Papua New Guinea

RISK & COMPLIANCE REPORT

DATE: March 2018

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Executive Summary Papua New Guinea	
Sanctions:	None
FAFT list of AML Deficient Countries	No longer on list
Higher Risk Areas:	Compliance with FATF 40 + 9 recommendations Weakness in Government Legislation to combat Money laundering Not on EU White list equivalent jurisdictions Corruption Index (Transparency International & W.G.I.)) World Governance Indicators (Average Score) Failed States Index (Political Issues)(Average Score)

Major Investment Areas:

Agriculture - products:

coffee, cocoa, copra, palm kernels, tea, sugar, rubber, sweet potatoes, fruit, vegetables, vanilla; poultry, pork; shellfish

Industries:

copra crushing, palm oil processing, plywood production, wood chip production; mining (gold, silver, and copper); crude oil production, petroleum refining; construction, tourism

Exports - commodities:

oil, gold, copper ore, logs, palm oil, coffee, cocoa, crayfish, prawns

Exports - partners:

Australia 29%, Japan 9.6%, China 4.8% (2012)

Imports - commodities:

machinery and transport equipment, manufactured goods, food, fuels, chemicals

Imports - partners:

Australia 36.3%, Singapore 13.8%, Malaysia 8.4%, China 7.9%, Japan 5.8%, US 4.8% (2012)

Investment Restrictions:

The Government of Papua New Guinea welcomes foreign investment and the country has a liberal investment regime. Papua New Guinea is rich in natural resources and has recently placed a priority on the downstream processing of these assets to achieve economic growth. Large investments to date have been concentrated in the minerals and petroleum sectors. The Government supports developments in the tourism sector as the country has huge untapped potential in this area.

There are different requirements for foreign investments in the natural resources, timber, and fisheries sectors, but in most cases 100% 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% 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 US$23,810) or less.
- Farming of animals with annual sales of K50,000 (approximately US$23,810) or less
- Poultry farming with annual sales of K50,000 (approximately US$23,810) 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.

Contents

Section 1 - Background

The eastern half of the island of New Guinea - second largest in the world - was divided between Germany (north) and the UK (south) in 1885. The latter area was transferred to Australia in 1902, which occupied the northern portion during World War I and continued to administer the combined areas until independence in 1975. A nine-year secessionist revolt on the island of Bougainville ended in 1997 after claiming some 20,000 lives.

Section 2 - Anti – Money Laundering / Terrorist Financing

FATF status

Papua New Guinea is no longer on the FATF List of Countries that have been identified as having strategic AML deficiencies.

Latest FATF Statement - 24 June 2016

The FATF welcomes Papua New Guinea's significant progress in improving its AML/CFT regime and notes that Papua New Guinea has established the legal and regulatory framework to meet its commitments in its action plan regarding the strategic deficiencies that the FATF had identified in February 2014. Papua New Guinea is therefore no longer subject to the FATF's monitoring process under its on-going global AML/CFT compliance process. Papua New Guinea will work with the APG as it continues to address the full range of AML/CFT issues identified in its mutual evaluation report.

Compliance with FATF Recommendations

The last Mutual Evaluation Report relating to the implementation of anti-money laundering and counter-terrorist financing standards in Papua New Guinea was undertaken by the Financial Action Task Force (FATF) in 2011. According to that Evaluation, Papua New Guinea was deemed Compliant for 2 and Largely Compliant for 6 of the FATF 40 + 9 Recommendations. It was Partially Compliant or Non-Compliant for all 6 of the Core Recommendations.

Key Findings from latest Mutual Evaluation Report (2011):

Papua New Guinea (PNG) faces very serious risks of ML from various criminal activities including domestic corruption (misappropriation of public funds), which is considered a serious problem. PNG is experiencing rapid economic growth, very large scale foreign investment and an escalating crime rate. While the Financial Intelligence Unit (FIU) is building its capacity, there is no clear political level commitment to 'follow the money' to tackle corruption and other crimes, and no demonstrated commitment to regulate and supervise AML obligations by financial sector regulators, which severely hampers the authorities ability to tackle financial aspects of corruption.
Misappropriation of government funds occurs using government payments which, according to the authorities, are generally placed through the banking sector in PNG and used to purchase real estate, high-value vehicles, distributed in cash or moved offshore. The

techniques to launder proceeds from other large-scale crimes in PNG such as illegal logging, arms trafficking, and fraud are less clear. There is no indication of TF risks in PNG.

The FIU has minimal resources, currently the FIU has only three staff, having started out three years ago with seven. It has not been given a formal structure within the Police force. It cannot fulfil the role it should be playing in developing the national AML system and receiving, analysing and disseminating reports.

Despite hard work by the FIU and some initial results to pursue proceeds of crime by the OPP, the authorities lack a systematic focus on the concept of 'follow the money' to tackle profit driven crime. The authorities have good information on the volume and techniques of laundering the proceeds of large scale corruption, but a lack of political will, poor inter-agency cooperation, lack of resources and concerns over undue influence undermine the efforts of the few agencies actively pursuing ML and proceeds of crime in PNG. Trust between agencies is low.

PNG has formally required its financial sector to adopt basic anti-money laundering / combating the financing of terrorism (AML/CFT) preventive measures for several years, however the obligations are only heeded by the banking sector and postal service. In depth AML/CFT obligations have not been issued by any regulator and supervision and enforcement of the existing AML/CFT requirements has not yet taken place. In practice, the levels of implementation of customer due diligence (CDD), internal controls and suspicious transaction reporting in the banking sector are higher than the national requirements due to group-compliance policies (foreign subsidiaries) and efforts to adopt best practices. Papua New Guinea has not yet commenced supervision and enforcement of AML/CFT requirements and key regulators have been notably absent from efforts to regulate and supervise for AML/CFT.

US Department of State Money Laundering assessment (INCSR)

Papua New Guinea was deemed a 'Monitored' Jurisdiction by the US Department of State 2016 International Narcotics Control Strategy Report (INCSR).

Key Findings from the report are as follows: -

Perceived Risks:

Papua New Guinea (PNG) is not considered a major financial center. It has a relatively stable banking system closely integrated with the financial systems of Australia and New Zealand. Smuggling and public corruption are significant problems in PNG.

