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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**

Revision

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I. 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.4].

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, WT/ACC/SAM/6...), 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 11 September 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 fishery 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 liberalization of tariffs – the maximum rate had been brought from 60 per cent down to 20 per cent in 1998 – with the exception of aviation gasoline fuel and residual oil fuels, cigarettes and cigars, tobacco products, and some alcohol and beverages; 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 liberalization 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 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 [...].

II. 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 primarily aimed 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), company income tax, sole trader income tax, salary and wages income tax, withholding tax, import duties, domestic excise taxes, import excise taxes, and other taxes. For the fiscal year 2005/2006, taxes had accounted for 81.5 per cent of total government revenue, principally derived from VAGST (32 per cent), income tax (17.5 per cent), import duties (13 per cent), and domestic excise taxes (12.8 per cent). Aid and grants had amounted to 18.5 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, New Zealand, and the United States,). The Central Bank could make discretionary exchange rate adjustments against the trade weighted basket within a limit of two per cent. At the end of June 2006, one tala bought approximately US\$0.3531.

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 resident companies and individuals engaged in a business generating foreign currency earnings were required to repatriate their revenues to Samoa. Businesses could open foreign currency accounts in major trading currencies at any commercial bank in Samoa. The obligation to convert all foreign currency earnings into local currency upon repatriation had been eliminated under the 1999 Exchange Control Regulations. The 1999 Exchange Control Regulations were based on the 1984 Central Bank of Samoa Act.

In response to a question, he noted that Samoa had no plans to eliminate the existing foreign exchange surrender requirement.

14. In response to a specific question, the representative of Samoa said that instruments to be used to address balance-of-payments 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.

15. The representative of Samoa confirmed that in the event Samoa applied restrictions to safeguard the balance-of-payments, it would do so in accordance with Article XVIII of the GATT 1994. The Working Party took note of this commitment.

- **Investment Regime**

16. 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 to import duty and income tax exemptions for new investments. However, special privileges granted to five companies, which exported 95 per cent of their production, had been grandfathered between 29 May 1995 and 25 June 1999. Benefits took the form of 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 limit of the funds invested; and a complete exemption from customs and excise duties on both imports and exports. Three of these companies, the Cocoa and Coconut Products, Pacific Cashmere and Desico Samoa, had ceased all production in February 2004, leaving only two companies, Samoa Tropical Products and Yazaki Samoa, benefiting from incentives contingent upon export performance. The benefits granted to these companies were due to expire on 31 March 2008 and 8 November 2009 respectively. He confirmed that none of Samoa's incentive programmes were contingent upon local content requirements.

17. Investment incentives in the form of tax holidays and duty concessions on building materials were also provided under the 2003 Hotel Incentives Act. The Act aimed at attracting investment in the Hotel industry to address the room shortage faced by this industry over the last ten years. He confirmed that none of the incentives provided under the Hotel Incentives Act were contingent upon local content requirements.

18. He further noted that, in order to facilitate and promote investment in Samoa, an Investment Division had been established within the Ministry of Commerce, Industry and Labour. 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 Chief Executive Officer of the Ministry of Commerce, Industry and Labour. Foreign investment certificates entitled foreign investors to a business licence. The Act established restricted and reserved activities. Reserved activities, i.e. activities that could only be carried out by Samoan nationals, included public transportation buses, taxis, vehicles for hire, retail trade and saw milling (see Annex to the 2000 Foreign Investment Act). These sectors were either part of protection environmental programmes or considered to be adequately catered for by local investors. He noted that the Restricted List of Activities was under review. Restricted activities were activities open to foreign investors under certain 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 (Article four of the 2000 Foreign Investment Act). Under the Local Fish Policy, local ownership of fishing vessels 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 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.

19. 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 Ministry of Commerce, Industry and Labour. The Ministry would analyze the request, conduct further investigations and prepare a report, including recommendations, for consideration by the Commerce and Industry Development Board (CIDB). After deliberations, the CIDB would report to the Cabinet through the Minister of Commerce, Industry and Labour. The Cabinet would make the final decision and the Ministry would consult with the Attorney General to introduce the agreed changes.

20. A Member noted that there did not seem to be any clear criteria underpinning the selection of reserved or restricted activities. This Member invited Samoa to review and amend its provisions to ensure a clear, transparent and well-justified set of criteria for the selection of restricted and reserved sectors. In response, the representative of Samoa said that the criteria for inclusion and exclusion of a business activity in the reserved and restricted lists were being developed as part of the review of the Restricted List of Activities (see paragraph [18] above).

21. Article 101 of the Constitution provided for three types of land, i.e. customary, freehold and public land. Only Samoan citizens were permitted to own land, with some exceptions. The first

exception related to the leasing of customary land under the 1965 Alienation of Customary Land Act. Customary land was land held in accordance with Samoan customs and usage. Pursuant to the 1965 Alienation of Customary Land Act, the Minister of Natural Resources and Environment could lease or licence customary land for any "authorized purpose", i.e. public, industrial, commercial or religious purposes, for a period of 30 years renewable once in the case of land leased or licensed for industrial purposes or a hotel, and 20 years renewable once in the other cases. Beneficial owners were required to use the land in the public interest and in accordance with Samoan customs and usage. Land leased for forestry purposes was subject to the provisions of the 1967 Forest Act. The second exception concerned the sale of land under the 1972 Alienation of Freehold Land Act. The Act regulated the alienation of freehold land to non-residents and overseas corporations, i.e. corporations with more than 25 per cent of shares or voting power held by non-residents. Freehold land was land held for an estate in fee simple. Under the Act, alienation of freehold land without the written consent of the Head of State was prohibited. The State Trusts Estates Corporation, established pursuant to the 1977 State Trusts Estates Corporation, disposed of thousands of acres of freehold land by lease for a maximum period of ten years on behalf of the people of Samoa. In 1990, part of the Corporation's land had been transferred to the Government and subsequently to the Samoa Land Corporation, a wholly government-owned corporation. The Corporation did not impose any eligibility tests. Prospective lessees were required to submit proposals explaining how the land would be used. Proposals were assessed in the light of their economic viability. Public land, i.e. government land available for disposal, was regulated by the 1989 Lands, Surveys and Environment Act. Under the Act, government land was classified as farm, urban and commercial/industrial land. The Land Board established under the Act was responsible for alienating government land. Any person of 21 years or above could lease government land for a period of up to 20 years, renewable for a maximum of 40 years. Applications could only be refused if they ran counter to public interest. Refusals had to be justified in writing. In the event of expropriation or of a dispute over the terms and conditions of a lease, foreign investors enjoyed the same rights as domestic investors.

22. Measures had also been taken to facilitate the recruitment of foreign workers. Pursuant to the 2004 Immigration Act, non-residents could be granted a Temporary Resident Permit for Employment Purposes, which allowed its holder to work for the employer mentioned in the application. Should such employment cease, the permit would be cancelled and the person would have to leave the country or apply for a new permit to remain in Samoa.

23. 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 his Government was working on the establishment of a database.

- **State Ownership and Privatization**

24. The representative of Samoa said that his Government held a stake in 27 enterprises in 2006, among which 24 were wholly State-owned. Public utilities had accounted for approximately eight per cent of Samoa's GDP in 2003 and other State-owned enterprises for 26 per cent. Only a negligible proportion of exports and not more than five per cent of imports were imputable to the activities of State-owned enterprises. Imports by State-owned enterprises were classified as private sector's imports.

25. 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 divested itself of commercially-oriented activities to concentrate on utilities that could not be taken over by the private sector. In 1998, Samoa had embarked on a programme of corporatization and privatization, which had first concentrated on partly-owned enterprises. As a result, the Government had sold all the shares it held in Rothmans Tobacco Co Ltd, Samoa's sole manufacturer of tobacco, now called the British American Tobacco Company Ltd, as well as all the remaining shares it held in Samoa Breweries. In addition, all the buildings and milling equipment of Samoa Coconut Product Ltd had been sold to Elan Trading. The company's only remaining asset was the land, which was leased to Elan Trading on a twenty-plus-twenty year term. He confirmed that none of these enterprises enjoyed any special privileges. Wholly-owned enterprises were to be restructured to ensure greater efficiency, before being privatized. He provided a list of enterprises with State-ownership as of June 2006 in Table 1 and details of the privatization programme 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, namely the Agriculture Store Corporation, the Computer Services Limited, the Samoa Trust Estates Corporation, Hellaby Samoa, and the Samoa Forest Corporation. None of these enterprises enjoyed any special or exclusive privileges. Asked about the functions of the Agriculture Store Corporation, the representative of Samoa explained that the Corporation sold and rented tools, equipment, feed, seeds, fertilisers, insecticides and other supplies used for agricultural purposes. The Corporation was to be privatized.

