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9 April 2002

*Office of the Prime Minister
Apia, Samoa*

Mr. Donald J. Johnston
OECD Secretary-General
2 Rue Andre Pascal
75775 Paris CEDEX 16
France

Dear Mr. Johnston:

RE: OECD Harmful Tax Initiative

I am writing on behalf of the Government of Samoa in connection with the OECD Project on Harmful Tax Competition, as set out in its 1998 Report, entitled "Harmful Tax Competition: An Emerging Global Issue."

In the adoption of the 1998 Report and the subsequent 2001 Progress Report (together hereinafter referred to as the "Reports"), OECD member countries have themselves agreed to abide by the principles enunciated in the Reports.

The Samoan Government notes, however, that two OECD member countries have specifically abstained from adopting the 1998 Report and that an additional two other countries have abstained from adopting the 2001 Report.

Notwithstanding the above, the Samoan Government has engaged constructively in a series of bilateral and multilateral consultations with the OECD. These meetings have served to clarify a number of issues.

The Samoan Government attaches fundamental importance to the view expressed by the OECD itself that fair tax competition is not to be discouraged.

In its decision making process, the Samoan Government has consulted widely with all the major stakeholders in the offshore finance industry, as well as within Government.

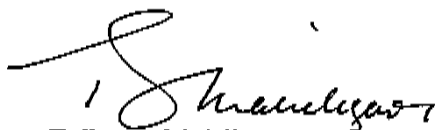
These commitments will have significant adverse cost and revenue impacts on the small economy of Samoa, but taking into account the need to pursue the long-term development of its economy and recognising the important roles of fiscal and other measures in this context, and the need to maintain its fiscal autonomy, Samoa makes these commitments in the hope that the OECD together with other international organisations will be responsive to these objectives.

Areas of possible assistance could include improving existing revenue systems and their administration and generally assistance in strengthening capacities in financial services and diversification of the economy.

Attached is a schedule of commitments which have been the subject of discussions between us and which I am now authorised to make on behalf of the Government of Samoa. These commitments contained in the Attachment hereto, which are to be read in conjunction with this cover letter, are offered on the basis that:

- Samoa is not included on the OECD list of Uncooperative Tax Havens;
- Samoa will not be subject to any framework of coordinated defensive measures by OECD member states;
- Samoa will protect its sovereignty, economic interests and fiscal autonomy in all negotiations with the OECD. Samoa considers the establishment of a level playing field among all OECD member countries and also those non-member jurisdictions with which it is materially in competition in the provision of cross border financial services to be critical to its economic interests.
- Those jurisdictions, including OECD member countries and other countries and jurisdictions yet to be identified, that fail to make equivalent commitments or to satisfy the standards of the 1998 Harmful Tax Competition Report, will be the subject of a common framework of coordinated defensive measures;
- Samoa is invited to participate on an equal basis in any discussions in the Global Forum on the design of internationally accepted standards for the implementation of these and any similar commitments. Samoa will also be invited to participate in the ad hoc accounts group consisting of OECD Member States and committed jurisdictions to address issues raised by the accounts and audit or file requirements.
- Samoa will receive, upon request, technical assistance, as required, for amending and/or implementing laws, regulations, practices and procedures, and negotiating such agreements as may be necessary to comply with the commitment herein.
- The detailed implementation of any commitments not already provided for under Samoan law is subject to the approval of the Legislative Assembly of Samoa.

Yours faithfully,



Tuilaepa S Malielegaoi
PRIME MINISTER

Attachment:

This Attachment, which is to be read in conjunction with the cover letter, sets out the manner in which Samoa will implement its commitment and outlines the measures that the Government of Samoa is prepared to take on a phased basis by 31 December 2005 in cooperation with the OECD.

A. Establishing a Process for an Effective Exchange of Information.

1. Samoa agrees to the effective exchange of information for criminal tax matters which shall become effective for the first tax year after 31 December 2003. As regards the effective exchange of information for civil tax matters this will become effective for the first tax year after 31 December 2005. Such exchanges shall be achieved under negotiated tax information exchange agreements that require the effective exchange of information in specific tax matters pursuant to a specific request. The tax information exchange agreements will define the tax matters covered and include protections against unauthorized disclosures, unauthorized use of information and "fishing expeditions".
2. In a case involving information required for the investigation and prosecution of criminal tax matters, information shall be provided without the requirement that the conduct being investigated must constitute a crime in Samoa. However, such information may not be provided where the party requesting it cannot, under its own laws for purposes of enforcing its own tax laws, obtain such information.
3. In the case of information requested in the context of a civil tax matter, the absence of a Samoan tax interest in the case or in obtaining the information shall not be a bar to the provision of such information. However, such information may not be provided where the party requesting it cannot, under its own laws for purposes of enforcing its own tax laws, obtain such information.
4. The incidence of costs incurred in providing assistance in criminal and civil tax matters shall be agreed in the context of the exchange of information agreements or arrangements entered into by Samoa in satisfaction of its commitment. Flexibility is expected in determining the incidence of costs to take into account factors such as the likely flow of information requests between the two parties to the agreement or arrangement, whether both parties have income tax administrations, the capacity of each party to obtain and provide information, and the volume of information involved.

B. Transparency

1. Samoa will ensure that information on beneficial ownership of companies, partnerships, and other legal entities and on trustees and beneficiaries of trusts

established in Samoa is available to its tax or regulatory authorities. This will include companies and other entities having a place of business in Samoa provided that the information is present within Samoa or in the possession or control of a person subject to the jurisdiction of Samoa. Samoa agrees that such information will be subject to exchange agreements referred to in paragraph A.1.

2. Subject to de minimis and other exceptions to be developed together with the OECD and other committed jurisdictions, Samoa agrees to require financial accounts to be kept by companies, partnerships, trusts, and other legal entities established or having a place of business in Samoa. The requirement to audit accounts will follow accepted international standards. Samoa agrees that such accounts will also be subject to exchange under the tax information exchange agreements referred to in paragraph A.1.
3. Samoa agrees that its tax or regulatory authorities, or such other authority as it may designate, will have access to bank information to the extent necessary to perform obligations under a tax information exchange agreement concluded pursuant to paragraph A.1.

C. Standstill

The Government of Samoa will ensure that:

- No new taxation regime or practice is introduced that fails to comply with the principles of transparency and effective exchange of information; and
- No existing taxation regime or practice is modified in such a way that, after the modification, it would not comply with the principles of transparency and effective exchange of information.