Corruption is one of the main sources of illegal proceeds, especially related to misappropriation of public funds linked to the extraction industries and related licensing procedures, and through fraudulent compensation claims. The risk of domestic corruption continues, fueled by large- scale foreign investment in the mining and petroleum sectors. Corruption is also a serious issue in party politics. Misappropriation of government funds occurs via government payments which, according to the authorities, are generally placed through the banking sector and used to purchase real estate or high-value vehicles, distributed in cash, or moved offshore.

The techniques to launder proceeds from other large-scale crimes in PNG, such as illegal logging, arms trafficking, and fraud, are less clear. The financial intelligence unit (FIU) reports that criminals continue to use corporate entities to hide funds and move them offshore. Additional risks stem from the transshipment of drugs and other illegal goods en route to Australia, limited PNG capacity in border control, and the presence of organized criminal groups. PNG relies on assistance from Australia to deter illegal cross-border activities, including illegal narcotics trafficking, primarily from Indonesia.

In PNG, the financial sector is small and provides little reach to the very large informal, rural, and self-employed segments of the population. The great majority of the adult population lacks access to the formal sector. The financial sector is in development and trying to increase its outreach to rural areas.

DO FINANCIAL INSTITUTIONS ENGAGE IN CURRENCY TRANSACTIONS RELATED TO INTERNATIONAL NARCOTICS TRAFFICKING THAT INCLUDE SIGNIFICANT AMOUNTS OF US CURRENCY; CURRENCY DERIVED FROM ILLEGAL SALES IN THE U.S.; OR ILLEGAL DRUG SALES THAT OTHERWISE SIGNIFICANTLY AFFECT THE U.S.: NO

CRIMINALIZATION OF MONEY LAUNDERING:
"All serious crimes" approach or "list" approach to predicate crimes: All serious crimes
Are legal persons covered: criminally: YES civilly: YES

KNOW-YOUR-CUSTOMER (KYC) RULES:
Enhanced due diligence procedures for PEPs: Foreign: YES Domestic: YES
KYC covered entities: Banks, finance companies, savings and loans, and microfinance entities; superannuation funds; insurance and securities companies; gaming houses, casinos, and lotteries; lawyers and accountants; dealers of precious metals and stones; real estate agents; and money changers and remitters

REPORTING REQUIREMENTS:
Number of STRs received and time frame: Not available
Number of CTRs received and time frame: Not available
STR covered entities: Banks, finance companies, savings and loans, and microfinance entities; superannuation funds; gaming houses, casinos, and lotteries; investment managers and insurance companies; real estate agents; dealers in precious metals and stones; money exchanges and remitters; lawyers; and accountants

MONEY LAUNDERING CRIMINAL PROSECUTIONS/CONVICTIONS:
Prosecutions: 21: July 2014 – July 2015
Convictions: 0: July 2014 – July 2015

RECORDS EXCHANGE MECHANISM:
With U.S.: MLAT: NO Other mechanism: YES
With other governments/jurisdictions: YES

Papua New Guinea is a member of the Asia/Pacific Group on Money Laundering (APG), a FATF-style regional body.

ENFORCEMENT AND IMPLEMENTATION ISSUES AND COMMENTS:

Papua New Guinea's Parliament passed four major pieces of AML/CFT-related legislation in 2015: the Criminal Code (Money Laundering and Terrorist Financing) Bill, 2015 criminalizes money laundering and terrorist financing in accordance with international standards; the United Nations Financial Sanctions bill establishes the legal framework to freeze funds used for terrorism without delay, including an automatic adoption by PNG of UN designations; the Anti- Money Laundering and Counter Terrorism Financing Bill, 2015 (AML/CFT Act 2015) establishes customer due diligence obligations for all financial institutions, including the insurance and securities sectors; and the Proceeds of Crime (Amendment) Act establishes a cross-border declaration regime consistent with international standards. As of year-end 2015, the government had yet to implement these new laws.

Papua New Guinea's FIU believes close to half of the PNG budget is lost to fraud and laundered through the country's banks. There is little attempt to hide the source of the funds because of the low perceived risk of penalty. The FIU has adopted a proactive approach to combating this activity, focusing its efforts on crime prevention using financial intelligence. The FIU remains inadequately staffed and resourced to fully address money laundering in PNG. When it enters into force, the AML/CFT Act 2015 aims to formally re-establish the FIU under the Bank of PNG with additional resources, power, and capabilities.

There appears to be no clear political-level commitment to use financial intelligence to tackle corruption and other crimes, and no demonstrated commitment by financial sector regulators to regulate and supervise AML obligations, which severely hampers the authorities' ability to tackle financial aspects of corruption. There have been no money laundering prosecutions since 2010, although in 2014 - 2015, 21 arrests were made under money laundering charges. The ease with which allegedly corrupt PNG officials and businessmen can transfer money to Australia is of continued concern to law enforcement officials in both countries. The Australian Federal Police estimates $200 million of PNG illicit proceeds is laundered in Australia every year.
Although progress has been made, there have been difficulties recovering stolen government funds in Australian bank accounts or invested in Australian real estate.

The Government of Papua New Guinea should continue to build the capacity of the FIU. The government should ensure the FIU, police, customs, and the National Fraud and Anti-Corruption Directorate are sufficiently resourced to be able to gather data and evidence, mount investigations, and bring charges. The Government of Papua New Guinea should effectively implement its new laws and crack down on the pervasive corruption that permeates government and commerce at all levels.

Papua New Guinea should become a party to the UN Convention against Transnational Organized Crime and the 1988 UN Drug Convention.

Current Weaknesses in Government Legislation (2013 INCRS Comparative Tables):

According to the US State Department, Papua New Guinea does not conform with regard to the following government legislation: -

Record Large Transactions - By law or regulation, banks are required to maintain records of large transactions in currency or other monetary instruments.

