

- (b) inserting in subsection (4)(a) the words "or in any other country" after the word "Tonga"; and
- (c) deleting subsection (5) and substituting with the following-

"(5) (a) It is an infringement of a patent for any person to make, construct, use or sell the patent invention solely for use reasonably related to the development and submission of information required under any law in Tonga that regulates the manufacture, construction, use or sale of any product.

- (b) The right of prior user referred to in subsection 4(d) may be transferred or devolve only together with the enterprise or business, or with that part of the enterprise or business, in which the use have been made."

9. Section 15 of the Principal Act is amended -

- (a) in subsection (1), by inserting the words "locally or by importation," after "insufficiently worked";
- (b) in subsection (3), by deleting the words "other than to import" and substituting with "including importation"; and
- (c) in subsection (4) by -
 - (i) deleting the words "not exclude," and substituting with the word "fix"; and
 - (ii) deleting paragraphs (a) and (b) and replacing with the following-
 - "(a) the scope and function of the licence;
 - (b) the time limit which the licensee shall begin to exploit the patented invention; and
- (c) the amount of the adequate remuneration to be paid to the owner of the patent and the conditions of payment."
- (d) adding new subsections (5) to (9) immediately after subsection (4) as follows -

"(5) If the invention claimed in a patent (later patent) cannot be exploited in the country without infringing a patent granted on the basis of an application benefiting from an earlier filing or, where appropriate, priority date, the Registrar upon the request of the owner of the later patent, may issue a non-voluntary licence to the extent necessary to avoid infringement of the earlier patent.

Tonga.

No. 5 of 2009.



I assent,

GEORGE TUPOU V,

30th October, 2009

AN ACT

TO AMEND THE INDUSTRIAL PROPERTY ACT 1994

5th November, 2009

BE IT ENACTED by the King and Legislative Assembly of Tonga in the Legislature of Tonga as follows:

1. (1) This Act may be cited as the Industrial Property (Amendment) Act 2009.
- (2) The Industrial Property Act 1994 is in this Act referred to as the Principal Act.
2. Section 2 of the Principal Act is amended by-
 - (a) inserting in the definition of "agent", the words "with a valid practicing licence" before the word "resident"; and
 - (b) adding the following new definitions in the appropriate places:
 - ""**International Bureau**" means the International Bureau of World Intellectual Property Organisation as described in the Madrid Protocol;"
 - ""**Madrid Protocol**" means the Protocol relating to the Madrid Agreement concerning the International Registration of Marks, adopted in Madrid on 27 June 1989;"
 - ""**Patent Cooperation Treaty**" means the Patent Cooperation Treaty established in Washington on June 1970;" and

“**World Trade Organization**” means the World Trade Organisation established in Geneva in 1995.”

3. Section 6 of the Principal Act is amended -

- (a) at the end of subsection (3), by -
 - (i) replacing the full stop with a comma; and
 - (ii) inserting the words “as long as the said application is not withdrawn, abandoned or rejected.”;
- (b) at the end of subsection (4), by -
 - (i) replacing the full stop with a comma; and
 - (ii) inserting the words “and the owner of a patent shall have the right to conclude licencing contracts.”

4. Section 7(4) of the Principal Act is amended by deleting the words “at least one mode known to the applicant for carrying out the invention” and replacing them with “the best mode for carrying out the invention known to the applicant at the filing date, or where priority is claimed, at the priority date of the application.”

5. Section 9(1) of the Principal Act is amended, at the end of the subsection by -

- (a) replacing the full stop with a comma; and
- (b) inserting the words “or any member of the World Trade Organisation.”

6. Section 11 of the Principal Act is amended -

- (a) at the end of the subsection (5) by -
 - (i) replacing the full stop with a comma; and
 - (ii) adding the words “and the Regulations relating thereto and whether information requested under Section 10, if any, has been provided.”; and
 - (iii) adding the following new subsection (6), (7) and (8) immediately after subsection (5) -

“(6) Where the Registrar is of the opinion that the application complies with the requirements under subsection (5), the Registrar shall make a decision as to whether the requirements of sections 3, 4, 5, 7(4), 7(5), 7(6), 7(7), and 8, and the Regulations, cause the application to be examined.

(7) The Registrar shall take into account, for the purpose of subsection (6) -

- (a) the result of any international search report and international preliminary examination report established under the Patent Cooperation Treaty in relation to the application;

(b) a search and examination report submitted under section 10(2)(c) relating to, or a final decision submitted under section 10(2)(c) on the refusal to grant a patent on a corresponding foreign application; and

(c) a search and examination report which was carried out upon his request by an external search and examination authority.

