

# WORLD TRADE ORGANIZATION

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## Working Party on the Accession of Samoa

### DRAFT REPORT OF THE WORKING PARTY ON THE ACCESSION OF SAMOA TO THE WORLD TRADE ORGANIZATION

#### Introduction

1. The Government of Samoa applied for accession to the World Trade Organization in April 1998. At its meeting on 14 July 1998, the General Council established a Working Party to examine the application of the Government of Samoa to accede to the World Trade Organization under Article XII of the Marrakesh Agreement establishing the WTO. The terms of reference and the membership of the Working Party are reproduced in document WT/ACC/SAM/1/[Rev.2].
2. The Working Party met on 12 March 2002 and ... under the Chairmanship of Mr. Y. Suzuki (Japan).

#### Documentation provided

3. The Working Party had before it, to serve as a basis for its discussions, a Memorandum on the Foreign Trade Regime of Samoa, the questions submitted by Members on the foreign trade regime of Samoa, together with the replies thereto, and other information provided by the authorities of Samoa (WT/ACC/SAM/2, WT/ACC/SAM/4, WT/ACC/SAM/5, ...), including the legislative texts and other documentation listed in Annex I.

#### Introductory statements

4. The representative of Samoa said that Samoa was a small island nation highly vulnerable to natural disasters and international markets. Samoa's economy heavily relied on a few exported goods and exporting markets and had been severely affected by the Asian financial crisis and the repercussions of the September 11 attacks. The trade balance deficit was financed mainly by exports of services and remittances from Samoans living abroad. Agriculture, which used to be the backbone of the economy, had been supplanted by fish over the past four or five years following the dramatic decline in world prices of Samoa's traditional agricultural exports.

5. His Government had engaged in a comprehensive reform programme to promote the development of the private sector. Measures included a substantial liberalisation of tariffs, whose maximum rate had been brought from 60 down to 20 per cent in 1998; the removal of control over commercial banks credit ceilings and interest rates; a reduction of corporate and income taxes and the elimination of control over the repatriation of profits for foreign companies to promote investment; the abolition of the withholding tax on dividends; an accelerated depreciation on capital equipment and commercial buildings; and policies to diversify and increase the competitiveness of exports through the development of export processing industries and tourism. The programme was implemented through a strong partnership with the private sector. Samoa's economic reform plans also aimed at strengthening the agricultural sector through more focused farmer-oriented research and extension services.

6. Accession to the WTO was seen as a powerful instrument to enhance trade security, improve access to international markets, and support Samoa's liberalisation efforts. Accession was considered important to help maintain a stable macroeconomic environment and improve private sector development and employment creation. His Government had taken a number of measures to bring Samoa's trade-related legislation into conformity with WTO rules, in particular in the intellectual property rights and sanitary and phytosanitary areas.

7. Implementation of WTO requirements was a complex process. Considering Samoa's status as a least-developed country, the representative of Samoa called on members of the Working party to show flexibility in negotiating Samoa's terms of entry.

8. Members of the Working Party welcomed the application of Samoa to join the Organization. They praised the efforts undertaken so far, in particular in the areas of public sector reform, taxation, customs, and private sector development, but noted that further work would be required to achieve compliance with WTO rules and principles. Members looked forward to a rapid and smooth accession process on appropriate terms. Some members referred to Samoa's least-developed status and would take it into account when establishing Samoa's terms of entry.

9. The Working Party reviewed the economic policies and foreign trade regime of Samoa and the possible terms of a draft Protocol of Accession to the WTO. The views expressed by members of the Working Party on the various aspects of Samoa's foreign trade regime, and on the terms and conditions of Samoa's accession to the WTO are summarized below in paragraphs 10 to [164].

## **ECONOMIC POLICIES**

### Monetary and fiscal policy

10. The representative of Samoa said that the Central Bank of Samoa was responsible for formulating and implementing Samoa's monetary policy. The main objectives of Samoa's monetary policy were to ensure domestic price stability and external payments viability. Direct control of credit and interest rates and the Liquid Assets Requirement, which were traditionally used to control monetary supply, had been removed in January 1998 and May 1999 respectively. The only remaining requirement was the Required Statutory Reserve Deposit – set at 4.8 per cent of all deposits, interbank deposits excluded. Monetary control was now mainly achieved through the auction of Central Bank securities.

11. Samoa's fiscal policy aimed primarily at maintaining a strong financial discipline, reforming the tariff system, and focusing expenditures on priority areas such as health and education. Substantial changes in the taxation system had been introduced in May 1998. Taxes levied in Samoa included the Value Added Goods and Services Tax (VAGST), the income tax, the property and investment income tax, import duties, domestic excise taxes, import excise taxes, and other taxes. For the fiscal year 2000/2001, taxes had accounted for 72.5 per cent of total government revenue, principally derived from VAGST (25.4 per cent), income tax (19.7 per cent), import duties (15.6 per cent), and domestic excise taxes (14.4 per cent). Aid and grants amounted to 24.8 per cent of total government revenue.

### Foreign exchange and payments

12. The representative of Samoa said that Samoa had become a Member of the International Monetary Fund (IMF) in 1971. The value of Samoa's currency, the Tala, was pegged to a basket including the currencies of Samoa's main trading partners (Australia, the European Union, Fiji, Japan, New Zealand, and the United States). The Central Bank could make discretionary exchange rate adjustments against the trade weighted basket within a limit of 2 per cent.

13. Foreign exchange levies had been removed, and in July 2000 the Government had relaxed the Exchange Control Policy requirements. There were no restrictions on foreign exchange for current transactions, and his Government did not intend to tighten the requirements on such transactions. Capital account transactions, however, were subject to controls under the Exchange Control Regulations. Controls aimed primarily at preserving the country's external reserves. Overseas borrowing and servicing of debt by the private sector had to be approved by the Central Bank. Approval was generally granted if the transaction was considered to benefit the domestic economy.

Remittance of private capital, profits, and dividends were normally allowed against documentary evidence. Pursuant to the Exchange Control Regulations, all net proceeds from exporting had to be repatriated to Samoa and converted into local currency or deposited on an approved foreign currency account.

14. In response to a specific question, the representative of Samoa said that instruments to be used to defend the balance-of-payments in case of problems would include fiscal measures to cut expenditures, issuance of Central Bank securities to influence money supply and domestic credit, and the adjustment of the national currency's value.

#### Investment regime

15. The representative of Samoa said that his Government had developed a new investment policy strategy in 1999-2000, which aimed at stimulating investment through liberalization rather than incentives. The 1992/1993 Enterprises Incentives and Export Promotion Act had been amended in June 1999 to put an end the import duty and income tax exemptions for new investments. However, six companies, which exported 95 per cent of their production, had their special privileges grandfathered between 29 May 1995 and 25 June 1999. They benefited from income tax holidays of up to 15 years; a subsequent 25 per cent tax rate on assessable income; a tax holiday on dividends of up to 15 years in the limits of funds invested; and a complete exemption from customs and excise duties on both imports and exports. The last benefit was due to expire in 2014. There were no other incentive programmes in Samoa.

16. He further noted that to facilitate and promote investment in Samoa, a Trade and Investment Promotional Unit (TIPU) had been established within the Department of Trade Commerce and Industry. Foreign investment was regulated by the 2000 Foreign Investment Act. The Act required foreign investors to apply for a foreign investment registration certificate to the Secretary of the Department of Trade, Commerce and Industry. Foreign investment certificates entitled foreign investors to a business licence. The Act established lists of restricted activities and activities exclusively reserved to Samoan nationals. The Reserved List of Activities included public transportation buses, taxis, vehicles for hire, retail trade and saw milling. These sectors were either part of protection environmental programmes or considered to be adequately catered for by local investors. The Restricted List of Activities was under review. The conduct of restricted activities by foreign investors would be subject specific conditions, which could include the establishment of a joint venture with Samoan nationals, the employment of Samoans, the use of overseas investment capital, minimum or maximum limits on foreign investment. Under the Local Fish Policy, local ownership of fisheries should account for no less than 60 per cent of total shareholding. For all other

activities, foreign investors were subject to the same rules and regulations as for domestic investors, except for land related matters. There were no restrictions imposed on foreign investors to repatriate profits and capital gains, provided they presented the required supporting documents and tax clearance.

17. Alterations of the Reserved and Restricted Lists had to be approved by the Cabinet. Any party, be it the Government or the private sector, wishing to modify the lists should send a justified written request to the Department of Trade, Commerce, and Industry (DTCI). The DTCI would analyze the request, conduct further investigations and prepare a report, including recommendations, for consideration by the Foreign Investment Advisory Committee (FIAC). After deliberations, the FIAC would report to the Cabinet through the Minister of DTCI. The Cabinet would make the final decision and the DTCI would consult with the Attorney General to introduce the agreed changes.

18. The purchase, lease, and transfer of land by foreigners were restricted under the Alienation of Customary Land Act of 1965 and the Alienation of Freehold Land of 1972. Foreigners were not allowed to own land. They could lease land from the Government or private owners for farming, residential, and commercial purposes for a period of 20 years, which could be renewed for successive periods of 20 years, provided that they satisfied immigration laws. Lease of freehold land for a duration exceeding 20 years required the approval of the Head of State. In the event of a dispute over the terms and conditions of a lease and in cases of expropriation, foreign investors enjoyed the same rights as domestic investors.

19. Measures had also been taken to facilitate the recruitment of foreign workers. The Labour and Employment Amendment Act of 1999 simplified procedures concerning employment permits for foreign workers, and the Immigration Amendments Bill of 1998 provided for the automatic delivery of entry visas to foreign workers holding a work permit.

20. In response to questions, he informed the Working Party that there was currently no information available on the volume and value of foreign direct investment, but the Government was working on the establishment of a database.

#### State ownership and privatization

21. The representative of Samoa said that his Government held a stake in 35 enterprises in 2000, among which 25 were wholly State-owned. Public utilities accounted for approximately 9 per cent of Samoa's GDP in 1999 and other State-owned enterprises for 5 per cent. Only a negligible proportion of exports and not more than 5 per cent of imports were imputable to the activities of State-owned enterprises. Government's imports listed in document WT/ACC/SAM/5 covered imports by

Government Departments and Ministries. Imports by State-owned enterprises were classified as private sector's imports. A list of enterprises with State-ownership as per February 2000 is reproduced in Table 1.

22. Samoa's policy aimed at promoting economic growth through private sector development and ensuring that partly or wholly State-owned enterprises operated on normal business considerations. Wherever possible, Samoa's Government would divest itself of commercially oriented activities to concentrate on utilities that could not be taken over by the private sector. In 1998, Samoa had consequently embarked on a programme of corporatization and privatization, which first concentrated on partly owned enterprises. Wholly owned enterprises were to be restructured to ensure greater efficiency before being privatized. Details of the privatization programme are presented in Table 2. The decision to privatize or not the remaining State-owned enterprises would be taken on a case-by-case basis. He added that only few of the remaining State-owned enterprises traded goods. Asked about the functions of the Agriculture Store Corporation, the representative of Samoa explained that the Corporation sold and hired tools, equipment, feed, seeds, fertilisers, insecticides and other supplies used for agricultural purposes. The Corporation was to be privatized.

23. In response to a specific question, he confirmed that Samoa's privatization programme did not operate so as to restrict foreign investment. The objective of Samoa's Government was, on the contrary, to encourage foreign investment.

24. A new umbrella legislation had been developed to strengthen the performance and accountability of the enterprises, in which the Government would retain a controlling interest, i.e. more than 50 per cent of total shares or the majority of votes. In December 2001, the Parliament had passed the Public Bodies Act, which required Public Trading Bodies to prepare Corporate Plans (Section 22 of the Act); comply with financial reporting requirements (Section 23); and conduct performance audits (Section 24). The Act foresaw the dismissal of the Director in the event of poor performance demonstrated by a performance audit (Section 25) and provided for Public Trading Bodies to register as companies under the 2001 Companies Act, thereby ensuring that Public Trading Bodies were covered by the provisions of the Companies Act (Section 5). Pursuant to Section 8 of the Act, Public Trading Bodies were to aim at the same profitability and efficiency as private businesses. Public Bodies' boards were accountable to the shareholding Ministers – the Minister of Finance and the Responsible Minister – who were liable to the Parliament for the performance of the Public Bodies. The Act also strengthened the role of the State Owned Enterprises Monitoring Unit, which monitored the performance of State-owned enterprises.

25. To further foster responsible economic and financial management by the Government, the Public Money Act of 1964 had been replaced by the Public Finance Management Act of 2001, which set out a number of accountability requirements aligned with the South Pacific Forum's Eight Principles of Accountability. Under the new Act, Public Trading Bodies were required to submit a Performance and Management Plan (Section 92 of the Act); immediately notify to the Government any event which could affect their financial position (Section 93); keep proper accounts and records of their financial positions and transactions (Section 103); and submit Performance and Management reports as well as financial statements (Section 104). The Act also granted the Financial Secretary the authority to inspect and investigate any Public Body believed to have failed to implement the Performance and Management Plan (Section 105).

#### Pricing policies

26. The representative of Samoa said that price controls were imposed on basic grocery products of particular importance for low and middle-income families. Goods subject to price control were listed in the General Price Order of 1998. The list is reproduced in Table 3. The maximum profit margin took the form of a percentage mark-up based on the ex-factory price for domestic products and the c.i.f. price plus customs duties for imported products. Any increase in the price of local made products, such as beer, biscuits, cigarettes, bread, and corned beef, had to be approved by the Prices Board. The application should include a justification of the request for increase.

27. [The representative of Samoa stated that Samoa would apply price control measures in a WTO-consistent fashion, and take into account the interests of exporting WTO Members as provided for in Article III:9 of the GATT 1994. Samoa would also publish the list of any goods and services subject to price controls in its Official Gazette (the Savali). The Working Party took note of this commitment.]

#### Competition policy

28. The representative of Samoa said that Samoa's competition policy aimed at encouraging competition and fair market behaviour. His Government was reviewing all competition-related legislation, policies and programmes to remove unnecessary restrictions, and regular meetings were held with all stakeholders. A central focal point had been established to administer the new legislative framework.