International Transportation of Currency - By law or regulation, the jurisdiction, in cooperation with banks, controls or monitors the flow of currency and monetary

Ability to freeze assets without delay - The government has an independent national system and mechanism for freezing terrorist assets in a timely manner (including but not limited to bank accounts, other financial assets, airplanes, autos, residences, and/or other property belonging to terrorists or terrorist organizations)

Criminalised Financing of Terrorism - The jurisdiction has criminalized the provision of material support to terrorists and/or terrorist organizations.

States Party to UN 1988 Convention - States parties to the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, or a territorial entity to which the application of the Convention has been extended by a party to the Convention.

Reports Suspected Terrorist Financing - By law or regulation, banks and/or other covered entities are required to record and report transactions suspected to relate to the financing of terrorists, terrorist groups or terrorist activities to designated authorities.

States Party to United Nations Transnational Organised Crime Convention - States party to the United Nations Convention against Transnational Organized Crime (UNTOC), or a territorial entity to which the application of the Convention has been extended by a party to the Convention.

EU White list of Equivalent Jurisdictions

Papua New Guinea is not currently on the EU White list of Equivalent Jurisdictions

World Governance indicators

To view historic Governance Indicators Ctrl + Click here and then select country

Failed States Index

To view Failed States Index Ctrl + Click here

Offshore Financial Centre

Papua new Guinea is not considered to be an Offshore Financial Centre

Reports

US State Dept Narcotics Report

No report available

US State Dept Trafficking in Persons Report 2016 (introduction):

Papua New Guinea is classified a Tier 3 country - a country whose government does not fully comply with the minimum standards and is not making significant efforts to do so.

Papua New Guinea is a source, transit, and destination country for men, women, and children subjected to sex trafficking and forced labor. Foreign and local women and children are subjected to sex trafficking, domestic servitude, and forced begging or street vending. Foreign and local men are subjected to forced labor in logging and mining camps as well as on fishing vessels operating in Papua New Guinea's exclusive economic zone. An estimated 19 percent of the country's labor market is comprised of child workers—some of whom are subjected to forced labor or prostitution. "Mosko Girls" —young girls employed in bars to provide companionship to patrons and sell an alcoholic drink called mosko—are vulnerable to human trafficking, especially around major cities. NGO sources indicated that the number of children exploited in prostitution increased by 30 percent in 2013. Boys as young as 12 years old are exploited as "market taxis" in urban areas and required to carry extremely heavy loads for low pay; some may be victims of forced labor. Parents force children to beg or sell goods on the street as sources of income. Within the country, women and girls from rural areas are deceived with promises of legitimate work to travel to different provinces where they are subjected to sex trafficking. Children, including girls from tribal areas as young as 5 years old, are reportedly subjected to sex trafficking or forced labor by members of their immediate family or tribe. Tribal leaders reportedly trade with each other the exploitative labor and service of girls and women for guns and to forge political alliances. Traditional customs permit parents to sell or give away their daughters for forced marriages—often to wealthy men and politicians—to settle debts or as peace offerings, leaving the girls vulnerable to domestic servitude. Young girls sold into polygamous marriages may be forced into domestic service for their husbands' extended families. In urban areas, parents reportedly prostitute their children directly or in brothels as a means to support their families or to pay for school fees. Government officials reportedly facilitate trafficking by accepting bribes to allow undocumented migrants to enter the country or ignore trafficking situations, and some may procure trafficking victims for other individuals in return for political favors or votes.

Malaysian and Chinese logging companies and foreign businesspeople arrange for some foreign women to enter the country voluntarily with fraudulently issued tourist or business visas. After their arrival, many of these women—from countries including Indonesia, Malaysia, Thailand, China, and the Philippines—are turned over to traffickers who transport them to logging and mining camps, fisheries, and entertainment sites, and exploit them in forced prostitution and domestic servitude. Chinese, Malaysian, and local men are subjected to forced labor at commercial mines and logging camps, where some receive little pay and are compelled to continue working for the company indefinitely through debt bondage.

Employers exacerbate workers’ indebtedness by paying extremely low wages, which compel employees to purchase food and other necessities from the employers at usurious interest rates.

The Government of Papua New Guinea does not fully meet the minimum standards for the elimination of trafficking and is not making significant efforts to do so. During the reporting period, the government assisted an international organization in the identification of 21 victims of labor trafficking on fishing vessels and referred them to civil society organizations to receive assistance. This was a significant increase from victims identified in the previous year; however, authorities then arrested and sentenced 12 of the victims to prison for illegal entry into the country. The government did not prosecute any trafficking offenses or convict any traffickers; nor did it provide financial or in-kind support for any protective services. The national action plan, drafted during the previous reporting period, was not approved or implemented.

US State Dept Terrorism Report

No report available

International Sanctions

None Applicable

Bribery & Corruption

Index	Rating (100-Good / 0-Bad)
Transparency International Corruption Index	29
World Governance Indicator – Control of Corruption	16

Corruption and Government Transparency - Report by US State Department

Corruption is a widespread concern 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 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 to effectively address corruption. 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 has made combating corruption a central focus of his administration. Since its inception in August 2011, his "Task Force Sweep" has led to arrests for the misuse of government funds, including several current and former government officials. The 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.

Section 3 - Economy

Papua New Guinea (PNG) is richly endowed with natural resources, but exploitation has been hampered by rugged terrain, land tenure issues, and the high cost of developing infrastructure. The economy has a small formal sector, focused mainly on the export of those natural resources, and an informal sector, employing the majority of the population. Agriculture provides a subsistence livelihood for 85% of the people. The global financial crisis had little impact because of continued foreign demand for PNG's commodities.

Mineral deposits, including copper, gold, and oil, account for nearly two-thirds of export earnings. Natural gas reserves amount to an estimated 155 billion cubic meters. A consortium led by a major American oil company is constructing a liquefied natural gas (LNG) production facility that began exporting in April 2014. As the largest investment project in the country's history, it has the potential to double GDP in the near-term and triple Papua New Guinea's export revenue. An American-owned firm also opened PNG's first oil refinery in 2004 and is building a second LNG production facility. The government faces the challenge of ensuring transparency and accountability for revenues flowing from this and other large LNG projects. In 2011 and 2012, the National Parliament passed legislation that created an offshore Sovereign Wealth Fund to manage government surpluses from mineral, oil, and natural gas projects. In recent years, the government has opened up markets in telecommunications and air transport, making both more affordable to the people.