(a) Any international application filed or received by the Registrar in which Tonga is designated for the purposes of obtaining a patent under this Act shall be treated as an application filed under this Act.

(b) The registrar shall examine and process all international applications referred to in paragraph (a) and the provisions of the Patent Cooperation Treaty and the Regulations relating thereto.

In the event of conflict between the provision of this Act and its Regulations and the provisions of the Patent Cooperation Treaty, the former shall prevail unless the application of these provisions contravene the underlying principles of the latter, in which case the latter shall prevail, according to prescribed procedures.”

7. Section 12 of the Principal Act is amended by-

- (a) inserting in subsection (1), the words “and (6)” after “section 11 (5)”; and
- (b) adding the following new subsection (3) and (4) immediately after subsection (2)-

“(3) The Registrar shall, whenever possible, make a final decision regarding the application not later than two years after the commencement of the examination referred to in section 11.

(4) The Registrar shall, upon request of the owner of the patent, make changes in the text or drawings of the patent in order to limit the extent of the protection conferred thereby, provided that the change would not result in the disclosure contained in the patent going beyond the disclosure contained in the initial application on the basis of which the patent was granted.”

8. Section 13 of the Principal At is amended by-

- (a) inserting in subsection (3), the words “and section 16A” after “section 15”;

- (6) Where a non-voluntary licence is issued under subsection (5) the Registrar upon the request of the owner of the earlier patent, shall issue a non-voluntary licence in respect of the later patent.
 - (7) In the case for a request for the issuance of a non-voluntary licence under subsections (5) and (6), subsection (3) shall apply mutatis mutandis with the proviso that no time limit needs to be fixed.
 - (8) In the case of a non-voluntary licence issued under subsection (5), the transfer may be made only with the later patent, or, in the case of non-voluntary licence issued under subsection (6), only with the earlier patent.
 - (9) The request for the issuance of a non-voluntary licence shall be subject to payment of the prescribed fee.”
10. The Principal Act is amended by adding the following new section 16A immediately after section 16 -

“16A. Emergency Measures

- (1) The Minister may decide that, even without the agreement of the owner of the patent, a Government agency or a third person designated by him may exploit a patented invention where the-
 - (a) public interest, in particular, national security, nutrition, health or the development of other vital sectors of the national economy so requires; or
 - (b) court has determined that the manner of exploitation, by the owner of the patent or licensee, is anti-competitive, and the Minister is satisfied that the exploitation of the invention in accordance with this subsection would remedy such practice.
- (2) The exploitation of the patented invention shall be limited to the purpose for which it was authorised and shall be subjected to the payment to the owner of an adequate remuneration taking into account the economic value of the Minister’s authorisation, as determined in the said decision, and, where a decision has been taken under subsection 1(b), the need to correct anti-competitive practices.
- (3) The Minister shall make his decision after hearing the owner of the patent and any interested person if they wish to be heard.
- (4) A request for the Minister’s authorisation shall be accompanied by evidence that the owner of the patent has received, from the person seeking authorisation, a request for a contractual licence, but that person has been unable to obtain such a licence on reasonable commercial terms and conditions and within a reasonable time.

- (5) Subsection (4) shall not apply in cases of –
- (a) national emergency or other circumstances of extreme urgency provided, that in such cases the owner of the patent shall be notified by the Minister’s decision as soon as reasonably practicable;
 - (b) public non-commercial use; and
 - (c) anti-competitive practices determined as such by the Minister.
- (6) The exploitation of a patented invention in the field of semi-conductor technology shall only be authorised either for public non-commercial use or where the Minister has determined that the manner of exploitation of the patented invention, by the owner of the patent or his licensee, is anti-competitive and if the Minister is satisfied that the issuance of the non-voluntary licence would remedy such practice.
- (7) The authorisation shall not exclude the-
- (a) conclusion of a licence contract by the owner of the patent;
 - (b) continued exercise, by the owner of the patent, of his rights under section 13(1); or
 - (c) issuance of a non-voluntary licence under section 15.
- (8) Where a third person has been designated by the Minister, the authorisation may only be transferred with the enterprise or business of that person or with the part of the enterprise or business within the patented invention that is being exploited.
- (9) Where the exploitation of the invention by the Government agency or third person designated by the Minister is authorised under subsection (1), it shall be predominantly for the supply of the market in Tonga and this authorisation shall not apply where the exploitation is authorised under subsection (1) (b).
- (10) Upon request of the owner of the patent or to the Government agency or of the third person authorised to exploit the patented invention, the Minister may, after hearing the parties vary the terms of the decision authorising the exploitation of the patented invention to the extent that changed circumstances justify such variation.
- (11) (a) Upon the request of the owner of the patent, the Minister shall terminate the authorisation if he is
- (b) satisfied after hearing the parties that the circumstances which led to his decision have ceased to exist and are unlikely to occur or that the Government agency or third person designated by him has failed to comply with the terms of the decision.
 - (b) Notwithstanding paragraph (a), the Minister shall not terminate the authorisation if he is satisfied that the need for adequate protection of the legitimate interests of the Government agency or third person designated by him justifies the maintenance of the decision.