26. 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.

27. 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 (Performance and Accountability) 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 Companies Act, thereby ensuring that Public Trading Bodies were covered by the provisions of the Companies Act (Section 5). Pursuant to Section eight 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.

28. To further foster responsible economic and financial management by the Government, the 1964 Public Money Act had been replaced by the 2001 Public Finance Management Act, 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**

29. The representative of Samoa said that price controls were imposed on basic grocery products of particular importance to low and middle-income families. Goods subject to price control were listed in the 2002 General Price Order. Price control took the form of a percentage mark-up (see Table 3). The same percentage mark-up was applied to imported and domestically-produced goods, with the exception of locally-produced biscuits in packages of 5lbs and 10lbs which were subject to a percentage mark up of 32.5 per cent while imported biscuits were not subject to any price control. Locally-produced biscuits were culturally sensitive; their price was therefore controlled. Any increase in the price of locally made products, such as beer, biscuits, cigarettes, bread, and corned beef, had to be approved by the Prices Board. If approval was granted, a new Order specifying the new

percentage mark-up was issued. Applications to the Prices Board had to include a justification for the increase sought.

30. [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**

31. The representative of Samoa said that competition policy was regulated by the 1998 Fair Trading Act. 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. Regular meetings were held with all stakeholders. The Ministry of Commerce, Industry and Labour was the central focal point for competition policy matters.

32. The 1998 Fair Trading Act 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 control measures by effective competition policies. The representative of Samoa replied that price control aimed at preventing local distributors – one to three per village on average – from imposing 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.

33. 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.

III. FRAMEWORK FOR MAKING AND ENFORCING POLICIES

34. 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 Heads 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, consisting of three members elected by the Legislative Assembly.

35. 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.

36. 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 chiefly title. 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, and then 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 (Savali). Adoption of Orders, regulations, and by-laws only required approval of the Cabinet and the Head of State.

37. 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/her 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 three 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.

38. 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.

39. Samoan nationals and foreigners could also file a complaint about an administrative decision or act to the Ombudsman. 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/her to hold any other office. He/she could be removed or suspended for reasons of disability, bankruptcy, neglect of duty, or misconduct. He/she reported back directly to the Parliament. Samoa's first Ombudsman had been a foreigner.

40. Pursuant to the Ombudsman Act of 1988, cases brought to the Ombudsman could not be challenged before a court simultaneously. Decisions taken by a trustee within the meaning of the Trustee Act of 1975 or any person acting as legal adviser to the Ombudsman or the Government could not be brought to the Ombudsman. The Ombudsman was required to take up any investigation before him/her, except in the case of decisions known by the complainant for more than 12 months, when the subject matter was trivial, or when the complainant did not have a sufficient personal interest in the

subject matter. The Ombudsman could refuse to investigate a matter further if, in the course of the investigation, it appeared that under the law or existing administrative practice there was an adequate remedy or right of appeal other than the right to petition Parliament, or if any further investigation was considered unnecessary. In case of refusal to investigate a complaint, the Ombudsman was required to inform the complainant – but there was no obligation to justify the refusal. The Ombudsman could, for the purposes of the investigation before him, summon any person to provide information and produce documents, except for persons bound by secrecy and non-disclosure – unless the information related only to the complainant and the latter had agreed in writing to the submission of such information. Every investigation by the Ombudsman was deemed to be a judicial proceeding within the meaning of Section 36 of the 1961 Crimes Ordinance. However, pursuant to the Ombudsman Act, the Ombudsman could not mediate or adjudicate. He/she could only express opinions and make recommendations to the Department or organization having taken the contested decision. In his/her report, the Ombudsman could request the relevant Department or organization to notify him, within a specific time period, of the steps taken to give effect to his/her recommendations. The Ombudsman was required to send a copy of his/her report and recommendations to the Minister responsible for the given Department or organization and to inform the complainant of the results of his/her investigation. If, within a reasonable time period, the relevant Department or body had not taken any action, the Ombudsman could send a copy of his/her report and recommendations to the Prime Minister and report to Parliament. The Ombudsman was not required to publish his reports.

41. [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.]

42. The Ministry of Foreign Affairs and Trade was responsible for formulating and implementing policies related to trade promotion and regional and multilateral agreements, including initiating and sponsoring any WTO-related legislation. The Ministry acted as WTO focal point, in cooperation with the Ministry of Finance; Ministry of Justice, Courts and Administration; Ministry of Revenue; Ministry of Agriculture and Fisheries; Ministry of Commerce, Industry and Labour; Ministry of the Prime Minister; Ministry of Natural Resources, Environment and Meteorology, Ministry of Communications and Information Technology; Ministry of Works, Transportation and Infrastructure; Ministry of Health; Public Service Commission and the Central Bank of Samoa. These ministries and entities, together with private sector associations, formed the National WTO Working Committee. The Ministry of Commerce, Industry and Labour was in charge of intellectual property matters, investment promotion, competition and fair trading, price control, industrial development, companies

registration and labour-related activities. Following the dismantlement of the Inter-Departmental Committee (IDC) in 2003, trade-related policies were developed through the Commerce and Industry Development Board, which brought together representatives of relevant ministries and the private sector. A National Trade Policy Committee would soon be established to take over the functions of the former IDC, with a particular focus on foreign trade.

43. 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.

44. 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 1990 Village Fono Act gave the "village fono" – or Council – authority over village matters relating 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 Ministry of Women, Community and Social Development.

45. In response to questions from Members regarding the hierarchy of laws in Samoa, the representative of Samoa said that the Constitution prevailed over all other legislative provisions. International instruments did not automatically supersede domestic law; some instruments had to be transposed into domestic legislation before Samoa's obligations under the instrument could become effective. This was the case of WTO Agreements. He noted, in this regard, that Samoa's laws were being amended and new laws developed to ensure consistency with WTO requirements.

46. Concerning the procedures to be followed for the ratification of Samoa's Protocol of Accession, he said that international protocols were incorporated into domestic law through enactment

by the Parliament and after assent of the Head of State. The Office of the Attorney General would prepare a draft Bill following instructions from the responsible Ministry, in this case the Ministry of Foreign Affairs and Trade. Following a consultation process, the Bill would be presented by the responsible Minister to the Cabinet for examination and comments and, once approved, forwarded to Parliament. Once enacted by Parliament – after three readings – and after assent of the Head of State, the Bill would become part of Samoa's enacted laws. Three to four months were necessary to complete this process.

IV. POLICIES AFFECTING TRADE IN GOODS

- Trading Rights

47. The representative of Samoa said that the 1998 Business Licence Act required any natural or legal person carrying out an authorized business in Samoa to hold a business licence and pay an annual fee. Licenses were delivered on a yearly basis. Licence fees amounted to SAT 220 (US\$77.68) per business activity for individual traders and SAT 500 (US\$176.55) for companies. The Act prohibited the following business activities: 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. In 1997, 400 business licenses had been granted, mainly for commerce (207), transport and communication (91), finance and business services (26), and construction (21).

48. To obtain a business licence, traders were requested to send an application letter to the Ministry for Revenue (MOR), along with registration documents from the Companies' Registry established within the Ministry of Commerce, Industry and Labour – Memorandum of Association and Articles of Association – and photographs of the major shareholders. Overseas registered businesses were required to attach a Certificate of Incorporation to their application, and companies with foreign shareholding a foreign investment certificate. Business licenses were delivered after an interview with officials from the Ministry for Revenue. Pursuant to the 1998 Business Licence Act, business licenses could only be rejected if the business or economic activity was prohibited under the Act or the application did not comply with the provisions of the Act. He confirmed that domestic and foreign businesses were subject to the same procedures and that there were no discriminatory fees nor requirements that would prevent firms or individuals from importing or exporting.

49. In addition to normal business licenses, activity licenses were required to trade in narcotics and liquor. Pursuant to the 1967 Narcotics Act, only holders of a specific licence were allowed to import narcotics. He noted that narcotics were not produced in Samoa. Most narcotics were imported

by the National Hospital. The licensing requirement had been introduced to control and monitor trade in these products. Licence holders, including registered pharmacists, doctors, veterinary surgeons and the National Hospital, importing restricted narcotics were required to pay an annual licence fee of SAT 40. He provided a list of narcotics for which an activity licence was required in document WT/ACC/SAM/5/Add.1. As for liquor – any beverage containing more than two parts per cent of proof spirit, activity licensing had been instituted to protect human health. The system aimed at supervising all stages of production, purchase, sale, and importation and at ensuring that all dealers were registered. 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 one year. Licence fees to produce, purchase, sell and import liquor are presented in Table 4. He confirmed that retailers did not need a second licence to import.

