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REPORT OF PAPUA NEW GUINEA'S INDIVIDUAL ACTION PLAN (IAP) PEER REVIEW

The IAP Peer Review Session for Papua New Guinea was held on 2 March 2005 in Seoul, Republic of Korea. Delegates from Australia; Brunei Darrusalam; Canada; Chile; Indonesia; Japan; Korea; Mexico; New Zealand; Papua New Guinea; Peru; Russia; Singapore; Chinese Taipei; Thailand; and United States were present. The APEC Secretariat and ABAC were also present.

The Review Team for Papua New Guinea was comprised of:

Moderator:	Ambassador Rupert Holborow Senior Official for APEC New Zealand
Discussant:	Mr. Julio Chan APEC Director Ministry of Foreign Trade and Tourism PERU
Expert:	Mr. Gordon LaFortune Consultant Grey, Clark, Shih and Associates Ltd (GCS), Canada

This report contains the following Annexes.

Annex 1 -	Moderator's Wrap-up remarks
Annex 2 -	IAP Study Report –Papua New Guinea 2004
Annex 3 -	Discussant's Remarks
Annex 4 -	Written Questions Received During the Review Session

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Papua New Guinea IAP Peer Review Session

Moderator's Wrap-up Remarks

Mr. Rupert Holborow, New Zealand APEC Senior Official

At this point, having completed our discussions, I would like to take the opportunity to offer some concluding remarks.

First, may I thank all participants for their contribution to today's PNG IAP Peer Review Session.

My special thanks go to:

- Mr. Gordon LaFortune, our independent expert
- to Mr. Julio Chan, our discussant and the APEC Coordinator of Trade Ministry of Peru
- and to Mr. Joshua Kalinoe, Chief Secretary of Department of Prime Minister, and his very senior level team from Papua New Guinea

Back in 1994 APEC economies established a vision – a vision to reach a point within the APEC family by 2010/2020 of 'free and open trade and investment'.

From an economic perspective, free and open trade and investment is not an end in itself but is a means to an end – and that end is 'economic growth'. What we are striving for here is the adoption of policies in the coming years which will help all of us within APEC secure and sustain economic growth.

No APEC member economy has experienced <u>sustained</u> economic growth without adherence to a broad set of policy principles involving sound economic governance, property rights, fiscal solvency, and – of central relevance to APEC's agenda – a set of outward looking market-orientate policies. Economies which historically have been more open to trade and investment, which have been open to the importation of capital, ideas, people, technology-science, enjoy greater prosperity today than those which have not.

In this regard it is useful for us to reflect on PNG's growth performance in its recent development history relative to that of other developing economies.

Real per-capita income in the developing world grew at an average rate of 2.3% per annum during the <u>four</u> decades from 1960 to 2000. This is a high growth rate by historic standards. At this rate incomes have been <u>doubling</u> every 30 years, allowing each generation to enjoy a level of living standards that is twice as high as that of the previous generation.

PNG has not, to date, shared in this growth dividend. According to data from the Asia Development Bank, PNG's per capita GDP in 2002 was comparable to that which it enjoyed in the preceding decades.

In this context PNG's progress towards meeting the Bogor Goals – towards improving its policy settings to secure higher domestic growth – is highly relevant.

To the extent PNG is taking steps

- to embrace,
- to implement,
- and then enforce

those suite of policies captured within this IAP review template, the more confident PNG can be that it is on a potential path to sustained economic growth.

As participants noted today PNG has made some important progress; progress which we should acknowledge and commend:

- PNG has initiated a tariff reform programme through to 2006
- PNG has established an Independent Consumer and Competition Commission with authority to regulate and enforce competition laws
- Initiatives have been taken in relation to quarantine risk analysis, the investment environment, customs procedures, intellectual property, immigration procedures etc.

These all represent important steps.

But for all of us, the **key** question is not so much about how far we have traveled – but rather how far have we still to go.

In this respect I note that our expert, Mr. Gordon LaFortune, assesses – subject to a couple of important provisos – that reaching the Bogor goals by 2020 is achievable for PNG.

The provisos are, however, critical. And a number of APEC colleagues have directed questions in this regard. The provisos relate to capacity – both fiscal and human – as well as enduring intent.

There have already been some departures from the programmed tariff reduction programme. The move to a new quarantine regime is fragile, some questions exist around PNG's capacity to fully implement its new customs programme. Similar issues arise in relation to standards.

What does all this point to:

- it points to PNG's potential to meet the Bogor Goals,
- but also the need for PNG to maintain a consistent and determined policy in this direction

In facing the challenges of growth and development, I am sure that PNG will find participation in APEC activities valuable as a source of experience and assistance on which it can draw as its development progresses.

I am also confident that APEC member economies will continue to want to provide support for PNG, through capacity building and in other areas, in fulfillment of APEC's goal of regional cooperation for the benefit of all members.

I would like to offer the opportunity to the Chief Secretary to make any final remark before I conclude this session.

Thank you.

2005/SOM1/015anx2

IAP STUDY REPORT
PAPUA NEW GUINEA 2004

Mr. Gordon LaFortune

Consultant
Grey, Clark, Shih and Associates Ltd (GCS), Canada

February 2005

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I. Introduction

1. Development and the Structural Reform Program

Beginning in 1999, Papua New Guinea introduced a number of reform programs and adopted a longer term development strategy intended to address "widespread economic mismanagement"[1] and to support growth and development. Papua New Guinea's reform programs are ambitious and have shown some success.

Papua New Guinea is a developing country member of APEC that is rich in resources, including forestry, fisheries, gas and oil reserves, and gold and copper. However, Papua New Guinea does not have a large skilled workforce. "Most of the population (87%) still lives off the land in villages, with a limited income from cash crops such as coffee, or sales of fish, agricultural products, and traditional crafts."[2] Economic performance since the mid-1990s was weak; poverty increased and per capita real gross domestic product at the end of 2002 was approximately 10% lower than in 1975, the year that Papua New Guinea became independent.[3] The Asian Development Bank concluded that,

> "… in large part the poor performance is attributable to government and peace-and-order problems, deep-seated structural impediments to growth (exacerbated by neglect of rural physical infrastructure), and inadequately focused macroeconomic policies."[4]

Papua New Guinea's efforts to respond during this period did not address the economic problems.

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1 Economic Situation, Papua New Guinea Country Paper - May 2003, New Zealand Ministry of Foreign Affairs and Trade, pg 5 of 10.

2 Economic Situation, Papua New Guinea Country Paper - May 2003, New Zealand Ministry of Foreign Affairs and Trade, pg 5 of 10.

3 Country Strategy and Program Update 2004 – 2006, Papua New Guinea, Asian Development Bank, January 2004, pg 2.

4 Country Strategy and Program Update 2004 – 2006, Papua New Guinea, Asian Development Bank, January 2004, pg 2.

> "The country's economic and social situation deteriorated markedly at the end of the mining boom in the 1990s. Years of poor governance, lawlessness, political instability, poor fiscal management, and inadequate physical infrastructure and utilities all contributed to the economic and social decline. The Papua New Guinea economy contracted in all but two of the years covering the period 1995 to 2002. Falling real GDP combined with a high population growth has led to rapid decline in Papua New Guinea's per capita income. This period was also characterized by high inflation, soaring budget deficits and public debt, outflows of foreign investment and rising unemployment."[5]

In 1999 Papua New Guinea adopted a number of reform programs and strategies aimed at promoting economic growth and development. These programs included taxation reform (tariff reduction and value added tax), investment policy reform, public expenditure management, a privatization program and public sector reform. The objective was to launch a broad-based development program that included an export-driven strategy

The Tariff Reform Program, introduced following the 1997 White Paper on the Tariff Reform Program, was developed following consultations between government and industry. The purpose of the program is to encourage a more efficient and productive private sector by reducing unnecessary costs. Once fully implemented, in January 2006, the Tariff Reform Program, with very few exceptions, will have reduced customs duties to zero, 15%, 25% or to the 40% prohibitive duty rate. In its 2004 IAP Response, Papua New Guinea noted that, in 2006, the nominal tariff rates will be 6.4% and the weighted average tariff rate will be 4.7%. The Australian Department of Foreign Affairs and Trade has commented that, "ongoing tariff reform has made Papua New Guinea one of the least restrictive trade regimes of any developing country."[6]

Papua New Guinea adopted the Medium Term Fiscal Framework, which called for a phased reduction in budgetary deficits with the intention of achieving a balanced budget by 2008.

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[5] Papua New Guinea: The Road Ahead, Australia Department of Foreign Affairs and Trade, December 1, 2004, pg. xv.

[6] Papua New Guinea: The Road Ahead, Australia Department of Foreign Affairs and Trade, December 1, 2004, pg. xviii

In August 2002, Papua New Guinea announced the Agenda for Recovery and Development. The Agenda is based on three pillars: (i) good governance; (ii) export-driven growth; and (iii) rural development, poverty reduction and empowerment through human resource development. These are the overall development objectives of the Government.

The Medium Term Development Strategy 2005 – 2010 adopted by Papua New Guinea supports the export-driven growth and development strategy set out in the Agenda for Recovery and Development by addressing issues underpinning economic growth. In its 2005 Budget Report, Papua New Guinea noted the importance of addressing these factors:

> "Macroeconomic stability is an important pre-requisite to economic growth, but by itself is not enough. There are many factors impeding economic growth in Papua New Guinea. These are well known: political instability, law and order problems, corruption, poor quality public service delivery, and weakness in basic economic infrastructure such as roads, telecommunications and utilities. There is no 'quick fix' to these programs and no one policy that will work in isolation. Stronger broad-based economic growth will only come from sustained efforts on a number of fronts."[7]

In 2003, Papua New Guinea undertook a Public Expenditure Review and Rationalization program to review public expenditures and to identify fiscal adjustment policies that could be implemented in 2004 through 2008. The objective of the program was to outline the scope and opportunity for expenditure rationalization over the medium term and to identify reforms that would provide savings that could be used to retire debt and provide additional resources for government. Nine projects were identified for implementation in 2004, including a "right-sizing" program intended to address the structure of government to make service delivery more affordable and efficient. The intention of the program is to focus government on core functions and reduce costs by

[7] 2005 National Budget, Volume 1 Economic and Development Policies, Minister of Finance & Treasury, pg 34

eliminating duplication, improving management and fiscal accountability and by “right-sizing” the public service.

Papua New Guinea, through the Independent Public Business Corporation, is undertaking a privatization process of its state enterprises intended to convert existing state enterprises into corporations that will ultimately be privatized. The intention of this process is to ensure that these enterprises are efficient and profitable before privatization is completed.

Papua New Guinea introduced a National Investment Policy to provide the transparency, equal treatment and consistency required to permit the private sector to make medium and long-term investment decisions. The Policy is intended to support the Medium Term Development Strategy and the trade liberalization policies of the APEC and WTO.

Papua New Guinea has made a number of major changes to government as a result of these strategies. An Independent Consumer & Competition Commission was established in 2002 with responsibility over prices and competition issues. The Papua New Guinea Investment Promotion Authority is amending rules related to investments and investment incentives. Government procurement is being revised with an eye to rationalizing the system and eliminating Ministerial waivers (the practice of allowing the Minister to purchase goods or services without having to go to tender). The Internal Revenue Commission has updated its customs procedures. The Immigration and Citizenship Division is in the process of revising visa and entry requirements that will facilitate business mobility.

The government consulted with domestic business and industry before launching the structural reform programs and has continued to have a close working relationship since. In 2003, Government established the National Working Group on Removing Impediments to Business and Investment that includes representatives from the business community. The Working Group is currently considering initiatives to facilitate business and commerce in Papua New Guinea.

Papua New Guinea's economic performance has improved since the reforms were introduced in 1999. Given Papua New Guinea's dependence on prices in international commodity markets, it is difficult to attribute all of these improvements to the reform programs, but it appears that the reforms are having some success. Papua New Guinea's Minister for Finance and Treasury, who is the Governor of the World Bank for Papua New Guinea, recently noted that,

> "The country is now benefiting from the Government's prudent fiscal management and some of the reforms undertaken so far. Economic growth has picked up and employment is growing, while inflation and interest rates have declined sharply. On the external front, the exchange rate has stabilized and foreign exchange reserves are at record levels."[8]

Although progress has been made, there is much work left to do to achieve Papua New Guinea's longer-term development goals. A number of obstacles to economic development remain. The 2005 Budget summarized these as: "political instability, law and order problems, corruption, poor quality public service delivery, and weakness in basic economic infrastructure such as roads, telecommunications and utilities."[9] The Asian Development Bank noted that, "Corruption is a critical problem, and is publicly acknowledged by government leaders as well as the general public."[10] The Bank also referred to governance issues and concerns about commitment to real reform.[11] The Minister for Finance and Treasury noted that,

> "Consistent with new Medium Term Development Strategy (MTDS) 2005 – 2010, more attention will be focused in priority areas of transport infrastructure, rehabilitation and maintenance, basic education, primary health care, law and justice, and programs that promote rural income earning opportunities."[12]

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8 Statement by the Hon. Bart Philemon, Governor of the Bank for Papua New Guinea, IMF and the World Bank Group Board of Governors Annual Meeting, Washington D.C., USA, October 3, 2004

9 2005 National Budget, Volume 1 Economic and Development Policies, Minister of Finance & Treasury, pg 34

10 Country Strategy and Program Update 2004 – 2006, Papua New Guinea, Asian Development Bank, January 2004, pg 1

11 Country Strategy and Program Update 2004 – 2006, Papua New Guinea, Asian Development Bank, January 2004, pg 1 - 2

12 Statement by the Hon. Bart Philemon, Governor of the Bank for Papua New Guinea, IMF and the World Bank Group Board of Governors Annual Meeting, Washington D.C., USA, October 3, 2004

Papua New Guinea also faces resource constraints that could affect its ability to implement the reform programs over the longer term. During the in-economy visit, officials with the National Institute of Standards and Industrial Technology (NISIT) described their five-year strategic development plan as being focused on capacity building. The capacity referred to relates to staffing levels and the objective of hiring five new people per year for the next five years to build up a staff large enough to support its operations. Officials with the Immigration & Citizenship Division of the Department of Foreign Affairs and Immigration noted that their total staff of 20 may not be sufficient to fully implement the reforms to Papua New Guinea's immigration policies that are currently being introduced. Customs officials with the Internal Revenue Commission noted that they have had to prioritize their responsibilities and reorganize their staff accordingly to implement and apply their new policy programs.

