Executive Summary[1]

Formally, the Government of Papua New Guinea (PNG) welcomes foreign investment and on paper, the country has a liberal investment regime. The reality is more complicated, PNG is rich in gold, oil, gas, copper, silver, and timber, and is home to abundant fisheries. Under Prime Minister Peter O'Neill, the government has recently placed a priority on the downstream processing of these assets to drive economic growth. Strong macroeconomic management, until recently, had created the longest uninterrupted period of economic growth since the country's independence in 1975.

Large investments to date have been concentrated in the minerals and petroleum sectors. While Exxon Mobil PNG's $19 billion PNG liquefied natural gas (PNG LNG) investment has been the most notable, other investments in communications, construction, and real estate, for example, have given significant impetus and created spillovers into other sectors. These investments have supported growth in formal employment, creating shortages of skilled labor. The government supports developments in the tourism sector, and believes that the country has huge untapped potential in this area. The government gives preference to foreign investment proposals to develop renewable resources including forests, fisheries, and agricultural commodities.

The PNG government has taken several steps over the last year to create additional opportunities for PNG business owners and to protect certain industries from foreign investment, and has expropriated PNG's largest taxpaying company, Ok Tedi Mining Limited, and said publically that the rationale for doing so was to remove foreign leadership and ensure that assets were directly benefiting the people of PNG. Since August 2013, the PNG government has: passed a new national interest test for foreign companies; drafted an SME policy that increases the economic sectors that will be reserved for nationals only; prevented Vodaphone Fiji from acquiring BeMobile, blocked Malaysian company Kulim from acquiring majority shares in New Britain Palm Oil Limited; and announced its intention to limit foreign ownership of the media.

The government has discussed establishing a sovereign wealth fund for several years, but that appears to be on hold while it restructures the revenue management system for its mining and petroleum investments and state owned enterprises. Under the restructuring, PNG's Independent Public Business Corporation and PNG's Petromin Holdings will cease to exist, and the state's ownership of all its ventures will be vested in three new "Kumul" entities. Referred to as the "Kumul Trust," these three entities will own the PNG government's petroleum, mining, and other state-owned enterprises. The legislation to create this arrangement has not yet been passed, however, so these changes have not yet gone into effect.

Over the last year, PNG has taken steps to increase transparency in its extractive sector. After submitting its application to be an Extractive Industries Transparency Initiative (EITI) candidate country in December 2013, PNG's application was approved on March 19, 2014. PNG now has

[1] All calculations for kina in U.S. dollars are done at a $1.00 USD = PGK 2.3 exchange rate.

one year to submit the required reporting on natural resource contracts and revenues in the country. This report will detail payments made by extractive companies to the government, and will shed light on what the government is doing with these earnings.

Challenges to investment include weak enforcement of contracts, inconsistent government policies, corruption, crime, inadequate infrastructure (including unreliable power), underdeveloped private markets, and extremely high commodity and internet costs. Recruitment and retention of skilled workers is also an impediment to doing business in Papua New Guinea. U.S. companies have shared concerns about the PNG government's tendering process, saying competitions have been narrowed to limit contenders – at times to a single source – and that this resulted in U.S. companies not being able to compete. U.S. companies have also reported a trend of the PNG government preferring to make deals through third party companies rather than directly to the source company for materials and services.

1. Openness To, and Restrictions Upon, Foreign Investment

Attitude Toward FDI

On paper, Papua New Guinea (PNG) has a liberal investment regime, and the government has recently placed a priority on the downstream processing of its extractive resources to spur economic growth. Prime Minister Peter O'Neill is known as being business friendly, and has been hailed for providing the political impetus to allow Exxon Mobil PNG's massive LNG project to proceed, and produce first gas ahead of schedule. Many businesses in PNG are foreign owned, although this has caused some PNG nationals – and politicians – to raise concerns that foreign investment engagement does not allow for a fair operating environment for PNG entrepreneurs.

The PNG government has taken several steps over the last year to create additional opportunities for PNG business owners and to 'protect' certain industries from foreign investment. It has expropriated PNG's largest taxpaying company, Ok Tedi Mining Limited. Officials have said publically that the rationale for doing so was to remove foreign leadership and ensure that assets were directly benefiting the people of PNG. Since August 2013, the PNG government has: passed a new national interest test for foreign companies; drafted an SME policy that increases the economic sectors that will be reserved for nationals only; prevented Vodaphone Fiji from acquiring BeMobile; blocked Malaysian company Kulim from acquiring majority shares in New Britain Palm Oil Limited; and announced its intention to limit foreign ownership of the media.

These steps aside, the PNG government has made some progress creating policies and systems to streamline the regulatory and administrative requirements for foreign investors. Established by an Act of Parliament in 1992, the Investment Promotion Authority (IPA) promotes and facilitates investment and acts as a one-stop-shop facility for investors. Foreign investment requires government approval and is regulated by the national government with the assistance of the IPA per the Investment Promotion Act. More information on the IPA can be found at: www.ipa.gov.pg.

The IPA facilitates investment proposals, identifies relevant government departments, and helps investors obtain the required approvals, licenses, and permits. The IPA does not charge fees for the business facilitation and advisory services it accords to investors. However, fees are applicable for services such as company registration, foreign enterprise certification, and registration of intellectual properties. There are private sector agencies that provide business facilitation and advisory services for a fee.

Delays in the IPA's certification process have ripple effects on investment in PNG, but this is not unique to American investors and affects all investors. In December 2013, the IPA introduced an online registry system that will significantly speed up the registration of companies, but this has yet to go live since it is still pending Parliamentary approval of relevant legislation.

Certification conditions apply to IPA approval, and the IPA may suspend or cancel a certificate if a foreign enterprise breaches its terms. A certified foreign enterprise must notify the IPA of certain changes in control of the enterprise (other than one that is a public company listed on a stock exchange that is a member of the Federation Internationale des Bourses de Valeurs) and would need to obtain a "re-certification." Certified enterprises wishing to expand or diversify their operations have to submit an Application for Variation to the IPA. Registering a new or overseas company takes between 24 hours to three weeks and costs 500 kina (approximately $217). Certifying a foreign company takes two to five weeks and costs 2,000 kina (approximately $870).

Other Investment Policy Reviews

PNG has not undergone any Investment Policy Reviews by UNCTAD, the WTO, or the OECD.

PNG last had a Trade Policy Review (TPR) done by the World Trade Organization in February 2011, and that report can be found here: https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S009-DP.aspx?language=E&CatalogueIdList=92424,108906,94338,83592,20952,39427&CurrentCatalogueIdIndex=1&FullTextSearch=. That review found that PNG's resource-rich economy remains heavily reliant on subsistence agriculture, heavily trade dependent (both on primary exports and manufactured imports, including inputs), and vulnerable to world commodity price movements.

PNG has become more outward looking, with fewer import restrictions, especially lower tariffs, and relatively few formal non-tariff barriers overall. Notable exceptions include the 30-year import ban on petroleum products under the Agreement establishing the Napa Napa oil refinery. In principle, the TPR found that PNG's trade policy has been aimed at the "domestication" of value added across sectors, especially fishing, to promote processing, import substitution, and to diversify the economy. Although PNG adopted an Export Driven Economic Recovery and Growth strategy in 2002, reform of outdated trade-related laws has generally been slow and piecemeal, handicapped by PNG's limited institutional, resource, and technical capacities. PNG controls certain imports predominantly for national health, safety, security, and environmental reasons. The review also found that government procurement, while reformed, is an important instrument of industrial policy. Contracts under 1 million kina are reserved for local suppliers, who also receive a preferential margin of 7.5 percent on larger contracts up to 10 million kina. State-owned enterprises, including statutory monopolies, dominate many key service industries e.g. power, telecommunications, aviation, water, sewerage, postal services, and ports.

More recently, PNG requested an external review of the five regulatory regimes covered by the Ease of Doing Action Plan launched at the Asia Pacific Economic Cooperation's (APEC) 21st Annual Ministerial Meeting in Singapore in November 2009. In response to this request, an assessment was procured in 2013 by the APEC Technical Assistance Training Facility (TATF), a USAID-funded program. This assessment has not been finalized. PNG has not undergone an investment policy review by the Organization for Economic Cooperation and Development (OECD) or the United Nationals Committee on Trade and Development (UNCTAD).