Numerous challenges still face the government of Peter O'NEILL, including providing physical security for foreign investors, regaining investor confidence, restoring integrity to state institutions, promoting economic efficiency by privatizing moribund state institutions, and maintaining good relations with Australia, its former colonial ruler. Other socio-cultural challenges could upend the economy including chronic law and order and land tenure issues.

Agriculture - products:

coffee, cocoa, copra, palm kernels, tea, sugar, rubber, sweet potatoes, fruit, vegetables, vanilla; poultry, pork; shellfish

Industries:

copra crushing, palm oil processing, plywood production, wood chip production; mining (gold, silver, copper); crude oil and petroleum products; construction, tourism

Exports - commodities:

oil, gold, copper ore, logs, palm oil, coffee, cocoa, crayfish, prawns

Exports - partners:

Japan 17.4%, Australia 15.9%, China 12.1% (2015)

Imports - commodities:

machinery and transport equipment, manufactured goods, food, fuels, chemicals

Imports - partners:

Australia 25.9%, China 20%, Singapore 12.6%, Malaysia 7.2%, US 4.2%, Indonesia 4.1%, South Korea 4% (2015)

Banking

The central bank, the Bank of PNG, follows international standards and pursues best practices. However, given that there are only four privately operated banks in the country, there is an unofficial duopoly at work in the banking system. One of the four banks, Bank South Pacific (BSP), controls more than 70% of the market and is the only bank with branches throughout the country. It thus holds an unofficial monopoly on rural banking. BSP arguably is also the only bank willing to take on the risks involved with investing in rural areas, particularly where banking is exposed to criminal activities.

The other three banks, Australia New Zealand Bank (ANZ), Westpac and Maybank Papua New Guinea, concentrate mostly on business clients and can be found only in the country's urban centers. Banks in Papua New Guinea are inefficient and relatively expensive. All the commercial banks are closely supervised by the central bank.

Stock Exchange

With only 19 companies listed, the Port Moresby Stock Exchange (POMSOX) is small, and some of its key counters have dual listings on the Australian Stock Exchange. Market liquidity is a problem, as there is a limited number of local players and few international players. There are no restrictions on foreign capital entering and exiting the POMSOX.

Section 4 - Investment Climate

Executive Summary

Papua New Guinea (PNG) is located in the southwestern Pacific Ocean. The Government of Papua New Guinea (GPNG) welcomes foreign investment and appears to have a liberal investment approach, but in practice this may be more complex. PNG is rich in natural resources such as gold, oil, gas, copper, silver, timber, and fisheries. The GPNG has placed a higher priority on the downstream processing of these resources in order to drive sustainable economic growth.

Large investments have been limited to the mining and petroleum sectors. Most notable investments have been ExxonMobil's USD 19 billion liquefied natural gas project as well as developments in the area of communications, construction, and real estate. These investments have supported employment growth, but also evidenced a shortage of skilled labor. Tourism is seen by the GPNG as a sector with huge untapped potential. While there is preference towards foreign investment proposals to develop renewable resources, there have been few large-scale projects.

Over the last few years, the GPNG has taken several steps to create additional opportunities for business owners. Nevertheless certain measures to exclude foreign investment from certain key sectors have created uncertainty. The GPNG recently expropriated Ok Tedi Mining Limited and stated that the purpose behind this move was to remove foreign leadership and ensure that assets were directly benefiting the country. In 2013, the GPNG implemented a series of new policies, a test on foreign companies' activities to determine their commitment to activities of national interest, and carved out additional sectors which have been reserved exclusively for nationals.

GPNG has recently hosted and been awarded several high-profile events including the Pacific Games (July 2015), the Pacific Islands Forum Leaders' Meeting (September 2015), the African, Caribbean, and Pacific Group of States Meeting (June 2016), the FIFA Women's Under-20 World Cup (November 2016), and the Asia Pacific Economic Cooperation (APEC) Leaders' Summit (November 2018). Due to the infrastructure needs in PNG, preparations for each event have been significant business opportunities for contractors and vendors.

There have been discussions to establish a sovereign wealth fund, but this appears to be on hold until they have been able to restructure the revenue management stream for their state-owned enterprises (SOEs) in key sectors.

GPNG has taken steps towards increasing transparency in the management of their natural resources. In 2016, GPNG has submitted its first report to the Extractive Industries Transparency Initiative. This initiative is a global standard to promote open and accountable management by strengthening government and company systems. GPNG's report was greeted as a welcome first step, though the difficulty of obtaining accurate and timely information made the report less thorough.

Some of the challenges to investment include weak enforcement of contracts, inconsistent government policies, corruption, crime, inadequate infrastructure, lack of access to constant utilities, underdeveloped private markets, and extremely high commodity and telecommunications costs. Equally challenging has been the ongoing political instability.

U.S. companies have shared concerns about the GPNG procurement process, stating cases where competition has been narrowly tailored in order to limit participants –resulting in U.S. companies being unable to compete.

Table 1

Measure	Year	Index or Rank	Website Address
TI Corruption Perceptions index	2014	145 of 175	transparency.org/cpi2014/results
World Bank's Doing Business Report "Ease of Doing Business"	2015	145 of 189	doingbusiness.org/rankings
Global Innovation Index	2015	N/A	globalinnovationindex.org/content/page/data-analysis
U.S. FDI in partner country ($M USD, stock positions)	2015	$339	BEA
World Bank GNI per capita	2014	$2,240	data.worldbank.org/indicator/NY.GNP.PCAP.CD

Millennium Challenge Corporation Country Scorecard

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

1. Openness To, and Restrictions Upon, Foreign Investment

Attitude toward Foreign Direct Investment

On paper, 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 ExxonMobil PNG's massive LNG project to proceed and produce its first gas cargo 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.

In 2013 and 2014, the GPNG took several steps to create additional opportunities for PNG business owners and to protect certain industries from foreign investment. PNG expropriated a mining company, which was the largest source of tax revenue in the country, in order to remove its foreign national leadership and also in an effort to ensure that the company's mission was directed towards benefiting the local economy.