29. The Fair Trading Act of 1998 controlled the mark-up of wholesalers and retailers for basic grocery products to prevent distributors from taking advantage of their local position. Noting that the first-best solution to address a monopoly position was to increase competition, several members

inquired about the rationale of the measure and possible future plans to replace price controls by effective competition policies. The representative of Samoa replied that price control aimed at preventing that local distributors – 1 to 3 per village on average – imposed excessive prices on basic goods, which would deeply affect the purchasing power of low and middle-income families. The measure would be lifted when competition would be considered healthy.

30. Invited to explain how a case of anti-competitive practices conducted by an enterprise in more than one country would be handled in Samoa, the representative of Samoa replied that Samoa's competition policy dealt only with national anti-competitive practices.

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

31. The representative of Samoa said that Samoa had become an independent and sovereign state within the British Commonwealth of Independent States on 1 January 1962. The Constitution had been adopted in 1960. The government system was based on the English Westminster model. The current Head of State held his function for life, but future Head of States would be elected by the Legislative Assembly for a five-year term. In the absence or unavailability of the Head of State, his functions were taken up by the Council of Deputies, made up of 3 Deputies elected by the Legislative Assembly and headed by a Deputy Head of State.

32. The Executive Council was composed of the Prime Minister, appointed by the Legislative Assembly, and 12 Ministers nominated by the Assembly on the recommendation of the Prime Minister. The Cabinet of Ministers directed and controlled the work of the executive branch and was collectively responsible to the Parliament. The Cabinet was summoned by the Prime Minister or, in his absence, by any Minister appointed on his behalf. The Cabinet could designate one or more persons to report to the Cabinet on government administration, legislative, or general interest issues.

33. Legislative powers were exercised by the Legislative Assembly, composed of 49 members elected for five years by universal suffrage. Forty-seven seats were reserved for “matai”, i.e. customary chiefs or heads of families representing the territorial constituencies. The two others were held by representatives of individual voters without a title of chief. The Legislative Assembly elected two of its members to act as Speaker and Deputy Speaker. The Speaker presided over the Assembly sittings. The Head of State and the Legislative Assembly constituted the Parliament, which was empowered to adopt laws. Pursuant to the Constitution and the Standing Order of the Legislative Assembly, any Member of the Parliament could introduce a bill, a motion or a petition to the Assembly. Proposals of legislative changes were initiated by officials following consultations with stakeholders, including the private sector, and submitted to a Sponsoring Minister for consideration. The proposal was then transmitted to the Attorney General's Office for drafting. Once endorsed by



the Sponsoring Minister, the draft bill was sent to the Cabinet, along with reports from the Treasury and the Attorney General outlining the fiscal and legal implications of the measure, tabled in Parliament after approval. Following the second reading, the bill was submitted to a Parliamentary Select Committee made up of Government and opposition members of the Parliament, which reported back to the Parliament. It became an Act of Parliament after having been passed a third time by the majority of the Parliament's members and approved by the Head of State. Acts of Parliament came into force upon assent of the Head of State or, in the event administrative adjustments were needed prior to enactment, at a time set by the Sponsoring Minister. Enacted legislation was published in the Samoa Gazette. Adoption of subsidiary legislation required only approval of the Cabinet and the Head of State.

34. Judicial power was exercised by the Court of Appeal, the Supreme Court, the District Court, and, for land and titles-related matters, the Land and Titles Court. The Chief Justice of the Supreme Court was appointed by the Head of State on the recommendation of the Prime Minister. All other judicial officers were nominated by the Head of State on the advice of the Judicial Service Commission, which consisted of the Chief Justice acting as President, the Attorney General – or in his absence the Chairman of the Public Service Commission, and another person designated by the Minister of Justice. Non-citizens could be appointed judges of the Supreme Court. The Court of Appeal was the highest court. It was composed of 3 judges. Its decisions on appeals from the Supreme Court were final. The Supreme Court had an appellate function and dealt with civil and criminal cases for which sanctions foreseen by the law did not exceed SAT 10,000 or seven years of imprisonment in the case of criminal charges. Criminal and civil cases of minor gravity fell under the responsibility of the District Court. Commercial cases against the national administration could be brought before the Supreme Court by both Samoan nationals and foreigners. Foreign individuals and companies could engage in civil proceedings in either the Supreme Court or the District Court and lodge appeals to the Court of Appeal. Disputes concerning valuation, seizures, and forfeiture were settled by the Minister of Finance or the Head of State. All other cases were dealt with through the judicial system.

35. The Constitution and the Declaratory Judgements Act of 1988 guaranteed any person, local or foreign, the right to appeal administrative decisions before the Supreme Court. Procedures were set out in the Government Proceedings Act of 1974. Administrative decisions could be challenged for breach of the Common Law rules or failure to act fairly. The Court could order writs of habeas corpus, mandamus, certiorari, and prohibition, and issue injunctions and declaratory judgements. Foreign companies without a registered office in Samoa and appealing to local courts were required to pay security costs.

36. Samoan nationals and foreigners could also file a complaint about an administrative decision or act to the Ombudsman. However, pursuant to the Ombudsman Act of 1988, the case could not, in such an event, be brought to the court simultaneously. The Ombudsman was an independent authority appointed by the Head of State on the recommendation of the Legislative Assembly for a three-year period. There was no specific qualification requirement. The Ombudsman could not be a Parliament member and the approval of the Prime Minister was required for him to hold any other office. He could be removed or suspended for reasons of disability, bankruptcy, neglect of duty, or misconduct. He reported back directly to the Parliament. Samoa's first Ombudsman had been a foreigner.

37. [The representative of Samoa confirmed that from the date of its accession, Samoa would give foreign and domestic importers and exporters the right to appeal administrative action relating to matters subject to WTO provisions in full conformity with WTO obligations, including Article X:3(b) of the GATT 1994. The Working Party took note of this commitment.]

38. Policies related to foreign trade were formulated and implemented by the Department of Trade, Commerce and Industry – which acted as WTO focal point, in cooperation with the Departments of Treasury, Justice, Customs, Agriculture, and Labour; Prime Ministers Department; Land, Survey and Environment Department; Central Bank; Inland Revenue; and the Ministries of Foreign Affairs, and Transport. Trade-related policies were developed through the Inter-Departmental Committee and the Trade, Commerce, and Industry Development Board, which brought together representatives of other Departments and the private sector to discuss policies, including foreign trade. The Department of Trade, Commerce and Industry was responsible for initiating and sponsoring any WTO-related legislation.

39. The Government of Samoa had undertaken a reform of the public sector to improve transparency, accountability, and predictability in administrative and decision-making procedures. The Public Service Commission (PSC) advised it in its task. On 11 December 2001, the Government had adopted amendments to the 1977 Public Service Act concerning disciplinary action, probation, appeals, and grievances, and further changes on values, principals, and Code of Conduct had been introduced after approval by the PSC Committee. The number of Departments had been reduced from 28 to 13, new recruitment and selection procedures introduced, and a number of human resources management functions delegated to Departments, including recruitment, selection, grievance management, and working conditions. Other functions, such as remuneration, structures, induction, and capacity building would be transferred during the final phase of the reform project. Departments had developed Corporate and Management Plans and were establishing client service charters. Departments' budgets were screened by the PSC and the Treasury and their performance evaluated in light of the Corporate Plans.

40. In reply to a question concerning the powers of the Matai to develop policies, regulations, and practices at the territorial constituency level, the representative of Samoa explained that the Village Fono Act of 1990 gave the “village fono” – or Council – authority over village matters related to law order, and social and health issues. Pursuant to the Internal Affairs Act of 1995, the village council could recommend the adoption of by-laws and regulations to the Minister of Internal Affairs through its appointed mayor. The mayor was in direct contact with the Internal Affairs Department.

41. Several Members inquired about the hierarchy of laws in Samoa and the procedures to be followed for the ratification of Samoa’s Protocol of Accession. In reply, the representative of Samoa said that the Constitution prevailed over all other legislative provisions. International instruments did not automatically supersede domestic law. Accession to international treaties and instruments had to be recommended by the Ministry of Foreign Affairs. He stressed the will of his Government to ensure the conformity of national laws with WTO Agreements upon accession.

## **POLICIES AFFECTING TRADE IN GOODS**

### Trading rights (the right to import and export)

42. The representative of Samoa said that the 1998 Business Licence Act required any natural or legal person carrying on any authorized business in Samoa to take out a business licence and pay an annual fee. Licenses were delivered on a yearly basis. Licence fees amounted to SAT 220 (US\$73) per business activity for individual traders and SAT 500 (US\$166) for companies. The Act prohibited business activities such as nuclear and toxic waste disposal or storage, export of products prohibited by law; prostitution; processing and export of endangered species; and production of weapons of war. Special licences were required to import narcotics and import, sell, or serve liquor in restaurants. In 1997, 400 business licenses had been granted, mainly for commerce (207), transport and communication (91), finance and business services (26), and construction (21).

43. To obtain a licence, traders were requested to send an application letter to the Inland Revenue Department (IRD), along with registration documents from the Justice Department –Memorandum of Association and Articles of Association – and photographs of the major shareholders. For overseas registered businesses, a Certificate of Incorporation had to be attached to the application. Business licenses were delivered after an interview with IRD officials. Special approvals from other Departments, if required, had to be submitted before the licence was granted.

44. Importers did not need to be residents, but they were required to hold a business licence. Both foreign and domestic firms could be import agents for the delivery of imported goods and importers of record. In response to a specific question concerning the right of a foreign exporter to be

an importer of record without having a business or a business licence in Samoa, the representative of Samoa confirmed that foreign exporters could be importers of record.

45. [The representative of Samoa confirmed that from the date of accession, Samoa would ensure that its laws and regulations relating to the right to trade in goods and all fees, charges, and taxes levied on such rights would be fully in conformity with its WTO obligations, including Articles VIII:1(a), XI:1 and III:2 and 4 of the GATT 1994 and that it would implement such laws and regulations in full conformity with its obligations. The Working Party took note of this commitment.]

## **1. Import Regulation**

### Customs tariff

46. The representative of Samoa said that Samoa had been using the Harmonized System Nomenclature since 1997. Samoa's tariff classification conformed with the HS 96 nomenclature at the six-digit level. Samoa did not accord any tariff preferences, thus a single set of tariff rates applied to all imports regardless of the country of origin. His Government had recently reduced the range of applied rates from 60-0 per cent to 20-0 per cent. All rates were *ad valorem*, except for waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured (HS 22.02); beer made from malt (HS 22.03); wine of fresh grapes (HS 22.04); cigars, cheroots, cigarillos, and cigarettes, of tobacco or of tobacco substitutes (HS 24.02); other manufactured tobacco (HS 24.03); motor vehicles for the transport of ten or more persons (HS 87.02); and motor cars and other motor vehicles principally designed for the transport of persons (HS 87.03).

47. A Member noted that the tariff rate on cigarettes remained high, providing substantial protection to local companies, and that public health objectives could as well be achieved through an increase in the excise tax. The representative of Samoa replied that Samoa applied both high custom duties (90 per cent plus SAT 70 per kilo) and excise taxes (160 per cent, or SAT 129.02 per kilo or 1,000 sticks) on cigarettes. The excise tax rate applied on cigarettes was the greatest excise tax rate in Samoa's tariff.

### Other duties and charges

48. The representative of Samoa said that Samoa imposed no duties or charges of any kind within the meaning of Article II.1(b) of the GATT 1994 on or in connection with importation other than ordinary customs duties.

49. [The representative of Samoa confirmed that Samoa would bind other duties and charges at zero in its Schedule of Concessions and Commitments. The Working Party took note of this commitment.]

Tariff rate quotas, tariff exemptions

50. The representative of Samoa said that Samoa did not apply tariff rate quotas on any product. Exempt from customs duties were diplomatic imports for official use; accompanied passenger baggage; imports for airport duty free shops; household effects (returning residents and persons taking up initial permanent residence in Samoa); temporary imports of yachts by tourists; educational aids; disaster relief; and bread concentrates and premixes. A preferential rate was applied on fishing gear imported for fishing purposes. In addition, Samoa accorded tariff exemptions to exporting enterprises grandfathered under the Enterprises Incentives Schemes; temporary imports subject to Section 164 of the Customs Act; re-exports of ex-bonded storage; goods in transit; and imports of raw materials used in the production of exported goods under the Duty Suspension Scheme. Grandfathered tariff exemptions amounted to 1.77 per cent of Samoa's total imports in 2001. All exemptions were applied on a MFN basis.

51. [The representative of Samoa confirmed that upon Samoa's accession to the WTO, any tariff quotas and tariff exemptions would only be implemented in conformity with the relevant WTO provisions including Article I of the GATT 1994 and the TRIMs Agreement. The Working Party took note of this commitment.]

Fees and charges for services rendered

52. The representative of Samoa said that pursuant to the Customs Act (as amended), the Excise Act (as amended), Miscellaneous Fees and Charges, and Customs Regulations, Samoa imposed fees and charges commensurate to the services rendered on both imports and exports. The list of applied fees, set out in the Customs Public Circular No. 10/98, is reproduced in Table 4. He confirmed that there was no specific mechanism ensuring that fees related directly to the cost of the service. He considered, however, the applied fees below the approximate cost of services rendered.

53. [The representative of Samoa confirmed that all fees and charges imposed by Samoa on or in connection with importation or exportation would be operated in conformity with the relevant provisions of the WTO Agreement, in particular Articles VIII and X of GATT 1994. From the date of accession, Samoa would not apply, introduce or reintroduce any fees and charges for services rendered that were applied to imports on an *ad valorem* basis. Information regarding the application

and level of such fees and charges, revenues collected and their use, would be provided to WTO Members on request. The Working Party took note of these commitments.]

Application of internal taxes

54. The representative of Samoa said that imported and domestic goods were subject to a Value Added Goods and Services Tax (VAGST) of 10 per cent, as set out in the Value Added Goods and Services Tax Act of 1992/1993. All businesses were required to register with the Inland Revenue Department for VAGST. The VAGST was levied at each stage up to the retail stage. Companies with an annual turnover inferior to SAT 52,000 and primary producers were exempted from VAGST.