Furthermore, a number of programs, primarily related to transparency, turn on the availability of budget resources and technical assistance. Most organizations are seeking to publicize their programs, policies and legislation through websites that are being developed. These programs require technical and budgetary support to go forward.

Papua New Guinea has made progress in supporting greater economic development through reforms that liberalize trade and investment. Whether these reforms can continue depends largely on government's commitment to continue with the programs going forward and its ability to support those programs.

2. Macroeconomic Performance

Papua New Guinea's dependence on international commodity prices and economic mismanagement following independence in 1975 resulted in negative growth and contraction overall. Despite some real economic growth during the period, the Asian Development Bank noted weak economic performance between 1975 and the mid-1990s resulting in increased poverty and a reduction in per capita real domestic product by approximately 10%.[13]

Recent economic indicators tend to show that the reform programs and development strategies adopted by Papua New Guinea in 1999 have been successful. The 2005 Budget notes that stronger than expected revenue in 2004 was due to the surge in international prices for key mining and petroleum commodities; in particular, prices for copper and oil were higher than anticipated in the 2004 Budget.[14] Although it is impossible to attribute all of the recent economic growth to government policies, it is likely that the government reform programs have had a positive effect.

After contraction in 2000, 2001 and 2002, Papua New Guinea had real GDP growth in 2003 and 2004, and is projecting growth in 2005. The economy contracted in 2000, 2001 and 2002 by 2.5%, 0.1% and 1.0% respectively. Estimated growth in 2003 was 2.8%. For 2004, growth was estimated at 2.6%.[15] Growth for 2005 is projected at 2.9%.[16]

Inflation has fallen during this period. In 2000, 2001 and 2002 inflation (TTY) was at 10.0%, 10.3% and 14.8% respectively. In 2003, inflation was estimated at 8.5% and is projected to be at 3.7% in 2004.[17] The inflation rate for 2005 is estimated to be 4.2%[18] Inflation as measured by the Consumer Price Index was set at 1.5% for the first nine months of 2004, a significant decline from the almost 20% inflation rate during the same period in 2003.[19]

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[13] Country Strategy and Program Update 2004 – 2006, Papua New Guinea, Asian Development Bank, January 2004, pg. 2..

[14] 2005 National Budget, Volume 1 Economic and Development Policies, Minister of Finance & Treasury, pg. 10.

[15] 2005 National Budget, Volume 1 Economic and Development Policies, Table 1: Principal Economic Indicators, Minister of Finance & Treasury, pg. 1.

[16] 2005 National Budget, Volume 1 Economic and Development Policies, Table 7: Key Economic Assumptions 2004 – 2005, Minister of Finance & Treasury, pg. 13

[17] 2005 National Budget, Volume 1 Economic and Development Policies, Table 1: Principal Economic Indicators, Minister of Finance & Treasury, pg. 1.

[18] 2005 National Budget, Volume 1 Economic and Development Policies, Table 7: Key Economic Assumptions 2004 – 2005, Minister of Finance & Treasury, pg. 13

Interest rates fell over this period, from 18.0% in 2000, to a high of 18.3% estimated for 2003 and 9.0% in 2004.[20] Interest rates are projected to remain at 9.0% in 2005.[21]

Government debt in 2004 fell by K450.9 million, or 5.5%, over 2003 levels. As a percentage of GDP, debt has fallen by 9.8%. Papua New Guinea has attributed this decline in debt to "significant appreciation of the Kina over the course of the year."[22] Papua New Guinea is projecting a budget deficit of K137.7 million for 2005.[23]

As a result of these improvements, Papua New Guinea had a budgetary surplus of K154.6 million, an increase of K350.2 million over its 2004 Budget estimates that had projected a deficit.[24] This increase was principally due to increases in the mining and petroleum taxes by K245.6 million,[25] but has also been attributed to interest cost savings.[26] During 2004, interest rates fell from approximately 16% to below 5%. Overall, tax revenue realized in 2004 increased by K338.2 million over budget estimates.[27]

3. Recent Developments in Trade and Investment

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19 2005 National Budget, Volume 1 Economic and Development Policies, Minister of Finance & Treasury, pg. 1

20 2005 National Budget, Volume 1 Economic and Development Policies, Table 1: Principal Economic Indicators, Minister of Finance & Treasury, pg. 1.

21 2005 National Budget, Volume 1 Economic and Development Policies, Table 7: Key Economic Assumptions 2004 – 2005, Minister of Finance & Treasury, pg. 13

22 2005 National Budget, Volume 1 Economic and Development Policies, Table 1: Principal Economic Indicators, Minister of Finance & Treasury, pg. 6

23 2005 National Budget, Volume 1 Economic and Development Policies, Table 7: Key Economic Assumptions 2004 – 2005, Minister of Finance & Treasury, pg. 13

24 2005 National Budget, Volume 1 Economic and Development Policies, Table 3: Budget Balance 2003 – 2004, Minister of Finance & Treasury, pg. 10

25 2005 National Budget, Volume 1 Economic and Development Policies, Minister of Finance & Treasury, pg. 10

26 2005 National Budget, Volume 1, Economic and Development Policies, Minister of Finance & Treasury, pg. 14

27 2005 National Budget, Volume 1 Economic and Development Policies, Table 4: Tax Revenue 2003 – 2004, Minister of Finance & Treasury, pg. 10

In 2003, Papua New Guinea had a surplus in trade in goods and a deficit in trade in services. Overall, the balance of trade in goods and services resulted in a surplus of K705 million during the first six months of 2004, up from K547 million in the first six months of 2003.[28] More recent figures reported by Papua New Guinea indicate a surplus of K406 million over the first nine months of 2004, down from K992 million for the same period in 2003.

During the nine-month period ending September 2004, total exports from Papua New Guinea were approximately K1,749.9 million. Total imports during this period were approximately K1,217.4 million. Major exports from Papua New Guinea were dominated by the following commodity products: gold, copper, crude oil, coffee, palm oil, logs and cocoa.

Australia is Papua New Guinea's largest trade partner. During the first nine months of 2004, Australia accounted for 57.3% of all imports and 42.9%, of all Papua New Guinea's exports. The next four largest importers into Papua New Guinea were the United States (7.6%), Singapore (6.2%), Japan (5.8%) and New Zealand (3.1%). The next four largest export markets were Japan (15.5%), Germany (9.3%), South Korea (7.5%) and the People's Republic of China (3.6%). Attached as Annex 1 is a chart showing Papua New Guinea's trade flows from 1985 to 2003.

Papua New Guinea has a relatively small services sector. The reform programs introduced by the Government in 1999 should encourage growth in this sector.

Papua New Guinea imposed restrictions on foreign investment in 1992, when it introduced the Reserved Activities List. These restrictions and economic mismanagement during the 1990s affected inflows of foreign direct investment. The reform programs being introduced by Papua New Guinea, including the decision to

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[28] 2005 National Budget, Volume 1 Economic and Development Policies, Table 1: Principal Economic Indicators, Minister of Finance & Treasury, pg. 6

replace the Reserved Activities List with the less restrictive Cottage Business Activities List, should encourage greater investment in Papua New Guinea.

II. Overview: Achieving the Bogor Goals

The purpose of this Report is to assess Papua New Guinea's progress towards achieving its Bogor goals by 2020. This Report was prepared using the Bogor objectives of "free and open trade and investment" as the comparative benchmark. This study has attempted to assess Papua New Guinea's actions against the APEC General Principles set out in the Osaka Action Agenda. The principles primarily used to assess Papua New Guinea's progress towards implementing the Bogor targets of "free and open trade and investment" are comprehensiveness, WTO-consistency, non-discrimination and transparency.[29]

The purpose of this section is to provide an assessment of Papua New Guinea's progress towards achieving free and open trade and investment overall. An assessment of Papua New Guinea's progress towards meeting its Bogor goals with respect to individual issue areas is set out under Section III: Respective Issue Areas.

Although a great deal of work is left to be done, the structural reforms introduced by Papua New Guinea have made significant progress toward achieving its Bogor objectives. The Tariff Reform Program and the decision to establish the Independent Consumer and Competition Commission with authority to regulate and enforce competition laws and to conduct regulatory review and deregulation are the most important steps taken to date. The Tariff Reforms will be fully implemented in January 2006 and, with almost no exceptions, will impose 40% as the highest import duty rate – lower than the highest rates imposed by many other WTO Members. Although the Independent Consumer and Competition Commission was only established in 2002, it has made steady progress in regulatory review and deregulation. So long as the political will exists to support the Commission and its work, there is no reason to believe that it will not enforce competition laws in a fair and transparent manner. Furthermore, the dispute mediation mechanisms in place in Papua New Guinea appear to be very close to meeting the Bogor goal.

Papua New Guinea has also taken important steps in other areas. The National Quarantine Inspection Authority (NAQIA) is taking steps to base quarantine inspection on a risk analysis model by developing risk-based Protocols for imported food products. The Investment Promotion Authority is working to reduce barriers to investment by eliminating the Reserved Activities List in favour of the more open Cottage Business Activities List. The Investment Promotion Authority is also seeking to eliminate "special arrangements" or "time factored" incentives and Ministerial discretion in favour of transparent legislated tax incentives that would apply to all investors. Customs procedures are being amended to conform to the APEC Sub-Committee on Customs Procedures CAP items, and some are already in place. Protection for intellectual property rights is being extended and set out in law. Immigration procedures are being modified to introduce the APEC Business Travel System and to allow for permanent resident status as a means of addressing concerns that the current business visas issued by Papua New Guinea raise a barrier to investment. The government procurement system is being amended, including elimination of Ministerial Waivers. These changes to government procurement should limit the use of sole source procurements and move towards greater transparency. Each of these steps is currently in progress and, if implemented, would represent a positive step towards liberalization of trade and investment.

With respect to services, officials indicated that there are very few restrictions on access to the services sector. Access to the services sector is affected by the existing investment and immigration rules, as well as by constraints in place for some sectors. As steps are taken to liberalize investment and immigration, access to the services sector should also

[29] The other general principles are standstill, simultaneous start, continuous process and differentiated timetables, flexibility and cooperation.

improve.   Beyond the immigration and investment restrictions, more work is required to liberalize the services sector.

With respect to standards and conformance, officials with the National Institute of Standards and Industrial Technology (NISIT) are committed to fully achieving the Bogor goals and have begun to take positive steps forward. However, they made it clear that they do not presently have the resources to implement the standards policy and practices being developed to achieve those goals. NISIT has adopted a strategic development plan that calls for hiring five new staff members per year for the next five years. If this strategic plan is implemented, officials feel that they will be in a position to achieve the Bogor goals by 2020.

At this point, it is clear that Papua New Guinea has made significant progress towards achieving its Bogor goals, although much work remains to be done. If Papua New Guinea continues on its present course, it will likely achieve its trade and investment liberalization goals by 2020. These objectives can be achieved so long as Government continues to support this program and can make budgetary resources available.

III. Respective Issue Areas

1. Tariffs

Papua New Guinea has made extensive changes to its tariff schedule since 1999. These changes have resulted in reduced tariff measures and in simplification. The tariff schedule is also available on the APEC tariff database. In light of these changes, Papua New Guinea has gone a long way toward achieving the objectives of progressively reducing its tariff measures and ensuring transparency.[30]

[30] Papua New Guinea's Tariff Schedule is available on the APEC Tariff Database.

Papua New Guinea began to review its tariff with the 1997 White Paper on the Tariff Reform Program. The White Paper noted that two-thirds of imported goods faced duties of 5% to 11% and that one-third of imported goods faced duties over 40%. The average nominal rate imposed under the tariff schedule was 22%. The weighted average rate was 14%.[31] The Tariff Reform Program was adopted in response to the White Paper. The objective of the program is to reform the tariff and reduce duty rates to encourage a more efficient and productive private sector by reducing unnecessary costs.

The Tariff Reform Program (TRP) amended the tariff so that imported goods would be subject to duties based on one of six duty rate categories: duty free, input rate, basic rate, intermediate rate, protective rate and prohibitive rate. The TRP reduced duties imposed on imported products beginning in 1999 and ending in January 2006. At the conclusion of the TRP, the following duties would be imposed on imported products.

Duty Free	zero
Input Rate	zero
Basic Rate	zero
Intermediate Rate	15%
Protective Rate	25%
Prohibitive Rate	40%

The duty free rate applies to essential items, such as medical supplies and equipment, books, specialized vehicles, kerosene and rice. The input rate applies to basic production inputs such as capital equipment and machinery, chemicals, fertilizer, herbicides and fungicides, iron and steel products and aluminum. The basic rate applies to products that are not, or could not have potentially been, produced in Papua New Guinea.

The intermediate rate applies to those goods that are produced, or could be produced, in Papua New Guinea. At the beginning of the period the rate was set at 40%. Currently, the rate is set at 20% and it will be reduced to 15% by January 2006.

[31] 2003 Tariff Review: A Review of the Tariff Reduction Program, October 2003, pg 22

The protective rate applies to goods that are produced, or could be produced, in Papua New Guinea that were deemed to require protection for some period of time. At the beginning of the period, the rate was set at 40%. Currently, the rate is set at 25% and will be reduced to 20% by January 2006.

Papua New Guinea considers the prohibitive rate to be "very high"; it is intended to act as a deterrent to imports. The prohibitive rate covers items such as vegetables, fruits and precious stones. Before the tariff reform program, prohibitive tariff rates ranged from 55% to 100%.[32] Currently, the rate is set at 45% and will be reduced to 40% by January 2006.

In its 2004 IAP Response, Papua New Guinea reported that,

> "The tariff reform program will substantially reduce the tariff level from the nominal tariff rate of 21.9% in 1997 to 6.4% in 2006. The average trade weighted tariff rate is reduced from 14.4% in 1997 to 4.7% in 2006."

There are some exceptions to the revisions undertaken through the Tariff Reform Program. Ad Valorem tariffs continue to be imposed on beverages, tobacco products and animal fodder.[33] In addition, a temporary 2% import levy was imposed in 2004 and was removed in 2005.[34] Finally, higher duties have been imposed on imported sugar and imported salt as a means of protecting the local industry.