The GPNG has made progress by creating policies and systems to streamline the regulatory and administrative requirements for foreign investors. The 1992 Investment Promotion Authority (IPA) promotes and facilitates investment and acts as a one-stop shop for investors. Foreign investment does require government approval and the procedure it implements by the 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, all free of charge. Fees are applicable for company registrations, foreign enterprise certification, and registration of intellectual property.

While delays in the IPA's certification process have a direct effect on investment, this challenge is not unknown to foreign investors and it affects them all in the same manner. In early 2016, the IPA introduced an online registry system that will significantly speed up the registration of companies.

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 Fédération 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 (PGK), which is approximately USD 158. Certifying a foreign company takes two to five weeks and costs PGK 2,000 (USD 632).

Other Investment Policy Reviews

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

PNG has been a World Trade Organization (WTO) member since 1996. Its last Trade Policy Review (TPR) conducted by the WTO was in 2010, 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=.

The review found that PNG's resource-rich economy remains heavily reliant on subsistence agriculture, heavily dependent on trade (both on primary exports and manufactured imports, including inputs), and deeply vulnerable to world commodity price movements.

The TPR found that PNG's trade policy has been focused on greater domestic value-added manufacturing and services across sectors, especially fishing, to promote processing, import substitution, and as an effort 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 incoherent, somewhat handicapped by PNG's limited institutional, 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 worth less than PGK one million (USD 316,000) are reserved for local suppliers, who also receive a preferential margin of 7.5 percent on larger contracts up to PGK ten million (USD 3.16 million). State-owned enterprises (SOEs) dominate many key utilities and service industries such as power, telecommunications, aviation, water, sewerage, postal services, and the administration of 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, in 2013 an assessment was carried out through the APEC Technical Assistance Training Facility (TATF), a USAID-funded program.

Laws/Regulations on Foreign Direct Investment

Foreign investors can either be incorporated in PNG as a subsidiary of an overseas company or incorporated under the laws of another country and therefore registered as an overseas company under Papua New Guinea Companies Act 1997.

The 1997 Companies Act and 1998 Companies Regulation oversee 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 2014, the government amended the 1997 Companies Act to improve corporate governance and ease regulatory burdens. This amendment will allow IPA to begin using its online company registry. The main six changes to the act are as follows:

Increased protection and benefits for shareholders;
Clarification of duties imposed upon directors;
A more transparent and streamlined process of issuing shares;
Increased protection of creditors, including a more disciplined liquidation process;
A clearer process for filing annual returns; and
Streamlined filing requirements in anticipation of implementing an online registration.

A summary of the changes to the Act can be found on the IPA website: http://www.ipa.gov.pg/wp-content/uploads/Changes-to-the-company-Act.pdf.

In 2013, the government amended the Takeovers Code to include a test for foreign companies wishing to buy into the ownership of local companies. The new regulation states that the Securities Commission of Papua New Guinea (SCPNG) shall issue an order preventing a party from acquiring any shares, whether partial or otherwise, if the commission views that such acquisition or takeover is not in the national interest of PNG. This applies to any company, domestic or foreign, registered under the PNG Companies Act, publicly traded, with more than five million PGK (USD 1.6 million) in assets, with a minimum of 25 shareholders, and more than 100 employees.

In 2013, PNG used this regulation to reject a bid by Malaysian palm oil company Kulim who was looking to increase its ownership in New Britain Palm Oil Limited (NBPOL). NBPOL is one of PNG's largest employers, and the largest domestic sugar (Ramu Sugar) and beef producer in PNG. (See decision here: http://www.nbpol.com.pg/wp-content/uploads/downloads/2013/08/NBPOL-Target-Company-Statement-6-Aug-2013.pdf).

Business Registration

Businesses can register online at the Investment Promotion Authority's website. (http://www.ipa.gov.pg/) The process was recently brought online, replacing a paper method. Prior to the online registration, a company must obtain a physical company seal. Procedural steps after the company seal and online registration include registering with tax authorities and the employment register at the Internal Revenue Commission, applying for a trade license from the local commission, opening an account at an authorized superannuation fund (pension), and registering with private insurers for worker injuries. While some of these steps can be completed simultaneously, a total of two to three months should be expected to complete them all.

GPNG uses its IPA to attract and facilitate foreign investment. There are various incentives available to large and small proposals.

GPNG defines micro, small, and medium enterprises somewhat differently based on industry sectors in its new SME policy, but the following is a rough guide:

Micro: Annual sales turnover of less than PGK 200, 000
Fewer than five employees
Assets of less than PGK 200, 000

Small: Annual sales turnover of more than PGK 200, 000 and less than PGK five million
More than five, but fewer than 20 employees
Assets of more than PGK200, 000 and less than PGK five million

Medium: Annual sales turnover of more than PGK five million and less than PGK ten million
More than 20, but fewer than 100 employees
Assets of more than PGK five million and less than PGK ten million

Industrial Promotion

The PNG government's economic development and industrial policies are aimed at increasing value-added products. Government policies encourage the development of non-mining sectors including manufacturing, business services, and renewable resources such as agriculture and fisheries to promote economic self-sufficiency. These policies focus on creating industries and business that will generate employment and sustainable growth to the local economy.

PNG's mining and petroleum sectors are still relatively underdeveloped, and consequently, the government continues to place a high priority on further expanding this sector. There are growing opportunities for investors to establish businesses that support the downstream sector. Investors seeking additional information on investment opportunities in these sectors should contact the Investment Promotion Authority (contact information available online here: http://www.ipa.gov.pg/). For extractive industries, PNG's seismic data is often outdated and/or unreliable. Most extractive companies have completed their own surveys before entering PNG.

New government policies aim to promote the development of small to medium enterprises (SME). There is an interest in knowledge transfer and learning how to adopt more efficient technology. The main objective is to instill a more formalized business culture and ensure long-term sustainability. PNG's priority sectors include agriculture (production and processing), fisheries, forestry, manufacturing, and tourism/travel. The government rolled out a new SME policy in early 2016 to grow the number of SMEs from 49,500 to 500,000 by 2030, thereby creating two million jobs. The governments aims to achieve these goals by "creating an enabling environment, building the entrepreneurial mindset of our people, providing easy access to business finance, enabling infrastructure and training and support services."