55. A member invited Samoa to justify the exemption granted to primary producers and to consider introducing a similar exemption for imports of similar products to comply with Article III of GATT 1994. The representative of Samoa replied that Samoa had no company producing primary products. Beneficiaries were only small, low income producers who sold only a small portion of their production on local markets, the rest being used for their own consumption. Samoa had already removed support previously available to them and did not wish to risk reducing further the already limited revenues of these producers. In addition, the levy of VAGST on these producers would prove to be very difficult. Exemption of small producers was, he understood, a common practice in WTO Members.

56. Samoa also levied excise taxes in accordance with the Excise Tax (Domestic Administration) Act and the Excise Tax Rates Act of 1984, both amended in 1998; and the Excise Tax (Import Administration) Act of 1984. Products subject to excise taxes included tobacco; alcohol; passenger motor cars with an engine capacity of more than 2000 cc; and motor spirits and automotive diesel fuel. The excise tax on domestic appliances had been eliminated in May 1998. Tax rates, which were identical for imported and domestically produced goods, were specific or mixed. The ad valorem elements of the rates were applied on the ex-factory price for domestic goods and the CIF price plus any duty for imported goods. A list of the products subject to excise taxes is reproduced in Table 5.

57. In response to a member who noted that Samoa's legislation referred to "import" and "domestic" excise taxes, and sought clarification about the unified application of excise taxes, the representative of Samoa confirmed that excise taxes on imported and domestic goods, historically dealt with independently, had been unified and that all domestic taxes in Samoa, including excise taxes, were applied on an MFN and national treatment basis, in accordance with Article III:1 and 2 of GATT 1994. He added that his Government was ready to modify the legislation to avoid any confusion. He confirmed that no other duties or charges were being levied besides custom's duties, customs fees, VAGST, and excise taxes.

Quantitative import restrictions, including prohibitions, quotas and licensing systems

58. The representative of Samoa said that Samoa prohibited the importation of counterfeit coins and bank notes to prevent counterfeiting, and of pornographic articles, publications, films, and video in order to protect public morals. The importation of arms and ammunition, narcotics, right hand drive cars and motor vehicles over 10 years old, pesticides, and liquor was restricted for the protection of human health and life and subject to licensing. None of these goods were produced locally. The list of items restricted or prohibited from importation could be extended for reasons of national security or interest in accordance with Section 49 of the 1997 Customs Act. He further noted that the importation of some plants and food stuff was also prohibited under Samoa's SPS regulations (see section on SPS).

59. Pursuant to the Arms Ordinance of 1960, licences fees for the importation of arms and ammunition amounted to SAT 200 a year for companies and SAT 50 per import for individuals. The importation of narcotics was regulated by the Narcotics Act of 1997. Samoa provided a list of narcotic products for which import licenses were required in document WT/ACC/SAM/5/Add.1. Most of these products were imported by the National Hospital. Registered pharmacists importing restricted narcotics were required to pay an annual licence fee of SAT 40. To ensure traffic safety, the importation of right hand drive cars was subject to permission by the Minister of Police and the payment of a tax, in accordance with the Road Traffic Regulations of 1961. A condition of non-resale was attached to the permit. The importation, storage and use of pesticides was regulated by the Department of Agriculture, Forests and Fisheries pursuant to the Agriculture, Forests and Fisheries Amendment Act of 1989. Importation of pesticides was subject to both registration and licensing. The registration fee amounted to SAT 300 plus VAGST. The licence fee depended on the type of pesticide and quantity to be imported. As for importation of liquor – any beverage containing more than two parts per cent of proof spirit, it required a licence, as its production, purchase and sale. Licences were delivered only to business licence holders. Before trading liquor, village stores had to seek permission to sell liquor from their village council. Licenses to import liquor were neither restricted in number nor subject to specific criteria, but two different licenses were needed, one to buy and sell liquor and one to import it. In the case of domestic liquor, both a licence to produce and a licence to buy and sell were required. Licenses were valid for a year. Licence fees to produce, purchase, sell and import liquor are presented in Table 6.

60. Restrictions could also be imposed on goods having a negative impact on the environment pursuant to the Lands and Environment Act of 1989 and in accordance with the international conventions Samoa was a party to. Moreover, Samoa's national environmental country programme, submitted to the Executive Council of the Montreal Protocol in March 1997, provided for restrictions

on imports of ODSs – mainly CFCs – and methyl chloride, whose consumption was to be phased out by 2010 and 2015 respectively.

61. [The representative of Samoa confirmed that, from the date of accession, Samoa would not introduce, re-introduce or apply quantitative restrictions on imports, or other non-tariff measures such as licensing, quotas, prohibitions, bans and other restrictions having equivalent effect that cannot be justified under the provisions of the WTO Agreement. The legal authority of the Government of Samoa to restrict or prohibit importation of goods into Samoa would be applied from the date of accession in conformity with the relevant requirements of the WTO, in particular Articles XI, XII, XIII, XVIII, XIX, XX, and XXI of the GATT 1994, and the Agreements on Agriculture, the Application of Sanitary and Phytosanitary Measures, Import Licensing Procedures, Safeguards, and Technical Barriers to Trade. The Working Party took note of these commitments.]

#### Customs valuation

62. The representative of Samoa said that his Government had amended the 1977 Customs Act in 1998 to move from the Brussels Definition of Value system to a valuation system based on the WTO Customs Valuation Agreement. The ASYCUDA system had been introduced with the help of donors and customs procedures simplified through computerization and the introduction of a single document for customs clearance. However, the 1998 Customs Amendment Act and Regulations needed to be reviewed and current WTO customs valuation provisions included in the Customs Principal Act to ensure full conformity with WTO requirements and provide for better transparency and accountability. New legislation was being drafted, but additional technical assistance was needed to introduce the necessary legislative and institutional changes and train personnel. He proposed that Samoa would complete the work to conform with the requirements of the Agreements on the Implementation of Article VII of the GATT 1994 in accordance with the action plan reproduced in Table 7.

63. In response to a specific question concerning the Interpretative Notes to the Customs Valuation Agreement, the representative of Samoa said that he was not in a position to specify yet whether the Interpretative Notes, which were an integral part of the Agreement, would be included in the text of the law itself.

#### Rules of origin

64. Referring to Samoa's statement that rules of origin were not needed as trade measures in Samoa were applied on an MFN basis, a member recalled that Samoa required certificates of origin for imports of goods covered by SPS regulations and might, in the future, need to determine the



country of origin to apply trade remedies, such as safeguards and countervailing duties, or other WTO provisions. This member sought a commitment from Samoa that regulations would be notified and implemented in conformity with the WTO requirement on Rules of Origin before applying any trade remedy.

65. [The representative of Samoa confirmed that, from the date of accession, Samoa's preferential and non-preferential rules of origin would comply fully with the WTO Agreement on Rules of Origin, including the provisions of Article 2(h) and Annex II, paragraph 3(d) of the Agreement, i.e., that for non-preferential and preferential rules of origin, respectively, the customs authority would accept requests from an exporter, importer or any person with a justifiable cause for an assessment of the origin of the import. The Working Party took note of this commitment.]

#### Other customs formalities

66. The representative of Samoa said that Samoa was not a party to the World Customs Organization. Its customs formalities were based on international practice as provided for in the Kyoto Convention. Samoa did not require any sort of certification or customs documentation by consular officials in the country of export.

#### Preshipment inspection

67. The representative of Samoa said that his Government did not use the services of pre-shipment inspection firms and had no intention to do so.

#### Anti-dumping, countervailing duties, safeguard regimes

68. The representative of Samoa said that Samoa had no specific legislation providing for the imposition of countervailing duties or safeguard measures and had no plans to use such measures. However, provisions concerning the imposition of anti-dumping measures existed in Section 9 of the Customs Tariff Act of 1975, but were not consistent with the WTO Anti-Dumping Agreement. He added that these provisions had never been implemented and that Samoa had no intention to use them.

69. Several members expressed concern over the non-conformity of Section 9 of the Customs Tariff Act of 1975 with the WTO Anti-Dumping Agreement and Samoa's statement that, given the difficulty for a small country like Samoa to use WTO trade remedy provisions, tariff flexibility would be used if necessary to provide protection. These members urged Samoa to review or repeal its anti-dumping legislation and to ensure that anti-dumping and countervailing duties, and safeguard measures would be applied in full conformity with WTO provisions. In reply, the representative of Samoa explained that, while willing to implement WTO consistent measures, Samoa did not have the

financial and human capacity to use anti-dumping and countervailing duties, and safeguard measures. His Government nevertheless intended to review Samoa's legislation in this area while amending the Principal Customs Act.

70. [The representative of Samoa confirmed that Samoa would not apply any anti-dumping, countervailing or safeguard measures until it had implemented and notified to the WTO appropriate laws consistent with the provisions of the WTO Agreements on these matters. Samoa would ensure the full conformity of any such legislation with the relevant WTO provisions, including Article VI and XIX of the GATT 1994 and the Agreement on the Implementation of Article VI, the Agreement on Subsidies and Countervailing Measures and the Agreement on Safeguards. After such legislation was implemented, Samoa would only apply any anti-dumping duties, countervailing duties and safeguard measures in full conformity with the relevant WTO provisions. The Working Party took note of these commitments.]

## **2. Export regulation**

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

71. The representative of Samoa said that the registration requirements for engaging in exporting were the same as for importing. Exporters had to hold a business licence. Samoa did not impose any duties on exports and there were no specific export licensing procedures. However, exporters were required to report the f.o.b. value of their exports to the Central Bank for statistical purposes prior to exportation. A Customs Department Export Entry Form and an Export Form E, available at the Central Bank, had to be completed in four copies and presented for certification to the Central Bank prior to shipment.

### Export restrictions

72. The representative of Samoa said that Samoa prohibited the exportation of raw logs, live coral, and kava planting material, and restricted Samoan antiquities and birds exports. Samoa did not impose measures, such as minimum export prices, voluntary export restrictions, and orderly marketing arrangements.

73. Prohibition of raw logs exports had been introduced following the two cyclones of 1990 and 1991 and aimed at restricting logging to avoid further soil erosion and water run-off. 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. Both the Government and

NGOs' were involved in the monitoring of environmental issues. Provisions restricting domestic commercial logging existed in the draft Forest Act of 1967 and draft Forest Resource Policy, and national standards for logging were set out in the draft Code of Logging Practice (COLP). These texts still had to be approved by the Cabinet, but two workshops about COLP regulations had already been organized for landowners and logging contractors on Samoa's two main islands.

74. Exportation of live coral was prohibited to prevent further destruction of one of Samoa's few natural resources, already severely damaged by the 1990 and 1991 cyclones and detrimental fishing practices, and ensure the long-term sustainability of Samoa's fishery resources. The ban was implemented in parallel with village fishery resource management plans to revitalize Samoa's inshore resources and legislation on illegal fishing practices. Extraction of any sea product was controlled. Removal of live coral was subject to Minister's approval pursuant to Sections 119 and 120 of the Lands Surveys and Environment Act of 1989. Infringers incurred conviction or a fine of up to SAT 5,000 (Section 122). The Minister's decision took into account the environmental impact of coral removal. Consent was mainly granted for export of coral for scientific research, not commercial purposes. Given the state of Samoa's coral reefs, the commercial exportation of coral was unlikely to be authorized in the future. Prohibition of Kava planting materials exports aimed at preserving Samoa's natural resources and cultural values. This decision was however under review.

75. Exportation of Samoan antiquities had to be approved by the Head of State, who could acquire them subject to the payment of an adequate compensation, as provided for in the Samoan Antiquities Ordinance of 1954. Samoan antiquities exported without approval could be seized by customs officials. As for birds, their export was restricted for environmental reasons and subject to authorization by the Minister of Agriculture in accordance with the Wild Animals Regulations of 1993. This measure was implemented in parallel with prohibitions on local hunting and collection of protected species.

76. The representative of Samoa confirmed that Samoa would review restrictions on raw logs and Kava planting materials exports and notify WTO Members of developments in these areas on a regular basis.

#### Export subsidies

77. The representative of Samoa said that Samoa did not apply any prohibited subsidies. His Government had abolished the Export Financing Facility on 31 December 1997, as part of the liberalization of the financial system and in line with the Central Bank of Samoa Act of 1994. Local banks made financing available to exporters at market interest rates and the Government did not provide any kind of support to Samoa's exporters.

78. Samoa operated an import duty drawback scheme administered by the Customs Department. Duty drawback was regulated by the Customs Act 1977, Sections 166-168, and the 1986 Customs Regulations – Regulations 68-71 –, and subject to strict compliance requirements, including prior notification, inspection/examination, shipment and export certification, entry, and claim. To prevent claims on products sold on the domestic market, Samoa's duty drawback regulations provided for inspection and certification of shipments at the time of export before clearance of the claim for duty drawback. Penalties for violation of duty drawback regulations were laid down in the Customs Law.

79. [The representative of Samoa confirmed that from the date of accession, Samoa would not maintain any subsidies, including export subsidies, which met the definition of a prohibited subsidy contained in Article 3 of the Agreement on Subsidies and Countervailing Measures, and would not introduce such prohibited subsidies from the day of accession. The Working Party took note of this commitment.]

### **3. Internal policies affecting foreign trade in goods**

#### Industrial policy, including subsidies

80. The representative of Samoa said that Samoa's industrial policy aimed at stimulating private sector competition and domestic and foreign investment through liberalization. Apart from the incentives granted to the firms grandfathered under the Enterprise Incentive Scheme or located in Samoa's free zones, Samoa's legislation did not provide for any other benefit. No public sector enterprises were entitled to subsidies or preferred credit arrangements.

81. [The representative of Samoa confirmed that any programmes that granted subsidies would be administered in line with the Agreement on Subsidies and Countervailing Measures and that all necessary information on notifiable programmes would be notified to the Committee on Subsidies and Countervailing Measures in accordance with Article 25 of the Agreement upon entry into force of Samoa's Protocol of Accession. The Working Party took note of this commitment.]

#### Technical barriers to trade, sanitary and phytosanitary measures

##### (a) Standards and certification

82. The representative of Samoa said that Samoa did not have nor intend to put in place a comprehensive regime for standards and technical regulations. Samoa did not apply any mandatory standards or technical regulations. It had not concluded any bilateral or multilateral agreements related to standards and was not a signatory to any mutual recognition agreements/arrangements of conformity assessment procedures.