> "Under the TRP [Tariff Reform Program], salt was to have a zero tariff rate and the tariff on sugar was to be reduced to 40 per cent by 2006. The recent decisions to place a 40 per cent tariff on salt and maintain the 70 per cent tariff on sugar until 2010, while advantaging local salt and sugar producers diminishes the welfare of the people of Papua New Guinea. This is so especially for the most poor; as Gibson (1998) found, they spend a relatively large proportion of their disposable income on staples such as salt, rice, tinned fish and sugar."[35]

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[32] 2003 Tariff Review: A Review of the Tariff Reduction Program, October 2003, pg 28

[33] 2003 Tariff Review: A Review of the Tariff Reduction Program, October 2003, pg 28

[34] 2005 National Budget, Volume 1 Economic and Development Policies, Minister of Finance & Treasury, pg. 19

[35] *2003 Tariff Review: A Review of the Tariff Reduction Program*, Commissioned by the Independent State of Papua New Guinea, October 2003, pg 9

Papua New Guinea has effectively described the duties imposed on imported salt and sugar as being WTO-inconsistent tariff rates.

> "When Papua New Guinea joined the WTO, it committed itself to the current tariff rates, which are binding. Whilst we note that the Government may have contravened its WTO obligations by not notifying the WTO when it introduced a higher rate for salt and has extended the existing high tariff rate of 70 per cent for sugar beyond the WTO agreed schedule for reduction in 2006, we do not view these as justifiable reasons for Papua New Guinea reneging on all or any other tariffs or changing the current schedule for reduction in tariffs. Papua New Guinea cannot act unilaterally to increase the levels of bound tariffs and will need to renegotiate the rates with other members of the WTO. Whilst failure to comply with WTO or any trade agreement can lead to counter measures being instituted by an affected country, parties are normally hesitant to resort to such measures unless it is justified by strong economic reasons or other strategic reasoning. Nevertheless, it is good international decorum for Papua New Guinea to observe international rules and obligations it has voluntarily signed up to."[36]

Despite these exceptions, the Australian Department for Foreign Affairs and Trade has commented that, "ongoing tariff reform has made Papua New Guinea one of the least restrictive trade regimes of any developing country."[37]

In 2003, total revenue collected from import duties was K70,215,539.57. In 2004, this amount fell to K53,992,954.30. Papua New Guinea expects that revenue generated from tariffs will continue to fall as tariffs rates are reduced. To offset the lost revenue resulting from tariff reform, Papua New Guinea introduced a Value-Added Tax (VAT), referred to as a Goods and Services Tax (GST).

The GST is seen as an effective means of increasing revenue. During meetings officials advised that, prior to the reform, only 4% of Papua New Guineans paid income taxes. Government relied on tariffs to generate revenue, but recognized that they were an impediment to investment and development. The GST was introduced to increase

[36] *2003 Tariff Review: A Review of the Tariff Reduction Program,* Commissioned by the Independent State of Papua New Guinea, October 2003, pg 14.

revenue while tariff reform stimulated growth by reducing the cost of doing business. The GST also has the benefit of providing greater certainty to government. All GST collections are paid to the central government which, in turn, distributes these monies to the provincial governments. This has given the provincial governments, and to a lesser degree the central government, greater certainty that budget and spending priorities can be achieved. Officials consider that introduction of the GST has had little or no real impact on consumers. Reduced prices, reflecting lower duty rates on imported products, are offset by the GST.

The objective of the Tariff Reform Program was to make Papua New Guinea more competitive by reducing unnecessary costs. Representatives from the Manufacturing Council of Papua New Guinea considered that this was a positive development that would permit greater economic development, but by 2003 considered that tariff reform had gone too far and asked for a temporary suspension. In response, Government appointed a Taskforce to review the Tariff Reform Program. At the conclusion of their review, the Taskforce made the following recommendations:

1. That the existing schedule of the Tariff Reform Program should remain in place.
2. That Government should intensify its efforts to reduce the structural impediments facing Papua New Guinean businesses in the following areas: law and order; physical infrastructure; education and training; the domestic shipping industry; public utilities; public sector performance; and macroeconomic management.
3. That the Tariff Reform Program should be continued beyond 2006. From 2009, the prohibitive rate and the protective rates should be reduced by 5% every three years until all tariffs are at 15%.

[37] Papua New Guinea: The Road Ahead, Australia Department of Foreign Affairs and Trade, December 1, 2004, pg. xviii

4. That the Government should revive the Industry Assistance Board (IAB) and amend the Act to make it an independent statutory body and provide it with a sufficient budgetary allocation to perform its tasks.
5. That Customs administration should be improved in the areas of enforcement, monitoring and classification.[38]

Although Government has not adopted the proposal to continue tariff reductions beyond 2006, officials are confident that tariff reductions will continue and that the Bogor goals will be met before 2020. Whether and when Papua New Guinea undertakes further tariff reductions is a policy decision that must be taken by the National Executive Council.

2. Non-Tariff Measures

Papua New Guinea maintains relatively few non-tariff measures. There are no import restrictions, export licenses, or tariff rate quotas. Papua New Guinea prohibits exports of teak, imposes export taxes on unprocessed wood, restricts access to fish harvesting and processing and maintains strict quarantine restrictions. In its 2004 IAP Response, Papua New Guinea stated that its “exports of agricultural and resource-based products are licensed”, but officials called into question sections of the IAP Response during the in-economy visit, suggesting that some of the responses provided were inaccurate. Officials advised that, with the exception of a prohibition on exports of teak, Papua New Guinea does not restrict exports of any products.

Papua New Guinea imposes measures that restrict access to the fishery to Papua New Guineans. For example, Beche de Mer may only be harvested by Papua New Guineans. The 1999 WTO Trade Policy Review Mechanism Report on Papua New Guinea noted the following restrictions on access to the fisheries sector:

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[38] *2003 Tariff Review: A Review of the Tariff Reduction Program*, Commissioned by the Independent State of Papua New Guinea, October 2003, pp 16 – 17.

(i) Papua New Guinean operators receive preferential access to tuna fishing licenses, and longline licenses for sashimi tuna have been closed to foreign entrants since 1995;[39]

(ii) the tuna cannery at Madang can only be supplied by Papua New Guinean fishing operations;[40]

(iii) Distant Water Fishing Nation vessels fishing in Papua New Guinean waters are required to make at least three calls per journey and purchase supplies worth at least US$90,000 and that high seas transshipments are banned, requiring that transfers occur in Papua New Guinean ports.[41]

During the in-economy visit, officials advised that Papua New Guinea provides some preferential treatment to Papua New Guineans, including preferential access to fishing licenses, but that it does not limit access to the Madang processing plant or continue to impose the other restrictions on access to its fishery.

In its 2004 IAP Response, Papua New Guinea noted that it imposes taxes on exports of unprocessed wood. During the in-economy visit, officials advised that export taxes are also imposed on crocodile skin and sandal wood. The export tax on unprocessed logs is a progressive tax, imposed in 1996, that is tied to the value of the exported log.[42] During the in-economy visit, officials advised that the tax was imposed to address concerns that forest companies were using transfer pricing as a means of avoiding tax liability. Although the export tax is primarily imposed to generate revenue and ensure compliance with Papua New Guinea's tax measures, it also encourages domestic processing of logs. The decision to impose an export tax on logs may be reviewed, but whether it is eliminated will primarily depend on whether Papua New Guinea can ensure that forest

[39] *Trade Policy Review, Papua New Guinea, Report by the Secretariat,* WT/TP/S/62, 22 October 1999, pg xiii, para 37.

[40] *Trade Policy Review, Papua New Guinea, Report by the Secretariat,* WT/TP/S/62, 22 October 1999, pg xiii, para 38.

[41] *Trade Policy Review, Papua New Guinea, Report by the Secretariat,* WT/TP/S/62, 22 October 1999, pg xiii, para 39.

[42] Investment Information about Papua New Guinea, Investment Promotion Authority of Papua New Guinea, May 2004, pg 6.

companies pay taxes on a fair and reasonable basis rather than on continued processing in Papua New Guinea.

Quarantine measures have been identified as the broadest trade barrier applied by Papua New Guinea. The 1999 WTO TPRM Report on Papua New Guinea noted that,

> "PNG applies stringent quarantine regulations. Imports of vegetables and fruit that are also grown in PNG are banned outright. Imports of many plants, such as sugar cane, are also prohibited, while imports of others are restricted. Live animals and certain animal products, such as honey, beef, eggs and non-pork smallgoods, can only be imported from Australia and New Zealand (and Vanuatu in the case of beef). Fresh pig meat and pork smallgoods are importable only from Australia, and canned ham only from Australia, New Zealand, North American and certain EU member states."[43]

Papua New Guinea's 2004 IAP Response also noted that fruit, vegetables and animal and related products are subject to strict quarantine regulations, including blanket bans. During the in-economy visit, officials with Papua New Guinea's National Quarantine Inspection Authority (NAQIA) advised that Papua New Guinea had maintained a zero-risk approach to quarantine which had prohibited imports of some products. However, NAQIA has now adopted the Import Risk Analysis model applied in the WTO Agreement on Sanitary and Phytosanitary Measures.

The decision to move to a risk analysis approach has required that Papua New Guinea review imported products to develop appropriate Protocols. Since NAQIA does not have the resources that would allow it to update all of its existing Protocols, risk analyses are undertaken only when there is a demand to import a specific product. Officials advised that a risk analysis can take from six weeks to three years, depending on a number of factors including the level of protection required and the degree of cooperation received from the exporting country. New Protocols have been developed for rice, beef, milk and dairy products. Over time, it is expected that new Protocols will be developed for all imported products.

[43] *Trade Policy Review, Papua New Guinea, Report by the Secretariat,* WT/TP/S/62, 22 October 1999, pg xii, para 27

NAQIA has received technical assistance from the Australian Quarantine Inspection Service and funding from Australia to help support its surveillance function.
Officials noted that Papua New Guinea's legislation has not changed since the Sanitary and Phytosanitary Agreement entered into force, and they consider that the current legislation is likely not WTO-consistent. Officials are currently working on Biosecurity Legislation and intend to develop WTO-consistent legislation in due course. However, there is currently no timetable for drafting and introducing this legislation.
New Protocols are notified to the exporting country through consultations with the relevant authority. Within Papua New Guinea, new Protocols are distributed to importers by mail, fax or e-mail. Officials are planning a website to make all Protocols, Legislation and other relevant materials available, but note it is unlikely that the website will be in place for at least two years due to resource limitations.

Papua New Guinea maintains some non-tariff measures, but it is not clear that these non-tariff measures violate trade obligations.

The prohibition on exports of teak likely violates GATT 1994 Article XI:1 and could not easily be justified as a conservation measure on the basis that conservation measures must apply at the harvesting stage; cut teak is no longer capable of being conserved.

The restrictions on access to the fishery and measures imposed on foreign fishermen limit access to this industry by foreign nationals, but it is not clear that these restrictions would violate WTO obligations.

The export taxes imposed on unprocessed logs may restrict exports, but it is not clear that this measure violates WTO obligations. GATT 1994 Article XI:1 prohibits export restrictions other than those made effective through taxes, duties or other charges. Even if measure did violate WTO obligations, the export tax could potentially be justified on the basis of GATT 1994 Article XX(d) as a measure necessary to ensure compliance with other WTO-consistent measures. It is not clear how or why export taxes are imposed on crocodile skin or sandal wood.

Finally, the quarantine measures administered by NAQIA that continue to be based on a zero-risk model may violate the requirements of the WTO SPS Agreement. However, in light of the decision to adopt a risk analysis approach and to establish Protocols based on this approach, Papua New Guinea is moving toward full compliance with its WTO obligations.

Although Papua New Guinea maintains relatively few non-tariff measures, and is taking steps to address its quarantine measures, it should review its few non-tariff measures to determine whether they are necessary and, if not, how they could be amended to bring them into compliance with the Bogor goals by 2020.

3. Services

Papua New Guinea has a relatively small services sector, accounting for only 28% of domestic economic growth. Access to the services sector is affected by restrictions imposed through visa and immigration requirements, through the investment certificate process administered by the Investment Promotion Authority, as well as through access restrictions set out in Papua New Guinea's 2004 IAP Response. As the visa, immigration and investment restrictions are liberalized, there should be an improvement in access to Papua New Guinea's services sector. Foreign service providers also faced restrictions in the Reserved Activities List which limited access to specific sectors to companies that were either wholly owned or majority owned by Papua New Guineans. The decision to replace the Reserved Activities List with the less restrictive Cottage Business Activities List should improve access to the services sector. In addition, those steps being taken to liberalize the services sector should also improve access.

During the in-economy visit, Papua New Guinea questioned the extent of liberalization required to achieve the Bogor goals. Officials and ABAC members took the position that the ultimate goal of liberalization of services is somewhat vague and open to interpretation. Officials indicated that their intention is to work toward fully achieving their Bogor goals by 2020, but from their perspective, the target requires better definition.

With respect to legal services, Papua New Guinea requires that a non-citizen lawyer who practices outside Papua New Guinea and who is not normally resident in Papua New Guinea must apply to the Attorney General for a certificate authorizing that person to appear before the National or Supreme Court. This right is restricted to lawyers practicing in Australia, New Zealand and the United Kingdom. During the in-economy visit, officials advised that the certificate requirement was imposed to ensure that foreign lawyers meet minimum standards, including a determination that they are "fit and proper", before being permitted to practice in Papua New Guinea. Although Papua New Guinea does not intend to change this requirement, it is considering extending the right beyond Australia, New Zealand and the United Kingdom to permit lawyers from all Commonwealth countries to apply to the Attorney General for a certificate. However, in response to a question from Australia, Papua New Guinea indicated that the requirement to obtain a certificate from the Attorney General exists "to protect the interests of Papua New Guinean and resident lawyers in cases before the National and Supreme Courts." Papua New Guinea further advised that certificates are only issued when lawyers with relevant experience or expertise are not in the country or are not available. This response demonstrates that the requirement for a certificate is a barrier to entry that is not dependent on either the individual's ability to meet minimum standards or on a determination of whether the individual lawyer is "fit and proper" but is in place to protect domestic lawyers from foreign competition.

With respect to education services, the 2004 IAP Response filed by Papua New Guinea indicates that Papua New Guineans are given a preference and that foreign suppliers are only considered when nationals cannot supply the service. On its face, this response demonstrates discriminatory treatment of foreign service providers. In response to questions, Papua New Guinean officials asserted that this practice does not discriminate because the ongoing teacher shortage requires that foreign teachers be recruited to meet demand. Although the preference for Papua New Guineans may have no practical effect at present, it is a restriction that could limit access to this services sector in future.

