: US\$ 250 for a trademark, US\$ 280 for a patent and US\$ 250 for a design.

The Government has also enacted legislations in 2012 to ratify the Convention establishing the World Intellectual Property Organization (WIPO) (Ratification) (Act No.13 of 2012) as well as the Berne Convention for the Protection of the literary and Artistic works (Ratification) (Act No. 16 of 2012).

Accordingly there is a technical cooperation agreement in place with WIPO to develop online software registration system to allow administration of intellectual property administration to become paperless and digitized services,

VanIPO is in the process of developing an electronic registry system to improve the efficiency of the registration process and enhance public access to intellectual property information.

## **Dispute settlement**

The Vanuatu Constitution provides entrenched protection of fundamental rights and freedoms. These rights and freedoms are guaranteed to both citizens and non-citizens.

Although Government is aware of the benefits for investment of having access to a range of appropriate dispute settlement mechanisms, resolution through the Vanuatu courts is the only legislative avenue available at this time. The court system has four levels: the highest is the Court of Appeal, which is preceded by the Supreme Court, Magistrates' Court and Island Courts. The Supreme Court has unlimited jurisdiction to hear and determine civil and criminal proceedings. Less serious cases are within the jurisdiction of the Magistrates' Court. All persons, regardless of citizenship, can expect to have their disputes impartially determined.

Non-litigious legislation, such as arbitration law, is not in place. A Vanuatu court, however, may refer a matter to mediation under Part 10 of the Civil Procedure Rules 2002. Participation in mediation sessions is voluntary and a party may withdraw from mediation at any time.

## **Non-discrimination between source countries**

The Government extends equal treatment to investors from any country in relation to the establishment, expansion and operation of investments. The treatment of any person is no less favorable than that which is extended to a person from any other country in a like situation, with the exception of obligations agreed to under regional trade agreements.

## **National treatment**

With a few exceptions, the Government accords to all foreign investors' treatment no less favorable than that accorded to citizen investors. Exceptions include: restrictions imposed in the Investment Act No. x of 2019, prohibition on freehold land ownership and programs aimed at stimulating

indigenous business ownership.

## Non-commercial risk

Vanuatu is a member of the International Monetary Fund, the World Bank and the Asian Development Bank. Since 2012, it has also been member of World Trade Organization (WTO) as well as World Intellectual Property Organization (WIPO). It is also an active member in a number of regional and international organizations and enjoys a good reputation among these bodies.

The Government also appreciates that foreign investors' uncertainty in investing in a new country can be partly alleviated if they have access to some form of internationally recognized investment protection. Consequently, Vanuatu is a member of the Multilateral Investment Guarantee Agency (MIGA). MIGA can guarantee against non-commercial risks such as currency transfers, expropriation and civil disturbances.

## 5. Investment regulation

Private sector investment is welcome in all areas except a small number of prohibited activities to protect public health and safety. The Prohibited List is provided in Schedule 1 of the Investment Act No. x of 2019.

Government regulates many investment related matters, including, amongst others, those associated with the protection of citizen interests, maintenance of public health and safety, and the environment. Four of the more specific areas of relevance to investment are foreign investment approval, company registration, business licensing, and development approvals.

### Foreign investment registration

In the interest of pursuing a dynamic and competitive economy foreign investment is encouraged. However, the Government also seeks to protect citizen interests in certain sectors of the economy.

To administer its foreign investment entry policy the Government requires all foreign investors to obtain a foreign investment registration certificate before taking any other steps to implement an investment activity in the country. An investment activity is defined as any activity undertaken for the principal purpose of gain. The registration process is regulated under the Investment Act No. x of 2019 and is administered by the Vanuatu Investment Promotion Agency (VIPA).

### Foreign investor definition

A foreign investor is defined as:

- A natural person who is not a citizen of Vanuatu; or
- A body corporate:
  - That is not wholly controlled by persons who are citizens of Vanuatu; or
  - That has any of its shares (voting or otherwise) beneficially owned or controlled by persons who are not citizens of Vanuatu; or
- Any entity other than a natural person or a body corporate, where the control of, or benefit to be derived from the entity, will vest wholly in persons who are not citizens of Vanuatu or a body corporate that is a foreign investor.

## Reserved and restricted activities

To support increased citizen business ownership and control over key natural resources the Government limits foreign investor involvement in some areas of the economy. Activities reserved solely for citizen investors are identified in a Reserved List. Activities open to foreign investors but subject to conditions are identified in a Restricted List. These lists are provided in Part 2 and 3 of the Schedule to the Act and are listed as Appendix 1 in the Policy.

The Reserved and Restricted Lists are reviewed every two years to ensure they are consistent with national development goals. VIPA is responsible for conducting the review and making recommendations to the Minister responsible for Trade, Tourism, Industry and Ni-Vanuatu Business. Reviews must include consultation with government, the private sector and public interest groups.

The following principles will guide the review process: a) Need to encourage a vibrant and competitive economy, with the number of reserved and restricted activities kept as short as possible and reduced over time; b) Any activities added to either of the Lists must be aligned with a clearly defined policy objective whose achievement will be monitored over time; It must be consistent with international commitments and obligations made in international, regional and bilateral trade and investment agreements; c) Respect the objective to increase citizen business ownership and control over key natural resources, where such activities should not be reserved or restricted if they are currently undeveloped, i.e. there are already several businesses participating in it; such activities must produce intermediate goods or services that are important inputs into the operations of other businesses, particularly those that are export-oriented; uses minimum investment requirements sparingly. If used as a requirement in the issuing of residence visas to foreign investors intending to reside in the country to implement their investments, the level should be based on analysis of levels used in comparator countries; and d) Activities included on the Lists must be clearly defined based on Vanuatu's standard industry classification system to enable their effective monitoring and enforcement.

Given the potential uncertainty such reviews pose for existing foreign investment, the Government guarantees foreign investors holding valid registration certificates and currently operating in an activity identified on their certificate may continue to do so in an unchanged manner in the event the activity becomes reserved or restricted at some later date.

## Foreign investment registration certificate

The primary purpose for registration is to ensure foreign investors do not carry out prohibited or reserved activities, and in the case of restricted activities adhere to established conditions. It also enables foreign investors to benefit from VIPA's facilitation services, as well as collection of information on foreign investment in the country. Registration does not entitle foreign investors to benefits under any other legislation.

Foreign investors must complete and submit a prescribed application form identifying activities they wish to undertake, and pay a fee of VT 120,000. Applications are processed within 15 days. In determining an application for a foreign investment registration certificate, VIPA assesses the proposed activities against the Prohibited, Reserved and Restricted Lists. If acceptable in this regard, registration certificates are issued.

Certificates are open-ended in duration and valid throughout Vanuatu, except in instances where an activity on the Restricted List is restricted to particular locations.

Certificates require foreign investors to meet the following obligations:

- Comply with all Vanuatu's laws including completing the necessary regulatory approvals to establish and operate a business enterprise in the country.
- Do not become involved in an activity outside of those listed on the certificate without prior approval.
- If approved to operate in a restricted activity, meet all conditions specified in the Restricted List.
- Submit an annual survey form to VIPA that confirms investors' compliance with key regulatory requirements, identifies their business locations, and summarizes their activities and investment plans.
- Commence carrying out an investment activity within 12 months of receiving their registration certificate for investments with a proposed value up to VT 20 million, and 18 months for investments with proposed value in excess of this amount. This requires complying with all regulatory requirements, investing in productive business assets, and meeting all tax obligations. Foreign investors failing to achieve and maintain this status must explain the reasons why they are unable to do so and provide a realistic plan to rectify the situation. An annual fee of VT 30,000 is charged to cover the cost of VIPA's monitoring activities and is changed at the time survey forms are submitted.

Failure to meet these obligations may result certificate cancellation.

A certificate holder must apply to amend their certificate in the event they wish to change their investment activities or enterprise ownership. A fee of VT 30,000 is charged to vary a certificate.

VIPA intends to develop an electronic foreign investment registry system linked to the existing online platform for company registration.

## Company registration

The Government requires all investors wishing to do business in Vanuatu as a company to be incorporated under the Companies Act No. 25 of 2012. Three types of domestic company are permitted:

- Private company – Includes both single shareholder and multiple shareholder options. The latter is restricted to a maximum of no more than 50 shareholders. Private companies are prohibited from offering its securities to the public.
- Community company – Provides community groups a more transparent and accountable alternative for running a business than establishing a trust or cooperative. It prohibits distributions of funds or payment of dividends to shareholders; the community must receive the benefit from the company's activities.
- Public company – Includes companies with more than 50 shareholders. Public companies can offer securities to the public.

Vanuatu does not impose company secretary or minimum capital requirements.

Companies register with the Vanuatu Financial Services Commission (VFSC). Registration can be done online for a fee of VT 30,000 (or VT 35,000 outside of the online registry). Companies have the option of using model memorandum and articles of association, or adopting their own tailored rules.

Overseas companies may also carry out business in Vanuatu but must register with the VFSC using a prescribed form and pay a fee of VT 50,000.

All companies are required to submit annual returns at a cost of VT 30,000 for domestic companies, and VT 50,000 for overseas companies.

Public and community companies, as well as private companies with Government of Vanuatu shareholding or annual turnover exceeding VT 50 million must prepare audited financial statements.

## **Business licensing**

### **Business license**

Government requires all business enterprises operating in Vanuatu to hold a business license. This is done to raise revenue, provide information on business activities for planning purposes, and uphold business practice standards in economic activities not regulated by specific industry legislation. In some cases it also acts as a check to ensure other legislated requirements have been met.

Obtaining a business license provides businesses with automatic membership in the Vanuatu Chamber of Commerce and Industry (VCCI). VCCI annually receives a share of business license revenues collected.

Responsibility for issuing business licenses varies. The Department of Customs and Inland Revenue issues them for businesses operating within the municipalities of Port Vila, Luganville and Lenakel. Provincial Councils issue them to businesses operating outside the three municipalities. The Minister responsible for Finance issues them to businesses involved in selected sectors such as mining, logging, abattoirs, breweries, financial institutions, accountants and business consulting services and air transport.

Investors are required to submit a prescribed application form and pay a fee. Fees are calculated based on the business activities carried out and the number of physical operating locations. Different fees apply to different business categories and are based on annual turnover. For activities with annual gross turnover less than VT 4 million the fee ranges from VT 5,000 to 20,000. For activities with annual gross turnover in excess of VT 200 million the fee is VT 1 million. Artists, farmers, vegetable and fruit hawkers and fisherman are exempted if their annual turnover is less than VT 50 million, while exporters of goods from Vanuatu are fully exempted. Fees for commercial banks, and other financial institutions and professional services earning income that is zero-rated for Valued Added Tax (VAT) purposes are based on a percentage of their annual turnover (7% in the case of banks, and 5% where income is VAT exempted).

Licenses are issued if all information requirements are met and the license fee is paid. Business licenses are valid for a maximum of 12 months and must be displayed on the premises to which it relates. They must be renewed at the beginning of each calendar year.

### **Sector specific licenses**

Government also imposes a range of licenses to control the entry and conduct of businesses within specific sectors. Their purpose is to safeguard public interest, as well as manage certain scarce natural resources and undesirable but legal activities.

### **Planning permission and building permits**

Investors must obtain Government approval before commencing development activities and constructing buildings. This is done to ensure developments are consistent with zoning plans, environmental, social and cultural impacts are minimized and effectively managed, and buildings does not pose a threat to public health and safety.

Planning permission to develop land is regulated under the Physical Planning Act (CAP 193), while building permits are regulated under the Building Code Act No. 36 of 2013. Municipal and Provincial Councils are responsible for issuing both approvals.

Planning permission is required for developments occurring in declared planning areas. These areas include the municipalities of Port Vila, Luganville and Lenakel, as well as portions of the country's six provinces. Declared planning areas currently encompass about 40% of the country's land base. Work is underway to ensure zoning plans are in place for these areas.

Planning permission and the building permit are often processed concurrently. Each requires submission of a prescribed application form, and payment of fees.

