SAMOA
INVESTMENT CLIMATE STATEMENT
2015
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Executive Summary

The Independent State of Samoa is a peaceful parliamentary democracy within the Commonwealth of Nations. It has a population of approximately 190,000 and a nominal GDP of USD 770 million (WST 1.85 billion). Samoa became the 155th member of the World Trade Organization (WTO) in May 2012 and graduated from least developed country (LDC) status in January 2014.

Samoa is recognized throughout Oceania as one of the most politically and economically stable democratic countries in the region - based on strong social and cultural structures and values. The country has been governed by the Human Rights Protectorate Party (HRPP) since 1982, and Prime Minister Tuilaepa Sailele Malielegaoi has been in power since 1998.

Samoa is located south of the equator, about halfway between Hawaii and New Zealand in the Polynesian region of the Pacific Ocean. The total land area is 1,097 square miles, consisting of the two large islands of Upolu and Savai‘i, which account for 99% of the total land area and eight small islets. About 80% of all land is customary land, owned by villages, with the remainder either freehold or government owned. Customary land can be leased.

Several changes and natural disasters have taken place in Samoa in the past five years that have shaped the country significantly. Samoa previously drove on the right (U.S.) side of the road, but in September 2009 switched to driving on the left (British) side. All cars now imported are right-hand drive. Also, Samoa was previously located east the international dateline, but in December 2012 moved to the other side (UTC +13), switching from the last sunset of the world each day to becoming one of the first countries to start each day.

The September 2009 tsunami and the December 2012 cyclone (Evan) each inflicted damage equivalent to a quarter of Samoa’s GDP. Samoa has recovered from effects of the tsunami, and largely recovered from the cyclone, but both were significant setbacks to the economy.

The service sector accounts for nearly three-quarters of GDP and employs approximately 50% of the formally employed labor force, which is roughly 20% of the population. Tourism is the largest single activity, more than doubling in visitor numbers and revenue over the last decade. Industry accounts for nearly 15% of GDP, while employing less than 6% of the work force.

1. Openness To, and Restrictions Upon, Foreign Investment

Attitude toward Foreign Direct Investment

The Government of Samoa welcomes business and investors. Samoa’s fertile soil, English-speaking educated workforce, and tropical island climate offer advantages to focused investors, though the country's distance from major markets affect the cost of imports and exports. The main productive sectors of the economy are agriculture and tourism while depending heavily on overseas remittances.

For investors, Samoa offers a trained, productive and industrially adaptable work force that communicates well in English; competitive wage rates; free repatriation of capital and profits;
well-developed, reasonably priced, transport infrastructure, telecommunications, water supply, electricity; industry incentive packages for tourism and manufacturing sectors; a stable financial environment with a single-digit inflation, a balanced budget and international reserves; relatively low corporate & income taxes; and a pleasant and safe lifestyle.

All businesses in the greater Apia area have access to broadband and Wi-Fi, which is reasonably reliable and fast, but relatively expensive. In rural Upolu and on Savaii Island there is limited availability of high speed internet and Wi-Fi. However, Samoa recently completed the installation of a National Broadband Highway which will provide fiber optic data services and 4G LTE cellular data speeds to the entire country. It is currently being tested, and is expected to be operative and commercially available by late-2015. 3G internet accessibility from cellular devices is currently available nationwide.

Samoa’s current connection to the internet is through the fiber optic ASH cable, which runs from American Samoa to Hawaii, with the SAS cable linking the two Samoas, and has an expected lifetime through 2020. Samoa’s future links to the outside world seem promising, with a planned connection to the recently upgraded Southern Cross Cable in the next few years, the main existing trans-Pacific link between Australia and the mainland United States.

Foreign investors are permitted 100% ownership in all different sectors of the industry with the exception of restricted activities below. The following businesses are reserved for Samoan Citizens only:

1. Bus transport services for the general public;
2. Taxi transport services for the general public;
3. Rental vehicles;
4. Retailing;
5. Saw milling; and
6. Traditional elei garment designing and printing.