With respect to maritime services, Papua New Guinea requires that all coastwise trade be carried in Papua New Guinea vessels. Officials recognize that the cabotage rule restricts access to this sector and that steps must be taken to liberalize maritime services.

With respect to air services, Papua New Guinea's 2004 IAP Response indicates that foreign ownership restrictions will be imposed to limit foreign ownership of a domestic airline to no more than 49%. During the in-economy visit, officials stated that this was inaccurate and asserted that there are no ownership restrictions that apply to foreign air carriers.

In terms of progress towards greater liberalization, Papua New Guinea is taking steps to privatize its state-owned enterprises, including its water, electricity, telephone and harbour services. The privatization process is being conducted by the Independent Public Business Corporation (IPBC). Privatization may not result in greater access to these sectors – the Independent Consumer & Competition Commission (ICCC) has indicated that it intends to grant licenses to the privatized corporations to allow them to continue to operate as monopolies – but it may allow greater foreign participation through investment in these monopolies.

During the in-economy visit, officials stressed that Papua New Guinea is an open economy that imposes very few restrictions on foreign service providers. The 2004 IAP Response tends to support this interpretation and also indicates progress towards further liberalization. However, barriers that restrict access in some sectors remain. Papua New Guinea should continue to review access to its service sector to determine whether further liberalization is possible.

4. Investment

As part of the overall structural reform, Papua New Guinea is taking steps to liberalize its investment measures. These steps include eliminating the Reserved Activities List in favour of the Cottage Business Activities List and taking steps to eliminate "time factored" incentives and special arrangements with investors. Although some restrictions will remain, Papua New Guinea is taking positive steps to achieve its Bogor goals.

The Reserved Activities List, which was established in 1992 by Regulations to the *Investment Promotion Act, 1992,* set out activities that were limited to citizen or national enterprises. A citizen enterprise is an enterprise that is wholly owned by Papua New Guineans. A national enterprise is an enterprise that more than 50% owned by Papua New Guineans. Foreign enterprises are defined as any enterprise that is more than 50% owned by foreigners. Except for foreign enterprises legally operating in any of the reserved sectors prior to May 19, 1992, foreign enterprises were not permitted to operate in any of the sectors listed in the Reserved Activities List. The effect of the Reserved Activity List was to exclude a portion of the Papua New Guinea economy from foreign participation. A copy of the Reserved Activity List is attached as Annex 2.

Papua New Guinea adopted the Cottage Business Activities List on October 6, 2004. During the in-economy visit, officials described the Cottage Business Activities List as being more limited than the Reserved Activities List in terms of its scope and in terms of the size of the potential investments covered. Consequently, adoption of the Cottage Business Activities List should liberalize Papua New Guinea's investment regime.

In its 2004 IAP Response, Papua New Guinea noted the existence of "time-factored incentives" for development purposes. During the in-economy visit, officials described these as "special arrangements" made to promote investment in Papua New Guinea. These "special arrangements" are agreements negotiated between the government of Papua New Guinea and investors that set out the incentives and concessions granted to the investor or investment by Papua New Guinea, including tariff preferences and preferential lease rates for access to land.

Papua New Guinea has recognized that the "special arrangements" negotiated with investors are not an effective means of promoting investment. These incentives have been described as "counterproductive, impractical or inconsistent."[44] Papua New Guinea has also criticized the role of Ministerial discretion in investment promotion.

> "Ministerial discretion has tended to distort Government policy over time. Therefore, there is a real need for this discretion to be removed from all aspects of investment policy. This has to be the approach in order to avoid intense lobbying, corruption and the case by case approach to application. The most efficient way to achieve this will be to make all incentives part of the tax code, which is administered by the civil service under the guidelines of the law. Some, like part of the Employment Act, cannot come under the tax code for obvious reasons and in these cases all Ministerial discretion will have to be removed. This is the only way to ensure a stable, fair and transparent investment regime."[45]

To address these issues, Papua New Guinea has taken steps to move away from the use of special arrangements and Ministerial discretion in favour of transparent and predictable investment incentives. The guiding principles for investment incentives include requirements that any incentives be transparent and easy to administer, not impair competition, be encompassed in the tax code to avoid distortions and abuse, be consistent with Papua New Guinea's APEC and WTO commitments, compliment the overall economic policy framework and be consistent with the Medium Term Development Strategy and the Small and Medium Enterprise Policy.[46] Once instituted, it is intended that the investment incentives apply equally to foreign and domestic investors. Although Papua New Guinea will continue to be bound by negotiated special arrangements for some time, the intention is to move away from the "time-factored incentives" and toward an open and transparent investment incentive system.

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[44] National Investment Policy Volume I, Department of Trade and Industry, Investment Promotion Authority, June 1998, pg 9.

[45] National Investment Policy Volume I, Department of Trade and Industry, Investment Promotion Authority, June 1998, pg 10.

[46] National Investment Policy Volume II, "Investment Incentives for Papua New Guinea", Department of Commerce and Industry, February 1999, pg 8.

In its 2004 IAP Response, Papua New Guinea referred to exceptions affecting investors and investments that are applied to safeguard and ensure that its development aspirations, public health and environmental sustainability are not compromised when promoting investment. Officials advised that the safeguards are applied to all investments regardless of whether they are made by foreign investors or by Papua New Guinea nationals.

Foreign enterprises seeking to invest in Papua New Guinea are required to obtain certification from the Investment Promotion Authority before they can make an investment. This requirement is not imposed on citizen enterprises or national enterprises. Before an investment can be made, all investors must register under the *Companies Act 1997*. Foreign investors can meet this requirement by either incorporating a new company in Papua New Guinea or by registering as an Overseas Company. Within 14 days after registering, foreign enterprises must apply to be certified by the Investment Promotion Authority. Following receipt of a complete and correct application, the Investment Promotion Authority will assess the application to determine the potential impact of the investment on Papua New Guinea and the credibility of the foreign investment (including sources and availability of funds for the investment). The assessment process is also used to gather statistics on foreign investment in Papua New Guinea. Based on this assessment, the Investment Promotion Authority can certify or refuse to certify the investor. The additional screening process imposed on foreign investors potentially raises a barrier to investment in Papua New Guinea. Apart from proposals to streamline the assessment process to make it more efficient, it appears unlikely that Papua New Guinea will eliminate this additional requirement imposed on foreign investors in the near to medium term.

Papua New Guinea has negotiated bilateral Investment Promotion and Protection Agreements with Germany, Canada, the United Kingdom, Australia, the People's Republic of China and Malaysia. Agreements are currently being negotiated with the Republic of India, Indonesia, the Philippines and the Kingdom of Thailand. These Agreements ensure fair and equitable treatment, full protection and security, and national treatment to covered investments. The Agreements prohibit expropriation or nationalization of covered investments unless the measure is for a public purpose, is taken following due process, is non-discriminatory, and compensation is paid based on the market value of the investment immediately prior to expropriation or nationalization. Nothing in these Agreements requires that investors or investments from parties to the Agreements be accorded any special or preferential treatment not accorded to investors or investments of other APEC or WTO Members.

Finally, customary land holding in Papua New Guinea imposes a systemic restriction on investment. Approximately 97% of all land in Papua New Guinea is held under customary land tenure, a system that recognizes traditional users and their personal and clan arrangements for land use.[47] The remaining 3%, referred to as alienated land held by the government, comprises 600,000 hectares. Difficulties in obtaining land from customary owners raise barriers to investment. The Investment Authority of Papua New Guinea notes that,

> "Investors involved in manufacturing operations will not usually face difficulties with land availability. Those involved in resource or agricultural projects should appreciate, however, that access to the land resource may be difficult."[48]

Papua New Guinea is taking positive steps to liberalize its investment and meet its Bogor objectives. The proposals to eliminate the Reserved Practices List in favour of the Cottage Business Activities List, and to eliminate the "time-factored" incentives in favour of known and predictable tax incentives, will go some way to achieving the Bogor goals. Whether these steps are realized will depend on government's commitment to reform.

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47 Investment Information about Papua New Guinea, Investment Promotion Authority of Papua New Guinea, May 2004, pg. Land 1

48 Investment Information about Papua New Guinea, Investment Promotion Authority of Papua New Guinea, May 2004, pg. Land 3

5. Standards and Conformance

In its 2004 IAP Response, Papua New Guinea outlined its policy on standards and conformance and the steps that must be taken to give effect to that policy. Specifically, Papua New Guinea has indicated that the National Institute of Standards and Industrial Technology (NISIT) must:

(i) upgrade its technical infrastructure (technical standards, metrology, conformity assessment schemes, product testing) to a level that is capable of supporting commerce, trade and industrial development in Papua New Guinea;

(ii) align Papua New Guinea's standards in the APEC and WTO priority areas to international standards;

(iii) enter into Mutual Recognition Agreements on Conformity Assessment schemes and Regulatory areas covering health, safety and environmental protection; and

(iv) ensure transparency in technical standards, conformity assessment schemes, technical regulations and Mutual Recognition Agreements with APEC and WTO Members.

NISIT provides testing, calibration and metrology services, NISIT is seeking to adopt HACCP and to ensure that Papua New Guinea's standards reflect international standards. Officials advised that ISO 9000 and ISO 14000 are fully adopted and that ISO 17025 is being adopted. Officials also advised that approximately 95% of the standards adopted by Papua New Guinea are based on international standards. Adopted standards not based on international standards generally reflect local conditions. Examples of these standards include the Building Code and the Fire Code. Certain standards relative to food were established to reflect local conditions. For example, the moisture content in rice for sale and consumption in Papua New Guinea has been reduced to 11% from 14%.

NISIT is taking steps to develop stakeholder awareness. Stakeholders include the public, industry, academics and other officials in the Papua New Guinea government. Officials consider that these groups must be made aware of the importance of standards to trade and industry. There is a concern that stakeholders do not fully understand the importance of NISIT and that this has been an impediment to its development. To ensure greater stakeholder awareness, NISIT is proposing to hold seminars for regulators. NISIT also indicated that it intends to make its standards system fully transparent through a website in 2005. The website would list standards applied in Papua New Guinea, the relevant legislation that applies to standards and any rules or procedures applied by NISIT. Whether the website can be developed will largely depend on whether or not funding is available.

NISIT has identified a need to reflect standards in Papua New Guinea legislation. Unless standards are specifically adopted, they are not applied. For example, there is currently no requirement to apply the Building Code.

The 2004 IAP Response notes that Papua New Guinea is a member of the Asia Pacific Metrology Programme (APMP), the Asia Pacific Legal Metrology Forum (APLMF), the Asia Pacific Laboratory Accreditation Cooperation (APLAC), the Pacific Accreditation Cooperation (PAC), and the Portable Application Standards Committee (PASC). The IAP Response also notes that Papua New Guinea is a current member or corresponding member of the International Standards Organization (ISO), the International Organization of Legal Metrology (OIML), the International Laboratory Accreditation Cooperation (ILAC) and the Codex Alimentarius Commission (CAC). During the in-economy visit, officials indicated that NISIT hopes to play an active role in these organizations. At present, it cannot play an active role in these organizations and plays little role at the WTO.

During the in-economy visit, officials indicated that they intend to implement the foregoing objectives, but it is not clear that they have sufficient resources. This fact is clearly set out in the 2004 IAP Response as follows:

> "Nb: The programs on Standards and Conformance in Papua New Guinea has been minimal since 1998 following the abolishment of the National Institute on Standards and Industrial Technology in 1999. However, following its restoration on the 13 October, 1999 the Institute is committed to assist Papua New Guinea [to] fulfill APEC requirements on Standards and Conformance on the condition that it is given the resource to do so."

During the in-economy visit, NISIT officials advised that it is primarily focusing on capacity building. The strategic plan adopted by NISIT calls for an increase in staff levels by five persons per year for the next five years. If fully instituted, NISIT would have a total staff complement of 35 to 40, enough to achieve Papua New Guinea's policy objectives and to meet the Bogor goals by 2020. The strategic plan is subject to government approval which primarily turns on the availability of budgetary resources.

Papua New Guinea has indicated that it intends to fully achieve its Bogor goals relating to standards and conformance. As first steps, officials are focusing on basic capacity building and developing stakeholder awareness. NISIT is providing services and making progress towards achieving the Bogor goals, but without the necessary resources it may be difficult to fully achieve those goals.

6. Customs Procedures

Papua New Guinea is taking steps to modernize its Customs Procedures as a means of enhancing economic development and growth. Officials are confident that the "slow and steady advance" approach that has been adopted will allow them to fully implement their Bogor goals by 2020.

Papua New Guinea has fully implemented the Harmonized System and work is progressing that will allow Papua New Guinea to adopt the 2007 Harmonized System. Papua New Guinea has also fully implemented an integrity Code of Conduct that will apply to all officials. Once a discipline committee has been established within the Internal Revenue Commission (IRC), this process will be complete.

Papua New Guinea is moving to a paperless trading system. Infrastructure to support the system is currently being installed. A pilot project is in place at Port Moresby and Jacksons International Airport. Officials hope to have the system in place at all ports by July 2005. Access to the paperless trading system would be password protected and users would be given limited access. Through these mechanisms, officials hope to protect confidential information.

An Advance Classification Ruling System is being developed with assistance from New Zealand and Korea. During the in-economy visit, officials reported that an action plan to implement the Advance Classification Ruling System is now in place and a public awareness campaign is ongoing. As the Advance Classification Ruling System is not yet fully implemented, officials noted that rulings could only be granted to low-risk importers.

Papua New Guinea is conducting a review of its existing legislation to determine whether it can be amended to accommodate an appeals process or whether new legislation is required. Regardless of the vehicle, the objective is to establish an independent appeals tribunal to hear appeals from all customs decisions. Currently, appeals are heard by the Commissioner General of Customs. The independent tribunal would report directly to the Minister of the Treasury.

Papua New Guinea is encouraging the business community to form a Customs Users Group. Officials have held monthly meetings with customs brokers, but they form a loose group. Officials hope to develop an organization or association that can represent the interests of the business community. Consultations have been held between officials and business (consultations were held prior to development of the paperless trading system), but consultations with an organized group are expected to be more productive and to make for better dialogue.