Planning permission applications are assessed based on their compliance with existing zoning plans. Investors must also have obtained an environmental permit (discussed in section 6), and in the case of developments affecting foreshore areas (land below mean high water mark and the bed of the sea) obtain consent from the Minister responsible for Internal Affairs.

Building permit applications are assessed to ensure construction meets the following requirements:

- Lease title is correct and there are no outstanding lease fees (Department of Land, Survey and Registry);
- Building construction is considered safe and consistent with Vanuatu's Building Code (Public Works Department);
- Soil conditions are suitable for construction (Geology and Mines Department);
- Buildings meet fire safety requirements (Fire Department).

Issuance of planning permission and a building permit enables an investor to commence construction. Site inspection is required on completion of foundation excavation. Once construction of the building is finished, another inspection is done and a certificate of completion is issued if the Council is satisfied the building complies with the building permit and the Building Code.

While the types of fees charged are consistent throughout the country, rates differ between Councils. Current fees charged by Port Vila Municipal Council are:

- Planning permission application fee of VT 11,500;
- Building permit fee VT 875 per square meter;
- Certificate of completion fee VT 13,000.

Under the Physical Planning Act Cap 193, Provincial Councils can declare certain areas within their Jurisdictions, to become Physical Planning Areas (PPA). The Physical Planning Areas that are declared must be zoned to specify which type of developments should be taking place inside their boundaries, e.g. Residential, Commercial, Industrial etc.

## 6. Access to land

Under the 1980 Constitution, all land in the country belongs to indigenous custom owners and their descendants. Moreover, only indigenous citizens and the Government of Vanuatu may own land, and it must be acquired in accordance with a recognized system of land tenure.

However, under the Land Leases Act (CAP 163), Government policy allows individuals and corporate entities to lease custom or state owned land for periods up to 75 years. Leases must be registered with the Ministry of Lands and Natural Resources.

Approximately 98% of the country's land base (12,236 km<sup>2</sup>) is held under custom ownership, with the balance in government holdings. An estimated 10% is currently held under registered leases.

Urban areas are where most state land is located; these areas also include an active secondary lease market. Custom ownership interests in most rural land have yet to be clearly established.

Nonetheless, the Government is committed to ensuring investors have legally binding access to rural land for productive purposes. As it also has a responsibility to safeguard the interest of custom owners, it has developed procedures to help contribute to these goals.

## Leasing land

The process for obtaining a new lease from custom owners differs from the one used on state land.

### Acquiring a new lease on rural customary land

An investor must apply to the Land Management Planning Committee (LMPC) for a certificate as a registered negotiator on a specific area of land. This entails completing a prescribed application form and paying a processing fee of VT 1,531. Applications must identify the targeted land and describe the proposed development including funding and capital investment estimates.

The LMPC will only consider applications where the custom owners have already been identified and officially recorded. If this is lacking, it must be addressed following a process outlined in the Custom Land Management Act No. 33 of 2013. It requires the Custom Land Management Office (CLMO) to arrange public notifications concerning the land in question, and facilitate owner identification. Disputes are settled based on traditional custom and mediation. Once agreement on ownership interests has reached, it is recorded in the registry of declared ownership maintained by the CLMO.

The Minister for Lands, based on recommendations from the LMPC, issues negotiating certificates. Negotiation certificates are approved if custom owners have been satisfactorily identified and they consent to negotiation. Once a certificate is issued, investors can commence consultations with custom owners. Investors are responsible for completing a survey of the land and preparing a land valuation report using a registered land valuer. Following agreement of a draft lease agreement the CLMO convenes a meeting with custom owners to confirm consensus on its terms, and prepares a written report to the LMPC.

The LMPC must arrange for public notification of draft lease agreements. In the absence of complaints, the LMPC considers registration of the lease and makes a recommendation to the Minister. Leases are approved for registration if they meet the following criteria:

- Registered custom sites, if any, are effectively addressed;
- A fair and equitable valuation of the custom land has been completed;
- The investor has complied with all necessary planning and development requirements including environmental permits and foreshore development approval.

### Acquiring a new lease on state land

Investors wishing to acquire a new lease on state land follow a more streamlined process, but still must submit an application through the LMPC outlining their development plans and financial capacity. The Minister for Lands makes all lease applications decisions following consultation with the Council of Ministers. Their decision is based on recommendations made by the LMPC using decision criteria similar to those described above.

## Transferring an existing lease

An investor with a registered lease may sell the residual lease term to another party. Apart from normal agents and legal fees there can be a further charge (consent fee) made by the owners of the land. Transferring an existing lease requires consent of the Minister for Lands. The application fee to obtain consent to transfer a lease is VT 3,375.

## Lease terms and conditions

Lease terms and conditions are determined through negotiation by the parties involved.

On their expiry, urban leases can be renewed for a fee of 10% of the unimproved land value, plus any administrative costs. Rural land will have a different renewal fee and is a matter for negotiation between the lessor and landowner. An important consideration when developing a new lease agreement is determining how improvements to the land will be addressed on expiry of the lease.

The government imposes a development requirement on rural agricultural leases, rural residential leases of 5,000 m<sup>2</sup> or more, and rural and urban commercial leases. Lessees are required to carry out development on more than 50% of the total land area within 5 years of acquiring the lease or forfeit it, unless they can prove to the satisfaction of the Valuer General they were prevented from carrying out development due to unforeseen circumstances.

## Registering a lease

Investors are required to pay 2% stamp duty on the capital value of the lease at the Vanuatu Financial Services Commission, as well as 5% registration fee on the capital value of the lease to the Department of Lands, Survey and Registry.

## Strata titling

To further facilitate development, the Government allows strata titling on existing leases under the Strata Titles Act of 2000 (renamed the Strata and Community Titles Act of 2017). It provides flexibility in property design and can be used in the context of existing buildings, as well as new apartments and commercial buildings.

# 7. Environmental protection

The Government recognizes the intrinsic value of Vanuatu's natural environment and is concerned about its conservation, sustainable development and management. The Vanuatu National Environment Policy and Implementation Plan 2016-2030 articulates the Government's policy goals, objectives and detailed work plan for addressing this complex and multi-dimensional issue.

The Environmental Protection and Conservation Act (CAP 283) is a key part of a suite of laws that provide for various aspects of environmental management, protection and conservation.

## Environmental permits

All projects, proposals or development activities that cause or are likely to cause significant environmental, social and custom impact in Vanuatu must apply for an environmental permit. Permits are issued based on results of an environmental impact assessment (EIA). The number of steps in an EIA varies depending on the project's potential impacts.

## **Preliminary assessment**

The process requires investors to complete a prescribed application form describing the proposed development and how environmental, social and custom impacts will be minimized or managed. The application, along with a fee of VT 20,000, must be submitted to the Department of Environmental Protection and Conservation (DEPC) before any work commences.

Following review of the application, which usually includes a site visit, DEPC will make a decision as to whether a permit can be issued. While these assessments are generally done internally, DEPC may require the services of an external consultant. In the event this is necessary, applicants are notified beforehand as to the additional fee that must be paid. In some cases, investors may also be asked to consult with nearby residents, and/or submit an environmental management and monitoring plan (EMMP).

The majority of applications are approved at this preliminary stage. However, for large projects, those located in sensitive areas, or where there are concerns over how project impacts will be managed, DEPC may require formal EIA studies to be undertaken before making a decision.

## **Full environment impact assessment**

In instances where a formal EIA report is required, DEPC prepares draft terms of reference (TOR) specifying the studies that will need to be done, along with public consultation requirements. EMMPs are also required for each project stage: site preparation, construction, operation, and if relevant, decommissioning. Investors are given an opportunity to comment on the draft TOR.

DEPC provides a list of registered consultants suitably qualified and experienced to undertake work identified in the TOR. Investors may choose to use other consultant(s), but they must be formally approved and registered with the Department before commencing work.

Investors are responsible for covering the full cost associated with meeting the requirements of the TOR. Once complete, the EIA report and EMMPs, along with any other technical documents, must be submitted to DEPC (8 hard copies plus an electronic copy) along with a processing fee of VT 100,000. An EIA Committee, whose composition depends on the nature of the project, assesses the information and makes recommendations about the application. The Committee is required to complete its review within 30 days, but can request an extension.

Environmental permit applications and EIA reports, once submitted, may be amended to accommodate changes on matters of substance, or correct errors and omissions. The application fee for requesting an amendment is VT 5,000.

The Director DEPC makes application decisions. If approved, an environmental permit is issued and includes any conditions that must be met. Projects are expected to commence within 12 months of the date a permit is issued. Failure to do may require the investor to restart the process. DEPC monitors project implementation and applies penalties in the event of permit non-compliance.

## **Environmental audits**

DEPC conducts regular environmental audits of projects that have been granted environment permits. A fee of VT 10,000 is charged for this service.

## **Climate change and disaster risk reduction**

Vanuatu is one of the world's most vulnerable countries to climate change and natural disasters. It experiences cyclones, storm surges, landslides, flooding and droughts, which may become more

intense as a result of climate change. It also highly exposed to geophysical threats such as volcanic eruptions, earthquakes and tsunamis. The Government is conscious of these risks and has adopted a proactive approach to identifying, assessing, reducing and managing them given available resources.

The Vanuatu Climate Change and Disaster Risk Reduction Policy 2016-2030 provides the framework through which this is done. Priorities relevant to private investment include an emphasis on renewable energy to meet the country's growing electricity needs and conservation of high carbon natural resources and ecosystems such as nature forests, mangroves, coral reefs and sea grasses. Efforts are also being made to mainstream climate change and disaster risk reduction into sector policies. This includes strengthening planning processes to encourage incorporation of climate change adaptation strategies into the siting and construction of new development projects.

## Bioprospecting

Investments involving bioprospecting are required to hold a bioprospecting permit. Bioprospecting is the harvesting or searching for biochemical or genetic information in nature in order to develop commercially valuable products for pharmaceutical, agricultural, cosmetic or other applications.

Permits are issued by the Director DEPC based on recommendations from the Biosecurity Advisory Council. Applications include the following information:

- Names of affiliated parties benefitting from the research;
- Description of nature and extent and location of research;
- Description of nature of any biological resources/traditional knowledge is to be investigated;
- Research timeline and sampling method;
- Expected commercial research and development plan that may result; and
- Statement indicating confidentiality of the research.

Fees include an application fee of VT 50,000, and a refundable bond of VT 100,000.

## CITES Permits

Vanuatu is a Party to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) since 1991. A national CITES legislation 'International Trade (Flora and Fauna) Act No.56 of 1989 [cap 210]' was developed, including a CITES regulation Order No.2 of 1991 to help with the implementation of CITES in Vanuatu.

The CITES Import and Export Permits are issued by DEPC for the importation and exportation of CITES listed species into or out of Vanuatu. CITES Import and Export fees are included depending on the status of the species such as type of species, availability, population, and quantity of species imported or exported, etc.. These fees have to be paid to the Department before CITES permits can be issued to customers.

## Waste management

Waste management is regulated under the Waste Management Act No. 24 of 2014 and Pollution Control Act No. 10 of 2013.

Municipalities and provincial governments are responsible for developing and implementing their own waste management plans. Investors must obtain a Waste Operator's License in order to operate

a private waste operation or service. Applications are made to the Director DEPC using a prescribed form. An application-processing fee of VT 10,000 is charged.

## Ozone depleting substances

The Ozone Layer Protection Act No. 27 of 2010 regulates the entry into, and use of, ozone-depleting substances (ODS) in the country. ODS include manufactured chemicals, especially manufactured halocarbon refrigerants, solvents, propellants and foam-blowing agents.

Licenses and permits are required in order to import, purchase, sell, store, process, recover, recycle or refill ODS. Applications are made to the Director DEPC using a prescribed form. Fees vary between VT 10,000 and 20,000 depending on the type of activity.

## 8. Employment

The Government endeavors to balance protection of workers' interests with the need to provide employers with flexibility to create productive employment opportunities.

Vanuatu is a signatory to the International Labor Organization Declaration on Fundamental Principles and Rights of Work, 1998.