83. A member noted that Samoa's requirement that pesticides be labelled according to the World Health Organization recommended classifications by the degree of hazard fell under the provisions of the TBT Agreement and that environmental measures applied under the Samoan Lands and Environment Act of 1989 could possibly be covered both by the TBT and SPS Agreements. Samoa was invited to ensure that any standards and technical regulations, where relevant, were applied in accordance with the TBT Agreement. In reply, the representative of Samoa said that Samoa did not have the sufficient human and material resources to introduce and enforce technical regulations. The pesticide labelling requirement was an exception and was based on international standards.

84. Some members of the Working Party reminded Samoa that the WTO TBT Agreement did not require Samoa to implement standards in any area, but any standards and conformity assessment systems introduced in the future would need to be consistent with WTO requirements. Fundamental obligations included in particular transparency and MFN and national treatment for imported goods. These members sought confirmation that, should Samoa institute controls and rules for standards and technical regulations, standards certification, and labeling requirements, these would be applied equally to imported and domestic goods; would not be used to restrict imports nor applied in an arbitrary manner, in a way that would discriminate between supplier countries where the same conditions applied or as a disguised restriction to international trade; that certification requirements would be administered in a transparent and expeditious manner; and that Samoa would be willing to consult with WTO Members concerning the effect of these requirements on their trade with a view to resolving specific problems.

85. [The representative of Samoa stated that Samoa would establish an enquiry point as soon as possible within the Department of Trade, Commerce and Industries, responsible for answering all enquiry and notifications as provided in the Agreement on Technical Barriers to Trade. Samoa would ensure that no technical regulations, standards and conformity assessment procedures are adopted or implemented until Samoa has implemented appropriate laws ensuring conformity with the provisions of the Agreement on Technical Barriers to Trade. Samoa would ensure the full conformity of any such legislation with the Agreement on Technical Barriers to Trade. The Working Party took note of these commitments.]

(b) Sanitary and phytosanitary measures

86. The representative of Samoa said that Samoa's existing sanitary and phytosanitary measures were applied and regulated by the Agriculture, Forests and Fisheries Ordinance of 1959; the Plants and Soils Importation (Disease Control) Ordinance of 1950 and Regulations of 1951; and the Guidelines for Pesticide Registration and Import Permits of 1991, all administered by the Ministry of

Agriculture, Forests, Fisheries and Meteorology; and the Food and Drugs Act of 1967, administered by the Health Department.

87. Samoa was a member of the CODEX Alimentarius Commission and the Pacific Plant Protection Organization. Its interests in the International Office for Epizootics and the International Plant Protection Convention were represented through the South Pacific Community and the FAO. Samoa's SPS measures were based on the information provided by the South Pacific Community, which collected pest data from relevant international organizations.

88. Plants prohibited from importation included all fresh fruit, sensitive vegetables, and seeds covered with pulp imported from areas where harmful fruit flies was known to exist (other than *Bactrocera xanthodes* and *psidii*); coconut plants and parts thereof; pineapple and related plants from Fiji and areas not covered by the South Pacific Commission; rice plants and parts thereof, except milled for human consumption; citrus related plants or parts thereof, except from areas free from citrus canker (*Xanthomonas citri*); cacao plants and parts thereof from areas exposed to Witch's Broom Disease (*Morasmium fernicious*) or Swollen Shoot Virus; rubber plants and parts thereof from areas exposed to the American leaf disease (*Dothiella ulei*), and imported from other areas in the form of seed or budwood only; plants of the genus *Musa* (bananas or related plants) from areas exposed to the Panama disease (*Fusarium oxisporum* var. *cubense*) or Banchytop Virus Disease; sugar-cane plants or parts thereof; coffee plants from areas exposed to the Blackwood disease (*Thielaviopsis Neocaledoniae*) or where coffee bean borer/stephenoderes coffee were being grown; Alocasia or Colocasia plant species or related plants except as Tissue Culture material under special permit for research purposes; yam, cassava or any root crop or vegetable; hay, chaff, grain husks or leaves imported as packing or bedding material – all other packing or bedding material were subject to fumigation upon arrival at the expense of the importer.

89. Authorization to import prohibited plants could be granted by the Director of Agriculture provided that the plants were in tissue culture, free of antibiotics and microbial suppressants; in sealed and sterile containers; and labelled with botanical plant names, and subject to the presentation of an Import Permit from Samoa and a Health Certificate from the country of origin. Four authorizations for different varieties of bananas had been delivered since 1995, and seven for taro since 1994.

90. Importation of other plants and parts thereof required an import permit from the Director of Agriculture. Applications for permits should include information on the nature of imports, country of origin, supplier's address, reasons for importation, frequency of imports, and additional information as required. Before or upon entry of the imported plants and plant materials into Samoa, the importer

was required to submit to the inspector of the Department of Agriculture a phytosanitary certificate issued by a competent authority in the country of origin. The certificate should stipulate the content of the shipment, origin of the products, and type of treatment received if any; attest inspection of the products; and confirm their harmlessness and conformity with the conditions laid out in the import permit. All imported plants and plant materials were examined by an authorized inspector. Non-complaint consignments were seized or disposed of, and costs incurred charged to the importer. Importers of livestock were also required to apply for an import permit to the Director of Agriculture. Information to be provided included breed, colour, and age of imported livestock, along with the address of the exporter.

91. He further noted that all import permits were granted by the Director of Agriculture following an Import Risk Analysis evaluating the pest status of the country of origin and recommendations of the Quarantine Advisory Committee, composed of technical personnel, and Principal Veterinarian. The exporting country was requested to submit a pest list for the commodity to be exported to serve as a basis for the pest and disease risk assessment. He confirmed that Samoa recognized pest free areas within countries and did not require total pest freedom throughout a country to accept imports. Recommendations were published in the local newspapers and Annual Reports and Performance Monitoring reports of the Government. Import Health Standards were then developed and included in the import permit. Fees charged for required SPS procedures on imported products amounted to SAT 110 a year for commercial importers and SAT 5 per shipment for private importers.

92. Importation of pesticides was subject to registration with the Pesticides Committee and delivery of an import permit by the Registrar. Samoa prohibited the importation of pesticides banned under the Food and Agriculture Organization and United Nations Environment's Programme. Imported pesticides had to be labelled according to the World Health Organization recommended classifications by the degree of hazard.

93. He stated that all export shipments had to be accompanied by a phytosanitary certificate issued by the Ministry of Agriculture's Quarantine Service at the point of exit following inspection and subject to prior notification. In response to a specific question concerning the inspection process of domestic and imported/exported products, the representative of Samoa explained that export shipments were inspected in their totality. As for imported goods, only a sample (600 units per consignment) was subject to control upon arrival. Locally produced goods sold on the domestic market were not inspected.

94. The representative of Samoa acknowledged that Samoa would need to review its whole SPS system to bring it into conformity with WTO requirements. Samoa's legislation needed to be updated,

and institutions strengthened. Samoa's current SPS measures related mainly to plant protection, and specific regulations dealing with food safety and human health would have to be developed. Some measures had already been undertaken. Assistance was being received from AUSAID to review quarantine legislation and a series of workshops had been organized to enhance staff knowledge on this issue. In response to members inviting Samoa to adopt the relevant international standards and draft legislation that would clearly state that Samoa would take in and follow such standards, the representative of Samoa confirmed that his Government intended to adopt such standards where they existed.

95. He added that achieving compliance with the requirements of the SPS Agreement was a complex task. Samoa was accordingly seeking a transition period as outlined in the action plan for the implementation of the SPS Agreement reproduced in Table 8. Implementation of the Agreement would depend on the technical assistance made available by WTO Members and relevant international organizations.

#### Trade-Related Investment Measures (TRIMs)

96. The representative of Samoa said that Samoa had no measures in place that conflicted with the WTO Agreement on Trade-Related Investment Measures.

97. [The representative of Samoa said that Samoa would not maintain any measures inconsistent with the TRIMs Agreement and would apply the TRIMs Agreement from the date of accession without recourse to any transition period. The Working Party took note of this commitment.]

#### State trading entities

98. The representative of Samoa said that none of Samoa's State-owned enterprises trading in goods had been granted a monopoly or any special privileges that would enable them to influence imports or exports. None of them were therefore State trading enterprises in the meaning of the Understanding of Article XVII of the GATT 1994. The Cocoa and Copra State Marketing Boards had been abolished in 1990. However, given the small size of Samoa's market, one enterprise – Mobil – had been granted an exclusive five-year contract to supply and distribute oil and petroleum products in Samoa following a competitive tendering process. At the expiration of the contract in 2003, a new competitive process would be carried out. As there was no limitation on the amount of oil and petroleum products that could be imported, he was of the view that the exclusive licence granted to Mobil did not constitute a quantitative restriction.



99. Asked to provide more information on the trade activities of the Agriculture Store Corporation (ASC), the representative of Sama said that this 100 per cent State-owned enterprise sold and hired out tools, equipment, seeds, and other supplies used in the agricultural industry. The Corporation had also been involved in the production of bananas, both for exportation and the local market, but was now divesting itself of this loss-making activity. He added that the ASC operated in competition with private enterprises, which supplied the same services and products.

100. As to State-owned enterprises supplying services, they generally enjoyed a monopoly position due to the small size of the domestic economy. Competition existed however in some areas, such as insurance, where the Samoa Life Insurance Corporation competed with several insurance firms – including the newly established Colonial Insurance Company, or telecommunication, where the Samoa Communications Limited was exposed to competition for the provision of telephone equipment. The Government was developing a regulatory framework for telecom operators to ensure greater competition.

101. [The representative of Samoa confirmed that Samoa would apply its laws and regulations governing the trading activities of State-owned enterprises and other enterprises with special or exclusive privileges and would act in full conformity with the provisions of the WTO Agreement, in particular Article XVII of the GATT 1994 and the Understanding on that Article and Article VIII of the GATS. Samoa would notify any enterprise falling within the scope of Article XVII. The Working Party took note of these commitments.]

#### Free zones, special economic areas

102. The representative of Samoa said that the provisions of the Industrial Free Zone Act of 1974 establishing two industrial parks as 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 under the Industrial Free Zone Act of 1974 – i.e. exemption from import duties and income tax – were no longer applicable. However, the exported output of firms located in these zones was exempt from VAGST, while non-exported products were charged at a 10 per cent rate.

103. Investors wishing to locate their business in the industrial parks had to apply for land lease to the Samoa Land Corporation. Leases were granted for 20 years and could be renewed once. There were no specific performance requirements. Foreign and local investors were treated on an equal basis.

104. [The representative of Samoa said that any free zones or special economic areas, which it established, would be fully subject to the coverage of its commitments in its Protocol of Accession to the WTO Agreement and that Samoa would ensure enforcement of its WTO obligations in those zones or areas. Goods produced in any such zones or areas under the tax and tariff provisions that exempt imports and imported inputs from tariffs and certain taxes would be subject to normal customs formalities when entering the rest of Samoa, including the application of tariffs and taxes. The Working Party took note of this commitment.]

#### Government procurement

105. The representative of Samoa said that government procurement was administered by the Treasury Stores. All tenders had to be advertised for at least two weeks. Projects worth less than SAT 5,000 required only verbal price offers. All other contracts had to be quoted in writing by at least three different suppliers. Government tenders inferior to SAT 20,000 were open only to local suppliers – often importers of overseas products or partners of overseas firms – unless the procured goods were not available locally. Tenders of greater value were open to international bidders and followed internationally accepted bidding procedures. Under this process, quotes were subject to technical, financial, environment, and legal analysis. The Government's Tenders Board advertised and awarded tenders for all projects worth SAT 200,000 or more. Contracts valued between SAT 200,000 and SAT 500,000 had to be assessed by the Tenders Board and projects of greater value approved by the Cabinet.

106. He noted that the Government was revising the Public Money Act. The proposed policy, yet to be approved, included the application of a domestic preference margin of 15 per cent to all international tenders. Samoa did not have any appeal mechanism, but bidders were present at the opening of tenders.

107. Asked whether Samoa intended to initiate negotiations for accession to the Government Procurement Agreement (GPA), the representative of Samoa noted very few, if any, Samoan government contracts would be covered by the Agreement due to the value thresholds applied under the GPA. Moreover, large contracts were often implemented in the context of economic aid programmes, which were covered by the procurement rules of the organisations concerned. Thus, Samoa did not intend to join the plurilateral Agreement on Government Procurement.

#### Trade in Civil Aircraft

108. The representative of Samoa said that aircraft and aircraft parts for the commercial transport of persons were exempt from customs duties, while other aircraft and aircraft parts were subject to an

8 per cent duty. Samoa did not accord tariff exemptions on equipment, parts, or technical supplies required for airports in connection with air services.

Transit

109. The representative of Samoa said that Samoa did not restrict trade in transit.

Agricultural policies

(a) Imports – description of the types of border protection maintained

110. The representative of Samoa said that customs duties were the only type of border protection maintained.

111. A member noted that Samoa was part of the Regional Sugar Agreement, whereby Fiji sold agreed quantities of sugar at pre-determined prices to the other parties to the Agreement – Kiribati, Solomon Islands, Tonga, Tuvalu, and Samoa. That member sought more detailed information on the functioning of the Agreement, in particular on whether sugar could be freely imported from any source or first had to be purchased from Fiji, and whether licenses were required for the importation and exportation of sugar under the Agreement.

112. In reply, the representative of Samoa said that the yearly quotas established under the Agreement were indicative and importers free to buy sugar from other sources. Quotas were monitored on a quarterly basis. In the event of under- or over-utilisation of quotas in the first six months, consultations would be held between the concerned parties to reduce or increase the quotas. No licence was required for the exportation of sugar from Fiji. The purchase and export of sugar under the Agreement were carried out by an agent appointed by the Forum Secretariat in consultation with parties to the Agreement. The Secretariat's role was to facilitate the administration of the Agreement. Any country wishing to become a party to the Agreement had to apply to the Forum Secretariat. Decisions were taken at the unanimity. He added that the Agreement had been suspended.