Laws/Regulations of FDI

Foreign investors can either be incorporated in PNG as a subsidiary of an overseas company and registered as a totally new foreign entity, or incorporated under the laws of another country and therefore registered as an overseas company under the Companies Act 1997. A Certificate of Incorporation will be issued for the first option. A Company Registration Certificate will be issued for the second option, provided the relevant documentation is submitted.

The Companies Act of 1997 and Companies Regulation (1998) regulate all matters regarding private and public companies, both foreign and domestic. All foreign business entities must have IPA approval and must be certified and registered with the government before commencing operations in PNG. While government departments have their own procedures for approving foreign investment in their respective economic sectors, the IPA provides investors with the relevant information and contacts. The regulations governing foreign investments in PNG include:

- Free Trade Zone Act 2000;
- Investment Promotion Act 1992;
- Papua New Guinea Companies Act 1997;
- Forestry Act 1991;
- Mining Act 1992;
- Fisheries Act 1994; and
- Oil and Gas Act 1998.

In August 2013, the government amended the Takeovers Code in August to include a new, and undefined, "national interest" test for foreign companies wanting to buy into local companies. The new restriction says that the Securities Commission of Papua New Guinea (SCPNG) "shall issue an order preventing a party from acquiring any shares, whether partial or otherwise, under this code if the commission views that such acquisition or takeover is not in the national interest of PNG." The new national interest test applies to any company, domestic or foreign, registered under the PNG Companies Act that is listed on any stock exchange or has assets of more than 5 million kina (approximately $2.1 million), more than 25 shareholders, and more than 100 staff. While other countries have similar laws, investors have quietly noted concern over actions that have occurred alongside this change and cited a growing sentiment of "resource nationalism."

This has led some to fear that these developments will discourage foreign investment and have a negative impact on the share price of such companies.

The SCPNG has already used the Takeovers Code to block one high-profile deal. Also in August 2013, the government rejected a bid by Malaysian palm oil company Kulim to increase its share in the London stock exchange listed New Britain Palm Oil Limited (NBPOL). NBPOL is one of PNG's largest employers, and in addition to its palm oil holdings, is also the largest domestic sugar (owns Ramu Sugar) and beef producer in PNG. Kulim owns 48.97 percent of the company, and this bid would have increased its share to 68.97 percent. In the past, Kulim's share has exceeded 50 percent, but the NBPOL's board rejected the offer (see decision here: http://www.nbpol.com.pg/wp-content/uploads/downloads/2013/08/NBPOL-Target-Company-Statement-6-Aug-2013.pdf), and then the SCPNG imposed a restraining order on the company. The National Court of Papua New Guinea then dismissed Kulim's application to lift the SCPNG's order. The SCPNG said in its order that NBPOL is the pride of PNG and the West New Britain Province, and a renowned flagship that floats their names on the international financial and commodity markets. SCPNG went on to say that it "[saw] that Papua New Guinea and its shareholders [would] be marginalized by a foreign company on their own land." Following the decision, Trade Minister Richard Maru told the press that 90 percent of PNG's economy was owned by foreigners, and said that "as a responsible government we're going to take some very drastic steps to create more opportunities for our own citizens to enjoy the wealth of our nation."

The PNG government has also taken steps to limit foreign ownership in telecommunications and the media that have been termed by observers to be motivated by nationalism. In August 2013, the PNG government blocked a deal for Vodaphone Fiji to revitalize PNG's state owned mobile phone carrier, BeMobile, citing disagreements over the use of a specific contractor. However, it was widely reported that the government did not want to approve the deal because the Fiji National Provident Fund had a 40 percent stake in the venture. Instead, the government tasked re-hauling BeMobile to state-owned Independent Public Business Corporation (IPBC), a statutory corporation that holds a number of state-owned enterprises and fixed line incumbent Telikom PNG.

In October 2013, the government announced its intention to limit foreign ownership of the media. Almost every media outlet in PNG is foreign owned, with the exception of the government's radio station, the National Broadcasting Corporation (NBC). One of PNG's two main television stations, EMTV, is owned by Fiji Television. PNG's two daily newspapers are owned by Australian and Malaysian companies. The Post Courier is 63 percent owned by Rupert Murdoch's News Corp, which also publishes the Australian. The National is owned by Malaysian conglomerate Rimbunan Hijau, which has ties to the logging industry. Fiji Communications owns three of PNG's major radio stations (Nau-FM, Yumi-FM, and Legend FM). Tevita Gonelevu, CEO of Fiji Television, said he was concerned that the government would enact a law along the lines of the Fiji Media Decree where media must be majority owned by locals. The media outlets are regulated by the National Information & Communications Technology Authority (NICTA).

On June 19, 2014, O'Neill announced that PNG's cabinet, the National Executive Council (NEC), had decided to: cancel all of the illegally obtained Special Agriculture and Business Licenses (SABLs) that a special Commission of Inquiry had recommended be revoked; repeal provisions of the Land Act that allow SABLs to be issued; direct the Department of Lands and Physical Planning not to process any more SABL; set up a task force inside the PNG Forest Authority to review 31 SABLs for which the Commission did not make a specific recommendation; and set up a team to fully implement the Commission's recommendations and the NEC decision. No timeframe was given for these actions. O'Neill told the press that the government's goal was "to reclaim our customary land illegally lost to foreigners with the help of corrupt public servants and leaders," and added that his government "will not allow our land to be lost to unscrupulous people out to con our people." This follows the decision of the PNG National Court to nullify two SABLs that it found were illegally issued to a Malaysian oil palm company.

In May, O'Neill had signaled that the NEC would take these actions when he told a caller during a popular radio call in show that "developers come in the guise of developing agriculture projects but get into logging. Our aim is to cancel all the SABLs in the country." During that same interview, he said that land that was recovered through the revocation of these SABLs would be put into a trust to create public spaces for the people of PNG.

Industrial Strategy

The PNG government's economic development and industrial policies are aimed at increasing the value and volume of value-added products. Government policies encourage the development of PNG's non-mining sectors including **manufacturing**, renewable resources such as **agriculture** and fisheries, and business **services**, to promote economic self-sufficiency. These policies focus on creating industries and business that will create employment and grow PNG's economy in a way that can be sustained after PNG's natural resources are depleted. That said, though PNG's **mining** and petroleum sector is still relatively developed, the government places a high priority on developing this sector. There are significant opportunities for investors to establish businesses to provide support for the growing number of such large-scale projects. Investors seeking additional information on investment opportunities in Papua New Guinea should contact the Investment Promotion Authority (contact information available online here: http://www.ipa.gov.pg/).

The PNG government's Small to Medium Enterprise (SME) Policy aims to promote the development of small to medium enterprises in PNG in relation to the transfer and adoption of appropriate technology and the encouragement and strengthening of the linkages between SMEs and their support institutions. The main objective of the policy is to instill a business culture within the SMEs and ensure their long-term sustainability. Some of PNG's priority economic sectors include **agriculture** (production and processing), fisheries, forestry, **manufacturing**, and tourism/**travel**.

Papua New Guinea's Vision 2050 and the Medium Term Development Plan (MTDP) 2011-2015 see tourism/**travel** rising to become a significant driver of the economy. The government offers tax incentives for tourism/**travel** such as double deductions for costs associated with export market development, and double deductions for staff training costs. Accelerated depreciation is yet another form of tax incentive whereby capital investment in eligible tourism facilities qualifies for 55 percent increased initial-year depreciation. Investors in large-scale tourist/**travel** accommodation facilities may be eligible for a concessional tax rate of 20 percent.

Limits on Foreign Control

There are different requirements for foreign investments in the natural resources, timber, and fisheries sectors, but in most cases 100 percent foreign-owned enterprises are permitted. Joint ventures with local partners are, however, encouraged. Certain business activities are restricted to citizens and national enterprises. The regulations of the Investment Promotion Act 1992, as amended, contain a list of business activities which are restricted to citizens and/or national enterprises (i.e. those in which a national/citizen has 50 percent or more ownership). Activities restricted to citizen enterprises only are listed in the Cottage Business Activities List (CBAL).

