

# **WORLD TRADE ORGANIZATION**

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**Working Party on the  
Accession of Samoa**

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**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 (WTO) 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.9].

2. The Working Party met on 12 March 2002 under the Chairmanship of Mr. Y. Suzuki (Japan). Mr. Suzuki resigned his appointment in 2009. The General Council took note of the appointment of Ms. Kuni Sato in May 2009.

## **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 (WT/ACC/SAM/2), 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/3, WT/ACC/SAM/4 and Addenda 1, 2 and 3, WT/ACC/SAM/5 and Addendum 1, WT/ACC/SAM/6, WT/ACC/SAM/7, WT/ACC/SAM/8 and Addenda 1, 2 and 3, WT/ACC/SAM/9, WT/ACC/SAM/10, WT/ACC/SAM/11, WT/ACC/SAM/12, WT/ACC/SAM/13, WT/ACC/SAM/14, WT/ACC/SAM/15 and Addendum 1, WT/ACC/SAM/16,...), 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 market risks. Samoa's economy heavily relied on a few exported goods and export 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: i) a substantial liberalization of tariffs - the maximum rate had been reduced from 60 per cent 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; ii) the removal of control over commercial banks credit ceilings and interest rates; iii) a reduction of corporate and income taxes and the elimination of control over the repatriation of profits for foreign companies to promote investment; iv) the abolition of the withholding tax on dividends; v) an accelerated depreciation on capital equipment and commercial buildings; and vi) 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 country 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 2 per cent. In April 2010, one tala (SAT) exchange at approximately US\$0.4031.

13. Foreign exchange levies had been removed. 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 Exchange Control Regulations 1999. The Exchange Control Regulations 1999 were based on the Central Bank of Samoa Act 1984. 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 and the Understanding on the Balance of Payments Provisions 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 Enterprises Incentives and Export Promotion Act 1992/1993 had been amended in June 1999 to discontinue 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. Incentives 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 the five companies: the Cocoa and Coconut Products, Pacific Cashmere and Desico Samoa, had ceased all production in February 2004. Two companies: Samoa Tropical Products and Yazaki Samoa continued to benefiting from incentives contingent upon export performance. The incentives granted to Samoa Tropical Products had expired on 31 March 2008. The tax holidays conferred to Yazaki Samoa were due to end on 8 November 2009 and the customs and excise incentives on 11 July 2010. He confirmed that none of Samoa's incentive programmes were contingent upon local content requirements.

17. Investment incentives, in the form of duty concessions on capital goods used for hotel and other development projects, were also provided under the Customs Amendment Act 2007 (see the section "Industrial policy, including export and other subsidies").



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 Foreign Investment Act 2000. 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 Foreign Investment Act 2000). These sectors were either part of protection environmental programmes or considered to be adequately catered for by local investors. He noted that foreign investors could not own businesses listed as reserved activities. 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, or minimum or maximum limits on foreign investment (Article 4 of the Foreign Investment Act 2000). 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. He noted that the Reserved and Restricted Lists of Activities were being revised as part of the review of the Foreign Investment Act 2000 and its implementing regulations. A draft Foreign Investment Amendment Bill was expected to be submitted to Parliament in December 2010.

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 proposal to amend or expand the lists of activities. The proposal was then discussed at a special meeting with representatives from the Ministres of Finance; Revenue; Agriculture and Fisheries; Justice, Courts and Administration; Natural Resources, Environment and Meteorology; Foreign Affairs and Trade; the Attorney General's Office; the Central Bank of Samoa; the Prime Minister's Office and Cabinet; the Samoa Tourism Authority; private sector organizations (the Samoa Chamber of Commerce, the Samoa Association of Manufacturers and Exporters, Women in Business Development Inc.), as well as civil society. After discussion, the proposal was submitted to the Trade, Commerce and Industry Development Board (TCIDB) for consideration. The TCIDB was chaired by the Minister of Commerce, Industry and Labour and was composed of representatives from various ministries and the private sector (the Small Business Enterprise Centre, the Samoa Chamber of Commerce, the Samoa Association of

Manufacturers and Exporters, and agricultural exporters). After deliberations, the TCIDB reported to the Cabinet through the Minister of Commerce, Industry and Labour. The Cabinet made the final decision and the Ministry consulted with the Attorney General to prepare a draft Bill for submission to Parliament. He noted that parliamentary procedures also provided opportunities for public comment.

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. This Member noted that activities reserved to domestic persons should not lead to undue discrimination against foreigners. In response, the representative of Samoa said that 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 Foreign Investment Act 2000 and its implementing regulations (see paragraph [18] above). The Foreign Investment Amendment Bill was expected to be submitted to Parliament in December 2010.

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 Alienation of Customary Land Act 1965. Customary land was land held in accordance with Samoan customs and usage. Pursuant to the Alienation of Customary Land Act 1965, 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. These 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 Forest Act 1967. The second exception concerned the sale of land under the Alienation of Freehold Land Act 1972. 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 Lands, Surveys and Environment Act 1989. 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 the 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. Asked to clarify the concept of public interest, the representative of Samoa said that there were no specific criteria relating to the public interest test. The notion of public interest referred to what was legally and morally right in accordance with the law, as well as traditional and customary practices. The environmental impact of a project was also taken into consideration.

23. Measures had also been taken to facilitate the recruitment of foreign workers. Pursuant to the Immigration Act 2004, 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 was cancelled and the person had to leave the country or apply for a new permit to remain in Samoa.

24. In response to questions about the volume and value of foreign direct investment, he submitted information about the initial working capital (by sector) declared by foreigners in their application for a foreign investment certificate as recorded since 2000 in the database established by the Ministry of Commerce, Industry and Labour (MCIL) in Annex 1 to document WT/ACC/SAM/8.

- **State Ownership and Privatization**

25. 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 8 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 5 per cent of imports were attributable to the activities of State-owned enterprises. Imports by State-owned enterprises were classified as private sector imports.

26. 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, the Government of Samoa 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 20-plus-20 year term. He confirmed that none of these enterprises enjoyed any special privileges.

27. A new privatization strategy had been adopted in 2003. The new strategy called for the Government to concentrate on its core strategic business activities and to divest itself of non-strategic activities that could be provided by the private sector. Each privatization was dealt with on a case-by-case basis. Wholly-owned enterprises were to be restructured to ensure greater efficiency, before being privatized. Since 2003, his Government had sold all its minority shares in Computer Services Limited (in 2004), Hellaby Samoa Ltd. (in 2006), and Telecom Samoa Cellular Ltd. (in 2007). Scoping studies for the Samoa Broadcasting Corporation, the Agriculture Store Corporation and the Samoa Shipping Corporation had been completed and privatization of these entities was in the pipeline. The scoping study for SamoaTel Ltd. had been completed, but no decision had been taken yet regarding the timing and process of privatization of this enterprise. The Samoa Forest Corporation had ceased operation in 2004 and the Government had approved its liquidation in 2005. However, some legal issues remained to be solved before liquidation could be completed. He provided a list of State-owned enterprises and bodies as of June 2007 in Table 1 and details of Samoa's privatization programme for the period 1998-2007 in Table 2. He noted that none of the remaining State-owned enterprises trading goods enjoyed any special or exclusive privileges. In response to a question, he added that State ownership control in State-owned enterprises was exercised through the board of directors.

28. 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 8 of the Act, Public Trading Bodies were to aim at the same profitability and efficiency as private businesses. Public Bodies' boards were accountable to the shareholding Ministers, the Minister of Finance and the responsible Minister, who were liable to the Parliament for the performance of the Public Bodies. The Act also strengthened the role of the State-Owned Enterprises Monitoring Unit, which monitored the performance of State-owned enterprises.

29. To further foster responsible economic and financial management by the Government, the Public Money Act 1964 had been replaced by the Public Finance Management Act 2001, which set out a number of accountability requirements aligned with the Eight Principles of Accountability of the South Pacific Forum. 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).

30. Asked about the functions of the Agriculture Store Corporation (ASC), the representative of Samoa explained that the Corporation sold and rented agricultural tools and equipment, and sold feed, seeds, fertiliser, insecticides and other supplies used for agricultural purposes. The Corporation was a 100 per cent wholly State-owned enterprise and had enjoyed a duopoly licensing arrangement with another private competitor to sell pesticides and chemicals for farming. Asked to provide more information on the trading activities of the ASC, the representative of Samoa said that 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.

31. Some Members of the Working Party sought clarification concerning the "duopoly" of the state-owned ASC and its privately owned counterpart, and whether those enterprises enjoyed a privileged selling position for pesticides and other agricultural chemicals in Samoa. In particular, those Members sought confirmation whether there was any legal or policy impediment to additional firms entering the market to sell the same products to Samoan farmers. In response, the representative of Samoa stated that there was no legal or policy impediment to additional firms seeking to enter the market to sell pesticides and other agricultural chemicals in Samoa. In response to a further question, the representative of Samoa stated that it was expected that the ASC would be privatised in 2011.

32. He noted that the duopoly would be discontinued after the ASC being privatised. In response to a question, he added that the importation, distribution and sale of pesticides were open to competition. Anyone could apply to the Pesticides Committee established within the Ministry of Agriculture to obtain a licence to trade in pesticides and agricultural chemicals. Due to the small size of the market, the ASC and Farm Supplies were the only local companies currently selling pesticides for agricultural use only. There were, however, many companies licensed to import, distribute and sell pesticides and agricultural chemicals for household purposes. He added that more and more villages were moving to organic farming and were prohibiting the use of chemicals for farming.

33. He confirmed that there were no restrictions on the establishment of domestic or foreign-owned competitors to the remaining State-owned enterprises. Investment sectors were open to both local and foreigners, with the exception of those activities reserved for local citizens, i.e., sawmilling, retailing, rental cars, buses and taxis. He further confirmed that Samoa's privatization programme did not operate so as to restrict foreign investment. The objective of the Government of Samoa was, on the contrary, to encourage foreign investment.

34. 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.

35. 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 [216]).

36. Noting that Samoa had granted a five-year contract to Mobil and then Total to supply and distribute oil and petroleum products in Samoa following competitive tendering processes, 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 a new tender process had been carried out in August 2008. The new supplier would be notified to the Working Party.

37. The representative of Samoa confirmed that his Government would ensure the transparency of its ongoing privatization programme. He stated that his Government would provide annual reports to WTO Members on developments in its privatisation programme as long as the programme would

be in existence, and along the lines of the information already provided to the Working Party during the accession process. The Working Party took note of this commitment.

38. [The representative of Samoa confirmed that upon accession Samoa would notify and provide information on the activities of its new supplier of petroleum products as they related to the exclusive contract to supply petroleum products to Samoa on behalf of the Government, in accordance with Article XVII of the GATT 1994 and the Understanding on that Article. Samoa would apply its laws and regulations governing the trading activities of State-owned enterprises and State-controlled enterprises and other enterprises with special or exclusive privileges and would act in full conformity with the provisions of the WTO Agreements, in particular Article XVII of the GATT 1994 and the Understanding on that Article and Article VIII of the GATS. The Working Party took note of these commitments.]

- **Pricing Policies**

39. The representative of Samoa said that price controls were applied to 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 mark-up was applied to the ex-factory price of domestic products and to the landed price of imported goods. The same percentage mark-up was applied to imported and domestically-produced goods, including beer and tobacco products, with the exception of locally-produced biscuits in packages of 5 lbs and 10 lbs 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.

40. 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), including price or mark-up levels, and any changes to this list or price controls applied. The Working Party took note of this commitment.

- **Competition Policy**

41. The representative of Samoa said that competition policy was regulated by the Fair Trading Act 1998. The competition policy of Samoa 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.

42. The Fair Trading Act 1998 controlled the mark-up of wholesalers and retailers for basic grocery products to prevent distributors from taking advantage of their local position. Noting that the first-best solution to address a monopoly position was to increase competition, several Members inquired about the rationale of the price control measure and possible future plans to replace the price control with 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. Excessive prices deeply affect the purchasing power of low and middle-income families. The measure would be lifted when competition would be considered healthy.

43. 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**

44. The representative of Samoa said that Samoa became an independent and sovereign state within the British Commonwealth of Independent States on 1 January 1962. The Constitution had been adopted in 1960. The system of Government was based on the English Westminster model. The first Head of State held his function for life, but current and future Heads of State 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.

45. 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 convened 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.

46. 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 the "Matai", i.e., customary chiefs or heads of families representing the territorial constituencies. The two others were held by representatives of individual voters without territorial or tribal affiliation. 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 for legislative changes were initiated by officials following consultations with stakeholders, including the private sector, and submitted to a Sponsoring Minister for consideration. The proposal is then transmitted to the Attorney General's Office for drafting. Once endorsed by the sponsoring Minister, the draft bill is 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 is submitted to a Parliamentary Select Committee made up of Government and opposition members of the Parliament, which reported back to the Parliament. It becomes an Act of Parliament after being passed a third time by the majority of the members of Parliament 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 required prior to enactment, at a time set by the Sponsoring Minister. Enacted legislation was published in the Official Gazette (Savali). Adoption of orders, regulations, and by-laws only required approval of the Cabinet and the Head of State.

47. 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. The Judicial Service Commission 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 by 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 (US\$3,275) 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. Foreign individuals and companies could engage in civil proceedings in either the Supreme Court or the District Court and lodge appeals with the Court of Appeal.

48. The Constitution and the Declaratory Judgements Act 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 1974. Administrative decisions could be challenged for breach of the Common Law rules or failure to act fairly. Commercial cases against the national administration could be brought before the Supreme Court by Samoan nationals and foreigners. 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.

49. In response to a Member's request for information on the recourse available to importers and exporters for administrative and/or judicial appeal, e.g. in customs cases, the representative of Samoa said that all customs decisions, including all decisions made by the Comptroller, were subject to judicial appeal to the Supreme Court pursuant to the Supreme Court (Civil Procedure) Rules and Common Law principles. There was, however, no general administrative right of appeal of decisions made by the Comptroller, except for decisions related to Customs Valuation, the origin of a product, registration in the Import and Export Electronic System, and administrative penalties. Pursuant to Regulation No. 10 of the Customs Valuation Regulations 1998, customs valuation decisions could be appealed in first instance to the Comptroller within 14 days, and in second instance to the Minister for Revenue within 28 days from the date of receipt of the Comptroller's written decision. Appeal to the Comptroller was subject to a fee of SAT 100 (US\$32.75). Decisions regarding the origin of a product could be appealed to the Minister for Revenue pursuant to Section 134 of the Customs Act 1977. Refusal by the Comptroller to register a user in the Import and Export Electronic System and decisions to cancel registration of a registered user could be appealed to the Minister for Revenue within 20 working days after notification of the Comptroller's decision for a fee of SAT 100 (US\$32.75) pursuant to Regulation Nos. 5 and 8 of the Customs Regulations 1998 (Computer Entry Processing System). Administrative penalties imposed by the Comptroller under Regulation No. 25 of the Customs Regulations 1998 (Computer Entry Processing System) could also be appealed to the Minister for Revenue within 14 working days after notification of the Comptroller's decision for a fee of SAT 100 (US\$32.75). Decisions of the Minister were final. He added that Section 255 of the Customs Act 1977 provided for judicial appeal of goods seized by customs. Seizure of goods could be appealed in first instance to the District Court within one month, and in second instance to the Supreme Court of Samoa. Finally, decisions regarding duties paid could be appealed to the

Comptroller pursuant to Section 156 of the Customs Act 1977. He noted that all Comptroller's decisions could be challenged through the judicial system, i.e., before the Supreme Court.