Other Investment Policy Reviews

The World Bank and the IMF recently completed trade and investment policy reviews with Samoan authorities. These reviews have not yet been released. Samoa’s national investment policy statement can be found here http://www.mcil.gov.ws/idipd_invest_nips.html.


Laws/Regulations of Foreign Direct Investment

The Ministry of Commerce, Industry and Labor (MCIL) administers Samoa’s foreign investment policy and regulations (http://www.mcil.gov.ws/index.html). To open up a branch of an existing corporation in Samoa, one must register the company for about USD 150. All businesses with foreign shareholdings must obtain and hold valid foreign investment registration certificates.
The application fee is about USD 50 and can be obtained by contacting MCIL. Certificates are valid until the business terminates activity. If a business does not commence activity within 2 years after a certificate is issued, the certificate becomes invalid. Upon approval of the Foreign Investor Certificate (FIC), the foreign investor is required to apply for a business license before operating in Samoa. Fees range from USD 100-250, depending on the type of business. MCIL also processes company registrations. The fee to register an overseas company is about USD 150. For a company to qualify as a “Samoan company,” the majority of share-holders must be Samoan.

Land has a special status in Samoa, as it does in most Pacific Island countries. Under the country’s land classification system, about 80% of all land is customary land, owned by villages, with the remainder either freehold or government owned. The standard way for obtaining customary land, which cannot be bought or sold, is through long term leases that must be negotiated with the local communities. A typical lease for business use might be for 30 years, with the option of a further 30 years after that, but longer terms can be negotiated. Customary land cannot be mortgaged, and thus cannot be used as collateral to raise capital or credit. Freehold land, mostly based in and around Apia can be bought, sold and mortgaged. Only Samoan citizens may buy freehold land, unless approval is obtained from Samoa’s Head of State.

The Foreign Investment Act 2000 is the preeminent legislation on foreign investment.
http://www.paclii.org/ws/legis/consol_act/fia2000219/

**Industrial Promotion**

The Government of Samoa welcomes investment in virtually all areas of the economy, namely Travel, Agribusiness, Food Processing and Packing, and Information & Communication.

**Limits on Foreign Control**

Foreign investors are permitted 100% ownership in all different sectors of the industry with the exception of conditions for restricted activities below:
Automotive & Ground Transportation
Consumer Goods & Home Furnishings
Environmental Technologies
Textiles, Apparel & Sporting Goods

Please see Samoa's Foreign Investment Act 2000 for a more detailed Restricted List.
http://www.paclii.org/ws/legis/consol_act/fia2000219/

**Privatization Program**

The major recent privatizations in Samoa were in broadcasting (2008) and telecommunications (2011), both resulted in significant gains in efficiency and benefits to both producer and consumer. The 2011 telecommunications privatization was to a foreign company.
Screening of FDI

Procedures of establishing all businesses are provided under existing legislations such as that of the Companies Amendment Act 2006, Foreign Investment Amendment Act 2011, the Business License Act 1998, Labour and Employment Relations Act 2013 and the Central Bank Act and Guidelines, Health Ordinance 1959 (Part 11, 111 clause 13 & 15)

Competition Law


Investment Trends

In 2014, Starwood Hotels & Resorts Worldwide, Inc. acquired the long established Aggie Grey's hotel chain, and reopened under the brand name of Sheraton Samoa Aggie Grey’s Resort.

Samoa's largest employer, Yazaki Enterprises, is projecting the closure of their factory in 2017. This would result in a loss of about 1000 jobs and Samoa's main source of re-exports.

A Citizenship Investment Bill is currently being tabled in parliament that could see foreigners gain Samoan Citizenship if they are willing to invest WST 1 million (USD 420,000). Current information indicates the price tag is negotiable and a waiting period and series of checks must take place. The Bill is contentious to say the least, and not looked upon favorably by the general public, but it will likely become law in 2015.

