

# WORLD TRADE ORGANIZATION

RESTRICTED

**WT/ACC/SAM//6**

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**Working Party on the  
Accession of Samoa**

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## **ACCESSION OF SAMOA**

### Additional Questions and Replies

The following submission, dated 10 November 2005, is being circulated at the request of the Government of Samoa.

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## II. ECONOMIC POLICIES

### - Monetary and fiscal policies

#### Question 1

**Referring to paragraph 10 of WT/ACC/SPEC/SAM/4. Samoa may want to update this text.**

Answer:

No change to information in paragraph 10 of WT/ACC/SPEC/SAM/4.

### - Foreign exchange and payments system

#### Question 2

**Paragraph 12 of WT/ACC/SPEC/SAM/4 refers. Please provide the exchange rate for the Tala in U.S. dollars.**

Answer:

The U.S. dollars – Tala mid rate as on 2 September 2005: 0.3706.

#### Question 3

**Paragraph 13 of WT/ACC/SPEC/SAM/4 refers. Please clarify if foreign exchange surrender requirements are still in effect. If so, at what level of retention and what are Samoa's plans to eliminate this difficult policy? If not, have other measures to regulate foreign exchange replaced them?**

Answer:

There is a foreign exchange surrender system in place in Samoa. This system requires all companies (exporters, hotels, etc) engaged in a business which generates foreign currency earnings, to transfer their revenue to Samoa.

Previously, it was compulsory for all earnings to be converted into Tala upon repatriation. This created a problem for such businesses as they argued that such a process exposed them to fluctuations and risks in foreign currency markets if they wished to repurchase foreign exchange at a later date (to purchase materials, etc.).

To alleviate the above problem, businesses which generate foreign exchange have, since 1995, been allowed to establish foreign currency deposit accounts (in major trading currencies) at any of the commercial banks in Samoa. No longer are they required to convert their earnings into Tala, but they are still required to transfer their revenue to Samoa.

Samoa, at present, has no plans to eliminate the foreign exchange surrender system it has in place.

#### Question 4

**Paragraph 14 of WT/ACC/SPEC/SAM/4 refers. Samoa states it would use fiscal measures and issuance of Central Bank securities to address balance-of-payments problems. It would also be**

entitled to utilise the provisions of Article XII of GATT 1994 on restrictions to safeguard the balance of payments.

We recommend Samoa note in the Working Party Report that in the event that it did apply restrictions to safeguard the balance of payments, that it would do so in compliance with Article XVIII of GATT 1994.

Answer:

Agreed. In the event that Samoa applies restrictions to safeguard the balance of payments, it will do so in accordance with Article XVIII of GATT 1994.

#### Question 5

Referring to Paragraph 14 of WT/ACC/SPEC/SAM/4. We request a commitment on Article XVIII for this section.

Answer:

Samoa supports a commitment to that effect.

- **Investment regime**

#### Question 6

Paragraphs 15-21 of WT/ACC/SPEC/SAM/4 refer. We still have concerns about Samoa's Foreign Investment Act. For services suppliers seeking to establish a commercial presence in Samoa, the Foreign Investment Act appears to counteract all mode 3 commitments made in specific sectors. Given that the "Reserved" and "Restricted" lists will be identified in separate regulations, the Foreign Investment Act also fails to provide transparency in respect of particular market access and national treatment limitations present in particular sectors. In the interests of transparency, we request that Samoa identify the sectors on the "reserved" and "restricted" lists as part of the horizontal entry. Where Samoa has included these sectors in its schedule, it should note that the sector is "Unbound, except as indicated under horizontal commitments".

Answer:

Please refer to revised services schedule offer. Samoa is not making any commitments in the sectors under the Reserved List.

#### Question 7

Paragraph 15 of WT/ACC/SPEC/SAM/4 refers. Please indicate if the incentive programs listed in this section or any others have export performance or local content usage requirements.

Answer:

As stated in paragraph 15, the incentives were granted to companies which exported 95 per cent of their production. No local content was required.

At present, incentives to only five companies remain grandfathered. Their tax holidays are due to terminate as follows:

Samoa Tropical Products	31 March 2008
Wilex Cocoa & Coconut Products	14 July 2008
Yazaki Samoa	8 November 2009
Pacific Cashmere	20 October 2013
Desico Samoa	22 June 2014

However, as of February 2004 Wilex Cocoa & Coconut Products, Pacific Cashmere and Desico Samoa have all ceased production. As will be seen from the above table, the incentives granted to the two companies that remain in production, Samoa Tropical Products and Yazaki Samoa, will terminate on 31 March 2008 and 8 November 2009 respectively.

#### **Question 8**

**Paragraph 16 of WT/ACC/SPEC/SAM/4 refers. Please provide the Working Party with a copy of the Foreign Investment Law and the Reserved List. Has the Reserve List changed?**

Answer:

The Foreign Investment Act 2000 and the Reserved List have already been deposited with the WTO Secretariat and is again attached to these replies for your information.

The Reserved List has not changed.

#### **Question 9**

**Paragraph 16 of WT/ACC/SPEC/SAM/4 refers. We welcome the information on restricted and reserved lists of activities.**

**It appears from Samoa's response to recent questions on this issue that there are no clear criteria underpinning the selection of reserved or restricted sectors.**

**While we appreciate that, given Samoa's LDC status there may be a small number of sectors it would wish to reserve for its own nationals, the current policy does not appear to provide secure market access to foreign service providers in other sectors. In its services offer, Samoa is reserving the right to expand the list of sectors subject to this policy.**

**We recommend Samoa note in the Working Party Report that it will review and amend these provisions to ensure a clear, transparent and well-justified set of criteria for the selection of "restricted" and "reserved" sectors.**

**We also recommend that Samoa review its market access offer with a view to providing more secure access to Foreign Service providers.**

Answer:

Please refer to Samoa's revised services offer WT/ACC/SPEC/SAM/2/Rev.1.

### Question 10

**Paragraph 18 of WT/ACC/SPEC/SAM/4 refer. Samoa addresses the issue of access to land by foreigners in this paragraph, but does not indicate whether any eligibility tests exist for land leasing or whether there exist grounds for refusing lease applications.**

**We recommend Samoa expand this section with information on: (i) the eligibility tests for foreigners in leasing land; and (ii) the grounds for declining an application by a foreign business or individual to lease land.**

Answer:

Article 101 of the Constitution sets out that land in Samoa is either customary, freehold or public land. Customary land means land held in accordance with Samoan custom and usage. Freehold land means land held for an estate in fee simple. Public land means land vested in Samoa being land that is free from customary title and from any estate in fee simple. Pursuant to Article 102 of the Constitution, it is unlawful to alienate or dispose of any interest in customary land by sale, mortgage or otherwise.

- Customary land

The Alienation of Customary Land Act 1965 governs the leasing and licensing of customary land. Pursuant to this Act, the Minister of Natural Resources and Environment may grant a lease or licence to use customary land. The Minister acts as trustee for the customary land owners, referred to in the Act as beneficial owners. The Minister's responsibilities include identifying the beneficial owners of the customary land, requiring a survey of the customary land to be leased, facilitating the execution of the lease or licence, and receiving rent from the lessee on behalf of the beneficial owners. A lease or licence of customary land may only be granted for an "authorised purpose". "Authorised purpose" under the Act means a public, hotel, industrial, commercial, business or religious purpose. The Minister must be satisfied that the granting of the lease or licence is:

- (a) in accordance with Samoan custom and usage;
- (b) in accordance with the desires and interests of the beneficial owners of the customary land; and
- (c) in the public interest.

If the authorised purpose is a hotel or industrial purpose, the maximum term of lease is 30 years with a possible renewal for 30 years (an aggregate of 60 years). If the authorize purpose is not a hotel or industrial purpose, the maximum term of lease is 20 years with a possible renewal for 20 years (an aggregate of 40 years).

- Freehold land

The Alienation of Freehold Land Act 1972 controls the alienation of freehold land to persons who are not resident citizens and to overseas corporations. A resident citizen means a citizen of Samoa who is ordinarily resident in Samoa. An overseas corporation means a body corporate which is incorporated outside Samoa or is a company which is a subsidiary of any other company or a body corporate incorporated outside Samoa or is a company in which more than 25 per cent of the shares or of the voting power is held by persons who are not resident citizens. A person who is not a resident citizen or is an overseas corporation may not purchase any freehold land or lease any freehold land for a term of more than 20 years unless that person has obtained the written consent of the Head of State.

The Samoa Trusts Estates Corporation Act 1977 continues a trust for and on behalf of the people of Samoa with assets including thousands of acres of freehold land seized from the Germans after



World War II. The STEC has the power to dispose of its land by lease for a term not exceeding 10 years. Any other form of disposal requires Cabinet's approval.

Pursuant to the Samoa Trust Estates Corporation (STEC) Act 1990, some of the freehold land under STEC's control was exchanged with Government land. Freehold land owned by STEC became vested in the Government and was subsequently given to the Samoa Land Corporation, a wholly owned Government corporation. The Corporation does not require prospective lessees (foreign or local) to go through any eligibility tests. The only requirement, which applies to both foreign and local lessees, is for applicants to submit proposals on what they intend to utilize the land for. Such proposals are then appraised on their economic viability.

- Public land

The Lands, Surveys and Environment Act 1989 controls the alienation of Government land. Government land means public land which is not for the time being set aside for any public purpose. Under the Act, all Government land available for disposal under the Act is classified as either farm land, urban land, or commercial/industrial land. The Act establishes a Land Board which is responsible and has powers to alienate Government land. Under the Act, any person age 21 years and above may become a lessee of Government land. The maximum term of lease for Government land is 20 years which may be renewed for a further term of 20 years and include a term for a further option of 20 years (an aggregate of 60 years). The Land Board has the power to reject an application to lease Government land if it is in the public interest and in its discretion and if it does so, must provide the grounds for the refusal in its minutes.

#### Question 11

**Paragraph 20 of WT/ACC/SPEC/SAM/4 refers. Does Samoa now have information on the volume/value of direct foreign investment in its economy?**

Answer:

Samoa still does not have information on the volume/value of FDI.