Papua New Guinea is moving toward implementation of a pre-clearance system. The process would require that suppliers fax all required forms to Customs officials prior to arrival in Papua New Guinea.

Papua New Guinea has completed a review process that identified areas that are not consistent with the Kyoto Convention. Amendments, primarily related to definitions, were proposed in November 2004. During the in-economy visit, officials indicated that they are now focusing on the General Annex and will turn to the Specific Annex later. They hope to be in a position to accede to Kyoto in 2007.

Papua New Guinea is also reviewing its legislation to prepare for accession to the WCO Instanbul Convention. During the in-economy visit, officials indicated that they are focusing on the temporary entry system and domestic procedures. They hope to be able to accede to the Convention in 2005.

Enforcement and the Advance Classification Ruling System are intended to operate primarily on the basis of a risk management system based on profiling. Relying on experience, and intelligence from international partners and organizations such as the Regional Intelligence Office in Beijing, officials hope to identify high risk imports. In addition to this intelligence, a determination of whether an importer, or an import, is high risk will depend on the importer's record (i.e., misclassification or improper declaration of value), the price of the imported goods, the importer, the supplier, the port of origin, the tariff classification and the type of product being imported. Officials indicated that profiling criteria will ultimately be developed for the computer system that is being installed by IRC. Because of restricted infrastructure, officials do not intend to establish a single network for all ports. Rather, each port will operate a stand-alone network with its own database that will be updated regularly.

Papua New Guinea hopes to develop a customs website as a means of improving transparency. The website would include all binding rules, procedures, the customs tariff and legislation. Officials hope that the website will be ready in April or May 2005, and they have requested technical assistance from APEC.

Papua New Guinea has made progress towards achieving its Bogor goals. Customs procedures are being amended to conform to the APEC Sub-Committee on Customs Procedures CAP items and some are already in place. However, during the in-economy visit, officials noted some difficulties in going forward. First, it is not clear that IRC has the capacity to fully implement the customs program. Officials noted that they must work within the existing staff complement to meet these obligations. Officials have prioritized existing responsibilities and have assigned staff with an eye to achieving those objectives. In light of the Government's "right-sizing" program, it may be more difficult and take longer for Papua New Guinea to complete its customs modernization program. Second, officials raised concerns relating to infrastructure. They noted that Papua New Guinea has 21 ports, the vast majority of which are located in remote areas. Officials noted that the current infrastructure limits their ability to fulfill the WTO TRIPs border enforcement requirements.

7. Intellectual Property Rights

Papua New Guinea has had legislation in place to register and protect trademarks for at least 25 years. It has recently extended protection to patents, industrial design, and geographic indicators (which are treated as trademarks) and has introduced copyright protection. Papua New Guinea has recognized that the *Trade Marks Act* is out-of-date and must be amended. One objective of the amendment process is to ensure that the legislation is fully consistent with TRIPs obligations and with the Madrid Protocol. During the in-economy visit, officials indicated that they hope that these amendments will be passed by Parliament in three to six months.

Patents and industrial design protection was introduced in July 1, 2002. The Intellectual Property Office of Papua New Guinea (IPOPNG) has started processing patent applications. Thus far, it has considered 12 applications – 11 filed by foreign applicants, 1 filed by a Papua New Guinean. The first two patents will be granted soon and IPOPNG expects to issue the first industrial design in early 2005. The office is active, receiving 10 to 20 trademark applications weekly and approximately 6 patent applications per year. Officials expect that the number of applications filed and processed will increase.

During the in-economy visit, officials noted that copyright and copyright protection is becoming more important. Papua New Guinea is encouraging the development of Collective Management Societies to represent the interests of copyright holders. These organizations are being developed within IPOPNG, but the intention is that they will become private organizations operating outside government to provide a point of contact between government and copyright holders. Furthermore, Papua New Guinea is taking steps to extend copyright to traditional knowledge and expressions of culture; a model law on these issues was adopted in 2002.

Papua New Guinea maintains a trade mark data base, which officials described during the in-economy visit as large and fully automated. However, for patents, industrial design and copyright applications, the IPOPNG relies on assistance from Australian authorities to conduct necessary searches.

IPOPNG considers applications to register intellectual property rights from Papua New Guineans and foreign applicants on an equal basis. The regulatory process applied and protection granted is applied equally to Papua New Guinean and foreign applicants. If an application is rejected, the applicant may apply to the Registrar for reconsideration. Decisions by the Registrar may be appealed to the courts.

IPOPNG intends to develop a website as a means of achieving greater transparency. At present, intellectual property matters are set out on the Investment Promotion Authority website. The IPOPNG intends to include information concerning intellectual property, the application process, and its appeal provisions on the website. IPOPGN also launched a public awareness campaign last year intended to raise awareness among stakeholders, including rights-holders, industry and academics. Meetings were held in major centers in Papua New Guinea with the presentation geared towards the specific interests of the target audience.

Papua New Guinea is a member of WIPO, but is not yet a member of the Madrid Protocol. IPOPNG cooperates with intellectual property organizations in other APEC Member countries and has received technical assistance from Korea and Australia. Papua New Guinea is currently seeking assistance from WIPO to improve its database.

IPOPNG does not have the capacity to enforce intellectual property rights. During the in-economy visit, officials noted that legislation is being prepared to address WTO TRIPs border enforcement, but officials raised the concern that the infrastructure is not sufficient to allow IRC to fulfill the border enforcement obligations at all ports. Individual right-holders have recourse to the courts to protect their rights. Self-enforcement is the principal means of protecting intellectual property rights in Papua New Guinea and will likely remain so for some time. Officials indicated that they intend to improve enforcement mechanisms, but that this would require consultations with the Police (the Royal Papua New Guinea Constabulary) and the Attorney General.

Papua New Guinea has taken positive steps toward achieving its Bogor goals, but much work remains to be done, particularly with respect to enforcement.

8. Competition Policy

As part of its structural reform process, Papua New Guinea established the Independent Consumer & Competition Commission (ICCC) in 2002. The Commission is an independent body that reports directly to Parliament. Section 5(1) of the *Independent Consumer and Competition Commission Act* (ICCC Act) describes the objectives of the Commission as:

(a) promoting competition, fair trading and protection of consumer interests;

(b) promoting economic efficiency in industry structure, investment and conduct;

(c) protecting the long-term interests of Papua New Guinea with regard to the price, quality and reliability of significant goods and services.

The ICCC is currently taking steps to review and regulate prices of designated goods and services and is applying competition law and policy in Papua New Guinea. By establishing the ICCC as an independent body with authority to address competition law and regulatory review/deregulation, Papua New Guinea has taken positive steps towards achieving its Bogor goal relating to competition policy.

The ICCC controls prices of declared goods or services by establishing the maximum price that can be charged in the marketplace. Authority to regulate prices is set out in the *Prices Regulation Act*. Maximum prices are established following a review of actual costs of production. The goods or services subject to price control are "declared" by the Minister of Treasury and published in National Gazette Notices. The current list of declared goods and services was issued on December 3, 2001. The list of declared goods sets out 13 items, primarily consisting of basic food items. The list of declared services covers services provided by state monopolies as well as coastal shipping rates and stevedoring and handling rates. During the in-economy visit, officials advised that the price controls would apply to any imported goods falling within the list of declared goods, and that prices for the imported goods would be determined using the methodology applied to determine the maximum price of domestic goods.

Authority to enforce competition law and policy is set out in the *ICCC Act*. The anti-competitive behaviours regulated by the Act include a prohibition on contracts, arrangements, covenants or understandings that substantially lessen competition; a prohibition on contracts, arrangement or understandings that contain exclusionary provisions; rules related to price fixing; rules related to retail price maintenance; rules related to abuse of market power; rules related to retail price maintenance; and rules related to business acquisitions. Overall, the Act establishes a relatively comprehensive set of rules that allow the Commission to address anti-competitive behaviour.

The competition rules set out in the Act are enforced by application to the domestic Courts. The 2004 IAP Response indicates that officials are reviewing the enforcement provisions to determine whether it would be appropriate to give the Commission some enforcement powers.

The ICCC has established a website to publicize its rules, reports, legislation and planning and priority documents. In addition, the ICCC has set increasing public awareness as a priority. To achieve this objective, the ICCC has undertaken an information program, primarily aimed at businesses, to outline the role and function of the Commission. The ICCC is also seeking to consult with stakeholders, primarily business and consumer groups.

Establishing the ICCC as an independent body with authority to impose and enforce competition law represented a significant step by Papua New Guinea to meet its Bogor goals. The Commission was established in 2002 and has only just begun its work. Based on its efforts thus far, it is likely that Papua New Guinea will achieve its Bogor goals with respect to competition policy by 2020.

9. Government Procurement

The 2004 IAP Response filed by Papua New Guinea does not adequately describe the revisions to the government procurement system recently implemented by Papua New Guinea or how these revisions have liberalized government procurement. Government procurement was discussed with officials during the in-economy visit. The following description is based on those discussions and on materials provided by Papua New Guinea during those discussions.

Government procurement is generally conducted by the Central Supply and Tenders Board (CSTB). The CSTB was established by the *Public Finances (Management) Act 1995* and was one of many government procurement boards. The government procurement system was changed in 2003 with passage of the *Public Finances (Management) (Amendment No. 2) Act 2003* (the Act). The Act introduced new procedures at the CSTB to ensure appointment on merit, to ensure the impartial behaviour of Board members and to require that the CSTB publish annual reports. In addition, except for the Bougainville and Pharmaceuticals Board, the national procurement boards were consolidated under the CSTB. The Act also streamlined the provincial Supply and Tender Boards and required that these boards report to the CSTB.

The Act empowers the CSTB to control and regulate the purchase and disposal of property and stores and the supply of works and services. All procurements valued at K1,000,000 or over must be conducted through the CSTB. Ministers may issue tenders for procurements valued at K1,000,000 or less by Notice in the National Gazette.
The CSTB may enter into a contract for any amount up to K10,000,000. Procurements in excess of K10,000,000 must be approved by Cabinet.

The Act limits procurement through provincial procurement boards to procurements valued at K3,000,000 or less. Any provincial procurement in excess of this amount must be conducted through the CSTB.

For most procurements under K1,000,000, the Minister seeking to procure goods and services must seek bids from three potential suppliers. There is no requirement to go to tender for procurements valued at under K100,000. Officials advised that “bid splitting” to ensure that procurements fall under these thresholds is prohibited.

The Act gives the Minister authority to issue policy directions that give a preference to national tenderers and local manufacturers. If issued, these directions are binding.

A grievance procedure is in place that allows bidders to challenge procurement decisions. Written applications are submitted to the CSTB requesting that it review the procurement. Applicants must outline the basis for their complaint. Following review, the CSTB has the authority to uphold the procurement decision or to overturn the decision and award the contract to the complainant.

Ongoing review of the procurement process has raised concerns with the use of Ministerial Waivers and reliance on Certificates of Inexpediency, which are mechanisms that allowed for procurement without tender. The Review Team has proposed that Ministerial Waivers be discontinued because they raise the possibility of political interference in the procurement process. Certificates of Inexpediency apply in circumstances where proceeding through the normal tendering procedures would not be appropriate or effective, such as in emergencies or for procurements where there is only one possible supplier. Although sole source procurement may be appropriate depending on the circumstances, it is important to ensure that reliance on Certificates of Inexpediency is not used as a means of avoiding competition. Requests to rely on a Certificate of Inexpediency may be made by potential suppliers seeking to sell to Papua New Guinea. If a request submitted to the CSTB is accepted, other potential suppliers are made aware of the decision to conduct a sole source procurement through notices issued by the CSTB. It is not clear whether this system is widely known or effective.

Officials advised that the tender process applied by Papua New Guinea is based on the process outlined in UNCTAD Procurement Documents and World Bank Implementation Documents. Tenders are issued inviting bids from potential suppliers, including foreign suppliers. The notice period is at least six weeks and can be extended to allow greater access by foreign suppliers. Tender documents contain the evaluation criteria to be applied by the evaluators. Evaluations are conducted by a Technical Evaluation

Committee that makes recommendations to the CSTB. This process concludes with a decision to award the contract to the successful bidder.

Officials indicated that Papua New Guinea is taking steps to implement the APEC Non-Binding Principles, but it is not clear when this process will be completed.

Papua New Guinea has taken steps to liberalize its government procurement procedures. The decision to establish the CSTB and eliminate a number of tender boards reduced complexity and should allow Papua New Guinea to realize better value for money in its procurement system. Papua New Guinea is taking steps to address the use of Ministerial waivers and to limit the use of Certificates of Inexpediency. However, the process for conducting sole source procurements through the Certificate of Inexpediency process, the process for notifying potential suppliers of a decision to go to sole source procurement and the discretion to issue binding directions requiring that preferences be accorded to local suppliers should be addressed by Papua New Guinea. Although progress towards achieving the Bogor goals has been made, officials recognize that steps still have to be taken.

10. Implementation of WTO Obligations

The most recent IAP Response filed by Papua New Guinea with respect to implementation of WTO obligations, including Rules of Origin, repeats the 2000 IAP Response. The Response discloses an intention to fully implement WTO obligations, but greater detail should be provided.

WTO obligations were discussed with officials during the in-economy visit, but, as noted in this Report, Papua New Guinea faces resource constraints that may limit its ability to fully implement its structural reform programs as quickly as it had originally intended. These same restrictions will affect Papua New Guinea’s ability to fully participate in the WTO and to ensure that its rules are consistent with its WTO obligations.

With respect to rules of origin, Papua New Guinea has indicated that it applies rules of origin consistent with the WTO Agreement on Rules of Origin. In addition, Papua New Guinea is a member of the Papua New Guinea – Australia Trade and Commercial Relations Agreement (PARTCRA) and the South Pacific Regional Trade and Economic Cooperation Agreement (SPARTECA), both of which apply a 50% value-added and "last process of manufacture" rule of origin. Under this approach, a good originates in Papua New Guinea if the last manufacturing process that resulted in creation of the good was carried out in Papua New Guinea and at least 50% of the value of the good is added in Papua New Guinea. Papua New Guinea is also a member of the Melanesian Spearhead Group Trade Agreement, which has a loose rule of origin.

11. Dispute Mediation

Papua New Guinea has procedures in place for the mediation of disputes at the state-private and private-private level. Papua New Guinea has never been a party to a WTO dispute.