11. Section 24(3) of the Principal Act is amended by inserting the words “or in any other country” after the word “Tonga”;
12. Section 26(2)(e) of the Principal Act is amended by-
- (a) replacing the semi colon after “enterprise” with a comma; and
 - (b) adding immediately at the end of the sub-section the following “if it is well known and registered in Tonga for goods or services which are not identical or similar to those in respect of which registration is applied for, provided, in the latter case, that use or the mark in relation to those goods or services would indicate a connection between those goods or services and the owner of the well-known mark and that the interests of the owner of the well-known mark are likely to be damaged by such use;”
13. Section 27 (2) of the Principal Act is amended by inserting after the words “his predecessor in title,” the words “in or for any State Party to the said Convention or any member of the World Trade Organisation,”.
14. Section 28 of the Principal Act is amended by inserting after subsection (8) the following new subsections-
- “(9) All applications filed with the International Bureau for international registration of a mark or marks in which Tonga is designated for the purpose of obtaining protection under this Act shall be governed by the provisions of this Act and its Regulations and the provisions of the Madrid Protocol and the Regulations.
- (10) In the event of conflict between the provisions of this Act and its Regulations and the provision of the Madrid Protocol and the Regulation pertaining thereto, the former shall prevail unless the application of these provisions contravene the underlying principles of the latter, in which case the latter shall prevail, according to prescribed procedures ”
15. Section 29(3) of the Principal Act is amended by inserting the words “or in any other country” after the word “Tonga”.
16. Section 39 (3) of the Principal Act is amended by inserting after the word “Gazette” the words “, and any other publication approved by him,”.

Passed in the Legislative Assembly this 5th day of November, 2009.

- (b) Kuo pau ki he Failesisita ke sivi'i mo ngaue ki he ngaahi tohi kole fakavaha'apule'anga kotoa pe 'oku lau ki ai 'a e palakalafi (a) fakataha mo e ngaahi kupu 'o e Talite Fetokoni'aki ki he Peteni pea mo e Ngaahi Tu'utu'uni fekau'aki mo ia.
- (c) Ka 'i ai ha fepaki 'i he vaha'a 'o e ngaahi kupu 'o e Lao ni pea mo hono Ngaahi Tu'utu'uni, pea mo e ngaahi kupu 'o e Talite Fetokoni'aki ki he Peteni kuo pau ke pule 'a e 'uluaki tukukehe ka maumau 'i 'a e ngaahi tefito 'i mo'oni 'o e kimui 'i hono fakahoko 'o e ngaahi kupu ko ia, pea 'i he'ene pehe 'e pule 'a e kimui, 'o fakatatau ki ha ngaahi founga ngaue kuo tu'utu'uni.

7. 'Oku fakatonutonu 'a e kupu 12 'o e Tefito'i Lao, 'aki

- (a) hono fakahu 'i he kupu si'i (1), 'a e ngaahi lea "mo e (6)" hili 'a e "kupu 11(5)"; pea
- (b) tanaki atu mo e ngaahi kupu si'i fo'ou (3) mo e (4) hili pe 'a e kupu si'i (2)-

"(3) Kuo pau ke fakahoko 'e he Failesisita, 'i ha taimi pe 'e ala malava, ha tu'utu'uni aofangatuku fekau'aki mo e tohi kole 'o 'oua 'e to e tomui ange he ta'u 'e ua hili pe 'a e kamata 'o e sivi 'oku lau ki ai 'i he kupu 11.

(4) Kuo pau ke fakahoko 'e he Failesisita, tu'unga 'i ha kole mei he tokotaha 'oku 'a'ana 'a e peteni, ha ngaahi liliu ki he fakalea tohi pe ngaahi fakatata 'o e peteni ke fakangatangata ai 'a e lahi 'o ha malu 'i 'e foaki ki ai, ka kuo pau ko e liliu 'e 'ikai ke hoko ai ke 'ova atu 'a e fakaha 'oku ma'u 'i he peteni mei he fakaha na'e ma'u 'i he 'uluaki tohi kole 'a e na'e makatu'unga ai 'a hono foaki 'o e peteni."

