



EUROPEAN COMMISSION

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Proposal for a

COUNCIL DECISION

establishing the European Union position within the relevant instance of the World Trade Organization on the accession of Samoa to the World Trade Organization

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

Overview of the Terms of Samoa's Accession to the WTO

I. INTRODUCTION

Members of the World Trade Organization (WTO) and Samoa have reached the concluding stage of an agreement on the terms for Samoa's accession to the organization. This comes after 13 years of negotiations, which began when Samoa submitted its application to join the WTO in 1998. Samoa's request for accession has been examined in accordance with the guidelines set out in the WTO General Council Decision of 10 December 2002 on the accession of least-developed countries (LDCs) and there must now be a Council Decision approving the terms of Samoa's accession, before the EU can formally support Samoa's entry.

A summary of the terms of the accession is set out below.

II. SUMMARY OF TERMS OF SAMOA'S WTO ACCESSION BY SECTOR

The average final bound rate (FBR) of Samoa is 21%.

The final bound average in different industrial sectors fluctuates from the lowest averages of 13.5% in pharmaceuticals and 16% in chemicals till the highest averages of 30% in footwear and toys.

Out of 5,315 tariff lines in Samoa's schedule, only 23 will not reach its FBR at the moment of accession, and will consequently have an implementation period. The implementation period is till 2017 for 16 industrial tariff lines: ball bearings, navigation instruments, bicycles; and till 2022 for 7 agriculture tariff lines: wheat, barley, chewing-gum.

These average levels for tariffs are quite reasonable considering the LDC status of Samoa, the small size and vulnerability of its economy, and its insular character. Past EU practice in relation to LDCs has been to accept as reasonable these tariff levels for comparable-sized economies. Samoa is participating in the negotiations of a comprehensive EPA as part of the Pacific-group of ACP countries.

Industrial Goods

- The average FBR for non-agricultural products is 22.3%.
- Most of industrial sectors are bound at average tariffs below 25%, with peaks of 30%.
- The highest levels tariffs are found in footwear and toys (final bound tariffs are 30%).
- Pharmaceutical tariff lines present the lowest average bound tariffs at 13.5% and chemical products are bound at the relatively low average level of 16%.

Agricultural goods

- On agricultural goods the FBR average is 19.6%.
- The agriculture peaks are 35% in chocolate, coffee, tobacco and pet food; 65% in fresh vegetables and fish. Cereals such as wheat, barley and rice are bound at tariff levels between 10% and 15%.

Services

Samoa's schedule of specific commitments in services is very satisfactory considering its LDC status. Samoa will undertake market access and national treatment commitments in a broad range of services sectors, including professional, computer and other business services, communication services (courier services and telecommunications), construction, private educational, environmental, financial (insurance and banking) and tourism services.

Protocol commitments

In the final, multilateral stage of the accession process, WTO Members collectively sought to ensure the basic compatibility of Samoa's trade laws and institutions with WTO rules and agreements, setting these out in the Protocol of accession and Working Party Report. The following issues are of particular interest to the EU:

Trading rights

Samoa has confirmed that from the date of accession, 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. In particular, Samoa's import licensing system for alcohol – which merged the right to import and the right to distribute - will have been amended, including the establishment of a temporary licence to allow the licence holder to import and sell liquor on a temporary basis, and the delinking of the right to import and the right to distribute.

Foreign investment

Samoa has engaged in a revision of its Foreign Investment Act. Samoa confirmed that from the date of accession, it would comply with WTO requirements including its commitments set out in Samoa's Schedule of Specific Commitments in Services. This concerns specifically the administration of the Reserved and Restricted lists of economic activities as regulated by the Foreign Investment Act.

Customs valuation

By the date of accession, Samoa's customs valuation legislation and regime will have been brought into conformity with the WTO Agreements on customs valuation.

Areas where transition period have been requested

Internal taxes to imports: Samoa will have to bring the tax treatment of imported and domestic primary products into conformity with WTO provisions (i.e. amend the Value Added Goods and Services Tax (VAGST) Act to address the current exemption from the VAGST of primary producers which are, in all cases, small producers who sell their produce at the local

market) within three years of accession. At the end of this period, Samoa will in particular report to the General Council of the WTO on the amendment or elimination of the tax exemption at stake. The transitional period will be used to devise the most appropriate legislative reform, taking account of Samoa's domestic agricultural sector, the administrative constraints faced by the Ministry in charge of administering VAGST and the political sensitivities associated with the reform.

Intellectual Property Rights: by the date of accession, Samoa will have passed legislation bringing its intellectual property scheme into conformity with the TRIPS Agreement; full implementation will be ensured by July 2013.

III. RECOMMENDATION

In submitting the terms of Accession of Samoa to the WTO for approval by the Council, the Commission considers these terms as representing a balanced but ambitious package of market opening commitments, which will bring substantial benefits to Samoa and its WTO trading partners alike.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 91, 100(2) and 207(4) first subparagraph, in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) On 15 April 1998 the Government of Samoa applied for accession to the Agreement establishing the World Trade Organization (WTO), pursuant to Article XII of that Agreement.
- (2) A Working Party on Samoa's accession was established on 15 July 1998 in order to reach agreement on terms of accession acceptable to Samoa and all WTO Members.
- (3) The Commission, on behalf of the Union, negotiated a comprehensive series of market opening commitments on the part of Samoa which satisfy the Union's requests and are in line with the development level of Samoa.
- (4) These commitments are now embodied in the Protocol of Accession of Samoa to the WTO.
- (5) Accession to the WTO is expected to make a positive and lasting contribution to the process of economic reform and sustainable development in Samoa.
- (6) The Protocol of Accession should therefore be approved.
- (7) Article XII of the Agreement establishing the WTO provides that the terms of accession are to be agreed between the acceding Member and the WTO, and that the Ministerial Conference of the WTO approves the terms of accession on the WTO side. Article IV.2 of the Agreement establishing the WTO provides that in the intervals between meetings of the Ministerial Conference, its functions shall be conducted by the General Council.
- (8) Accordingly, it is necessary to establish the position to be taken by the Union within the relevant instance of the WTO, be it the Ministerial Conference or the General Council of the WTO,

HAS ADOPTED THIS DECISION:

Sole Article

1. The position to be taken by the European Union within the relevant body of the WTO on the accession of Samoa to the WTO, is to approve the accession.
2. This decision shall enter into force on the day of its adoption.

Done at [...],

For the Council
The President