Foreign enterprises cannot conduct business in activities listed under CBAL. The list may be reviewed from time to time. The IPA may grant certification subject to any terms and conditions it considers appropriate. However, provided a proposed investment does not fall within the list of restricted activities, certification is usually not conditional on maintaining a minimum level of local equity. Foreign enterprises are restricted from going into restricted activities regardless of local equity. Restricted activities under the CBAL are as follows:

Agriculture

- Cultivation and growing of vegetables and other market produce with annual sales of K50,000 (approximately $21,739) or less.
- Farming of animals with annual sales of K50,000 (approximately $21,739) or less
- Poultry farming with annual sales of K50,000 (approximately $21,739) or less
- Hunting, trapping and game propagation including related service activities.

Forestry, logging and related activities

- Gathering of wild growing forest materials including balata and other rubber-like gums; cork; lac; resins and balsams; rattan; vegetable hair and eel grass; acorns and horse-chestnuts; mosses, lichens and cut evergreen trees used for festive occasions; saps; bark; herbs; wild fruits; flowers and plants; leaves; needles; reeds; roots; or other wild growing materials.
- Wokabaut (Mobile) sawmill.

Wildlife

- Hunting or collecting of non-protected fauna, including insects, shells, animal teeth, tusks, feathers, declared sedentary organisms and similar products and living or dead fauna.

Fishing

- Fishing on a commercial basis in coastal and inland waters. "Coastal" means within three miles off the shoreline.

- Taking of marine or freshwater crustaceans and mollusks. Hunting of aquatic animals such as turtles, sea squirts and other tunicates, sea urchins or other echinoderms and other aquatic invertebrates.
- Gathering of marine materials such as natural pearls, sponges, coral, and algae.

Mining
- Alluvial mining, according to the definitions of the Department of Mining.

Catering
- Mobile food delivery service

Wholesale and Retail Trade
- Wholesale and retail sale of wild growing materials including balata and other rubber-like gums; cork; lac; resins and balsams; rattan; vegetable hair and eel grass; acorns and horse-chestnuts; mosses, lichens, and cut evergreen trees used for festive occasions; saps; barks; herbs; wild fruits; flowers and plants; leaves; needles; reeds; roots; or other wild growing materials.
- Retail sale through stalls, tucker shops and markets.
- Wholesale and retail sale of secondhand clothing and footwear.
- Retail sale carried out from a motor vehicle or motorcycle.
- Wholesale and retail sale of handicraft and artifacts.
- Repair of footwear when not done in combination with manufacture or wholesale or retail of these goods.

Other Cottage Business Activities
- Weaving: Includes, but not limited to, weaving of cane products, textiles, baskets, nets, dishes, ropes, and bags that are saleable at home, street market or retail outlet on a fee.
- Bilum (string bag) Making: Making of string bags (bilums) from traditional bush ropes and cottons taking traditional and contemporary designs that are saleable at home, street market or retail outlet on a fee.
- Knitting: Includes knitting of textile, wearing apparel, cloth, garment, designs, fabrics, and decorations that are saleable at home, street market or retail outlet on a fee.
- Art & Craft Making: All sorts of handcraft and artistic designs that are saleable at home, street market or retail outlet on a fee.
- Carving: Wood carvings and sculptures on a fee (contract) or assorted carvings that are saleable at home, street market or retail outlet on a fee.
- Pottery Making: All sorts of pottery products including clay pots, cups, mugs, dishes, plates, sculptures, and other art forms that are saleable at home, street market or retail outlet on a fee.
- Painting: All sorts of paintings in any shape, type, and form including portrait paintings, screen paintings, sand paintings, and oil paintings, saleable at home, street market or retail outlet on a fee.
- Screen Printing: Screen printing of designs including emblems, logos, traditional and contemporary art forms, commemorations and special events on apparels including laplaps, shirts, T-shirts, and other garments and textile materials, suited to the event,

situation or purpose to which they relate, that are saleable at home, street market or retail outlet on a fee.

- Sewing: Sewing of garments, textile materials, wearing apparels, cloths, and fabrics that are saleable at home, street market or retail outlet for a fee.
- Jewelry Making: Making of simple jewelry products including necklaces, earrings, arm bands, primarily from sea shells, tusks, and beads for sale at home, street market or retail outlet on a fee.
- Baking: Baking of fresh bakery products including bread loaves, cakes, pies, cookies and scones, saleable at home, street market or retail outlet on a fee.
- Coffee Pulping: Coffee pulping using manual pulping machines with the beans saleable at buying points or at coffee depots.
- Crocodile Hunting/Processing of Skins: Hunting and processing of crocodile skins for sale at established market outlets.
- Operation of Tire Repair Service: Operation of small tire repair shops, where not done as incidental to the core business of Maintenance and Repairs.

The PNG government is developing an SME policy, and as of mid-2014 was undertaking public consultations on the draft. As part of this policy, the government is considering adding additional economic sectors to the CABL, which is commonly referred to as the "reserve list." The government is considering this move in response to public pressure to increase the number of PNG-owned businesses in the country. However, some observers have noted that investors have found ways around the current reserve list, including by bringing on nationals to co-own companies with them. Other observers have also quietly noted, the result of such an increased list may be that these service offerings cease to exist, as PNG entrepreneurs may not step in to fill gaps (due to a lack of expertise, financing, etc.).

Privatization Program

There is no formal privatization program in place and thus no guidelines or structure on when and how foreign investors are allowed to participate in privatization programs. The government has funding available for privatization and is currently using the Public Private Partnership (PPP) structure as a model for privatization.

Screening of FDI

In reviewing a foreign investment proposal, the Investment Promotion Authority (IPA) may consider a number of factors, including the:

- Potential for positive development of human and natural resources;
- Investor's past record in Papua New Guinea and elsewhere;
- Creation of additional employment and income-earning opportunities;
- Likelihood the proposal will generate additional government revenue and contribute to economic growth;
- Transfer of technologies and skills and the contribution to training citizens of Papua New Guinea; and
- Likely environmental impact.

There is no specific investment level. The IPA may, however, pursuant to Section 28(7) of the Investment Promotion Act require an applicant for Certification to deposit the prescribed amount prior to a Certificate being issued. The prescribed amounts are per Section 6B of the Investment Promotion Regulation:

- Individual – K50,000 (approximately $21,739);
- Partnership – K50,000 (approximately $21,739) per partner; and
- Corporate Body – K100,000 (approximately $43,478).

If the IPA does require this sort of deposit, it is typically listed as a Condition of Certification and the applicant has six months from the date of Certification to comply. Filing of annual returns is mandatory.

The purpose of the screening mechanism is to assess the net economic benefit and consistency with national interest. The possible outcomes of a review are prohibition, divestiture, and imposition of additional requirements. The IPA and other regulatory bodies in particular sectors make the decision on the outcome.

Appeal processes differ for each sector. For the IPA and specifically related to certification and registration of a business, an enterprise should submit an appeal to the Minister for Commerce and Industry through the IPA. A fee of K200 (approximately $87), payable by bank check to the IPA, is required. The Authority will then provide a brief to the Minister. Appeals may be lodged in response to any decision made by the IPA, including rejection of an application, and cancellation of a registration.

The Bank of Papua New Guinea, PNG’s Central Bank, has to approve all foreign investment proposals. Such proposals include the issue of equity capital to a non-resident, the borrowing of funds from a non-resident investor or financial intermediary, and the supply of goods and services on extended terms by a non-resident. In its review, the Bank is mostly concerned that the terms of the investment funds are reasonable in the context of prevailing commercial conditions and that full subscription of loan funds are promptly brought to Papua New Guinea. A debt/equity ratio of 5:1 is generally imposed with respect to overseas borrowings and a ratio of 3:1 in respect of local borrowings.