(b) Exports

113. The representative of Samoa said that Samoa did not prohibit or restrict exports of agricultural products, apart from birds for environmental reasons. He confirmed that Samoa operated no export credit, export credit guarantee or insurance programmes for agricultural products.

- (c) Internal policies – i.e. description of, and the budgetary expenditure and any revenue foregone involved in each of the domestic support measures in place

114. The representative of Samoa said that his Government had embarked on a reform programme to liberalize all sectors of the economy, including agriculture. Price support policies for agricultural products had been eliminated. Current policies aimed at improving subsistence farming and helping farmers adjust to open market conditions. The Stabex funds received from the European Community were used according to the Government's priorities, mainly for infrastructure development (building of roads, slaughterhouses, etc.)

115. He provided information on domestic support and export subsidies in agriculture for the period 1997-1999 in document WT/ACC/SPEC/SAM/3 of 30 August 2001, subsequently revised in document WT/ACC/SPEC/SAM/3/Rev.1 of 12 June 2003. He noted that all support provided during this period qualified as "Green Box" measures exempt from reduction commitments. His Government provided assistance for research on crops and plant pests, pest and disease control, and agricultural production, as well as extension, advisory, and inspection services.

116. Noting that Samoa no longer granted export subsidies, several members asked Samoa to bind its export subsidies at zero both in volume and value terms. The representative of Samoa replied that his Government would consider this request.

#### Textiles Regime

117. The representative of Samoa said that Samoa had no specific policies related to textiles. Samoa's textile and apparel industry counted only one exporting industry and had an important potential for development. Foreign investors were encouraged to invest in this sector.

#### Trade-Related Intellectual Property Rights (TRIPS)

##### 1. General

##### (a) Industrial property protection

118. The representative of Samoa said that intellectual property was regulated by the Trademarks Act of 1972, the Industrial Designs Act of 1972, the Patents Act of 1972, and the Copyright Act of 1998. While the 1998 Copyright Act complied with WTO TRIPS regulations, other pieces of legislation would have to be revised to be brought into conformity with the TRIPS Agreement. His Government was receiving technical assistance to this end under the Regional Focussed Action Plan

run jointly by WIPO, IP Australia, and the Pacific Islands Forum Secretariat, but additional assistance was needed, including training for specialized personnel and the public and awareness programmes.

119. He accordingly requested that Samoa be granted the transition period applicable to least-developed countries under Article 66:1 of the TRIPS Agreement, which extended the implementation period of the Agreement until 1 January 2006. He proposed an action plan to achieve WTO conformity, which is reproduced in Table 9. He stressed that the timeframe indicated in the table relied upon the provision of adequate technical assistance by WTO Members.

(b) Responsible agencies for policy formulation and implementation

120. The representative of Samoa said that responsibility for formulation and implementation of intellectual property policy rested with the Registries Division of the Justice Department.

(c) Participation in international intellectual property agreements

121. The representative of Samoa said that Samoa had been a party to the World Intellectual Property Organisation (WIPO) since 11 October 1997. It intended to join the Paris Convention for the Protection of Industrial Property and, prior to becoming a Member of the WTO, the Berne Convention for the Protection of Literary and Artistic Works. His Government was still considering whether to be a party to other intellectual property conventions, in particular the Patent Cooperation Treaty and the International Convention on the Protection of New Varieties of Plants.

(d) Application of national and MFN treatment to foreign nationals

122. The representative of Samoa said that Samoa applied different fees and charges to foreign nationals for the registration of trademarks, industrial designs, and patent. He provided a copy of the revised schedule of fees effective since 1 July 1998 in document WT/ACC/SAM/4/Add.1.

2. Substantive standards of protection, including procedures for the acquisition and maintenance of intellectual property rights

(a) Copyright protection

123. The representative of Samoa said that the Copyright Act had been enacted by the Parliament in June 1998 and entered into force on 1 September 1998. The Act provided copyright protection to literary and artistic works, including books, pamphlets, articles, computer programmes and other writings; speeches, lectures, addresses, sermons, and other oral works; dramas, dramatic-musical works, pantomimes, choreographic works and other works created for stage productions; folklore stage productions; musical works with or without accompanying words; audio-visual works;

architectural works; drawing, painting, sculpture, engraving, lithography, tapestry, and other works of fine art; photographic works; works of applied art; and illustrations, maps, plans, sketches, and three dimensional works relative to geography, topography architecture or science; and derivative works, including databases provided that the data was in readable form and its arrangement original in nature. Protection was also granted to performers, sound producers, and broadcasters.

124. The Act extended copyright protection to expressions of folklore, including folk tales, poetry, riddles, songs instrumental folk music, folk dances and plays, production of folk arts such as drawings, paintings, carvings, sculptures, pottery, terra-cotta, mosaic, woodwork, metal ware, jewellery, handicrafts, costumes and indigenous textiles. Expressions of folklore were protected against reproduction; communication to the public by performance, broadcasting, distribution by cable or other means; and adaptation, translation and other transformation for commercial purposes or outside the traditional or customary context. Folklore protection applied equally to non-nationals.

125. Protection was provided for the lifetime of the author and 75 years after his/her death or the death of the last surviving author in the case of joint authorship. He added that his Government intended to establish an agency to administer copyrights.

126. In response to a specific question, he confirmed that translations, adaptations and arrangements were protected as works, and that protection covered audiovisual works as well as published and unpublished works, in accordance with Articles 2 and 3 of the Berne Convention.

127. A member noted that the Copyright Act of 1998 referred to databases as "derivative works", which implied that the underlying data was necessarily protectable, while the TRIPS Agreement considered databases as compilations of data whose selection and arrangement should be protected as such. This Member consequently asked Samoa whether additional protection was provided for databases under a separate law. The representative of Samoa replied that Samoa's legislation did not provide for additional protection.

(b) Trademarks, including service marks

128. The representative of Samoa said that trademarks were protected in accordance with the 1972 Trademarks Act. Protection was granted to marks with distinctive characteristics, not causing confusion and not contrary to law or morality. Application for registration of a mark was to be submitted to the IP Registrar of the Justice Department. Decisions to grant a trademark were published in Samoa's Official Gazette, Savali. Any objection had to be sent to the Registrar within three months following the date of advertisement. Upon notification of the objection, the applicant had three months to provide a counter statement, after which the Registrar would take the final

decision. Trademark protection was provided for 14 years and could be renewed. Applications for renewal were to be submitted within the 12 months preceding the expiration of protection. Trademark rights could be transferred or assigned with or without agreement of the holder. Samoa's legislation provided for priority registration for overseas trademarks. In such events, the date of local registration would be the date of entry into force of the overseas registration.

129. The Trademarks Act did not contain any specific provisions concerning service marks, well-known marks – although some of them were protected under the Act, or the nullification of protection in case of non-use. However, the Act was being revised to be brought into conformity with the TRIPS Agreement, and explicit provisions on service marks and well-known marks would be included. Samoa was receiving technical assistance from WIPO in this regard.

(c) Geographical indications, including appellations of origin

130. The representative of Samoa said that Samoa had no legislation protecting geographical indications, including appellations of origin.

(d) Industrial designs

131. The representative of Samoa said that industrial designs were protected under the Industrial Designs Act of 1972. Only new industrial designs filed for the first time in Samoa, and which had not been disclosed to the public during the 6 months preceding the filing, could be registered under the Act. Applications for registration were to be submitted to the IP Registrar of the Justice Department and should include a specimen of the object incorporating the industrial design or a photographic or graphic representation of the industrial design, along with information about the kind of products for which the industrial design would be used. Protection could be provided to joint creators of industrial designs and their successors. Priority claims for industrial designs already filed in another country were to be accompanied by a written declaration specifying the date and reference of the earlier application; the name of the country in which the industrial design had already been registered; the name of the applicant; and a certified copy of the previous application. Protection was provided for 5 years and could be renewed twice. The Minister could suspend the registration requirement, for nationals from countries granting reciprocal treatment to Samoan nationals. He acknowledged that this provision was inconsistent with the MFN principle of the WTO.

132. The holder had the right to request the competent authority to take civil action against illicit reproduction of the protected industrial design in the manufacturing of a product; importation, sale, and use of a product reproducing the industrial design; and the possession of such a product for sale purposes or simple use. Industrial designs could be assigned, transferred by succession, or licensed.

Joint owners could transfer, use, and exercise their rights separately, but licenses had to be granted jointly. Licence contracts and modifications or renewals of licence contracts involving the payment of royalties abroad had to be approved by the Minister of Justice. The owner could renounce the registration of an industrial design by submitting a statutory declaration to the Registrar, which had to be complemented, in the event a licence had been granted, by the licensee's declaration of consent. Should the conditions for protection not be met, the Supreme Court could declare the registration of an industrial design null and void from the date of registration.

(e) Patents

133. The representative of Samoa said that patents were protected in accordance with the Patents Act of 1972. The Act afforded patent protection to new and useful inventions. Were considered as new, inventions involving a new manufacturing technique, a new application method, or improvements to a known process. Applications for a patent were to be submitted to the Intellectual Property Registrar of the Justice Department. Information to be provided included a description of the invention and of the best method for performing the invention. Protection was granted for 16 years. During the examination of the application, the inventor could request a provisional certificate from the Attorney General to protect the invention. Provisional certificates were valid for 12 months. The patent holder had the exclusive right to use, sell, or authorize others to use the invention. Patents could be assigned and transferred.

134. A member noted that the term of protection of 16 years provided for in Samoa's patent legislation was inconsistent with Article XXXIII of the TRIPS Agreement, which set that term at 20 years. In reply, the representative of Samoa said that his Government would review the 1972 Patents Act to bring it into conformity with the TRIPS Agreement.

(f) Plant variety protection

135. The representative of Samoa recognised that plant varieties, non-biological and microbiological processes were not protected under the current legislation, but these matters would be incorporated in the new texts being drafted.

(g) Layout designs of integrated circuits

136. The representative of Samoa said that Samoa's existing intellectual property legislation did not protect layout designs of integrated circuits. This issue would however be included in the new legislation being developed.



(h) Requirements on undisclosed information, including trade secrets and test data

137. The representative of Samoa said that undisclosed information and trade secrets were not covered by Samoa's current intellectual property provisions.

3. Measures to control abuse of intellectual property rights

138. The representative of Samoa said that Samoa had no specific provisions to control abuse of intellectual property rights.

4. Enforcement

139. The representative of Samoa said that Samoa's intellectual property legislation needed to be amended to include provisions on civil procedures and remedies, provisional measures, administrative procedures and remedies, special border measures, and criminal penalties that would comply with the enforcement provisions of the TRIPS Agreement. The proposed amendments would provide for judicial review of administrative decisions concerning intellectual property and give customs officials the authority to prohibit importation of goods violating intellectual property rights. Further measures envisaged by his Government included the computerization of the filing system of intellectual property applications and the establishment of an agency to enforce the rights of copyright holders. Training of enforcement officers, judges and technical staff was being conducted with the assistance of WIPO and other international organizations.

140. Under Samoa's current intellectual property legislation, an action against infringement of intellectual property rights could be engaged on the basis of a suit or a claim filed by the right holder to the Supreme Court. A notice would be sent to the party against which the claim was filed and the Court would organize a hearing. Existing remedies included compensation for material and moral damages, destruction of infringing goods and/or implements, or their disposal outside the channel of commerce. Repeated infringements were punishable with fines up to SAT 5,000. Persons falsely claiming a patent invention risked a fine up to SAT 1,000 and the sale of pretended patented goods was subject to a fine up to SAT 250. The false representation of a trademark was punishable with a fine up to SAT 200. He added that the provisions of the Criminal Procedures Act of 1972 also applied to the infringement of intellectual property rights.

141. The Customs Department was responsible for the control of imported goods and had the power to suspend the release of suspected illegal goods and seize infringing goods. The Police Department had the authority to seize infringing goods, and the Justice Department liaised with the

Police and Customs Department in cases of known infringement to ensure that appropriate action was taken.

142. Importation of goods violating copyright and trademark property rights was prohibited. The 1977 Customs Ordinance provided customs officials with the authority to suspend the release of goods suspected to infringe copyright laws, and the 1972 Copyright Act conferred the Supreme Court power to issue injunctions to order a party to stop an infringement of copyright rights or order the seizure or destruction of the infringing goods and/or implements. In response to a specific question, the representative of Samoa confirmed that goods infringing patent rights were not prohibited from importation.

#### Policies affecting trade in services

143. The representative of Samoa said that Samoa's services industry was still at a very early stage of development. The liberalization and privatization engaged by the Government had led to a diversification of the economy, and a gradual expansion of the services sector was to be expected. However, the regulatory framework was still under-developed and needed updating. Samoa's legislation did not contain specific provisions concerning safeguard measures, international payments, or government procurement of services; aid affecting trade in services; or the review of, or remedies in relation to, administrative decisions related to trade in services. Many services were not yet regulated or subject to little regulation. Information based on the services sectoral classification list was provided in document WT/ACC/SAM/2, Annex 3.

144. The Department of Trade, Commerce and Industry was responsible for implementing policies related to services sectors and acted as Samoa's enquiry point. Formulation of services policies and legislative amendments were discussed in an inter-departmental committee, composed of the Departments of Trade, Commerce and Industry; Customs; and Labour; of the Treasury; Central Bank; Attorney General's Office; and Prime Minister's Department. Professional associations and agencies involved in the process included the Society of Accountants (Public Accountants Act of 1984); the Law Society (Law Practitioners Act of 1976); the Medical Association (Medical Practitioners Act of 1975, as amended in 1975 and 1977); the Nurses Association (Nurses Act of 1969, as amended 1969 and 1981); and the Dental Society (Dental Practitioners Act of 1975). As for the setting of professional and trade standards for the supply of services, they were developed in coordination with the Society of Accountants (Public Accountants Act of 1984); the Law Society (Law Practitioners Act of 1976); the Medical Association (Medical Practitioners Act of 1975, as amended in 1975 and 1977); the Nurses Association (Nurses Act of 1969, as amended in 1969 and 1981); and the Dental Society (Dental Practitioners Act of 1975).