### Labor regulation

Employment matters are regulated through the following legislation:

- Employment Act (CAP 160) – establishes conditions of employment;
- Trade Unions Act (CAP 161) – establishes rules for the establishment and operation and trade unions;
- Trade Disputes Act (CAP 162) – establishes mechanisms to resolve labor disputes;
- Health and Safety at Work Act (CAP 195) – establishes duties of employees and employers towards ensuring promotion of high safety and health work place standards.
- Minimum Wage and Minimum Wages Board Act (CAP 202) – establishes the process for setting minimum wages;
- Workman's Compensation Act (CAP 202) – requires employers to pay compensation to workers in the case of workplace injuries and maintain insurance for this purpose.

The Tripartite Labor Advisory Council (TLAC), established in 2010, provides policy advice to Government on labor market issues. TLAC comprises representatives from Government, employers and trade unions, and is chaired by the Commissioner of Labor.

The Department of Labor, in conjunction with TLAC, intends to review the Employment Act with the aim of modernizing it and bringing it in line with current international best practice. The Employment Act covers government policy on contracts of employment, remuneration, hours of work and overtime, annual leave and sick leave. It also covers employment of women and youth, safety precautions and medical facilities, the termination of employment contracts, severance and the repatriation of employees.

### Minimum wage

The minimum wage is reviewed every two years. The Minister for Internal Affairs is responsible for setting the minimum wage by Ministerial Order. The Minister is required to take into consideration recommendations made by the TLAC.

The legislated minimum wage is VT 200 per hour and was introduced 1 January 2018. It applies to most types of employment and must be paid for regular hours of work up to 44 hours per week, or 8 hours per day.

## Social security

The Government provides a system enabling workers to accumulate post-retirement benefits. The pension scheme is regulated under the Vanuatu National Provident Fund Act (Cap 189).

Employers must register with the Fund if they employ one or more people at a wage greater than or equal to VT 3,000 Vatu per month. Employers are required to apply for registration within 7 days of commencing business. Commencing business is defined as the date the business first employs a person and pays them wages above the designated minimum threshold.

Once registered, employers must ensure employees earning above the minimum earnings threshold apply to register with the Fund within 14 days of commencing their employment. Employers are then required to make monthly contributions to the Fund on behalf of these employees. The total contribution per employee amounts to 8% of the employee's gross salary – 4% to be paid by the employee, and 4% by the employer.

## Expatriate work permits and visas

The Government views private sector investment as the main means of creating employment opportunities for its citizens. However, it also recognizes the citizen workforce may lack people with skills and experience that employers require. For this reason it enables employers to hire expatriate workers, but tightly controls the process and encourages localization through levying of significant fees and requiring training of counterparts.

## Work permits

Non-citizens require a work permit to engage in any work-related activity, with the exception of foreign investors who wish to manage their own investments in the country. Such investors are exempted from the need for a work permit, unless they intend to take employment outside of their investment.

Employers are required to apply to the Department of Labor on behalf of non-citizens they wish to employ. The process is regulated under the Labor (Work Permits) Act (CAP 187). The prospective non-citizen worker must reside outside Vanuatu during the application process. There are three work permit categories:

- Exemption – for periods less than one month;
- Temporary – for a period between one month and four months;
- One year permit – issue for a period up to one year.

The exemption and temporary categories address employers' short-term needs and cannot be renewed. The fee for an exemption permit is VT 10,000, while the fee for a temporary permit is VT 40,000.

One-year permits are renewable on an annual basis, up to a maximum period of four years. Employers are expected to train citizen workers to fill positions held by non-citizen workers within this time period. The fees for a one-year permit include an application fee of VT 20,000 and a permit fee of VT 330,000.

To obtain a work permit, employers must submit an application on a prescribed form. Applicants must demonstrate the position for which the work is required was advertised locally and that none of the citizens applying for the position were suitable.

The Commissioner of Labor makes application decisions taking into account the following factors:

- whether the position is an occupation reserved for citizens by Ministerial Order;
- the employer's employment record;
- the employer's ability to provide training facilities for citizen counterparts;
- the qualifications and experience of the proposed expatriate employee;
- conformity of the position's employment conditions with Vanuatu laws;
- protection of local and national interests.

A total of 22 occupations have been declared reserved for citizens. These reserved occupations list is attached as Appendix 2 in the Policy.

Most of these occupations require a low level of skill, although some, particularly in the trades' area, are semi-skilled in nature.

Employers may appeal a decision of the Commissioner of labor to a Work Permit Appeals Committee within 7 days of receiving written notice of that decision.

Employers are expected to assign a citizen worker counterpart(s) for any position filled by a non-citizen worker. The government supports a network of post-school and education and training (PSET) providers that employers can take advantage of, but it is expected that they will also undertake training programs particular to their own investments. Although recognizing its importance, the Government does not provide financial support for in-house training. The PSET system includes rural training centers, technical and vocational education training provider, as well as providers of higher education. A national qualifications framework is in place to ensure service providers and their courses are recognized, responsive to private sector needs, benchmarked to international standards and effectively delivered.

## Visas

There are two main types of visas related to investment:

- Business visa – Allows non-citizens to enter Vanuatu for business purposes such as exploratory meetings, negotiations or attending seminars or workshops. It is also used in the case of non-citizens workers working in the country under contract for a short period of time.
- Residence visa – Allows non-citizens (and associated family members) to reside in Vanuatu for 12 months or more for the purposes of employment, or as an investor.

The Department Immigration, under the Immigration Act No. 17 of 2010 administers the issuing of visas. Applicants for both types of visas are required to submit an application on a prescribed form. The Principle Immigration officer makes visa application decisions.

Business visas can be issued as a single entry visa (not more than 90 days), or as a multiple entry visa (multiple visits over a 10 month period of up to 90 days). The fee for a single entry visa is VT 20,000, and VT 35,000 for a multiple entry visa. Applicants must possess a return air ticket. In the case of non-citizen workers applying for a single entry visa, they must provide a letter from the employer stating the position, salary and length of employment, and a copy of the contract. Applications for multiple entry visas also require submission of a valid work permit.

Residence visas for investors and employees (and associated family members) are commonly issued for one year, and are renewable. The annual fee is VT 57,000 per visa. Because of concerns for public health and safety, applications are screened using medical and police clearances provided by the applicant. Investors must also provide copies of a valid foreign investment approval certificate and business license. Work permits and employment contracts must accompany employee related applications. In addition, applicants are required to lodge a bond to cover the costs of repatriation to their home country (normally equivalent of a return airfare), and hold passports valid for a period of at least six months.

Residency is also offered to retirees and non-citizens with leased land in the country. Retirees must demonstrate a minimum income in a Vanuatu bank account. Those holding residence visas prior to 2011 must have a monthly income of VT 150,000 per person. Otherwise, they must have a monthly income of VT 250,000 per person. Non-citizens with an interest in leased land must either meet the minimum income requirement or possess property valued by a local bank or chartered account at VT 10 million or more.

## 9. Competition

The Government aims to foster conditions in which competitive markets can emerge.

At present the country lacks general competition or consumer protection legislation. However, some sector specific legislation contains competition rules, while some legislation includes consumer protection rules.

The Government is committed to progressively reviewing over time its laws, practices and procedures with the aim of identifying and eliminating constraints on the development of competition. It will also continue to develop and implement consumer protection measures that are practical and administratively feasible.

If a general competition or consumer protection law is deemed necessary at some point in the future, an appropriately skilled and resourced authority will be established to effectively enforce it.

## 10. Government revenue raising

The government is committed to ensuring its revenue laws are fair and take into account people's ability to pay tax.

Currently, Vanuatu is free of income tax at both the corporate and individual levels.

The majority of national Government revenue is raised through the levy of value added, and trade and excise taxes by the Department of Customs and Inland Revenue. In recent years citizenship schemes have also become a significant source of revenue. Supplementing this revenue, is a wide array of other fees and charges levied for the provision of licenses, permits and approvals, and various Government services. The most significant of these, from an investment perspective, are business licenses, turnover tax, land lease registration, land rent, work permit and visa fees, company registration and foreign investment approvals.

Local level governments rely on grants from the national government as a key source of revenue, but also have some of their own revenue-raising abilities. These sources however are relatively small. The most significant, from an investment perspective, are business licenses, building permits and, in the case of some jurisdictions, property taxes.

## Value added tax

The government imposes an indirect consumption tax at a rate of 15% on most goods and services. It provides approximately 40% of total government revenues excluding grants.

The Value Added Tax Act No. 12 of 1998 requires any entity in Vanuatu carrying on a “taxable activity” with a turnover of at least VT 4 million to register for Value Added Tax (VAT). A “taxable activity” is defined as any activity (personal, professional, corporate or otherwise) carried on continuously or regularly involving the supply of goods or services to any other person for consideration. Entities with an annual turnover below the threshold have the option of registering for VAT, provided they are carrying on a taxable activity.

In the case of goods, VAT applies to both imported as well as domestically produced goods. On imports, the tax is applied to the cost, insurance and freight (c.i.f.) value of goods plus customs duties, and is payable at the same time as customs duties.

There are several exemptions to VAT. They include financial services, residential accommodation, and the sale of property that has been used for residential rental accommodation for at least 5 years. Financial service providers instead pay a turnover tax (7% on net interest income in the case of commercial banks, and 5% gross revenue for other financial service providers). Residential property owners pay a rent tax of 12.5% of income in excess of VT 200,000 derived from their properties.

Some supplies are also zero-rated (treated as taxable supplies but at a rate of 0%). They include exported goods, goods not situated in Vanuatu at the time of supply, taxable activities sold as going concerns to registered entities, international transportation of passengers, and services physically supplied outside Vanuatu.

VAT operates on a credit-offset basis. A VAT registered entity is required to account for VAT on the value of each taxable supply they make. They are entitled to recover this amount from the consumer as part of the cost of the goods or services supplied. In addition, registered entities are entitled to deduct VAT they have paid on supplies they have purchased from other registered entities.

Registered entities must submit VAT returns and pay the tax owing on the 27<sup>th</sup> day of the month following the end of their taxable period, which is normally one month. The amount of tax payable for each taxable period is the difference between the VAT collected on their sales and the VAT paid on their purchases. VAT refunds are made in instances where the tax paid exceeds the amount collected.

## Trade and excise taxes

### Import duties

Vanuatu’s import duty classification system is based on the Harmonized Coding system 2017. Tariff rates are *ad valorem* except for two tariff lines, which involve specific duties, and are applied on the c.f.i. value of goods on their entry into the country.

The simple average applied MFN rate in 2018 was 9.3%. Approximately one quarter of Vanuatu's 5,502 tariff lines are duty free, while another quarter carry a rate of 5% rate. A further 16% have a rate of 10%, and 23% have a rate of 15%. The highest rates of 75%, 55% and 40% apply to 56 tariff lines comprising tobacco products, and alcoholic and non-alcoholic beverages.

## Excise taxes

The government imposes excise taxes on certain goods it considers harmful or undesirable. They apply to alcoholic and certain non-alcoholic beverages, tobacco products and certain firearms.

In addition, all vehicles are subject to a vehicle registration fee, which is 7% of the retail price excluding VAT, import duty and road tax.

## Export duties

Export duty contribution to government revenue is small, with tariffs limited to the export of wood in the rough or roughly squared form at a rate of 5% plus VT 3,000 per m<sup>3</sup>.

## Citizenship schemes

The Government offers two "honorary" citizenship schemes as a means of raising revenue and encouraging investment:

- Vanuatu Development Support Program (VDSP);
- Vanuatu Contribution Program (VCP).

Honorary citizens have the unrestricted right to live and work in Vanuatu, but do not have voting rights. However, they are not required to live in Vanuatu or visit the country to keep their citizenship.

The schemes are administered by the Citizenship Office and Commission, and are regulated under the Citizenship Act (CAP 112). Applications for the programs are made through designated agents. Funds raised through the programs are used to support infrastructure and promote economic development within Vanuatu.

The VDSP is a global program. The fee for a single person is US\$ 150,000, or US\$ 200,000 for a family of up to four members. An initial non-refundable payment of US\$ 20,000 is required at the time of application, with the remainder paid following successful completion of the screening process.