- **State ownership and privatization**

#### Question 12

**Paragraphs 21-25 of WT/ACC/SPEC/SAM/4 refer. In response to Question 7 of WT/ACC/SAM/4, Samoa notes it is divesting its involvement in three agriculture-related enterprises, Rothmans Tobacco, Samoa Breweries and Samoa Coconut products.**

**We recommend Samoa provide an additional paragraph in the Working Party Report describing the operations of the Rothmans Tobacco Co. Ltd, Samoa Breweries Ltd, and Samoa Coconut Product Ltd and their relationship with Government, and whether they are granted any special or exclusive privileges, or price support mechanisms of any kind.**

Answer:

- Rothmans Tobacco Co Ltd is the sole manufacturer of tobacco in Samoa. With the sale of all Government shares in the company, there exists no relationship between the company and the government. The company pays taxes, import duties and VAGST and is not enjoying any special privileges;

- Samoa Breweries brews beer and manufactures soft drinks. The Government has completed the sale of the 15 per cent shareholding to local shareholders with the bulk of these shares sold to Carlton Breweries (Fiji). The company also pays taxes, import duties and VAGST and is not granted any special privileges;
- Samoa Coconut Product Ltd (SCPL) is a government owned company that used to own the coconut oil mill at Vaitele. All the milling equipment and buildings have since been sold to Elan Trading, which is now running the oil mill. SCPL's only asset is the land, now on lease to Elan Trading, on a twenty plus twenty year term. SCPL does not enjoy any special privileges;
- Samoa Trust Estate Corporation (STEC) is a government corporation engaged in copra and cattle farming. STEC does not enjoy any preferential treatments;
- Samoa Forest Products (SFP) is a fully owned government company that formed a logging company called Samoa Forest Corporation (SFC) with a private company Tui Vaai Corporation (TVC). The company does not enjoy any special privileges; and
- Hellaby Samoa Ltd (HSL) is a company engaged in processing meat products. It operates as any other manufacturing company and pays taxes, import duties, and VAGST. As such HSL does not enjoy any special treatment.

### Question 13

**Paragraphs 21-22 of WT/ACC/SPEC/SAM/4 refer. The information provided is very useful. We would appreciate an update, including on the status of 2001-2002 privatizations listed in Table 2 and any new developments.**

Answer:

Please see Table 2 for an updated list of Samoa's state-owned enterprises, including a description of the business in which they are engaged. Samoa has identified the following state-owned enterprises as trading in goods, in the order that they are listed in the table: Agricultural Store; Computer Services Limited; Samoa Trust Estates Corporation; Hellaby Samoa; Samoa Breweries; and Samoa Forest Corporation. None of these has been granted exclusive or special rights or privileges.

### Question 14

**We would appreciate more information on the state-owned enterprises listed in Table 2.**

Answer:

Please see answer to previous question.

- **Pricing policies**

### Question 15

**Paragraphs 26-27 of WT/ACC/SPEC/SAM/4 refer. In Table 3, Samoa notes several imported goods as being subject to price controls (beer, cigarettes and tobacco, camp pie, corned beef) but not their domestic equivalents.**

**We recommend that Samoa clarify in the text of Table 3 that these price controls apply uniformly to both imported and domestic versions of these goods, or alternatively enter into a commitment in Paragraph 26 that it will modify its price controls so that they are applied uniformly to domestic and imported goods in compliance with Article III of GATT 1994.**

Answer:

These Price Controls in fact apply uniformly to both imported and domestic goods. The same percentage mark-up is applied to imported products as to the corresponding locally manufactured products. The table has been revised to reflect this fact (annexed). The only products on the list that are produced locally at the present time are beer, cigarettes and tobacco, camp pie and corned beef. A misunderstanding may have arisen because an order is issued translating the percentage mark-up for the locally produced products into specific amounts. Samoa will apply its price control measures in a WTO-consistent fashion as from accession.

#### **Question 16**

**Table 3 also does not make clear the form of price control that is applied to goods (i.e. mark-up control, maximum price, etc.).**

**For complete transparency, we recommend Table 3 be amended to include an additional column stating the form of price control applied.**

Answer:

Please see the answer to the previous question.

#### **Question 17**

**Paragraph 26 of WT/ACC/SPEC/SAM/4 refers. Please clarify how Samoa's price controls are applied to imports**

Answer:

Please refer to the answer to Question 15.

#### **Question 18**

**Table 3: Why are some price controls listed in Table 3 limited to imports.**

Answer:

Please refer to the answer to Question 15.

### **III. FRAMEWORK FOR MAKING AND ENFORCING POLICIES**

#### **Question 19**

**Paragraphs 31-41 of WT/ACC/SPEC/SAM/4 refer. We would be grateful for an update on any changes to trade related responsibilities within the Samoan public service that have taken place as part of recent restructuring and reforms.**

Answer:

As a result of recent public service reforms, the Trade Division of the former Department of Trade, Commerce & Industry is now part of the new Ministry of Foreign Affairs and Trade (MFAT). All matters relating to trade including trade promotion, regional and multilateral agreements and the facilitation of Samoa's WTO accession are now dealt with in the new Ministry. The Commerce and

Industry divisions of the former Department now make up the new Ministry of Commerce, Industry and Labour (MCIL), which deals with matters of intellectual property, investment promotion, competition and fair trading, price control, industrial development, companies registration and labour related activities.

The former Customs Department and the Inland Revenue Department now make up the new Ministry of Revenue. Their respective functions remain unchanged.

## **Question 20**

**Paragraph 36 of WT/ACC/SPEC/SAM/4 refers. This does not adequately describe the process of taking a case to the Ombudsman, or why that would be useful.**

### Answer:

Samoan nationals and foreigners may also lodge a complaint about an administrative decision or act or recommendation to the Komesina o Sulufaiga, or Ombudsman. Pursuant to the Komesina o Sulufaiga (Ombudsman) Act 1988, the principal functions of the Ombudsman are to investigate any decision or recommendation made and any act done or omitted relating to a matter of administration and affecting any person or body of persons in his or its personal capacity by any of the Departments or organizations named in the Schedule (refer to copy of Act attached) or any officer, employee or member thereof in the exercise of any power or function conferred on him by any enactment.

The Ombudsman has jurisdiction to take up any investigation before him except for an investigation into any decision, recommendation, act, or omission a) in respect of which under the provisions of any enactment, a right of appeal or objection, or a right to apply for a review, on the merits of the case, to any Court, or to any tribunal constituted by or under any enactment, b) made by any person in his capacity as a trustee within the meaning of the Trustee Act 1975; or c) of any person acting as legal adviser to the Ombudsman, or acting as counsel for the Government in relation to any proceeding.

The Ombudsman is obliged to take up any investigation before him except in relation to a) a complaint that relates to any decision, recommendation, act, or omission of which the complainant has had knowledge of for more than 12 months before the complaint was received by the Ombudsman, b) where the subject matter of the complaint is trivial, c) that is frivolous vexations or is not made in good faith, or d) in relation to which the complainant has not a sufficient personal interest in the subject matter of the complaint.

The Ombudsman may refuse to investigate a matter further if (a) in the course of the investigation of any complaint within his jurisdiction it appears to him/her that under the law or existing administrative practice there is an adequate remedy or right of appeal, other than the right to petition Parliament, for the complaint, or that (b) having regard to all the circumstances of the case, any further investigation is unnecessary or (c) for any of the reasons listed in the preceding paragraph.

The Ombudsman is required to inform the complainant of his decision not to investigate the complaint. The Ombudsman is not required to give the complainant his reasons although he may do so if he sees fit.

The Ombudsman may require, for the purposes of any investigation before him, that any person give to him any information including to produce any documents or papers or things which may be in that person's possession or control. This applies whether or not the person is an officer, employee or member of any Department or organization and whether or not such documents papers or things are in the custody or under the control of any Department or organization.

The Ombudsman may summon any person who is an officer, or employee or member of any Department or organization named in the Schedule to the Act, any complainant; or with prior approval of the Attorney General, any other person who is in the Ombudsman's opinion able to give any such information unless that person is bound by an enactment (except for the Public Service Act 1977) to maintain secrecy or non-disclosure. As an exception to the exception, however, the person bound by secrecy or non-disclosure may be required to provide information relating only to the complainant if the complainant consents in writing.

Every examination by the Ombudsman on oath is deemed to be a judicial proceeding within the meaning of Section 36 of the Crimes Ordinance 1961 (which relates to perjury). Persons being examined by the Ombudsman for an investigation shall receive the same treatment as witnesses of any Samoan Court. The Act does not provide for the Ombudsman to mediate or adjudicate.

The Ombudsman is obliged to make a report if he is satisfied that (a) the decision, recommendation, act, or omission which was the subject matter of the investigation appears to be contrary to law; (b) was unreasonable, unjust, oppressive, or improperly discriminatory, or was in accordance with a rule of law or a provision of any enactment or a practice that is or may be unreasonable, unjust, oppressive, or improperly discriminatory; (c) was based wholly or partly on a mistake of law or fact; or (d) was wrong; or (e) it is the Ombudsman's opinion that a discretionary power was exercised for an improper purpose or on irrelevant grounds or on the taking into account of irrelevant considerations; or (f) that in the case of a decision made in the exercise of any discretionary power, reasons should have been given for the decision.

If the Ombudsman is satisfied that the investigation falls into any one of the categories listed in the preceding paragraph, he must furthermore be satisfied that the matter (a) should be referred to appropriate authority for further consideration; (b) an omission should be rectified; (c) the decision should be cancelled or varied; (d) any practice on which the decision, recommendation, act or omission was based should be altered; (e) any law on which the decision, recommendation, act or omission was based should be reconsidered, (f) reasons should have been given for the decision; or (g) any other steps should have been taken.

If the Ombudsman is so satisfied he has an obligation to report his opinion and reasons therefore to the appropriate Department or organization, and may make such recommendations as he thinks fit. He may request the relevant Department or organization to notify him, within specific time period, of the steps (if any) that it proposes to take to give effect to his recommendation. The Ombudsman shall also send a copy of the report and recommendations to the Minister responsible for the appropriate Department or organization.