Papua New Guinea applies the arbitration rules set out in the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (ICSID) and by the United Nations Commission on International Trade Law (UNCITRAL). Investors may request that disputes be settled under either mechanism.

Papua New Guinea has also entered into Investment Protection and Promotion Agreements with Germany, Canada, the United Kingdom, Australia, the People's Republic of China and Malaysia. Agreements are currently being negotiated with the Republic of India, Indonesia, the Philippines and the Kingdom of Thailand. Although these Agreements do not specifically include a disputes resolution clause, they do provide for consultations to resolve any disputes related to operation of the Agreement. During the in-economy visit, officials confirmed that the consultation mechanism could be used as a means of amicably resolving any disputes.

The domestic courts are a further avenue for dispute settlement and are open to any party raising a complaint against Papua New Guineans or against the Papua New Guinea government. Although the courts are available, litigants are encouraged to use Alternative Dispute Resolution (ADR) to address non-contentious matters. The Papua New Guinea Commercial Dispute Center (PNGCDC) provides ADR. The PNGCDC is a relatively new private sector organization that, thus far, has been involved in eight domestic disputes. Either party to an arbitration can request that the Order issued by the PNGCDC be certified by the court to make it legally binding. An application must be supported by both parties. Alternatively, either party may appeal a decision by the PNGCDC to the Courts. Papua New Guinea is currently considering bylaws that will accommodate and outline the approach to ADR.

During the in-economy visit, officials advised that they are considering developing a website as a means of ensuring greater transparency. If developed, the website would outline the dispute settlement mechanisms available in Papua New Guinea, including the applicable rules and judgments.

It appears that the dispute mediation system in place in Papua New Guinea is very advanced and close to achieving the Bogor goals. The dispute mediation processes themselves are based largely on cooperative approaches to dispute settlement and appear to be applied in a timely manner. Papua New Guinea is encouraged to take action necessary to increase transparency of its laws, regulations and administrative procedures relating to dispute mediation to encourage a secure and predicable business environment.

12. Mobility of Business Persons

Papua New Guinea has conducted a review of its migration legislation with an eye to improving administration and introducing a visa regime that supports the government's development strategy. Based on this review, officials are currently developing proposals to amend the *Migration Act* with the intention that these proposals be put to government for consideration in 2005.

Under the current system, multiple entry business visas permit an individual to remain in Papua New Guinea for a period of up to 60 days. During the in-economy visit, officials noted that the requirement to leave Papua New Guinea has raised an impediment to business and investment. This impediment is exacerbated by the lack of a permanent resident status for non-citizens who wish to remain in Papua New Guinea for a longer term. To address these issues, a proposal to establish a permanent resident status was submitted to Cabinet and approved on November 10, 2004. The proposal is now waiting to be signed into law. Once in place, the ability to apply for permanent resident status should give business persons and investors greater flexibility.

Papua New Guinea is also developing the required legislation and procedures to implement the APEC Business Travel Card. Australia has undertaken to provide the hardware, software and technical training required to fully implement this system. Officials expect that the program will be fully implemented in 2005.

Officials noted that Papua New Guinea does not have the infrastructure in place to support on-line filing of visa applications. Any e-lodgment system is described as being "a long way off".

The amendments to the *Migration Act* that have been undertaken by Papua New Guinea were discussed with the National Working Group on Removing Impediments to Business and Investment. Officials are preparing to launch a public awareness campaign focusing on permanent resident status and the APEC Business Travel Card. The public awareness campaign would be launched after the amended legislation has been signed into law. Officials are also developing a website that will include all of the relevant information, forms and legislation concerning immigration and business travel.

Officials in Papua New Guinea work closely with their counterparts in Australia. This cooperation includes Australian technical assistance and support for Papua New Guinea and extends to cooperation internationally. During the in-economy visit, officials noted that Australian Embassies and High Commissions can issue Papua New Guinean visas. Officials also noted that Australia and Papua New Guinea jointly requested that the International Organization for Migration review Papua New Guinea's immigration policies and administration. The Report, entitled Review of Migration and Border Management in Papua New Guinea, was released in October 2004.

Papua New Guinea is taking steps to amend its immigration policies in a manner that supports greater business travel. Once implemented, these amendments will go some way to implementing Papua New Guinea's Bogor Goals. However, during the in-economy visit, officials noted that the Immigration & Citizenship Division of the Department of Foreign Affairs and Immigration, the body responsible for immigration programs, does not have sufficient resources to properly perform its immigration functions. Officials noted that the entire complement of the Division is 20 people who are responsible for all immigration and temporary entry into Papua New Guinea. Although Papua New Guinea is taking steps to amend its immigration policies, the concerns raised by officials during the in-economy visit indicate that it may be difficult for Papua New Guinea to fully implement these policies in the short to medium term.

13. DeRegulation/Regulatory Review

The Independent Consumer and Competition Commission (ICCC) was given responsibility for regulatory review and deregulation when it was established in 2002. Section 5(1)(b) of the *Independent Consumer and Competition Commission Act* (ICCC

Act) gives the Commission responsibility to "promote economic efficiency in industry structure, investment and conduct". This is the basis of the ICCC's authority to conduct regulatory reviews and propose deregulation.

During the in-economy visit, officials advised that an overall regulatory review process has not been introduced because most industries are relatively free of regulatory constraints. However, Papua New Guinea is in the process of privatizing government businesses. As part of this process, the ICCC has begun to review regulations relating to the state enterprises that are to be privatized. The objective of these reviews is to assess the regulatory environment against international benchmarks. Through these reviews, action has been taken to deregulate some marketing boards. Although the ICCC began by focusing on public sector companies, officials noted that they also intend to review regulations that affect the private sector.

Papua New Guinea has indicated that it is committed to regulatory review and to eliminate regulations that would restrict business and investment. The first steps have focused primarily on regulatory reform intended to make the public sector and privatized corporations more efficient. Efforts to review regulations that affect the private sector and to deregulate as appropriate will be important steps to achieve the Bogor goals.

Establishing the ICCC as an independent body and giving it jurisdiction to conduct regulatory reviews and to propose deregulation represent a significant step by Papua New Guinea to meet its Bogor goals. The Commission was established in 2002 and has only just begun its work. Based on its efforts thus far it is likely that Papua New Guinea will achieve its Bogor goals with respect to deregulation and regulatory review.

Annex 1

Papua New Guinea Trade Flows

Item	1985	1990	1995	1999	2000	2001	2002	2003
EXTERNAL TRADE [q] *Mn Kina; calendar year*								
Exports, fob	913	1149	3420	5006	5813	6105	6387	7842
Imports, cif	875	1092	1620	2760	2779	3165	4197	4231
Trade balance	38	57	1800	2246	3034	2940	2190	3611
External Trade *annual change, %*								
Exports	13.4	-4.7	27.5	35.0	16.1	5.0	4.6	22.8
Imports	1.0	-13.4	21.3	23.7	0.7	13.9	32.6	0.8
Trade balance	162.3	203.6	33.7	52.2	35.1	-3.1	-25.5	64.9
Exports, *by principal commodity*								
1. Copper	164	349	754	574	595	859	1019	1415
2. Gold	319	393	840	1546	1951	2115	2295	2811

3. Coffee Beans	118	103	215	417	295	247	277	299
4. Forest products	67	80	450	266	309	332	414	416
5. Cocoa	63	30	48	85	85	121	226	258
6 Crude petroleum	…	…	828	1382	1922	1889	1431	1632
7. Palm oil	62	33	142	338	307	245	390	421

Direction of Trade *Mn US dollars; calendar year*

Exports, total	917.6	1265.5	3131.3	2790.7	2803.1	2626.6	2669.1	3434.1
1. Australia	101.9	328.5	866.8	733.8	843.3	646.5	645.5	1005.4
2. Japan	202.6	351.4	664.5	324.9	317.3	279.2	252.5	254.0
3. China, People's Republic of	17.7	2.5	70.7	77.7	172.5	111.3	145.2	210.1
4. Germany	268.8	201.2	298.3	185.4	116.7	106.1	77.0	126.9
5. United Kingdom	71.3	54.2	139.6	96.6	77.6	54.3	67.3	89.9
6. Korea, Republic of	55.7	124.9	202.9	132.0	106.8	78.4	29.3	33.4
7. United States	36.4	30.1	48.7	127.5	35.6	39.5	87.9	64.0
8. Italy	0.2	0.3	4.6	39.4	40.4	27.9	46.0	49.6
9. Thailand	2.0	0.8	20.8	32.1	28.7	64.1	27.5	49.5

10. Philippines	2.4	53.7	80.4	52.7	17.2	59.4	12.8	43.5
Imports, total	867.1	1315.3	1451.0	1261.2	1239.0	1123.8	1196.5	1351.1
1. Australia	359.7	615.5	740.8	668.5	608.5	574.1	589.1	603.3
2. Singapore	89.0	111.9	189.4	161.0	244.1	212.9	225.0	277.9
3. New Zealand	48.8	44.4	55.3	51.8	47.1	45.0	52.5	99.1
4. Japan	152.1	175.3	133.4	70.0	49.5	51.6	50.5	48.8
5. Malaysia	4.0	10.1	40.9	45.1	41.8	31.1	35.7	40.7
6. China, People's Republic of	15.7	27.5	17.6	32.2	38.1	21.1	30.0	67.0
7. Indonesia	0.7	12.8	25.8	36.7	36.8	31.2	33.2	37.1
8. United States	73.3	126.9	56.5	45.1	26.4	24.5	25.6	33.2
9. Thailand	1.3	8.8	23.4	21.4	21.3	16.8	18.6	23.3
10. United Kingdom	26.2	30.9	18.2	13.3	9.0	6.9	20.5	14.1

[q] From 1995, data are based Balance of Payments estimates.

Excerpt from Papua New Guinea, Key Indicators of Developing Asian and Pacific Countries 2004, Asia Development Bank, pg 243

Annex 2

INDEPENDENT STATE OF PAPUA NEW GUINEA

STATUTORY INSTRUMENT

No. 10 of 1992.

Investment Promotion Regulation 1992,

3. ACTIVITIES RESERVED FOR CITIZENS

For the purposes of Section 27(l)(a) of the Act, the following activities shall be reserved for citizens:

AGRICULTURE

- Small scale growing of tree crops (coffee, cocoa, copra and tea).
- Small scale processing and development of tree crops for export.
- Small scale growing of crops, market gardening and horticulture (ISIC 011).
- Small scale farming of animals (I SIC 012).
- Poultry farming (ISIC 0122).
- Small scale growing of crops combined with farming of animals (mixed farming) (ISIC 013).
- Hunting, trapping and game propagation including related service activities (ISIC 0150).

FORESTRY, LOGGING AND RELATED SERVICE ACTIVITIES

- Gathering of wild growing forest materials: 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 (ISIC 0200).
- Small scale sawmilling.
- Walk-about sawmilling.

FISHING AND SERVICE ACTIVITIES INCIDENTAL

- Fishing on a commercial basis in coastal and inland waters (ISIC 0500). “Coastal” means within a distance of 3 miles of the shoreline.

- Taking of marine or freshwater crustaceans and molluscs.
  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 (ISIC 0500).

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

BUSINESS

- Land surveying and valuing.
- Acceptance and movement of letter class mail except international courier service.
- Installation and servicing of Telephones, Telex, Data, Facsimile, Cellular mobile, HF, Trunk mobile, Coastal radio.
- Installing and letting of Post Office boxes or mail delivery or mail units.
- Sign writing (ISIC 7430).
- Labour recruitment and provision of personnel except for recruitment and provision of foreign personnel (ISIC 7491).
- Cleaning on a fee or contract basis of buildings of all types, including offices, shops, institutions and other business and professional premises and residential buildings, but excluding factories and industrial cleaning of tire-places, furnaces, incinerators, boilers, ventilation ducts and exhaust units, etc., (ISIC 7493).
- Service on a fee or contract basis related to work permit and Papua New Guinea visa applications (ISIC 7499).

HEALTH AND SOCIAL WORK

- Child day-care activities (day nurseries) (ISIC 8532).

MINING AND CONSTRUCTION

- Shot-hole drilling (up to 30 metres).
- Shot-fires.
- Drilling operations for quarrying of stone, sand and clay.
- Building Maintenance for domestic dwellings (including plumbing, electrical and carpentry).
- Electrical contracting (on primary building contracts valued at K250,000 or less).
- Buying of gold (on a small scale basis).

- Erection of fences (ISIC 4520).
- Plumbing maintenance and repair (ISIC 4530).
- Painting (ISIC 4540).
- Institutional housing maintenance.

MANUFACTURING

- Wooden Furniture making with capital less than K250,000.
- Manual silkscreen printing (ISIC 2221).
- Manufacture of handicrafts.
- Commercial reproduction of artifacts.
- Processing of coffee through to green beans.
- Processing by sun drying or smoking of copra.

REAL ESTATE

- All forms of real estate management except for principal place of residence.

RENTING OF MACHINERY AND EQUIPMENT WITHOUT OPERATOR AND OF PERSONAL AND HOUSEHOLD GOODS

- Renting without operator of all kinds of land transport equipment, e.g. railroad vehicles, cars, trucks, trailers and semitrailers, motorcycles, caravans and campers (ISIC 7111).
- Renting of vending and amusement machines (ISIC 7130).
- Renting of television receivers, video recorders, video tapes and records (ISIC 7130).

RECREATIONAL AND CULTURAL

- Indigenous culture and art (any form of displaying with the original art form or establishing outlets for commercial purpose).
- Motion picture distribution and projection (ISIC 9211).

RECYLCING

- Recycling of motor vehicles wrecks, used steel drums, bottles, scrap metals, aluminium, plastics and cardboard.

HOTEL/RESTAURANTS/BARS/CANTEENS

- Fast Food Take-away/Kai bars of all descriptions including mobile delivery food services.
- Provision on a fee basis of short-term lodging in places such as hotels, motels, inns etc., with less than 10 rooms of accommodation.

TRANSPORT (SEA, ROAD AND AIR)

- Customs clearance and forwarding services except when integrated with international freight forwarding activities (ISIC 6309).
- Transport of freight and passengers by land when not predominantly done as delivery of own goods or transport of own staff or, in the case of school buses, of students (ISIC 6021), 6022 and 6023).
- Coastal and inland water transportation (of passengers or goods in boats of maximum of 20 metres length).
- Airport terminal building maintenance.
- Office and workshop building maintenance.
- Airport general aviation apron maintenance.
- Airport terminal kiosks leases.
- Airport business concession leases.
- Airport access road design and documentation.
- Airport retaining wall design.
- Aerodrome staff housing design.
- Airport water supply.
- Aerodrome concession lease.
- Air services licences.
- Navigation aids site clearance.