Papua New Guinea's Vision 2050 sees the tourist industry becoming a significant driver with the development of the local 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. Despite these efforts, there has not been a large increase in tourist arrivals or tourist spending in PNG over the last few years. Concerns about crime and infrastructure continue to negatively impact tourism promotion efforts.

Limits on Foreign Control and Right to Private Ownership and Establishment

In the natural resources sector foreign ownership is limited. In most other cases 100 percent foreign-owned enterprises are allowed. Joint ventures with local partners are highly encouraged. The amended regulations from the Investment Promotion Act contain the list of restricted business activities as well as those that require a minimum 50 percent local ownership. Activities restricted to citizen enterprises are listed in the Cottage Business Activities List (CBAL).

Foreign enterprises cannot conduct business in activities listed under CBAL. Restricted activities under the CBAL are listed as follows:

Agriculture
Cultivation and growing of vegetables and other market produce with annual sales of PGK 50,000 (USD 15,800) or less;

Farming of animals with annual sales of PGK 50,000 (USD 15,800) or less;
Poultry farming with annual sales of PGK 50,000 (USD 15,800) or less; and
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; and Wokabaut (Mobile) sawmills.

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 of 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; and
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; and
Repair of footwear when not done in combination with manufacture or wholesale or retail of these goods.

Other Cottage Business Activities

Weaving: Includes, but is not limited to, weaving of cane products, textiles, baskets, nets, dishes, ropes, and bags that are saleable at home, street market, or retail outlet for 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 for 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 for a fee;
Arts and crafts Making: All sorts of handcrafts and artistic designs that are saleable at home, street market, or retail outlet for a fee;
Carving: Wood carvings and sculptures for a fee (contract) or assorted carvings that are saleable at home, street market, or retail outlet for 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 for 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 for a fee;
Screen Printing: Screen printing of designs including emblems, logos, traditional and contemporary art forms, commemorations and special events on apparels including lap-laps, 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 for 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 for a fee;
Baking: Baking of fresh bakery products including bread loaves, cakes, pies, cookies and scones, saleable at home, street market, or retail outlet for 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; and
Operation of Tire Repair Service: Operation of small tire repair shops, where not done as incidental to the core business of Maintenance and Repairs.

As part of its SME policy, the government noted that several industries, including extractives, construction, and retail are almost entirely controlled by foreign operators. The new policy calls for foreign construction companies that win government tenders to subcontract 50 percent of the work in their contract to local businesses. The government move seems to be in response to public pressure to increase the number of PNG-owned businesses. A noted concern is that as a direct result of closing these sectors to foreign investment, the services would cease to exist because local entrepreneurs may not step in to fill gaps, due to a lack of expertise, financing, or knowledge.

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. The trend has been towards growing SOEs. The cumulative asset value of SOEs grew from USD 1.58 billion in 2012 to USD 6.32 billion by the end of 2015.

Screening of FDI

The GPNG screens foreign direct investment (FDI). When reviewing an FDI proposal, the 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

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 – PGK 50,000 (USD 15,800);
Partnership – PGK 50,000 (USD 15,800) per partner; and
Corporate Body – PGK 100,000 (USD 31,600).

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 among the sectors. For IPA- related matters, a company must submit its appeal to the Ministry of Commerce and Industry. An accompanying fee of PGK 200 (USD 63 – check exchange rate) is required. Appeals may be lodged in response to any decision made by the IPA, including rejection of an application or the 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 with respect to local borrowings.

Competition Law

The 2002 Independent Consumer and Competition Commission Act, is the law that governs in the area of competition. 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 as well as 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 (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;

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) (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 (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 (Sections 59-64); and

Mergers or acquisitions that would have the effect or likely effect of substantially lessening competition in a market (Section 69).

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.

2. Conversion and Transfer Policies

Foreign Exchange

In June 2014, the Central Bank introduced measures that effectively pegged the PGK at levels that have recently led to foreign exchange shortages. Falling commodity revenues have worsened the foreign exchange situation. Many businesses have been increasingly unable to convert PGK into foreign currencies to pay for imports or other services from foreign providers. GPNG is exploring various swap facilities with private financial institutions and possibly the IMF to ease the foreign exchange shortage. There has been no move to allow the PGK to float freely.

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 between 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 PGK 50,000 (USD 15,800) per year require a tax clearance certificate issued by the Internal Revenue Commission. In addition, approval of PNG's Central Bank – the Bank of Papua New Guinea – is required for annual remittances overseas in excess of PGK 500,000 (USD 158,000). 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.

In 2014, PNG's Central Bank pegged the PGK to the USD at a fixed exchange rate of USD 0.4130. That level has proven unsustainable in the face of falling commodity prices and slumping revenues. The PGK has been steadily falling since late 2014. Currently, the PGK trades at approximately USD 0.32.

Papua New Guinea continues to face risks of money laundering activities by criminal enterprises, primarily with funds from public corruption. The Papua New Guinea's Financial Intelligence Unit (FIU) claims that close to half of the GPNG budget is lost to fraud and laundered through PNG's banks. Little is done to hide the source of the funds, and many of these transactions are done through checks due to the perceived impunity. 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 show that criminals are increasingly using corporate entities to hide funds and move them offshore. 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 PNG. The World Bank and Asia/Pacific Group on Money Laundering concur that the FIU is under-resourced. Likewise, the 2011 Mutual Evaluation Report noted 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) – would 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. Prime Minister 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.

In early April 2014, 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. In May 2014, 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

In May 2015, PNGSDP's claim was dismissed at the International Centre for Settlement of Investment Disputes (ICSID). ICSID found that Papua New Guinea had not given consent in writing to arbitrate claims under the ICSID convention.

4. Dispute Settlement

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

The legal system is based on English common law. The Supreme Court is the nation's highest judicial authority and final court of appeal. Other courts are the National Court; district courts, which deal with summary and non-indictable offenses; and local courts, established to deal with minor offenses, including matters regulated by local customs.