If within a reasonable time after the report is made no action is taken which seems to the Ombudsman to be adequate and appropriate, the Ombudsman in his discretion after considering the comments made by or on behalf of any Department or organization affected may send a copy of the report and recommendations to the Prime Minister and may make such report to Parliament on the matter as he thinks fit. The Ombudsman is also required to inform the complainant of the results of his investigation.

The Ombudsman is not required to publish any of his reports although the Legislative Assembly has the power to make rules including rules to authorize Ombudsman to publish reports relating generally to the exercise of his functions under Act or to any particular case or cases. The Legislative Assembly has yet to make any such rules.

## Question 21

**Paragraph 40 of WT/ACC/SPEC/SAM/4 refers. How would the WTO package approved by the Ministerial Conference or General Council be ratified in Samoa? About how long will this take after Samoa receives the approved package?**

Answer:

- Hierarchy of Laws

Samoa has a written Constitution which is the supreme law in Samoa. The Constitution established the Executive, Parliament, the Judiciary, the Treasury, the Public Service Commission, the Lands and Titles Court (which has jurisdiction over customary land matters) and key positions such as the Attorney General and the Controller and Chief Auditor. The Constitution cannot be amended except for in the following exceptional circumstances:

- (a) at the third reading of the amending bill by the votes of not less than two-thirds of the total number of members of Parliament and if not fewer than ninety days elapsed between the second and third readings of the bill; and
- (b) in relation to Article 102 of the Constitution, which protects customary land from alienation, the requirements of (a) and by a poll of electors on the rolls for the territorial constituencies.

The Constitution sets out that all law passed must be consistent with the Constitution or otherwise shall be void to the extent of the inconsistency.

Samoa has an Acts Interpretation Act 1974 which applies to all Acts passed by Parliament unless inconsistent with an Act. The Acts Interpretation Act sets out general interpretation assistance and rules of construction for assisting with any interpretation between Acts. Otherwise an Act may by express reference be subject to another Act. Subsidiary legislation such as regulations, bylaws, orders and notices made pursuant to an Act are subject to the provisions of that Act.

- Samoa's Protocol of Accession

International instruments such as agreements, treaties and conventions, do not automatically supersede domestic law. Upon becoming a formal signatory to an international instrument (or in its consideration to become a signatory), the Government will consider whether specific domestic law is required to give effect to Samoa's obligations under the instrument. Where specific legislation is required, the Government will enact legislation accordingly.

The discussions in the Working Party and a review of Samoa's existing legislation conducted with the assistance of the Commonwealth Secretariat have enabled the Government to identify the legislation that needs to be amended and to identify new laws that need to be introduced in order to achieve consistency with WTO requirements.

The Government has retained an overseas consultant to prepare draft legislation in the areas requiring legislative reform. Samoa therefore confirms that its legislation affecting trade, including regulations, will be in conformity with WTO Agreements and Samoa's commitments therein, following the process of legislative reform that has been commenced.

## Question 22

**Paragraph 41 of WT/ACC/SPEC/SAM/4 refers. Samoa notes that international instruments did not "automatically" supersede domestic law. It also stressed the "will" of the Government**

to ensure the conformity of national laws with WTO Agreements upon accession. This does not represent a particularly strong commitment to ensure that Samoa's laws and regulations are in compliance with WTO Agreements upon accession.

We request that stronger commitment language be included in this section along the lines that "Samoa confirmed that its laws and regulations affecting trade were in conformity with the WTO Agreements".

Answer:

Please see answer to previous question.

### Question 23

Paragraph 41 of WT/ACC/SPEC/SAM/4 refers. We support the request that the material in this paragraph be broken up, that Samoa answer the question raised about legal hierarchy, and that stronger commitment language be crafted.

Answer:

Please see answer to Question 21.

## IV. POLICIES AFFECTING TRADE IN GOODS

### - Trading rights

### Question 24

Paragraph 42 of WT/ACC/SPEC/SAM/4 refers. Are the only licenses required for importation those to import liquor? If not, please list the others. (Note: the statement in the response to Question 17 in WT/ACC/SAM/5 is relevant, i.e., "Samoa... has concluded that the product groups for which an activity license is required... are narcotics and liquor." End note)

Answer:

This section on trading rights deals with activity licences (business licences) that accord the right to buy and sell goods in Samoa, not import licences that accord the right to import certain specific goods, which are dealt with below in the section on quantitative restrictions. The answer to Question 17 in WT/ACC/SAM/5 is still valid: the only product groups for which an activity licence is required, in addition to the normal business licence, are narcotics and liquor. The Secretariat is requested to delete the fifth sentence in paragraph 42, to delete the last six sentences of paragraph 59 of WT/ACC/SPEC/SAM/4, and to insert the text provided by Samoa in its answer to Question 17 in WT/ACC/SAM/5 in paragraph 42 of the Draft Report, less the table in that paragraph. Table 6 annexed the draft Report should be re-numbered and the information in it made clearer as follows:

Table: Activity Licence fees for the right to engage in the business of buying and selling liquor, the right to engage in the manufacture liquor and the right to engage in the business of importing liquor

Right to Engage in the Business of Buying and Selling of Liquor	Licence Fee in SAT per annum and equivalent in US\$
Trading Store	250 US\$ 89.60
Beach Resort	250 US\$ 89.60
Bar & Restaurant	1,000 US\$358.40
Warehouse	1,000 US\$358.40

Right to Engage in the Business of Buying and Selling of Liquor	Licence Fee in SAT per annum and equivalent in US\$	
Hotel	1,500	US\$537.60
Night Club	1,500	US\$537.60
Liquor Distribution	1,000	US\$358.40
Temporary Licence for One-off Events	250	US\$ 89.60
Right to Engage in the Business of Manufacturing Liquor	1,000	US\$358.40
Right to Engage in the Business of Importing Liquor	1,000	US\$ 358.40

Note: Above US\$ rates may change subject to exchange rate fluctuations.

### Question 25

**Paragraph 43 of WT/ACC/SPEC/SAM/4 refers. Samoa notes that business licenses are issued following an interview with IRD officials.**

**We request that Samoa supplement its response with the following information:**

- **reasons for rejection of an application for a business licence;**
- **a full list of "prohibited" business activities.**

Answer:

Under the Business Licences Act 1998, a business licence may only be rejected if the business or economic activity is a prohibited activity under the Act or the application does not comply with the provisions of the Act.

Prohibited business activities scheduled in the Business Licence Act 1998: Nuclear and Toxic Waste Disposal or Storage; Export of products that are prohibited under any law; Prostitution; Processing and export of endangered species; Production of weapons for warfare.

In line 5 of paragraph 42 of WT/ACC/SPEC/SAM/4 the words "business activities such as" should be replaced by "the following business activities" .

### Question 26

**Paragraph 43 of WT/ACC/SPEC/SAM/4 refers. What are the criteria for rejecting an application for a license? Is the process the same for foreign and domestic importers? Please name products or sectors for which "special approvals from other Departments" that might be required prior to importation.**

Answer:

For criteria for rejecting application, see answer to previous question. The process is the same for foreign and domestic importers, except that a business registered overseas must also submit its Articles of Association, and a Memorandum of Incorporation and companies with foreign shareholding require a foreign investment certificate where necessary. "Special approvals" are required in the case of activity licences relating to liquor.

### Question 27

**In the response to Question 15 in WT/ACC/SAM/5, it states that "both foreign and domestic firms can act as import agents for the delivery of imported goods and can be importers of record." This should be reflected in the text of the draft Working Party report, along with a**



**statement from Samoa clarifying whether it also allows firms, including sole proprietors, registered but not invested in Samoa to be included in this statement.**

Answer:

Samoa confirms that its reply to Question 15 should be included in the Draft Report and that firms, including sole proprietors, registered but not invested in Samoa may be included in the above statement.

### **Question 28**

**Paragraph 43 of WT/ACC/SPEC/SAM/4 refers. We seek confirmation that there are no discriminatory fees or requirements that would block firms or individuals from importing or exporting, with the understanding that the right to actually distribute imports in Samoa is governed by Samoa's GATS commitments.**

**In this regard, we believe that the information in the response to Question 16 in WT/ACC/SAM/5 is relevant.**

Answer:

There are no discriminatory fees or requirements that would block firms and individuals from importing and exporting. The distribution of imports in Samoa will be governed by Samoa's GATS commitments.

### **A IMPORT REGULATIONS**

- **Ordinary customs duties**

### **Question 29**

**Paragraph 46 of WT/ACC/SPEC/SAM/4 refers. Please confirm that HS96 continues to be Samoa's tariff nomenclature. When does Samoa intend to adopt HS 2002 for its applied tariff rates?**

Answer:

Samoa continues to use the HS96 tariff nomenclature and cannot confirm when it can adopt the HS 2002 tariff rates.

### **Question 30**

**Paragraph 46 of WT/ACC/SPEC/SAM/4 refers. Please confirm that the information in this paragraph has not changed, and indicate what sort of non-*ad valorem* rates are use for the products listed, e.g., specific rates, combined rates, etc.?**

Answer:

The information in this paragraph has not changed. Non-*ad valorem* rates used are (Specific/Mixed) rates, which only apply to water, beer, wine, cigars, cigarettes and other manufactured tobaccos and motor vehicles for transport of persons. For details, see tariff offers.

### Question 31

**Paragraph 46 of WT/ACC/SPEC/SAM/4 refers. Please confirm that Samoa is still not providing tariff preferences.**

Answer:

Under the Pacific Island Countries Trade Agreement (PICTA), Samoa is obligated to grant preferences to other Pacific Island Countries starting 1 January 2005. Please also see answer to next Question.