SECURITY SERVICES

- Provision of Security Guards and Dogs.

SOCIOLOGY

- Establishment of service and sales relating to consultancy work on retrieving information on insects, arts, culture, tourism, history and marine life.

SALE, MAINTENANCE AND REPAIR OF MOTOR VEHICLES AND MOTORCYCLES; RETAIL SALE OF AUTOMOTIVE FUEL

- Wholesale and retail sale of second-hand motor vehicles and motorcycles, except by a vehicle or motorcycle dealer authorised by an overseas manufacturer to sell new motor vehicles and motorcycles and in conjunction with such an authorisation and when the solesale and retail sale of second-hand motor vehicles and motorcycles is incidental to the wholesale and retail sale of new motor vehicles and motorcycles (ISIC 5010 and 5040).
- Maintenance and repair of motor vehicles and motorcycles, except by a motor vehicle or motorcycle dealer authorised by an overseas manufacturer to sell new motor vehicles and motorcycles and in conjunction with such an authorisation and when the maintenance and repair activities are incidental to

the wholesale and retail sale of new motor vehicles and motorcycles (ISIC 5020 AND 5040).

- Retail sale of automotive fuel, except by a motor vehicle or motorcycle dealer authorised by an overseas manufacturer to sell an authorisation and when the retail sale of automotive fuel is incidental to the wholesale and retail sale of new motor vehicles and motorcycles (ISIC 5050).

WHOLESALE AND RETAIL SALE, EXCEPT OF MOTOR VEHICLES AND MOTORCYCLES

- "Wholesale" includes wholesale by commission agents, commodity brokers and auctioneers and all other wholesalers who trade on behalf and on the account of others.
    - Wholesale and retail sale of crocodile skins including exports, unless in conjunction with crocodile farming or unless processing of crocodile skins.
    - Wholesale and retail sale of commodity coffee and copra, except by growers and processors.
    - Wholesale and retail sale of handicrafts and artifacts.
    - Wholesale and retail sale of wild growing forest materials: balata and other rubber-like gums; cork; lac, resins and horsechestnuts; 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 except for rattan.
    - Wholesale and retail trade of food, beverages and tobacco; textiles, clothing and footwear and other household or consumer goods (excluding pharmaceutical and medical goods, surgical and orthopaedic instruments and devices) from outlets of up to 500 square metres.

- Specialised retail sale of newspapers and magazines (included in ISIC 5239).
- Retail sale via stalls and markets (ISIC 5252).
- Retail sale carried out from a motor vehicle or motorcycle (ISIC 5259).
- Wholesale and retail sale of second-hand clothing and footwear (ISIC 5240).
- Repair of electrical household goods when not done in combination with manufacture of wholesale or retail sale of these goods (ISIC 5260).
- Repair of footwear when not done in combination with manufacture or wholesale or retail sale of footwear (ISIC 5260).
- Repair of watch, clock and jewellery when not done in combination with manufacture or wholesale or retail sale of these goods (ISIC 5260).

3A. ACTIVITIES RESERVED FOR NATIONAL ENTERPRISES

For the purpose of Section 27(1)(b) of the Act, the following activities are reserved for national enterprises:

FISHERIES AND MARINE RESOURCES

- Fish hatcheries and fish farming.

HOSPITALITY

- Tourist related activities (village guest houses, management of village cultural arts and shows and tourist guides).
- Travel Agencies, Wholesale Tour Operators/ Agents

MINING

- Alluvial Mining as per definitions by Department of Mining and Petroleum.

TRANSPORT (SEA, ROAD AND AIR)

- Coastal Transportation of bulk products or goods.
- Hiring out of all kinds of sea transport equipment including passenger and freight motor vessels, pontoons, rafts etc., of maximum 30 metres.
- Aircraft maintenance companies.
- Aircraft hangar concession.

SECURITY SERVICES

- Forms of security: dog breeding, husbandry, management; electronic security systems and monitoring; fire alarm systems; armoured fleet services and management; consultancy; building security; sales and services and agents for security equipment and industrial safety procedure.

Annex 3

Papua New Guinea's Responses to Written Questions and Comments by Member Economies and Expert

This Q & A section includes questions and comments from APEC member economies, the Japanese ABAC, and the APEC Review Team on Papua New Guinea's 2003 Individual Action Plan (IAP).

INTRODUCTION

APEC Review Team

Q1. Please briefly describe the recent economic developments in the economy with reference to the relevant statistics.

A: **The PNG Economy started to grow in 2003 and economic activity has continued to pick up in 2004. Investment has increased, businesses are making profits and employment has risen.**
It is expected to grow by 2.6 percent in 2004, non-mining and petroleum GDP is expected to grow by 2.8 percent in 2004. Inflation is down to 2% from double figures. Interest rates have sharply fallen; Treasury bill rates have fallen from as high as 20 percent around the middle of 2003 to around 5 percent. The Bank of PNG's Kina Facility Rate has come down from 14 percent at the start of 2004 to 7 per cent today.
Commercial interest rates have also declined, helping ordinary borrowers and reducing the cost for funds for investors. PNG's external position is very solid in the first quarters of 2004. This reflects high international prices for

oil, metals and agricultural commodities as well as increased domestic production in the agriculture, mining and fisheries sectors.

Our gross international reserves have reached record levels of more than US$600 million, which makes us less vulnerable to shocks.

The Kina remains stable against the US dollar and Australian dollar in 2004 due to sound expenditure control by the Government.

Fiscal responsibility has been restored with a considerable improvement in the government's budgetary position. The deficit in 2003 was less than 1.0 percent of GDP and continued in 2004. The 2004 Budget balance produced a surplus of 1.1 percent.

Debt as a percentage of GDP fell from 70% at the end of 2002 to 55% at the end of 2004.

Principal Economic Indicators

	2000 Actual	2001 Actual	2002 Actual	2003 Est.	2004 Proj.
Real GDP (%)	-2.5	-0.1	-1.0	2.8	2.6
Real Non-Mining GDP (%)	-2.1	1.9	1.5	1.7	2.8
Inflation (TTY)	10.0	10.3	14.8	8.5*	1.5(a)
Non-mining employment (TTY)	-0.1	-5.2	2.9	6.4*	2.6(b)
Treasury Bill rate (%)	18.0	12.6	13.3	18.3*	9.0*
Exchange rate (USD/Kina)	.3623	.2976	.2573	.2816*	.3109*

∗ Actual
(a) Actual growth through the year ended September quarter 2004.
(b) Actual growth in first half of 2004.
Sources: National Statistical Office, IMF and Treasury Department

Papua New Guinea's economy grew by a higher than expected 2.8 per cent in 2003, following three years of decline. It was driven by strong growth in the mining and petroleum sectors, but also reflected growth of 1.7 per cent in the non-mining economy.

This improvement in economic activity continued in 2004. The non-mining economy is estimated to have grown by 2.8 per cent in 2004. With a fall in petroleum production, overall economic growth is estimated to have declined slightly to a still solid 2.6 per cent.

Importantly, the Government has laid out a platform for sustaining and building on this solid economic performance. Continued fiscal discipline, sustained reform and political stability should see economic growth progressively increase over the medium to long term.

Formal private sector employment continues to recover. Non-mining sector employment increased by 6.4 per cent through the year in 2003 and by a further 2.6 per cent in the first half of 2004. While mining sector employment fell by 0.7 per cent in 2003, it recovered strongly to grow by 9.7 per cent in the first half in 2004.

That said, the share of the population formally employed remains low by international standards, reflecting a range of structural impediments to economic activity including law and order problems, land tenure issues and inadequate physical infrastructure.

Inflation as measured by Consumer Price Index (CPI) has fallen sharply in 2004. Inflation in the year to the September quarter of 2004 was 1.5 per cent, as compared with rates close to 20 per cent in early 2003. The lower than expected inflation rate for 2004 reflects the prudent management of fiscal and monetary policies by the Government.

With lower inflation outcomes, interest rates have fallen sharply in 2004, to be well below their peaks of early 2003. Treasury Bills fell below 6 per cent in October 2004. As a result, public sector domestic interest outlays have been substantially below the levels forecast in 2004 Budget, with these savings redirected to increase spending in priority areas.

The stability of the exchange rate in 2003 has continued into 2004. In 2004, the Kina appreciated against most major trading partner currencies, including the US and Australian dollars, the British pound sterling and the Japanese yen. The stability of the currency reflects the Government's sound

economic management and increased international prices of key commodity exports.

As at the end of September 2004, gross international reserves were over US$550 million, which provides nearly seven months of non-mineral import cover. This is one of the strongest external positions the country has been in since Independence. This level of reserves should provide a good buffer against external shocks and will help to reduce volatility in the exchange rate.

Q2. Please briefly describe the major recent developments in trade and investment of the economy with reference to the relevant statistics as well as the major policy initiatives relating to trade and investment implemented by the economy.

A: **The current account recorded a deficit of K57 million in the first nine months of 2004, compared with a surplus of K240 million in the corresponding period of 2003.**

The deficit in the current account was attributed mainly to a reduction in the surplus in the balance of trade in goods and services more than offsetting a lower net income deficit and higher net transfer receipts.

The merchandise trade account recorded a surplus of K2371 million in the first nine months of 2004, compared with a surplus of K2679 million in the same period in 2003, as merchandise imports increased by more than merchandise exports.

The value of merchandise exports rose by 0.6 per cent to K5870 million in the first nine months of 2004 from the corresponding period of 2003.

The increase was due to higher values of minerals (gold and copper) and some agricultural commodities, such as palm oil, copra, and copra oil, offsetting lower exports by value of cocoa, marine products and coffee.

The value of merchandise imports rose by 10.9 per cent to K3499 million in the first nine months of 2004 compared with the corresponding period in 2003. The increase was due to higher values of mining and general imports, more than offsetting a decline in petroleum imports.

The deficit in services trade was K1965 million in the first nine months of 2004, compared with K1687 million in the same period in 2003, reflecting higher services imports and lower services exports. Services imports rose by 5.3 per cent in the first nine months of 2004 compared with the same period in 2003. Over the same period, service exports fell by 23.5 per cent in the corresponding period of 2003.

Overall, the balance of trade on goods and services recorded a surplus of K406 million in the first nine months of 2004, down from a K992 million surplus in the corresponding period in 2003.

Balance of Payments

	2003 Jan to Sep	2004 Jan to Sep	Change
Current Account Balance	240	-57	-297
Balance of Trade in Goods and Services	992	406	-586
Exports of Goods and Services	6490	6371	-119
Imports of Goods and Services	-5498	-5965	-467
Balance of Income	-1398	-1139	259
Balance of Transfers	646	676	30
Capital and Financial Account*	-227	65	292
Net Errors and Omissions	-14	-8	6

* Includes changes in official reserves.

Source: BPNG

Q3. Please provide an overview of Papua New Guinea’s pattern of trade in terms of exports and imports while taking into account commodities traded and the source and destination of trade?

A: Origin of Merchandise Imports

(Sept qtr 2004)

1.	**Australia**	**K697.2 m (57.3%)**
2.	**United States**	**K92.3 m (7.6%)**
3.	**Singapore**	**K76.0 m (6.25%)**
4,	**Japan**	**K70.4 m (5.8%)**
5.	**New Zealand**	**K38.1 m (3.1%)**
Total Imports		**K1217.4 m**

Destination of Merchandise Exports

(Sept qtr 2004)

1.	**Australia**	**K768.9 m (43.9%)**
2.	**Japan**	**K270.8 m (15.5%)**
3.	**Germany**	**K162.8 m (9.3%)**
4,	**South Korea**	**K130.4 m (7.5%)**
5.	**China**	**K62.8 m (3.6%)**
Total Exports		**K1749.9 m**

Major Merchandise Exports

(Sept qtr 2004)

1.	**Gold**	**K605.2 m (34.6%)**
2.	**Copper**	**K356.8 m (20.4%)**
3.	**Crude Oil**	**K317.7 m (18.1%)**
4,	**Coffee**	**K109.7 m (6.3%)**
5.	**Palm Oil**	**K82.6 m (4.7%)**
6.	**Logs**	**K79.4m (4.5%)**
7.	**Cocoa**	**K42.8 m (2.4%)**
Total Exports		**K1749.9 m**

Q4. In 1999, Papua New Guinea announced an Economic Recovery Package that included trade reform as an important component. Please describe the 1999 Economic Recovery Package, the changes that were envisaged in the Economic Recovery Package, progress made to date in implementing the Economic Recovery Package and the end-date for full implementation of the Economic Recovery Package?

A: **The Economic Recovery package announced in 1999 envisaged major reforms in the structure of the economy and institutional arrangements. The main objectives of the reform were: (i) promoting good governance; (ii) sustaining macroeconomic stability; (iii) improving public sector performance; and (iv) removing barriers to investment and trade. Annex X (Structural Reform in Papua New Guinea) describes the objectives and some of the achievements achieved to date.**

Papua New Guinea has nearly completed the implementation of all the reform packages, with privatization program and improving public sector performance, remaining as the only outstanding activities. There is no specific end-date for the implementation of the reforms because constant changes around the world and international obligations require PNG to make necessary reforms to adapt to these changes. Over the coming years (2005-2007), Papua New Guinea will be advancing its APEC commitments to further liberalize investment and trade, and these are articulated in our policy goals, as per our 2005 Budget.

Q5. Papua New Guinea prepared and released a White Paper on the Tariff Reform Program. Please describe the White Paper's proposal and objectives, describe the progress made to date in implementing the White Paper and the end-date for full implementation of the White Paper. Please provide a copy of the White Paper.