8. 'Oku fakatonutonu 'a e kupu 13 'o e Tefito'i Lao 'aki hono -

- (a) fakahu atu 'i he kupu si'i (3) 'a e kupu 'i lea "mo e kupu 16A" hili 'a e "kupu 15";
- (b) fakahu atu 'i he kupu si'i (4)(a) 'a e ngaahi fo'i lea "pe 'i ha fonua kehe" hili 'a e fo'i lea "Tonga"; pea
- (c) tamate'i 'a e kupu si'i (5) kae fetongi 'aki 'eni -



'Oku ou loto ki ai,
SIAOSI TUPOU V,
30 'o 'Okatopa, 2009.

KO E LAO

KE FAKATONUTONU 'A E LAO KI HE NGA AHI KOLOA 'A E NGA AHI NGAUE'ANGA 1994

5 'o Novema, 2009

'OKU TU'UTU'UNI 'e he Tu'i mo e Fale Alea 'o Tonga 'i he Fakataha Alea 'a e Pule'anga 'o pehe:

- 1. (1) 'E ui 'a e Lao ni ko e Lao (Fakatonutonu) ki he Ngaahi Koloa 'a e Ngaahi Ngaue'anga 2009.
- (2) 'Oku ui 'i he Lao ni 'a e Lao ki he Ngaahi Koloa 'a e Ngaahi Ngaue'anga 1994 ko e Tefito'i Lao.

2. 'Oku fakatonutonu 'a e kupu 2 'o e Tefito'i Lao 'aki hono -

- (a) fakahu 'i he 'uhinga'i lea 'o e "fakafofonga", 'a e ngaahi kupu 'i lea ko 'eni "'oku 'i ai ha'ane laiseni ngaue 'oku kei 'aonga" kimu'a 'i he fo'i lea "'oku nofo"; pea
- (b) tanaki atu 'a e ngaahi 'uhinga'i lea fo'ou ko 'eni 'i he ngaahi feitu'u 'oku taau:

“**Potungaue Fakavaha'apule'anga**” 'oku 'uhinga ia ki he Potungaue Fakavaha'apule'anga 'o e Kautaha Fakavaha'apule'anga ki he Koloa Fakaepoto 'i hono fakamatala' 'i he Potokolo 'o Madrid;”;

“**Potokolo 'o Madrid**” 'oku 'uhinga ia ki he Aleapau 'o Madrid fekau'aki mo hono Lesisita Fakavaha'apule'anga 'o e Ngaahi Maaka, na'e tali 'i Madrid 'i he 'aho 27 'o Sune 1989;”;

“**Talite Fetokoni'aki ki he Peteni**” 'oku 'uhinga ia ki he Talite Fetokoni'aki ki he Peteni na'e fokotu'u 'i Uasingatoni 'i Sune 1970;”;

“**Kautaha Fefakatau'aki 'a Mamani**” 'oku 'uhinga ia ki he Kautaha Fefakatau'aki 'a Mamani na'e fokotu'u 'i Siniva 'i he 1995;”;

3. 'Oku fakatonutonu 'a e kupu 6 'o e Tefito'i Lao -

- (a) 'i he ngata'anga 'o e kupu si'i (3), 'aki hono
- (i) fetongi 'a e pilote 'aki 'a e koma; pea
- (ii) fakahu ai 'a e kupu'i lea “kapau ko e tohi kole ko ia kuo 'ikai fakafoki, fakata'e'aonga'i pe fakafisinga'i.”;
- (b) 'i he ngata'anga 'o e kupu si'i (4), 'aki hono –
- (i) fetongi 'a e pilote 'aki 'a e koma; pea
- (ii) fakahu ai 'a e kupu'i lea “pea ko e tokotaha 'oku 'a'ana 'a e peteni 'oku ne ma'u 'a e totonu ke aofangatuku ha ngaahi aleapau laiseni.”

4. 'Oku fakatonutonu 'a e kupu 7(4) 'o e Tefito'i Lao 'aki hono tamate'i 'a e kupu'i lea “ha founga 'e taha pe lahi ange 'oku 'ilo'i 'e he tokotaha kole ki hono faka'aonga'i 'o e 'ilo fo'ou” pea fetongi 'aki “a e founga lelei taha ki hono faka'aonga'i 'o e 'ilo fo'ou 'oku 'ilo 'e he tokotaha kole 'i he 'aho fakahu atu, pe kapau 'oku'eke'i 'a e mu'aki totonu, 'i he 'aho 'o e mu'aki totonu 'o e tohi kole.”

5. 'Oku fakatonutonu 'a e kupu 9(1) 'o e Tefito'i Lao, 'i he ngata'anga 'o e kupu si'i, 'aki hono-

- (a) fetongi 'a e pilote 'aki 'a e koma; pea
- (b) fakahu atu 'a e kupu'i lea “pe ko ha memipa pe 'o e Kautaha Fefakatau'aki 'a Mamani.”