Table 1

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<th>Measure</th>
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<td>2013</td>
<td>USD 3,970</td>
<td>data.worldbank.org/indicator/NY.GNP.PCAP.CD</td>
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</table>
Millennium Challenge Corporation Country Scorecard

The Millennium Challenge Corporation, a U.S. Government entity charged with delivering development grants to countries that have demonstrated a commitment to reform, produced scorecards for countries with a per capita gross national income (GNI) or USD 4,125 or less. A list of countries/economies with MCC scorecards and links to those scorecards is available here: http://www.mcc.gov/pages/selection/scorecards. Details on each of the MCC’s indicators and a guide to reading the scorecards are available here: http://www.mcc.gov/pages/docs/doc/report-guide-to-the-indicators-and-the-selection-process-fy-2015.

2. Conversion and Transfer Policies

Foreign Exchange

The Central Bank of Samoa controls all foreign exchange transactions as well as matters relating to monetary stability and supply of money within the country. This includes international transactions, overseas transfer of funds and funding of imports, and registration of insurance companies. Repatriation of overseas capital and profits is normally permitted provided the original investment entered Samoa through the banking system or in an otherwise formally approved manner. Investors also have the freedom to repay principle and interest on foreign loans raised for the purpose of the investment, and the freedom to pay fees to foreign parties for the use of intellectual property rights.

Remittance Policies

Repatriation of capital and profit remittances on foreign capital is permitted, although it must be approved by the Central Bank of Samoa (CBS) based on submission of necessary documents, such as the following:

- a) Application letter explaining the request;
- b) Audited accounts relating to the profit remittance year(s) requested;
- c) A copy of the Authorized Directors’ Resolution approving the specified dividend payment; and
- d) A tax clearance certificate from the Ministry for Revenue.

Samoa’s Financial Intelligence Unit (FIU) within the Central Bank and the Ministry of Foreign Affairs and Trade do issue and provide to all financial institutions governed under the Money Laundering Prevention Act 2007.

3. Expropriation and Compensation

Expropriation cases in Samoa are not common; however, there was a significant case in 2009 over land designated for a new six story government complex. A business signed a 20-year lease with the government in 2005, but was asked to move in 2008 to make way for the new building. The business moved, but won a settlement in the Court of Appeals against the government for a much larger sum than the government initially offered the business for vacating the land.
4. Dispute Settlement

Legal System, Specialized Courts, Judicial Independence, Judgments of Foreign Courts

The provisions of the Arbitration Act 1976 shall have full effect in relation to disputes that involve foreign investors in Samoa. Subject to this Act and to any other law in Samoa, the Convention Settlement of Investment Disputes signed in Washington on 3rd February 1978 and ratified by Samoa on the 25th April 1978, shall have the force of law in Samoa. The Alternative Dispute Resolution Act 2007 also provides alternative dispute resolution procedures where civil or criminal cases may arise.

Bankruptcy

The Bankruptcy Act 1908 is in effect in Samoa. According to the World Bank's Doing Business 2015 survey, Samoa was ranked at 124 out of 189 in terms of resolving insolvency. The survey estimated that it takes 2 years at a cost of 38 percent of the estate to complete the process, with an estimated recovery rate of 18.1 percent of value.

Investment Disputes

The provisions of the Labour and Employment Relations Act 2013 shall have full effect in relation to disputes that involve foreign investors in Samoa. Foreign investors are subject to this Act and to any other law in Samoa.

The Alternative Dispute Resolution Act 2007 also provides alternative dispute resolution procedures where civil or criminal cases may arise.

International Arbitration

Samoa has the Arbitration Act of 1976 that outlines conditions for enforcing foreign awards. The Alternative Dispute Resolution Act of 2007 (amended 2013) outlines ADR procedures for both criminal and civil proceedings. Samoa has an Accredited Mediators of Samoa Association that was put in place to help resolve (largely commercial) disputes.

ICSID Convention and New York Convention

Since 1978, Samoa has been a member state to the International Centre for Settlement of Investment Disputes (ICSID Convention).