### Question 32

**Paragraph 46 of WT/ACC/SPEC/SAM/4 refers. This paragraph does not refer to the preferential tariff rates applicable under the Pacific Islands Countries Trade Agreement, which came into force recently.**

**We suggest that a reference to these preferential tariffs needs to be included in paragraph 46, and that a more complete description of the FTA needs to be added to paragraph 160 of the Working Party Report.**

Answer:

Samoa agrees that the answer to the previous Question should be included in paragraph 46 of WT/ACC/SPEC/SAM/4 and that the following text should be added to paragraph 160 of that document.

"The Pacific Island Countries Trade Agreement (PICTA) came into force in April 2003 and 8 Forum Island Countries (FICs) are now party to it, namely Fiji, Tonga, Cook Islands, Solomon Islands, Kiribati, Niue, Nauru and Samoa. The PICTA provides for the gradual phasing in of tariff preferences among its members over the next 10 years, beginning 1 January 2005. Its main objective is to respond to globalization by encouraging specialization and greater efficiency in the economies of its members. It is hoped that the resulting increase in trade will reflect enhanced efficiency and improved consumer welfare in the FIC economies, leading hopefully to the overall creation of jobs. Many FICs currently struggle to attract investment because of their small domestic market and it is also hoped that the Agreement will encourage increased investment. Unfortunately, even if the FICs together represent a significant market, the level of trade among them is low, due to the constraints of geographical location and poor transport links. It will be difficult to overcome these constraints and by itself the Agreement may initially deliver only small economic benefits to the FICs."

### Question 33

**Paragraph 47 of WT/ACC/SPEC/SAM/4 refers. We request that the following paragraph be inserted after Paragraph 47.**

**47 bis. Samoa's commitments on bound tariffs are contained in the Schedule of Concessions and Commitments on Goods (document WT/ACC/SAM/.../Add.1) annexed to Samoa's draft Protocol of Accession to the WTO.**

Answer:

Samoa agrees to the inclusion of this commitment.

- **Other duties and charges**

**Question 34**

**Paragraphs 48-49 of WT/ACC/SPEC/SAM/4. As Samoa has not ODCs applied to its imports, we seek a commitment from Samoa that it will bind that status at zero in its goods market access schedule.**

**Table 4 of WT/ACC/SPEC/SAM/4. Is the list in this table current? Legal references R61 through R68 note fees that are based on the value of the product charged and are therefore not consistent with WTO nor with the draft commitment at the end of this section. How does Samoa intend to deal with this issue?**

Answer:

Bindings of ODCs are the subject of negotiations that are still going on. Samoa agrees that an appropriate reference to the results of these negotiations should be included in the report when these are known.

Fees for services rendered. Table 4 of WT/ACC/SPEC/SAM/4 is still current. Samoa now recognises that references R61 through R68 are not consistent with the draft commitment on this subject and is prepared to modify them as from the date of its accession to ensure consistency with Article VIII of GATT 1994.

**Question 35**

**Paragraph 52 of WT/ACC/SPEC/SAM/4 refers. The sentences of this paragraph are contradictory in terms of whether fees relate to the cost of services provided. Judging by Table 4, Samoa does apply a number of specific fees for services provided (e.g. SAT6 per hour), which could well relate to the direct cost of the service rendered. However, for some services Samoa applies a fee that increases according to the value of the goods involved (e.g. SAT25 + SAT8 per SAT500), in apparent contradiction to Article VIII of GATT 1994.**

**We assume that Samoa will agree to a commitment along the lines of Paragraph 53. We suggest that the wording of Paragraph 52 needs to be modified so that it is internally consistent. We suggest also that Samoa acknowledge in the Working Party Report that customs fees and charges with Legal reference R61 to R68 will need to be modified to bring them into compliance with Article VIII of GATT 1994.**

Answer:

Please see answer to previous question.

- **Tariff rate quotas, tariff exemptions**

**Question 36**

**Paragraph 50 of WT/ACC/SPEC/SAM/4 refers. Please elaborate in the appropriate section of the report on the nature, scope, and duration of the "tariff exemptions to exporting enterprises grandfathered under the Enterprises Incentives Schemes." Please explain directly why are they "grandfathered."**

Answer:

Delete the words "exporting enterprises grandfathered under the Enterprises Incentives Schemes" in the second sentence of paragraph 50 in WT/ACC/SPEC/SAM/4 of the same paragraph. Insert the following after the second sentence of the paragraph: "Grandfathered tariff exemptions granted to six companies are described above in paragraph 15 of the present report in the section dealing with the Investment Regime." This paragraph describes the nature, scope and duration of these exemptions, as well as giving the reason for their grandfathering.

**Question 37**

**Paragraph 50 of WT/ACC/SPEC/SAM/4 refers. The response to Question 19 in WT/ACC/SAM/5 states that for the year 2001, only 1.77 per cent of total imports that year entered duty free though the grandfathered tariff exceptions. This information should be included in this section.**

**Please describe the Duty Suspension Scheme.**

Answer:

The information referred to is included in Paragraph 50 of WT/ACC/SPEC/SAM/4.

The Duty Suspension Scheme (DSS) allows regular exporters to import raw materials required for the production of products for export without prior payment of duty. This removes a disincentive for exporters to compete in international markets. The exporters hold a valid Export Manufacturing Warehouse license issued by the Ministry of Revenue and register with the Ministry of Commerce, Industry and Labour which administers the scheme. This information may be added to paragraph 50 of WT/ACC/SPEC/SAM/4.

- **Application of internal taxes to imports**

**Question 38**

**Paragraph 54: Please indicate the threshold for VAGST registration in U.S. dollars as well as Samoan Tala.**

Answer:

Companies with an annual turnover of more than ST\$52,000 or about US\$18,800.

**Question 39**

**Concerning the VAGST exemption for primary producers, if these are small producers, why not set a threshold for their registration rather than exempting their produce, which is not consistent with Article III of the GATT?**

**We support a commitment for this section, and will provide specific commitment texts after reviewing the revised draft.**

Answer:

Small primary producers are subsistence farmers who are not able to keep records of their production. Their annual turnover is certainly less than the minimum.

#### Question 40

**Paragraphs 54-55 of WT/ACC/SPEC/SAM/4 refer. We understand VAGST is 12.5 per cent, not 10 per cent as indicated in the draft Working Party Report. Also, while we understand that primary producers are exempt from VAGST it is unclear how this is managed given the VAGST is levied on goods rather than on producers. We seek further clarifications.**

Answer:

The rate of VAGST was recently increased to 12.5 per cent. The draft Report should be modified accordingly.

- **Quantitative import restrictions, including prohibitions, quotas and licensing systems**

#### Question 41

**Paragraph 58 of WT/ACC/SPEC/SAM/4 refers. What is Samoa's legal authority to restrict imports? Under what circumstances, other than those listed, does Samoa contemplate applying such measures?**

Answer:

Paragraph 58 of WT/ACC/SPEC/SAM/4 states that Samoa's legal authority to restrict imports is contained in Section 49 of the 1997 Customs Act. This should be amended to read 1977, but is otherwise correct. Samoa has no present plans to impose import restrictions. It plans to amend this provision as from accession and is willing to accept the protocol commitment now in square brackets in paragraph 61 of WT/ACC/SPEC/SAM/4.

Samoa's legal authority to restrict imports is located in section 49 of the Customs Act 1977. Under Section 49(3) and 49(4), the Head of State may by order prohibit the importation into Samoa of goods if in his opinion such exercise is necessary a) in the public interest, b) for the protection of revenue, c) for the efficient administration of the Customs Acts, d) for the prevention of fraud or deception, whether in relation to the Customs Acts or not, e) the prevention of any infectious disease within the meaning of the Health Ordinance 1959, or f) in respect of goods whose sale in Samoa would be an offence against the law. Any prohibition may be general, specific, absolute or conditional. Conditions may include requiring a permit or satisfying further prescribed conditions.

#### Question 42

**Paragraph 59 of WT/ACC/SPEC/SAM/4 refers. We would appreciate clarification in this paragraph that distinguishes between licensing applied to specific goods and activity licensing, with particular attention to products that require both, e.g. for pesticides, liquor, etc.**

Answer:

Liquor. Paragraph 59 should not deal with activity licensing as this is another name for trading rights which, in line with standard practice, is dealt with above in a section of its own. Please see the answer to Question 23 above in that section which, among other things, requests the deletion of the last six sentences in paragraph 59 because these deal with trading rights and not with import licences.

Pesticides. The information contained in the answer to Question 23 in WT/ACC/SAM/5 should be included in the draft Report under the heading Import Licensing Procedures. For additional clarity, the second and third lines on page 15 of that document should read "...before a licence is issued to

import them. These licences are required..." and the last full line should read "while the fee for the licence depends on..."

### **Question 43**

**Can retailers import or do they need a second licence?**

Answer:

Retailers can import and do not need a second licence.

### **Question 44**

**Paragraph 59 of WT/ACC/SPEC/SAM/4 refers. From the information provided by Samoa in the Working Party Report, it is unclear whether its import licensing requirements for alcohol and pesticides meet the requirements of the WTO Agreement on Import Licensing Procedures. In particular:**

- **the import of pesticides is subject to both registration and licensing requirements and fees. No explanation for these dual licensing requirements is offered in the draft Working Party Report. However, Samoa's response to Question 23 (page 15 of WT/ACC/SAM5) does provide a detailed explanation. This should be included in the Working Party Report; and**
- **the licence fee "depended on the type of pesticide and quantity to be imported". Article VIII requires that fees reflect the cost of the services rendered. The size of the licence fee, hence, should reflect the cost of administering and issuing the licence and should not be dependent on the type or quantity of the imported item. This constitutes a violation of Article VIII.**

**We recommend that Samoa insert an additional paragraph recognising these WTO inconsistencies within its licensing system and a commitment to adapt its system to meet all relevant WTO rules in relation to licensing.**

Answer:

Samoa agrees that its response to Question 23 in WT/ACC/SAM/5 be included in the Working Party Report, amended as suggested in the answer to the previous question. As stated in that answer, Samoa does not produce pesticides. Given its very small size and its status as a least-developed country, it will not produce these products in any foreseeable future. The regulations on this product therefore in fact regulate the use of pesticides in Samoa and do not protect domestic production. The fees are required to control their harmful effects on the environment in accordance with the polluter pays principle. Samoa is prepared to enter into a Protocol commitment to ensure that its system for the control of pesticide use is in conformity with WTO provisions as from the date of its accession to WTO.