Competition Law

The Independent Consumer and Competition Commission Act of 2002 introduced competition laws to PNG for the first time. It also established the Independent Consumer & Competition Commission (ICCC); the country's premier economic regulatory body and consumer watchdog; introduced a new regime for the regulation of utilities, in particular in relation to prices and service standards; and allowed the ICCC to take over the price control tasks previously undertaken by the Prices Controller, and the consumer protection tasks previously undertaken by the Consumer Affairs Council.

The Act’s competition laws, contained in Part VI of the Act, prohibit:

- Entering into, or giving effect to contracts, arrangements or understandings having the purpose, effect or likely effect of substantially lessening competition (see Section 50);

- Arrangements between competitors that contain exclusionary provisions, which have the purpose of preventing, restricting or limiting dealings with any particular person or class of persons who are in competition with one or more of the parties to the arrangement. Such arrangements can be made, however, if it can be proved that an exclusionary provision does not have the purpose, or is not likely to have the effect, of substantially lessening competition (see Section 52);
- Price fixing agreements between competitors (but fixing prices of joint venture products, recommended prices and joint buying and promotion arrangements, are not absolutely prohibited, although they may still be subject to the prohibition on contracts, arrangements, and understandings that substantially lessen competition) (see Sections 53-56);
- A person with a substantial degree of market power from taking advantage of that power for the purpose of restricting the entry of a new competitor into a market, preventing or deterring a competitor from engaging in competitive conduct, or eliminating a competitor from that market (see Section 58);
- The practice of resale price maintenance, which occurs where a supplier tries to specify a price below which a reseller may not sell the supplier's product. This prohibition also applies to third parties seeking to insist that products not be resold below a specified price (see Sections 59-64); and
- Mergers or acquisitions that would have the effect or likely effect of substantially lessening competition in a market (see Section 69).

The Act contains an authorization procedure whereby the various prohibited practices described above can be engaged in, if the ICCC authorizes it on the grounds that the public benefit from engaging in that conduct is likely to outweigh any detriment caused by a lessening of competition. In addition to the authorization process, the ICCC may grant a clearance to enable a merger or acquisition to proceed, if the ICCC considers that the acquisition would not have the effect or likely effect of substantially lessening competition. The granting of a clearance or authorization in merger cases may be conditional upon undertakings being given to the ICCC by the parties.

The ICCC’s website is http://www.iccc.gov.pg, but it is unclear whether it is being maintained. Interested parties may instead want to go to the ICCC’s Facebook page for information on changes in policies and regulations: https://www.facebook.com/pngiccc/timeline. A paper by the ICCC on competition law in PNG is available here: http://www.jftc.go.jp/eacpf/05/APECTrainingProgramAugust2004/png.wasina.pdf.

Investment Trends

Papua New Guinea has had 13 years of consecutive economic growth. Most of this growth has been driven by PNG’s extractive sector. Agriculture, forestry, and fisheries continue to play a central role in country’s economy. As PNG begins its new role as an exporter of liquefied natural gas, it is seeing a slowdown across several economic sectors now that the construction of Exxon Mobil PNG’s $19 billion LNG project is complete. With InterOil and Total’s Gulf LNG project on the horizon, momentum may pick up again in 2015.

Over the past few years, there has been increased investment in fish processing and cannery plants. With the closure of several prominent forestry zones, timber exports are expected to decline in 2014. Mining is expected to slow in 2014, and construction is expected to contract. Public funding for national infrastructure projects such as the 2015 Pacific Games and facilities that are anticipated for PNG's APEC 2018 host year are expected to help generate an uptick in the construction sector starting in 2015.

Since taking office in 2012, the O'Neill government has developed a series of national development initiatives based on projections from the early years of the country's LNG development. The PNG government plans to rely heavily on revenues from the LNG projects to fund drivers of economic growth, including infrastructure investments, increased law and order, improved education and health indicators. The PNG government's allocations to infrastructure, education, health care, law and order, agriculture, and small business in its 2014 national budget total K7.67 billion ($3.3 billion). This represents 40 percent of the government's spending, a 20 percent increase from 2013. A major challenge that the government faces is extending the benefits of development to a population that relies heavily on subsistence farming, and which, despite years of nominal growth, remains very poor. Less than 15 percent of those that are working are employed in the formal sector. Access to financial services is another challenge, and the Asian Development Bank estimates that 85 percent of the country's population of 7 million does not have access. The Bank of Papua New Guinea has undertaken a major financial inclusion initiative, which aims to ensure that 1 million citizens have bank accounts.

TABLE 1: The following chart summarizes several well-regarded indices and rankings.

Measure	**Year**	**Rank or Value**	**Website Address**
TI Corruption Perceptions index	2013	144 of 177	http://cpi.transparency.org/cpi2013/results/
Heritage Foundation's Economic Freedom index	2013	132 of 177	http://www.heritage.org/index/ranking
World Bank's Doing Business Report "Ease of Doing Business"	2013	(113 of 189)	http//doingbusiness.org/rankings
Global Innovation Index	2013	(not ranked)	http://www.globalinnovationindex.org/content.aspx?page=gii-full-report-2013#pdfopener
World Bank GNI per capita	2012	$1790	http://data.worldbank.org/indicator/NY.GNP.PCAP.CD

TABLE 1B - Scorecards: 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 2012 per capita gross national income (GNI) or $4,085 or less. A list of countries/economies, including Papua New Guinea, 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/documents/reports/reference-2013001142401-fy14-guide-to-the-indicators.pdf.

2. Conversion and Transfer Policies

Foreign Exchange

Until recently, there had been no difficulties in terms of policies governing the obtaining of foreign exchange, but conversion costs can be quite expensive. On June 4, the Central Bank introduced measures which have effectively pegged the kina at levels that reportedly have led to some foreign exchange shortages. Foreign exchange and capital transactions face various documentation requirements and government approvals. Under Papua New Guinea's tax clearance system, certain payments require approval from the central bank (Bank of Papua New Guinea) and the Internal Revenue Commission. The tax clearance period is two to four weeks, and routine payments take about two weeks. Additional delays may be encountered if companies are not financially up to date with the Internal Revenue Commission.

Remittance Policies

Remittance is done only through direct bank transfers. All remittances overseas in excess of K50,000 (approximately $21,739) per year require a tax clearance certificate issued by the Internal Revenue Commission (IRC). In addition, approval of PNG's Central Bank – the Bank of Papua New Guinea – is required for annual remittances overseas in excess of K500,000 (approximately $217,390). Remittances related to the payment of trade-related goods are not taken into account. There are no specific restrictions on the repatriation of capital owned by or due to non-residents. The Central Bank's principal objectives in assessing applications for capital repayments are to ensure that the funds are due and payable to a non-resident and that Papua New Guinea assets are not sold at an artificial value.

PNG's Central Bank pegged the kina to the dollar at a fixed exchange rate of $0.4130 in a surprise June 4 announcement. Commercial banks are only allowed to trade the kina within 75 basis points at either side of this reference rate. The Bank's public statements said that its action was taken to curb excess margins enjoyed by local banks but the action effectively pegs the kina, reversing a long term policy of a floating rate and raising questions about the independence of the Bank. Those concerns were exacerbated by public comments on the measures made by Prime Minister O'Neill.

It is not clear how long the government intends to peg the kina. PNG is forecast to see a record 21 percent economic growth in 2015, though many analysts think this figure is inflated. The government expects its revenue will grow between three and four billion dollars. If this is the case, these massive export earnings will put huge pressure on the kina to appreciate.

Papua New Guinea continues to face risks of money laundering from criminal activities, principally domestic corruption (the misappropriation of public funds). The Papua New Guinea's Financial Intelligence Unit (FIU) claims that close to half of the PNG Government's budget is lost to fraud, and laundered through PNG's banks. Much of this is done by check with little attempt to hide the source of the funds because of the low perceived risk of penalty. FIU has adopted a proactive approach to combating this, focusing its efforts on crime prevention using financial intelligence rather than simply crime detection, investigation, and prosecution. As part of this, the FIU has issued new guidelines on government checks and payments to prevent criminals from being able to process those checks at financial institutions.