145. Samoa's services legislation fully complied with the most-favoured-nation principle, with the exception of the Pharmacy Act of 1976, which would be revised to be brought into conformity with GATS provisions. Access of foreign service suppliers to the services sectors mentioned in the Reserved and Restricted list of activities developed under the 2000 Foreign Investment Act was prohibited or subject to conditions, which could include the mandatory establishment of a joint-venture with Samoan nationals, employment of national citizens, or limitations on the participation of foreign capital. He confirmed that apart from these provisions, domestic and foreign services suppliers enjoyed similar rights.

146. Noting that Samoa delivered work permits to foreign workers if skills were not available locally, a Member asked Samoa to specify whether it allowed temporary entry and movement of natural persons to supply services or applied any restrictions on the supply of services through Mode 2, i.e. consumption abroad.

147. Economic needs tests were required for the establishment of insurance companies and delivery of banking licenses under the 1976 Insurance Act and the 1996 Financial Institutions Act, and providers of environmental services were selected by a committee appointed on an ad hoc basis. Companies of the petroleum, communication, water, and electricity sectors enjoyed monopoly or exclusive contract status. As Samoa's market was too small to support more than one oil supplier, Mobil had been granted an exclusive five-year contract in 1998 to supply and distribute petroleum products in Samoa following a competitive tendering process. Upon expiration of the contract, a new competitive process would be carried out. In the communication sector, Samoa Communication Ltd – which had been established in 1999 after the corporatization of the Posts and Telecommunications Department – had the right to provide exclusive communication services both locally and internationally for a period of 10 years (1999-2009). As for Samoa Water Authority and Electric Power Corporation, they enjoyed a monopoly position. These two companies did not, however, make any profit, as part of their activity consisted in carrying out non-commercially viable social functions. He added that, while the Electric Power Corporation was the sole supplier of electricity throughout Samoa, Samoa's legislation did not limit access to the electricity market.

148. A number of State-owned enterprises of the services sector were granted subsidies. In 2000/2001, the Electric Corporation had received SAT 6.1 million for rural electrification; the Water Authority SAT 6.1 million as a contribution to a Rural Water Supply Improvement Project funded through the European Development Fund; Televisi Samoa SAT 0.6 million for public service broadcasting; and Housing Corporation and Polynesian Airlines SAT 0.4 and 8.8 million respectively as repayment of former debts. The Electric Corporation, Development Bank of Samoa, and Water Authority also benefited from preferred credit arrangements financed through funds originating

primarily from the Asian Development Bank, World Bank, and European Investment Bank, and several SOEs enjoyed government guarantees on borrowing from the domestic banking system.

149. The insurance sector was regulated by the Insurance Act of 1976. The licensing of insurance providers was subject to an economic needs test. The Minister of Finance, also acting as Commissioner of Insurance, had the sole authority to deliver insurance licenses. Licenses were granted to any legal entity, whether local or foreign, which satisfied the licensing requirements of the Insurance Act and "carried out business in Samoa" in accordance with the 1955 Companies Act – or its revised provisions under discussion. A foreign company was considered to "carry out business in Samoa" if it administered or managed property in Samoa as an agent, a representative, or a trustee, either through its employees or an agent, or in any other manner.

150. Samoa's financial sector was governed by the 1996 Financial Institutions Act, which set out prudential and licensing requirements for banks. There were no barriers to the entry of commercial banks, foreign or local, into Samoa's market, but banks were required to hold a licence. Banking licenses were delivered by the Central Bank subject to an economic needs test. Features taken into account included the need for and viability of the proposed institution; its capital structure and financial capacity; the qualification of the applicant, major stakeholders, and managers; the proposed accounting and internal control system; and proposed activities. He added that these provisions mirrored the Bank for International Settlement's Core Principles for Effective Banking Supervision. Foreign institutions were subject to the same prudential and licensing requirements as domestic institutions. The sector counted three commercial banks and some financial agencies specialized in foreign exchange and money transfer. The absence of some financial services was due to the recent liberalization of Samoa's financial sector. Except for money broking, all financial services were provided by the private sector. There were no restrictions on the ability of non-residents to supply cross-border advisory, intermediation, and other auxiliary services, or provide or transfer financial information and financial data processing. The opening, by a licensed financial institution, of a branch or subsidiary outside Samoa required approval of the Central Bank.

151. Legal services were regulated by the Law Practitioners Act of 1976. According to the Act, foreign lawyers were allowed to practice as barristers or solicitors at the Supreme Court of Samoa for a period of 6 years maximum, provided they were over 21 years old and held a professional degree from New Zealand, Australia, Fiji, or some states of the United States. Lawyers from other countries had to apply to the Law Society, which was responsible under the Law Practitioners Act for protecting the interests of the legal profession and the public in relation to legal matters. Upon expiration of the six-year period, lawyers wishing to stay had to file a new application to the Law Society. Lawyers with three years of experience could establish partnerships with Samoan lawyers. Most foreign

lawyers admitted on a temporary basis had come for a particular case and returned to their home country once the case settled. No foreign lawyer had been permitted to establish practice on his/her own. In response to a specific question concerning the rationale of the restriction applied to legal practice in Samoa and whether this restriction applied to the provision of advice on home country and international law or solely on Samoan law, the representative of Samoa said that the requirement to establish a partnership with a local lawyer was meant to facilitate the processing of legal cases. Foreign lawyers provided customarily advice depending on the needs of their client.

152. Pursuant to the Public Accountant Act of 1984, any person wishing to practice as an accountant in Samoa had to be admitted by the Council as a member of the Samoan Society of Accountants. The Council recognized the qualifications from professional bodies in eight countries, including Australia, Canada, Fiji, Ireland, New Zealand, Scotland, Wales, and the United Kingdom. Applications from other countries were considered on their own merits. However, membership in the Society was open only to Samoan citizens or permanent residents over 21 years old satisfying the professional and academic requirements set out in the Rules of the Society. Overseas accountants who were not members of the Society could nevertheless practice accounting in Samoa, including audit, provided they held a temporary practising certificate. Certificates were delivered by the Council for one year, renewable. After 5 years, the licensee had to apply for a new certificate.

153. The Ministry of Posts and Telecommunications was responsible for formulating telecommunications policies and measures had been taken to establish a regulatory authority. Given the small size of the country, Samoa Communications Ltd (SCL) had been granted an exclusive licence until 30 June 2009 to provide postal and telecommunications services previously supplied by the Post and Telecommunications Department. The licence covered both basic telephony and value added services. Debts of the Post and Telecommunications Department – SAT 55 million in total – had been transferred to SCL. Samoa also counted one mobile operator, the Telecom Samoa Cellular. The delivery of new mobile licenses was subject to an economic needs test. As to wiring and provision of telephone equipment, they were open to competition.

154. Audiovisual services were regulated by the Broadcasting Act of 1959, the Televisual Samoa Corporation Act of 1994, and the Films Control Act of 1978, which established a Film Control Board within the Justice Department to control the broadcast of films. The Film Control Board issued licenses for the provision of television broadcast services. Licensing was subject no specific criteria, but the applicant was requested to pay a SAT 25 application fee in addition to the SAT 100 annual licence fee. In the case of paying television, the participation of a local shareholder was required and licence fees amounted to SAT 5,000. The exhibition of films was subject to authorization from the Health and Fire Department as to health and safety requirements and subsequent licensing by the Film

Control Board, and the distribution of videos required normal business licenses from the Inland Revenue Department. Videos could be censored by the Film Control Board.

155. *[Samoa's offer of initial commitments on trade in services was circulated in document WT/ACC/SPC/SAM/2 of 30 August 2001.]*

### Transparency

#### Publication of information on trade

156. The representative of Samoa said that Standing Order 70 of Parliament required any bill to be announced in the Official Gazette (Savali), other local newspapers, or on Radio 2AP at least one to seven days before it was introduced in Parliament. Parliamentary proceedings were broadcasted live. There was no legal requirement for further publication of newly adopted Acts, but copies were sent to all members of the Parliament and heads of Government Departments, as well as to the Council of Deputies and the Honourable Chief Justice. Lists of enacted legislation were published in the Gazette and copies of Acts could be purchased from the Legislative Assembly. When Acts required an order to be brought into force, the order was published in all local newspapers. Ministers' administrative decisions were published in the Government's press releases and other publications, and customs procedures and regulations were available to private sector stakeholders through the Customs Public Circulars. Measures were under consideration to improve transparency requirements. In particular, his Government was negotiating with the University of the South Pacific to license the posting of legislation on the Internet and had received approval from the Supreme Court to publish and put on the Internet all significant judicial decisions.

157. [The representative of Samoa confirmed that from the date of its accession, Samoa would implement the transparency provisions of the WTO, including the provisions of Article X of GATT 1994, in particular the requirement that all laws, regulations, judicial decisions and administrative rulings of general application, made effective by any contracting party, pertaining to the classification or the valuation of products for customs purposes, or to rates of duty, taxes or other charges, or to requirements, restrictions, or prohibitions on imports or exports or on the transfer of payments therefore, or affecting their sale, distribution, transportation, insurance, warehousing, inspection, exhibition, processing, mixing or other use, shall be published promptly in such a manner as to enable governments and traders to become acquainted with them. The Working Party took note of this commitment.]

Notifications

[to be completed]

Trade agreements

158. The representative of Samoa said that Samoa was a member of the Asian Development Bank; the International Bank for Reconstruction and Development; the International Development Association; the International Finance Corporation; the International Monetary Fund; the Food and Agriculture Organisation; and the Economic and Social Commission for Asia and the Pacific (ESCAP), established by the United Nations Economic and Social Council to facilitate economic cooperation. The ESCAP Pacific Operations Centre provided technical assistance to the Pacific Region. Samoa also participated in a number of economic programmes of the United Nations and technical assistance activities of the Asian Productivity Organization; the United Nations Conference on Trade and Development; the International Trade Centre; and the United Nations Industrial Development Organization.

159. At the regional level, Samoa was a member of the South Pacific Forum, a political grouping of independent and self-governing states of the Pacific region established in 1971 to develop collective responses to regional issues. The 16 members of the Forum included Australia, Cook Islands, the Federated States of Micronesia, Fiji, Kiribati, Nauru, New Zealand, Niue, Palau, Papua New Guinea, Marshall Islands, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu. The Forum Secretariat, located in Suva, Fiji, was responsible for providing policy advice and coordinating programmes. The Forum had established partnerships to discuss economic issues with Canada, the People's Republic of China, the European Union, Japan, the Republic of Korea, Malaysia, the United Kingdom, and the United States. Samoa also participated in the South-Pacific Economic Exchange Support Centre – or Pacific Islands Centre–, and the South-Pacific Trade Commission. Established in October 1996 in Tokyo, Japan, the Pacific Islands Centre aimed at promoting trade, investment, and tourism between Japan and the Pacific Islands. As to the South-Pacific Trade Commission, it had two offices in Sydney, Australia, and Auckland, New Zealand, which assisted Forum Island countries with export development, foreign investment, tourism, and cost effective import procurement.

160. Samoa did not grant preferences to any trade partner but benefited from trade preferences under several Agreements. Samoa was a party to the South Pacific Regional Trade and Economic Cooperation Agreement (SPARTECA), which entered into force on 1 January 1981. The SPARTECA was a preferential non-reciprocal trade agreement whereby Australia and New Zealand extended duty free and unrestricted or concessional access for virtually all products originating from the Forum Island Members, i.e. Australia, Cook Islands, the Federated States of Micronesia, Fiji,

Kiribati, Nauru, New Zealand, Niue, Papua New Guinea, Marshall Islands, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu. The Agreement aimed at promoting the economic development of the Forum Island countries through economic, industrial, agricultural and technical cooperation. Samoa was also a signatory of the Lomé Convention between the European Communities (EC) and 70 countries in Africa, the Caribbean, and the Pacific (ACP) whereby the EC granted non-reciprocal free access to the European market for almost all products from ACP countries.

161. Samoa had participated in the Long Term Sugar Agreement, which run from 1995 to 1998. Under the Agreement, Fiji had supplied agreed quantities of sugar to Kiribati, Solomon Islands, Tonga, Tuvalu and Samoa at pre-determined prices. The agreed quantities were indicative and did not constitute an obligation to buy or sell. Sugar imported under the Agreement could not be re-exported. The Agreement had been administered by the Forum Secretariat.

162. Samoa had signed a bilateral trade agreement with the People's Republic of China in March 1997 granting reciprocal most-favoured-nation treatment for trade in goods. He confirmed that none of Samoa's preferential trade agreements covered trade in services.

163. As to labour market integration, Samoa had signed a bilateral agreement with New Zealand in 1970, under which a certain number of Samoans were permitted to take up permanent residency in New Zealand and apply for citizenship upon arrival, provided they were between 18 and 45 years old, had an employment offer in New Zealand, and met the standard health and character requirements. The immigration quota had been set at 1,100 per year since the early 1980s.

164. [The representative of Samoa stated that his Government would observe the provisions of the WTO, including Article XXIV of the GATT 1994 and Article V of the GATS in its trade agreements, and would ensure that the provisions of the WTO Agreements for notification, consultation and other requirements concerning preferential trading systems, free trade areas and customs unions of which Samoa was a member were met from the date of accession. The Working Party took note of this commitment.]



Conclusions

165. The Working Party took note of the explanations and statements of Samoa concerning its foreign trade regime, as reflected in this Draft Report. The Working Party took note of the commitments given by Samoa in relation to certain specific matters which are reproduced in paragraphs [.....and .....] of this Draft Report. The Working Party took note that these commitments had been incorporated in paragraph 2 of the Draft Protocol of Accession of Samoa to the WTO.