50. Importers did not need to be residents, but they were required to hold a business licence. Both foreign and domestic firms, including sole proprietors registered but not invested in Samoa, could be import agents for the delivery of imported goods and importers of record. In response to a specific question, the representative of Samoa confirmed that foreign exporters could be importers of record without having a business or a business licence in Samoa.

51. [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 four 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.]

A. IMPORT REGULATIONS

- Customs tariff

52. 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 would grant tariff preferences to members of the Pacific Island Countries Trade Agreement (PICTA) as of 1 January 2008 (see paragraph [174]). Imports from other countries were subject to a single set of tariff rates. 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), which were subject to specific or mixed duties.

53. 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 customs duties (90 per cent plus SAT 70 per kilo) and high 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 highest excise tax rate in Samoa.

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

- **Other duties and charges**

55. 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.

56. [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**

57. The representative of Samoa said that Samoa did not apply tariff rate quotas on any product. Imports exempt from customs duties included diplomatic imports for official use; accompanied passenger baggage; imports from airport duty free shops; household effects (returning residents and persons taking up initial permanent residence in Samoa); temporary imports of yachts by tourists; educational aid; 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 some exporting enterprises grandfathered under the Enterprises Incentives Schemes (see paragraph [16]); 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 had amounted to 1.77 per cent of Samoa's total imports in 2001. All exemptions were applied on a MFN basis.

58. [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**

59. 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 5.

60. A Member noted that some of the fees listed in Table 5 appeared to be based on the value of the product, which was inconsistent with Article VIII of the GATT 1994. This Member asked Samoa to modify these fees to bring them into compliance with WTO rules. In response, the representative of Samoa said that all fees inconsistent with Article VIII would be modified as from the date of accession to be brought into line with WTO rules.

61. [The representative of Samoa confirmed that, from the date of accession, 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 to imports**

62. The representative of Samoa said that imported and domestic goods were subject to a Value Added Goods and Services Tax (VAGST) of 15 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 Ministry for Revenue for VAGST. The VAGST was levied at each stage up to the retail stage. Companies with an annual turnover of less than SAT 78,000 (US\$29,213) and primary producers were exempted from VAGST.

63. A Member noted that the exemption granted to primary producers was inconsistent with Article III of the GATT 1994. This Member invited Samoa to either introduce a parallel exemption for imports of similar products or set a threshold for the registration of these small producers – rather than exempting their produce. Samoa was also asked to clarify how the exemption of primary producers was managed given that the VAGST was levied on goods rather than on producers. The representative of Samoa replied that Samoa had no company producing primary products. Beneficiaries were small, low income producers who sold only a small portion of their production on local markets, the rest being used for their own consumption. Their annual turnover was very small. 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.

64. 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 6.

65. 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 two 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 customs duties, customs fees, VAGST, and excise taxes.

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

66. The representative of Samoa said that pursuant to Section 49(3) and 49(4) of the 1977 Customs Act, the Head of State could prohibit the importation of goods into Samoa to defend the public interest, protect revenue, ensure the efficient administration of the Customs Act, prevent fraud and infectious diseases within the meaning of the 1959 Health Ordinance, and impede the entry

of goods whose sale in Samoa would be an offence against the law. Prohibitions could be general, specific, absolute or conditional. Conditions could include the necessity to hold a permit or satisfy other prescribed criteria. He noted 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, right hand drive cars, motor vehicles over eight years old, and pesticides 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 1977 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).

67. Pursuant to the 1960 Arms Ordinance, licence fees for the importation of arms and ammunition amounted to SAT 200 a year for companies and SAT 50 per import for individuals. To ensure traffic safety, the importation of right hand drive cars and motor vehicles over eight years old had been banned as of 2003. As for pesticides, their importation, storage and use was regulated by the Ministry of Agriculture and Fisheries pursuant to the 1989 Agriculture, Forests and Fisheries Amendment Act. All pesticides had to be registered before an import licence could be delivered. This measure aimed at monitoring the importation of pesticides and at protecting the environment from hazardous/banned substances and chemicals. The registration fee amounted to SAT 300 plus VAGST. The licence fee depended on the type of pesticide and quantity to be imported.

68. Restrictions could also be imposed on goods having a negative impact on the environment pursuant to the 1989 Lands and Environment Act 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.

69. A Member was of the view that the import licence fee imposed on pesticides did not reflect the cost for services rendered as the fee varied according to the type of pesticides and quantity imported. This Member considered this fee inconsistent with the provisions of Article VIII of the GATT 1994. In response, the representative of Samoa said that the fees had been set so as to control the harmful effects of pesticides on the environment in accordance with the "polluter pays" principle. He noted that pesticides were not produced in Samoa and that there would not be any such production in the foreseeable future. Import licensing of pesticides only aimed at regulating the use of pesticides.

70. 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; the Agreements on Agriculture, the Application of Sanitary and Phytosanitary Measures, Import Licensing Procedures, Safeguards, and Technical Barriers to Trade; and the Understanding on Balance of Payments Provisions of the GATT 1994. [He further confirmed that Samoa's licensing system for pesticides would be applied in conformity with WTO rules as from the date of accession.] The Working Party took note of these commitments.

- **Customs valuation**

71. 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 – this system was designed to facilitate trade; it recorded specific transactions but did not generate specific prices for customs valuation purposes –and customs procedures had been 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. A new Customs Act was being drafted, but additional technical assistance was needed to introduce the necessary legislative and institutional changes and train personnel. The draft was currently with the Attorney's General Office. 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.

72. 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**

73. A Member was of the view that Samoa should implement the Agreement on Rules of Origin from the date of accession. This Member enquired about Samoa's plans to establish rules of origin. Samoa was invited to confirm that any legislation introduced would be in conformity with the WTO Agreement on Rules of Origin and incorporate the requirements of Article 2(h) and Annex II, paragraph 3(d), which require WTO Members to provide, upon request and prior to the time of importation, an assessment of the origin of the import and outline the terms under which it would be provided. Members sought a commitment from Samoa that it would notify any regulation on rules of origin before applying any trade remedy measure requiring the determination of the origin of imports for either preferential or non-preferential trade.

74. In reply, the representative of Samoa said that Samoa had recently become a party to the Pacific Island Countries Trade Agreement (PICTA). The Agreement, which had entered into force in April 2003, established regional rules of origin. A PICTA Rules of Origin Regulation, incorporating PICTA rules of origin into Samoan law, had entered into force on 25 July 2006. The PICTA provisions were Samoa's only preferential rules of origin. Samoa had no non-preferential rules of origin.

75. [The representative of Samoa confirmed that, from the date of accession, Samoa's preferential and non-preferential rules of origin would fully comply 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**

76. 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**

77. The representative of Samoa said that his Government did not use the services of pre-shipment inspection firms and had no intention of doing so. Members of the Working Party asked that Samoa undertake a commitment indicating that if such services should be employed in the future,

they would conform to WTO provisions in their operations, e.g., in the application of fees for services rendered, observance of other WTO requirements in customs processing, and in providing right of appeal to the Government.

78. Samoa confirmed its willingness to accept a commitment that if such services should be employed in the future, Samoa would conform to the WTO provisions relevant to preshipment inspection activities, including the Agreement on Preshipment Inspection, which *inter alia*, obliged WTO Members to ensure that preshipment inspection activities, if used, were carried out in accordance with its provisions. It was Samoa's understanding that WTO Members had negotiated this Agreement because preshipment inspection entities were not government bodies. Members had agreed that a specific set of rules was needed to govern the activities of PSI entities. It had been considered inappropriate, for example, to include a provision in the Agreement applying the rules on fees and charges for services rendered accepted by governments in Article VIII of GATT 1994 to PSI entities. Article VIII was interpreted to allow governments to charge costs corresponding to the services rendered, e.g. costs of processing documents, and not fixed costs, e.g. the cost of buildings and maintaining customs posts. However, PSI entities were private companies that had to cover their total costs and make a reasonable profit. The footnote to Article 20 of the Agreement on PSI laid down the obligations of user Members with respect to the services of PSI entities in connection with customs valuation. He added that other specific rules set out in the Agreement were the obligation for user Members to ensure that PSI entities established appeal procedures and provided for independent review, consultation and dispute settlement procedures.