6. 'Oku fakatonutonu 'a e kupu 11 'o e Tefito'i Lao -

- (a) 'i he ngata'anga 'o e kupu si'i (5), 'aki hono
- (i) fetongi 'a e pilote 'aki 'a e koma; pea
- (ii) fakahu atu 'a e kupu'i lea “pea mo e Ngaahi Tu'utu'uni 'oku felave'i mo ia pe kuo 'osi 'omai 'a e fakamatala na'e fiema'u 'i he kupu 10 pe 'ikai, kapau na'e 'i ai.”; pea
- (b) 'aki hono tanaki atu 'a e kupu si'i fo'ou (6), (7) mo e (8) ko 'eni 'i he hili pe 'a e kupu si'i (5) -

“(6) Kapau 'oku pehe 'e he Failesisita kuo fakakakato 'e he tohi kole 'a e ngaahi fiema'u 'i he kupu si'i (5), kuo pau ke fakahoko 'e he Failesisita ha tu'utu'uni fekau'aki mo e ngaahi fiema'u 'i he kupu 3, 4, 5, 7(4), 7(5), 7(6), 7(7) mo e 8, pea mo e Ngaahi Tu'utu'uni, pea 'oatu 'a e tohi kole ke fai hono sivi.

(7) Kuo pau ke kau 'i hono fakakaukau' 'i he Failesisita, koe'uhi ko e taumu'a 'o e kupu si'i (6) -

- (a) 'a e ola 'o ha lipooti fakatotolo fakavaha'apule'anga mo ha lipooti fuofua sivi fakavaha'apule'anga kuo fakahoko 'i he Talite Fetokoni'aki ki he Peteni 'o fekau'aki mo e tohi kole; mo
- (b) ha lipooti fakatotolo mo e sivi kuo fakahu 'i he kupu 10(2)(c) 'o felave'i mo e, pe ko ha tu'utu'uni aofangatuku kuo fakahu 'i he kupu 10(2)(c) 'i hono fakafisinga'i ke foaki ha peteni ki ha tohi kole muli tatau mo ia; mo
- (c) ha lipooti fakatotolo mo e sivi na'e fakahoko tu'unga 'i ha'ane kole ki ha sino fai fakatotolo mo sivi mei tu'a.
- (8) (a) Ko ha ngaahi tohi kole fakavaha'apule'anga kuo faile pe ma'u 'e he Failesisita 'a ia kuo vahe'i 'a Tonga 'i he taumu'a ke ma'u ha peteni 'i he Lao ni 'e lau ia ko ha tohi kole kuo faile 'i he Lao ni.

- (6) Kuo pau ko hono faka'aonga'i 'o ha 'ilo fo'ou kuo peteni 'i he mala'e 'o e tekinolosia fakakonitakitooa (semi-conductor) 'e fakamafai pe ia ki hono faka'aonga'i ta'efakakomesiale pe kapau kuo tu'utu'uni 'e he Minisita ko hono faka'aonga'i 'o e 'ilo fo'ou kuo peteni, 'e he taha 'a'ana 'a e peteni pe ko ia 'oku ne laiseni, 'oku 'ikai faka'ai'ai ai 'a e fe'aui pea kapau kuo fiemalie 'a e Minisita 'e lava ke fakalelei'i 'a e founga ngaue ko ia 'e hano foaki atu ha laiseni fakakouna.
- (7) Ko hano foaki ha fakamafai 'e 'ikai ke ne fakata'e'aonga'i ai 'e ia-
- (a) hano aofangatuku 'o ha aleapau laiseni 'e he tokotaha 'oku 'a'ana 'a e peteni;
- (b) 'a e hokohoko atu hono ngaue'aki 'e he tokotaha 'oku 'a'ana 'a e peteni, 'a 'ene ngaahi totonu 'i he kupu 13(1); pe
- (c) 'a hono foaki atu ha laiseni fakakouna 'i he kupu 15.
- (8) Kapau kuo vahe'i 'e he Minisita ha taha kehe, 'e toki ngofua pe ke hiki 'a e fakamafai fakataha mo e kautaha pe pisinisi 'a e taha ko ia pe mo ha kongā 'o e kautaha pe pisinisi 'oku ne ngaue'aki 'a e 'ilo fo'ou kuo peteni 'a ia 'oku ngaue'aki.
- (9) Kapau kuo fakamafai 'i he kupu si'i (1) 'a hono ngaue'aki 'o e 'ilo fo'ou 'e he fakafofonga 'o e Pule'anga pe ko ha taha kehe kuo vahe'i 'e he Minisita, kuo pau 'e taumu'a tefito pe ki hono 'oatu ki he maketi 'i Tonga pe ko e fakamafai ko 'eni kuo pau 'e 'ikai ke ngaue'aki 'i he taimi 'oku fakangofua ai 'a e ngaue'aki 'i he kupu si'i (1)(b).
- (10) 'I ha kole 'a e taha 'a'ana 'a e peteni ki he fakafofonga 'o e Pule'anga pe ki ha taha kehe kuo fakamafai'i ke ne faka'aonga'i 'a e 'ilo fo'ou kuo peteni, 'e ngofua ki he Minisita hili ha'ane fanongo ki he ngaahi fa'ahi, ke liliu 'a e ngaahi tu'unga 'o e tu'utu'uni 'o e fakamafai ke faka'aonga'i 'a e 'ilo fo'ou kuo peteni ki he tu'unga ko ia ko e ngaahi me'a kuo liliu 'oku taau ai ke fai ha liliu.
- (11) (a) 'I he kole mei he taha 'a'ana 'a e peteni, kuo pau ke fakangata 'e he Minisita 'a e fakamafai kapau kuo ne fiemalie hili ha'ane fanongo ki he ngaahi fa'ahi ko e ngaahi tu'unga na'e fakahoko ai 'ene tu'utu'uni kuo ngata 'o 'ikai toe hoko pea 'oku ngalingali 'e 'ikai ke toe hoko pe kuo 'ikai malava 'e he fakafofonga 'o e