Additional processing fees include: an application fee of VT 5,000, a fee of US\$ 2,000 for conducting due diligence checks, and a certificate fee of VT 10,000. The application process requires a background check, including financial resources and criminal record.

The VCP is designed specifically for Greater China. The fee for a single person is US\$ 80,000, or US\$ 130,000 for a family of four members. Application processing requirements are similar to those used by the VDSP.

## Tax reform

The Government is concerned about its fiscal capacity to adequately meet demand for government services and the country's development needs. On a per GDP basis, Government's revenue from taxes, fees and charges is considerably lower than the global average and that of its regional neighbors. It is therefore exploring options for widening the tax base, and implementing initiatives to strengthen its tax administration capacity.

The Government is committed to ensuring that any future tax reforms will involve substantial consultation with investors, be equitably and efficiently administered, and involve the rationalization and reduction of other fees and charges currently being imposed on business.

## 11. Trade

### Import and export

The government levies trade taxes on imported goods as a mechanism for raising revenues, protecting selected manufactures and encouraging import substitution. Duty exemptions are available for approved investments.

In addition to generating government revenue, the Government also controls the entry and exit of goods into and out of the country as a means of protecting public health and safety, and the environment.

### Customs

All imported and exported goods are subject to customs control by the Department of Customs and Inland Revenue. The Customs Act No.7 of 2013 establishes the border control regime, while duty and excise provisions are prescribed in the following legislation: Import duties (Consolidated) Act (CAP 91), Excise (Consolidated) Act (CAP 290), and Export Duties Act (CAP 31).

Importers and exporters are required to register with Vanuatu's customs border control system (ASYCUDA World). Only licensed customs brokers and personnel are able to access the system.

Imported goods must be accompanied by an import declaration (if the value is above VT 10,000), commercial invoice, packing list, shipping documents, and an import permit or license if applicable.

Exports require a bill of lading, commercial invoice, packing list and customs declaration. Additional information is required for export of goods subject to licensing requirements.

An electronic management system is used to assess the risk associated with imported shipments, and is based on the type of product, country of origin and past importer records. Shipments considered high-risk are subject to physical examination and documentary review. Medium-risk shipments undergo documentary review, while low-risk ones are not subject to physical inspection or documentary review, unless randomly selected.

The target customs clearance time for high-risk imported shipments is 3 days, and 1 day for medium-risk shipments. Low-risk shipments are usually processed under one hour, as are shipments of exported goods.

### Prohibitions and restrictions

A small number of items are prohibited from import into, and export from, Vanuatu. Prohibited imports include: absinthe, beef in any form from Europe, copra, wine with a false description and presentation, pornographic materials, offensive weapons, ozone depleting substances and synthetic greenhouse gases, and various chemicals. Export prohibition applies to explosives or their components.

### Sanitary and phytosanitary requirements

Biosecurity Vanuatu is responsible for protecting the country against introduced foreign pests and diseases. It also works with exporters to help them meet market access requirements for their products in importing countries. Key legislation governing Biosecurity Vanuatu's border control functions include: Animal Importation and Quarantine Act (CAP 201), Plant Protection Act (CAP 239) and Pesticide Act (Cap 226).

### Imported goods

Importers must apply for permits to import a range of goods including animals and animal products, plants and their products, second hand or used machinery, tools and materials. Permit applications must be submitted to Biosecurity Vanuatu prior to their arrival at a port in Vanuatu. Plants, animals and related products require proper documentation such as phytosanitary certificates, zoo sanitary certificates, and fumigation certificates from the countries of origin.

All imported goods on arrival in the country are subject to quarantine inspection by border control officers. Import permits must be obtained prior to importation of all items and release notes are issued to importers once inspection is completed for collection.

Imports of animal products are restricted to those that are (a) commercially processed and packaged, with a certificate issued by the exporting country indicating they are fit for human consumption, and (b) sourced from countries free of foot-and-mouth disease without vaccination, and recognized by the World Organization for Animal Health. Commercial importation of animals is limited to certain species.

The import of plants and plant products are also restricted. Importers are required to consult the "Import Specification Manual" developed by Biosecurity Vanuatu before importing plants and plant products into the country.

Importation of new products of animal origin, and products from a new import origin, must undergo an import risk analysis. Plants not included on the Import Specification Manual also require completion of an import risk assessment.

### Exported goods

Export health certificates are provided for the following animal products assuring they are pest and disease free and food safe: beef products, tuna and other fish, and live ornamental fish.

Fumigation of commodities such as kava, sandalwood, cocoa, coffee and fresh produce is provided by accredited Biosecurity officers. Shipments of plants and agricultural commodities are also inspected prior to export. Phytosanitary Certificate is provided for plant and plant Product that have fulfilled the importing country's requirements.

Industry working groups (IWG), involving producers, industry and government, provide forums for identifying and addressing market access issues. IWG have been established for a number of key exports including beef, cocoa and kava.

## **Electronic single window system**

The Government has commenced a process to reduce the time and cost associated with importing and exporting. The electronic single window system, once fully operational in 2022, will enable traders to submit all information related to the clearance process once, at a single entry point, using a single submission. The system will also allow for real-time tracking of the clearance process, and enable electronic payments to be made at a single entry point.

## **Trade agreements**

Vanuatu has been a member of the World Trade Organization since 2012. It is also party to several reciprocal trade agreements, and benefits from some non-reciprocal preferential trade agreements.

## Reciprocal

Vanuatu is a member of the Melanesian Spearhead Group (MSG) Trade Agreement. Parties to the Agreement also include Fiji, Papua New Guinea and Solomon Islands. Under the current Agreement tariffs are eliminated on all goods originating and exported from other parties, with the exception of wines, spirits and tobacco. The third revised agreement includes trade in services, labor mobility, and investment which is an advantage to Vanuatu.

Vanuatu is also a member of the Pacific Islands Country Trade Agreement (PICTA). Its coverage includes the MSG countries, as well as the other Forum Island countries excluding Australia and New Zealand. The aim is to remove tariffs on most goods by 2021, excluding alcohol and tobacco related products. At present, only six countries (Cook Islands, Fiji, Niue, Samoa, Solomon Islands, Tuvalu and Vanuatu) have announced a readiness to trade under the agreement. The PICTA parties also agreed to include the service that was signed as the protocol on Trade in services (PICTA/TIS) in 2012.

Vanuatu signed the Pacific Agreement on Closer Economic Relations (PACER) Plus in 2017. The Agreement is a comprehensive Free Trade Agreement (FTA) covering goods, services, investment, labor mobility and development assistance. The Agreement was signed by in 11 countries: Australia, New Zealand, Cook Islands, Kiribati, Nauru, Niue, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu. Australia and New Zealand have ratified the agreement, but requires eight (8) parties to ratify the Agreement in order to come into force. The Government of Vanuatu intends to ratify the agreement by end of 2019, seeing the potential benefits of the implementation of its labor mobility arrangement and Development and Economic Cooperation.

Vanuatu had recently signed the Bilateral Trade Agreement between New Caledonia in April 2019. The bilateral trade agreement was negotiated under a positive list approach, which covers trade in goods. The agreement will come into force as soon as the two countries ratified the agreement in 2019.

## Other agreements and arrangements

Vanuatu also benefits from the Generalized System of Preferences (GSP) offered by some WTO members, including: Canada, United States, Japan and the European Union. Vanuatu is currently classified by the United Nations as a Least Developed Country (LDC), but is scheduled to graduate from this status in 2020. This is likely to reduce the preferential trade terms Vanuatu receives under these GSP arrangements.

The European Union and Economic Partnership Agreement (EU-EPA) is an agreement between the Pacific ACP bloc and the European Union which begun in 2004, covers trade in goods, services and investment but the negotiation was suspended in 2015. With PNG and Fiji signing the interim EPA on trade goods, causing a fragmented Pacific bloc, and the recent announcement by Solomon Islands and Samoa acceding to the interim EPA continues to divide the Pacific bloc on the comprehensive EPA. However, Vanuatu continues to enjoy the quota free and duty free market access to the EU market as an LDC country.

## 12. Monetary matters

The Government endeavors to maintain its currency, the Vatu (VT), at a stable value, both domestically and externally. The Reserve Bank of Vanuatu is responsible for formulating and implementing monetary policy. It strives to keep year-end CPI-based inflation rate between 0 and 4%, and hold international reserves at a minimum of 4 months of cover.

Inflation has been consistently kept within the target range over the past five years. The fourth quarter year-on-year inflation rate was 3.2% in 2017.

Foreign exchange reserves have been maintained at levels consistently above the target minimum level, and are expected to continue to do so in the coming years.

## **Local borrowing**

The Government does not place restrictions on investors borrowing locally. Lending decisions are made at the discretion of the commercial banks in line with Section 38 of the Financial Institutions Act (CAP 254) that stipulates restriction on advances or credit facility by financial institutions (licensee) not to exceed 25% of their capital. The Reserve Bank of Vanuatu may approve exceptions to this requirement. There is expectation that foreign investors will bring investment capital from abroad.

## **Repatriation of funds**

The Government does not place restrictions on the repatriation of funds and there is no limit on the use of domestic currency in international payments for current or capital transactions. Allocation of foreign exchange is at the discretion of the commercial banks.

## **Foreign exchange**

The Vatu's value versus other currencies is determined by the Reserve Bank acting in accordance with written instructions from the Government after consultation with the Reserve Bank. Currently the Vatu is pegged to an undisclosed basket of currencies, weighted according to trade and tourism receipts. The rate is established daily by the Reserve Bank and communicated to the commercial banks.

## **Interest rates**

The Reserve Bank establishes its rediscount rate after regular assessment of international and domestic economic, monetary and financial conditions. The rate is communicated to commercial banks through the Governor's quarterly meeting with the Bankers Association of Vanuatu and is published in its Monetary Policy Statements. The Bank's monetary policy objective is the promotion of monetary or price stability and financial sector stability.

The Reserve Bank implemented policy changes following Cyclone Pam in 2015 to help protect the country's macroeconomic and financial stability. At that time reserve requirements were reduced from 7% to 5% and the rediscount rate was reduced from 5.25% to 1.9% per annum. The rate has increased since then as the economy recovered, and was 2.9% per annum at the end of 2018.

## **Financial inclusion**

The Government is committed to increasing the delivery of accessible and affordable financial services to the unbanked and underserved population throughout the country. A National Financial Inclusion Strategy was introduced in 2018. It seeks to develop inclusive financial products, services and channels, improve financing options for micro, small and medium enterprises, and promote financial literacy & consumer empowerment and protection.

## 13. Infrastructure

The Government recognizes the need for accessible, quality and affordable infrastructure services to support investment and inclusive economic growth, and is committed to working in partnership with the private sector and development partners to achieve this.

The country's small size, geography, demographics and exposure to natural hazards increase the complexity and cost of delivering infrastructure services. It adopted an Infrastructure Strategic Investment Plan in 2015 highlighting key challenges and infrastructure investment priorities over the coming decade.

### Electricity

Reliable access to electricity is available in municipal areas. Independent grid systems managed by private companies under concession contracts provide electricity in Port Vila, Luganville-Port Orly, as well as towns on Malekula and Tanna. These systems are financed through electricity tariffs and do not receive direct government subsidies.

Access to electricity outside of these urban areas is provided through decentralized energy programs (micro-grids and individual solutions). Responsibility for these programs rests with the Department of Energy and the Public Works Department.

An independent regulatory authority (Utilities Regulatory Authority (URA)) regulates prices, service standards and market behavior in the electricity sector, as well as protects the long-term interests of consumers.

The Vanuatu National Energy Road Map 2016-2030 guides on-going development of energy services. Key Government objectives are to provide all households in Vanuatu with access to electricity and generate 100% of its electricity from renewable sources by 2030.

Base electricity tariffs in January 2019 were VT 54.77 per kWh in Port Vila and concession areas on Malekula and Tanna, and VT 38.52 per kWh in Luganville. The significantly lower tariff in Luganville is due to the majority of its power being generated by hydropower, versus more expensive diesel. Electricity costs for small domestic users (0-60 kWh per month) are subsidized through higher tariffs charged on other users.