79. The representative of Samoa confirmed that if a pre-shipment inspection system would be introduced in the future, it would be temporary. [The Government of Samoa would comply fully with the WTO provisions relevant to preshipment inspection activities, including the Agreement on Preshipment Inspection.] [The Government of Samoa would take responsibility to ensure that the operations of any preshipment inspection companies it retained would meet the requirements of the WTO Agreements, in particular the Agreements on Preshipment Inspection, Import Licensing Procedures, Customs Valuation, Sanitary and Phytosanitary Measures and Technical Barriers to Trade. He further confirmed that charges and fees applied by such companies would be consistent with Article VIII of GATT 1994, and that such system would comply with the due process and transparency requirements of the WTO Agreements, in particular Article X of GATT 1994, and the Agreement on the Implementation of Article VII of GATT 1994.] The Working Party took note of these commitments.

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

80. 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 nine of the Customs Tariff Act of 1975, but were not consistent with the WTO Anti-Dumping Agreement. He noted that these provisions had never been implemented – Samoa did not have the financial nor human capacity to use trade remedy measures – and that Samoa had no intention to use them.

81. Several Members expressed concern over the non-conformity of Section nine 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 invited Samoa to repeal or review the part of its anti-dumping legislation that was inconsistent with WTO rules. In reply, the representative of Samoa said that a new Customs Tariff Act was being drafted, which would bring Samoa's legislation into conformity with WTO rules.

82. 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.

B. EXPORT REGULATIONS

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

83. 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 the VAGST was rebated on exports in accordance with standard international practice. There were no specific export licensing procedures. He noted that 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**

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

85. Exports of raw logs were prohibited pursuant to the 1990 Order Prohibiting the Export of Logs and the 1997 Customs Act. 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 measure was necessary for the conservation of Samoa's few remaining forest areas and reforestation as other methods of control were open to abuse. The prohibition was expected to be maintained for another two to three years to allow for the rehabilitation of the forests and forestlands devastated by the recent fires in Aopo/Falealupo and the 2004 Cyclone Heta. Both the Government and NGOs were involved in the monitoring of environmental issues. Provisions restricting domestic commercial logging existed in the Forest Act of 1967 and the draft Forest Resource Policy, and national standards for logging were set out in the Code of Logging Practice (COLP). Under the 1967 Forest Act, any person wishing to invest in the manufacturing of timber was required to hold a licence and pay a rent and royalties as stipulated in the regulations and agreed by the Ministry and the investor. He confirmed that Samoa would review the export restriction on raw logs and notify WTO Members of developments in this area on a regular basis.

86. Exportation of live coral was prohibited pursuant to Sections 119 and 120 of the 1989 Land, Surveys and Environment Act. The measure aimed at preventing further destruction of one of Samoa's few natural resources, already severely damaged by the 1990 and 1991 cyclones and detrimental fishing practices, and at ensuring 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. 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.

87. Pursuant to the Samoan Antiquities Ordinance of 1954, 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. 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.

- **Export subsidies**

88. 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 1994 Central Bank of Samoa Act – the Export Financing Facility offered a three per cent margin of interest rate on loans to finance exports; under the Facility, commercial banks could offer loans at an interest of nine per cent instead of 12 per cent as per normal interest rate. 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.

89. 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.

90. [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 three of the Agreement on Subsidies and Countervailing Measures, and would not introduce such prohibited subsidies from the day of accession.] [The representative of Samoa confirmed that from the date of accession, Samoa would conform to all the provisions of the Agreement on Subsidies and Countervailing Measures, including Article 27:2.] The Working Party took note of this commitment.

C. INTERNAL POLICIES AFFECTING FOREIGN TRADE IN GOODS

- Industrial policy, including subsidies

91. 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.

92. [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, standards and certification

93. 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.

94. A Member was of the view 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. This Member also noted that environmental measures applied under the Samoan Lands and Environment Act of 1989 could possibly be covered both by the TBT and SPS Agreements and that the Fair Trading Act, Fair Trading Labelling Act and Pharmaceutical Drugs Regulations could include technical regulations and standards. Samoa was invited to ensure that any instrument pertaining to technical regulations and mandatory standards was consistent with the requirements of the TBT and SPS Agreements and that standards and technical regulations, where relevant, were applied in accordance with the TBT Agreement. In reply, the representative of Samoa said that the Fair Trading Act provided for the possibility to develop regulations on product safety and quality standards for any specific kind of goods (approved standards). However, Samoa did not have the sufficient human and material resources to introduce and enforce technical regulations. Therefore, Samoa did not have any approved standards, with the exception of the pesticide labelling requirement

which was based on international standards. He confirmed that, if introduced, approved standards would conform to the requirements of the Agreement on Technical Barriers to Trade.

95. Some Members 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.

96. [The representative of Samoa stated that Samoa would establish an enquiry point as soon as possible within the Ministry of Commerce, Industry and Labour, 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 were adopted or implemented until Samoa had implemented appropriate laws ensuring conformity with the provisions of the Agreement on Technical Barriers to Trade, including the publication or posting on a website of draft technical regulations and conformity assessment requirements for review and comment at least 90 days prior to implementation. Samoa would ensure the full conformity of any such legislation with the Agreement on Technical Barriers to Trade. The Working Party took note of these commitments.]

- **Sanitary and phytosanitary measures**

97. 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.

98. 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.

99. 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/stephenderes 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.

100. Authorization to import prohibited plants could be granted by the Chief Executive Officer of the Ministry of Agriculture provided 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.

101. Importation of other plants and parts thereof required an import permit from the CEO of Agriculture. Applications for permits should include information on the nature of the imported goods, country of origin, supplier's address, reasons for importation, frequency of imports, and additional information as required. Before or upon entry of imported plants and plant materials into Samoa, the importer was required to submit to the inspector of the Ministry 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 CEO of Agriculture. Information to be provided included breed, colour, and age of imported livestock, along with the address of the exporter.

102. He further noted that all import permits were granted by the CEO 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 five per shipment for private importers.

103. 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 (see also paragraphs [67] and [69]).

104. 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.

105. 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. 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.

106. 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. The transition period was necessary to permit the adoption of legislation, train staff and ensure that government officials and stakeholders had a good knowledge and understanding of SPS legislative requirements, and make sure that control inspection and procedures were fully operational. He stressed the necessity for his Government to receive adequate technical assistance to ensure the proper implementation of the Agreement.

- **Trade-related investment measures**

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

108. [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**

109. The representative of Samoa said that none of Samoa's State-owned enterprises trading in goods (see Table 1) 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 on the Interpretation of Article XVII of the GATT 1994. He noted that the Cocoa and Copra State Marketing Boards had been abolished in 1990.

110. Asked to provide more information on the trading activities of the Agriculture Store Corporation (ASC), the representative of Samoa said that this 100 per cent State-owned enterprise sold and rented 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 (see also the section on "State ownership and privatization").

111. As to State-owned enterprises supplying services, they generally enjoyed a monopoly position due to the small size of the domestic economy. However, competition existed in some areas, such as insurance, where the Samoa Life Insurance Corporation competed with several insurance firms – including the newly established Colonial Insurance Company; and telecommunications, where SamoaTel was exposed to competition (see paragraph [167]).

112. Noting that Samoa had granted a five-year contract to Mobil to supply and distribute oil and petroleum products in Samoa following a competitive tendering process, some Members were of the view that this arrangement was covered by Article XVII of the GATT 1994 and should be notified. In response, the representative of Samoa said that upon expiration of the five-year contract with Mobil, a new competitive tendering process had been carried out in August 2003. Shell was now the new supplier of petroleum products in Samoa. While these companies had been granted exclusive rights, they could not charge monopoly prices and did not, consequently, affect the total level or direction of imports or exports. He noted, in this regard, that Samoa had the most competitive fuel prices in the Pacific. He did not, therefore, consider Shell a State trading enterprise under the working definition of the Understanding on the Interpretation of Article XVII of the GATT 1994. This arrangement had been introduced because of the small size of Samoa's market and aimed at rationalizing the importation of petroleum products so as to generate efficiency gains for the benefit of consumers.

113. [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**

114. The representative of Samoa said that the provisions of the 1974 Industrial Free Zone Act foreseeing the establishment of free zones had been repealed by the 1992/1993 Enterprise Incentives and Export Promotion Act. The incentives available under the 1974 Industrial Free Zone Act to domestic and foreign investors operating in these parks – i.e. exemption from import duties and income tax – were no longer applicable. Therefore, no authority to grant incentives remained.