“(5) (a) 'E lau kuo maumau'i ha peteni 'e ha tokotaha 'oku ne ngaohi, fokotu'u, ngaue'aki pe fakatau atu 'a e 'ilo fo'ou kuo peteni 'o makatu'unga 'ata'ata pe 'i he ngaue felave'i mo hono fakalalakala mo hono fakahu atu ha fakamatala fakapotopoto 'oku fiema'u 'e ha Lao 'i Tonga 'oku ne pule'i 'a hono ngaohi, fa'u, ngaue'aki pe fakatau atu 'o ha fa'ahinga koloa.

(b) Ko e totonu 'a ha taha ngaue'aki tomu'a 'oku lau ki ai 'a e kupu si'i (4)(d) 'e ala hiki pe to'o fakataha pea mo e kautaha pe pisinisi, pe ko e kongā 'o e kautaha pe pisinisi, 'a ia na'e fakahoko ai 'a hono ngaue'aki.”

9. 'Oku fakatonutonu kupu 15 'o e Tefito'i Lao -

(a) 'i he kupu si'i (1), 'aki hono fakakau atu 'a e kupu'i lea “fakalotofonua pe ko hono hu mai mei tu'apule'anga” hili 'a e kupu'i lea “hono faka'aonga'i”;

(b) 'i he kupu si'i (3), 'aki hono tamate'i 'a e kupu'i lea “makehe mei hono humai mei tu'apule'anga” kae fetongi'aki 'a e “kau ai 'a hono hu mei tu'apule'anga”; pea

(c) 'i he kupu si'i (4) 'aki -

(i) hono to'o 'a e kupu 'i lea “'e 'ikai ta'ofi ai” pea fetongi 'aki 'a e fo'i lea “te ne fakapapau'i”;

(ii) tamate'i 'a e palakalafi (a) mo e (b) kae fetongi ia 'aki 'eni-

“(a) 'a e lahi mo e fatongia 'o e laiseni;

(b) 'a e taimi fakangatangata ke kamata faka'aonga'i ai 'e he ma'u laiseni 'a e 'ilo fo'ou kuo peteni; pea

(c) mo e lahi 'o ha totongi fe'unga ke totongi atu ki he tokotaha 'oku 'a'ana 'a e peteni pea mo e ngaahi tu'unga 'o e totongi.”

(d) tanaki atu 'a e kupu si'i fo'ou (5) ki he (9) hili pe 'a e kupu si'i (4) 'o hange ko 'eni -

“(5) Kapau ko e 'ilo fo'ou 'oku kole ki ai 'e he peteni (peteni ki mui) 'oku 'ikai ke lava ia 'o ngaue'aki 'i he fonua ta'e te ne maumau' i ha peteni kuo foaki 'o makatu'unga 'i ha tohi kole na'e tomu'a faile ki mu'a, pe 'i ha me'a pe 'e 'aonga ai, 'aho totonu tomu'a, 'e ngofua ki he Failesisita, 'i ha kole mei he taha 'a'ana 'a e peteni ki mui, ke ne foaki ha laiseni fakakouna ki he tu'unga 'e 'ikai ala hoko ai ha maumau 'o e 'uluaki peteni.