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 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 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. The average recovery rate is 24.2 cents on the dollar. Globally, Papua New Guinea stands at 138 out 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, judgments from foreign courts are recognized and can able to be enforced. 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

Since 1978, Papua New Guinea has been a member of the International Centre for Settlement of Investment Disputes (ICSID Convention). In agreements with foreign investors, the GPNG traditionally adopts the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL model law).

Duration of Dispute Resolution – Local Courts

While precise information is not available, PNG's legal system is notoriously slow, with cases often dragging on for years and years.

5. Performance Requirements and Investment Incentives

WTO/TRIMS

Papua New Guinea has been a member of WTO since 1996. Embassy 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 PricewaterhouseCoopers' Global Tax Solutions page (http://www.pwc.com/gx/en/tax/index.jhtml).

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

Agricultural production of any kind;
Manufacturing of any kind;
Construction;
Transport, storage and communications;
Real estate;
Business services; and
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; and
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 export qualifying goods manufactured by them in Papua New Guinea are exempt from income tax on the profits from those sales for the first three years. For the following four years, the profit 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 percent
Year 2 – 30 percent
Year 3 – 20 percent
Year 4 – 15 percent
Year 5 – 10 percent

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 file an annual certification with the Registrar of Companies accompanied by audited financial statements. A foreign company must apply for Certification under the Investment Promotion Act 1992 within 14 days of registering. Any foreign company automatically falls under this category and therefore must complete the same process.

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 may be able to 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.

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 IPA, 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 PNG must have a valid work permit before they can be hired. 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.

Data Storage

Papua New Guinea does not follow forced localization.

Post is not aware of any requirements for foreign IT providers to turn over source code and/or provide access to surveillance. Likewise, Post is not aware of any rules on maintaining a certain amount of data storage within the country.

6. Protection of Property Rights

Real Property

PNG's legal system does not allow direct foreign ownership of land. To get around this limitation, long-term government leases are used. The legal system protects and facilitates acquisition and disposition of all property rights, but there are substantial delays particularly within the Department of Lands.

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 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

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

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/

7. 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 or 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.

8. Efficient Capital Markets and Portfolio Investment

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.

Money and Banking System, Hostile Takeovers

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 PGK 15.809 billion (USD 5.0 billion) at year's end in 2013. 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 USD 645 billion at year's end 2015, and Westpac Bank had USD 588 billion in total assets at the end of 2015. The banking system in Papua New Guinea is generally sound.

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

9. Competition from State-Owned Enterprises

State-owned enterprises (SOEs) are active in the airline, media, 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. GPNG has the increased the size and reach of SOEs. Most recently, Telikom PNG purchased EMTV, previously the only private national television broadcaster. The overall value of SOE holdings increased from USD1.58 billion in 2012 to USD6.32 billion by the end of 2015. In 2015, SOEs were consolidated and brought under Kumul Consolidated Holdings. Information about Kumul Consolidated Holdings is available through the Independent Public Business Corporation (IPBC), which manages Papua New Guinea's 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 offshore 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 was scheduled to debate this topic when it convened in August and November 2014. However, delays and revisions in its preparation pushed the SWF announcement to just before the November 2014 session. The Sovereign Wealth Fund Bill was passed on July 30, 2015. Falling commodity prices have led to a dramatic decrease in government revenues, and the start of contributions has been delayed indefinitely.

10. Responsible Business Conduct

There is a general awareness of the concept of corporate social responsibility (CSR) 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. The PNG government also offers tax incentives for extractive companies that engage in social infrastructure projects (must be approved in advance of construction).

OECD Guidelines for Multinational Enterprises

There is little coordination from the PNG government on CSR activities within the country. The Department of National Planning has taken measures to try to centralize control of all assistance funding under its umbrella, with the ultimate end goal being to ensure that it can coordinate and approve this assistance. While CSR activities have not been discussed in this context, this would seem a logical follow-on. There has been concern raised at the sectoral level about a lack of coordination between donor, PNG government, and private sector activities, but little has been done to improve coordination.

11. 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.

Discontent over corruption charges against Prime Minister O’Neill led to university demonstrations throughout the country. The demonstrations consisted mainly of a boycott, but did include public protests as well. For the most part, the protests were peaceful.

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. Papua New Guinea’s police, the Royal Papua New Guinea Constabulary, lack the capacity to prevent and respond to these incidents, and companies therefore have to devote significant resources to private security.

In addition to a lack of overall capacity, Papua New Guinea's capacity to respond to crime and other threats is also hindered by longstanding tensions between the police and military. For example, in December 2014, police and military were involved in several armed clashes against each other in Port Moresby. Originating after police encountered a group of drunken soldiers and arrested them, several shots were exchanged and four soldiers were hospitalized with gunshot injuries on the first day of the conflict. On the second day, police and military troops set up defensive roadblocks against each other around the police station and barracks while opportunists took advantage of the tension and looted several supermarkets and other local stores. Tensions continued with roadblocks and sporadic fighting between the forces for another two days before a reconciliation ceremony was held to cool tempers. A joint task force of police and army officials was formed to investigate the violence but did not release their report on the specified deadline. A repeat of the violence occurred in January 2016 when a dispute between police and soldiers turned violent. The violence in 2016 was short-lived and contained.

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 2019 referendum on its future, there is a possibility of renewed violence. There are no known nascent insurrections, belligerent neighbors, or other politically motivated activities in Papua New Guinea.

12. Corruption

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 PGK400 (USD 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 including current and former government officials for the misuse of government funds. 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 Prime Minister's moves to suspend or fire those investigating his activities have been repeatedly challenged in court with various courts finding both for and against plaintiffs on initial hearing and appeal. Regardless, there is currently no active government body funded to investigate corruption.

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.

UN Anticorruption Convention, OECD Convention on Combatting Bribery

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.

Resources to report corruption:

Contact at government agency or agencies 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 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

13. Bilateral Investment Agreements

Bilateral Taxation Treaties

Papua New Guinea does not have a bilateral investment treaty with the United States.

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.