50. Noting that Samoan nationals and foreigners could also file a complaint about an administrative decision or act to the Ombudsman, a Member asked Samoa to clarify the role of the Ombudsman. In response, the representative of Samoa said that the Ombudsman did not usually deal with complaints about administrative decisions made by the Comptroller or the Minister for Revenue, i.e., decisions related to customs matters. Pursuant to Section 11 of the Ombudsman Act 1988, the Ombudsman had the authority to investigate any administrative decision or recommendation, or any act done or omitted affecting citizens in their personal capacity. Recent complaints filed with the Ombudsman concerned sexual harassment at work. The Ombudsman could not investigate cases already challenged before a court (Section 11(6) of the Act). He added that the Ombudsman could only express opinions and make recommendations to the department or organization having taken the contested decision.

51. In response, some Members of the Working Party requested the representative of Samoa to clarify whether or not, there were any circumstances under which an administrative ruling in areas relevant to WTO rules, could not be appealed to the judiciary or an independent tribunal, as provided for in Article X:3 of the GATT 1994 and the provisions for appeal in other WTO Agreements. In reply, the representative of Samoa stated that pursuant to the Supreme Court (Civil Procedure) Rules 1980, there were no circumstances under which an administrative ruling could not be appealed or reviewed. Motions could be filed with the Supreme Court seeking orders for extraordinary remedies, declarations or other remedies by any person aggrieved by an administrative decision. This extended to all administrative decisions related to WTO rules.

52. In response to a separate question, the representative of Samoa added that in Samoa's view the widely available judicial and administrative appeals available in respect of certain customs activities described above conformed to the requirements of Article X:3 of the GATT 1994. He further added that all administrative decisions relating to WTO rules, not only customs decisions were subject to judicial review pursuant to the Supreme Court (Civil Procedure) Rules 1980. In view of that, the representative of Samoa confirmed that from the date of 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.

53. 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 Working Committee on Trade Agreements. 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.

54. The Government of Samoa had undertaken a reform of the public sector. The purpose was to improve transparency, accountability, and predictability in administrative and decision-making procedures. The Public Service Commission (PSC) advised the Government in this regards. On 11 December 2001, the Government had adopted amendments to the Public Service Act 1977 concerning disciplinary action, probation, appeals and grievances. Further changes had been introduced, after approval by the PSC Committee, on values, principals and the Code of Conduct. The number of departments had been reduced from 28 to 13. New recruitment and selection procedures had been introduced. A number of human resources management functions had been 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. Departmental budgets were screened by the PSC and the Treasury and their performance evaluated in light of the Corporate Plans.

55. In reply to a question concerning the powers of the "Matai" to develop policies, regulations, and practices at the territorial constituency level, the representative of Samoa explained that the Village Fono Act 1990 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 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. He confirmed that Samoa would apply the WTO rules

uniformly throughout Samoa and would be bound by its commitment to WTO matters as set out in the various legislations.

56. The representative of Samoa confirmed that sub-central entities had no autonomous authority over issues of subsidies, taxation, trade policy or any other measures covered by WTO provisions. He confirmed that the provisions of the WTO Agreement, including Samoa's Protocol of Accession, would be applied uniformly throughout its customs territory and other territories under Samoa's control, including in special economic zones, and other areas where special regimes for tariffs, taxes and regulations were established. He added that when apprized of a situation where WTO provisions were not being applied or were applied in a non-uniform manner, central authorities would act to enforce WTO provisions without requiring affected parties to petition through the courts. The Working Party took note of these commitments.

57. 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.

58. 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 upon 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**

59. The representative of Samoa said that the Business Licence Act 1998 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\$72.05) per business activity for individual traders and SAT 500 (US\$163.75) 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 2007, 4,106 business licenses had been granted, mainly for commerce (3,312), transport and communication (362), finance and business services (223), and construction (209).

60. To obtain a business licence, traders were requested to address an application to the Ministry for Revenue (MOR). Annexed to the application are: the registration documents, from the Registry of Companies in the Ministry of Commerce, Industry and Labour. These registration documents include the Memorandum of Association with the 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 (FIC). Business licenses were delivered after an interview with officials from the Ministry for Revenue. Pursuant to the Business Licence Act 1998, 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 or requirements that would prevent firms or individuals from importing or exporting.

61. In response to a question, he noted that the Business Licenses Act 1998 did not make the granting of a business licence conditional upon investment in Samoa. Overseas registered companies could apply for a business licence without having to invest in Samoa. Article 6 of the Business Licenses Act 1998 required traders to indicate an address (place of business) in their application for a business licence, but it did not necessarily need to be a Samoan address. The holding of a foreign investment certificate was not a prerequisite to obtain a business licence. Only foreign firms investing in Samoa were required to present a foreign investment certificate when applying for a business licence, in accordance with Article 6 of the Foreign Investment Act 2000. A Foreign Investment Certificate was an approval to set up business in Samoa. FICs were delivered by the Ministry of Commerce, Industry and Labour (MCIL). Documents to submit included a formal letter; the foreign investment registration form; photographs; and a copy of the passport of each shareholder/director. Applications to establish as a sole trader or a joint venture had to be lodged directly with MCIL. In the case of establishment of a company, a certificate of incorporation delivered by the Registry of Companies had to be attached to the application. If the proposed business was not within Samoa's reserved and prohibited activities, the foreign investment certificate was issued automatically. Copies of FICs were then forwarded to the Ministry for Revenue for issuance of a business licence, the

Ministry of the Prime Minister and the Cabinet (Immigration Division) to facilitate the processing of work permits.

62. In addition to normal business licenses, activity licenses were required to trade in narcotics and liquor. He confirmed that activity licenses were not required for any activities other than those two. Pursuant to the Narcotics Act 1967, 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 (US\$13.1). He provided a list of narcotics for which an activity licence was required in document WT/ACC/SAM/5/Add.1. As for liquor, i.e., any beverage containing more than two parts per cent of proof spirit, activity licensing had been introduced 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. However, two different licenses were needed: one to buy and sell liquor; and the other one to import. In the case of domestic liquor, 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.

63. 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.

64. Some Members noted that Samoa's import licensing system for alcohol merged the right to import and the right to distribute. These Members invited Samoa to amend its legislation. In response, the representative of Samoa said that the Liquor Act 1971 was being amended. Clause 54 of the draft had been amended to remove the requirement providing that the holding of a licence, to sell alcohol domestically be a pre-condition for obtaining an import licence. Under the proposed system, any trader could first apply for a licence to import alcohol. In order to sell or distribute imported alcohol, a second licence would be required. The Liquor Control Board expected to finalize the draft by the end of 2010. Once finalized, the proposed amendments would be

forwarded to the Office of the Attorney General. After approval by the latter, the proposed amendments would be sent to the Cabinet for endorsement, before being submitted to Parliament.

65. The representative of Samoa confirmed that under draft legislation, the act of importation would be separated from the act of distribution. Any person can apply to be an importer of liquor. Licenses to import liquor would be granted independently of a license to distribute locally. After enactment of this legislation, if a liquor importer wished to sell liquor locally, the relevant license needed to be obtained separately. The representative of Samoa further confirmed that there was no requirement for an applicant to be established in Samoa in order to obtain an import licence. The Working Party took note of these commitments.

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

#### **A. IMPORT REGULATIONS**

##### **- Customs tariff**

67. The representative of Samoa said that Samoa had been using the Harmonized System Nomenclature since 1997. Samoa's tariff classification conformed with the HS 2007 nomenclature at the six-digit level. Samoa granted tariff preferences to members of the Pacific Island Countries Trade Agreement (PICTA) since 1 January 2008 (see paragraph [232]). 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. The representative of Samoa confirmed that Samoa had provided the *ad valorem* equivalent (AVE) for these specific tariffs, upon request, to WTO Members negotiating bilaterally for market access commitments.



68. 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.

69. 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**

70. 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.

71. The representative of Samoa confirmed that Samoa had agreed to bind at zero all other duties and charges in its Schedule of Concessions and Commitments, pursuant to Article II:1(b) of the GATT 1994. The Working Party took note of this commitment.

- **Tariff rate quotas, tariff exemptions**

72. 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 pre-mixes. A preferential rate was applied on imported fishing gear. 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.

73. 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**

74. 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(a).

75. A Member noted that some of the fees listed in Table 5(a) 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 acknowledged that some fees, in particular the fees for an application for refund or drawback, were based on the value of the product. He 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. Draft amendments had been prepared. The proposed fees (see Table 5(b)) were awaiting endorsement by the National Revenue Board. They would then be submitted to the Cabinet for approval.

76. Some Members were also 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. These Members considered this fee inconsistent with the provisions of Article VIII of the GATT 1994. In response, the representative of Samoa said that the Pesticides Regulations 1990 were being revised to bring registration fees for pesticides into line with Article VIII of the GATT 1994. The new Regulations were expected to be adopted by [year]. He provided a list of the fees proposed in the new Regulations in Table 6.

77. 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 the 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. [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.

- **Application of internal taxes to imports**

78. 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 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\$25,545) and primary producers were exempted from VAGST.

79. 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 small producers - rather than exempt 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 in 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 amongst WTO Members.

80. In response to requests to amend the VAGST exemption system for primary producers in order to remove any potential discrimination against imports, the representative of Samoa said that Samoa would undertake a detailed analysis of the implications of either exempting imported agricultural produce or replacing the exemption with a minimum threshold for VAGST registration, which would apply equally to both primary producers and other agricultural producers. Although the latter option might appear simple, Samoa would require more detailed statistics and information on domestic agricultural producers and a clear distinction of subsistence and commercial agricultural producers. In addition, the cost and implications of administration would have to be taken into account. The representative of Samoa further added that food security for his Government as an LDC was of particular importance. Therefore, he added that Samoa would undertake an additional analysis of the linkage and implications of the proposed alternative VAGST exemption systems to Samoa's overall food security policy.

81. He noted that Samoa would request the assistance of the FAO as well as other development partners in undertaking the detailed analysis of Samoa's domestic agricultural sector in view of the

VAGST exemption. Once the analysis is completed within [five] years of accession, Section 15 of the VAGST Act 1992/1993 would be amended to reflect a WTO consistency. The Working Party took note of these commitments.

82. In response to a specific question concerning the issue of VAGST exemptions, the representative of Samoa confirmed that these exemptions were not included in Samoa's agricultural support calculations in WT/ACC/SPEC/SAM/3/Rev.4 revised in April 2010.

83. Samoa also levied excise taxes in accordance with the Excise Tax (Domestic Administration) Act and the Excise Tax Rates Act 1984, both amended in 1998; and the Excise Tax (Import Administration) Act 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 7.

84. A Member noted that Samoa's legislation referred to "import" and "domestic" excise taxes. The Member also sought clarification about the unified application of excise taxes. In response, the representative of Samoa confirmed that historically, excise taxes on imported and domestic goods had been dealt with independently. These however, had been unified and all domestic taxes in Samoa, including excise taxes, were applied on an MFN and national treatment basis, in accordance with Article III:1 and 2 of the 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.

85. Noting that excise taxes varied, depending on the type of alcohol, a Member asked Samoa to describe what sorts of alcoholic beverages were produced domestically and what level of alcohol such beverages contained. In response, the representative of Samoa said that the largest manufacturer of alcoholic beverages was Vailima Breweries. The company produced beer (HS2203) and imported wines and spirits for local sale. Several other small manufacturers produced various types of spirits such as vodka and whisky (HS2208). Domestically produced vodka, rum and whisky had an alcohol strength comprised between 30 and 57.12 per cent and locally-produced beer superior to 3 per cent.

86. The representative of Samoa confirmed that, from the date of accession, Samoa would apply its domestic taxes, including value-added and excise taxes, in a non-discriminatory manner consistent with Articles I and III of the GATT 1994. The Working Party took note of these commitments.

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

87. The representative of Samoa said that pursuant to Section 49(3) and 49(4) of the Customs Act 1977, 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 Health Ordinance 1959, 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; pornographic articles, publications, films, and video to protect public morals; non-biodegradable plastic bags to protect the environment (Plastic Bag Prohibition on Importation Regulations of 23 May 2006); turkey tails to help curb the rise in diseases such as diabetes, high blood pressure and heart and kidney failure (Prohibition Order on the Importation of Turkey Tails of 14 August 2007); and motor vehicles older than 12 years and left-hand drive vehicles to ensure traffic safety (Order of Prohibited Imports of 2 May 2008) (see Table 8). The importation of arms and ammunition, chemicals, pesticides and ozone depleting substances was restricted for the protection of human health and life and subject to licensing. He provided a list of products subject to import licensing in Table 9. He noted that 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 Customs Act 1977. He further noted that the importation of some plants and food stuff was also prohibited under Samoa's SPS regulations (see the section on "Sanitary and phytosanitary measures").

88. Pursuant to the Arms Ordinance 1960, licence fees for the importation of arms and ammunition amounted to SAT 200 (US\$65.5) a year for companies and SAT 50 (US\$16.37) per import for individuals. The importation, storage and use of pesticides was regulated by the Ministry of Agriculture and Fisheries pursuant to the Agriculture, Forests and Fisheries Amendment Act 1989. 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 (US\$98.25) plus VAGST. The licence fee depended on the type of pesticide and quantity to be imported.

89. Restrictions could also be imposed on goods having a negative impact on the environment pursuant to the Lands and Environment Act 1989 and in accordance with the international conventions to which Samoa was party. 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 Ozone Depleting Substances (ODSs) - mainly Chlorofluorocarbons (CFCs) - and methyl chloride, whose consumption were to be phased out by 2010 and 2015 respectively.

90. Some Members of the Working Party requested clarification concerning the apparent prohibition of tinned fish. In response, the representative of Samoa stated that although tinned fish was not a prohibited import, the prohibition only applied to packages of more than 48 tins. This policy initiative was put in place to assist families in Samoa during times of 'faalavelave' or special occasions (e.g., funerals, title bestowments, weddings), in order to ease the burden for families hosting these special occasions. Boxes of 24 cans were permitted.

91. A Member posed a specific question concerning the rationale of banning the importation of left-hand drive automobiles. Samoa was asked to explain what portion of automobiles currently in Samoa were left-hand drives and whether such automobiles would be permitted to remain in use from the date the ban had entered into force. The Member noted that other governments had not banned left-hand drive or right-hand drive automobiles, although driving regulations were based on either left-hand or right-hand drive. The Member urged Samoa to review this discriminatory ban. The representative of Samoa replied that his Government would consider the inclusion of the right-hand drive as a requirement for automobile registration in Samoa as part of the broad regulatory system to be developed. Samoa was also asked to explain the criteria for prohibiting the importation of goods to protect revenue or ensure the efficient administration of the Customs Act. He further added that amendments to Section 49 of the Customs Act 1977 were in preparation with respect to the criteria for prohibiting the importation of goods to protect revenue or to ensure the efficient administration of the Customs Act.

92. Some Members noted that the ban on imports of automobiles older than 12 years discriminated against imports and was WTO-inconsistent. They pointed out that used automobiles older than 12 years were purchased and sold domestically and were not considered unsafe *per se*. These Members urged Samoa to introduce a WTO-consistent measure on the importation of used cars older than 12 years, e.g., a non-automatic import licensing requirement to enforce mandatory inspection and certification of used cars over a certain age that would also be applied to domestic cars of the same age upon registration renewal.

93. In response the representative of Samoa stated that the ban on imports of automobiles older than 12 years had been introduced in 2003 for safety and environmental reasons. In light of the resource constraints already faced by Samoa, he explained that the replacement of the ban by a non-automatic licensing system would be an additional administrative burden. However, Samoa

recognized the concerns of WTO Members with regard to the current import prohibition of automobiles older than 12 years and was therefore, exploring how the importation of used automobiles is regulated in countries such as New Zealand and Australia.