(6) Kapau 'e foaki ha laiseni fakakouna 'i he kupu si'i (5) kuo pau ki he Failesisita, 'i ha kole mei he tokotaha 'a'ana 'a e mu'aki peteni, ke ne foaki ha laiseni ta'efakakouna ma'ae peteni ki mui.

(7) Kapau ko ha kole ke foaki ha laiseni fakakouna 'i he kupu si'i (5) mo e (6), 'e ngaue'aki 'a e kupu si'i (3) 'i hono fakahoko 'o e ngaahi liliu 'oku fiema'u ka kuo pau 'e 'ikai fiema'u ke fakahoko ha fakangatangata fakataimi.

(8) Kapau ko ha laiseni fakakouna kuo foaki 'i he kupu si'i (5), 'e ngofua ke fakahoko 'a e hiki 'aki 'a e peteni ki mui pe, pe kapau ko ha laiseni fakakouna kuo foaki 'i he kupu si'i (6), 'e fakahoko pe ia 'i he peteni kimu'a.

(9) Ko ha kole ki hono foaki 'o ha laiseni fakakouna kuo pau ke totongi 'a e totongi kuo tu'utu'uni.”

10. 'Oku fakatonutonu 'a e Tefito'i Lao 'aki hono tanaki atu 'a e kupu 16A fo'ou 'i he hili pe 'a e kupu 16 -

“16A Ngaahi Ngaue 'i ha Fakatamaki

(1) 'E ngofua ki he Minisita ke ne tu'utu'uni, neongo pe 'e 'ikai loto ki ai 'a e taha 'a'ana 'a e peteni, ki ha fakafofonga 'o e Pule'anga pe ko ha tokotaha kehe ange te ne fili ke ne faka'aonga'i 'a e 'ilo fo'ou kuo peteni, kapau -

(a) 'e fiema'u ki he lelei 'a e kakai 'o e fonua, kae tautefito ki he malu 'a e fonua, me'atokoni, mo'ui lelei pe ko ha fakalalakala 'i he ngaahi sekitoa tefito kehe 'o e 'ekonomika fakafonua; pe

(b) kuo tu'utu'uni 'i he Fakamaau'anga 'oku ko e founa 'o hono faka'aonga'i 'e he taha 'a'ana 'a e peteni pe laiseni, 'oku 'ikai ke faka'ai'ai ai 'a e fe'auhi, pea kuo fiemalie 'a e Minisita ko hono faka'aonga'i 'o e 'ilo fo'ou 'o fakatatau ki he kupu si'i ni te ne fakalelei' i ha founa ngaue pehe.

(2) Kuo pau 'e fakangatangata 'a hono faka'aonga'i 'o e 'ilo fo'ou kuo peteni ki he taumu'a pe ko ia kuo fakamafai' i ki ai pea kuo pau ke totongi ki he taha 'a'ana ha totongi fe'unga 'o fakakaukau' i 'a e mahu'inga faka'ekonomika 'o e fakamafai kuo fai 'e he Minisita, 'a ia kuo fakapapau' i 'i he tu'utu'uni, pea kapau kuo fai ha tu'utu'uni pehe 'i he kupu si'i (1)(b) moe fiema'u ke fakatonutonu 'a e ngaahi ngaue 'oku 'ikai ke faka'ai'ai ai 'a e fe'auhi,

(3) Kuo pau ke fakahoko 'e he Minisita 'ene tu'utu'uni hili 'ene fanongo ki he tokotaha 'oku 'a'ana 'a e peteni pea mo ha taha pe 'oku kaunga ki ai kapau 'oku nau fiema'u ke fanongo kia kinautolu.

(4) Ko ha kole ki ha fakamafai 'a e Minisita 'e 'omai fakataha ia mo e fakamo'oni, kuo ma'u 'e he tokotaha 'oku 'a'ana 'a e peteni mei he tokotaha 'oku kole fakamafai, ha tohi kole ki ha aleapau laiseni, ka na'e 'ikai malava 'e he tokotaha ko ia ke ma'u ha laiseni 'i ha ngaahi tu'unga mo ngaahi tu'utu'uni fakakomesiale fakapotopoto i ha taimi fakapotopoto.

(5) Kuo pau 'e 'ikai ke ngaue'aki 'a e kupu si'i (4) -

(a) 'i ha hoko ha fakatamaki fakafonua pe 'i he hoko ha ngaahi me'a matu'aki fakatu'upake ka kuo pau, 'i ha fa'ahinga tu'unga pehe ke fakaha ki he tokotaha 'oku 'a'ana 'a e peteni 'a e tu'utu'uni 'a e Minisita 'i he taimi vave taha fakapotopoto;

(b) 'i ha ngaue'aki 'e he kakai 'o e fonua 'i ha taumu'a ta'efakakomesiale; mo e

(c) 'i ha ngaahi ngaue 'oku 'ikai faka'ai'ai ai 'a e fe'auhi kuo fakapapau' i 'e he Minisita.