115. Samoa had two industrial parks but these were neither free zones nor free economic zones. They simply comprised land made available by the Government on a lease basis, usually for 20 years with the right of renewal for another 20 years. There were no performance requirements, and no

incentives were provided. Foreign and local investors were treated on an equal basis. The output of any firms located in the parks was subject to VAGST.

116. 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**

117. 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. He provided a list of Government imports for the period 2000-2002 in document WT/ACC/SAM/5.

118. He noted that the 2001 Public Finance Management Act had repealed the Public Money Act. The Procurement Guidelines were currently being reviewed through technical assistance from the World Bank. Samoa did not have any appeal mechanism, but bidders were present at the opening of tenders.

119. 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.

- **Transit**

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

- **Agricultural policies**

(a) **Imports**

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

122. 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.

123. In reply, the representative of Samoa said that the yearly quotas established under the Agreement were indicative and importers were 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**

124. 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**

125. The representative of Samoa said that his Government had embarked on a progressive reform programme to liberalize all sectors of the economy, including agriculture. Price support policies for

agricultural products had been suspended. 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 (support consolidation of rural water supplies.)

126. 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. 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.

127. [The Representative of Samoa agreed that, upon Samoa's accession, his country would bind its agricultural export subsidies at zero in its Schedule of Concessions and Commitments on Goods, and not maintain or apply any export subsidies for agricultural products. The Working Party took note of these commitments.]

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

- **Trade in civil aircraft**

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

- **Textiles regime**

130. 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, which had ceased to operate in 2005. There were only small size garment producers currently manufacturing. Foreign investors were encouraged to invest in this sector.

V. TRADE-RELATED INTELLECTUAL PROPERTY REGIME

- GENERAL

- Industrial property protection

131. 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.

132. He accordingly requested that Samoa be granted a transition period until January 2013. He proposed an action plan to achieve WTO conformity, which is reproduced in Table 9. He added that Samoa was seeking technical assistance to ensure the proper and timely implementation of its obligations under the TRIPS Agreement.

- Responsible agencies for policy formulation and implementation

133. The representative of Samoa said that responsibility for formulation and implementation of intellectual property policy rested with the Registries Division of the Ministry of Commerce, Industry and Labour.

- Participation in international intellectual property agreements

134. The representative of Samoa said that Samoa had been a party to the World Intellectual Property Organisation (WIPO) since 11 October 1997. Samoa had deposited its Instrument of Accession to the Berne Convention for the Protection of Literary and Artistic Works in April 2006 and had formally acceded to the Convention on 21 July 2006. He added that Samoa also intended to join the Paris Convention for the Protection of Industrial Property.

- Application of national and MFN treatment to foreign nationals

135. 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.

- **SUBSTANTIVE STANDARDS OF PROTECTION, INCLUDING PROCEDURES FOR THE ACQUISITION AND MAINTENANCE OF INTELLECTUAL PROPERTY RIGHTS**

- **Copyright and related rights**

136. 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.

137. 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.

138. 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. Copyright was administered by the Ministry of Commerce, Industry and Labour.

139. 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 two and three of the Berne Convention.

140. 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.

- **Trademarks, including service marks**

141. 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 Ministry of Commerce, Industry and Labour. 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.

142. 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.

- **Geographical indications, including appellations of origin**

143. The representative of Samoa said that Samoa had no legislation protecting geographical indications, including appellations of origin. He noted, however, that legislation on geographical indications had been drafted. The draft was awaiting final comments from the Attorney General's Office before submission to the Cabinet. Parliamentary passage was expected in the course of 2007.

- **Industrial designs**

144. 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 six months preceding the filing, could be registered under the

Act. Applications for registration were to be submitted to the IP Registrar of the Ministry of Commerce, Industry and Labour 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 five 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.

145. 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 Commerce, Industry and Labour. 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.

- **Patents**

146. 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 – new inventions were 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 Ministry of Commerce, Industry and Labour. 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.

147. 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.

- **Plant variety protection**

148. The representative of Samoa recognised that plant varieties, non-biological and microbiological processes were not protected under current legislation. He added that these matters would be incorporated in the new texts being drafted. The drafts were expected to be tabled in Parliament by July 2007.

- **Layout designs of integrated circuits**

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 – and expected to be tabled in Parliament by July 2007.

- **Requirements on undisclosed information, including trade secrets and test data**

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

- **MEASURES TO CONTROL ABUSE OF INTELLECTUAL PROPERTY RIGHTS**

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

- **ENFORCEMENT**

151. 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.

152. Under Samoa's current intellectual property legislation, i.e. the 1972 Trademarks Act, the 1972 Patents Act, the 1972 Industrial Designs Act, and the 1998 Copyright Act, 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 1972 Criminal Procedures Act also applied to the infringement of intellectual property rights.

153. The Ministry for Revenue 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 Ministry of Justice and Courts Administration liaised with the Police and Ministry for Revenue in cases of known infringement to ensure that appropriate action was taken.

154. 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 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 prohibited from importation.

155. [The representative of Samoa confirmed that the terms of its accession did not preclude access of Samoa and LDCs to the benefits under the Doha Declaration on the TRIPS Agreement and Public Health (WT/MIN/(03)/SR/4). The Working Party took note of this commitment.]

VI. POLICIES AFFECTING TRADE IN SERVICES

156. 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. He provided information based on the services sectoral classification list in document WT/ACC/SAM/2, Annex 3.

157. The Ministry of Commerce, Industry and Labour was responsible for implementing policies related to services sectors and acted as Samoa's enquiry point. The enquiry point could be contacted at:

Chief Executive Officer
Ministry of Commerce, Industry and Labour
PO Box 862
Apia, SAMOA

Tel: (0685) 20411 / 20882
Fax: (0685) 20443
Email: itsimi@mcil.gov.ws

158. Formulation of services policies and legislative amendments, previously within the Inter-Departmental Committee (IDC), were now dealt with by the Commerce and Industry Development Board. 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).

159. Samoa's services legislation fully complied with the most-favoured-nation principle, with the exception of the 1976 Pharmacy Act. The latter was being revised to be brought into conformity with GATS provisions. The Act was awaiting parliamentary passage. 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.

160. 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. In response, the representative of Samoa said that pursuant to the 2004 Immigration Act, foreign workers wishing to do business in Samoa without taking up employment could be granted simple- or multiple-entry visitor permits to enter Samoa for a period of up to 60 days or, alternatively, temporary resident permits for up to three years. Permanent residency permits were also available by application. Foreign persons seeking employment in Samoa were required to apply to the Minister of Immigration to be granted an entry permit. The application was transmitted to the CEO of the Ministry of Commerce, Industry and Labour for assessment. Features taken into account included the nature of the proposed employment and any technical or professional requirements involved; the likelihood of a citizen or person holding a permanent resident permit having the required skills; Samoa's interests; and any other matter determined by the CEO. The decision to grant an entry permit was made by the Minister, upon recommendation of the CEO or, if not available, taking into account the requirements of the Immigration Act. Under the Act, entry permits to undertake employment in Samoa had been granted for a wide range of reasons.

161. Economic needs tests were required for the establishment of insurance companies and the delivery of banking licenses under the 1976 Insurance Act and the 1996 Financial Institutions Act. He noted, however, that a new Insurance Bill had been drafted, which would remove the obligation to conduct an economic needs test before issuing an insurance licence. The Bill was expected to be submitted to Parliament for approval by December 2006. Providers of environmental services were selected by a committee appointed on an ad hoc basis and composed of the Ministry of Natural Resources and Environment, the Ministry of Finance, and the parties involved in the subject matter. Proposals were open to everyone. As for companies of the petroleum, communication, water, and electricity sectors, they 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. A new competitive process had been carried out upon expiration of the contract and Shell was now the new supplier of petroleum products. In the communication sector, SamoaTel, formerly known as Samoa Communication Ltd, had the right to provide telecommunication services exclusively for Samoa for a period of ten years (1999-2009). However, a new policy and regulatory framework set up under the sector reform project foresaw a possible opening of the market for fixed telephone as

well as other telecommunications services before 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.

162. 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; Televisé 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.

163. The insurance sector was regulated by 1976 the Insurance Act, but a new Act was being drafted. The draft was expected to be submitted to Parliament for adoption by December 2006. The Bill would remove the requirement to conduct an economic needs test before issuing an insurance licence. 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.