94. Samoa was considering creating technical standards or regulations applying to all automobiles. Such regulations would include:

- i. Environmental Measures, e.g. on carbon emissions, would require the introduction of legislative measures to achieve air quality improvements by reducing the level of harmful emissions from motor automobiles;
- ii. Safety Measures would address automobile technicalities (e.g., head lights, stop lights, wheels, noise pollution); and
- iii. Fuel consumption standards.

The Working Party took note of these commitments.

95. In light of the requirements for developing WTO consistent technical standards and regulations for the importation of automobiles, Samoa would accordingly seek a transition period to phase out the current import prohibition, while the regulations, standards and the licensing system were developed. The representative of Samoa stressed the necessity for his Government to receive adequate technical assistance to ensure the process of bringing its regulatory system into WTO conformity.

96. In addition, a Member expressed concerns regarding Samoa's ban on the importation of turkey tails. This Member questioned the prohibition of a single food item in order to address the large and complex problem of obesity. Samoa was asked to describe its plans to educate its consumers on the importance of considering total dietary choices and exercise to avoid non-communicable diseases, as reflected in the Draft Action Plan for the Implementation of the Global Strategy on Diet, Physical Activity and Health of the World Health Organization (WHO). This Member also invited Samoa to explain the objective criteria used to identify this specific product and the reason why this product had been prohibited from importation while many other products presenting similar characteristics were allowed in circulation.

97. In response to the question about Samoa's plans to educate consumers on healthy dietary choices, he explained that measures taken included, among other things, a health promotion and prevention campaign under the "Health Sector Plan 2008-2018: a Healthy Samoa" and a revision of Samoa's dietary guidelines. In addition, the Ministry of Health was updating Samoa's food legislation

and the National CODEX Committee was developing standards on food quality. He provided a detailed description of the various measures taken to educate consumers in document WT/ACC/SAM/10 (see response to Question 29). He explained that turkey tails had been prohibited from importation due to their high percentage of fat and their popularity in Samoa, the price of turkey tails being lower than that of other types of cuts of meat.

98. In response, a Member of the Working Party stated that Samoa's efforts to improve the health of its population were understandable. This Member noted that import bans and other restrictions on the importation of products were not necessarily the best way to accomplish that objective. Article XI of the GATT 1994 generally proscribed such bans. Although Article XX of the GATT 1994 provided an exception for measures necessary to protect human, animal or plant life or health, this exception required that the application of such a measure did not constitute a means of arbitrary or unjustifiable discrimination between countries or a disguised restriction on international trade. In the view of this Member, the import ban on turkey tails was unique and therefore discriminatory, as there are many high fat foods, imported and domestic, still available for purchase in Samoa. This Member requested information on whether Samoa had based the import ban on any scientific studies on the contribution of turkey tails to the rise in diseases in Samoa (as opposed to other products that are high in fat). This Member also asked for a response as to how the import ban on turkey tails addressed this concern. The Member also inquired whether other WTO-consistent measures could be used to limit consumption of turkey tails, e.g., a high tariff or a non-discriminatory ban on fatty meats.

99. The representative of Samoa stated that the ban on turkey tails had been intended to curb the rise in diseases caused by obesity based on, e.g., the consumption of foods with a high level of animal fat, as is the case of turkey tails that were widely consumed. In Samoa's view the ban was the most effective way to address this concern and could therefore not be lifted immediately. However, Samoa recognized the concerns of WTO Members that the current import ban was discriminatory and WTO-inconsistent. The Government of Samoa, through the Ministry of Health, had already developed some alternative strategies. E.g., draft school nutrition standards had been developed and were currently being pilot tested in schools. The Ministry of Health also conducted programmes to promote appropriate infant and young child feeding, vegetable gardening and appropriate dietary choices. In addition, the Ministry of Health was developing more strategies. A public education plan to address dietary choices that had caused obesity and the rise in diseases in Samoa. Samoa had been assisted by the WHO in the review process of the Food and Drug Act. This review intended to separate the food legislation from the drug legislation. Samoa would continue to address the issue of the high fat level of foodstuffs, including the regulation on the fat content of meat sold domestically. He added that Samoa would require adequate technical assistance to develop the relevant legislation



as well as the scientific testing of the fat content of meat products and would, therefore, seek further technical assistance from the WHO and others in the pursuit of this objective.

100. 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 Agreements, [with following exceptions:

- i. The ban on the importation of used automobiles older than 12 years would be repealed within [eight] years of accession, by then all automobile equipment would be subject to a non-discriminatory periodic environmental and safety inspection to be operated in Samoa; and
- ii. The ban on the importation of turkey tails would be repealed within [eight] years of accession, at which time the Food Act will regulate the fat content of all food items sold in Samoa.]

101. [In all other situations, 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. The Working Party took note of these commitments.]

- **Customs valuation**

102. The representative of Samoa said that his Government had amended the Customs Act 1977 in 1998 to move from the Brussels Definition of Value system to a valuation system based on the WTO Agreement on the Implementation of Article VII of the GATT 1994 (i.e. WTO Customs Valuation Agreement). The ASYCUDA system had been introduced with the assistance of donors. This system was designed to facilitate trade. It recorded specific transactions, but did not generate specific prices for customs valuation purposes. In addition, customs procedures had been simplified through computerization and the introduction of a single document for customs clearance. However, the Customs Amendment Act 1998, its Regulations, and provisions of the current WTO Customs Valuation Agreement included in the Customs Principal Act needed to be reviewed to ensure full conformity with WTO requirements and provide for better transparency and accountability.

Amendments to the the 1977 Customs Act came into force on 27 January 2010 and the Customs Valuation Amendment Regulation 2009 came into force on 24 August 2009. The representative of Samoa proposed that his Government would complete the work to conform to the requirements of the WTO Customs Valuation Agreement in accordance with the Action Plan reproduced in Table 10.

Table 10: Action Plan for the Implementation of the WTO Customs Valuation Agreement

Action	Timeframe
Working Party review of draft legislation necessary for conformity with the Agreement	Prior to Accession.
Articles 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 13, 15, 16, 17, implemented in accordance with existing legislation	Samoa is seeking the assistance of the Oceania Customs Organisation (OCO) to undertake full review of current legislation to ensure these Articles are included in the legislation. Details of OCO assistance will be discussed in Apia in May 2010.
Recruitment of Personnel, obtaining facilities and equipment, establishment of databases	Completed.
Customs Valuation Amendment Regulations 2009	Adopted 24 August 2009.
- Article 10 data confidentiality	Completed.
- Article 12 transparency	Completed.
- Article 14 Interpretative Notes	December 2011.
Updating of manuals, operating procedures	Prior to June 2012.
Printing of updated forms, brochures etc.	Prior to June 2012.
Training of at least 20 Officials and Customs Officers	Ongoing. WTO TA mission planned for 2010.
Workshops for Private Sector	July 2010, June 2011, March 2012.
Implementation of valuation system in full conformity with WTO rules	June 2012.

103. Asked about the use of the Guidelines on the Development and Use of a National Valuation Database as a Risk Assessment Tool, the representative of Samoa said that Samoa's Customs did not currently use a national valuation database as a risk assessment tool. However, once such a tool had become operational, his Government would ensure that the Guidelines would be implemented to ensure compliance with WTO rules.

104. Members of the Working Party requested additional information on the new customs valuation legislative amendments. A clarification was sought as to whether a transition period was envisaged for the implementation of Article 14 of the WTO Customs Valuation Agreement. The representative of Samoa answered to clarify that Samoa would seek a transition period for the implementation of Article 14. Samoa was in the process of trying to determine whether the text provided in the Customs Valuation Regulations 1998, as amended, was sufficient to satisfy the requirements in accordance with Article 14 of the WTO Customs Valuation Agreement. In this regard, Samoa shall initially seek the assistance of the Oceania Customs Organisation (OCO) to

review Samoa's legislation with regards to the accommodation of the provisions of the WTO Customs Valuation Agreement in domestic legislation. The OCO will be undertaking the WTO Needs Assessment Exercise in Apia, from 10-14 May 2010, and this opportunity will be used to discuss OCO possible assistance for Samoa on Customs Valuation. The same Members also requested information on how Samoa would comply with Articles 1-9, 11, 13, 15-17, if the Interpretive Notes were not applied. In response, the representative of Samoa provided Table 10.

105. Some Members of the Working Party requested additional information on amendments to Customs legislation required to insert elements on confidentiality and transparency into the existing framework and asked that translations of that legislation be provided to Members. In response the representative of Samoa stated that the Customs Valuation Amendment Regulations 2009 had been accepted by the Head of State on 24 August 2009. This amendment inserted Regulations 18A and 18B into the Customs Valuations Regulations 1998 regulating matters on confidentiality and transparency.

106. [The representative of Samoa requested a transitional period from the date of accession to allow Samoa obtain and utilize technical assistance for its full implementation of the obligations of the WTO Customs Valuation Agreement.] Full implementation of the WTO Customs Valuation Agreement would be completed, at the latest prior to June 2012, in accordance with the timetable contained in Table 10 above. [If the requested transitional period were granted, Samoa's deviations from the provisions of the Agreement would be strictly limited to Article 14. In this transitional period, all other provisions of the Agreement would be implemented for all imports.] Current legislation already provided for substantial implementation of the Agreement, and Samoa would apply Articles 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16 and 17 of the Agreement to imports from the date of accession.

107. During the transitional period, Samoa would ensure that its regulations pursuant to current legislation, and any additional legislation enacted and implemented would be applied on a non-discriminatory MFN basis to all imports. Any changes to laws, regulations and administrative procedures during the transition period would not result in a lesser degree of consistency with the provisions of the WTO Customs Valuation Agreement than existed on the date of accession. Samoa would participate in the work of the Committee on Customs Valuation and would seek all available technical assistance, including under Article 20:3 of the WTO Customs Valuation Agreement, to ensure that its capacity to fully implement the Agreement upon expiration of the transition period is assured. The representative of Samoa presented an Action Plan detailing the steps to be taken to

achieve this objective and a timetable for each step (Table 10). The Working Party took note of these commitments.

108. The representative of Samoa stated that legislation on the valuation of imports for customs and taxation purposes conforming to the requirements of the WTO Customs Valuation Agreement would be enacted by June 20012. Samoa would progressively implement the WTO Customs Valuation Agreement in accordance with the Action Plan in Table 10, and with the understanding that during this period the scope of implementation of other aspects of the Agreement, as described in paragraphs [106] and [107], would be applied by Samoa. Full implementation would start from January 2012. The Working Party took note of these commitments.

- **Rules of origin**

109. 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.

110. In reply, the representative of Samoa said that Samoa had no non-preferential rules of origin. However, it had preferential rules of origin. 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.

111. Some Members of the Working Party requested that Samoa undertake a commitment for preferential trade, but also specify a date for willingness to certify origin upon request for non-preferential trade as well. Those Members were of the view that Samoa should have the ability to determine origin of goods under WTO provisions.

112. [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 Annex II, paragraph 3(d) of the Agreement, i.e., that for preferential rules of origin (e.g., pursuant to PICTA), 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, to make such a determination as soon as possible, but no later than 150 days after the request had been submitted provided that all necessary elements had been submitted. Samoa would apply the same provisions for non-preferential Rules of Origin, including the provisions of Article 2(h), when it established such rules. Samoa would also abide by the relevant WTO provisions on transparency and the provision of information about its rules of origin and their application. The Working Party took note of these commitments.]

- **Other customs formalities**

113. The representative of Samoa said that Samoa was a party to the World Customs Organization. Samoa did not require any sort of certification or customs documentation by consular officials in the country of export.

114. The representative of Samoa confirmed that Samoa did not require consular certification or notarisation of documents by consular officials in the country of export to be provided to Samoan customs officials at the time of importation into Samoa. The Working Party took note of this commitment.

- **Preshipment inspection**

115. 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 Samoa to 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 a right of appeal to the Government.

116. The representative of Samoa confirmed that if a pre-shipment inspection system would be introduced in the future, it would be temporary. Should such a system be put in place, Samoa would ensure that this system would be in conformity with the WTO Agreement on Preshipment Inspection and any other relevant WTO provision. 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 the GATT 1994, and that such system would comply with the due process and transparency requirements of the WTO Agreements, in particular Article X of the GATT 1994, and the Agreement on the Implementation of Article VII of the GATT 1994. The Working Party took note of these commitments.

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

117. The representative of Samoa said that Samoa had no specific legislation providing for the imposition of countervailing duties or safeguard measures and had no plans to use such measures. However, provisions concerning the imposition of anti-dumping measures existed in Section 9 of the Customs Tariff Act 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 the human capacity to use trade remedy measures. Samoa had no intention to use them.

118. Several Members expressed concern over the non-conformity of Section 9 of the Customs Tariff Act 1975 with the WTO Anti-dumping Agreement. They also expressed concern with 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 amendments to the current Customs Tariff Act were being drafted to remove Section 9 of the Customs Tariff Act 1975 and to introduce a new Anti-dumping draft Bill, which would bring Samoa's legislation into conformity with WTO rules. The Bill was expected to be submitted to Parliament by the end of 2009. At a later stage the representative of Samoa stated that the bill would not be pursued.

119. 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**

120. 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 FOB 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**

121. 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.

122. Exports of raw logs were prohibited pursuant to the 1990 Order Prohibiting the Export of Logs and the Customs Act 1997. 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 1967 and the draft Forest Resource Policy, and national standards for logging were set out in the Code of Logging Practice (COLP). Under the Forest Act 1967, 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.

123. Exportation of live coral was prohibited pursuant to Sections 119 and 120 of the Land, Surveys and Environment Act 1989. 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 (US\$1,637.5) as provided in 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.

124. Pursuant to the Samoan Antiquities Ordinance 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.

125. 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 1993. This measure was implemented in parallel with prohibitions on local hunting and collection of protected species.

126. The representative of Samoa confirmed that any quantitative export restrictions, including prohibitions, quotas and licensing systems would be applied in conformity with WTO provisions. The Working Party took note of this commitment.

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

#### **- Industrial policy, including export and other subsidies**

127. The representative of Samoa said that Samoa no longer granted 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 1994. The Export Financing Facility offered a 3 per cent margin of interest rate on loans to finance exports. Under this Facility, commercial banks could offer loans at an interest of 9 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.

128. 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 Customs Regulations 1986, Regulation Nos. 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.

129. The representative of Samoa said that Samoa's industrial policy aimed at stimulating private sector competition and domestic and foreign investment through liberalization. He noted that the 1999 amendments to the Enterprises Incentives and Export Promotion Act 1992/1993 had not eliminated all import duty and income tax exemptions, granted on the basis of export performance. Special benefits in the form of income tax holidays, tax holidays on dividends and exemptions from customs and excise duties, granted to five enterprises which exported 95 per cent of their production, had been grandfathered. Most of these benefits had expired. Only one company, Yazaki Samoa Limited, was eligible to tax holidays until 8 November 2009 and to customs and excise benefits until 11 July 2010 (see also the section "Investment Regime"). He confirmed that none of these incentives were contingent upon local content requirements.

130. He added that duty concessions were granted for hotels and other development projects under the Customs Amendment Act 2007. Applications for duty concessions had to be submitted to the Ministry of Commerce, Industry and Labour. The concessions were granted only for the capital goods required for the establishment of the project. Applicants were required to provide a list of such capital goods. The concessions ceased once the quantity and value approved for the development project had been exhausted. He noted that the criteria to benefit from duty concessions under this scheme were being revised. He confirmed that there were no other subsidy programmes. No public sector enterprises were entitled to subsidies or preferred credit arrangements.