[To be completed]

## ATTACHMENTS

Table 1: List of enterprises wholly or partially owned by the State

	Enterprises	Percentage of State Ownership
1.	Accident Compensation Board	100 per cent
2.	Agriculture Store Corporation	100 per cent
3.	Air Pacific	0.12 per cent
4.	Airport Authority	100 per cent
5.	Apia Park Board	100 per cent
6.	Brugger Industries Ltd	20 per cent
7.	Central Bank of Samoa	100 per cent
8.	Computer Services Ltd	40 per cent
9.	Development Bank of Samoa	100 per cent
10.	Electric Power Corporation	100 per cent
11.	Hellaby Samoa Ltd	9 per cent
12.	Housing Corporation	100 per cent
13.	National Pacific Insurance Ltd	30 per cent
14.	National Provident Fund	100 per cent
15.	National University of Samoa	100 per cent
16.	Pacific Forum Line	7 per cent
17.	Polynesian Airlines (Holdings) Ltd (old)	100 per cent
18.	Polynesian Investment	100 per cent
19.	Polynesian Ltd (new)	100 per cent
20.	Rothmans Tobacco Co. Ltd	40 per cent
21.	Samoa Breweries Ltd	15.5 per cent
22.	Samoa Coconut Products Ltd	100 per cent
23.	Samoa Communications Ltd	100 per cent
24.	Samoa Forest Corporation Ltd	40 per cent
25.	Samoa Land Corporation	100 per cent
26.	Samoa Life Assurance Corporation	100 per cent
27.	Samoa Polytechnic	100 per cent
28.	Samoa Shipping Corporation	100 per cent
29.	Samoa Shipping Services Ltd	100 per cent
30.	Samoa Trust Estates Corporation	100 per cent
31.	Samoa Visitors Bureau	100 per cent
32.	Samoa Water Authority	100 per cent
33.	Samoa Ports Authority	100 per cent
34.	Telecom Samoa Cellular	10 per cent
35.	Televise Samoa Corporation	100 per cent

Table 2: Corporatization and Privatization (1998 – 2002)

Completed	Privatization/Equity Divestment 2001 - 2002
<ul style="list-style-type: none"> <li>i. Divested Government shares in Samoa Iron and Steel in November 1998;</li> <li>ii. Corporatized PTD on 1 July 1999;</li> <li>iii. Sold Government's majority shareholding in Samoa Breweries in mid 1999,</li> <li>iv. Divested Government shares in BOC Gas in August 1999;</li> <li>v. Wound-up the Special Projects Development Corporation (SPDC) and assets tendered;</li> <li>vi. Initiated negotiations of joint venture for the divestment of government's interest in the Samoa Coconut Oil and Products Limited (SCOPL);</li> <li>vii. Sold all Government Assets with the Samoa Coconut Products Limited;</li> <li>viii. Divested Government shares in Brugger Industries beginning of 2001; and</li> <li>ix. Divested Government shares in Rothmans Limited beginning of 2001.</li> </ul>	<ul style="list-style-type: none"> <li>Privatizing</li> <li>- Agriculture Stores Corporation.</li> <li>- Divestment of Government Shareholding Samoa Forest Corporation;</li> <li>- Computer Services Limited;</li> <li>- Hellaby Limited; and</li> <li>- The balance of Samoa Breweries Limited</li> </ul>

Table 3: Goods subject to Price Control by HS Number

Commodity	HS Number
Frozen Turkey tails	0207.2610
Frozen Chicken Leg	0207.1310
Frozen Lamb necks	0204.2200
Frozen Lamb Breast & Flaps	0204.2200
Frozen Turkey Wings	0207.2620
Frozen Chicken Thighs	0207.1310
Frozen Pure Flaps	0204.2200
Frozen Pork Trotter	0203.2910
Dairy & condensed milk	0402.9910
Milk powder (SMA/Anchor)	0402.1010
Butter & margarine	0405.1000 & 0405.9000
Potatoes	0701.9000
Onion	0703.1000
Flour (all brands)	1101.0090
Rice (all brands)	1103.1400
Sugar (all types)	1701.1100
Dripping & cooking oil of all types	1517.9010 & 1517.9090
All tinned fish brands	1604.1200 // 1604.1500
Including tuna canned products	1604.1400
Imported corned beef	1602.5010
Imported camp pie	1602.9090
All types of noodles (bowl, cups & packet)	1902.1920
Macaroni & vermicelli	1902.1910
Soy sauce (all brands)	2103.1000
Imported beer	2203.0010 & 2203.1090
Imported cigarettes & tobacco	2402.2000 & 2403.1020
Salt	2501.0010 // 2501.0090
Unleaded Petrol	2710.0010
Diesel	2710.0050
LP Gas	2711.1200
Toothpaste (all brands)	3306.1000
Laundry & bathing	3401.1100 // 3401.1900
Soaps (all brands)	3401.1100 // 3401.1900
Mosquito coil (all brands)	3808.1010

Table 4: Customs Fees and Charges (1998)

Legal Ref.	Description	Previous Fees and Charges	New Fees and Charges, as of 1998
R12(1)	Attendance during working hours	SAT6 per hour	SAT8 per hour
R13(1)	Attendance outside working hours (a) Customs Holiday (b) Other Days  Attendance (a) normal hours (b) outside normal hours	SAT8 per hour SAT8 per hour  SAT6 per hour SAT8 per hour	SAT10 per hour SAT10 per hour  SAT8 per hour SAT10 per hour
R13(2)	Minimum Charge between the hours of 8pm and 6am on weekdays and between any time on Saturdays, Sundays and Public Holidays		A minimum charge equal to 3 hours at the applicable rates
R16(1)	Cancellation of Entry		SAT10 per entry
R23A (R22, 23)	Collectors Permit		SAT25 per permit
R30	Personal Effects clearance without entry		SAT25 per clearance
R33	Sight Entry	SAT10	SAT25 per application
R35	Exemption from Export Entry		SAT25 per exemption
R37	Certificate of Clearance	SAT5	SAT15 per clearance
R41	Request for ship's or aircraft stores		SAT25 per application
R47	Temporary removal of Warehouse goods		SAT25 per application
R51	Application for re-warehousing		SAT25 per application
R54	Temporary acceptance of Proforma, fax, etc. invoices		SAT15 per invoice
R61	Application for refunds	SAT6 per SAT500	SAT25 + SAT8 per SAT500 or part thereof
R62	Application for refund, faulty manufacture	SAT6 per SAT500	SAT25 + SAT8 per SAT500 or part thereof
R63	Application for refund, damaged, etc. goods	SAT6 per SAT500	SAT25 + SAT8 per SAT500 or part thereof
R64	Application for refund, goods diminished in value	SAT6 per SAT500	SAT25 + SAT8 per SAT500 or part thereof
R65	Application for refund, destroyed, pillaged or lost goods	SAT6 per SAT500	SAT25 + SAT8 per SAT500 or part thereof
R67	Application for Drawback	SAT6 per every SAT500	SAT25 + SAT8 per SAT500 or part thereof
R68	Application for drawback in special cases	SAT6 per every SAT500	SAT25 + SAT8 per SAT500 or part thereof
R69	Waiving of non-compliance with conditions		SAT25 per application
R71	Application to re-import goods exported under drawback		SAT25 per application
R76	Approval of Agent's employees		SAT25 per application
R87	Customs Agent's Licenses (a) Individual (b) General (c) Restricted	SAT100 SAT100 SAT100	SAT500 per annum SAT500 per annum SAT500 per annum
R85	Appeals against the decision of the Comptroller		SAT100 per application
R88	application for Customs Carrier		SAT100 per application
R96	Clearance of Postal packets without entry		SAT5 per clearance

Legal Ref.	Description	Previous Fees and Charges	New Fees and Charges, as of 1998
S87	Annual Warehouse Licence Fee - Part 1 Not less than 200 tonnes Not less than 200 tonnes and less than 300 Not less than 300 tonnes and less than 400 Not less than 400 tonnes and less than 500 Not less than 500 tonnes and less than 600 Not less than 600 tonnes and less than 700 Not less than 700 tonnes and less than 800 Not less than 800 tonnes and less than 900 Not less than 900 tonnes and less than 1000 Not less than 1000 tonnes	SAT150 SAT200 SAT250 SAT300 SAT350 SAT400 SAT450 SAT500 SAT550 SAT600	SAT1,000 SAT1,250 SAT1,500 SAT1,750 SAT2,000 SAT2,250 SAT2,500 SAT2,750 SAT3,000 SAT3,250
	Annual Warehouse Licence Fee - Part 2 Not less than 200 tonnes Not less than 200 tonnes and less than 300 Not less than 300 tonnes and less than 400 Not less than 400 tonnes and less than 500 Not less than 500 tonnes and less than 600 Not less than 600 tonnes and less than 700 Not less than 700 tonnes and less than 800 Not less than 800 tonnes and less than 900 Not less than 900 tonnes and less than 1000 Not less than 1000 tonnes  Note 1 Warehouse Officer Service Charge (per annum)	SAT60 SAT80 SAT100 SAT120 SAT140 SAT160 SAT180 SAT200 SAT220 SAT240  SAT900	SAT1,000 SAT1,250 SAT1,500 SAT1,750 SAT2,000 SAT2,250 SAT2,500 SAT2,750 SAT3,000 SAT3,250  SAT1,000
	Deferred Duty (a) application (b) Late payment penalty (c) Annual Interest	SAT25	SAT25 SAT5 per payment 10% per Annum
	application for temporary import		SAT25 per application
	application for a Tariff Concession		SAT25 per application
	application for a Tariff opinion		SAT25 per commodity per application
	Copy of Official Document (requested by Owner)		SAT10 per set (up to 5 pages)
	application to enter a Port other than a Port of Entry		SAT100 per application
S29	Sufferance Wharves		SAT100 per application
S33	Approval Fee, Customs Container base		SAT1,000 per annum
S40	application to tranship goods		SAT25 per application plus security
	Request for Certificate of Landing		SAT25 per application
	Request for Pre-release of Goods		SAT25 per application
	Duty Free Shop Licence		SAT1,000
	Duty Free Shop Supervision		As per standard rates or SAT500 per annum or as may be determined by the Comptroller
S90	Transfer of Warehouse Licence		SAT200 per application
S94	Approval for Structural Alteration of Warehouse		SAT200 per application
S100	Repacking of Warehouse Goods		SAT25 per application
S112	Request for Constructive Warehousing		SAT25 per application

Legal Ref.	Description	Previous Fees and Charges	New Fees and Charges, as of 1998
S132	Assessment of goods for duty Purposes		SAT25 per application
	application for Export of goods for Repair and Return		SAT25 per application
S158	Request for refund of duty on forfeited goods		SAT25 per application
	Baggage Sufferance. AWB/PNDE Release		SAT5 per application
	Courier Releases (After Normal Working Hours)		SAT25 per Release
	application for Bonded Areas		SAT500 per Year plus security and service charges at standard rates or as may be determined by the Comptroller
	Release, Air Way Bill		SAT5 per release
	Release, Parcel Notification		SAT5 per release
	Ship's store application		SAT25 per application
	Other Service Approvals		At a rate to be fixed by the Comptroller

Table 5: Imported and Domestic Products Subject to Excise Tax

HS No.	Description	Excise in SAT
2201	Waters, including natural or artificial mineral waters and aerated waters, not containing added sugar or other sweetening matter nor flavoured; ice and snow:	
	Mineral waters and aerated waters:	
2201.1010	- - Natural mineral or spa water	SAT 0.30 per litre
2201.1090	- - Other	SAT 0.30 per litre
2201.9000	Other	SAT 0.30 per litre
2202	Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured, and other non-alcoholic beverages, not including fruit or vegetable juices of 2009:	
	Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured:	
2202.1010	- - Containing added sugar	SAT 0.30 per litre
2202.1020	- - Containing other sweetening matter	SAT 0.30 per litre
2202.1090	- - Other	SAT 0.30 per litre
2202.9000	Other	SAT 0.30 per litre
2203	Beer made from malt:	
2203.0010	- - - Not exceeding 3% by volume of alcohol	SAT 1.80 per litre
2203.1090	- - - Other	SAT 1.80 per litre
2204	Wine of fresh grapes, including fortified wines; grape must other than that of 2009:	
	Sparkling wine	
2204.1010	--- Of an alcohol strength by volume of 15% or less	SAT 3.60 per litre
2204.1090	- Other	SAT 6.00 per litre
	Other wine , grape must with fermentation prevented or arrested by the addition of alcohol; In containers holding 2 litres or less:	
2204.2110	--- Of an alcohol strength by volume of 15% or less	SAT 3.60 per litre
2204.2190	--- Other	SAT 6.00 per litre
2204.2910	--- Of an Alcohol strength by volume of 15% or less	SAT 3.60 per litre
2204.2990	--- Other	SAT 6.00 per litre
2204.3000	- Other Grape Must	SAT 3.60 per litre
2205	Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances:	
	In containers holding 2 L or less:	
2205.1020	- - - Of an alcohol strength by volume of 15% or less	SAT 3.60 per litre
2205.1090	- - Other	SAT 6.00 per litre
	Other:	
2205.9020	- - - Of an alcohol strength by volume of 15% or less	SAT 3.60 per litre
2205.9090	- - - Other	SAT 6.00 per litre
2206.0000	Other fermented beverages (for example, cider, perry, mead); mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages, not elsewhere specified or included	
2206.1010	- - - Of an alcohol strength by volume of 15% or less	SAT 30 per L/a
2206.0090	- - - Other	SAT 30 per L/a
2208	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80% vol; spirits, liqueurs and other spirituous beverages:	
	Spirits obtained by distilling grape wine or grape marc:	
2208.2010	- - Of an alcohol strength by volume of 30% or less	SAT 7.50 per litre