Renewables currently provide a small share of grid-supplied generation (approximately 20 to 25%). However Vanuatu possesses significant renewable energy potential in the form of hydropower, solar, geothermal, biofuel and wind. The Government is in the process of developing additional hydropower capacity on Malekula and Santo, as well as exploring other renewable energy generation options.

### Water and sewerage

Port Vila and Luganville have water treatment facilities and reticulated systems delivering good quality water. In Port Vila the system is managed by a private company and regulated by the URA. The Public Works Department manages the Luganville system along with systems in other communities. The National Water Strategy 2008-2018 guides development of the sector.

Port Vila and Luganville have decentralized sanitation systems consisting of privately managed household and commercial septic tanks. The Government is in the process of improving management of the privately operated septic collection and disposal systems in both centers. These efforts are a first step towards the introduction of piped sewerage systems and full-scale sewage treatment facilities.

## Transportation

### Roads

Approximately 13% of the road network is sealed (approximately 260 kilometers). Sealed roads are limited to Port Vila and Luganville, a ring road around Efate, the East Coast road on Santo and a stretch of road on Tanna. The remaining roads are either gravel or earth.

The Government is committed to improving the country's rural road network. The Rural Roads Access Framework aims to provide 82% of the rural population with basic road access by 2030, upgrade all impassable roads to passable, and maintain all roads to their defined standards and levels of service. The Public Works Department (PWD), the agency responsible for this network, is in the process of shifting from a work organization to a network manager outsourcing maintenance and improvement works. Work, in various stages of progress, is underway to seal existing roads on Tanna (cross island road to the Yasur volcano), Malekula and Santo (road south from Luganville to Tassiriki).

### Civil aviation

The Civil Aviation Authority regulates all civil aviation activities. The country is moving towards an 'open skies' policy, allowing unlimited airline access into the country. Bilateral Air Service Agreements are in place with Australia, New Caledonia, New Zealand, Papua New Guinea, Singapore, Solomon Islands and China.

The national carrier, Air Vanuatu, is fully owned by the Government and provides both international and domestic air services. Currently 5 foreign airlines also provide international services to the country.

Airports Vanuatu Limited (AVL), a corporate entity fully owned by the Government, operates the country's three international airports, which are Bauerfield in Port Vila, Pekoa in Luganville Santo and Whie Grass in Tanna. They are all in the process of undergoing major upgrades. Currently Bauerfield and Pekoa airports are capable of handling narrow-bodied airliners such as the Boeing 737 (175 passengers). White Grass airport is limited to smaller regional aircraft such as the ATR series (78 passengers). On completion of the upgrade process, Bauerfield will be able to handle large wide-bodied aircraft such as the Boeing 787 and Airbus A330 (335 passengers).

Vanuatu Terminal Services Limited, a subsidiary of AVL, provides international terminal cargo and freight forwarding services, and aircraft ground handling services.

The country's other 26 domestic airports are maintained by PWD.

### Marine transport

The Vanuatu Office of the Maritime Regulator (OMR) administers the regulation of the maritime sector, including but not limited to domestic ship registration, shipping safety inspection, licensing, certification, ports regulation, Search and Rescue and the regulation of stevedoring activities. The functions and powers of OMR is governed by the Maritime Sector Regulatory Act No. 26 of 2016 and the Shipping Act [Cap 53]. The Department of Ports and Marine, on the other hand administers port operations. Its functions is provided for under the Ports Act [Cap 26].

Significant upgrading to the Port Vila and Luganville port infrastructure, the country's two international hubs for entry and exit of imports and passengers visiting by ships, was completed in 2017. In Port Vila, the newly constructed Lapetasi International wharf services cargo vessels and has a vessel turnaround time of between 12 and 24 hours, while the existing Port Vila Government wharf is used for cruise ships and tankers which has significantly less turnaround for such vessels compared to the previous years. The Luganville wharf was significantly expanded to accommodate two container ships or one large cruise ship at any one time. It is capable of handling close to 100,000 tons of freight annually. The companies that provides stevedoring and cargo handling services at both ports were under a long-term concession agreements with the Government. The Government is currently working on projects to also improve the domestic ports throughout Vanuatu.

Inter-island shipping services are mostly privately owned and operated. Foreign investment is restricted to vessels in excess of 80 tons.

The Government, with the support of donor partners also put in place a subsidy scheme to subsidize shipping service to serve commercially unviable routes; the outer islands in the North and Southern part of Vanuatu. Inter-island shipping services are mostly privately owned and operated. Foreign investment is restricted to vessels in excess of 80 tons. A scheme is in place to subsidize shipping service on commercially unviable routes.

## Information communication technology (ICT)

Vanuatu's telecommunication sector has been liberalized since 2008. The resulting increase in competition and private investment has led to a major expansion in ICT access and affordability.

An independent regulatory authority (Telecommunications and Radio communications Regulator (TRR)) regulates service provision and development of the sector. The National Information and Communication Technology Policy guides sector development. Priorities relevant to investment include increasing general access and affordability to reliable ICT infrastructure, and increasing the availability of locally relevant and sustainable supported content. The government supports extension of mobile networks into areas providers deem commercially unprofitable through a universal access fund.

Approximately 99% of the population now has access to mobile network coverage, and mobile penetration is estimated at 82%.

Introduction of a fiber optic submarine cable in 2014 increased the availability and reliability of higher speed internet services on both fixed and mobile networks. The cable links Port Vila to Suva, Fiji and connects directly into the Southern Cross cable between the USA, Australia and New Zealand. The cable, supported by regulatory interventions in the wholesale market introduced by TRR, has led to substantial increases in internet access and usage. Mobile and fixed broadband penetration in Vanuatu is estimated at 50%. The average prices in 2017 for mobile data were VT 0.66 per MB for prepaid, and VT 4.85 per MB for postpaid.

The Government is actively exploring options for a second undersea cable in an effort to further increase the reliability and amount of internet bandwidth in the country.

## 14. Investment promotion

The Vanuatu Investment Promotion Agency (VIPA), a statutory authority, is responsible for generating investment interest in Vanuatu.

A Board comprising a balance of government and private sector representatives oversees its activities.

VIPA acts as a single point facilitator for interested investors by meeting their investment related information needs, and assisting them through the country's regulatory processes.

Information on Vanuatu's economy, investment approvals process and investment opportunities can be accessed from VIPA's website <https://www.investvanuatu.org>.

## 15. Investment incentives

Absence of corporate and personal income tax precludes the offering of income related exemptions such as income tax holidays, investment tax credits and allowances.

### Duty exemptions

Nonetheless, the Government provides certain types of investments with concessions on import duties. These concessions are listed in Part 3 of Schedule 1 of the Import Duties (Consolidation) (Amendment) Act No. 33 of 2014. They include:

- Producer or manufacturer of goods – full exemption on duties for: (a) raw materials used in the manufacture of approved goods, (b) packaging and labeling materials for transport of finished products and (c) equipment required to establish a new manufacturing enterprise.
- Tourism accommodation – full exemption on duties for building materials, fixtures and fittings used in construction of new hotels and island bungalow resorts, or expansion of existing resorts. Strata title developments are not eligible.
- Fishing operations – full exemption on duties for boats, boat building material, fishing equipment, marine motors and refrigeration equipment.
- Mining operations – full exemption on duties for machinery, equipment and materials used in mineral exploration and extraction.

Import duties on agricultural inputs such as machinery, tools, seeds and fertilizer are already very low (either duty free or 5%).

A detail list of Goods and Services entitled for relevant reliefs as Part 3 of Schedule 1 of Import Duties Act is attached as Appendix 3 of the Policy.

Ultimate authority over concession decisions lies with the Director Customs. However investors are required to lodge applications with the appropriate sectoral department in order to obtain a duty exemption certificate. In the case of manufacturing investments, certificates are issued by the Department of Industry; Department of Tourism issues them with respect to tourism; Department of Fisheries with respect to fisheries; and, Department of Geology, Mines and Water with respect to mining.

Each Department has its own procedures for issuing certificates. All require investors to complete a prescribed form and pay an administrative fee. Certificates are lodged with the customs declaration on entry of the goods into the country.

## Other incentives

The Reserved Bank of Vanuatu (RBV) provides an Import Substitution and Export Finance Facility aimed at reducing the cost of funds to business. The facility has a total allocation of VT 500 million, and a maximum allowable loan of VT 30 million per business. It is open to enterprises involved in merchandise exports; small and medium size enterprises providing tourism and selected professional services; and micro, small and medium size enterprises involved in import substituting activities. Foreign investor ownership is restricted to 50% in the case of medium size enterprises, and 25% for small enterprises. It is not allowed in micro enterprises. Funds are accessed through participating commercial banks in accordance with their risk assessment criteria. RBV provides funds to commercial banks at an interest rate of 1.5% per annum, with commercial banks on-lending the funds to eligible businesses at a maximum rate of 5% per annum. Loans under the facility are for a period of six months and can be rolled over for a maximum term of 5 years.

The Government is also exploring establishment of other incentives. They include economic development zones and programs supporting small business development.

## APPENDIX 1 – PROHIBITED, RESERVED AND RESTRICTED INVESTMENTS

### SCHEDULE 1

#### PART 1

Section 3

#### Prohibited Investments

##### List of activities not to be undertaken

Manufacture of nuclear weapons  
Manufacture of chemical weapons  
Arms manufacture  
Dumping or storage of nuclear waste  
Dumping or storage of toxic chemicals

#### PART 2

#### Reserved Investments

RESERVED INVESTMENTS TABLE	
ITEM	CATEGORY
	<b>Tourism</b>
1(a)	Local tour agent if the annual turnover is less than VT 20 million
(b)	Local tour operator if the investment is less than VT 50 million
(c)	Commercial cultural feasts (Melanesian, Polynesian etc...)
(d)	Guest houses if the number of beds is less than 50 or less than 10 rooms or annual turnover is less than VT 20 million
(e)	Bungalows if the annual turnover is less than VT 30 million
(f)	Hotels and motels if the total value of the investment is less than VT 10 million or the annual turnover is less than VT 20 million

<b>Trade</b>	
2(a)	Export of sandalwood in stick and chips form
(b)	Local trading of sandalwood
(c)	Export of seeds and other minor forest products
(d)	Second hand clothing shops
(e)	Export of kava in root, chips and stick form
<b>Manufacturing</b>	
3(a)	Manufacture of handicraft and artefacts
<b>Services</b>	
4(a)	Kava bars
(b)	Open air vendors
(c)	Mobile shops
(d)	Door to door sales
(e)	Road transport operators - public taxi and bus services
(f)	Private security services including security guards
(g)	Category F of Business License Act No 19 of 1998 of less than VT 5 million turnover per year
(h)	Retail shops including general merchandise trading shops where the annual turnover is less than VT 30 million, excluding specialty shops
(i)	Coastal shipping of less than 80 tons, excluding vessels used for tourism purposes
(j)	

(k)	Electricians and electro-technicians meeting prescribed standards Residential building and construction meeting prescribed standards
	<b>Fishing</b>
5(a)	Fishing within archipelagic waters within the meaning of the Maritime Zones Act [CAP 138] and the first 6 nautical miles of the territorial sea within the meaning of that Act

### **1. Business activities reserved only for Ni-Vanuatu citizens**

The following business activities are reserved solely for Ni-Vanuatu citizens. Foreign investors are not permitted to be involved in any of these activities or be associated with any Ni-Vanuatu individuals or businesses who are conducting business in any of these activities:

Export of sandalwood in stick or chip form harvested from natural forest

Local trading of sandalwood harvested from natural forest

Export of seeds and other minor forest products harvested from natural forest

Second hand clothing shops

Export of kava in root, chips and stick form

Manufacture of handicrafts and artefacts

Kava bar

Open air vendor, door to door sales and mobile shops

Road transport operators – the provision of any taxi or bus service, including airport road transfers and any other road transport service involving the guest of a hotel or other accommodation

Private security services including security guards

Electricians and electro-technicians

Commercial fishing in Vanuatu’s inshore waters as defined by the Maritime Zones act (i.e. archipelagic waters including first six nautical miles from land)

Commercial cultural feasts

Residential building and construction

Small scale production of sawn timber from natural forest using a portable sawmill (i.e. can be physically moved from one location to another in the forest)

## **2. Restricted business activities open to foreign investment if the operation exceeds a minimum threshold.**

Certain reserved business activities are open to foreign investors as long as the size of the operation is sufficiently large. Investments in these business activities are allowed assuming the investor is able to demonstrate over time they exceed the specified minimum threshold.