Samoa is not party to the convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958 New York Convention).
Duration of Dispute Resolution

Post was unable to obtain reliable data or response regarding this issue. Casual observance would indicate that disputes can be resolved in a reasonable amount of time, especially with the new ADR legislation and mediation framework mentioned above.

5. Performance Requirements and Investment Incentives

WTO/TRIMS

Samoa is a member of the World Trade Organization (WTO) since May 2012. Information on TRIMs pertaining to Samoa is unavailable.

Investment Incentives

The Industry Development and Investment Promotion Division (IDIPD) under MCIL administers several schemes designed to provide assistance to businesses that produces for overseas and domestic markets, enhancing development of domestic businesses as well as property developers in the tourism industry, and also businesses in the private sector. Such schemes offer duty concessions on imported goods for the tourism and manufacturing industries and income tax exemptions for up to 5 years for hotel operators.

  Research and Development

U.S. and foreign firms may participate in government financed or subsidized research and development programs as technical and in-country capacities are limited. However, since programs are usually financed by foreign development partners and donors, any conditions and limitations may be dependent on the source of project financing.

Performance Requirements

Many jobs are reserved for Samoan citizens, permanent residents, or temporary residents with the right to employment only. Work permits for expatriate employees are possible, but may face delays or denials. An employer must prove that he has attempted to source a position locally and that such skilled or qualified people were unavailable. This makes it difficult to source foreign labor for low to mid-skilled positions, but easier in highly skilled positions.

Data Storage

There is no forced localization other than the industry exceptions outlined in part 6 below.

6. Right to Private Ownership and Establishment

Foreign Investors are permitted 100% ownership in all different sectors of the industry with the exception of conditions for restricted activities below. The following businesses are reserved for Samoan Citizens only:
1. Bus transport services for the general public;
2. Taxi transport services for the general public;
3. Rental vehicles;
4. Retailing;
5. Saw milling; and
6. Traditional elei garment designing and printing.

Please see Samoa's Foreign Investment Act 200 for a more detailed Restricted List.
http://www.paclii.org/ws/legis/consol_act/fia2000219/

7. Protection of Property Rights

Real Property

Leasing of Land:
In accordance with the Alienation of Customary Land Act 1965 and the Alienation of Freehold Land Act 1972, Land may be leased for up to 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.

Land holdings and ownership in Samoa fall into three (3) categories:
1. Customary Land
   These lands are not for sale but can be leased out to foreigners as well as locals. All leased land in this category is registered with the Ministry of Natural Resource and Environment. In case of dispute, ownership is decided by the Ministry of Justice and Courts Administration.

2. Public Land
   The Ministry of Environment and Natural Resources administers the database of Government land available for lease. Applications for leasing of land should be submitted to the Chairman of the Samoa Land Board.

3. Freehold Land
   Freehold land cannot be sold or leased to someone who is not a citizen of Samoa, unless with the proper consent of the Head of State of Samoa.

Intellectual Property Rights

Samoa has legislation protecting patents, utility models, designs and trademarks. Enforcement is moderate. Counterfeit products are available on the local market. Counterfeit home entertainment items are common as there is only one theater in Samoa to show legitimately distributed movies. Statistics on seizures of counterfeit goods are unavailable.

To protect and safeguard intellectual property in Samoa, the Government has passed the following laws:
   a) Copyrights Act 1998 - applies to work including books, pamphlets, articles, computer programs, speeches, lectures, musical works, audiovisual, works of architecture etc.


Resources for Rights Holders

For additional information about treaty obligations and points of contact at local IP offices, please see WIPO’s country profiles at http://www.wipo.int/directory/en/.

Embassy point of contact: Benjamin Harding (685) 21631 x2231 hardingbw@state.gov

Local lawyers list: http://samoa.usembassy.gov/list_of_lawyers.html

8. Transparency of the Regulatory System

Launching a company takes only four procedures, and no minimum capital is required. The regulatory framework generally supports entrepreneurial activity, but application of the commercial codes is not always straightforward.