The FIU reports that criminals are increasingly using corporate entities to hide funds and move them off shore. PNG and the Solomon Islands have a MOU in place to share information on money laundering, transnational crime, and criminal/terrorist financing. PNG is consulting with Taiwan, the Philippines, Singapore, Japan, and Malaysia to develop similar arrangements. However, the FIU claims it is inadequately staffed and resourced to fully address money laundering in Papua New Guinea. The World Bank and Asia/Pacific Group on Money Laundering concur that the FIU is under-resourced, and noted in their 2011 Mutual Evaluation Report that, although the FIU is building its capacity, there was no clear political level commitment to "follow the money."

Papua New Guinea is a member of the Asia/Pacific Group on Money Laundering, a Financial Action Task Force (FATF)-style regional body. Its most recent mutual evaluation report (July 2011) can be found here:
http://www.apgml.org/documents/docs/17/PNG%20MER_July%202011.pdf. Papua New Guinea is also a party to the UN Convention against Corruption (UNCAC).

3. Expropriation and Compensation

Although the judicial system upholds the sanctity of contracts, and the Investment Promotion Act of 1992 expressly prohibits expropriation of foreign assets, the PNG government's September 2013 nationalization of the country's largest taxpaying company, Ok Tedi Mining Limited, has raised concerns about the government's policy. Some observers saw this as a special case, given that much of the company's profits are held in trust for the people of PNG, and its effective ownership by a company – the PNG Sustainable Development Program's (PNGSDP) – that exists to transfer benefits from the mine back to the people. By a unanimous vote in Parliament, the government annulled PNGSDP's share in the mine, and issued new shares to the state. This vote also removed BHP Billiton's immunity from environmental liability and gave the state the right to restructure PNGSDP.

BHP Billiton exited PNG in 2001 following a major environmental disaster under an agreement that gave its majority shareholdings in Ok Tedi to the people of PNG in exchange for immunity from future prosecution for environmental damage. The 63.4 percent ownership in Ok Tedi has been held by PNGSDP, a Singapore-based entity whose mission is to provide infrastructure and development opportunities for Papua New Guineans. O'Neill argued that his government's acquisition of Ok Tedi was not an expropriation because the mine already belonged to the people of PNG, and the Western Province in particular. Former Prime Minister and PNGSDP chairman (until the takeover) Mekere Morauta said the PNG government's moves to restructure PNGSDP violated Singaporean laws and had no legal effect. PNGSDP is taking legal action to challenge the government on two fronts, with a case in the Singapore High Court and before an international arbitration tribunal in Washington DC.

Beyond the nationalistic rhetoric surrounding the takeover, some observers see this as an opportunity for O'Neill to get even with former Prime Minister and PNGSDP chairman (until the takeover) Mekere Morauta who charged O'Neill in 2005 with siphoning funds from the National Provident Fund (the case concluded without a conviction). Others see this move by the government to re-take shares in Ok Tedi that it mortgaged in 2009 to Abu Dhabi's International Petroleum Investment Company (IPIC) to purchase its 16.6 percent stake in ExxonMobil PNG's liquefied natural gas (PNG LNG) project. The government had intended to buy these shares back when the $1.5 billion exchangeable bond it issued to IPIC expired on March 5. However, the shares appreciated over the last five years, and PNG could not afford to buy them back.

In early April, after news that PNGSDP had sold some of its assets in order to secure funding to continue its community projects (and given others to the Fly River provincial government and village communities in Western Province), the PNG government filed an application in Singaporean court to stop PNGSDP from disposing of its assets, and called for the court to appoint independent receivers to manage these assets. On May 12, O'Neill announced that the government would set up a Commission of Inquiry to investigate the sale of PNGSDP's assets, calling the sale illegal and criminal. O'Neill continues to say that PNGSDP's proceedings before the Singapore High Court and the court in Washington, DC are without merit and has vowed to contest them.

4. Dispute Settlement

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

The principles and rules of common law and equity in Great Britain at the time of independence (September 16, 1975), subject to certain exceptions, were adopted by the PNG Constitution. Those principles and rules, together with custom (or customary law), comprise the underlying law of Papua New Guinea. Contract law in Papua New Guinea is very similar to and applies in much the same way as in other common law countries such as Great Britain, Australia, Canada, and New Zealand. There is, however, considerably less statutory regulation of the application and operation of contracts in Papua New Guinea than in those other countries.

The National Judicial System consists principally of PNG's two main courts, the Supreme Court and the National Court, and also includes other courts established by Acts of Parliament. The Supreme Court is the ultimate appeal court in Papua New Guinea. It has original jurisdiction in matters of constitutional interpretation and enforcement and has appellate jurisdiction in appeals from the National Court, certain decisions of the Land Titles Commission, and those of other regulatory entities as prescribed in their own Acts. The Supreme Court is convened as a bench of at least three National Court judges. The National Court also has original jurisdiction for certain constitutional matters and has unlimited original jurisdiction for criminal and civil matters. The National Court has jurisdiction under the Land Act in proceedings involving land in Papua New Guinea other than customary land.

In addition to the courts mentioned above, there is also a system of Village Courts established under the Constitution and the Village Courts Act. Matters involving customary law claims are likely to arise at the Village Court level. There is no jury system in Papua New Guinea. Lawyers operating in Papua New Guinea are governed by the Papua New Guinea Law Society, and only lawyers registered with the Society should be used.

Under the Reciprocal Enforcement of Judgments Act, certain judgments of certain foreign courts are recognized and are able to be enforced in PNG by a process of registration. The Act establishes a system of reciprocity of recognition and enforcement of foreign judgments of designated courts within the prescribed countries, including the United States, Australia, the United Kingdom, and New Zealand. Even if a foreign money judgment is not from a designated court, it may still be recognized and enforced in PNG by commencing a separate action in the National Court to sue on the judgment under local rules of private international law.

Bankruptcy

Papua New Guinea's bankruptcy laws are included in chapter 253 of the Insolvency Act of 1951 and sections 254 through 362 of the Companies Act of 1997, which covers receivership and liquidation. Bankruptcy and litigation searches can only be conducted in person at the National Court in Port Moresby.

According to the World Bank's Doing Business Report, resolving insolvency in Papua New Guinea takes an average of three years, and typically costs 23 percent of the debtor's estate, with the most likely outcome being that the company will be sold in a piecemeal sale. The average recovery rate is 23.5 cents on the dollar. Globally, Papua New Guinea stands at 128 in the ranking of 189 economies on the ease of resolving insolvency.

Investment Disputes

Investment disputes can be settled through diplomatic channels or through the use of local remedies before having such matters adjudicated at the International Centre for the Settlement of Investment Disputes or through another appropriate tribunal of which Papua New Guinea is a member. The Investment Promotion Act 1992 that is administered by the IPA also protects against expropriation, cancellation of contracts, and discrimination through the granting of most favored nation treatment to investors.

International Arbitration

Under the Reciprocal Enforcement of Judgments Act, certain judgments of certain foreign courts are recognized and are able to be enforced in Papua New Guinea by a process of registration. The Act establishes a system of reciprocity of recognition and enforcement of foreign judgments of designated courts within prescribed countries including Australia, the United States, the United Kingdom, and New Zealand. Even if a foreign money judgment is not from a designated court, it may still be recognized and enforced in Papua New Guinea by commencing a separate action in the National Court to sue on the judgment under the local rules of private international law.

ICSID Convention and New York Convention

Papua New Guinea has been a member of the Settlement of Investment Disputes between States and Nationals of Other States (ICSID Convention) since November 19, 1978. In agreements with foreign developers, the government generally adopts the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL). The National Court Act (the Act) was amended in 2008 to provide procedures for alternative dispute resolution (ADR) through mediation and other related methods. The Act provides for the powers of the Court in certain circumstances to order or direct part of a proceeding or proceedings to be resolved by way of mediation. The court may make orders or directions for mediation with or without the consent of the parties. The Alternative Dispute Resolution Courts were officially opened on September 4, 2009 and facilitate this cost and time effective method of dispute resolution.

Duration of Dispute Resolution

Post has no comments on the duration of dispute resolution at this time.