164. Samoa's financial sector was governed by the Financial Institutions Act 1996, 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 issued 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. When issuing licenses to foreign institutions, the Central Bank had regard for the

institution's international reputation and its demonstrated capacity and stability in a competitive environment. The sector counted four commercial banks and some financial agencies specialized in foreign exchange and money transfer businesses. The liberalization of Samoa's financial sector had led to the establishment of new companies, including a number of small finance companies. New services such as ATMs and EFTPOS had been introduced to better serve the public. Money broking services were not available in Samoa. All other financial services were provided by the private sector or semi-government bodies such as the National Provident Fund, the Development Bank of Samoa, and the Housing Corporation. There were no restrictions on the ability of non-residents to supply or transfer financial information, cross-border and financial data processing, or other auxiliary services. The opening, by a licensed financial institution, of a branch or subsidiary outside Samoa required Central Bank approval..

165. 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 six 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 was 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 policy according to which foreign lawyers were required to file a new application after six years aimed at maintaining the standards of the local bar by ensuring that foreign lawyers who did not practice regularly in Samoa were "fit and responsible practitioners". Foreign lawyers routinely practiced in Samoa and provided advice depending on the needs of their client. The requirement to establish a partnership with a local lawyer was meant to facilitate the processing of legal cases.

166. 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. 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. Temporary practising certificates were delivered by the Council to members of the New Zealand Institute of Chartered Accountants upon payment of the Samoa Society of Accountants' fee – SAT 250 in 2005. Temporary practising certificates were valid for one year and could be renewed four times. After five years, the licensee had to apply for a new certificate.

167. A reform of the telecommunications and postal sector had been launched in 2003. A new Telecommunications Act, which aimed at fostering competition in the telecommunications sector, had entered into force in July 2005. The Act foresaw the establishment of an independent regulator. The Office of the Regulator had been effectively set up in July 2006. The Ministry of Communications and Information Technology (MCIT) was responsible for formulating telecommunications policies, and the Office of the Regulator was in charge of regulating and implementing such policies. He added that SamoaTel had been given a ten-year exclusive licence until 30 June 2009 to provide postal and telecommunications services (fixed telephony and international calls) previously provided by the old Post and Telecommunications Department. SamoaTel was the only *de jure* fixed line provider. However, under the 2005 Telecommunications Act, SamoaTel's exclusivity may be ended before 30 June 2009. The Government had also agreed to give up SamoaTel's exclusive right to the international gateway by allowing Telecom Samoa Cellular Ltd (TSCL) to have its own gateway as of 1 January 2007. With regard to mobile services, he noted that his Government had recently issued two licenses to TCSL and SamoaTel to provide cellular telephone services using the GSM technology. In 1997, TSCL had been given an exclusive ten year licence to provide cellular telephone services using the TDMA technology. Negotiations with the Government had led to the opening up of the mobile market to include SamoaTel. GSM services were expected to start in the first week of October 2006. There was no economic needs test required.

168. Audiovisual services were regulated by the Broadcasting Ordinance 1959. Corporatization of the former Broadcasting Department had been authorised under the 2003 Samoa Broadcasting Act and had led to the establishment of the Samoa Broadcasting Corporation (SBC). The Film Control Board within the Ministry of Justice and Courts Administration issued licenses relating to the content of television broadcast services. The Ministry of Communications and Information Technology was now the licensing authority for broadcasting services following the corporatization of the Broadcasting Department in 2003. For television broadcasting (whether free to air or commercial/pay television) services, a censorship fee of SAT 5000 had to be paid and presented to MCIT before a

license to broadcast could be granted. MCIT was in the process of finalising a National Broadcasting Policy aimed at formulating strategies and measures to ensure that broadcasting services were available to all Samoans.

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

VII. TRANSPARENCY

- Publication of information on trade

170. 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.

171. [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]

VIII. TRADE AGREEMENTS

172. 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.

173. At the regional level, Samoa was a member of the Pacific Islands Forum Secretariat (PIFS), 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 Pacific Islands Trade and Investment Commission (PITIC). 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 Pacific Islands Trade and Investment Commission, it had three offices in Sydney (Australia), Beijing (China), and Auckland (New Zealand), which assisted Forum Island countries with export development, foreign investment, tourism, and cost effective import procurement.

174. Samoa also participated in the Pacific Island Countries Trade Agreement (PICTA). Members of the PICTA included Cook Islands, Fiji, Kiribati, Nauru, Niue, Salomon Islands, Samoa and Tonga. The PICTA had come into force in April 2003 and provided for the gradual phasing out of tariff preferences among its members by 1 January 2015. Under the PICTA and Samoa's PICTA

regulations, which had been effective on 25 July 2006, Samoa would apply preferential duty rates to PICTA Members as of 2008. The PICTA aimed at encouraging investment, specialization and greater efficiency in Forum Island Countries' economies, thereby improving consumer welfare. He noted that although Forum Island Countries represented a significant market, the level of trade among them was very low, due to geographical constraints and poor transportation links. As a result, the Agreement was expected to initially deliver only small economic benefits to its members.

175. Samoa also benefited from trade preferences under several Agreements. Samoa was a party to the South Pacific Regional Trade and Economic Cooperation Agreement (SPARTECA), which had 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.

176. Samoa had participated in the Regional Sugar Agreement, which had run from 1995 to 1998 and was now suspended for an indefinite period. 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.

177. 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.

178. 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.

179. [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

180. 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 two of the Draft Protocol of Accession of Samoa to the WTO.

181. Having carried out the examination of the foreign trade regime of Samoa and in the light of the explanations, commitments and concessions made by the representative of Samoa, the Working Party reached the conclusion that Samoa be invited to accede to the Marrakesh Agreement Establishing the WTO under the provisions of Article XII. For this purpose, the Working Party has prepared the draft Decision and Protocol of Accession reproduced in the Appendix to this Report, and takes note of Samoa's Schedule of Concessions and Commitments on Goods (document WT/ACC/SAM/./Add.1) and its Schedule of Specific Commitments on Services (document WT/ACC/SAM/./Add.2) that are annexed to the draft Protocol. It is proposed that these texts be adopted by the [General Council] [Ministerial Conference] when it adopts the Report. When the Decision is adopted, the Protocol of Accession would be open for acceptance by Samoa which would become a Member thirty days after it accepts the said Protocol. The Working Party agreed, therefore, that it had completed its work concerning the negotiations for the accession of Samoa to the Marrakesh Agreement Establishing the WTO.

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 one and two of the Narcotics Act 1967.

ANNEX 2

**Table 1: List of Samoa's State-Owned Enterprises and Government Investments
(as of June 2006)**

	Formed under Act of Parliament	Formed under the Private Companies Act	GoS % of Shares	Business Description
State-Owned Enterprises				Main Activities
Accident Compensation Board	x		Mutual (0%) ¹	Levy Collection; Compensation Payments
Agriculture Store	x		100%	Agriculture Supplies / equipment; banana exports
Airport Authority	x		100%	Airport management
Apia Park Board	x		100%	Park
Development Bank of Samoa	x		100%	Small Business/Agriculture development loans
Electric Power Corporation	x		100%	Electric Power
Housing Corporation	x		100%	Housing loans
National Provident Fund	x		Mutual (0%) ¹	Super - annuation fund; business and home loans
National University of Samoa	x		100%	Tertiary Education
Polynesian Airlines Ltd		x	100%	Commercial inter-island airline
Samoa Ports Authority	x		100%	Ports
SamoaTel		x	100%	Telecommunications
Samoa Land Corporation	x		100%	Sale/Lease of former WSTEC land
Samoa Life Assurance Corp.	x		Mutual (0%) ¹	Life assurance; mortgage borrowing
Samoa Polytechnic	x		100%	Education
Samoa Shipping Corporation	x		100%	Ferry Services
Samoa Shipping Services		x	100%	Contracting of crew for cargo vessels
Samoa Trust Estates Corp.	x		100%	Cattle and copra production
Samoa Tourism Authority	x		100%	Tourism
Public Trust Office	x		100%	Will making and administer estates
Totalisator Agency Board	x		100%	Administer revenues from gambling commission
Samoa Water Authority	x		100%	Water supply
Samoa Broadcasting Corp.	x		100%	Television Broadcasting

¹These Mutual Entities are owned by Policy holders/contributors to these entities. However, they are monitored and controlled by Government under their empowering legislations and Public Bodies (Performance and Accountability) Act 2001.