131. A Member noted that the incentives, grandfathered under the Enterprises Incentives and Export Promotion Act, were prohibited subsidies under Article 3 of the WTO Agreement on Subsidies and Countervailing Measures. Asked whether all prohibited subsidies would be eliminated with the expiration of the incentives grandfathered under the Enterprises Incentives and Export Promotion Act, the representative of Samoa confirmed that his Government did not intend to renew these incentives.

132. A Member of the Working Party stated that as an LDC, Samoa was entitled to maintain otherwise prohibited subsidies in accordance with the special and differential provisions of the WTO Agreement on Subsidies and Countervailing Measures. However, Samoa has declared that it did not maintain any prohibited subsidies, although certain programmes could meet the definition of prohibited subsidies. In this regard, the Member invited Samoa to calculate how long the residual payments from the programmes described in this section, contingent upon export performance, would

continue. The Member invited Samoa to work with the Working Party to create the necessary transitional period to allow these benefits to expire.

133. The representative of Samoa confirmed that [from the date of accession] [transition period] Samoa would not grant any subsidies, including export subsidies, which met the definition of a prohibited subsidy contained in Article 3 of the WTO Agreement on Subsidies and Countervailing Measures. Benefits based on existing laws would be paid after that date only to firms with existing commitments and that these commitments would expire prior to 31 December 2010 and would not be renewed. Samoa would not introduce any other such prohibited subsidies from the day of accession. He further confirmed that any programmes that granted subsidies would be administered in line with the WTO 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 these commitments.

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

134. 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.

135. A Member was of the view that Samoa's requirement that pesticides be labelled according to recommended classifications by the WHO, by degree of hazard, was covered by provisions of the WTO TBT Agreement. This Member also noted that environmental measures applied under the Samoan Lands and Environment Act 1989 could possibly be covered both by the WTO 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 WTO TBT and SPS Agreements and that standards and technical regulations, where relevant, were applied in accordance with the WTO 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 WTO TBT Agreement.

136. 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, 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 labelling requirements, these would be applied equally to imported and domestic goods. These measures 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. Certification requirements would be administered in a transparent and expeditious manner. Members also sought confirmation 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.

137. [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 WTO TBT Agreement. 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 WTO TBT Agreement. Implementation action shall also include the notification of draft technical regulations and conformity assessment requirements for review and comment at least 60 days prior to implementation, and that the final technical regulations and conformity assessment requirements would be published at least six months prior to entry into force. Samoa would ensure the full conformity of any such legislation with the WTO TBT Agreement. The Working Party took note of these commitments.]

- **Sanitary and phytosanitary measures**

138. The representative of Samoa said that Samoa's existing sanitary and phytosanitary measures were applied and regulated by the Agriculture, Forests and Fisheries Ordinance 1959; the Plants and Soils Importation (Disease Control) Ordinance 1950 and Regulations of 1951; the Guidelines for Pesticide Registration and Import Permits of 1991; the Food and Drugs Act 1967; the Produce Export Ordinance 1961; the Health Ordinance 1959; and the Quarantine (Biosecurity) Act 2005.

139. Samoa was a Member of the CODEX Alimentarius Commission, the International Plant Protection Convention (IPPC) and the Pacific Plant Protection Organization. Its interests in the International Office for Epizootics 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.

140. Plants prohibited from importation included all fresh fruit, sensitive vegetables, and seeds covered with pulp imported from areas where harmful fruit flies were known to exist (other than *Bactrocera xanthodes*, *Bactrocera kirki* 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.

141. 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.

142. 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.

143. He further noted that all import permits were granted by the CEO of Agriculture, following an Import Risk Analysis (IRA), evaluating the pest status of the country of origin and with 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 129 (US\$52.00) a year for commercial importers and SAT 6.50 (US\$2.62) per shipment for private importers.

144. A Member asked whether the "Import Risk Analysis" process, noted above, was handled only on an individual import shipment basis, or whether Samoa had a systems equivalence process. In response the representative of Samoa stated that in practice, Samoa conducted its Import Risk Analysis on the basis of an application from an applicant with emphasis on products with potential contribution to the economy. That said, as a Member of the IPPC, Samoa's IRA process followed that mandated by the IPPC as well as the WTO SPS Agreement, where scientific principles and evidence were crucial. The process also took into account the relevant legislation applied in most countries. Samoa believed this system was equivalent to the process undertaken by other trading partners and conformed to the principles of international standard setting bodies, such as CODEX and OIE.

145. A Member of the Working Party requested information on the types of "recommendations" published in local newspapers, Annual Reports and Performance Monitoring Reports. The Member also inquired as to whether lists of recognized pest free areas were also published and whether interested parties were able to comment on the recommendations before the "import health standards" were developed and included in the import permit. In response, the representative of Samoa stated that the types of information published were related to quarantine awareness of import requirements,

pests and diseases lookout, operational conformance updates, intercepted pests at port of entry as well as the required procedures/requirements of other trading partners. These types of information were published on the Samoa Quarantine website, local newspapers, television and radio.

146. In response to a question from a Member of the Working Party, the representative of Samoa stated that the 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 classifications by the degree of hazard recommended by the WHO (see also paragraph [88]).

147. 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.

148. In response to a specific question concerning the inspection process of domestic and imported/exported products, the representative of Samoa explained that pursuant to the Produce Export Ordinance 1961, the Director of Agriculture could enter and inspect any premises where products were grown or stored. Meat and fish inspectors were responsible for inspecting meat and fish products and Crops Advisory Officers for performing pest and disease controls of root crops. In addition, the Ministry of Health Environmental Health Officers could, under the Food and Drugs Act 1967, inspect premises where food was processed, stored and sold, including food processing factories, restaurants, supermarkets, bakeries, wholesalers and vendor stalls. Food for sale could also be inspected. Pursuant to the Health Ordinance Act 1959, Environmental Health Officers (EHO) were also responsible for inspecting food premises in relation to sanitation, water supply, and occupational health and safety. EHO conducted daily inspections of food premises. He added 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.

149. 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.

150. He added that achieving compliance with the requirements of the SPS Agreement was a complex task and further work was required to ensure compliance with the SPS Agreement. While the Quarantine (Biosecurity) Act 2005 mandated a risk based approach, consistent with principles of the WTO SPS Agreement, there were no regulations to implement the specific provisions of the WTO Agreement on SPS and its annexes. In light of the legal, infrastructural, financial and technical constraints faced by Samoa, Samoa was accordingly seeking a transition period as outlined in the detailed action plan for the gradual implementation of the SPS Agreement reproduced in Table 11. 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, to create the appropriate additional institutions and facilities for transparency, risk assessment, the determination of equivalence and ensure 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.

151. In response to a Member who noted that the establishment of an enquiry point was a key part of the transparency obligations, under Article 7, Annex B of the SPS Agreement and that the enquiry point should be operational at accession, the representative of Samoa confirmed that Samoa's national SPS enquiry point was already operational. The enquiry point had been established within the Ministry of Agriculture and Fisheries:

Mr Pelenato Fonoti  
Assistant Chief Executive Officer  
Ministry of Agriculture and Fisheries  
Apia, SAMOA  
Email: ACEO@samoaquarantine.gov.ws  
Tel: (685) 20924  
Fax: (685) 20103

152. In reply to a question about publication and notification of SPS measures, the representative of Samoa explained that Samoa's legislation did not mandate that SPS measures be published in the official journal and notified to the WTO in draft stage for public comments. The Samoa Quarantine (BioSecurity) Act would have to be amended accordingly. The South Pacific Community (SPC) under its Bio-Security Adviser Unit would be assisting Samoa's review of the Act. The review should commence by December 2010 once discussions with the SPC are finalised. In practice, announcements of draft legislation and their amendments were published in the official "Savali" Gazette.

153. The representative of Samoa requested that the Working Party grant a transitional period from the date of Samoa's accession until 1 January 2012 for implementation of the WTO Agreement on Sanitary and Phytosanitary Measures. This transition period would allow Samoa to obtain and utilize technical assistance to fully implement the obligations of the Agreement. During this period, existing measures would be applied on a non-discriminatory basis, i.e., providing for National Treatment and MFN treatment to all imports. Measures in place, already consistent with the provisions of the Agreement on Sanitary and Phytosanitary Measures, would not be subject to transition. Samoa would ensure that any changes made in its laws, regulations and practice, during the transition period would not result in a lesser degree of consistency with the provisions of the WTO SPS Agreement, than existed at the date of accession. If necessary, any SPS standards, technical regulations and conformity assessment procedures adopted during the transition period would be developed in conformity with the provisions of the WTO SPS Agreement, including publication prior to implementation to allow interested parties the opportunity for review and comment as provided for in the WTO SPS Agreement. Otherwise accepted international standards would be adopted. Priority would be given to the establishment of a functioning enquiry point and the notification of all of Samoa's SPS measures to the Committee on Sanitary and Phytosanitary Measures. Samoa would review its existing requirements in light of its obligations under the Agreement. He stressed the importance of technical assistance to be provided during the period of transition, including under Article 9 of the SPS Agreement. He added that Samoa would seek out all available technical assistance to ensure that its capacity to implement the WTO SPS Agreement upon expiration of the transition period was assured. Samoa would fully participate in the work of the Committee on Sanitary and Phytosanitary Measures. He drew the attention of Members to the Action Plan in Table 11, setting out details of the steps that still remained to be taken in order to achieve this objective and a timetable for each step.

Table 11: Action Plan for the Implementation of the SPS Agreement

Action	Timeframe and Comments
Parliamentary passage of Quarantine (Bio security) Act 2005.	Completed.
Introduction of new standards, animal health regulations and food safety regulations in conformity with the SPS Agreement principles.	The introduction of new standards and regulations follows the principles set out in the Biosecurity Act and is based on risk analysis.
Further development of quarantine website, <a href="http://www.samoaquarantine.gov.ws">www.samoaquarantine.gov.ws</a> to improve notification and access to documentation.	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 June 2009.
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.	The Quarantine (Biosecurity) Act 2005 mandates a risk based approach consistent with principles of SPS Agreement.



Action	Timeframe and Comments
To the extent possible, Members shall follow international standards, guidelines, and recommendations in establishing SPS measures.	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.
Equivalence: Members shall recognize different measures that achieve the same level of protection.	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.
Contact for SPS and administrative procedures:	Assistant Chief Executive Officer Quarantine Division Ministry of Agriculture Email: CEO@samoaquarantine.gov.ws Tel: (685) 20924 Fax: (685) 20103 Enquiry point is now functional.
Establishment of enquiry officer with MAF  Training of enquiry officer with MAF:  Head of Quarantine Ministry of Agriculture Email: CEO@samoaquarantine.gov.ws Tel: (685) 20924 Fax: (685) 20103	Established.  Ongoing training with capacity required expected to be achieved by July 2009. Technical assistance has been sought from New Zealand and Australia.
Establishment of implementing regulations, including control, inspection and approval procedures.	The Quarantine (Biosecurity) Act 2005 is flexible. It already provides a mandate for administrative procedures outlining control, inspection and approval procedures, following the principles of the SPS Agreement.  Implementing Regulations to be formally established January 2012
Further identification of regulations necessary for giving full effect to the Act (if any).	Section 69(1) allows for the making of Regulations for such matters which are necessary for giving full effect to the Act.  Identify regulations through review to be undertaken by SPC which will commence by December 2010.
Draft of Regulations	By June 2011.
Passage of Regulations.	December 2012.
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.)	The most basic facilities and equipment are in place. Technical assistance has been sought from New Zealand and Australia.  Upgraded facilities in place by January 2012.
Development of manuals. Printing of forms, brochures, etc. (SPS specific).	Operational manuals and procedures to be ready January 2012.

Action	Timeframe and Comments
Include National Awareness Workshop on SPS.	September 2009. June 2010. June 2011. January 2012.  WTO TA Mission for 2010. Further workshops planned for 2011 and 2012.
SPS specific intensive training of at least 15 quarantine officials.	WTO TA mission 2010. The outcome of this mission should provide more details on the training and capacity building needs.  October 2011, March 2012.  Explore other sources of technical assistance.
National awareness programmes on SPS implementation (to include customs officers, private sector people and civil society).	2010, June 2011, January 2012. In line with targeted output/performance measures for 2010/2011.
Full implementation.	By 1 January 2012. In line with target output/performance measures.

154. The representative of Samoa confirmed that Samoa would progressively implement the provisions of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures within the timetable provided for in Table 11 (above). Samoa would ensure full implementation of the Agreement no later than 1 January 2012, and with the understanding that, during this period, the scope of implementation of other aspects of the Agreement, as described in paragraphs [150 and 152], would be applied by Samoa. He further confirmed that Samoa would consult with WTO Members upon request if they deemed that any measures applied during the transition period affected their trade negatively. The Working Party took note of these commitments.

- **Trade-related investment measures**

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

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

- **Free zones, special economic areas**

157. The representative of Samoa said that the provisions of the Industrial Free Zone Act 1974, foreseeing the establishment of free zones, had been repealed by the Enterprise Incentives and Export

Promotion Act 1992/1993. The incentives available under the Industrial Free Zone Act 1974 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.

158. 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.

159. The representative of Samoa confirmed that free zones or special economic areas established in Samoa would be administered in compliance with WTO provisions, including the Agreements on TRIPS, TRIMs and Subsidies and Countervailing Measures, and fully subject to the coverage of its commitments in its Protocol of Accession to the WTO Agreement. The right of firms to establish and operate in these zones would not be subject to export performance, trade balancing, or local content requirements in accordance with these obligations. 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 these commitments.

- **Government procurement**

160. 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 (US\$1,637.5) 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 (US\$6,550) were only open 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 Tenders Board of the Government advertised and awarded tenders for all projects worth SAT 200,000 or more. Contracts valued between SAT 200,000 (US\$65,500) and SAT 500,000 (163,750) 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.

161. He noted that the Public Finance Management Act 2001 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.

162. Asked whether Samoa intended to initiate negotiations for accession to the Government Procurement Agreement (GPA), the representative of Samoa noted that 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**

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

164. The representative of Samoa confirmed that his Government would apply any laws, regulations and practices governing transit operations and would act in full conformity with the provisions of the WTO Agreement, in particular Article V of the GATT 1994. The Working Party took note of this commitment.

- **Agricultural policies**

(a) **Imports**

165. The representative of Samoa said that, with the exception of the import prohibition of turkey tails, tinned fish in packages of more than 48 tins, restrictions on automobiles and some plants and food stuff prohibited under Samoa's SPS regulations noted above (see the section on "Quantitative import restrictions"), customs duties were the only type of border protection maintained.

166. 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, namely Kiribati, Solomon Islands, Tonga, Tuvalu, and Samoa. This 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.

167. In reply, the representative of Samoa said that the yearly quotas established under the Regional Sugar 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 Pacific Islands Forum Secretariat (PIFS), 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 by unanimity. He added that the Agreement had been suspended.

**(b) Exports**

168. 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**

169. 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 abolished in 1993 and Samoa had no plans to use these policies at a later date. Current policies aimed at improving subsistence farming and helping farmers adjust to open market conditions.