### **Question 45**

**Table 6 contains only information on fees for buying and selling liquor, although paragraph 59 states that the table also includes fees to produce and import liquor. We are interested in ensuring that imported product is not treated less favourably than domestic product.**

**We request that information on fees to produce and import liquor be incorporated in Table 6.**

Answer:

The table referred to relates to Trading Rights, as noted in the answer to Question 23 above under that heading. Information on fees to produce and to import liquor is given in that table. The revised table included in that answer reorganises the information in order to make it clearer.

#### **Question 46**

**Table 6 of WT/ACC/SPEC/SAM/4 refers. Please clarify the scope of the licenses needed for "temporary" and "importation."**

Answer:

Table 6 deals with Trading Rights. The answer to Question 23 above requests that it be clarified and transferred to the Trading Rights Sections of this document and the Draft Report WT/ACC/SPEC/SAM/4. Table 6 should be read in conjunction with the text explaining Samoa's measures on Trading Rights in those Sections. "Importation" in this context means a licence giving the right to import. A "Temporary License" is a licence that allows individuals, companies, association, organisations or groups to sell liquor on a temporary basis such as one-off events/functions.

#### **Question 47**

**Paragraph 61 of WT/ACC/SPEC/SAM/4 refers. We would like to add reference to BOP to the commitment language of the report.**

Answer:

The text of the commitment already refers to Article XVIII of GATT 1994, which deals with Balance of Payments Restrictions. Samoa supports the addition of the words "... and the Understanding on Balance of Payments Provisions of the GATT 1994" after the words "...Technical Barriers to Trade" in the last line of the commitment".

- **Customs valuation**

#### **Question 48**

**Paragraph 62 of WT/ACC/SPEC/SAM/4 refers. What progress has Samoa had in moving forward on implementation? Does the ASYCUDA system provide for the generation of specific prices for imported goods? When will we be able to see the new draft legislation?**

Answer:

The ASYCUDA system is designed to facilitate trade. It records specific transactions but does not generate specific prices for use e.g. for purposes of customs valuation.

For plans to bring Samoa's customs valuation system fully into conformity with WTO provisions please see answer to Question 50.

#### **Question 49**

**Table 7 of WT/ACC/SPEC/SAM/4 refers. Please confirm that Samoa is seeking a total of three years to from the date of accession to implement WTO.**

**We do not believe linkage made with technical assistance is necessary or warranted.**

**We seek a strong but flexible commitment that lays out precisely the timetable for compliance that can be used as a guide for the provision of technical assistance. We will have suggestions after we have reviewed the revised draft Report**

Answer:

Please see answer to next question.

#### **Question 50**

**Paragraphs 62 and 63 of WT/ACC/SPEC/SAM/4 refer. We support granting Samoa a transitional period to enable full implementation of Agreement on Implementation of Article VII of GATT 1994.**

**However, an additional Paragraph needs to be added to this section to clearly specify Samoa's request for a transitional period, the conditions to apply during the transitional period, the end date for the transition, and the commitments that Samoa will undertake.**

**We have several concerns with the action plan provided in Table 7.**

- i) We do not support the direct link made in the table between provision of adequate technical assistance and the fulfilment of Samoa's obligations. We suggest this direct link be removed;**
- ii) We would like to see greater detail in this action plan, including:**
  - specific dates (e.g. January 2004 etc) for completion of each task;**
  - more detailed information on sub-steps required to complete each action; and**
  - information on resources available to Samoa to complete each task (i.e. technical assistance already promised, and areas where Samoa requests new technical assistance).**

**We recommend Samoa revise its action plan along these lines.**

Answer:

A revised action plan, along the lines suggested, will be submitted shortly.

#### **Question 51**

**We are sympathetic to Samoa's request for a transition period to implement the Customs Valuation Agreement - given their LDC status. With regard to the action plan in Annex Table 7, we would encourage Samoa to provide further details of technical assistance needed and clarification of whether the time frame envisaged for implementation of commitments is from the date of accession or the receipt of technical assistance. As part of this we suggest that Samoa provide details of any planned Customs related capacity building or technical assistance that has been accepted by Samoa, which would aid in assisting implementation of the WTO Customs Valuation Agreement. On the link that is made between technical assistance and implementation in Annex Table 7, we suggest a careful balance needs to be struck between flexibility and the attendant obligations of WTO Membership. Making commitments conditional on technical assistance upsets this balance and we could not support this.**



Answer:

Please refer to previous answer.

- **Rules of origin**

### **Question 52**

**Paragraph 64 of WT/ACC/SPEC/SAM/4 refers. Are there any legislative initiatives on rules of origin? Do the measures in the draft commitment exist in current law?**

Answer:

The Pacific Island Countries Trade Agreement (PICTA) recently entered into by Samoa included detailed rules of origin (for more on this Agreement, please see the section on Trade Agreements below). These rules of origin would be incorporated into Samoan law.

- **Preshipment inspection**

### **Question 53**

**We will seek a more comprehensive commitment and suggest redrafting the section along the following lines:**

- 67. The representative of Samoa stated that his Government did not use the services of pre-shipment inspection firms and had no intention of doing so. Members of the Working Party asked that Samoa undertake a commitment indicating that if such services should be employed in the future, they would conform to WTO provisions in their operations, e.g. in the application of fees for services rendered, observance of other WTO requirements in customs processing, and in providing right of appeal to the Government.**
- 67bis. In response, the representative of Samoa confirmed that if a pre-shipment inspection system would be introduced in the future, it would be temporary. The Government of Samoa would take responsibility to ensure that the operations of any pre-shipment inspection companies it retained would meet the requirements of the WTO Agreements, in particular the Agreements on Pre-shipment Inspection, Import Licensing Procedures, Customs Valuation, Sanitary and Phytosanitary Measures and Technical Barriers to Trade. He further confirmed that charges and fees applied by such companies would be consistent with Article VIII of GATT 1994, and that such system would comply with the due process and transparency requirements of the WTO Agreements, in particular Article X of GATT 1994, and the Agreement on the Implementation of Article VII of GATT 1994. The Working Party took note of these commitments.]**

Answer:

Samoa can confirm that it is willing to accept a commitment to comply with the relevant WTO provisions, particularly the Agreement on Preshipment Inspection. It therefore suggests that the section be redrafted as follows:

- "67. The representative of Samoa stated that his Government did not use the services of pre-shipment inspection firms and had no intention of doing so. Members of the**

Working Party asked that Samoa undertake a commitment indicating that if such services should be employed in the future, they would conform to WTO provisions in their operations, e.g., in the application of fees for services rendered, observance of other WTO requirements in customs processing, and in providing right of appeal to the Government. Samoa confirmed its willingness to accept a commitment that if such services should be employed in the future, Samoa would conform to the WTO provisions relevant to preshipment inspection activities, including the Agreement on Preshipment Inspection, which *in te alia*, obliged user WTO Members to ensure that preshipment inspection activities were carried out in accordance with its provisions. It was Samoa's understanding that the WTO Members had negotiated this Agreement because preshipment inspection entities were not government bodies and they agreed that a specific set of rules was needed to govern their activities. To give one example, it was considered inappropriate to include a provision in the Agreement applying the rules on fees and charges for services rendered accepted by governments in Article VIII of GATT 1994 to PSI entities. Article VIII is interpreted to allow governments to charge only variable costs of rendering their services, e.g. the cost to the Customs service of processing a document, and not fixed costs, e.g. the cost of building and maintaining customs posts. However, PSI entities were private companies that had to cover their total costs and make a reasonable profit. The footnote to Article 20 of the Agreement on PSI already laid down the obligations of user Members with respect to the services of PSI entities in connection with customs valuation. To give another example of the way in which WTO recognised that specific rules should govern PSI, the Agreement obliged user Members to ensure that PSI entities established appeals procedures, it established independent review procedures as well as consultation and dispute settlement procedures.

67bis. The representative of Samoa confirmed that if a pre-shipment inspection system would be introduced in the future, it would be temporary. The Government of Samoa would comply fully with the WTO provisions relevant to preshipment inspection activities, including the Agreement on Preshipment Inspection. The Working Party took note of these commitments."

- **Anti-dumping, countervailing duty and safeguard regimes**

**Question 54**

**Paragraphs 68-70 of WT/ACC/SPEC/SAM/4 refer. Members' expectations of Samoa in this area need to be better clarified. Members do not expect Samoa, as is suggested in paragraph 69, to implement a full anti-dumping, countervailing duties and safeguard regime.**

**Instead, Members only expect that Samoa would repeal or modify that part of its legislation (i.e. Section 9 of the Customs Tariff Act of 1975) that is inconsistent with WTO rules. It would not be necessary to draft new legislation if Samoa were prepared to agree to the commitment language provided in Paragraph 70.**

Answer:

Section 9 of the Customs Tariff Act 1975 will be amended as from accession to bring it into line with Samoa's WTO obligations. Samoa can agree to the commitment language in paragraph 70.

**Question 55**

**Samoa's commitment on trade remedies (paragraph 70) needs to be strengthened. Section 9 of the Customs Tariff Act 1975 is not in conformity with the WTO Anti-dumping Agreement. The representative of Samoa has indicated that a review of the Customs Tariff Act 1975 is pending. We encourage Samoa to develop a legislative action plan to ensure legislation is consistent with and implements trade remedy obligations to the extent required.**

Answer:

Please refer to previous answer. A detailed legislative action plan will be submitted shortly.

**Question 56**

**We note that in its response to Question 32 in WT/ACC/SAM/5, Samoa indicates that it is ready to take a commitment in this area. That should be reflected in the draft Report as actual commitment language.**

Answer:

Please see the answer to Question 54 above.