	Formed under Act of Parliament	Formed under the Private Companies Act	GoS % of Shares	Business Description
Government Investments				
Hellaby Samoa		x	9%	Processed meat products
Telecom Samoa Cellular Ltd		x	10%	Telephone services
Polynesian Blue		x	49%	Commercial Airline services

Table 2: Corporatization and Privatization (1998 – 2005)

Completed	Privatization/Equity Divestment 2001 - 2002
<ul style="list-style-type: none"> i. Divested Government shares in Samoa Iron and Steel in November 1998; ii. Corporatized PTD on 1 July 1999; iii. Sold Government's majority shareholding in Samoa Breweries in mid 1999, iv. Divested Government shares in BOC Gas in August 1999; v. Wound-up the Special Projects Development Corporation (SPDC) and assets tendered; vi. Initiated negotiations of joint venture for the divestment of government's interest in the Samoa Coconut Oil and Products Limited (SCOPL); vii. Sold all Government Assets with the Samoa Coconut Products Limited; viii. Divested Government shares in Brugger Industries beginning of 2001; and ix. Divested Government shares in Rothmans Limited beginning of 2001; x. Computer Services Limited 2004; xi. The remaining balance of Government Shares in the Samoa Breweries Ltd was sold in 2004; xii. National Pacific Insurance, 2004 	<p>Privatizing</p> <ul style="list-style-type: none"> - Agriculture Stores Corporation. - Divestment of Government Shareholding Samoa Forest Corporation; - Hellaby Limited [- Partial-Privatisation of Polynesian Airlines Ltd (Jet Operations) to form "Polynesian Blue" - a joint-venture of Government and Virgin Blue.

Table 3: Goods subject to Price Control by HS Number

Goods	Applied Mark-Up	Tariff Item
Freezer Goods	37.5%	
Chicken		0207.1310
Lamb		0204.2200
Turkey		0207.2610
Pork Trotter		0203.2910
Dry Goods	32.5%	
Beer		2203.0010 2203.1090
Cigarettes and Tobacco		2402.2000 2403.1020
Corned Beef		1602.5010
Biscuits (locally produced, 5lb / 10lbs)		
Camp Pie		1602.9090
Sugar		1701.1100
Rice		1103.1400
Salt		2501.0010 2501.0090
Flour		1101.0090
Potatoes		0701.9000
Onions		0703.1000
Noodles, Macaroni, Vermicelli		1902.1910 1902.1920
All types of Milk		0402.9910 0402.1010
All types and brands of Tinned Fish including Tuna canned fish		1604.1200 1604.1500 1604.1400
All types of Oil		1517.9010 1517.9090
Soy Sauce		2103.1000
All types of laundry powders and bathing soap		3401.1100 3401.1900
Mosquito Coils		3808.1010
Toothpaste		3306.1000
All types and brands of butter, margarine		0405.1000 0405.9000
Petrol and Energy		
Unleaded	SAT 0.08 per litre	2710.0010
Diesel	SAT 0.08 per litre	2710.0050
LP Gas	10%	2711.1200

Table 4: Activity Licence Fees for the Right to Produce, Buy, Sell, and Import Liquor

Activity	Licence Fee in SAT per annum and equivalent in US\$	
Right to Engage in the Business of Buying and Selling of Liquor		
Trading Store	250	(US\$93.60)
Beach Resort	250	(US\$93.60)
Bar & Restaurant	1,000	(US\$374.50)
Warehouse	1,000	(US\$374.50)
Hotel	1,500	(US\$561.80)
Night Club	1,500	(US\$561.80)
Liquor Distribution	1,000	(US\$374.50)
Temporary Licence for One-off Events	250	(US\$93.60)
Right to Engage in the Business of Manufacturing Liquor	1,000	(US\$374.50)
Right to Engage in the Business of Importing Liquor	1,000	(US\$374.50)

Table 5: 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	SAT 6 per hour	SAT 8 per hour
R13(1)	Attendance outside working hours (a) Customs Holiday (b) Other Days Attendance (a) normal hours (b) outside normal hours	SAT 8 per hour SAT 8 per hour SAT 6 per hour SAT 8 per hour	SAT 10 per hour SAT 10 per hour SAT 8 per hour SAT 10 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 three hours at the applicable rates
R16(1)	Cancellation of Entry		SAT 10 per entry
R23A (R22, 23)	Collectors Permit		SAT 25 per permit
R30	Personal Effects clearance without entry		SAT 25 per clearance
R33	Sight Entry	SAT 10	SAT 25 per application
R35	Exemption from Export Entry		SAT 25 per exemption
R37	Certificate of Clearance	SAT 5	SAT 15 per clearance
R41	Request for ship's or aircraft stores		SAT 25 per application
R47	Temporary removal of Warehouse goods		SAT 25 per application
R51	Application for re-warehousing		SAT 25 per application
R54	Temporary acceptance of Proforma, fax, etc. invoices		SAT 15 per invoice
R61	Application for refunds	SAT 6 per SAT 500	SAT 25 + SAT 8 per SAT 500 or part thereof
R62	Application for refund, faulty manufacture	SAT 6 per SAT 500	SAT 25 + SAT 8 per SAT 500 or part thereof
R63	Application for refund, damaged, etc. goods	SAT 6 per SAT 500	SAT 25 + SAT 8 per SAT 500 or part thereof
R64	Application for refund, goods diminished in value	SAT 6 per SAT 500	SAT 25 + SAT 8 per SAT 500 or part thereof
R65	Application for refund, destroyed, pillaged or lost goods	SAT 6 per SAT 500	SAT 25 + SAT 8 per SAT 500 or part thereof
R67	Application for Drawback	SAT 6 per every SAT 500	SAT 25 + SAT 8 per SAT 500 or part thereof
R68	Application for drawback in special cases	SAT 6 per every SAT 500	SAT 25 + SAT 8 per SAT 500 or part thereof
R69	Waiving of non-compliance with conditions		SAT 25 per application
R71	Application to re-import goods exported under drawback		SAT 25 per application
R76	Approval of Agent's employees		SAT 25 per application
R87	Customs Agent's Licenses (a) Individual (b) General (c) Restricted	SAT 100 SAT 100 SAT 100	SAT 500 per annum SAT 500 per annum SAT 500 per annum
R85	Appeals against the decision of the Comptroller		SAT100 per application
R88	application for Customs Carrier		SAT 100 per application
R96	Clearance of Postal packets without entry		SAT 5 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	SAT 150 SAT 200 SAT 250 SAT 300 SAT 350 SAT 400 SAT 450 SAT 500 SAT 550 SAT 600	SAT 1,000 SAT 1,250 SAT 1,500 SAT 1,750 SAT 2,000 SAT 2,250 SAT 2,500 SAT 2,750 SAT 3,000 SAT 3,250
	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)	SAT 60 SAT 80 SAT 100 SAT 120 SAT 140 SAT 160 SAT 180 SAT 200 SAT 220 SAT 240 SAT 900	SAT 1,000 SAT 1,250 SAT 1,500 SAT 1,750 SAT 2,000 SAT 2,250 SAT 2,500 SAT 2,750 SAT 3,000 SAT 3,250 SAT 1,000
	Deferred Duty (a) Application (b) Late payment penalty (c) Annual Interest	SAT 25	SAT 25 SAT 5 per payment 10% per Annum
	application for temporary import		SAT 25 per application
	application for a Tariff Concession		SAT 25 per application
	application for a Tariff opinion		SAT 25 per commodity per application
	Copy of Official Document (requested by Owner)		SAT 10 per set (up to five pages)
	application to enter a Port other than a Port of Entry		SAT 100 per application
S29	Sufferance Wharves		SAT 100 per application
S33	Approval Fee, Customs Container base		SAT 1,000 per annum
S40	application to tranship goods		SAT 25 per application plus security
	Request for Certificate of Landing		SAT 25 per application
	Request for Pre-release of Goods		SAT 25 per application
	Duty Free Shop Licence		SAT 1,000
	Duty Free Shop Supervision		As per standard rates or SAT 500 per annum or as may be determined by the Comptroller
S90	Transfer of Warehouse Licence		SAT 200 per application
S94	Approval for Structural Alteration of Warehouse		SAT 200 per application
S100	Repacking of Warehouse Goods		SAT 25 per application
S112	Request for Constructive Warehousing		SAT 25 per application

Legal Ref.	Description	Previous Fees and Charges	New Fees and Charges, as of 1998
S132	Assessment of goods for duty Purposes		SAT 25 per application
	application for Export of goods for Repair and Return		SAT 25 per application
S158	Request for refund of duty on forfeited goods		SAT 25 per application
	Baggage Sufferance. AWB/PNDE Release		SAT 5 per application
	Courier Releases (After Normal Working Hours)		SAT 25 per Release
	application for Bonded Areas		SAT 500 per Year plus security and service charges at standard rates or as may be determined by the Comptroller
	Release, Air Way Bill		SAT 5 per release
	Release, Parcel Notification		SAT 5 per release
	Ship's store application		SAT 25 per application
	Other Service Approvals		At a rate to be fixed by the Comptroller