### **Activity Code and Threshold Level**

#### Tourism

Tour agent (business that sells tourism services) E3 (4c)

Annual sales turnover of 20 million vatu

Tour operator (business that packages two or more travel services into a single product for the consumer, i.e. transport, accommodation, meals, entertainment,

E3 (3b) Investment of 20 million vatu

Guest house (business that provides simple accommodation using private or semi-private rooms and offers limited guest services)

D3 (e) 50 beds or 10 rooms or annual sales turnover of 20 million vatu

Bungalows (business that provides island-style accommodation in detached or semi-detached dwellings) D3 (f) Annual sales turnover of 30 million vatu

Hotels and motels (businesses that provides accommodation using private rooms and offers amenities such as food, alcohol and other guest services) D3 (a) & D3 (b)

Investment of 10 million Vatu or annual sales turnover of 20 million Vatu

#### Other Services

Retail shops including general merchandise trading shops (excludes specialty shops)

D2 Annual sales turnover of 30 million Vatu

Coastal shipping (excludes vessels that exclusively provide transport to foreign tourists)

E1 (b) Vessel size with carrying capacity of 80 tonnes

#### Other professional or business service

Real estate agent

Property managers

Land and property developers

Legal practitioners

Accounting practitioners

Engineering practitioners and services

Architectural practitioners and services

Surveyors and draftsmen

Core drilling, assaying geological and prospecting support services

Business and financial services and consultants

Book keeping services

Management services and consultants

Advertising and marketing services and consultants

Photocopying and duplicating services

Typing and secretarial services

Language translation and interpreting services

Business security and protective services

Debt collection and credit rating services

Credit Schemes

Other business and administrative services and agencies F4

Annual sales turnover of 5 million Vatu

## APPENDIX 2 – RESERVE OCCUPATIONS

### SCHEDULE 2

#### Section 3

#### Reserved Occupations

List of occupational activities declared under section 9 of -the Labour (Work Permits) Act as reserved for citizens, as at the date of commencement of this Act.

Able seaman/ordinary seaman

Bricklayer

Bus driver

Joiner

Clerical supervisor

Dock worker and freight handler

Driver

Earth moving and related machinery operator

Hotel receptionist

Housemaid/domestic worker

Lorry and van driver

Mason

Painter

Portable Saw miller

Receptionist

Street vendor

Typist

Waiter/waitress/bar tender

-----

**APPENDIX 3 – IMPORT DUTIES EXEMPTIONS CATEGORIES FOR ECONOMIC, PERSONAL, TEMPORARILY IMPORTED GOODS AND MISCELLANEOUS RELIEFS**

**SECTION 1 – ECONOMIC RELIEFS**

**X.1 Goods Imported for Manufacturing or Processing Operation – Standard Relief**

The Director of Customs may, subject to the favorable recommendations of the Director of Industry exempt any goods or approve a reduction of customs duty otherwise payable under the Customs Tariff, in respect of any goods being raw materials, machinery or equipment to be used exclusively in a manufacturing or processing operation in the Republic of Vanuatu.

Provided that:

(a) application shall be made to the Director of Industry in such form and manner as may be prescribed by the Director; and

(b) the finished goods arising from such manufacture or processing operation shall, in the interests of consumer protection, satisfy the Director of Industry in respect of their quality, quantity and value; and

(c) the importer shall at all times comply with such terms and conditions as maybe imposed by the Director of Industry.

**X.1A Goods Imported for Manufacturing or Processing Operation Involving Capital Investment of VT 1 Billion or More**

(1) Despite clause X.1, the Director of Customs may, subject to the favorable recommendation of the Director of Industry, approve a total exemption from customs import duty on any goods referred to in that item for the prescribed period if:

(a) the requirements set out in that item are met; and

(b) the Director of Industry is satisfied that the capital investment in Vanuatu in the manufacturing or processing operation concerned will be VT 1 billion or more within the prescribed period.

(2) If the Director of Industry advises the Director of Customs, after the exemption is approved, that the Director of Industry is satisfied (based on information not available to him or her when making the recommendation under subsection (1)) that the capital investment in Vanuatu has been or will be less than VT 1 billion within the prescribed period:

(a) the exemption ceases to apply; and

(b) the provisions of clause X.1 are to be applied in relation to any goods that have been imported and are the subject of the exemption; and

(c) the importer must pay any customs import duty that is determined to be payable under paragraph (b).

(3) However, if the Director of Industry advises the Director of Customs that the Director of Industry is satisfied that failure to invest VT 1 billion or more within the prescribed period is due to circumstances beyond the control of the importer, the Director of Customs may continue the exemption for a further period.

(4) If the Director of Industry subsequently advises the Director of Customs that the Director of Industry is satisfied (based on information not available to him or her when giving advice under sub clause (3)) that the capital investment in Vanuatu has been or will be less than a total of VT 1 billion during the prescribed period and the further period, sub clause (2) (a), (b) and (c) applies.

(5) In this item, "prescribed period", for an exemption from customs import duty, means the 3 year period commencing from the approval of the application for the exemption.

## **X.2 Goods Imported under Approved Development Project Agreements**

If:

- (i) a person is a party to an agreement with the Government for a development project; and
- (ii) the agreement is likely to contribute significantly to the economic development of Vanuatu; and
- (iii) the person imports goods into Vanuatu;

the Director may, subject to the prior approval of the Council of Ministers, exempt the goods from customs duty otherwise payable or approve a reduction of customs duty otherwise payable in respect of the goods. The amount of any reduction is to be determined in writing by the Director.

## **X.3 Goods Imported for Agriculture, Horticulture, Livestock or Forestry Project – Standard Relief**

The Director of Customs may, subject to the favorable recommendation of the relevant Director, approve a reduction of customs duty, otherwise payable under the Customs Tariff –

- (i) to a rate of not less than 5% for plant, machinery, materials and equipment (including designed vehicles such as cattle-trucks, refrigerated vehicles and the like), and including spare-parts and accessories; and
- (ii) to a rate of 6 VT per litre for fuel oils, intended for use in static machinery or to power vehicles and equipment engaged primarily in off-the-road applications:

Provided that:

- (a) application for reduction of exemption shall be made to the relevant Director in such form and manner as may be prescribed by the Director; and
- (b) the goods shall be intended exclusively for use on a development project approved by the relevant Director;
- (c) this provision shall not cover vehicles designed for general road use, or logging equipment; and

(d) the importer shall at all times comply with such terms and conditions as may be imposed by the relevant Director.

And further provided that the Director of Customs may at his/her discretion determine whether goods for which a reduction is claimed are so eligible.

### **X.3A Goods Imported for Agriculture, Horticulture, Livestock or Forestry Project involving Capital Investment of VT 1 Billion or More**

(1) Despite clause X.3, the Director of Customs may, subject to the favorable recommendation of the relevant Director, approve a total exemption from customs import duty on any goods referred to in that item for the prescribed period if:

(a) the requirements set out in that item are met; and

(b) the relevant Director is satisfied that the capital investment in Vanuatu in the development project concerned will be VT 1 billion or more within the prescribed period.

(2) If the relevant Director advises the Director of Customs, after the exemption is approved, that the relevant Director is satisfied (based on information not available to him or her when making the recommendation under sub clause (1)) that the capital investment in Vanuatu has been or will be less than VT 1 billion within the prescribed period:

(a) the exemption ceases to apply; and

(b) the provisions of item X.3 are to be applied in relation to any goods that have been imported and are the subject of the exemption; and

(c) the importer must pay any customs import duty that is determined to be payable under paragraph (b).

(3) However, if the relevant Director advises the Director of Customs that the relevant Director is satisfied that failure to invest VT 1 billion or more within the prescribed period is due to circumstances beyond the control of the importer, the Director of Customs may continue the exemption for a further period.

(4) If the relevant Director subsequently advises the Director of Customs that the relevant Director is satisfied (based on information not available to him or her when giving advice under sub clause (3)) that the capital investment in Vanuatu has been or will be less than a total of VT 1 billion during the prescribed period and the further period, sub clause (2) (a), (b) and (c) applies.

(5) In this item, "prescribed period", for an exemption from customs import duty, means the 3 year period commencing from the approval of the application for the exemption.

### **X.4 Goods Imported for Inter-Island Shipping – Standard Relief**

The Director of Customs may approve a reduction of customs duty, otherwise payable under the Customs Tariff: –

(i) to a rate of not less than 5% for plant, machinery, equipment and materials (including spare-parts) imported exclusively for use in inter-island shipping; and

(ii) to a rate of 6 VT per litre for fuel oils, intended exclusively for use by cargo vessels engaged in inter-island transportation:

Provided that:

(a) application for reduction shall be made to the Director of Customs in such form and manner as may be prescribed by him; and

(b) the person to whom relief is granted shall at all time comply with such terms and conditions as may be imposed by the relevant Director of Customs.

#### **X.4A Goods Imported for Inter-Island Shipping Involving Capital Investment of VT 1 Billion or More**

(1) Despite item X.4, the Director of Customs may approve a total exemption from customs import duty on any goods referred to in that item for the prescribed period if:

(a) the requirements set out in that item are met; and

(b) the Director is satisfied that the capital investment in Vanuatu in the shipping project concerned will be VT 1 billion or more within the prescribed period.

(2) If the Director determines (after the exemption is approved and based on information not available to him or her when approving the total exemption under sub clause (1)) that the capital investment in Vanuatu has been or will be less than VT 1 billion within the prescribed period:

(a) the exemption ceases to apply; and

(b) the provisions of clause X.4 are to be applied in relation to any goods that have been imported and are the subject of the exemption; and

(c) the importer must pay any customs import duty that is determined to be payable under paragraph (b).

(3) However, if the Director determines that failure to invest VT 1 billion or more within the prescribed period is due to circumstances beyond the control of the importer, he or she may continue the exemption for a further period.

(4) If the Director determines subsequently (based on information not available to him or her when making the determination under sub clause (3)) that the capital investment in Vanuatu has been or will be less than a total of VT 1 billion during the prescribed period and the further period, sub clause (2)(a), (b) and (c) applies.

(5) In this item, "prescribed period", for an exemption from customs import duty, means the 3 year period commencing from the approval of the application for the exemption.

## **X.5 Goods Imported for a Tourism Development Project – Standard Relief**

The Director of Customs may, subject to a favorable recommendation of the Director of Tourism approve a reduction of custom duty, otherwise payable under the Customs Tariff –

(i) to a rate of not less than 5% on all plant, machinery, equipment and materials (including spare-parts) imported exclusively for the construction and establishment of a new tourism development project, or the upgrading, refurbishment or extension of an existing tourism facility which the Director is satisfied is likely to contribute significantly to the economic development of the Republic of Vanuatu; and

(ii) to a rate of 6 VT per litre for fuel oils intended exclusively for use by static electro-generators in rural areas where no public utility services are available.

Provided that:

(a) application for reduction of exemption shall be made to the Director of Tourism in such form and manner as may be prescribed by him; and

(b) the goods shall be intended exclusively for use in tourism development project approved by the Director of Tourism;

(c) the person to whom relief is granted shall at all time comply with such terms and conditions as may be imposed by the relevant Director of Customs.

## **X.5A Goods Imported for a Tourism Development Project involving Capital Investment of VT 1 Billion or More**

(1) Despite clause X.5, the Director of Customs may, subject to the favorable recommendation of the Director of Tourism, approve a total exemption from customs import duty on any goods referred to in that item for the prescribed period if:

(a) the requirements set out in that item are met; and

(b) the Director of Tourism is satisfied that the capital investment in Vanuatu in the tourism development project concerned (excluding any such investment in vehicles or boats) will be VT 1 billion or more within the prescribed period.