HS No.	Description	Excise in SAT
2208.2020	- - - Of an alcohol strength by volume exceeding 30% but not exceeding 57.12%	SAT 12 per litre
2208.2090	- - - Of an alcohol strength by volume of 15% or higher	SAT 24 per litre
	Whiskies	
2208.3010	- - Of an alcohol strength by volume of 30% or less	SAT 7.50 per litre
2208.3020	- - - Of an alcohol strength by volume exceeding 30% but not exceeding 57.12%	SAT 12 per litre
2208.3090	- - - Of an alcohol strength by volume of 57.12% or higher	SAT 24 per litre
	Rum and tafia:	
2208.4010	- - Of an alcohol strength by volume of 30% or less	SAT 7.50 per litre
2208.4020	- - - Of an alcohol strength by volume exceeding 30% but not exceeding 57.12%	SAT 12 per litre
2208.4090	- - Of an alcohol strength by volume of 57.12% or higher	SAT 24 per litre
	Gin and Geneva:	
2208.5010	- - Of an alcohol strength by volume of 30% or less	SAT 7.50 per litre
2208.5020	- - - Of an alcohol strength by volume exceeding 30% but not exceeding 57.12%	SAT 12 per litre
2208.5090	- - 57.12% or more by volume of alcohol	SAT 24 per litre
	Vodka:	
2208.6010	- - Of an alcohol strength by volume of 30% or less	SAT 7.50 per litre
2208.6020	- - - Of an alcohol strength by volume exceeding 30% but not exceeding 57.12%	SAT 12 per litre
2208.6090	- - Of an alcohol strength by volume of 57.12% or higher	SAT 24 per litre
	Liqueurs and cordials:	
	- - Liqueurs	
2208.7010	- - Of an alcohol strength by volume of 30% or less	SAT 7.50 per litre
2208.7012	- - - Of an alcohol strength by volume exceeding 30% but not exceeding 57.12%	SAT 12 per litre
2208.7019	- - Of an alcohol strength by volume of 57.12% or higher	SAT 24 per litre
	- - Cordials:	
2208.7021	- - Of an alcohol strength by volume of 30% or less	SAT 7.50 per litre
2208.7022	- - Of an alcohol strength by volume exceeding 30% but not exceeding 57.12%	SAT 12 per litre
2208.7029	- - Of an alcohol strength by volume of 57.12% or higher	SAT 24 per litre
	- Other:	
2208.9011	- - - Of an alcohol strength by volume of 30% or less	SAT 7.50 per litre
2208.9021	- - - Of an alcohol strength by volume exceeding 30% but not exceeding 57.12%	SAT 12 per litre
2208.9099	- - - Of an alcohol strength by volume of 57.12% or higher	SAT 24 per litre
2402	Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes:	
2402.1000	Cigars, cheroots and cigarillos, containing tobacco	160% or SAT 129.02 per kg or 1,000 sticks, whichever is the higher
2402.2000	Cigarettes containing tobacco	160% or, SAT 129.02 per kg or 1,000 sticks, whichever the higher
2402.9000	Other	160% or SAT 129.02 per kg or 1000 sticks, whichever is the higher
2403	Other manufactured tobacco and manufactured tobacco substitutes; "homogenised" or "reconstituted" tobacco; tobacco extracts and essences:	
	Smoking tobacco, whether or not containing tobacco substitutes in any proportion:	
2403.1010	- - Twist or stick tobacco	160% or SAT 110.15 per kg, whichever is the higher

HS No.	Description	Excise in SAT
2403.1090	- - Other	160% or, SAT 110.15 per kg, whichever is the higher
8703.0024	Vehicles of a cylinder capacity exceeding 2,000 cm <sup>3</sup> but not exceeding 3,000cm <sup>3</sup>	20% or SAT 2,400 per vehicle
8703.0025	Vehicles of a cylinder capacity exceeding 3,000cm <sup>3</sup>	20% or SAT 2,400 per vehicle

Table 6: Licence fees to buy, sell, and import liquor

Buying and Selling of Liquor	Licence Fee (in SAT)
Trading Store	250
Beach Resort	250
Bar & Restaurant	1,000
Warehouse	1,000
Hotel	1,500
Night Club	1,500
Liquor Distribution	1,000
Liquor Manufacturing	1,000
Temporary Licence	250
Importation	1,000

Table 7: Action Plan for the Implementation of the Customs Valuation Agreement

Action	Timeframe
Drafting of amendments to legislation necessary to bring the customs valuation system into full conformity with for WTO rules.	One year*
Parliamentary consideration and passage of legislation.	Two years*
Revision of existing implementing regulations.	Two and a half years*
Recruitment of personnel, obtaining facilities and equipment. Establishment of databases.	Two and a half years*
Development of manuals and operating procedures. Printing of forms, brochures, etc.	Two and a half years*
Training of at least 20 officials and customs officers. Workshops for private sector.	Three years*
Implementation of valuation system in full conformity with WTO rules.	Three years [after receipt of adequate technical assistance or date of accession, whichever is later.]

\* After receipt of adequate technical assistance

Table 8: Action Plan for the Implementation of the SPS Agreement

Action	Timeframe
Parliamentary passage of legislation fully consistent with the Agreement on Sanitary and Phytosanitary Measures.	One year*
Establishment of contact point and administrative procedures excise taxes on imported goods and domestically produced goods have been unified, e.g. publication to be used for the publication of proposed measures, authority making notifications, the procedure to be used for taking comments into account, the Government body responsible for developing regulations, conducting risk assessments and implementing control, inspection and approval procedures.	One year*
Establishment of implementing regulations, including control, inspection and approval procedures.	One year*
Obtaining facilities and equipment.	One year*
Development of manuals. Printing of forms, brochures, etc.	One and a half years*
Training of at least 15 officials, customs officers and private sector people.	Two years*
Full implementation	Two years*

\* After receipt of adequate technical assistance

Table 9: Action Plan for the Implementation of the TRIPS Agreement

Action	Timeframe
Parliamentary passage of legislation bringing Samoa's legislation into conformity with the TRIPS Agreement, including any necessary additional legislation to provide a legal basis for enforcement mechanisms.	Two years*
Establishment of Intellectual Property (IP) WTO Office responsible e.g. for implementing transparency provisions of the TRIPS Agreement.	Two years*
Hiring of personnel. Obtaining facilities and equipment.	Two years *
Establishment of implementing regulations.	Three years*
Development of manuals and operating procedures. Printing of necessary material.	Three years*
Training of at least 15 officials, customs officers and private sector people as well as educators in TRIPS issues.	Three years *
Readiness to participate in regional IP administrative cooperation (Collective management for copyright, regional system for patents and trademarks).	Three years*
Membership in the Berne and Paris Conventions.	Three years*
Implementation	Three years [after receipt of adequate technical assistance or date of accession, whichever is later.]

\* After receipt of adequate technical assistance

## ANNEX 1

### Laws, Regulations and Other Information Provided to the Working Party by Samoa

- Central Bank of Samoa Act 1984;
- Income Tax Act 1974;
- Income Tax Administration Act 1974;
- Income Tax Rate Act 1974;
- Foreign Exchange Levy Repeal Act 1998;
- Exchange Control Regulations 1999;
- Immigration Act 1966;
- Permits and Passports Act 1978;
- Alienation of Customary Land Act 1965;
- Alienation of Freehold Land 1972;
- Companies Act 1987;
- Partnership Act 1975;
- Trustee Companies Act 1987
- International Companies Act 1988;
- International Trusts Act 1987;
- International Partnerships and Limited Partnerships Act 1998;
- Labour and Employment Amendment Act 1999;
- Foreign Investment Act 2000;
- Public Monies Act 1964;
- Water Act 1965;
- Water Authority Act 1993/94;
- Electric Power Corporation Act 1980;
- Department of Trade, Commerce and Industry, Samoa Price Board, Percentage Price Control Order of 1 March 1999, No. 1 Analysis;
- Maximum Percentage Control Mark-Up List (certain goods);
- Fair Trading Act 1998;
- Consumer Information Act 1989;
- Sale of Goods Act 1975;
- Business Licenses Act 1998
- Customs Tariff Act 1975;
- Customs Act 1977;
- Customs and Excise Amendment 1993;
- Customs Amendment Act 1998;
- Customs Amendment Regulations 1998 (Customs Fees);
- Customs Tariff Amendment Act 1998;
- Combined Working Tariff and Statistical Nomenclature (August 1999);
- Customs Department Circular No. 9/98 "Penalty Provisions – Customs Act";
- Fines Act (Review and Amendment) No. 24 of 1998;
- Petroleum Act 1984;
- Indecent Publications Ordinance 1960;
- Poisons Act 1968;
- Arms Ordinance 1960;
- Samoa Antiquities Ordinance 1954;
- Value Added Goods and Services Tax Act 1992/93;
- Excise Tax (Domestic Administration) Act 1984;
- Excise Tax (Import Administration) Act 1984;
- Excise Tax Rates Act 1984;
- Excise Tax Rate Amendment Act 1998;
- Excise Tax (Domestic Administration) Amendment Act 1998;
- Agriculture, Forests and Fisheries Ordinance 1959;
- Plant and Soils Importation (Disease Control) Ordinance 1950 and Regulations 1951;
- Animals Ordinance 1960;
- Animals (Protection of Wild Birds) Regulations 1981;
- Noxious Weeds Act 1961;
- Rhinoceros Beetle Ordinance 1954;

- The Bunchytop Ordinance 1965;
- Cocoa Disease Ordinance 1961;
- Beverage Containers Tax Repeal Act 1998;
- Food and Drugs Act 1967;
- Copyright Act 1998;
- Trademarks Act 1972;
- Trademark Acts 1972 Second Schedule "List of Fees Payable";
- Industrial Designs Act 1972;
- Industrial Designs Act 1972 "Schedule of Fees";
- Patents Act 1972;
- Patents Act 1972 Sixth Schedule "Schedule of Fees";
- Law Practitioners Act 1976;
- Public Accountants Act 1984;
- Medical Practitioners Act 1975;
- Pharmacy Act 1976;
- Dental Practitioners Act 1975;
- Post Office Act 1972;
- Telecommunications Corporation Act 1984;
- Broadcasting Ordinance 1959;
- Televisual Samoa Corporation Act 1994;
- Film Control Act 1978;
- Banking Ordinance 1960;
- Offshore Banking Act 1987;
- Insurance Act 1976;
- International Insurance Act 1988;
- Financial Institution Act 1996;
- Civil Aviation Act 1998;
- Shipping Act 1998;
- Schedules 1 and 2 of the Narcotics Act 1967.



[Draft Decision

**ACCESSION OF SAMOA**

*Decision of [...]*

The General Council,

*Having regard to* paragraph 2 of Article XII and paragraph 1 of Article IX of the Marrakesh Agreement Establishing the World Trade Organization (the "WTO Agreement"), and the Decision-Making Procedures under Articles IX and XII of the Marrakesh Agreement Establishing the World Trade Organization agreed by the General Council (WT/L/93);

*Conducting* the functions of the Ministerial Conference in the interval between meetings pursuant to paragraph 2 of Article IV of the WTO Agreement;

*Taking note* of the application of Samoa for accession to the Marrakesh Agreement Establishing the World Trade Organization dated 9 December 1994;

*Noting* the results of the negotiations directed toward the establishment of the terms of accession of Samoa to the WTO Agreement and having prepared a Draft Protocol on the Accession of Samoa;

*Decides* as follows:

Samoa may accede to the WTO Agreement on the terms and conditions set out in the Draft Protocol annexed to this Decision.

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**DRAFT PROTOCOL**  
**ON THE ACCESSION OF SAMOA**

Preamble

The World Trade Organization (hereinafter referred to as the "WTO"), pursuant to the approval of the General Council of the WTO accorded under Article XII of the Marrakesh Agreement Establishing the World Trade Organization (hereinafter referred to as the "WTO Agreement"), and Samoa,

Taking note of the Report of the Working Party on the Accession of Samoa to the WTO Agreement reproduced in document WT/ACC/SAM/[...], dated [...] (hereinafter referred to as the "Working Party Report"),

Having regard to the results of the negotiations on the accession of Samoa to the WTO Agreement,

Agree as follows:

**PART I - GENERAL**

1. Upon entry into force of this Protocol pursuant to paragraph 8, Samoa accedes to the WTO Agreement pursuant to Article XII of that Agreement and thereby becomes a Member of the WTO.
2. The WTO Agreement to which Samoa accedes shall be the WTO Agreement, including the Explanatory Notes to that Agreement, as rectified, amended or otherwise modified by such legal instruments as may have entered into force before the date of entry into force of this Protocol. This Protocol, which shall include the commitments referred to in paragraph [165] of the Working Party Report, shall be an integral part of the WTO Agreement.
3. Except as otherwise provided for in paragraph [165] of the Working Party Report, those obligations in the Multilateral Trade Agreements annexed to the WTO Agreement that are to be implemented over a period of time starting with the entry into force of that Agreement shall be implemented by Samoa as if it had accepted that Agreement on the date of its entry into force.
4. Samoa may maintain a measure inconsistent with paragraph 1 of Article II of the GATS provided that such a measure was recorded in the list of Article II Exemptions annexed to this Protocol and meets the conditions of the Annex to the GATS on Article II Exemptions.

**PART II - SCHEDULES**

5. The Schedules reproduced in Annex I to this Protocol shall become the Schedule of Concessions and Commitments annexed to the General Agreement on Tariffs and Trade 1994 (hereinafter referred to as the "GATT 1994") and the Schedule of Specific Commitments annexed to the General Agreement on Trade in Services (hereinafter referred to as "GATS") relating to Samoa. The staging of the concessions and commitments listed in the Schedules shall be implemented as specified in the relevant parts of the respective Schedules.
6. For the purpose of the reference in paragraph 6(a) of Article II of the GATT 1994 to the date of that Agreement, the applicable date in respect of the Schedules of Concessions and Commitments annexed to this Protocol shall be the date of entry into force of this Protocol.

PART III - FINAL PROVISIONS

7. This Protocol shall be open for acceptance, by signature or otherwise, by Samoa until [...].
8. This Protocol shall enter into force on the thirtieth day following the day upon which it shall have been accepted by Samoa.
9. This Protocol shall be deposited with the Director-General of the WTO. The Director-General of the WTO shall promptly furnish a certified copy of this Protocol and a notification of acceptance by Samoa thereto pursuant to paragraph 9 to each Member of the WTO and to Samoa.

This Protocol shall be registered in accordance with the provisions of Article 102 of the Charter of the United Nations.

Done at [...] this [...] day of [...] in a single copy in the English, French and Spanish languages, each text being authentic, except that a Schedule annexed hereto may specify that it is authentic in only one of these languages.

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ANNEX I

**SCHEDULE [...] – SAMOA**

Authentic only in the ... language.

(Circulated in document WT/ACC/SAM/.../Add.1)

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***SCHEDULE OF SPECIFIC COMMITMENTS ON SERVICES***

***LIST OF ARTICLE II EXEMPTIONS***

Authentic only in the ... language.

(Circulated in document WT/ACC/SAM/.../Add.2) ]

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