Table 6: Imported and Domestic Products Subject to Excise Tax

HS No.	Description	Excise tax rate
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 two 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 two 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
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

HS No.	Description	Excise tax rate
	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 tax rate
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 ³ but not exceeding 3,000cm ³	20% or SAT 2,400 per vehicle
8703.0025	Vehicles of a cylinder capacity exceeding 3,000cm ³	20% or SAT 2,400 per vehicle

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

Action	Timeframe
Working Party review of draft legislation necessary for conformity with the Agreement	Prior to Accession
- Customs Valuation Amendment Regulations 2007	Final Draft completed by 1st June 2008
Passage of Regulation through Cabinet	1st July 2008
Provisions of the Agreement that Samoa can implement as from accession	
- Articles 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 13, 15, 16, 17,	Completed
Provisions of the Agreement that Samoa will implement during the transitional period.	
- Article ten	1st July 2008
- Article 12	1st July 2008
Recruitment of Personnel, obtaining facilities and equipment, establishment of databases	Completed
Updating of manuals, operating procedures.	1st June 2008
Printing of updated forms, brochures etc	1st June 2008
Training of at least 20 Officials and Customs Officers	1st June 2008
Workshops for Private Sector	1st June 2008
Implementation of valuation system in full conformity with WTO rules	1st December 2008

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

Action	Timeframe and Comments
<p>Parliamentary Passage of Quarantine (Bio security) Act 2005</p> <p>Introduction of new standards, animal health regulations and food safety regulations in conformity with the SPS Agreement principles.</p> <p>Further development of Quarantine website www.samoaquarantine.gov.ws to improve notification and access to documentation</p> <p>Measures are applied only to the extent necessary to protect human, animal or plant health and regulations governing animal and plant health and food safety shall be based on scientific evidence</p> <p>To the extent possible, members shall follow international standards, guidelines, and recommendations in establishing SPS measures</p> <p>Equivalence: members shall recognize different measures that achieve the same level of protection.</p>	<p>Completed</p> <p>The introduction of new standards and regulations follows the principles set out in the Biosecurity Act and is based on risk analysis.</p> <p>Improve input of data and the operation of the website. Technical assistance to assist in further operational improvement of website, for it to be in good order by July 2007.</p> <p>The Quarantine (Biosecurity) Act 2005 mandates a risk based approach consistent with principles of SPS agreement</p> <p>Samoa participates in the development of international standards (e.g. plant standards under IPPC through the Pacific Plant Protection Organisation) and follows international standards and guidelines in the development of national standards.</p> <p>The Quarantine (Biosecurity) Act 2005 mandates a risk based approach consistent with principles of SPS agreement. Samoa has been flexible with this principle and uses it to facilitate trade without compromising Quarantine.</p>
<p>Official approval from Cabinet and establishment of contact for SPS and administrative procedures.</p> <p>Assistant Chief Executive Officer Quarantine Division Ministry of Agriculture.</p> <p>Establishment / Training of enquiry officer with MAF: Head of Quarantine Ministry of Agriculture</p>	<p>No later than December 2007. Other linked contact points have been established. MAF/Quarantine for IPPC, MAF/APH for OIE and MCIL for Codex.</p> <p>July 2008 Training should be at present and ongoing until capacity required is achieved by July 2008 (technical assistance to be sought)</p>

Action	Timeframe and Comments
<p>Establishment of implementing regulations, including control, inspection and approval procedures.</p> <p>Further identification of regulations necessary for giving full effect to the Act (if any)</p> <p>Draft / Passage of Regulations</p>	<p>The Quarantine (Biosecurity) Act 2005 is flexible and is enforced and implemented. The Act already provides a mandate for administrative procedures outlining control, inspection and approval procedures, following the principles of the SPS Agreement.</p> <p>Section 69(1) allows for the making of Regulations for such matters which are necessary for giving full effect to the Act. July 2008 Note flexibility mentioned above.</p> <p>July 2010</p>
<p>Upgrade and strengthen facilities and equipment. (Require x-ray machines, more disposal / treatment facilities, new replacement of existing old machines, strengthen fumigation mechanisms, IT support systems - computers, etc)</p>	<p>The most basic facilities and equipment are in place. Assistance to be sought now so that by December 2007, the facilities and equipment are upgraded.</p>
<p>Development of manuals. Printing of forms, brochures, etc. (SPS specific)</p> <p>Include National Awareness Workshop on SPS</p>	<p>Operational manuals and procedures are already in place. These are updated regularly.</p> <p>Technical assistance to be sought by July 2007 to commence awareness programmes.</p>
<p>SPS-specific intensive training of at least 15 Quarantine officials.</p> <p>National awareness programmes on SPS implementation (to include customs officers, private sector people and civil society).</p>	<p>By July 2008 By July 2010 (Capacity achievement to be achieved by these dates)</p> <p>By July – December 2008 By July 2010 – December 2011 (Capacity achievement to be achieved by these dates)</p>
<p>Full implementation</p>	<p>By 1 January 2012</p>

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

Action	Timeframe & Comments
<p>Working Party review of draft legislation necessary for conformity with the Agreement.</p> <p>Draft IP Law</p> <ol style="list-style-type: none"> 1. Patents Act 2. Trademarks Act 3. Industrial Property Act 4. Protection of Geographical Indications Bill <p>Other Draft Law:</p> <ol style="list-style-type: none"> 1. Customs Amendment Bill to repeal section 132 and Border Protection Measures; 2. Antidumping and Countervailing Duties Bill 	<p>II. PRIOR TO ACCESSION</p> <p>Submit to Parliament no later December 2007</p> <p>Submit to Parliament no later than December 2007</p>
Passage of above legislation by parliament.	December 2008
<p><i>Provisions of the Agreement that Samoa can implement as from accession and the provisions that it will implement during the transitional period</i></p> <p>Provisions to be implemented during the transitional period Part II Article 9-Article 14</p> <p>Section 3: Article 22</p> <p>Section 4: Article 25, Article 26</p> <p>Section 5: Article 27 (1), Article 29</p> <p><i>Provisions to be implemented as from accession:</i> <i>Section 2: Article 16 (2), 16 (3)</i> <i>Article 19,20,21,</i> <i>Section 5: Article 27 (2), (3),</i> <i>Article 30, 31, 32, 33, 34, 39-64</i></p>	<p>Establishment of a Collective mechanism to administer rights of Authors - December 2009</p> <p>Enforcement of GI Legislation December 2009</p> <p>Enforcement of Industrial Property legislation –December 2009</p> <p>Patents – December 2009</p>
Establishment of Intellectual Property (IP) WTO Office responsible e.g. for implementing transparency provisions of the TRIPS Agreement.	July 2008 To be located at the IP Registry at the Ministry of Commerce, Industry and Labour.
Hiring of personnel. Obtaining facilities and equipment. (for the IP/WTO unit located in the IP Registry, at the Ministry of Commerce, Industry and Labour)	December 2008
Establishment of implementing regulations.	1 July 2009
Development of manuals and operating procedures. Printing of necessary material.	1 December 2008
Training of at least 15 officials, customs officers and private sector people as well as educators in TRIPS issues.	1 July 2009
Training of Police Officers	1 July 2009
Capacity Building for IP Officials	1 December 2008

Action	Timeframe & Comments
Awareness programmes on the Agreement for the members of the public	1 December 2008
Computerisation of IP Office	1 December 2009
Training of staff	1 July 2009
Readiness to participate in regional IP administrative cooperation (Collective management for copyright, regional system for patents and trademarks).	<i>As soon as these Pacific regional mechanisms are established</i>
Membership in the Berne and Paris Conventions.	Berne Convention – Effective on 21 July 2006 Paris Convention – 1 July 2012
Full implementation	No later than January 2013

[Draft Decision
ACCESSION OF SAMOA

Decision of [...]

The [General Council] [Ministerial Conference],

Having regard to paragraph two of Article XII and paragraph one 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 two 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.

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] [Ministerial Conference] 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 [...] of the Working Party Report, shall be an integral part of the WTO Agreement.
3. Except as otherwise provided for in paragraph [...] 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 one 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 nine 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.

ANNEX I

SCHEDULE [...] – SAMOA

Authentic only in the ... language.

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

SCHEDULE OF SPECIFIC COMMITMENTS ON SERVICES

LIST OF ARTICLE II EXEMPTIONS

Authentic only in the ... language.

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