Pule'anga pe taha kuo ne fakamafai'i ke fakakakato 'a e ngaahi tu'unga 'o e tu'utu'uni.

- (b) Neongo 'a e palakalafi (a), kuo pau 'e 'ikai ke fakangata 'e he Minisita 'a e fakamafai kapau kuo ne fiemalie ko e fiema'u ke malu'i fe'unga 'a e ngaahi totonu taau 'a e fakafofonga 'o e Pule'anga pe taha kehe kuo ne vahe'i 'oku ne faka'uHINGA'i lelei 'a hono tauhi 'a e tu'utu'uni.
11. 'Oku fakatonutonu 'a e kupu 24(3) 'o e Tefito'i Lao 'aki hono fakahu 'a e kupu 'i lea "pe ko ha to e fonua kehe" hili 'a e lea "Tonga".
12. 'Oku fakatonutonu 'a e kupu 26(2)(e) 'o e Tefito'i Lao 'aki hono -
- (a) fetongi 'a e semikoloni hili 'a e "kautaha kehe" 'aki 'a e koma; pea
- (b) tanaki atu 'i he hili pe 'a e kupu si'i 'a e kupu'i lea "kapau 'oku 'iloa pea lesisita 'i Tonga ni ki he ngaahi koloa pe ngaahi ngaue 'oku 'ikai tatau pe meimei tatau mo kinautolu 'oku 'uhinga ai 'a e kole lesisita, ka kuo pau, 'i he me'a kimui, ko hono ngaue'aki pe ko e maaka felave'i mo e koloa pe ngaue ko ia te ne fakahaa'i ha fekau'aki 'a e koloa pe ngaue ko ia mo e taha 'oku 'a'ana 'a e maaka 'iloa pea ko e ngaahi totonu 'a e taha 'oku 'a'ana 'a e maaka 'iloa 'oku ngalingali 'e maumau'i 'i hono ngaue'aki pehe;"
13. 'Oku fakatonutonu 'a e kupu 27(2) 'o e Tefito'i Lao 'aki hono fakahu atu hili 'a e kupu'i lea "totonu fakalao" 'a e kupu'i lea ""'i he pe ma'a ha Fonua Memipa ki he Konivesio ko ia pe ha memipa 'o e Kautaha Fefakatau'aki 'a Mamani,".
14. 'Oku fakatonutonu 'a e kupu 28 'o e Tefito'i Lao 'aki hono fakahu atu 'i he ngata'anga 'o e kupu si'i (8) 'a e ngaahi kupu si'i fo'ou ni -
- (9) Ko e ngaahi tohi kole kotoa pe kuo faile 'i he Potungae Fakavaha'apule'anga ki hono lesisita 'i tu'apule'anga ha maaka pe ngaahi maaka kuo vahe'i ai 'a Tonga 'i he taumu'a ke malu'i 'i he Lao ni kuo pau ke pule'i ia 'e he ngaahi kupu 'o e Lao ni mo hono Ngaahi Tu'utu'uni mo e ngaahi kupu 'o Potokolo 'o Madrid mo e Ngaahi Tu'utu'uni.

(10) Kapau 'e hoko ha fepaki 'i he vaha'a 'o e ngaahi kupu 'o e Lao ni mo hono Ngaahi Tu'utu'uni mo e ngaahi kupu 'o e Potokolo 'o Madrid mo hono Ngaahi Tu'utu'uni, kuo pau ke pule 'a e 'uluaki tukukehe ka maumau'i 'a e ngaahi tefito'i mo'oni 'o e kimui 'i hono fakahoko 'o e ngaahi kupu ko ia, pea 'i he'ene pehe 'e pule 'a e kimui, 'o fakatatau ki ha ngaahi founa ngaue kuo tu'utu'uni.

15. 'Oku fakatonutonu 'a e kupu 29(3) 'o e Tefito'i Lao 'aki hono fakahu 'o e kupu 'i lea "pe 'i ha to e fonua kehe" hili 'a e fo'i lea "Tonga".

16. 'Oku fakatonutonu 'a e kupu 39(3) 'o e Tefito'i Lao 'aki hono fakahu atu hili 'a e fo'i lea "Kasete" 'a e kupu'i lea "pea mo ha pulusi kehe te ne fakangofua,".

Na'e tali 'i he Fale Alea 'i he 'aho 5 'o Novema, 2009.