170. The Stabex funds received from the European Union (EU) were used according to the Government's priorities, mainly for infrastructure development. Asked to provide more information on the type of infrastructure development supported by the Stabex funds, the representative of Samoa said that the High Temperature Forced Air (HTFA) facility was funded by the Stabex funds, which now enabled the export of various fruits. The EU initially financed research of the HTFA facility to promote exports of fruits and vegetables to Australia and New Zealand. To complement the HTFA facility, a new project with the FAO would constitute a close public-private partnership arrangement, including a national campaign to reduce the fruit fly population through, e.g., burying of ripe/waste fruits, fly traps with bait and spraying of fruits and vegetables as well as capacity building for Samoan farmers. A recent project was also financed by the Stabex funds for agriculture diversification/revitalization aims to control pests and capacity building for marketing/export of fruits and vegetables.

171. 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, last revised on

29 April 2010, covering the period 2005-2006 and 2008-2009 in document WT/ACC/SPEC/SAM/3/Rev.4 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.

172. [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.]

173. 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**

174. The representative of Samoa said that aircraft and aircraft parts for the commercial transport of persons were exempt from customs duties, while other aircraft and aircraft parts were subject to an 8 per cent duty. Samoa did not accord tariff exemptions on equipment, parts, or technical supplies required for airports in connection with air services.

- **Textiles regime**

175. 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**

176. The representative of Samoa said that intellectual property was regulated by the Trademarks Act 1972, the Industrial Designs Act 1972, the Patents Act 1972 and the Copyright Act 1998. While the Copyright Act 1998 complied with WTO TRIPS standards, other pieces of legislation

would have to be revised to be brought into conformity with the TRIPS Agreement. In this regard, his Government was receiving technical assistance from the Regional Focused Action Plan, which was a joint programme by World Intellectual Property Organization (WIPO), IP Australia and the Pacific Islands Forum Secretariat. Additional assistance was required, including training for specialized personnel and the public and awareness programmes.

177. He accordingly requested that Samoa be granted a transitional period until January 2013. He proposed an action plan to achieve WTO conformity, which is reproduced in document WT/ACC/SAM/13. 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**

178. 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**

179. The representative of Samoa said that Samoa had been a Member State of 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**

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

181. A Member of the Working Party requested that Samoa described the extent to which current intellectual property legislation provided for Most Favoured Nation (MFN) and National Treatment. In response, the representative of Samoa stated that Samoa was embarking on the review and the modernization of its existing IP legislation to ensure that it would be consistent with the provisions of the WTO TRIPS Agreements. The Government of Australia had confirmed funding for this project and would commence by July 2010.

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

- **Copyright and related rights**

182. The representative of Samoa said that the Copyright Act had been enacted by Parliament in June 1998 and entered into force on 1 September 1998. The Copyright 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, pantomines, 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.

183. The Copyright Act extended copyright protection to expressions of folklore, including folk tales, poetry, riddles, songs instrumental folk music, folk dances and plays; as well as to 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. In response to a question, the representative of Samoa said that reproduction of folklore for commercial purposes could be allowed subject to approval by the owner.

184. 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.

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



186. A Member noted that the Copyright Act 1998 referred to databases as "derivative works". This 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. Consequently, this Member 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 for databases.

187. A Member of the Working Party asked whether the customary term of protection, under the Copyright Act, applied to works of folklore in cases where there was no readily identifiable author of the copyrightable folklore in question. He further enquired whether Samoan legislation dealt with such cases. In response, the representative of Samoa stated that the customary term of protection, provided for in Section 29 of the Copyright Act, also applied to folklore. He also stated that a competent authority, determined by the Minister, would authorize the reproduction; communication to the public; adaptation; translation; and other transformation of expressions of folklore, when such works had been created for commercial purposes or outside their traditional customary context.

- **Trademarks, including service marks**

188. The representative of Samoa said that trademarks were protected, in accordance with the Trademarks Act 1972. 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 the Official Gazette (Savali). Any person could oppose the registration of a trademark, within three months from the date of the advertisement of an application, by giving notice to the IP. Upon notification of the opposition, the applicant had three months to provide a counter statement, after which the IP Registrar would take the final decision. The term of protection for trademarks was 14 years and could be renewed. Applications for renewal were to be submitted within the 12 months preceding the expiration of the term of protection. The Trademarks Act provided for priority registration of overseas trademarks. In such cases, the date of local registration would be the date of entry into force of the registration overseas.

189. A Member of the Working Party asked, in which cases trademark assignment could take place without the agreement of the right-holder. In response, the representative of Samoa stated that any assignment of trademarks required the agreement of the right-holder, before the transfer could be recorded and made effective.

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

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

191. The representative of Samoa said that Samoa had not enacted any legislation with regard to the protection of geographical indications (GIs), including appellations of origin. He noted, however, that legislation on GIs had been drafted and submitted to Members of the Working Party for review. Comments and suggestions have been received and would be taken into account when the GI Bill is reviewed under the IP review project being funded by the Government of Australia. Parliamentary passage was expected by 2012. Parliamentary passage was expected by the end of 2012. In response to a question, he noted that Samoa wished to protect *ava* Samoa, *nonu* (or *noni*), *elei* prints, and *vailima* brand.

192. [A Member asked whether Samoa would protect domestic GIs, since the proposed legislation appeared to provide only for the registration of foreign GIs. The representative of Samoa replied that the proposed GI Bill would be further reviewed to address this issue. The same Member further invited Samoa to amend the draft legislation to provide for the registration of GIs that identify either goods and/or services and not only goods. The representative of Samoa replied that GIs identified a good as originating in a particular territory. Therefore, GIs could not be applied to services, but only to goods.]

193. [A Member noted that Article 6(c) of the draft GI Bill provided that an indication would not be protected as a GI, if it was not, or had ceased to be, protected in its country of origin. The same Member asked Samoa to clarify how the IP Registrar would determine whether a GI was protected in its country of origin and/or whether protection had ceased. The representative of Samoa replied that the IP Registrar would exchange information with GI registers in foreign IP offices, as was the practice for trademarks. On the basis of the exchange of information, the IP Registrar would determine whether the protection of a GI had ceased in its country of origin.]

194. [The representative of Samoa agreed with the proposal by a Member to amend Article 6(d) of the draft GI Bill to replace the expression "in the Samoan language" with "in Samoa". He confirmed

that the proposed amendment would provide further clarity and would be considered in detail when the Bill is reviewed.]

195. [A Member noted that Article 6 of the draft GI Bill set forth a list of various GIs that would not be protected in Samoa. The list of GIs did not include those that were confusingly similar to pre-existing trademarks. Article 16 of the TRIPS Agreement provided that a trademark owner had the exclusive right to prevent the use of a confusingly similar trademark. Therefore, the Member invited Samoa to amend Article 6 of the draft GI Bill by adding two articles, namely, Articles 6(e) and (f). Article 6(e) would provide that GIs resembling a trademark, either owned by another party and registered in Samoa, or of which another party had acquired rights in Samoa, would not be protected in order to avoid confusion. Article 6(f) would provide that GIs for goods or services, that are not recognized in Samoa, would not be protected. The same Member further added that Article 22(b) of the draft GI Bill could be deleted, if the proposed Article 6(e) were included. The representative of Samoa noted that his Government would consider the inclusion of Article 6(e) and the deletion of Article 22(b). However, he noted that, as provided for in Article 6(f) of the draft GI Bill, GIs protected in Samoa should not only be recognized in Samoa, but also in foreign jurisdictions. He noted that the proposed Article 6(f) was too restrictive and added that it would limit the protection of GIs recognized in foreign jurisdictions.]

196. [In response to a specific question, the representative of Samoa stated that any trademark registered prior to the enactment of the draft GI Bill would not be revoked. He further added that under Section 19 of the draft GI Bill, the IP Registrar would be entitled to invalidate the registration of any GI with respect to goods that are not originating from the indicated territory. The same Member asked Samoa to further clarify what "relief" would be provided pursuant to Article 22.3 of the draft GI Bill. The representative of Samoa answered that Article 22.3 provided that trademarks, registered prior to the enactment of the draft GI Bill, would continue to be protected.]

- **Industrial designs**

197. The representative of Samoa said that industrial designs were protected under the Industrial Designs Act 1972. Only new industrial designs filed for the first time in Samoa, which had not been disclosed to the public during the six months preceding the filing, could be registered under this Act. Applications for registration were to be submitted to the IP Registrar of the Ministry of Commerce, Industry and Labour. 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, should be attached to the application. 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. The term of protection was of five years and could be renewed twice. For nationals from countries granting reciprocal treatment to Samoan nationals, the Minister could suspend the registration requirements. He acknowledged that this provision was inconsistent with the MFN principle of the TRIPS Agreement.

198. The representative of Samoa noted that the right-holder could request the competent authority to take civil action against illicit reproduction of the protected industrial design in the manufacture 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 right-holder could renounce the registration of an industrial design by submitting a statutory declaration to the IP Registrar, which had to be accompanied, when 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. In response to a question, the representative of Samoa stated that consent was required, only, if the contract remained valid.

- **Patents**

199. The representative of Samoa said that patents were protected, in accordance with the Patents Act 1972. This Act afforded patent protection to new and useful inventions, new processes that would result in new products, new application methods, or improvements to a known process. Patent applications were to be submitted to the IP Registrar of the Ministry of Commerce, Industry and Labour. A description of the invention and the best method for performing the invention should be attached to each application. The term of protection was of 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 a period of 12 months. The patent owner had the exclusive right to use, sell, or authorize others to use the invention. Patents could be assigned and transferred.

200. A Member noted that the term of protection of 16 years was inconsistent with Article 33 of the TRIPS Agreement, which provided for 20 years. In reply, the representative of Samoa said that

his Government would review the Patents Act 1972 to bring it into conformity with the TRIPS Agreement.

- **Plant variety protection**

201. The representative of Samoa indicated that plant varieties, non-biological and microbiological processes were not protected under the current legislation. In response to questions concerning how Samoa intended to implement the provisions of the TRIPS Agreement on protection of plant varieties, non-biological and microbiological processes, the representative of Samoa stated that the process of review and modernization of IP legislation would ensure consistency with the TRIPS Agreement. Therefore, protection would be granted to other subject matters that were currently excluded.

- **Layout designs of integrated circuits**

202. The representative of Samoa stated that layout designs of integrated circuits were not protected under the current legislation. A Member enquired how Samoa intended to address the provisions of Articles 35-38 of the TRIPS Agreement, which provided for the protection of integrated circuits. The representative of Samoa recalled that his Government was in the process of reviewing and modernizing its IP legislation to ensure compliance with the TRIPS Agreement. Therefore, the protection of integrated circuits would be taken into consideration, under the new legislation.

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

203. The representative of Samoa said that undisclosed information and trade secrets were not protected by the current legislation. A Member enquired how Samoa would ensure protection of undisclosed information, particularly in the area of test data and trade secrets. The representative of Samoa stated that the process of review and modernization of IP legislation would ensure consistency with the TRIPS Agreement. Therefore, protection would be granted to other subject matters that were currently excluded.

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

204. The representative of Samoa said that Samoa had no specific provisions to control the abuse of intellectual property rights. A Member enquired whether there were any enforcement provisions. The same Member further asked if any legislation was intended to provide civil procedures and remedies; provisional measures; administrative procedures and remedies; special border measures; and criminal penalties, consistent with the TRIPS Agreement. In response, the representative of Samoa stated that the Trademarks Act 1972, the Industrial Designs Act 1972, the Patents Act 1972

and the Copyright Act 1998 already contained civil enforcement provisions to enforce the protection of intellectual property rights. In addition, the Customs Act provided for the border seizure of pirated and trademark-infringing goods. Furthermore, the Copyright Act contained provisions on criminal sanctions. The Crimes Ordinance 1961 and the Criminal Procedures Act 1972 were also invoked to enforce the protection of intellectual property rights.

- **ENFORCEMENT**

205. The representative of Samoa said that the current 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, consistent with the TRIPS Agreement. Such amendments would provide for judicial review of administrative decisions concerning intellectual property rights and provide customs officials with the authority to seize imports of infringing goods. Further measures envisaged that the filing system of IP-related applications would be computerized, and that a copyright-enforcement agency would be established. Training of enforcement officers, judges and technical staff was being conducted with the support of WIPO and other international organizations.

206. Pursuant to Samoa's current legislation (i.e., the Trademarks Act 1972, the Patents Act 1972, the Industrial Designs Act 1972, the Copyright Act 1998 and the Criminal Procedures Act 1972) infringements of intellectual property rights could be addressed in the format of suits or claims to the Supreme Court. A notice would be sent to the party against which the claim was filed and the Court would hold a hearing. Existing remedies included: compensation for material and moral damages; destruction of infringing goods and/or implements; and their disposal outside the channels of commerce. Repeated infringements were punishable with fines up to SAT 5,000 (US\$1,637.5). Persons falsely claiming a patent invention could be fined up to SAT 1,000 (US\$327.5). The sale of patent-infringing goods was subject to a fine up to SAT 250 (US\$81.87). The false representation of a trademark was punishable with a fine up to SAT 200 (US\$65.5).

207. The Ministry for Revenue was responsible for the control of imported goods and had the authority to suspend the release of suspected illegal goods and seize infringing goods. The Police Department had the authority to seize infringing goods. The Ministry of Justice and Courts Administration liaised with the Police and the Ministry for Revenue, in cases of known infringement to ensure that appropriate action was taken.

208. Importation of goods infringing copyrights and trademarks was prohibited. The Customs Ordinance 1977 provided customs officials with the authority to suspend the release of goods

suspected to infringe copyrights. The Copyright Act 1998 conferred the Supreme Court the authority to issue injunctions to order a party to stop infringing copyrights, or order the seizure or destruction of the infringing goods. In response to a specific question, the representative of Samoa confirmed that patent-infringing goods were prohibited from importation.

209. Some Members noted that the TRIPS Agreement provided flexibilities, designed to facilitate the accession of least-developed countries to the WTO. Members would support Samoa's implementation of the TRIPS Agreement through a transitional period, addressing the flexibility referred to in paragraph 209. The commitment offered, however, would require adjustment to confirm Samoa's obligations and set the requested transition period. An initial review of Samoa's TRIPS Implementation Check-list, contained in WT/ACC/SAM/11, indicated large gaps in Samoa's current capacity to administer a WTO-consistent intellectual property regime.

210. [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**

211. The representative of Samoa said that Samoa's services industry was at a very early stage of development. The liberalization and privatization engaged by the Government had led to diversification of the economy. A gradual expansion of the services sector was expected. However, the regulatory framework was still under-developed and required modernization. Samoa's legislation did not contain specific provisions concerning safeguard measures; international payments; government procurement of services; aid affecting trade in services; and the review of, or remedies in relation to, administrative decisions. Many services were subject to scarce or no regulation. Samoa provided the Services Sectoral Classification List (document WT/ACC/SAM/2, Annex 3).

212. 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 (CEO)  
Ministry of Commerce, Industry and Labour  
PO Box 862  
Apia, SAMOA  
Tel: (0685) 20411 / 20882  
Fax: (0685) 20443  
Email: auelua@mcil.gov.ws

213. The formulation of services policies and legislative amendments, previously within the Inter-Departmental Committee (IDC), were now under the authority of the Commerce and Industry Development Board. Professional and trade standards for the supply of services were developed in coordination with the Society of Accountants (Public Accountants Act 1984); the Law Society (Law Practitioners Act 1976); the Medical Association (Medical Practitioners Act 1975, as amended in 1975 and 1977); the Nurses Association (Nurses Act 1969, as amended in 1969 and 1981); and the Dental Society (Dental Practitioners Act 1975).