**B. EXPORT REGULATIONS**

- **Customs tariffs, fees and charges for services rendered, application of internal taxes to exports**

**Question 57**

**Paragraph 71 of WT/ACC/SPEC/SAM/4 refers. Please confirm that Samoa charges no export duties.**

Answer:

Samoa confirms that it does not charge any export duties.

**Question 58**

**Paragraph 71 of WT/ACC/SPEC/SAM/4 addresses registration requirements, licensing and reporting. It does not address Customs Tariffs, Fees and Charges for Services Rendered, and Internal Taxes on Exports.**

**We request that information be included in this Paragraph that describes these aspects of Samoa's export regime and the reforms and commitments being undertaken in these policy areas.**

Answer:

Samoa does not charge any export duties on exports.

VAGST is rebated on exports in accordance with standard international practice.

- **Export restrictions**

**Question 59**

**We note the responses to Questions 33 and 34 in WT/ACC/SAM/5, and seek an update from Samoa on how it intends either to eliminate its export bans on logs and Kava planting materials or to amend its laws to provide for WTO consistent restrictions.**

Answer:

The Ministry of Agriculture (MoA) have recently instigated a "logging code practice" to regulate logging in Samoa. The ban on logging was implemented for Environmental reasons. Indigenous logging is affecting watersheds and the environment, MoA foresees another two-three (2-3) years before it is stopped completely

The ban on the exportation of logs was imposed to allow for sustainability and conservation measures to take root. It is in Samoa's national interests that the remaining forests be conserved to allow for the conservation of the environment and rehabilitation and reforestation. This ban was considered necessary for the conservation of the few remaining forest areas, as other methods of control were open to abuse. The prohibition remains in place after recent fires in Aopo/Falealupo, a major forestry area, as well as the recent Cyclone Heta, which resulted in severe destruction and devastation of Samoa's forest resources. It was noted in paragraph 73 of WT/ACC/SPEC/SAM/4, that the prohibition would be reviewed once the programme of reforestation carried out by the Forestry Division of the Ministry of Agriculture would be completed, taking into account soil erosion effects, watershed catchment areas, water quality, and agriculture and environmental issues. The initial reforestation plan had been reviewed and a new plan has been drawn up. It is being undertaken on state forests. However, the plan has had to be put on hold for the rest of Samoa forestry to allow for the rehabilitation of forests and forestlands devastated by forest fires and Cyclone Heta. Provisions restricting domestic commercial logging exist in the draft Forest Act of 1967 and draft Forest Resource Policy, and national standards for logging are set out in the draft Code of Logging Practice (COLP). These texts still remained to be approved by the Cabinet.

The prohibition of the export of kava planting materials has been lifted and the exportation of such materials is now permitted.

**Question 60**

**Paragraph 72 of WT/ACC/SPEC/SAM/4 refers. Please indicate the legal authority and the reasons for the export bans listed. Are similar controls in place to limit production, or are these applied only on exports?**

Answer:

Prohibited Exports of:

- Raw logs: Order Prohibiting export of Logs 1990; Customs Act 1977;
- Live corals: Land, Surveys and Environment Act 1989, s.119 and s.120;
- Kava planting material: Prohibited under a Cabinet Directive;
- Samoan antiquities: Samoan Antiquities Ordinance 1954; and
- Birds: Protection and conservation of Wild Birds Regulation 1993.

The Forests Act 1967 regulates the issue of logging of forests. A license is required before any person endeavouring to invest in the manufacturing of timber is required to obtain one. There is a

requirement for rent and royalty payments to be made upon such conditions as may be stipulated by regulation or as may be agreed to by the Ministry and the investor.

#### **Question 61**

**Paragraph 73 of WT/ACC/SPEC/SAM/4 refers. What is the status of the reforestation plan?**

Answer:

As reported above, the initial reforestation plan had been reviewed and a new plan has been drawn up. The reforestation plan is being undertaken on state forests. However, it has been put on hold for the rest of Samoa forestry to allow for the rehabilitation of forests and forestlands devastated by forest fires and Cyclone Heta in 2004.

#### **Question 62**

**Paragraph 76 of WT/ACC/SPEC/SAM/4 refers. We would appreciate an update.**

Answer:

Refer to response to Question 59 for an update.

- **Export subsidies**

#### **Question 63**

**Please note the responses to Questions 35 and 36 in WT/ACC/SAM/5 and include them in the revised draft Working Party report with additional information on the specific measures/incentives that were abolished.**

Answer:

The reply to Question 35 in WT/ACC/SAM/5 is included in paragraph 77 of the Draft Report WT/ACC/SPEC/SAM/4. Please add to paragraph 77 that the Export Finance Facility had offered a 3 per cent margin of interest rate on loans to finance exports: the loans were offered by the Commercial banks at an interest of 9 per cent instead of the 12 per cent as per normal interest.

The answer to Question 36 in WT/ACC/SAM/5 should be read together with the answer to Question 108 in WT/ACC/SAM/4 giving Samoa's position on its Protocol commitment. It is suggested that the Protocol commitment should also take into account the commitments undertaken in this area by the two least-developed countries that have recently completed their accessions, Nepal and Cambodia, which specifically refer to Article 27:2 of the Agreement on Subsidies and Countervailing Measures. Accordingly, the following text should replace the text in paragraph 79 of the Draft Report WT/ACC/SPEC/SAM/4: "The representative of Samoa confirmed that from the date of accession, Samoa would conform to all the provisions of the Agreement on Subsidies and Countervailing Measures, including Article 27:2."

**C. INTERNAL POLICIES AFFECTING FOREIGN TRADE IN GOODS**

- **Technical barriers to trade, standards and certification**

**Question 64**

**In addition to pesticide requirements and environmental measures (paragraph 83), the Fair Trading Act, Fair Trading Labelling Act, and Pharmaceutical Drugs Regulations may also include technical regulations and standards. We invite Samoa to clarify whether these and any other instruments pertaining to technical regulations and mandatory standards are consistent with the requirements of the TBT and SPS Agreements.**

Answer:

The Fair Trading Act has provisions to set up Regulations to prescribe Product Safety or Quality Standards for any specified kind of goods (Approved Standards). Samoa does not have any Approved Standards set for any goods. However, Samoa will ensure that all approved standards to be set for any goods will abide by the TBT Agreement.

**Question 65**

**Paragraphs 82-85 of WT/ACC/SPEC/SAM/4 refer. We appreciate Samoa's statement that it does not apply standards or technical regulations to imports. We note, however, that it has adopted a pesticide labelling requirement that is, in fact, a technical regulation. It should be noted as such in the report**

Answer:

May be noted in report.

**Question 66**

**Paragraph 85 of WT/ACC/SPEC/SAM/4 refer. We believe that Samoa should establish a basic system of transparency, including an enquiry point, a notification process to the WTO, and access to web-based facilities for circulating drafts for review and comment. In this regard, we suggest the following redraft of the commitment:**

- 85. with the provisions of the Agreement on Technical Barriers to Trade, *including the publication or posting on a website of draft technical regulations and conformity assessment requirements for review and comment at least 90 days prior to implementation.* Samoa would... The Working Party took note of these commitments.**

Answer:

Samoa can agree to the proposed commitment.

- **Sanitary and phytosanitary measures**

**Question 67**

**We are sympathetic to Samoa's request for a transition period to implement the SPS Agreement - given their LDC status. With regard to the action plan in Annex Table 8 we would encourage**

**Samoa to provide further details of technical assistance needed and clarification of whether the time frame envisaged for implementation of commitments is from the date of accession or the receipt of technical assistance. Also, a careful balance needs to be struck between flexibility and the attendant obligations of WTO Membership. Making commitments conditional on technical assistance upsets this balance and we could not support this.**

Answer:

Please refer to Questions 68.

#### **Question 68**

**Paragraphs 86-95 of WT/ACC/SPEC/SAM/4 refer. We support Samoa's request for a transition period within which to implement fully the SPS requirements of the WTO.**

**Paragraph 95 needs to be expanded to specify clearly Samoa's request for a transitional period, the conditions to apply during the transitional period, the end date for the transition, and the commitments that Samoa will undertake.**

**We have several concerns with the action plan provided in Table 8.**

- (i) We do not support the direct link made in the table between provision of adequate technical assistance and the fulfilment of Samoa's obligations. We suggest this direct link be removed.**
- (ii) We would like to see greater detail in this action plan, including:**
  - **specific dates (e.g. January 2004 etc) for completion of each task;**
  - **more detailed information on sub-steps required to complete each action;**
  - **information on resources available to Samoa to complete each task (i.e. technical assistance already promised, and areas where Samoa; and**
  - **requests new technical assistance).**

**We recommend Samoa revise its action plan along these lines.**

Answer:

The requested transitional period will ensure passage of applicable legislation and for full knowledge/understanding of legislative requirements by Government departments and stakeholders. This will also ensure control inspection and procedures are fully operational and all staff of the Quarantine Division of the Ministry of Agriculture, Forests, Fisheries and Meteorology is adequately trained.

An action plan, along the lines suggested, will be submitted shortly.

#### **Question 69**

**We would appreciate updated information on this section. Import bans should not be used for sanitary/phytosanitary purposes. We believe a basic system should be put in place that provides an enquiry point, a method of notification, and a web-based facility to provide for posting a technical regulations for comment prior to implementation.**

Answer:

Please see answer to previous question.

#### **Question 70**

**Table 8: Please confirm that Samoa is seeking a total of two years to from the date of accession to implement WTO provisions.**

**We do not believe linkage made with technical assistance is necessary or warranted.**

**We seek a strong but flexible commitment that lays out precisely the timetable for compliance that can be used as a guide for the provision of technical assistance. We will have suggestions after we have reviewed the revised Draft Report**

Answer:

Please refer to response to Question 68.

- **State-trading entities**

#### **Question 71**

**Paragraph 98 of WT/ACC/SPEC/SAM/4 refers. Samoa notes that the 5 year contract to supply and distribute oil and petroleum products is an exclusive arrangement, although these do not constitute quantitative restrictions. However these arrangements involve other special privileges in relation to purchases and sales that affect importation. Accordingly we consider them to be covered by Article XVII of GATT 1994.**

**We suggest that Samoa acknowledge this in Paragraph 98.**

Answer:

Following an extensive tendering process in August 2003, Shell Company is now the new supplier of petroleum products. Their contract expires in 2008.