Bilateral Taxation Treaties

Papua New Guinea does not have a bilateral taxation treaty with the United States

14. Foreign Trade Zones/Free Ports/Trade Facilitation

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

15. Foreign Direct Investment and Foreign Portfolio Investment Statistics

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: BEA; IMF; Eurostat; UNCTAD, Other
Economic Data	Year	Amount	Year	Amount	
Host Country Gross Domestic Product (GDP) ($M USD)	2014	n/a	2013	$15,413	www.worldbank.org/en/country
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 ($M USD, stock positions)	2014	n/a	2014	339	BEA data available at http://bea.gov/international/direct_investment_ multinational_companies_comprehensive_data.htm
Host country's FDI in the United States ($M USD, stock positions)	2014	n/a	2014*	-1	BEA data available at http://bea.gov/international/direct_investment_ multinational_companies_comprehensive_data.htm
Total inbound stock of FDI as % host GDP	2014	n/a	2014	.02%	n/a

Table 3: Sources and Destination of FDI

*Foreign Direct Investment in Papua New Guinea grew from USD 1.45 billion in 2004 to USD 2.67 billion in 2012 (the most recent year for which statistics are available), according to the 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 briefly surpassed Australia as the country's largest source of investment when ExxonMobil PNG entered the market in the late 2000s with its USD 19 billion liquefied natural gas project. Australia remains Papua New Guinea's largest trading partner.

The below chart reflects 2012 figures, which were the latest available at the time this report was produced. 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. It should be noted that these figures were compiled during the construction phase of ExxonMobil PNG's PNG LNG project. Project construction and initial investment are complete now, and LNG cargoes are being exported multiple times per week. While there is potential for further foreign investment in the natural gas sector, it is not reflected in this data. 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.

According to data from ANZ bank and printed by Oxford Business Group for its 2014 publication on Papua New Guinea (http://www.oxfordbusinessgroup.com/), the country's main export destinations in 2012 were Australia (32 percent of exports), Japan (7 percent), and China (6 percent). Papua New Guinea's main import destinations that same year were Australia (37 percent of imports), Singapore (14.1 percent), and Malaysia (9.1 percent). According to 2012 data from the Bank of Papua New Guinea, 78.2 percent of PNG's exports were natural resources, 15.6 percent agriculture, 4.5 percent forestry, and 1.7 percent other.

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

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

Source: Investment Promotion Authority, as reported to Oxford Business Group for its 2013 publication on Papua New Guinea (http://www.oxfordbusinessgroup.com/). No 2013, 2014, or 2015 figures were available.

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%
"0" reflects amounts rounded to +/- USD 500,000.					

Source: IMF Coordinated Direct Investment Survey

Table 4: Sources of Portfolio Investment

Portfolio investment data for PNG are not available.

Section 5 - Government

Chiefs of State and Cabinet Members:

For the current list of Chief of State and Cabinet Members, please access the following - Central Intelligence Agency online directory of Chiefs of State and Cabinet Members of Foreign Governments

Legal system:

Mixed legal system of English common law and customary law

International organization participation:

ACP, ADB, AOSIS, APEC, ARF, ASEAN (observer), C, CD, CP, FAO, G-77, IAEA, IBRD, ICAO, ICRM, IDA, IFAD, IFC, IFRCS, IHO, ILO, IMF, IMO, Interpol, IOC, IOM, IOM (observer), IPU, ISO (correspondent), ITSO, ITU, MIGA, NAM, OPCW, PIF, Sparteca, SPC, UN, UNCTAD, UNESCO, UNIDO, UNMISS, UNWTO, UPU, WCO, WFTU (NGOs), WHO, WIPO, WMO, WTO

Section 6 - Tax

Exchange control

Generally, Authorised Dealers (being commercial bankers) are licensed to transfer funds in and out of PNG subject to certain conditions. However, payments of K200,000 or more per annum require a tax clearance from the Internal Revenue Commission.

Treaty and non-treaty withholding tax rates

Double Taxation Agreements have been signed with Australia, Canada, Fiji, Germany, and the People's Republic of China, Malaysia, Singapore, South Korea and the United Kingdom. The agreement with Germany, however, is yet to be ratified, while a treaty with Indonesia is in its final stage for gazettal notification.

Double Taxation Agreements are being considered for the following countries: the United States of America, New Zealand, the Philippines and Thailand.

Methodology and Sources

Section 1 - General Background Report and Map

(Source: CIA World Factbook)

Section 2 - Anti – Money Laundering / Terrorist Financing

	Lower Risk	Medium Risk	Higher Risk
FATF List of Countries identified with strategic AML deficiencies	Not Listed	AML Deficient but Committed	High Risk
Compliance with FATF 40 + 9 recommendations	>69% Compliant or Fully Compliant	35 – 69% Compliant or Fully Compliant	<35% Compliant or Fully Compliant
US Dept of State Money Laundering assessment (INCSR)	Monitored	Concern	Primary Concern
INCSR - Weakness in Government Legislation	<2	2-4	5-20
US Sec of State supporter of / Safe Haven for International Terrorism	No	Safe Haven for Terrorism	State Supporter of Terrorism
EU White list equivalent jurisdictions	Yes		No
International Sanctions UN Sanctions / US Sanctions / EU Sanctions	None	Arab League / Other	UN , EU or US
Corruption Index (Transparency International) Control of corruption (WGI) Global Advice Network	>69%	35 – 69%	<35%
World government Indicators (Average)	>69%	35 – 69%	<35%
Failed States Index (Average)	>69%	35 – 69%	<35%
Offshore Finance Centre	No		Yes

Section 3 - Economy

General Information on the current economic climate in the country and information on imports, exports, main industries and trading partners.

(Source: CIA World Factbook)

Section 4 - Foreign Investment

Information on the openness of foreign investment into the country and the foreign investment markets.

(Source: US State Department)

Section 5 - Government

Names of Government Ministers and general information on political matters.

(Source: CIA World Factbook / https://www.cia.gov/library/publications/world-leaders-1/index.html)

Section 6 - Tax

Information on Tax Information Exchange Agreements entered into, Double Tax Agreements and Exchange Controls.

(Sources: OECD Global Forum on Transparency and Exchange of Information for Tax Purposes PKF International)

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