214. Samoa's service-related legislation complied with the MFN principle, with the exception of the Pharmacy Act 1976. The Pharmacy Act was being revised to be brought into conformity with the provisions of the GATS and was awaiting parliamentary passage. Access of foreign service suppliers to the sectors mentioned in the Reserved and Restricted List of Activities, developed under the Foreign Investment Act 2000, was prohibited or subject to certain conditions. Such conditions could include the mandatory establishment of a joint-venture with Samoan nationals; employment of national citizens; or limitations on the participation of foreign capital. The representative of Samoa confirmed that, apart from these provisions, domestic and foreign services suppliers enjoyed similar rights.

215. Noting that Samoa delivered work permits to foreign workers, if skills were not available locally, a Member enquired whether Samoa allowed temporary entry and movement of natural persons to supply services, or, if applied any restrictions on the supply of services through Mode 2 (i.e., consumption abroad). In response, the representative of Samoa stated that, pursuant to the Immigration Act 2004, foreign workers wishing to do business in Samoa, without taking up employment, could be granted simple or multiple-entry visitor permits. These permits could be for a period of up to 60 days. Temporary resident permits, for up to three years, could also be granted. Permanent residency permits were also available, by application. Foreign persons seeking employment in Samoa were required to submit their entry permit application to the Minister of Immigration. The application was transmitted to the CEO of the Ministry of Commerce, Industry and Labour. Consideration would be given to the nature of the proposed employment and to any technical or professional requirements involved; the likelihood of a local citizen, or person holding a permanent resident permit, with the required skills; the interests of Samoa; 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. If there were no recommendations by the CEO, the requirements of the Immigration Act would apply.



216. Pursuant to the Insurance Act 1976 and the Financial Institutions Act 1996, economic needs tests were required for the establishment of insurance companies and the delivery of banking licenses. A new Insurance Bill had been adopted in 2007, which removed the obligation to conduct an economic needs test before issuing an insurance licence. Providers of environmental services were selected by a committee appointed on an *ad hoc* basis, composed by the Ministry of Natural Resources and Environment, the Ministry of Finance, and the parties involved in the subject matter. The representative of Samoa noted that all Government and aid-funded projects had to pass a tender process. Calls for tender were published in the Official Gazette (Savali) and local newspapers. The best bid was selected. Proposals were open to everyone. He confirmed that foreign and local bidders were subject to the same procedures. Companies of the petroleum, communication, water, and electricity sectors enjoyed monopoly or exclusive contract status. In 1998, Mobil had been granted an exclusive five-year contract to supply and distribute petroleum products, after a competitive tendering process. A new competitive process had been carried out upon expiration of the contract. In the telecommunications sector, SamoaTel, formerly known as Samoa Communication Ltd, had the exclusive right to provide telecommunication services for a period of ten years (1999-2009). However, a new policy and regulatory framework, under the sector reform project, foresaw a possible opening of the market for fixed telephony and other telecommunication services, after June 2009. Samoa Water Authority and the Electric Power Corporation enjoyed a monopoly position. These two companies did not make any profit, since their activities comprised social functions that were not commercially viable. He added that, while the Electric Power Corporation was the sole supplier of electricity, Samoa's legislation did not limit access to the electricity market.

217. Subsidies were granted to a number of State-owned enterprises of the services sector. In 2000/2001: the Electric Power Corporation received SAT 6.1 million (US\$2 million) for rural electrification; the Water Authority received SAT 6.1 million (US\$2 million), as a contribution to a Rural Water Supply Improvement Project funded by the European Development Fund; Televis Samoa received SAT 0.6 million (US\$0.2 million) for public service broadcasting; and the Housing Corporation and Polynesian Airlines received SAT 0.4 and 8.8 million (US\$0.13 and 2.88 million) respectively, as repayment of former debts. The Electric Power Corporation, the Development Bank of Samoa, and the Water Authority also benefited from preferred credit arrangements, funded by the Asian Development Bank, the World Bank, and the European Investment Bank.

218. The insurance sector was regulated by the Insurance Act 1976. A new Act had been adopted in 2007, which removed the requirement to conduct an economic needs test before issuing an insurance licence. The Minister of Finance, acting as Commissioner of Insurance, had the authority to issue insurance licenses. Licenses were granted to any legal person, local or foreign: i) satisfying the

licensing requirements of the Insurance Act; and ii) carried out business in Samoa, in accordance with the Companies Act 1955. 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, an agent, or in any other manner.

219. 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. However, banks were required to hold a licence. Banking licenses were issued by the Central Bank, subject to an economic needs test. Consideration was given to the need for and viability of the proposed institution; its capital structure and financial capacity; the qualification of the applicant, its major stakeholders and managers; the proposed accounting and internal control system; and proposed activities. The representative of Samoa added that these provisions reflected the Core Principles for Effective Banking Supervision of the Bank for International Settlements. Foreign institutions were subject to the same prudential and licensing requirements, as domestic institutions. When issuing licenses to foreign institutions, the Central Bank considered the applicant's international reputation, its demonstrated capacity and stability in a competitive environment. The sector was composed of four commercial banks and some financial agencies, specialized in foreign exchange and money transfers. The liberalization of Samoa's financial sector had led to the establishment of new businesses, including a number of small finance companies. New services, such as Automatic Teller Machines (ATMs) and Electronic Funds Transfer at Point of Sale (EFTPOS), had been introduced to improve customer service. Money brokering 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 the approval by Central Bank.

220. Legal services were regulated by the Law Practitioners Act 1976. Pursuant 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. Foreign lawyers had to apply to the Law Society, which was responsible for protecting the interests of legal professionals and the public. Upon expiration of the six-year period, lawyers wishing to stay, had to submit 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 worked on 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. A Member enquired on the rationale for this restriction and whether it applied to advisory services on domestic and international law. The representative of Samoa said that the requirement that foreign lawyers submit a new application after six years was aimed at preserving the standards of the local bar. This would ensure that foreign lawyers, who did not practice regularly in Samoa, were "fit and responsible practitioners". He noted that the Law Practitioners Act 1976 was silent on the procedures to be followed for subsequent applications. Hence, it could be argued, that the same procedures would apply. Foreign lawyers routinely practiced in Samoa and provided advice, depending on the needs of the client. The requirement to establish a partnership with a Samoan lawyer was meant to facilitate the processing of legal cases.

221. Pursuant to the Public Accountant Act 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: Australia; Canada; Fiji; Ireland; New Zealand; Scotland; Wales; and the United Kingdom. Applications from accountants of other countries were considered on their own merits. Membership in the Society was open only to Samoan citizens or permanent residents, over 21 years of age, satisfying the professional and academic requirements set out in the Rules of the Society (i.e., an academic bachelor in accounting: have passed the final exam of the Samoa Institute of Accountants; and with three years of work experience). Overseas accountants, who were not members of the Society, could 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 of SAT 3,000 (US\$982.5). Temporary practising certificates were valid for one year and could be renewed up to four times. After five years, the licensee had to apply for a new certificate.

222. In 2003, a reform of the telecommunications and postal sector had been launched. 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) had the authority for formulating telecommunications policies. The Office of the Regulator was responsible for regulating and implementing such policies. The representative of Samoa said that SamoaTel had been granted a ten-year exclusive licence, until 30 June 2009, to provide postal and telecommunications services (fixed telephony and international calls). These services had been previously provided by the former Post and Telecommunications Department. SamoaTel was the only *de jure* fixed line provider. However,

under the Telecommunications Act 2005, SamoaTel's exclusivity would end in June 2009. The Government had also agreed to end the exclusive right to the international gateway of SamoaTel, by authorizing 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 issued two licenses, one to TCSL and another to SamoaTel, to provide cellular telephone services, using the GSM technology. In 1997, TSCL had been granted an exclusive ten-year licence to provide cellular telephone services using the TDMA technology. Negotiations with the Government had led to the opening of the mobile market to include SamoaTel. There was no economic needs test required.

223. Audiovisual services were regulated by the Broadcasting Ordinance 1959. Corporatization of the former Broadcasting Department had been authorised under the Samoa Broadcasting Act 2003. This had led to the establishment of the Samoa Broadcasting Corporation (SBC). The Film Control Board of the Ministry of Justice and the Courts Administration had the authority to issue licenses relating to the content of television broadcast services. After the corporatization of the Broadcasting Department in 2003, the MICT became the licensing authority for broadcasting services. A censorship fee of SAT 5000 (US\$1,637.5) had to be paid and presented to MCIT, before a licence to broadcast (whether free to air or commercial/pay television) 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.

224. 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.

[To be finalized following completion of market access negotiations]

## **VII. TRANSPARENCY**

### **- Publication of information on trade**

225. 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 licence 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.

226. A Member of the Working Party sought clarification concerning Samoa's current process for accepting and reviewing comments on draft regulations. This Member asked Samoa to clarify whether current legislation required the Government to collect or respond to comments submitted, in particular, in the areas of SPS or TBT, and how final regulations were notified in Samoa. The representative of Samoa stated that there was no legislation that required the publication of draft Bills or regulations for comment. However, the sponsoring Ministry or Government agency could provide draft regulations to its key stakeholders for comment. Consultations were normally carried out by the responsible Ministries to discuss draft Bills, amendment Bills and regulations. After consultations, a final draft Bill or final draft regulation was provided with a report outlining further changes made in light of the consultations for final review and approval by the Attorney General's Office. The Attorney General's Office then issued a certificate of approval and provided for approval by Cabinet and subsequently by the Head of State. This process was encouraged especially for major legislative changes. Regulations were no longer required by legislation to be notified before becoming effective. Regulations once signed by the Head of State became effective. However, the current practice was that regulations or a notice of commencement for the regulation were still published in the newspaper.

227. A Member of the Working Party stated that in order to deal with its transparency obligations, Samoa should consider establishing a unified publication policy, enquiry point and/or website. This unified publication point or website would publish regulations on WTO issues for public review or comment, prior to implementation. Samoa should routinely publish regulations on all WTO issues on such a website for a reasonable period, e.g. no less than 30 days. Such a facility would assist Samoa implement its other commitments and represent a major reform breakthrough. In response, the representative of Samoa noted that the Ministry of Foreign Affairs and Trade had its own website. However, internet penetration was only 2 per cent. Current practice was to send draft regulations directly to private organizations for comment. A notice could be published in the local newspaper for wider consultations. Samoa would prefer not to make reference to 'no less than 30 days' as it was not a requirement under WTO law. He further added that Samoa intended to publish draft legislation on a website, perhaps commencing with the use of the current website of the Office of the Attorney

General for comments from the public. Samoa would seek technical assistance of training and capacity building to ensure that it was established and maintained accurately.

228. [The representative of Samoa confirmed that Samoa would fully and promptly implement the transparency provisions of the WTO requiring notification and publication, including the provisions of Article X of the GATT 1994. He further confirmed that no law, regulation, judicial decision, administrative rulings and other measures of general application pertaining to or affecting trade in goods, services, and TRIPS, would become effective prior to its publication. The publication of such laws, regulations and other measures would include the effective date of these measures and list the products and/or services affected by the particular measure. He further stated that Samoa intended to establish or designate an official journal or web-site, published or updated on a regular basis and readily available to WTO Members, individuals and enterprises, dedicated to the publication of all regulations and other measures pertaining to or affecting trade in goods, services, and TRIPS prior to implementation, and that Samoa intended to provide a reasonable period for comment to the appropriate authorities of Samoa before such measures are implemented, except for those regulations and other measures of general application involving national emergency or security, or for which the publication would impede law enforcement or be otherwise contrary to the public interest or prejudice the commercial interests of particular enterprises, public or private. Samoa intended to seek technical assistance to implement this facility and should be in place five years from the date of accession. The Working Party took note of this commitment.]

- **Notifications**

229. [The representative of Samoa said that, at the latest, upon entry into force of the Protocol of Accession, Samoa would submit all initial notifications required by any Agreement constituting part of the WTO Agreement. Any regulations, subsequently, enacted by Samoa, which gave effect to the laws enacted to implement any Agreement constituting part of the WTO Agreement would also conform to the requirements of that Agreement. The Working Party took note of these commitments.]

**VIII. TRADE AGREEMENTS**

230. 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.

231. At the regional level, Samoa was a Member of the Pacific Islands Forum (PIF), 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. The Pacific Islands Trade and Investment Commission had three offices in Sydney (Australia), Beijing (China) and Auckland (New Zealand). They assisted Forum Island countries with export development, foreign investment, tourism and cost effective import procurement.

232. Samoa also participated in the Pacific Island Countries Trade Agreement (PICTA). Members of the PICTA included Cook Islands, Fiji, Kiribati, Nauru, Niue, Solomon 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. Pursuant to the PICTA and Samoa's PICTA regulations, which had become effective on 25 July 2006, Samoa applied preferential duty rates to PICTA Members since 1 January 2008. The PICTA aimed at encouraging investment, specialization and greater efficiency in Forum Island 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.

233. Samoa was also party to the Pacific Agreement on Closer Economic Relations (PACER). PACER was not a free trade agreement, but rather a framework agreement outlining the basis for future integration of Forum Members. PACER comprised the 14 Forum Island Countries, Australia

and New Zealand. Negotiations for a free trade agreement between PACER Parties (PACER Plus), were launched in August 2009.

234. 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 according to which Australia and New Zealand extended duty free and unrestricted or concessional access for virtually all products originating from the Forum Island Countries, i.e., Cook Islands, the Federated States of Micronesia, Fiji, Kiribati, Nauru, 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 EU and 70 countries in Africa, the Caribbean, and the Pacific (ACP) according to which the EU granted non-reciprocal free access to the European market for almost all products from ACP countries.

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

236. In March 1997, Samoa had signed a bilateral trade agreement with the People's Republic of China. This agreement granted reciprocal MFN treatment for trade in goods. The representative of Samoa confirmed that none of Samoa's preferential trade agreements covered trade in services.

237. In 1970, Samoa had signed a bilateral agreement with New Zealand, under which a certain number of Samoans were permitted to take up permanent residency in New Zealand. The agreement also provided for the opportunity to 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.

238. [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**

239. 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 [...] of this [Draft] Report. The Working Party took note that these commitments had been incorporated in paragraph 2 of the Draft Protocol of Accession of Samoa to the WTO.

240. 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 Amendment Act 2007;
- 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;
- Value Added Goods and Services Tax Amendment Act 2006;
- 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;
- Excise Tax Rates Amendment Act 2006;
- Agriculture, Forests and Fisheries Ordinance 1959;
- Plant and Soils Importation (Disease Control) Ordinance 1950 and Regulations 1951;
- Quarantine (Biosecurity) Act 2005;
- 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;
- Post Office Amendment Act 2004;
- Telecommunications Corporation Act 1984;
- Telecommunications Act 2005;
- Broadcasting Ordinance 1959;
- Televisual Samoa Corporation Act 1994;
- Film Control Act 1978;
- Samoa Institute of Accountants Act 2006;
- Banking Ordinance 1960;
- International Banking Act 2005;
- Offshore Banking Act 1987;
- Insurance Act 1976;
- International Insurance Act 1988;
- Financial Institution Act 1996;
- Samoa International Finance Authority Act 2005;
- Civil Aviation Act 1998;
- Shipping Act 1998;
- Schedules one and two of the Narcotics Act 1967; and
- Immigration Act 2004.