5. Performance Requirements and Investment Incentives

WTO/TRIMS

Papua New Guinea has been a member of WTO since June 9, 1996. Post does not have any information at this time on measures that the PNG government has notified to the WTO as inconsistent with Trade Related Investment Measures (TRIMs) requirements

Investment Incentives

Performance requirements/incentives are applied uniformly to both domestic and foreign investors. The investment incentives currently available are designed primarily to encourage the development of industries that are considered desirable for the long-term economic development of Papua New Guinea or specific underdeveloped regions within the country and are as follows.

The Investment Promotion Act contains guarantees that there will be no nationalization or expropriation of foreign investors’ property except in accordance with law, for a public purposes defined by law or in payment of compensation as defined by law.

Accelerated depreciation rates are available for new manufacturing and agricultural plants, generous deductions are available for capital expenditure on land used for primary production, and accelerated deductions are available for mining and petroleum companies. For more details, see Price Waterhouse Cooper's Global Tax Solutions page (http://www.pwc.com/gx/en/tax/index.jhtml).

A 10 year exemption from tax is available where certain new businesses are established in specified rural development areas. Businesses, resident or non-resident, engaged in the following activities qualify for this exemption:

- Agricultural production of any kind
- Manufacturing of any kind
- Construction
- Transport, storage and communications
- Real estate
- Business services
- Provision of accommodation, motels or hotels.

The following have been specified as rural development areas:

- Central province – Goilala
- Enga province – Kandep, Lagalp, Wabag, Wapenamunda
- Gulf province – Kaintiba, Kikori
- Eastern Highlands province – Henganofi, Lufa, Okapa, Wonenave
- Southern Highlands province – Jimi, Tambal
- Madang province – Bogia, Rai Coast, Ramu
- Milne Bay province – Losula, Rabaraba
- Morobe province – Finschaffen, Kabwum, Kaiapit, Menyamya, Mumeng
- East New Britain province – Pomio
- West New Britain province – Kandrian
- East Sepik province – Ambuti, Angoram, Lumi, Maprik
- West Sepik province – Amanab, Nuku, Telefomin
- Simbu province – Gumine, Karimui.

The exemption does not apply to businesses in areas in which a special mining lease or a petroleum development license is granted.

Businesses that commence exporting qualifying goods manufactured by them in Papua New Guinea are exempt from income tax on the profits derived from those sales for the first three complete years. For the following four years, the profit derived from the excess of export sales over the average export sales of the three previous years is exempt from income tax. The list of qualifying goods include, among other items, motor vehicles, matches, paint, refined petroleum, soaps, wooden furniture, dairy products, flour, chopsticks, artifacts, clothing and manufactured textiles, and jewelry.

A wage subsidy is payable to new businesses that manufacture new manufactured products. The business will receive a prescribed percentage of the value of the minimum wage paid by the business, multiplied by the number of Papua New Guineans permanently employed by the business.

The relevant percentages are as follows:

- Year 1 – 40%
- Year 2 – 30%
- Year 3 – 20%
- Year 4 – 15%
- Year 5 – 10%

Eligible products are, broadly, all products listed under division D of the International Standard Classification of All Economic Activities (Third Revision), provided the products are not subject to quota pricing without import pricing or to tariff protection.

Registered foreign companies must annually lodge with the Registrar of Companies an annual return together with a certified copy of its audited financial statements. A foreign company must apply for Certification under the Investment Promotion Act 1992 within 14 days of registering with the Registrar of Companies. A foreign company automatically falls under the category of a 'reporting company' and therefore must present its audited financial statements.

However, a company may apply to be exempted from certain requirements. A company which chooses to conduct business through a branch registered in Papua New Guinea can repatriate its profits without being subject to withholding tax. On the other hand, the dividends of a Papua New Guinea incorporated subsidiary may attract dividend withholding tax. A higher rate of income tax is imposed on non-resident companies. If a foreign company merely wishes to have a representative office in Papua New Guinea, it may be exempt from lodging tax returns if it derives no income in Papua New Guinea. The Companies Act adopts similar principles and standards of corporate regulation to those in place in New Zealand. Companies registered in Papua New Guinea must lodge an annual return every year with the Registrar of Companies within six months of the end of its financial year. Currently, the Papua New Guinea government is reviewing its structure.

There are no discriminatory or preferential export and import policies affecting foreign investors, and there are low levels of import taxes.

Research and Development

There are several government/authority financed and/or subsidized **research and development** programs available to U.S. and other foreign firms:

- Feasibility contribution scheme: The government, through the Investment Promotion Authority, is prepared to assist with the preparation of feasibility studies by contributing up to half the cost of such an exercise;

- Infrastructure: Where considered appropriate, the government is sometimes prepared to provide or finance infrastructure needed for a particular project in exchange for a negotiable user charge; and

- Assistance to Papua New Guineans: The government offers a number of forms of financial assistance to Papua New Guineans to assist with the establishment of small-scale business operations, primarily through the Small Business Development Division of the Department of Trade and Industry.

Performance Requirements

All non-citizens seeking employment in Papua New Guinea must have a valid work permit before they can begin employment. The work permit must be granted by the Secretary of the Department of Labor and Industrial Relations (DLIR) in accordance with the Employment of Non-Citizens Act of 2007. It can take up to six weeks to obtain both a work permit and visa for non-citizens to work in Papua New Guinea, and delays are common due to a lengthy bureaucratic clearance process. In the past, the government has used its immigration powers to block visas for personnel to come to Papua New Guinea to fill positions that it believes can be filled by Papua New Guineans.

6. Right to Private Ownership and Establishment

There is a right of foreign and domestic private entities to establish and own business enterprises and engage in all forms of remunerative activity and a right of private entities to freely establish, acquire, and dispose of interests in business enterprises.

7. Protection of Property Rights

Real Property

Papua New Guinea's legal system for property rights is similar to Australia's. Since foreign investors cannot have direct ownership of land, long term government leases are used instead. The legal system protects and facilitates acquisition and disposition of all property rights, but there are substantial delays particularly within the Department of Lands, and State Owned Enterprises tend to get preference over private companies.

Intellectual Property Rights

Protections for intellectual property rights relating to the reproduction and sale of counterfeit and pirated products, particularly music and movies, are insufficient. Such counterfeit products are openly sold on the streets and in shops. Sales persist despite sporadic law enforcement action. Other counterfeit products that infringe on copyrights, patents, and/or trademarks are often imported from Asian countries and sold in Papua New Guinea. Customs periodically seizes such shipments, but there are significant gaps in their enforcement regime. Adequate protection for trade secrets and semiconductor chip layout design exist in law, and minimal infringements appear to occur. 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/.

Resources for Rights Holders:

Susan May
Economic Officer

U.S. Embassy Port Moresby
P.O. Box 1492
Douglas Street
Tel: +675-321-1455, ext. 2116
Fax: +675-321-1593
maysm@state.gov
econportmoresby@state.gov
(please cc the econportmoresy@state.gov email address on all inquiries)

Country/Economy resources:

Papua New Guinea Chamber of Commerce (PNGWCCI)
Lot 4, Section 139 Matorogo Street
Express Freight Management Compound, Scratchley Road, Badili
P.O. Box 1621, Port Moresby
Papua New Guinea
Tel: +675-321-3057/321-0966
Fax: +675-321-7145
pngcci@global.net.pg
http://www.pngcci.org.pg/

Port Moresby Chamber of Commerce (POMCCI)
POMCCI Bizcentre Level 3 United Church Building Douglas Street Port Moresby CBD
(Opposite Grand Papua Hotel)
PO Box 75
Port Moresby
Papua New Guinea
Tel: +675 321 3077 or +675 7100 3077 or +675 7200 3077
Fax: +675 321 4203
POMCCI Bizcentre bizcentre@pomcci.org.pg
http://www.pomcci.com/

List of local lawyers: http://portmoresby.usembassy.gov/attorneys.html

8. Transparency of the Regulatory System

The ICCC (Independent Consumer and Competition Commission) is charged with fostering competition. While there are transparent policies in place, the competition regime works more towards the regulation of existing monopolies and does little to foster competition. Tax, labor, environment, health, and safety and other laws do not distort or impede investment. However, the lack of implementation of existing laws by some government entities frustrates some investors. For example there are long bureaucratic delays in the processing of work permits and frequent complaints about corruption and bribery in government departments.