Samoa's previous replies on this subject have been based on the working definition of state trading enterprises in the Understanding on the Interpretation of Article XVII. Samoa accepts that Mobil, and now Shell, have been granted exclusive rights but suggests that the level of imports is not affected and that these companies have not been granted the "exclusive or special rights or privileges including statutory or constitutional powers, in the exercise of which they influence through their purchases or sales the level or direction of imports or exports" referred to in the working definition. In particular, this arrangement does not affect the level of imports because the arrangement does not permit the company to charge monopoly prices. It is worth noting that Samoa has one of the lowest fuel prices net of taxes in the Pacific region.

Samoa suggests that the fifth and sixth sentences of paragraph 98 be modified to read: "Following an extensive and competitive tendering process carried out in August 2003, Shell Company is now the new supplier of petroleum products. That contract will expire in 2008. While these companies have been granted exclusive rights, the contract does not affect the total level or direction of imports or exports. The award of contract is a conscious policy decision to rationalise the importation of petroleum products so as to generate efficiency gains for the benefit of consumers. The operation of Shell as the current supplier is therefore not considered a state-trading enterprises under the working



definition adopted in the Uruguay Round Understanding on this subject. This arrangement does not affect the level of imports as it does not permit the company to charge monopoly prices. It should be noted that Samoa has the most competitive fuel prices in the Pacific." It hopes that this explanation clarifies the issue raised.

#### **Question 72**

**Paragraph 98 of WT/ACC/SPEC/SAM/4 refers. As Mobil, or some other firm, is to be given an exclusive right periodically to trade in petroleum products, these firms should be notified as state trading enterprises.**

Answer:

Please see the answer to the previous question.

#### **Question 73**

**Please provide the list of goods imported by the Government referred to in the response to Question 11 in WT/ACC/SAM/5. Please indicate if these imports are made by designated private firms, or by state-owned enterprises. Please describe whether the right to import these products was given exclusively to these firms for any length of time.**

Answer:

Information about the heading in Samoa's trade statistics relating to imports by Government was provided in answer to Question 42 in WT/ACC/SAM/4 and Question 11 in WT/ACC/SAM/5. These are not imported by designated private firms or by state owned enterprises but are imported directly by the Government for its own use under a system of competitive bidding which conforms to international practice. Details have been provided in answers to questions on government procurement (WT/ACC/SAM/4, Question 135). Please see also the section of the Draft Report on that subject WT/ACC/SPEC/SAM/4, page 26.

#### **Question 74**

**Paragraph 99 of WT/ACC/SPEC/SAM/4 refers. After improvement of the factual basis for the section, we seek confirmation that there are no other state-owned enterprises engaged in trade in goods other than those listed.**

Answer:

A revised table providing additional information on state owned enterprises has been supplied in answer to Questions 12 to 14 above. Please see the answers to those Questions. These confirm that Samoa has no state-trading enterprises.

- **Free zones, special economic areas**

#### **Question 75**

**Paragraph 102 of WT/ACC/SPEC/SAM/4 refers. Please clarify what, if any, authority remains to grant incentives to firms locating in the zones, and what those incentives are.**

Answer:

Paragraphs 102 and 103 of the Draft Report, WT/ACC/SPEC/SAM/4, should be amended to read as follows to reflect and clarify the reply to Question 51 in WT/ACC/SAM/5:

- "102. The representative of Samoa said that the provisions of the Industrial Free Zone Act of 1974 foreseeing the establishment of Free Zones had been repealed by the Enterprise Incentives and Export Promotion Act of 1992/1993. The incentives available to domestic and foreign investors operating in these parks foreseen under the Industrial Free Zone Act of 1974 – i.e. exemption from import duties and income tax – were no longer applicable. No authority to grant incentives remains therefore.
103. Samoa had two industrial parks but these were neither free zones nor free economic zones. They simply comprised land made available by the Government on a lease basis, usually for 20 years with the right of renewal for another 20 years. There were no performance requirements and no incentives were provided. Foreign and local investors were treated on an equal basis. The output of any firms located in the parks was subject to VAGST in the normal way."

Samoa can agree to the draft commitment in the Draft Report.

- **Agricultural policies**

**Question 76**

**We request a more definitive statement on Samoa's part in Paragraph 116.**

**We propose that the second sentence be replaced by the following: "The Representative of Samoa agreed that, upon Samoa's accession, his country would bind its agricultural export subsidies at zero in its Schedule of Concessions and Commitments on Goods, and not maintain or apply any export subsidies for agricultural products. The Working Party took note of these commitments."**

Answer:

May be noted in report.

**Question 77**

**Document WT/ACC/SPEC/SAM/3/Rev refers. We are pleased with Samoa's submission of revised domestic support and export subsidy tables and wish to raise the following points to assist Samoa in correctly classifying programs in compliance with the WTO Agreement on Agriculture.**

**Green Box Programs. We suggest that Samoa provides a Total Value for Total Green Box payments for insertion in Table DS: 1 following "Inspection Services".**

Answer:

	Total Value (ST\$)
Research	1,468,100
Pest and Disease Control	2,129,679
Extension and Advisory Services	5,905,805
Inspection Services	1,776,300
<b>TOTAL GREEN BOX</b>	<b>11,279,884</b>

[include in Table DS:1]

#### **Question 78**

**Document WT/ACC/SPEC/SAM/3/Rev refers. Inspection Services. Could Samoa confirm that support does not involve direct payments to producers in compliance with the General Services criteria Annex 2, Paragraph 2?**

**Are payments for inspection services contingent on export of the product concerned?**

Answer:

Samoa confirms that Inspection Services support does not involve direct payments to producers in compliance with the General services criteria Annex 2, paragraph 2. Payments are not contingent on export of the products.

#### **Question 79**

**Document WT/ACC/SPEC/SAM/3/Rev refers. Export Subsidies. We are very pleased to see that Samoa's export subsidy tables reflect a zero level of export subsidies – which will be accordingly incorporated in Samoa's Schedule of Commitments upon accession.**

Answer:

Noted.

#### **Question 80**

**We request that the following Paragraph be inserted after Paragraph 116 (as amended as per our request above):**

**116 bis. Samoa's commitments on agricultural tariffs and on domestic support and export subsidies for agricultural products are contained in the Schedule of Concessions and Commitments on Goods (document WT/ACC/SAM/.../Add.1) annexed to Samoa's draft Protocol of Accession to the WTO.**

Answer:

Samoa can accept this text.

## V. TRADE-RELATED INTELLECTUAL PROPERTY REGIME

### - GENERAL

#### Question 81

**We appreciate the difficulties faced by Samoa in meeting TRIPS requirements. We support Samoa's request for a transition period within which it will implement all aspects of the TRIPS Agreement.**

**While the action plan provided in Table 9 is a good first step, we do not support the linkage made between the provision of technical assistance and fulfilment of Samoa's obligations.**

**We suggest that this direct linkage to be removed from the Working Party Report.**

**We also suggest that Samoa provide a more thorough plan of steps and sub-steps required to be taken and tabulate them against specific timeframes.**

**We would like to see greater detail in this action plan, including:**

- **specific dates (e.g. January 2004 etc) for completion of each task;**
- **more detailed information on sub-steps required to complete each action; and**
- **information on resources available to Samoa to complete each task (i.e. technical assistance already promised, and areas where Samoa requests new technical assistance).**

**We suggest that Samoa revise its Action Plan along these lines, drawing as necessary on findings and work to date under the Regionally Focussed Action Plan.**

Answer:

A revised action plan, along the lines suggested, will be submitted shortly.

Samoa requests that the following text be included in the section of the draft Report dealing with TRIPS: "The representative of Samoa confirmed that the terms of its accession did not preclude access of Samoa and LDCs to the benefits under the Doha Declaration on the TRIPS Agreement and Public Health (WT/MIN/(03)/SR/4). The Working Party took note of this commitment."

#### Question 82

**We need additional information from Samoa on the status of its review of this sector. In line with the request in Question 59 on WT/ACC/SAM/5, we would like to know if Samoa has addressed its IPR requirements as outlined in WT/ACC/9 and the status of its revision of its laws protecting intellectual property rights.**

Answer:

Please see answer to previous question.

#### Question 83

**Table 9: Please confirm that Samoa is seeking a total of three years from the date of accession to implement WTO provisions.**

Answer:

Please see answer to Question 81.

#### **Question 84**

**The action plan in Annex Table 9 would benefit from further details of technical assistance needed and clarification of whether the time frame envisaged for implementation of commitments is from the date of accession or the receipt of technical assistance. With regard to the link made between implementation and technical assistance, we are of the view that a careful balance needs to be struck between flexibility and the attendant obligations of WTO Membership. Making commitments conditional on technical assistance upsets this balance and we could not support this.**

Answer:

Please see answer to Question 81.

#### **Question 85**

**We seek a strong but flexible commitment that lays out precisely the timetable for compliance that can be used as a guide for the provision of technical assistance. We will have suggestions after we have reviewed the revised Draft Report**

Answer:

Please see answer to Question 81.

## **VI. POLICIES AFFECTING TRADE IN SERVICES**

#### **Question 86**

**Paragraph 144 of WT/ACC/SPEC/SAM/4 refers. Please provide the specific address of the enquiry point.**

**This section of the report should remain open, pending completion of the market access negotiations, to ensure that the information compliments, and does not contradict, the commitments undertaken in the schedules.**

Answer:

Chief Executive Officer  
Ministry of Foreign Affairs and Trade  
PO Box L1859  
Apia, SAMOA

Tel: (0685) 24048

Fax: (0685) 21504

Email: [mfa@mfa.gov.ws](mailto:mfa@mfa.gov.ws)

**Question 87**

**We note that Samoa has listed in this section of the Report a number of MFN exemptions, National Treatment exemptions and Market Access qualifications applicable to the services sector which will be subject to further bilateral negotiation. The outcome of these negotiations will affect this section of the Working Party Report. We may therefore wish to make comments on this section at a later stage, after we have had the opportunity to receive and examine a new services offer from Samoa. At this point we have a few suggestions on the Report.**

**Paragraph 145 of WT/ACC/SPEC/SAM/4 refers. Our concerns raised in relation to paragraph 16 are also relevant to this Paragraph. The question also arises in the horizontal commitments in Samoa's proposed services schedule.**

Answer:

Samoa's schedules are currently being revised with technical assistance from WTO. These recommendations will be taken into consideration.