(2) If the Director of Tourism advises the Director of Customs, after the exemption is approved, that the Director of Tourism is satisfied (based on information not available to him or her when making the recommendation under sub clause (1)) that the capital investment in Vanuatu has been or will be less than VT 1 billion within the prescribed period:

(a) the exemption ceases to apply; and

(b) the provisions of clause X.5 are to be applied in relation to any goods that have been imported and are the subject of the exemption; and

(c) the importer must pay any customs import duty that is determined to be payable under paragraph (b).

(3) However, if the Director of Tourism advises the Director of Customs that the Director of Tourism is satisfied that failure to invest VT 1 billion or more within the prescribed period is due to circumstances beyond the control of the importer, the Director of Customs may continue the exemption for a further period.

(4) If the Director of Tourism subsequently advises the Director of Customs that the Director of Tourism is satisfied (based on information not available to him or her when giving advice under sub clause (3)) that the capital investment in Vanuatu has been or will be less than a total of VT 1 billion during the prescribed period and the further period, sub clause (2) (a), (b) and (c) applies.

(5) In this item, "prescribed period", for an exemption from customs import duty, means the 3 year period commencing from the approval of the application for the exemption.

#### **X.6 Goods Imported for Mineral Exploration and Extraction**

The Director of Customs may, subject to the favorable recommendation of the Director of Geology and Mines approved a total exemption of customs duty otherwise payable under the Customs Tariff, on all plants, machineries, equipment, vehicles, fuels, reagents and materials (including spare parts but excluding general consumable goods) imported for a mineral exploration and extraction project which the Director of Geology and Mines considers is likely to contribute significantly to the development of the mineral exploration and extraction program in the Republic of Vanuatu.

#### **X.7 Diesel Fuel Imported for the Generation of Certain Electric Power**

(1) If:

(a) a person is a party to an agreement with the Government for the production of electric power; and

(b) diesel fuel is imported and is used by that person only for the purposes of that agreement; and

(c) the imported fuel is diesel fuel (distillate) classified under Tariff Classification Code 2710.0050;

the Director of Customs may, subject to the prior approval of the Council of Ministers, exempt the diesel fuel from Customs Duty otherwise payable or approve a reduction of Customs Duty otherwise payable in respect to the diesel fuel. The amount of the reduction is to be determined in writing by the Director.

(2) The Director of Customs may impose such terms and conditions as the Director thinks necessary on any exemption or reduction under this section.

(3) A person who is a party to the agreement referred to in subsection (1) must comply with such terms and conditions imposed under subsection (2).

#### **X.9 Fisheries Industry Equipment for Project – Standard Relief**

The Director of Customs may, subject to the favorable recommendations of the Director of Fisheries, approve a reduction of customs duty, otherwise payable under the Customs Tariff, to a rate of not less than 5% for:

(i) Boats, and boat-building materials, including, fuel-oils, where these are to be exclusively for commercial fishing;

(ii) Machinery, materials and equipment including fishing in-board and out-board motors, refrigeration equipment:

Provided that:

(a) reduction for fuel-oil allowed under subsection (i) above shall be:

a reduction of 5% of the duty rate where ad valorem duty rates apply and 6 VT per litre for fuel-oils in the case of new fisheries projects and such privileges shall be allowed for a period to be determined by the Director of Fisheries; and any goods for which a reduction is claimed shall be accompanied by a certificate stating that the goods are intended to be solely for an approved fisheries project and further provided that such certificate be endorsed by the Director of Fisheries.

#### **X.9A Fisheries Industry Equipment for Project involving Capital Investment of VT 1 Billion or More**

(1) Despite clause X.9, the Director of Customs may, subject to the favorable recommendation of the Director of Fisheries, approve a total exemption from customs import duty on any goods referred to in that item for the prescribed period if:

(a) the requirements set out in that item are met; and

(b) the Director of Fisheries is satisfied that the capital investment in Vanuatu in the fisheries project concerned will be VT 1 billion or more within the prescribed period.

(2) If the Director of Fisheries advises the Director of Customs, after the exemption is approved, that the Director of Fisheries is satisfied (based on information not available to him or her when making the recommendation under sub clause (1)) that the capital investment in Vanuatu has been or will be less than VT 1 billion within the prescribed period:

(a) the exemption ceases to apply; and

(b) the provisions of clause X.9 are to be applied in relation to any goods that have been imported and are the subject of the exemption; and

(c) the importer must pay any customs import duty that is determined to be payable under paragraph (b).

(3) However, if the Director of Fisheries advises the Director of Customs that the Director of Fisheries is satisfied that failure to invest VT 1 billion or more within the prescribed period is due to circumstances beyond the control of the importer, the Director of Customs may continue the exemption for a further period.

(4) If the Director of Fisheries subsequently advises the Director of Customs that the Director of Fisheries is satisfied (based on information not available to him or her when giving advice under sub clause (3)) that the capital investment in Vanuatu has been (or will be) less than a total of VT 1 billion during the prescribed period and the further period, sub clause (2) (a), (b) and (c) applies.

(5) In this item, "prescribed period", for an exemption from customs import duty, means the 3 year period commencing from the approval of the application for the exemption.

## **SECTION 2 – PERSONAL RELIEFS**

### **INTRODUCTION**

Notwithstanding anything in any other enactment or in any other section of this Act, for the purpose of determining entitlement to customs exemption which may be allowed in respect of imported personal and household effects, the following definitions shall apply:

"Director" shall mean the Director of the Vanuatu Customs Department.

"resident" shall mean any person importing personal or household effects who, on the date such goods are imported, has spent not less than 12 months in the Republic of Vanuatu during the preceding two (2)-year period.

"person changing residence" shall mean any person who has taken up, or intends to take up, continuous residence in Vanuatu for a period of not less than six (6) months.

"standard allowances" shall mean the following goods:

- (a) 250 cigarettes, or 100 cigarillos, or 50 cigars, or 250 grams of tobacco; and
- (b) 1.5 litres of spirits; and
- (c) 2250 millilitres of wine; and
- (ca) 9 litres of beer; and
- (d) 25 centilitres of toilet water; and
- (e) 10 centilitres of perfumed spirits; and
- (f) any other new or unused items including gifts (but excluding prohibited or restricted goods) up to a value of 50,000 vatu per person.

"means of transport" shall be taken to mean only motor vehicle, water-borne craft and aircraft.

"motor vehicle" shall mean any passenger motor car designed for the conveyance of a driver and up to a maximum of five adult passengers, but shall also include motorcycles, auto-cycles fitted with an auxiliary motor and mechanically-propelled invalid carriages.

"water-borne craft" shall mean yachts and other vessels designed for pleasure or sports and shall include ocean-going yachts up to a maximum of 40 net registered tons.

### **X.20 Personal and Household Reliefs**

#### **(1) Accompanied personal and household effects**

Goods which meet the following terms and conditions may be admitted without payment of customs duty otherwise payable under the substantive tariff.

**(A) Residents**

(i) The standard allowances; and

(ii) any other personal or household effects, other than means of transport, which can be shown to the satisfaction of the Director to have been owned and used abroad by the importer for a period of at least 12 months:

provided that the allowances under (i) above shall not apply to any person of less than 15 years of age, nor to any person who has arrived in Vanuatu as a member of the crew of a vessel or an aircraft.

**(B) Non-Residents**

(i) The standard allowances; and

(ii) any other personal or household effects, including means of transport, which is imported solely for the use of the importer or his family during their stay in Vanuatu:

provided that:

(a) the allowances under (i) above shall not apply to any person of less than 15 years of age not to any person who has arrived in Vanuatu as a member of the crew of a vessel or aircraft; and

(b) any goods admitted under (ii) above, shall not be sold, hired, given, lent, pledged or otherwise disposed of in Vanuatu; and

(c) the allowances under (ii) above shall not include yachts, similar craft, and private aircraft for which separate provision is made under X.40.C. of this Schedule; and

(d) any goods admitted under (ii) above shall be re-exported from Vanuatu within a period of 6 months from the date of importation, save for reason of circumstances accepted by the Director as being of an exceptional and unavoidable nature; and

(e) the Director may, in any case where he sees fit, require the payment of a deposit or other security for the duties and taxes liable thereon until such time as the goods are re-exported; and

(f) any goods admitted under (ii) above by a person who subsequently decides to become a resident of Vanuatu must be declared in writing to the Director within six months of the date of first importation, and any duties and taxes liable thereon paid or otherwise exempted under this or any other section of this Schedule in such manner and under such conditions as may be decided by the Director.

**(2) Unaccompanied personal or household effects**

**(A) Residents**

Any personal or household effects, other than means of transport, which can be shown to the satisfaction of the Director to have been owned and used abroad by the importer for a period of at least 12 months.

### **Non-Residents**

Any personal or household effects, including means of transport, which are imported solely for use by the importer or his family in the course of the visit:

provided that:

(a) any goods so admitted shall not be sold, hired, given, lent, pledged or otherwise disposed of in Vanuatu; and

(b) the goods shall not be used for any commercial purpose in Vanuatu; and

(c) the goods admitted shall be re-exported from Vanuatu within a period of 6 months from the date of importation save for reason of circumstances accepted by the Director as being of an exceptional and unavoidable nature; and

(d) the Director may, in any case where he sees fit, require a deposit or other security for the duties and taxes thereon until such time as the goods are re-exported from Vanuatu; and

(e) any goods admitted under (ii) above by a person who subsequently decides to become a resident of Vanuatu must be declared in writing to the Director within six months of the date of first importation, and any duties and taxes liable thereon paid or otherwise exempted under this or any other section of this Schedule in such manner and under such conditions as may be decided by the Director.

### **(3) Person changing residence**

In addition to any allowances to which they may be entitled under this or any other section of this Schedule, persons changing residence may also import the following goods:

(a) new items of clothing, bedding or any other similar personal or household effects up to a maximum value of VT 50,000 per person; and

(b) used items of personal and household effects, including means of transport, which can be shown to the satisfaction of the Director to have been owned and used abroad by the importer or his family:

provided that:

(i) the goods are imported within a period of 6 months before or 6 months after the date on which the importer first arrived in Vanuatu to take up a period of continuous residence; and

(ii) the goods shall not be sold, hired, given, pledged or otherwise disposed of in Vanuatu for a period of at least 2 years from the date of importation; and

(iii) in the case of means of transport, the goods must have been owned and used abroad by the importer for a period or periods in excess of 12 months in the 2 years preceding the date of importation into Vanuatu, and further provided that the maximum quantity allowable shall be limited to one motor-vehicle or one water-borne craft or one aircraft for each importer, or for each importer's family in any case where a person changing residence is joined or intends to be joined during his period of residence in Vanuatu by members of his immediate family; and

(iv) any goods previously imported to Vanuatu under a non-residents concession which are eligible for duty and tax-free admission by a person changing residence must be declared to the Director in writing within 6 months of the date of first importation, and any duties and taxes liable thereon paid or otherwise exempted under this or any other section of this Schedule in such manner and under such conditions as may be decided by the Director.

### **X.21 Photographs, Films, Negatives and Audio or Video Recordings**

The following goods may be admitted free of duty:

(a) Photographs, developed negatives, developed films and audio or video recordings;

(b) Recordings of a kind normally intended for use in language instructions:

Provided that the Director of Customs shall be satisfied that any goods imported under (a) above have only personal or sentimental value to the importer, are intended for his personal use and are not intended for sale, hire, public exhibition or performance.

### **X.22 Legacies and Inheritances**

Goods and articles which the Director of Customs is satisfied were belonging to or in the possession of a deceased person and were used by him before his death other than for business purposes and that such goods and articles are imported by or for a person resident in the Republic of Vanuatu who has become entitled thereto by virtue of any testamentary deposition or intestacy may be admitted free of duty.