The IPA and the Government are moving, with the assistance of the International Finance Corporation, towards more investment promotion and a much more streamlined regulatory framework to encourage foreign investment. The IPA's move toward an online registration process for businesses is evidence of this.

There are informal regulatory processes managed by nongovernmental organizations and private sector associations. There are impediments to the licensing of skilled foreign labor that are imposed by local professional associations such as the Papua New Guinea Institute of Engineers and the Law Society, both of which have their own regulatory processes, that foreigners must go through before they can work/practice in the country.

Proposed laws and regulations are made available for public comment, but comments are not always taken into consideration/acted on by lawmakers. Legal, regulatory, and accounting systems are transparent and consistent with international norms, but there are delays in the dispute resolution system due to a lack of human resources in the judiciary. The Government has tried to address this by appointing more judges in recent years.

There are no private sector and/or government efforts to restrict foreign participation in industry standards-setting consortia or organizations.

9. Efficient Capital Markets and Portfolio Investment

Money and Banking System, Hostile Takeovers

There is no factor market, but there is free flow of remission of funds offshore subject to approval by the Central Bank (Bank of Papua New Guinea) and the International Revenue Commission. Credit is allocated on market terms, and foreign investors are able to get credit on the local market, much more so than in previous years due to the liberalization of policies, provided that foreign investors have a good credit history. Credit instruments are limited to leasing and bank finance.

There is no private bond market. Portfolio investments are unregulated and limited to the availability of stocks. In terms of sufficient liquidity in the markets, there is a considerable money supply but a limited pool of borrowers. Bank South Pacific is Papua New Guinea's only nationally owned bank and is the largest in the country with total assets of K10 billion (approximately US$4.7 billion) at year's end in 2010. Branches/subsidiaries of two Australian banks represent the other financial institutions operating in the country. The Australia and New Zealand (ANZ) Bank had total assets of US$544 billion at year's end 2010; and Westpac Bank had US$618 billion in total assets at the end of 2010. The banking system in Papua New Guinea is sound.

There are no "cross-shareholding" and "stable shareholder" arrangements used by private firms to restrict foreign investment through mergers and acquisitions.

10. Competition from State-Owned Enterprises

OECD Guidelines on Corporate Governance of SOEs

State owned enterprises (SOEs) are active in the airline, telecommunications, port facilities/management, power generation and transmission, water and sewerage facilities/management, and motor vehicle insurance industries/sectors. Papua New Guinea's SOEs are: Air Niugini, Eda Ranu (water/sewage company for Port Moresby), Motor Vehicle Insurance Ltd, PNG Ports Corporation, PNG Power, PNG Post, PNG Water Board, BeMobile and Telikom PNG.

Since 2002, SOEs have been regulated by the Independent Public Business Corporation, a 100% State-owned statutory corporation governed by the IPBC Act. The IPBC Board reports to the Minister for Public Enterprises, and members of the IPBC Board are appointed by the National Executive Council/Cabinet. SOEs are required by law to publish annual reports.

The PNG government is in the process of introducing legislation to bring all SOEs under a "Kumul Trust" arrangement whereby all would be centrally managed by three organizations responsible for the government's mining investments, liquefied natural gas investments, and SOEs.

Sovereign Wealth Funds

In 2012, the PNG government passed legislation to establish a Sovereign Wealth Fund to manage resource revenues. This fund was supposed to be held off-shore and managed on-shore by an independent Board of Directors. However, in 2014, the government re-opened this draft, citing an error in how it was introduced and passed in Parliament. As of mid-2014, the government had also introduced new methods of managing the SWF, which deviates substantially from the original draft. Parliament is scheduled to debate this topic when it reconvenes in August 2014.

11. Corporate Social Responsibility

OECD Guidelines for Multinational Enterprises

There is a general awareness of the concept of corporate social responsibility among both producers and consumers. CSR is practiced principally by larger domestic and international firms, who have had exposure to CSR in international markets. Larger companies and multinational corporations are more inclined to follow generally accepted CSR principles, but these are generally absent among smaller businesses and in the sizeable informal sector. Firms who pursue CSR are viewed favorably by the local populace.

12. Political Violence

Incidents of damage to projects and/or installations over the past few years have not been specifically politically motivated. The majority of disruption and damage caused to projects is due to disputes between landowners and the central government, which are fueled by a perception in certain cases that the central government has failed to uphold its financial commitments to landowners. Landowners in these disputes have taken out their frustration with the central government by damaging the infrastructure or disrupting the operations of foreign investments in their regions. Periodic tribal conflicts occur, particularly in the Highlands and Sepik regions of the country. While foreign investors/interests are not the target of these often violent confrontations, their project infrastructure can occasionally be inadvertently damaged or their operations disrupted due to the prevailing security situation.

The central bureaucracy is increasingly politicized, which has eroded the capacity of government departments and allowed nepotism/political cronyism to thrive in parts the public service. Civil disturbances have been triggered by the government's failure to deliver financial and development commitments, particularly to landowners in the resource project areas. They have also occurred in major urban areas based on disputes between long-term residents and newly arrived migrants and/or between competing criminal networks.

High levels of crime persist in Papua New Guinea's cities. These are generally crimes of opportunity, and are often violent. Urban civil disturbances have resulted in looting and retail property destruction, which often targets Asian-owned retail businesses. The Royal Papua New Guinea Constabulary lacks the capacity to prevent and respond to these incidents, and companies therefore have to devote significant resources to private security.

The situation in the Autonomous Region of Bougainville has improved dramatically since the signing of a peace agreement between the central government and separatists in 2001. Despite improvements, there remain regions of Bougainville that are essentially closed to outsiders, and foreign investment in the region's mineral resources is viewed with suspicion by many. As the region approaches a possible referendum on its future, there is a possibility of renewed violence. There are no nascent insurrections, belligerent neighbors, or other politically motivated activities in Papua New Guinea.

13. Corruption

UN Anticorruption Convention, OECD Convention on Combatting Bribery

Resources to report corruption:

Contact at government agency or agencies are responsible for combating corruption.

Dickson Morehari
Director of Corporate Services
Ombudsman Commission
1st Floor, Deloitte Tower
+675 308 2618
Dickson.morehari@ombudsman.gov.pg

Contact at "watchdog" organization (international, regional, local or nongovernmental organization operating in the country/economy that monitors corruption, such as Transparency International)

Jerry Bagita

Director of Operations
Transparency International
2nd Floor, IPA Haus, Konedobu, NCD
P.O. Box 591, Port Moresby, NCD
+675 320 2182
opmtipng@gmail.com

Corruption is widespread in Papua New Guinea, particularly the misappropriation of public funds and nepotism. The risk of domestic corruption is likely to be enhanced as PNG's rapid economic growth continues, fueled by large scale foreign investment in the mining and petroleum sectors.

U.S. firms have identified corruption as a challenge to foreign direct investment. Some critical areas in which corruption is pervasive include budget management, forestry, fisheries and public procurement. Giving or accepting a bribe is a criminal act. Penalties differ for Members of Parliament (MPs), public officials, and ordinary citizens. For MPs the penalty is imprisonment for no more than seven years; for public officials the penalty is imprisonment for no more than seven years and a fine at the discretion of the court; for ordinary citizens the penalty is a fine not exceeding K400 (US$190) or imprisonment of no more than one year. A bribe by a local company or individual to a foreign official is a criminal act. A local company cannot deduct a bribe to a foreign official from taxes.

There are adequate laws, regulations and penalties for corruption, but enforcement and implementation are weak due to a lack of political will and the limited financial and human capacity to effectively address corruption of relevant agencies such as the Ombudsman Commission, the Police, the Auditor General's office, the Audit Inspections Division of the Treasury Department, the Finance and Provincial Affairs Department, and the Public Prosecutor's office. The Asian Development Bank (ADB) has repeatedly highlighted some critical areas of concern including budget management, forestry, fisheries, and public procurement. Some foreign investors particularly in the forestry and fisheries sectors have been known to contribute to government corruption by bribing public officials either to fast track paperwork, award discretionary concessions, or "ignore" illegal activities occurring at project sites.