## ANNEX 2

Table 1: List of Samoa's State-Owned Enterprises, Government Investments, and State-Owned Bodies (as of June 2007)

Table 1(a): State-Owned Enterprises and Government Investments

	Formed under Act of Parliament	Formed under the Private Companies Act	%ge of Government Shares	Business Description	Comment	Competitor
<b>State-Owned Enterprises</b>						
Agriculture Store	x		100%	Agriculture Supplies/equipment; banana exports. Agricultural pesticides and tools used for farming; hardware items.	Candidate for privatization.	1 local competitor in farm supplies (Farm Supplies Ltd).
Electric Power Corporation	x		100%	Electric Power-Generation, transmission distribution and sale of electricity.	Electricity Generation will be opened to the private sector over the next 2 years.	Natural monopoly. The EPC Act 1980 does not prohibit competition.
Polynesian Airlines Ltd		x	100%	Commercial inter-island airline. Air travel between Samoa and American Samoa.	Candidate for privatization.	2 competitors: Samoa Express and Inter-Island Air.
Samoa Broadcasting Corporation			100%	Television and radio services	Will be privatised by end 2008.	Television services competitors: TV3 and Laufou Station; Radio competitor: Radio Polynesia Ltd.
SamoaTel		x	100%	Telecommunications. Provision of fixed-line telephone, mobile and internet services.	Will be privatized within the next 2 years. (By 30 June 2009).	Monopoly for fixed line telephone services; Mobile services competitor: Digicel; Internet services competitor: Computer Services Ltd, iPasifika.net; LeSamoa.net.
Samoa Shipping Corporation	x		100%	Ferry Services. Provision of inter-island sea transport between Upolu and Savaii.	Strategic business of Government. No plans to privatize.	No competitors.
Samoa Shipping Services		x	100%	Contracting of crew for cargo vessels. Freight agency, seafarer / crew management services and management of the MV Forum Samoa II vessel (currently chartered by the Pacific Forum Line).	Candidate for privatization (within the next 2 years).	Freight services competitors: Betham Brothers Enterprises, Transam, Pacific Forum Line, Apia Haulage (and other small local freight companies). No local competition in seafarer / crew management.

	Formed under Act of Parliament	Formed under the Private Companies Act	%ge of Government Shares	Business Description	Comment	Competitor
Samoa Water Authority	x		100%	Water supply. Harvest, treat and reticulate water supply throughout Samoa.	Strategic business of Government. No plans to privatize.	Natural monopoly - open to competition. No direct competition. Some rural communities operate their own water supply. Note: there are many local bottled water business operators.
<b>Government Investments</b>						
Polynesian Blue		x	49%	Commercial Airline services		

Table 1(b): State-Owned Bodies

	Formed under Act of Parliament	Formed under the Private Companies Act	GoS % of Shares	Business Description
Accident Compensation Board	x		Mutual (0%) <sup>1</sup>	Levy Collection; Compensation Payments
Airport Authority	x		100%	Airport management
Apia Park Board	x		100%	Park
Development Bank of Samoa	x		100%	Small Business/Agriculture development loans
Housing Corporation	x		100%	Housing loans
National Provident Fund	x		Mutual (0%) <sup>1</sup>	Super - annuation fund; business and home loans
National University of Samoa	x		100%	Tertiary Education
Samoa Ports Authority	x		100%	Ports
Samoa Land Corporation	x		100%	Sale/Lease of former WSTEC land
Samoa Life Assurance Corp.	x		Mutual (0%) <sup>1</sup>	Life assurance; mortgage borrowing
Samoa Qualifications Authority	x		100%	Education
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
Research and Development Institute of Samoa	x		100%	Scientific and agricultural research
Samoa Fire and Emergencies Authority	x		100%	Fire suppression and emergencies services

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<sup>1</sup> These 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.

Table 2: Corporatization and Privatization (1998 - 2007)

Completed	Privatization/Equity Divestment
<p>i. Bank of Western Samoa (now ANZ Bank) sold in 1994;</p> <p>ii. Divested Government shares in Samoa Iron and Steel in November 1998;</p> <p>iii. Corporatized PTD on 1 July 1999;</p> <p>iv. Sold Government's majority shareholding in Samoa Breweries in mid 1999;</p> <p>v. Divested Government shares in BOC Gas in August 1999;</p> <p>vi. Wound-up the Special Projects Development Corporation (SPDC) and assets tendered;</p> <p>vii. Initiated negotiations of joint venture for the divestment of Government's interest in the Samoa Coconut Oil and Products Limited (SCOPL);</p> <p>viii. Sold all Government Assets with the Samoa Coconut Products Limited;</p> <p>ix. Divested Government shares in Brugger Industries beginning of 2001;</p> <p>x. Divested Government shares in Rothmans Limited beginning of 2001;</p> <p>xi. Computer Services Limited 2004;</p> <p>xii. The remaining balance of Government Shares in the Samoa Breweries Ltd was sold in 2004;</p> <p>xiii. National Pacific Insurance, 2004;</p> <p>xiv. Partial-Privatisation of Polynesian Airlines Ltd (Jet Operations) to form "Polynesian Blue" - a joint-venture of Government and Virgin Blue;</p> <p>xv. Hellaby Samoa Limited, November 2006; and</p> <p>xvi. Telecom Samoa Cellular, January 2007.</p>	<p>Privatizing:</p> <ul style="list-style-type: none"> <li>- Agriculture Stores Corporation to be privatised within 2 years;</li> <li>- Samoa Forest Corporation - asset will be tendered out by June 2008;</li> <li>- SamoaTel Limited - to be privatised by June 2008;</li> <li>- Samoa Post Limited - to be corporatised by September 2008; and</li> <li>- Samoa Shipping Services - restructured and privatised within 2 years.</li> </ul>

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\$81.87)
Beach Resort	250	(US\$81.87)
Bar & Restaurant	1,000	(US\$327.50)
Warehouse	1,000	(US\$327.50)
Hotel	1,500	(US\$491.25)
Night Club	1,500	(US\$491.25)
Liquor Distribution	1,000	(US\$327.50)
Temporary Licence for One-off Events	250	(US\$81.87)
Right to Engage in the Business of Manufacturing Liquor	1,000	(US\$327.50)
Right to Engage in the Business of Importing Liquor	1,000	(US\$327.50)

Table 5(a): 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	SAT 150	SAT 1,000
	Not less than 200 tonnes and less than 300	SAT 200	SAT 1,250
	Not less than 300 tonnes and less than 400	SAT 250	SAT 1,500
	Not less than 400 tonnes and less than 500	SAT 300	SAT 1,750
	Not less than 500 tonnes and less than 600	SAT 350	SAT 2,000
	Not less than 600 tonnes and less than 700	SAT 400	SAT 2,250
	Not less than 700 tonnes and less than 800	SAT 450	SAT 2,500
	Not less than 800 tonnes and less than 900	SAT 500	SAT 2,750
	Not less than 900 tonnes and less than 1000	SAT 550	SAT 3,000
	Not less than 1,000 tonnes	SAT 600	SAT 3,250
	Annual Warehouse Licence Fee - Part 2		
	Not less than 200 tonnes	SAT 60	SAT 1,000
	Not less than 200 tonnes and less than 300	SAT 80	SAT 1,250
	Not less than 300 tonnes and less than 400	SAT 100	SAT 1,500
	Not less than 400 tonnes and less than 500	SAT 120	SAT 1,750
	Not less than 500 tonnes and less than 600	SAT 140	SAT 2,000
	Not less than 600 tonnes and less than 700	SAT 160	SAT 2,250
	Not less than 700 tonnes and less than 800	SAT 180	SAT 2,500
	Not less than 800 tonnes and less than 900	SAT 200	SAT 2,750
	Not less than 900 tonnes and less than 1000	SAT 220	SAT 3,000
	Not less than 1,000 tonnes	SAT 240	SAT 3,250
	Note 1 Warehouse Officer Service Charge (per annum)	SAT 900	SAT 1,000
	Deferred Duty		
	(a) Application	SAT 25	SAT 25
	(b) Late payment penalty		SAT 5 per payment
	(c) Annual Interest		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 5(b): Proposed Fees

R61	Application for refunds	SAT 25
R62	Application for refund, faulty manufacture	SAT 25
R63	Application for refund, damaged etc. goods	SAT 25
R64	Application for refund, goods diminished in value	SAT 25
R65	Application for refund, destroyed, pillaged or lost goods	SAT 25
R67	Application for drawback	SAT 25
R68	Application for drawback in special cases	SAT 25

Table 6: Proposed Registration Fees for Pesticides (Draft Pesticides Regulations 2007/08)

Goods/Services	Fee Basis	Fees	Payment Basis
Sanitary Certificate	Certificate	\$6.44 VAGST incl. per certificate	Cash
Phyto Certificate	Private	\$6.44 VAGST incl. per certificate	Cash
	Commercial Certificate	\$12.88 VAGST incl. per certificate	Cash
Import Certificate	Private Certificate	\$6.44 VAGST incl. per certificate	Cash
	Commercial - annual fee	\$129.38 VAGST incl.	Cash or Credit
Import for cut flowers, live plants and seeds	Private consignment	\$12.88 VAGST incl. per permit	Cash
	Commercial consignment	\$32.43 VAGST incl. per permit	Cash
Fumigation	Per treatment	Cost of chemicals used (30lbs) + \$116.44 VAGST incl. labour and equipment	Cash or Credit
Garbage Incineration	Per standard garbage bag	\$2.30 VAGST incl.	Cash
Wet Garbage Incineration	Per load (10 standard garbage bags)	\$46.00 VAGST incl. per load	Cash or Credit
Pesticide Registration Fee	Per 5 years	\$300.00 + VAGST	Cash or Credit
Annual Permit Fee	Certificate	\$129.38 VAGST incl (commercial) \$7.50 VAGST incl. (private)	Cash
Steam Cleaning	Standard cars	\$63.25 VAGST incl. per vehicle	N/A - collected by contractor
	Trucks	\$75.90 VAGST per truck	N/A - collected by contractor
	Machinery	Min. of \$115.00 VAGST incl. per machine	N/A - collected by contractor

Table 7: 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 57.12% 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 1,000 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 <sup>3</sup> but not exceeding 3,000cm <sup>3</sup>	20% or SAT 2,400 per vehicle
8703.0025	Vehicles of a cylinder capacity exceeding 3,000cm <sup>3</sup>	20% or SAT 2,400 per vehicle



Table 8: Products Subject to Import Prohibition

Eggs without sell-by date (or best before date or expiration date)	Relevant goods imported under Headings 0407001000, 0407002000, 040700900, 0408990000, 0408910000, 0408190000, 0408110000
LHD motor vehicles and vehicles manufactured more than 12 years prior to importation	Relevant goods imported under Headings 8702,8703,8704,8705,8706
Bee and bee products	0409, and other goods containing honey
Turkey tails	02072610, 02072710 and any other goods containing turkey tails except for whole turkeys
Tinned fish cartons of 48 cans	Specific packaging of tinned fish imported under Heading 0305
Coins and bank notes	N.A.
Pornographic articles, publications, films, and video	Relevant goods imported under Chapters 37, 49, 85
Non-biodegradable plastic bags	Relevant goods imported under Heading 3923
Parrots	Relevant goods imported under 01063200

Table 9: Products Subject to Import Licensing

Product/HS Number Where Applicable	Description of Product	Requirement/Ministry Involved	Application Fee (SAT)	Legal Reference
See Table 9(a)	Chemicals	Chemicals to be imported must be registered chemicals with the Registrars Office of MAF before being issued an import licence.		
	Arms and ammunitions			
	Pesticides	Ministry of Agriculture.	Registration fee (see Question 45).	Pesticides Regulations 1990 (draft Pesticides Regulations 2008).
See Table 9(b)	Ozone depleting substances	Import licenses for Ozone depleting substances are delivered by the National Ozone Unit. The importing and handling applications are assessed by the selected assessment panel and certified by the CEO of the Ministry of Natural Resources and Environment.	Import Licence Fee \$100. Handling Licence Fee \$50. The initial registration is \$100 and the renewal for both licenses is \$10.	Protection of the Ozone Layer Regulations 2006.

Table 9(a): Chemicals Subject to Import Licensing

-	acetorphine (6, 7, 8, 14 - tetrahydro - 7alpha - (1 - hydroxy - 1 - methylbutyl) - 6, 14 - endo - ethenooripavine 3 - acetate)
-	acetyldihydrocodeine
-	acetylmethadol (3 - acetoxy - 6 - dimethylamino - 4, 4 - diphenyl - 3 - heptane)
-	allylprodine (3 - allyl - 1 - methyl - 4 - phenyl - 4 - propionoxy - piperidine)
-	alphacetylmethadol (alpha - 3 - acetoxy - 6 - dimethylamino - 4, 4 - diphenylheptane)
-	alphameprodine (alpha - 3 - ethyl - 1 - methyl - 4 - phenyl - 4 - propionoxypiperidine)
-	alphamethadol (alpha - 6 - dimethylamino - 4, 4 - diphenyl - 3 - heptanol)
-	alphaprodine (alpha - 1, 3 - dimethyl - 4 - phenyl - 4 - propionoxy - piperidine)
-	anileridine (1 - (para - aminophenethyl) - 4 - phenylpiperidine - 4 - carboxylic acid ethyl ester)
-	benzethidine (1 - (2 - benzyloxyethyl) - 4 - phenylpiperidine - 4 - carboxylic acid ethyl ester)
-	benzylmorphine (3 - benzylmorphine)
-	betacetylmethadol (beta - 3 - acetoxy - 6 - dimethylamine - 4, 4 - diphenylheptane)
-	betameprodine (beta - 3 - ethyl - 1 - methyl - 4 - phenyl - 4 - propionoxypiperidine)
-	betamethadol (beta - 6 - dimethylamino - 4, 4 - diphenyl - 3 - heptanol)
-	betaprodine (beta - 1, 3 - dimethyl - 4 - phenyl - 4 - propionoxy - piperidine)
-	bezitramide (1 - (3 - cyano - 3, 3 - diphenylpropyl) - 4 - (2 - oxo - 3 - propionyl - 1-benzimidazolyl) - piperidine)
-	cannabis, being any leaf, seed, stalk, root, fruit, blossom, or part thereof of any plant of the genus cannabis ( <i>Cannabis sativa</i> L).
-	cannabis resin
-	clonitazene (2 - para - chlorbenzyl - 1 - (2 - diethylaminoethyl) - 5 - nitrobenzimidazole)
-	cocoa leaf ( <i>Erythroxylon coca</i> L).
-	cocaine (methyl ester of benzoylecgonine)
-	codeine (3 - methylmorphine)
-	codoxime (dihydrocodeinone - 0 - (carboxymethyl)oxime)
-	concentrate of poppy straw
-	desomorphine (dihydrodeoxymorphine)
-	dextromoramide ((+) - 4 - [ - 2 - methyl - 4 - oxo - 3, 3 - diphenyl - 4 - (1 - pyrrolidinyl) - butyl] morpholine)
-	diampromide (N - [2 - (methylphenethylamino)propyl]- propionanilide)
-	diethylthiambutene (3 - diethylamino - 1, 1 - di - (2' - thienyl) - 1 - butene)
-	dihydrocodeine (7, 8 - dihydrocodeine)
-	dihydromorphine (7, 8 - dihydromorphine)
-	dimenoxadol (2 - dimethylaminoethyl - 1 - ethoxy - 1, 1 - diphenyl - acetate)
-	dimepheptanol (6 - dimethylamino - 4, 4 - diphenyl - 3 - heptanol)
-	dimethylthiambutene (3 - dimethylamino - 1, 1 - di - (2' - thienyl) - 1 - butene)
-	dioxaphetyl butyrate (ethyl 4 - morpholino - 2, 2 - diphenyl - butyrate)
-	diphenoxylate (1 - (3 - cyano - 3, 3 - diphenylpropyl) - 4 - phenyl - piperidine - 4 - carboxylic acid ethyl ester)
-	dipipanone (4, 4 - diphenyl - 6 - piperidino - 3 - heptanone)
-	ecgonine ( - ) - 3 - hydroxytropane - 2 - carboxylate)
-	ethylmethylthiambutene (3 - ethyl methylamino - 1, 1 - di - (2' - thienyl) - 1 - butene)
-	ethylmorphine (3 - ethylmorphine)
-	etonitazene (1 - diethylaminoethyl - 2 - para - ethoxybenzyl - 5 - nitrobenzimidazole)
-	etorphine (6, 7, 8, 14 - tetrahydro - 7alpha - (1 - hydroxy - 1 - methylbutyl) - 6, 14 - endo - ethenooripavine)
-	etoxeridine (1 - [2 - (2 - hydroxyethoxy)ethyl] - 4 - phenylpiperidine - 4 - carboxylic acid ethyl ester)
-	fantanyl (1 - phenethyl - 4 - N - propionylanilinopiperidine)
-	furethidine (1 - (2 - tetrahydrofurfuryloxyethyl) - 4 - phenylpiperidine - 4 - carboxylic acid ethyl ester)
-	heroin (diacetylmorphine)
-	hydrocodone (dihydrocodeinone)
-	hydromorphanol (14 - hydroxy - 7, 8 - dihydromorphine)
-	hydromorphone (dihydromorphinone)