The World Bank’s Doing Business 2013 survey ranked Samoa 20th (out of 185 economies) in starting a business and 57th in the ease of doing business.

9. Efficient Capital Markets and Portfolio Investment

The capital market is regulated by the Central Bank of Samoa. Since January 1998, the Central Bank has implemented monetary policy by issuing its own Securities using market based techniques - commonly known as Open Market Operations (OMO). CBS Securities are the predominant monetary policy instrument, which is issued to influence the amount of liquidity in the financial system.

Capital Markets in Samoa are in their infancy with the Unit Trust of Samoa (UTOS) domestic market established in 2010, and no international stock exchange. More information on UTOS can be found in section 10.

Samoa has accepted the obligations of IMF Article VIII, Sections 2, 3, and 4, and maintains an exchange system that is free of restrictions on payments and transfers for current international transactions.

Money and Banking System, Hostile Takeovers

Samoa is well-served with banking and finance infrastructure. It has no less than four commercial banks, complimented by a dynamic development bank. The sector is ably regulated by the Central Bank of Samoa. The largest banks are regional operators ANZ and Westpac, which offer a wide range of services based upon electronic banking platforms. Although they service all markets, they tend to dominate the top-end, encompassing corporate, government and high net worth individuals. Samoa is still a cash-based society, however, and this has enabled two locally-owned entrants, the National Bank of Samoa and Samoa Commercial Bank, to each garner double-digit market share after entering the market quite recently.
With its International Finance Centre (SIFA)—the first Pacific center to be white-listed by the OECD—and a well-structured financial services sector, Samoa is well placed to service the needs of both local and offshore businesses.

10. Competition from State-Owned Enterprises

Private enterprises are allowed to compete with public enterprises under the same terms and conditions. Laws and rules do not offer preferential treatment to State-Owned Enterprises (SOEs). SOEs are subject to budget constraints and these are enforced.

SOEs are active in the Energy, Water, Health, Tourism, Banking, Agriculture supplies, and Ports/Airports sectors. Laws do not provide for a leading role for SOEs or limit private enterprise activity in sectors in which SOEs operate. SOEs have government appointed boards, and operate with varying degrees of autonomy with respect to their governing Ministry.

As additional information regarding SOEs and competition, here's an excerpt from the ADB's report "Finding Balance 2014: Benchmarking the performance of SOEs in Island Countries":

The Unit Trust of Samoa (UTOS), established in 2010 under the Prime Minister’s sponsorship, was intended as a vehicle for ordinary Samoans to participate in state-owned enterprise (SOE) privatizations. The Trust’s first investment was 25% of the privatized SamoaTel, funded by a ST$7.9 million government loan. While its prospectus identifies other SOEs as potential investments, no further privatizations have been completed.

To meet its W$500,000 annual operating costs, UTOS has been forced to seek alternative investments. By the end of FY2013, UTOS issued W$11.2 million of units to investors and borrowed W$41.0 million from Accident Compensation Corporation, Samoa National Provident Fund, Samoa International Finance Authority, Parliamentary pension scheme, and other SOEs – all controlled by the government – and lent ST$52.4 million to various SOEs and government owned commercial businesses. UTOS’ liabilities are generally long term, while its loans are short term, resulting in a significant maturity and interest rate mismatch. UTOS distorts the market and SOE behavior as follows:

- It unfairly competes against the commercial banks;
- It influences interest rates and commercial banking sector liquidity;
- Loans to SOEs are covered by a free government guarantee—normally the government charges SOEs for guarantees;
- SOEs do not need to meet commercial credit criteria;
- UTOS profits are tax free;
- The government guarantees for the SOE loans and returns from the SamoaTel investment represent a fiscal risk for the government;
- Taxpayers are effectively funding distributions to unit holders; and
- SOEs receive “cheap” money, and may be tempted to invest poorly.
OECD Guidelines on Corporate Governance of SOEs

SOEs follow a normal corporate structure with a board of directors and executive management. All SOEs have boards of directors who are appointed by a cabinet minister. Some SOEs have board seats allocated specifically to the heads of certain government ministries.