### **X.23 Post And Airfreight Packages**

Articles arriving by post or airfreight for the exclusive personal use of the recipient where the FOB value of such articles does not exceed VT 10,000 may be admitted free of duty:

Provided that the Director of Customs may, at his discretion, determine than more than one parcel addressed to the same or several persons may be treated as a single importation and duty shall be assessed accordingly.

### **X.24 Wedding Presents and other Unsolicited Gifts**

(1) Wedding presents of an individual FOB value not exceeding VT 20,000;

(2) Other unsolicited gifts of a total FOB value not exceeding VT 10,000 may be admitted free of duty:

Provided that:

(a) relief under (1) above shall require the written approval of the Director of Customs; and

(b) the total number of gifts admitted for any one wedding shall not together exceed a total FOB value of VT 100,000; and

(c) the Director of Customs and Taxes may, if he sees fit, require the production of documentary evidence to support any claim to entitlement under this exemption and may also require a deposit of other form of security for the duties and taxes liable thereon until such evidence is produced; and

(d) the Director of Customs and Taxes may, as he sees fit, determine that gifts imported under (2) above by the same or several persons may be treated as a single importation and duty shall be assessed accordingly.

## SECTION 4 – TEMPORARILY IMPORTED GOODS

### X.40 Visiting Vessels and Aircraft

#### A. Vessels and aircraft engaged in International Trade

Any vessel or aircraft lawfully engaged in international trade which arrives in Vanuatu for the purpose of:

(i) discharging or loading manifested cargo, or disembarking or embarking fare paying passengers; or

(ii) safety, due to stress of weather, or repair, or for any other reason of circumstances accepted by the Director as being of an exceptional and unavoidable nature:

may be admitted free of duty, provided that the said aircraft shall depart Vanuatu within a reasonable period, having regard to the purpose of the visit, but in any case not later than 30 days save in any case where the Director approves an extension on the grounds of exceptional and unavoidable circumstance.

#### B. Foreign Government vessels and aircraft

Any vessel or aircraft owned or chartered by a foreign Government which visits Vanuatu at the invitation of the Government of the Republic of Vanuatu shall be free of duty.

#### C. Yachts and private aircraft

Sea-going yachts and private aircraft temporarily visiting Vanuatu may be admitted free of duty provided that in each case the vessel or aircraft:

(a) has entered Vanuatu under its own power on a voyage from foreign port or place; and

(b) belongs to or has been hired, chartered or otherwise loaned to a person or person travelling on board the vessel or aircraft at the time of its arrival in Vanuatu; and

(c) is intended for the personal use of the person or persons on board and shall not be used for any commercial purpose in Vanuatu; and

(d) shall not be sold, lent, hired, pledged or otherwise disposed of and shall not be used for any commercial purpose in Vanuatu; and

(e) shall not remain in Vanuatu for a period or periods exceeding a total of 18 months in any period of 24 months, save for reason of circumstance (including a change of residence) accepted by the Director of Customs as being of an exceptional and unavoidable nature.

### X.41 Goods Imported for Display or Use at Exhibitions, Fairs, Meetings or Similar Events

Any goods imported for display, demonstration or use at exhibitions, fairs, meetings or similar events (other than exhibitions organized for private purposes in shops or business premises with a view to the sale of foreign goods), subject to whatever terms and conditions as may be determined by the Director may be admitted free of customs duty.

Provided that:

(a) the number or quantity of identical articles is reasonable having regard to the purpose of importation; and

(b) the goods shall not be sold, lent, hired, pledged or otherwise disposed of in Vanuatu; and

(c) the goods shall be re-exported from Vanuatu within a period of 6 months, save for reason of circumstance (including a change of residence) accepted by the Director of Customs as being of an exceptional and unavoidable nature; and

(d) the Director may, in any case where he sees fit, require a deposit or other security for the duties and taxes liable thereon until such time as the goods are re-exported from Vanuatu.

#### **X.42 Goods Imported for Hire or Loan**

Machinery or equipment intended for use on a project which, in the opinion of the Director of Customs is likely to contribute to the economic development of the Republic of Vanuatu may be admitted free of duty:

Provided that:

(a) the importer is able to satisfy the Director that no suitable alternative machinery or equipment is available for hire or loan in Vanuatu; and

(b) the goods remain in the ownership of the overseas supplier; and

(c) the goods shall be re-exported from Vanuatu within a period of 6 months, save for reason of circumstance accepted by the Director of Customs as being of an exceptional and unavoidable nature; and

(d) the Director may, in case where he sees fit, require a deposit or other security for the duties and taxes liable thereon until such time as the goods are re-exported from Vanuatu.

#### **X.43 Tools of Trade and Professional Equipment**

Tools of trade and professional equipment which, in the opinion of the Director, are necessary for the exercise of the calling, trade or profession of a person visiting Vanuatu for the purpose of performing a specified task may be admitted free of duty:

Provided that the tools or equipment:

(a) shall be owned by a natural person resident abroad or by a legal person established abroad; and

(b) shall be imported by a natural person resident abroad or by a legal person established abroad; and

(c) shall be used solely by or under the personal supervision of the visiting person, save in any case otherwise approved by the Director; and

(d) shall be re-exported from Vanuatu within a period of 6 months, save for reason of circumstance accepted by the Director of Customs as being of an exceptional and unavoidable nature;

and further provided that the Director of Customs shall, in any case where he sees fit, impose such additional conditions as he may consider to be necessary, including the requirement for deposit or other security for the duties and taxes liable thereon.

#### **X.44 Scientific and Pedagogical Material and Equipment**

Scientific and pedagogic material and equipment which is to be used in the Republic of Vanuatu solely for the purpose of scientific research, education or vocational training, including spare parts and test equipment for the maintenance, checking, gauging or repair of such equipment may be admitted free of duty:

Provided that the goods:

(a) are imported by approved institutions and used under their control and responsibility; and

(b) are used for non-commercial purposes; and

(c) remain in the ownership of a natural person resident abroad or a legal person established abroad; and

(d) shall be re-exported from Vanuatu within a period of 6 months, save for reason of circumstance accepted by the Director of Customs as being of an exceptional and unavoidable nature:

#### **X.46 Inward Processing Relief**

(1) Any goods imported into Vanuatu for manufacturing, processing or repair (other than goods being imported solely for packing, repacking or labeling) may be admitted free of duty if the Director is satisfied:

(a) the process for which the approval is sought is beneficial to the national economy; and

(b) any exemption would not conflict with the interests of established producers of goods identical or similar to those in respect of which admission is requested.

(2) The Director may impose such terms and conditions as the Director thinks necessary on any exemption under this section, including a requirement for a deposit or other security for duty.

#### **X.47 Goods Imported for Duty-Free Sale to Tourists and Departing Passengers**

Goods imported for duty-free sale to tourists, departing or transit passengers, crew members of visiting vessels (including yachts) or aircraft, or to any other person or organization entitled to purchase goods duty free by virtue of an international convention or agreement signed by the Government of Republic of Vanuatu may be imported free of duty:

Provided that the goods shall on importation be declared for entry into a Bonded Warehouse approved by the Director of Customs;

and provided further that the owner of the goods shall comply strictly with any requirements which the Collector may impose including stock control and delivery conditions.

#### **X.48 Goods Imported Temporarily for Supply to Foreign-Going Vessels and Aircraft**

The following may be admitted free of duty:

(a) Aircraft and vessel spare parts, including goods and materials imported for the repair and renovation of aircraft and vessels, and which are intended to be fitted thereto;

(b) fuels, oils and greases;

(c) consumable stores (including tobacco products and alcoholic beverages) which are intended solely for the use of passengers or crew during a foreign voyage or flights:

Provided that such goods are intended solely for supply to aircraft and vessel which have received, or which are about to receive, outward clearance for a voyage to a foreign port or place.

## **SECTION 6 – MISCELLANEOUS CONDITIONAL RELIEFS**

### **X.60 Returned Goods**

#### **(A) Same state goods:**

Any goods exported from Vanuatu which are subsequently re-imported in the same state provided that it can be shown to the Director's satisfaction that:

(i) the goods are of Vanuatu origin; or

(ii) if not of Vanuatu origin, that all import duties and taxes liable thereon have been paid and have not been refunded nor been the subject of a claim for reimbursement, of that the goods are otherwise exempt from liability;

may be admitted free of duty.

#### **(B) Goods which have undergone a process or repair:**

Any goods exported from Vanuatu which have undergone a process or repair and which are re-imported within such time limits as may be determined by the Director may be admitted free of duty provided that:

(i) the goods are declared to Customs, in such form and manners as may be required by the Director, prior to their exportation from Vanuatu; and

(ii) the goods have not been nor will be the subject of a claim for reimbursement of import duties and taxes by virtue of their exportation; and

(iii) the costs of any materials used or incorporated during the process or repair, as well as any other costs relating thereto shall be declared:

and further provided that duties and taxes shall be liable on the value added to the exported goods by virtue of such process or repair except in any case where replacement parts or labor is provided without charge under a guarantee or warranty agreement.

### **X.61 Containers, Crates, etc.**

Containers, crates, etc., in which goods liable to customs duties (whether exempted therefrom or not) are normally placed or packed during transportation may be admitted free of duty:

Provided that the Director is satisfied that any containers so specified are of no substantial value for any purpose other than as containers of the goods actually packed therein:

and provided further that in the case of international shipping containers, the said containers are re-exported from Vanuatu within a period of 6 months from the date of importation.

### **X.62 Soft Techniques of Energy**

The following goods may be admitted at the rate of duty 5% unless the substantive tariff rate is lower than 5% in which case the substantive tariff rate shall apply:

(a) Solar heaters;

(b) Photovoltaic generators, consisting of panels of photocells combined with other apparatus such as voltage regulators and storage batteries, including accessories and replacement parts therefor;

(c) hydraulic engines and motors (including water wheels and water turbines);

(d) wind-engines (windmills):

Provided that in any case where eligibility for a reduced rate of 5% is in doubt the Director of Customs shall, as he sees fit, determine the entitlement of goods for which reduction is claimed.

#### **X.64 Goods not in Accordance with Contract**

Any imported goods which are not in accordance with terms of a contract of sale by reason of type, quantity, quality, performance or for any other reason acceptable may be admitted free of duty:

Provided that:

(a) the application for relief shall be lodged within a period of 3 months following the date of importation, save in any case where a longer period is accepted by the Director of Customs as being reasonable having regard to the purpose for which the goods were imported; and

(b) the goods shall not be used, other than for the purpose of testing; and

(c) the importer shall produce such document or other evidence as may be required by the Director; and

(d) the goods shall be re-exported, destroyed in official presence and that duties and taxes liable, if any, on the waste materials arising from such destruction shall be paid.

#### **X.65 Goods Imported under an International Convention or Agreement**

The following shall be admitted free of duty:

Any goods admissible free of duty or tax by virtue of an international convention or agreement signed by the Government of the Republic Vanuatu, which are intended for the use of a diplomatic, or for entitled other approved organization or mission, or for entitled persons employed by them:

(a) Goods imported by Diplomatic Mission of foreign states or international organizations for the use of the Missions;

(b) Goods imported by diplomatic agents of foreign states or international organizations for their personal use;

(c) Goods imported by technical experts provided by foreign states or international organizations for their personal use;

(d) Goods (other than disaster relief aid) donated free of charge to the Government of Vanuatu by foreign states or organizations as aid in kind;

(e) Goods (other than disaster relief aid) donated free of charge to non-government groups and organizations in Vanuatu by foreign states or organizations under discretionary grant schemes;

(f) Goods (other than disaster relief aid) imported by or on behalf of the Government of Vanuatu for aid projects funded by development cash grants administered by Vanuatu;

(g) Goods (other than disaster relief aid) imported by or on behalf of the Government of Vanuatu for aid projects funded by development loans administered by Vanuatu;

(h) Goods imported by or on behalf of the Government of Vanuatu for disaster relief projects funded by foreign states or international organizations;

(i) Other;

Provided that a signed copy of the convention or agreement shall be lodged with the Minister of Finance, together with a list of persons entitled to privileges under such convention or agreement;

and further provided that the Director shall impose such conditions as he may consider necessary in any particular case.