- hydroxypethidine (4 - (meta - hydroxyphenyl) - 1 - methylpiperidine - 4 - carboxylic acid ethyl ester)
- isomethadone (6 - dimethylamino - 5 - methyl - 4, 4 - diphenyl - 3 - hexanone)
- ketobemidone (4 - meta - hydroxyphenyl) - 1 - methyl - 4 - propionyl - piperidine)
- levomethorphan (( - ) - 3 - methoxy - N - methylmorphinan)
- levomoramide ((-)-4) - [2 - methyl - 4 - oxo - 3, 3 - diphenyl - 4 - (1 - pyrrolidinyl) - butyl]morpholine)
- levophenacymorphan (( - 3) - hydroxy - N - phenacymorphinan)
- levorphanol (( - ) - 3 - hydroxy - Npmethylmorphinan)
- metazocine (2' - hydroxy - 2, 5, 9 - trimethyl - 6, 7 - benzomorphan)
- methadone (6 - dimethylamino - 4, 4 - diphenyl - 3 - heptanone)
- methadone - intermediate (4 - cyano - 2 - dimethylamino - 4, 4 - diphenylbutane)
- methyl-desorphine (6 - methyl - delta $\delta$  - deoxymorphine)
- methyl-dihydromorphine (6 - methyl-dihydromorphine)
- metopon (5 - methyl-dihydromorphinone)
- moramide - intermediate (2 - methyl - 3 - morpholino - 1, 1 - diphenyl - propane carboxylic acid)
- morpheridine (1 - (2 - morpholinoethyl) - 4 - phenylpiperidine - 4 - carboxylic acid ethyl ester)
- morphine
- morphine - N - oxide
- morphine pentavalent nitrogen derivatives
- myrophine (myristylbenzylmorphine)
- nicicodine (6 - nicotinoylcodeine)
- nicodicodine (6 - nicotinoyldihydrocodeine)
- nicomorphine (3, 6 - dinicotinoylmorphine)
- noracymethadol (( $\pm$ ) - alpha - 3 - acetoxy - 6 - methylamino - 4, 4 - diphenylheptane)
- norcodeine (N - demethylcodeine)
- norlevorphanol (( - ) - 3 - hydroxymorphinan)
- normethadone (6 - dimethylamino - 4, 4 - diphenyl - 3 - hexanone)
- normorphine (demethylmorphine)
- norpipanone (4, 4 - diphenyl - 6 - piperidino - 3 - hexanone) opium
- oxycodone (14 - hydroxydihydrocodeinone)
- oxymorphone (14 - hydroxydihydromorphinone)
- pethidine (1 - methyl - 4 - phenylpiperidine - 4 - carboxylic acid ethyl ester)
- pethidine - intermediate A (4 - cyano - 1 - methyl - 4 - phenyl - piperidine)
- pethidine - intermediate B (4 - phenylpiperidine - 4 - carboxylic acid ethyl ester)
- pethidine - intermediate C (1 - methyl - 4 - phenylpiperidine - 4 - carboxylic acid)
- pethidine - intermediazte C, esters of
- phenadoxone (6 - N - morpholino - 4, 4 - diphenyl - 3 - heptanone)
- phenampromide (N - (I - methyl - 2 - piperidinoethyl)propionanilide)
- phenazocine (2' - hydroxy - 5, 9 - dimethyl - 2 - phenethyl - 6, 7 - benzomorphan)
- phenomorphan (3 - hydroxy - N - phenethylmorphinan)
- phenoperidine (1 - (3 - hydroxy - 3 - phenylpropyl) - 4 - phenylpiperidin - 4 - carboxylic acid ethyl ester)
- pholcodine (morpholinylethylmorphine)
- piminodine (4 - phenyl - 1 - (3 - phenylaminopropyl) piperidine - 4 - carboxylic acid ethyl ester)
- piritramide (1 - (3 - cyano - 3, 3 - diphenylpropyl) - 4 - (1 - pipe ridino) - piperidine4 - carboxylic acid amide)
- proheptazine (1, 3 - dimethyl - 4 - phenyl - 4 - propionoxyazacycloheptane)
- properidine (1 - methyl - 4 - phenylpiperidine - 4 - carboxylic acid isopropyl ester)
- racemethorphan (( $\pm$ ) - 3 - methoxy - N - methylmorphinan)
- racemoramide (( -  $\pm$  - ) - 4 - [2 - methyl - 4 - oxo - 3, 3 - diphenyl - 4 - (1 - pyrrolidinyl) butyl]morpholine)
- racemorphan (( $\pm$ ) - 3 - hydroxy - N - methylmorphinan)
- thebacon (acetyldihydrocodeinone)
- thebaine (3, 6 - dimethyl - 8 - dehydromorphine)
- trimeperidine (1, 2, 5 - trimethyl - 4 - phenyl - 4 - propionoxy - piperidine)

The isomers of the substances mentioned above in this Schedule whenever the existence of such isomers is possible within the specific chemical designation.

The esters and ethers of the substances mentioned above in this Schedule whenever the existence of such esters or ethers is possible.

The salts of the substances mentioned above in this Schedule whenever the existence of such salts is possible.

Any substance, preparation, or mixture containing any proportion of a substance named or described above in this Schedule other than the following preparations and mixtures, namely:

- (a) Preparations containing in any proportion of the following substances or any salt of any such substance, namely, acetyldihydrocodeine, codeine, dihydrocodeine, ethylmorphine, and pholcodei when:
  - (i) Compounded with one or more other pharmacologically active ingredients in such a way that the substance cannot be recovered by readily applicable means or in a yield which would constitute a risk to health; and
  - (ii) Containing not more than 100 milligrammes of the substances in each dosage unit and with a concentration of not more than 2.5 per cent in undivided preparations.
- (b) Preparations of cocaine containing not more than 0.1 per cent of cocaine base, being preparations compounded with one or more other pharmacologically active ingredients (none of which are substances named or described elsewhere in this Schedule) in such a way that the preparation has no, or a negligible, risk of abuse, and in such a way that the cocaine cannot be recovered by readily applicable means or in a yield which would constitute a risk health;
- (c) Preparations of opium or morphine containing not more than 0.2 per cent of morphine, being preparations compounded with one more other pharmacologically active ingredients (none of which are substances named or described elsewhere in this Schedule) in such a way that the preparation has no, or a negligible, risk of abuse, and in such a way that the opium or the morphine, as the case may be, cannot be recovered by readily applicable means or in a yield which would constitute a risk to health;
- (d) Solid dosage units of diphenoxylate containing in each unit not more than 2.5 milligrammes of diphenoxylate calculated as base and not less than 25 microgrammes of atropine sulphate;
- (e) Liquid preparations of diphenoxylate containing, in each millilitre, not more than 0.5 milligrammes of diphenoxylate calculated as based and not less than 5 microgrammes of atropine sulphate;
- (f) Ipecacuanha and opium powder containing 10% of opium powder and 10% of ipecacuanha root in powder intimately mixed with finely powdered lactose; and
- (g) Mixtures containing not more than one of the preparations specified in paragraphs (a) to (f) above, being mixtures whereof none of the other ingredients is a substance named or described elsewhere this Schedule.

Table 9(b): Ozone Depleting Substances Subject to Import Licensing

	Composition	ODP	Import Permit Required?
<b>CFCs</b>			
CFC-11	Pure substance	1.0	Yes *
CFC-12	Pure substance	1.0	Yes *
CFC-113	Pure substance	0.8	Yes *
CFC-114	Pure substance	1.0	Yes *
CFC-115	Pure substance	0.6	Yes *
CFC-13	Pure substance	1.0	Yes *
Other CFCs			
<b>HCFCs</b>			
HCFC-22	Pure substance	0.055	Yes
HCFC-123	Pure substance	0.020	Yes
HCFC-124	Pure substance	0.022	Yes
HCFC-141b	Pure substance	0.110	Yes
HCFC-142b	Pure substance	0.065	Yes
HCFC-31	Pure substance	0.020	Yes
Other HCFCs			Yes
<b>HFCs</b>			
HFC-23	Pure substance	0	No
HFC-32	Pure substance	0	No
HFC-125	Pure substance	0	No
HFC-134a	Pure substance	0	No
HFC-143a	Pure substance	0	No
HFC-152a	Pure substance	0	No
Other HFCs			No
<b>Perfluorocarbons</b>			
R116 (Perfluoroethane)	Pure substance	0	No
R218 (Octafluoropropane)	Pure substance	0	No
RC318 (Octafluorocyclobutane)	Pure substance	0	No
Others			No
<b>Hydrocarbons</b>			
R290 (Propane)	Pure substance	0	No
R600 (Butane)	Pure substance	0	No
R600a (2-Methylpropane (isobutane))	Pure substance	0	No
R1270 (Propylene)	Pure Substance	0	No
Others			No
<b>Mixes- Zeotropes</b>			
R401A (MP 39)	53% R22, 13% R152a, 34% R124	0.037	Yes
R401B (MP 66)	61% R22, 11% R152a, 28% R124	0.040	Yes
R401C (MP 52)	33% R22, 15% R152a, 52% R124	0.030	Yes
R402A (HP 80)	60% R125, 2% R290, 38% R22	0.021	Yes
R402B (HP 81)	38% R125, 2% R290, 60% R22	0.033	Yes
R403A (69S)	5% R290, 75% R22, 20% R218	0.041	Yes
R403B (69L)	5% R290, 56% R22, 39% R218	0.031	Yes
R404A (HP 62, FX 70,M55)	44% R125, 52% R143a, 4% R134a	0	No
R405A (G2015)	45% R22, 7% R152a, 5.5% R142b, 42.5% RC318	0.028	Yes
R406A (GHG-12)	55% R22, 4% R600a, 41% R142b	0.057	Yes
R407A (Klea 60)	20% R32, 40% R125, 40% R134a	0	No
R407B (Klea 61)	10% R32, 70% R125, 20% R134a	0	No

	Composition	ODP	Import Permit Required?
R407C (Suva 9000, Klea 66)	23% R32, 25% R125, 52% R134a	0	No
R407D	15% R32, 15% R125, 70% R134a	0	No
R407E	25% R32, 15% R125, 60% R134a	0	No
R408A (FX10)	7% R125, 46% R134a, 47% R22	0.026	Yes
R409A (FX56)	60% R22, 25% R124, 15% R142b	0.048	Yes
R409B (FX57)	65% R22, 25% R124, 10% R142b	0.048	Yes
R410A (AZ 20)	50% R32, 50% R125	0	No
R410B (Suva 9100)	45% R32, 55% R125	0	No
R411A (G2018A)	1.5% R1270, 87.5% R22, 11% R152a	0.048	Yes
R411B (G2018B)	3% R1270, 94% R22, 3% R152a	0.052	Yes
R411C	3% R1270, 95.5% R22, 1.5% R152a	0.053	Yes
R412A (TP5R)	70% R22, 5% R218, 25% R142b	0.055	Yes
R413A (Isceon 49)	9% R218, 88% R134a, 3% R600a	0.000	No
R-414A (GHG-X4, Chill-it, Autofrost-X4)	51% R-22, 16.5% R142b, 28.5% R124, 4% R600a	0.044	Yes
R414B (Icor Hotshot)	50% R22, 39% R124, 9.5% R142b, 1.5% R600a	0.042	Yes
R415A (Moncton Refrigerants Narm502)	5% R23, 90% R22, 5% R152a	0.05	Yes
R416A (Frig C)	59% R134a, 40% R124, 2% R600a	0.026	Yes
R417A (Isceon 59)	46% R125, 50% R134a, 4% R600	0	No
R418A	1.5% R290, 96% R22, 2.5% R152a	0.019	Yes
R419A	77% R125, 19% R134a, 4% E170	0	No
R420A	88% R134a, 12% R142b	0.0024	Yes
R421A	58% R125, 42% R134a	0.0	No
Mixes - Azeotropes			
R500	73.8% R12, 26.2% R152a	0.738	Yes*
R501	75% R22, 25% R12	0.291	Yes*
R502	48.8% R22, 51.2% R115	0.334	Yes*
R503	40.1% R23, 59.9% R13	0.599	Yes*
R504	48.2% R32, 51.8% R115	0.311	Yes*
R505	78% R12, 22% R31	0.784	Yes*
R506	55.1% R31, 44.9% R114	0.46	Yes*
R507A (AZ50)	50% R125, 50% R143a	0	No
R508A (TP5R3)	39% R23, 61% R116	0	No
R508B (Suva 95)	46% R23, 54% R116	0	No
R509 (TP5R2)	46% R22, 54% R218	0.025	Yes
Other Azeotropes			
Unnamed (by ASHRAE)			
FX20	45% R125, 55% R22	0.03	Yes
FX40	10% R32, 45% R143a, 45% R125	0	No
FX55	60% R22, 40% R142b	0.059	Yes
FX220	3% R23, 25% R32, 72% R134a	0	No
DI36	50% R22, 47% R124, 3% R600	0.038	Yes
HX4	10% R32, 33% R125, 36% R143a, 21% R134a	0	No
RX3	43% R125, 53% R134a, 4% R600a	0	No
RX4	86% R125, 5% R290, 9% R218	0	No
Daikin Blend	2% R23, 28% R32, 70% R134a	0	No
XF	4% R23, 96% R134a	0	No
Non-refrigerant Mixes			
CFC-11 & CFC-12	Composition varies (for aerosols)	1.0	Yes*
R400	CFC 12 and CFC-114 (Composition varies (for aerosols))	1.0	Yes*
Others			

\* The import of CFC was prohibited in Samoa on 1 September 2006.

Company Names	Old trade Name	New Trade Name
Du Pont	Freon	SUVA
ICI	Arcton	Klea
Atochem	Forane	Forane
Allied	Genetron	Genetron
Hoechst	Frigen	Reclin
Rhone Poulenc	Isceon	Isceon
Asahi		Asahiflon
Daikin		Daiflon
Ausimont	Algofrene	Meforex
Solvay	Kaltron	Solkane

[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.

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

Preamble

The World Trade Organization (hereinafter referred to as the "WTO"), pursuant to the approval of the [General Council] [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.

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ANNEX I

**SCHEDULE [...] - SAMOA**

Authentic only in the ... language.

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

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

***LIST OF ARTICLE II EXEMPTIONS***

Authentic only in the ... language.

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

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