By law SOEs are required to present financials to their board of directors, shareholding Ministry and the National Auditor, timely compliance however varies between SOEs.

Sovereign Wealth Funds

There is no sovereign wealth fund or asset management bureau in Samoa. The country has the Samoa National Provident Fund which manages and invests members’ savings for their retirement.

11. Corporate Social Responsibility

There is a general awareness of corporate social responsibility (CSR) among both producers and consumers, and foreign and local enterprises to follow generally accepted CSR principles such as the OECD Guidelines for Multinational Enterprises. Firms that pursue CSR are viewed favorably but consumers generally prioritize value for money ahead of CSR claims.

OECD Guidelines for Multinational Enterprises

The government encourages foreign and local enterprise to follow generally accepted CSR principles, but there are no requirements for companies to publicly disclose information on its CSR.

12. Political Violence

The parliamentary republic functions without political violence. The risk of civil disorder is low. There is no civil strife or insurrection. There are no significant border disputes at risk of military escalation.

13. Corruption

Corruption has not been specifically identified as an obstacle to foreign investment. Both corruption and bribery are criminalized and prosecuted and the laws appear to be impartially applied.

The Office of the Ombudsman is charged with investigating official corruption. There are not international, non-governmental “watchdog” organizations represented locally, and the country was ranked 50 out of 175 on Transparency International’s Corruption Perceptions Index 2014.

UN Anticorruption Convention, OECD Convention on Combatting Bribery

Samoa is not a signatory to either of the above conventions.
Resources to Report Corruption

Embassy point of contact: Benjamin Harding (685) 21631 x2231 hardingbw@state.gov

14. Bilateral Investment Agreements

Samoa is not party to any bilateral investment treaties.

Bilateral Taxation Treaties

Samoa does not have a bilateral taxation treaty with the United States.

15. OPIC and Other Investment Insurance Programs

Overseas Private Investment Corporation (OPIC) insurance is available to investors in Samoa, and the program can provide political risk insurance, finance, direct loans, and loan guarantees.

The registry of insurance companies in Samoa is kept and maintained by the CBS and can be contacted for further insurance related matters.

16. Labor

The 2011 Census placed the total workforce at 48,000 people, with the unemployment rate at 5.7%, and 34% of the workforce engaged in subsistence living.

Wages and salaries are comparatively low. Private sector minimum wage is roughly 90 US cents an hour.

Local skilled labor is available in sufficient quantities to undertake most types of building work, except for some specialized skills and supervisory-level manpower, which is recruited locally and from abroad.

The Labour and Employment Relations Act 2013 and the Occupational Safety and Health Regulations 2014 are the most current pieces of labor legislation. These pieces of legislation are consistent with international labor standards. For more information on the treatment of labor in Samoa, please see the latest Human Rights Report at http://www.state.gov/j/drl/rls/hrrpt/.

17. Foreign Trade Zones/Free Ports/Trade Facilitation

Samoa has a Foreign Trade Zone where one factory makes automobile electrical harnesses for an assembly plant in Australia, employing around 900 workers in 2011, down from nearly 3,000 in 2008. (Source - Samoa's Trade, Commerce, and Manufacturing Sector Plan 2012-2016.)
18. Foreign Direct Investment and Foreign Portfolio Investment Statistics

*Table 2: Key Macroeconomic Data, U.S. FDI in Host Country/Economy*

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<th>Economic Data</th>
<th>Year</th>
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<th>Amount</th>
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**Foreign Direct Investment**

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<th>U.S. FDI in partner country ($M USD, stock positions)</th>
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*Samoa Bureau of Statistics

*Table 3: Sources and Destination of FDI*

IMF Coordinated Direct Investment Survey data are not available for Samoa.

*Table 4: Sources of Portfolio Investment*

Portfolio investment data are not available for Samoa.

19. Contact for More Information

Benjamin Harding – U.S. Embassy Apia Program Assistant (685) 21631 x2231 hardingbw@state.gov