**Question 88**

**Paragraph 146 of WT/ACC/SPEC/SAM/4 refers. Samoa has not responded to the question raised by a Member on temporary entry and movement of natural persons and restrictions on Mode 2 supply.**

**We suggest that Samoa provide a response to this Question.**

Answer:

Pursuant to the Immigration Act 2004 a person may be granted a visitor permit to enter Samoa once or more often during the currency of the permit and to remain in Samoa for a period of up to a maximum of 60 days for business purposes other than to take up employment in Samoa. Alternatively, a person may be granted a temporary resident permit to enter Samoa and re-enter Samoa during the currency of the permit and to remain in Samoa temporarily up to a maximum of 3 years for the conduct of business in Samoa. Permanent residency is also available by application.

**Question 89**

**In paragraph 146, it is mentioned that Samoa delivers work permits to foreign workers if skills are not available locally. In this regard, we would be grateful if Samoa could provide more detailed information as to the kind of skills/professions for which work permits are issued.**

Answer:

Any person who is not a citizen of Samoa or the holder of a permanent resident permit issued under the Immigration Act and who seeks to undertake employment in Samoa must apply to the Minister for Immigration to be granted an entry permit to undertake employment in Samoa. The application is to be provided to the CEO of the Ministry of Commerce, Industry and Labour to assess the application having regard to (a) the nature of the proposed employment and any technical or professional requirements involved in the performance of the proposed employment; (b) the likelihood of a citizen or person holding a permanent resident permit having the requisite technical or professional requirements being available for such employment; (c) the interest of Samoa generally; and (d) any other matter determined by the CEO as relevant to protecting the employment opportunities in Samoa of citizens and permanent residents and in the interests of Samoa. The decision to grant an entry

permit to undertake employment in Samoa is made by the Minister, having considered the CEO's report if available or otherwise, having considered the requirements of the Act himself. Under the Act, entry permits to undertake employment in Samoa have been granted for a wide range of reasons.

#### **Question 90**

**Paragraph 147 of the draft Working Party Report states that "providers of environmental services were selected by a committee appointed on an ad hoc basis". We would be grateful for further explanation of the membership of this committee and the criteria used by the committee in selecting providers (noting that Samoa has included Environmental Services in its Offer).**

Answer:

These are assessment committees convened from time to time to assess the merits of proposals. Proposals of course are open to anyone, and the committee does the short listing and then the final assessments, depending of course on the criteria set by the task. In past cases, they include mainly those involved or subject-area, Ministry of Natural Resources and Environment and Ministry of Finance.

#### **Question 91**

**In paragraph 149, it is stated that the licensing of insurance providers is subject to an economic needs test. We would appreciate receiving more specific information on the criteria necessary for such test.**

Answer:

The proposed insurance Bill which shall repeal the existing legislation does not provide an economic needs test as a criteria for the Insurance Commissioner to issue a license. The proposed Bill is expected to be submitted for Parliament approval at its next Sitting by mid 2005.

#### **Question 92**

**Paragraph 149 of WT/ACC/SPEC/SAM/4 refers. In its response to Question 78 of WT/ACC/SAM/5, Samoa provided greater detail on the rationale behind the "economic needs test" applied to insurance services.**

**We suggest that Samoa incorporate this information into Paragraph 149.**

Answer:

Refer to answer of Question 91.

#### **Question 93**

**Paragraph 151 of WT/ACC/SPEC/SAM/4 refers. In Paragraph 151, Samoa does not respond adequately to the question raised about the rationale for the limitation on foreign lawyers not practising as sole practitioners. The explanation given in response to Question 80 of WT/ACC/SAM5 provides greater detail.**

**We will want to see appropriate commitments on legal services included in Samoa's services schedule.**

Answer:

The current policy adopted by the Supreme Court is that non-citizen solicitors can only be admitted to the role of practitioners for a maximum of six years: after this they must make fresh application (including new character references) to the Law Society. This policy is intended to ensure that foreign lawyers who do not practice regularly in the jurisdiction are indeed "fit and responsible practitioners" in the jurisdiction where they are actually practicing, in order to maintain the standards of the local bar.

Foreign lawyers routinely practice in Samoa and produce advice and representation on specific cases or particular issues depending on the needs of the client. The need to maintain a formal link to a local firm is necessary for the purposes of formal service of the notices and documents under Civil Procedure rules so that local parties are not put to the trouble and expense of arranging for the delivery and formal service of Court documents to locations in e.g. New Zealand, Australia and the United States of America.

**Question 94**

**For Legal services (paragraphs 151-152) Samoa allows for an initial period of licensing to qualified Lawyers from certain countries for a maximum period of 6 years. A new application is required for any subsequent period. We would like to know whether the same process used in the initial licence is also used for subsequent applications. Are other factors taken into account in subsequent applications? For accounting services, there is also recognition of qualifications of certain other countries. We would like to confirm that this allows for a five year licence. We would also like to know whether the same process used in the initial licence is also used for subsequent applications.**

Answer:

Initial/subsequent period: A temporary certificate of public practice, whether the certificate is for the initial period or a subsequent one, can be issued only for a period not exceeding 1 year at a time. Thus a new application is required for every renewal period. The Society however cannot in any case issue to a same person temporary certificates for any period exceeding in the aggregate 5 years.

**Question 95**

**Paragraph 152 of WT/ACC/SPEC/SAM/4 refers. Samoa does not describe the conditions for obtaining a temporary practising certificate in the accounting sector – in particular grounds for provision or refusal of such a certificate.**

**We recommend that Samoa augment its response with greater information on the basis for approving or rejecting applications for temporary practising certificates.**

Answer:

Condition/Qualification: In order to obtain a temporary certificate of public practice, the applicant must be a member of the New Zealand Institute of Chartered Accountants and has paid to the Samoa Society of Accountants the required fee, which is currently SAT\$ 250 in respect of each client.



**Question 96**

**Paragraph 155 of WT/ACC/SPEC/SAM/4 refers. We request that Paragraph 155 be amended to read:**

- 155. Samoa's specific commitments on services are contained in the Schedule of Specific Commitments on Services (document WT/ACC/SAM/.../Add.2) annexed to Samoa's draft Protocol of Accession to the WTO.**

Answer:

Amendment noted.

ANNEX

Table 1: Price Control

Goods	Applied Mark-Up (%)	Tariff Item
Freezer Goods	37.5	
Chicken		0207.1310
Lamb		0204.2200
Turkey		0207.2610
Pork Trotter		0203.2910
Dry Goods	32.5%	
Beer		2203.0010 2203.1090
Cigarettes and Tobacco		2402.2000 2403.1020
Corned Beef		1602.5010
Biscuits		
Camp Pie		1602.9090
Sugar		1701.1100
Rice		1103.1400
Salt		2501.0010 2501.0090
Flour		1101.0090
Potatoes		0701.9000
Onions		0703.1000
Noodles, Macaroni, Vermicelli		1902.1910 1902.1920
All types of Milk		0402.9910 0402.1010
All types and brands of Tinned Fish including Tuna canned fish		1604.1200 1604.1500 1604.1400
All types of Oil		1517.9010 1517.9090
Soy Sauce		2103.1000
All types of laundry powders and bathing soap		3401.1100 3401.1900
Mosquito Coils		3808.1010
Toothpaste		3306.1000
All types and brands of butter, margarine		0405.1000 0405.9000
Petrol and Energy		
Unleaded		2710.0010
Diesel		2710.0050
LP Gas	10%	2711.1200

Table 2: List of Samoa's SOEs and Government Investments

	Formed under Act of Parliament	Formed under the Private Companies Act	GoS % of Shares	Business Description
<b>State Owned Enterprises</b>				<b>Main Activities</b>
Accident Compensation Board	x		100%	Levy Collection; Compensation Payments
Agriculture Store	x		100%	Agriculture Supplies / equipment; banana exports
Airport Authority	x		100%	Airport management
Apia Park Board	x		100%	Park
Computer Services Limited		x	40%	Computer Sales and Services
Development Bank of Samoa	x		100%	Small Business/Agriculture development loans
Electric Power Corporation	x		100%	Electric Power
Housing Corporation	x		100%	Housing loans
National Provident Fund	x		100%	Super - annuation fund; business and home loans
National University of Samoa	x		100%	Tertiary Education
Polynesian Airlines (Holding) Ltd		x	100%	Holding Company
Polynesian Airlines Investments Ltd		x	100%	Investments
Polynesian Ltd (active)		x	100%	Commercial airline
Samoa Ports Authority	x		100%	Ports
SamoaTel		x	100%	Telecommunications
Samoa Land Corporation	x		100%	Sale/Lease of former WSTEC land
Samoa Life Assurance Corp.	x		100%	Life assurance; mortgage borrowing
Samoa Polytechnic	x		100%	Education
Samoa Shipping Corporation	x		100%	Ferry Services
Samoa Shipping Services		x	100%	Contracting of crew for cargo vessels
Samoa Trust Estates Corp.	x		100%	Cattle and copra production
Samoa Tourism Authority	x		100%	Tourism
Public Trust Office	x		100%	Will making and administer estates
Totalisator Agency Board	x		100%	Administer revenues from gambling commission
Samoa Water Authority	x		100%	Water supply
Samoa Broadcasting Corp.	x		100%	Television Broadcasting
<b>Government Investments</b>				
Hellaby Samoa		x	9%	Processed meat products
Samoa Forest Corporation		x	40%	Logging and timber
Telecom Samoa Cellular Ltd		x	10%	Telephone services