The Ombudsman Commission, the Police, the Auditor General's office, the Audit Inspections Division of the Department of Treasury, the Finance and Provincial Affairs Departments, and the Public Prosecutor's office are responsible for combating corruption. Transparency International has a local Papua New Guinean branch – Transparency International Papua New Guinea.

Prime Minister O'Neill initially made combating corruption a central focus of his administration following years of mismanaged public funds and failing services in PNG. Since its inception in August 2011, his "Task Force Sweep" has led to arrests for the misuse of government funds, including current and former government officials. However, O'Neill disbanded the task force for investigating his own allegedly corrupt activities and seeking a warrant for his arrest. As of July 2014, O'Neill had fired or suspended for their roles in pursuing the investigation into allegations of corruption against him, the Attorney General, Solicitor General, Deputy and

Assistant Police Commissioners, and the chairman of Task Force Sweep. The former head of this task force has complained that recovering stolen government funds is complicated by the fact that tens of millions of dollars are transferred to Australian bank accounts or invested in Australian real estate, principally in Cairns.

The government encourages companies to establish internal codes of conduct that, among other things, prohibit bribery of public officials. Most of the larger domestic companies and international firms from Europe, North America, Japan, Australia, and New Zealand have effective internal controls, ethics, and compliance programs to detect and prevent bribery. Many firms from elsewhere in East and Southeast Asia, particularly those in the resource extraction sectors, lack such programs.

Papua New Guinea has signed and ratified the UN Convention against Corruption. Papua New Guinea is not a party to the UN Convention against Transnational Organized Crime or the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

14. Bilateral Investment Agreements

Bilateral Taxation Treaties

Papua New Guinea has bilateral investment treaties with Australia, China, Germany, Japan, Malaysia, and the United Kingdom. Papua New Guinea also has bilateral taxation treaties with a number of countries, including ones just completed in 2014 with Japan and New Zealand. Papua New Guinea does not have a bilateral investment treaty or a bilateral taxation treaty with the United States.

15. OPIC and Other Investment Insurance Programs

OPIC has a project ongoing with Citibank and Digicel (PNG) worth $10.2 million to expand cellular phone service in Papua New Guinea. Previously, OPIC had a $100 million project with InterOil to help the company develop its Gulf LNG project, but InterOil has since repaid this loan.

On June 4, PNG’s Central Bank – the Bank of Papua New Guinea (BPNG) – pegged the kina at $0.4130. Commercial banks are only allowed to trade the kina within 75 basis points at either side of this reference rate. The Bank said that this move was intended to stabilize the kina, which had been declining in value following the end of the construction phase of the PNG LNG project. Starting in early 2014, the kina began to depreciate, moving from $0.47 in 2013 (and higher at the peak of PNG LNG construction) to $0.32 in early June. Commercial bank contacts say that this lower exchange rate reflects pre-PNG LNG levels and brings it back in alignment with historic trend trajectories.

On the day of the announcement, O’Neill said that PNG had to “take control of what was happening, so we give confidence to the economy and confidence to the businesses that trade in foreign currency.” He claimed that the change in the exchange rate was also intended to decrease the "substantial" profits that commercial banks were making with the kina's depreciation. Since the kina began to slide in late 2013, op-eds and blogs have called for the PNG government to protect the country's citizens against the banks' alleged greed by pegging the currency.

16. Labor

Papua New Guinea has a severe skilled labor shortage which presents a major constraint to business and investment, as investors are forced to recruit from abroad. Such recruitment is expensive given the very high cost of living in Papua New Guinea. The country spends up to K750 million (US$326 million) a year to bring in foreign consultants to fill gaps in the workforce. This figure represents 3.6 per cent of the gross domestic product (GDP). The government generally adhered to the ILO conventions protecting worker rights, and labor unions are very active in the country. Problem areas that persist, however, include child labor and trafficking in persons.

In late June 2014, the PNG government raised the minimum wage from K2.29 ($0.99) to K3.50 ($1.52) per hour.

17. Foreign Trade Zones/Free Ports

Papua New Guinea has not established geographically defined duty-free export zones.

18. Foreign Direct Investment and Foreign Portfolio Investment Statistics

Foreign Direct Investment in Papua New Guinea has grown from $1.45 billion in 2004 to $2.67 billion in 2012, according to the Investment Promotion Authority (IPA). The IPA reports that 60 percent of all investment in 2012 was in oil and gas exploration, production of associated services, followed by engineering and construction, which stood at around 10 percent. Oil palm attracted 4.6 percent of investment, mining received less than three percent, and non-resource investments accounted for 4.5 percent, with wholesale distribution at 2.8 percent.

While Australia has historically been Papua New Guinea's largest foreign investor, the United States surpassed Australia as the country's largest source of investment when Exxon Mobil PNG entered the market in the late 2000s with its $19 billion liquefied natural gas project. Australia remains Papua New Guinea's largest trading partner.

TABLE 2: Key Macroeconomic data, U.S. FDI in host country/economy

	Host Country Statistical source*		USG or international statistical source		USG or international Source of data (Source of Data: BEA; IMF; Eurostat; UNCTAD, Other)
Economic Data	Year	Amount	Year	Amount	

Host Country Gross Domestic Product (GDP) (*Millions U.S. Dollars)*			2012 2013	$15.65 billion $16.0 billion	http://www.worldbank.org/en/country https://www.dfat.gov.au/geo/fs/png.pdf
Foreign Direct Investment	Host Country Statistical source*		USG or international statistical source		USG or international Source of data: BEA; IMF; Eurostat; UNCTAD, Other
U.S. FDI in partner country (*Millions U.S. Dollars, stock positions)*			2012	$194 million	http://www.bea.gov
Host country's FDI in the United States (*Millions U.S. Dollars, stock positions)*			2012	$1 million	http://www.bea.gov
Total inbound stock of FDI as % host GDP (***calculate)***			2012	1.2 %	

* Provide sources of host country statistical data used.

TABLE 3: Sources and Destination of FDI

Papua New Guinea 2012

Direct Investment from/in Counterpart Economy Data					
From Top Five Sources/To Top Five Destinations *(US Dollars, Millions)*					
Inward Direct Investment			**Outward Direct Investment**		
Total Inward	872	100%	Total Outward	27	100%
United Kingdom	609	69.8%	Singapore	22	81%
United States	194	22.2%	Italy	1	3.7%
Korea	29	3.3%	Netherlands	1	3.7%
Italy	20	2.2%	Thailand	1	3.7%
Netherlands	20	2.2%	United States	1	3.7%

Source: Papua New Guinea is not included in the metadata search provided by the IMF at http://cdis.imf.org, so the chart below was compiled using data available at the following link: http://elibrary-data.imf.org/public/FrameReport.aspx?v=3&c=11666797&pars=Country,853.

These figures may not be an accurate depiction of major foreign investment in Papua New Guinea. In the data in the above link, Papua New Guinea reported inward and outward investments by several countries simply as "c." These include inward and outward investments by Australia; Belgium; Canada; China; PR: Hong Kong; China; PR: Mainland; Finland; France; Germany; Japan; Malaysia; New Zealand; Portugal; Switzerland; and Spain.

Since inward and outward investment by these countries was reported as "c," the above figures do not match the foreign investment data reported by the Investment Promotion Authority, as detailed in the table below.

Percentage of Foreign Investment in Papua New Guinea by Country (2012)

United States	38.7%
Japan	10.1%
Malaysia	8.4%
Australia	8.2%
New Zealand	7.4%
British Virgin Islands	7.0%
Singapore	5.7%
Others	5.0%
Isle of Man	3.8%
UK	3.2%
China	2.4%

Source: Investment Promotion Authority, as reported to Oxford Business Group for its 2013 publication on Papua New Guinea (http://www.oxfordbusinessgroup.com/)

TABLE 4: Sources of Portfolio Investment

Papua New Guinea is listed as a participating country in the IMF's Coordinated Portfolio Investment Survey (available here: http://cpis.imf.org/CountryMT.aspx) so data on the country's sources of portfolio investment is not available at this time.

19. Contact Point at Post for Public Inquiries

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