A: The White paper stems from the Government's endorsement of the tariff reform program in 1995. The proposed 8-year tariff reduction program (1998-2005) recommended the following:

- **Introduction of Value Added Tax rate of 10% in January 1998 and the price impact of this will be minimized by reducing tariff rates and replacing provincial sales taxes with a revenue sharing arrangement between the National and Provincial governments:**
- **Reduce import tariffs on capital equipment and inputs to zero;**
- **Gradually reduce intermediate tariff rates from 40% to 30% in 1998, to 25% in 2000, to 20% in 2002 and down to 15% by 2005;**
- **Reduce protective tariff rate from 55% to 40% in 1998, to 35% in 2000, 30% in 2002, and down to 25% in 2005;**
- **Reduce prohibitive tariff rates to 55% in 1998, to 50% in 2000, to 45% in 2002 and further down to 40% in 2005.**

It was anticipated that the end of the tariff reduction program in 2005, the average nominal tariff rate will have fallen from 21.9% to 6.3% or from 14.3% to 5.3% when weighted against actual imports.

The actual implementation of these recommendations commenced in 1999, with the full implementation to be completed by January 2006.

In acceding to the WTO in 1996, PNG accepted all the related multilateral agreements and negotiated its own Schedule of Concessions, providing details of the liberalization commitments at the product level.

In the case of agricultural goods, the binding coverage for PNG is 100 per cent, the average bound tariff rate is 44.7 per cent, the shares of bound duty lines and tariff peaks (defined as rates at least three times higher than the average) are both 0 (zero) per cent and the share of non ad-valorem rates is 1 per cent. The year of implementation specified in the Schedule is 1996 for most products and others over the period 1996-2000 or 1996-2004.

It should also be noted that the Tariff Reform Program (TRP) undertaken in 1999, as part of a reform agenda, is in accordance with WTO and APEC commitments.

The trade liberalization under this programme has been substantial for every sector of the economy and has gone far beyond the commitments provided for by the Schedule of Concessions negotiated at the WTO level. As a result, all tariff items are currently below the WTO bound rates.

The program provided for three rates of tariff, an immediate reduction in import tariffs, and an announced schedule of reductions over the next decade. Most goods can be imported into PNG duty free. The only goods, which are subject to import tariffs, are goods produced, or which could potentially be produced in PNG.

Rates of import duty under the Current Tariff Reform Program

	1999-2000	2001-02	2003-05	2006
Intermediate Rate	30%	25%	20%	15%
Protective Rate	40%	35%	30%	25%
Prohibitive Rate	55%	50%	45%	40%

1. The protective rate is the principal duty rate. Goods in this category include most fish, some vegetables and fruit, coffee and tea.
2. The intermediate rate applies to goods which constitute ‘intermediate goods’ in the production process (that is, other businesses or manufacturing companies utilize them).
3. The prohibitive rate applies to a limited number of goods only and is designed to act as a major deterrent to certain imports. The prohibitive rate applies to products such as fruit and vegetables, tinned mackerel, cigarettes, veneer and sugar.

OVERVIEW

New Zealand

Q6. Does PNG see efforts to achieve greater economic cooperation between the members of the Pacific Islands Forum, including the framework provided by the Pacific Agreement on Closer Economic Relations (PACER) and the Pacific Island Countries Trade Agreement (PICTA), as complementing and assisting its APEC commitments?

A: **Both the Pacific Island Countries Trade Agreement (PICTA) and the Pacific Agreement on Closer Economic Relations (PACER) can generally be considered as having the potential to complement or assist PNG's APEC commitments.**

From the outset, there is some degree of emphasis in APEC at the sub-committee on customs Procedures (SCCP) and at the Committee on Trade and Investment (CTI) for economies to explore the possibilities of entering into Regional Trade Agreements (RTAs) or Free Trade Agreements (FTAs) as a means to achieving some of the objectives of APEC.

There are some features of both PICTA and PACER such as the PICTA Rules of Origin as one example that provides the opportunity for PNG to engage in and hopefully achieve some of its objectives.

APEC Review Team

Q7. As a whole, how far has Papua New Guinea advanced, since 1996, towards the OAA Objectives or the Bogor goals?

A: **(To be responded to at later stage)**

Q8. Does Papua New Guinea describe its current RTAs? Is Papua New Guinea considering negotiating any other RTAs? If so, has Papua New Guinea commenced or concluded negotiations to develop a RTA? If so, what would be the impact of these RTAs on Papua New Guinea, the signatories of the RTAs and other trading partners?

A: **(To be responded to at later stage)**

Q9. How is Papua New Guinea's membership in the RTA affecting its pattern of trade? Is there any evidence of trade diversion resulting from Papua New Guinea's membership of preferential RTAs, particularly away from APEC member economies?

A: **At this point in time PNG has not entered into any Free Trade Agreements with any APEC member economy.**

Q10. Does Papua New Guinea highlight its recent achievements with regard to the implementation of the APEC Trade Facilitation Principles, specifying their benefits and beneficiaries?

A: **(To be responded to at later stage)**

Q11. Does Papua New Guinea highlight specific actions that it has taken or plans to take with respect to the transparency provisions embodied in the menu of options and principles adopted by APEC?

A: **(To be responded to at later stage)**

Q12. Please provide an overview of Papua New Guinea's approach to the new round of WTO negotiations including Papua New Guinea's offers and areas where it is seeking improved market access?

RESPECTIVE ISSUE AREAS

APEC Review Team

Q13. Does Papua New Guinea highlight in its Preliminary Plans to Improvements further improvements that it is planning? On reviewing the respective issue areas, please compare the IAPs in 1996 and the most recent year to highlight improvements since 1996. It is also advisable to clarify the plans of future actions in the respective issue areas with timetables and reasons why they are so.

I. TARIFFS

Hong Kong, China

Q14. We commend Papua New Guinea's (PNG's) implementation of the Tariff Reform Program to reduce progressively the nominal tariff rate of 21.9% in 1997 to 6.4% in 2006. We encourage PNG to further reduce its tariffs beyond 2006 as the "prohibited rates" applied to agricultural products will still be as high as 40% by 2006. We also encourage PNG to fill in the Tariff Summary Table and Tariff Dispersion Table in its next IAP.

A: **(The answer to this question has been partially answered in question no. 15 and 17 immediately below.)**

New Zealand

Q15. New Zealand welcomes PNG's tariff reform programme, particularly the reduction and/or removal of tariffs for a number of products that are not produced domestically. We encourage PNG to continue this process and note that many tariffs remain at high levels. We appreciate that customs duties have provided an important source of revenue for Government, but this has to be balanced against any trade distorting effects on the overall economy. We would be interested to know the current contribution that tariffs make to total revenue collection and how this compares with other APEC economies. **As tariffs decline, what alternative forms of revenue collection is the Government pursuing?**

A: The Tariff Reform Program (TRP) which began in 1999 will continue to be implemented up to 2006. Duties of Customs are applied at various rates on imported goods that fall under the following categories:

1. **Free**
2. **Input rate**
3. **Basic rate**
4. **Intermediate rate**
5. **Protective rate**
6. **Prohibitive rate**

By 2006, the rate of import duty for the first three categories will be zero, whilst 15% duty will apply as the intermediate rate, 25% as the protective cover rate and 40% as the prohibitive rate.

At the moment, there are no plans to change this regime, even though in 2003, the PNG Government sanctioned a review of the TRP intended to take a holistic economy approach to the impact of the programme on industry, employees and consumers.

In 2003, revenue collection from import duties was K504,826,404.28 of the total revenue collected by the PNG Internal Revenue Commission. Up to December 2004, revenue from import duties was K491,751,772.42. These totals consist of collections related to excise duty, General import levy of 2% and 10% GST (VAT) on imports. Import duty alone was K70,215,539.57 in 2003 and K53,992,954.30 in 2004. This amount will continue to decline over the coming years.

In view of such reform, the National Government introduced a Value Added Tax regime (Goods & Services Tax as it known today) as a means to

compensate for the decline in revenue resulting from the reduction tariffs. This form of tax is currently being implemented in the country.

Moreover, it should be mentioned that Customs duties in PNG formed a significant component of government revenue during the 1990s (import duty collections totaled around K398 million in 1998, or 24.9 per cent of total tax revenue). Since the introduction of the Tariff Reform Program in 1999, import duty collections have declined considerably. Import duty is expected to make up around 2.5 per cent (K76 million) of total tax revenue in 2005.

The revenue loss from the Tariff Reform Program was offset by the introduction in 1999 of the 10 per cent Goods and Services Tax, which treats imported and domestically produced goods neutrally. A levy was also introduced on mining companies to claw back some of the gains they made in the switch from import duties to GST. This levy is being phased out and will finish in 2007.

The alternative forms of revenue collections for the Government are very limited, due to the current economic climate. Any increase in tax (profit and loss personal income or goods and services) will have severe impact on the economy. The Government therefore, is concentrating on expenditure control and removing impediments to investment and trade to stimulate economic growth.

United States

Q16. To be provided at a later date.

APEC Review Team

Q17. Papua New Guinea has indicated its intention to complete tariff reduction by January 2006. Has Papua New Guinea successfully reduced tariffs as per its proposed schedule? What are the current tariff rates? How many reduction steps are remaining?

A: **Yes, Papua New Guinea has successfully reduced tariffs as per its proposed schedule. Current tariff rates are:**

- **Intermediate Rates-at the beginning of the tariff reduction in 1999 the rate was 40%. Currently the rate is 20% and will be reduced to 15% by January 2006.**
- **Protective Rates- At the beginning of the tariff reduction program in 1999 the rate was 40%. Currently the rate is 25% and will be reduced to 20% by January 2006.**
- **Prohibitive Rate – At the beginning of the tariff reduction program in 1999 the rate was 55%. Currently the rate is 45% and will be reduced to 40% by January 2006.**
- **Exceptional Items- At the beginning of the tariff reduction program the rates ranged from 85% to 100%. Currently, the rates range from 20% to 75%. By January 2006 the rates will range from 15% to 70%.**

Currently there is only one reduction step remaining which commences in 2006. There are no reductions beyond 2006 yet.

Q18. How significant are the tariff reductions in the context of achieving the Bogor goals? Please compare the first tariff summary report provided by the economy with the most recent one.

A: The tariff reduction program undertaken by the Government is on target to achieve the Bogor Goals. The completion of the 7-year tariff reduction program in 2006 should give PNG an ample time to re-assess its tariffs rates, and the next program after 1996 should see the rates reduced further to achieve the Bogor Goals.

Q19. Does Papua New Guinea intend to further reduce its tariffs, either overall or on specific products, after the current reduction exercise is completed in January 2006?

A: The intention is there to further reduce the tariff rates after the completion of the current tariff reduction program in 2006. However, the policy decision to determine the next course of action, either on overall or on specific products will be made after the full assessment of the current tariff reduction program has been made. The outcome of the tariff review in 2003 will also be considered in making recommendations for future tariff reductions, as well PNGs commitments WTO and APEC.

Q20. What initiatives are in place to ensure transparency in Papua New Guinea`s tariff regime?

A: **The separation of responsibilities in policy making and administration of the tariff regime ensures that there is transparency in the implementation of the tariff reduction program.**

Under the current arrangement, the Department of Treasury is responsible for determining the tariff policy while the Internal Revenue Commission (Independent Statutory Authority) is responsible for the administration of the tariff regime.

Any agency, including the Department of Trade and Industry, which is responsible for promoting investment and trade in PNG and abroad, is required seek endorsement/advice from Treasury in instances where investors might request for exemptions or tariff protections.

The separation of responsibilities also acts as a "check" on the activities of the responsible agencies in ensuring that the objectives of tariff regime are achieved.

II. NON-TARIFF MEASURES (NTMs)

New Zealand

Q21. How does PNG see the Regional Trade Facilitation Programme that has been agreed by Pacific Island Forum members, with its focus on strengthening quarantine, Customs cooperation and standards and conformance, as contributing to PNG's APEC commitments regarding non-tariff measures and other objectives?

A: **The Regional Trade Facilitation Programme (RTFP) under PACER is an important development for Forum Island Countries particularly in providing assistance to members in enhancing the development of their institutional capacities in specific areas of responsibilities for agencies like Customs and Quarantine. In the Customs area, a revised Work Programme for the Key Focus Area of Trade Faclilitation/Revenue Collection was adopted in Madang in March 2004 at the Oceania Customs Organization**

(OCO) Conference which prioritizes some of the work to be undertaken. This is due mainly to the overall revised funding for the programme under PACER.

There is certainly some synergy in the work currently being done under the Regional Trade Facilitation Program and that being done at the APEC Sub Committee on Customs Procedures (SCCP) particularly in areas such as Customs Modernization through the Revised Kyoto convention, adoption of the WTO Valuation Agreement, the WTO Rulels of Origin and the harmonized System Convention for the Tariff Classification of Goods. We agree that the RTFP is also contributing to realizing some of our APEC commitments.

Hong Kong, China

Q22. We note that PNG applies strict quarantine regulations on fruit, vegetables and animal and related products. Suggest that PNG should provide more information on such quarantine regulations in its IAP.

United States

Q23. To be provided at a later date.

APEC Review Team

Q24. In comparison with the NTMs reported in 1996, to what extent has Papua New Guinea progressively reduced NTMs? What NTMs have been removed and what new ones, if any, have been introduced? How significant are they in the context of achieving the Bogor goals?

Q25. Papua New Guinea has noted that imports face few formal trade barriers other than strict quarantine regulations that affect imports of fruit, vegetables and animals and related products. Are these quarantine regulations the only formal trade barriers that affect imports? Could you please describe the quarantine regulations that are in place? How are these quarantine regulations consistent with the obligations in the WTO Agreement on Sanitary and Phytosanitary Measures?

A:

- **Quarantine Regulations are not the only formal trade barriers that affect imports. There are other regulations such as environment and conservation regulations under the CITES Agreement and related issues etc.**

- **Quarantine regulations in place can be referred to from the circular # 5 on the diary products import conditions given to the APEC Review Team on the day the consultation meeting was conducted and the "General Conditions for Import of Animal Products" including the general conditions for import of plant and plant products.**

  However, generally import regulations are drawn based on the pest and disease status or risks associated with the importation of plants and animals or products thereof. Pest and Disease status differ from country to country and therefore import conditions do differ.

  Upon meeting these conditions, a country with whom trade is negotiated and conducted can export to PNG.

- **The WTO Agreement on SPM revolves around Import Risk Analysis (IRA) or Plant Risk Analysis (PRA) in which case, any restrictions imposed on imports or exports of agricultural produce or products etc. by a particular country must be scientifically justified and must be transparent in nature. PNG National Agriculture quarantine Inspection Authority which administers or takes carriage of such matters and most importantly when applied in the PNG context therefore ensures that it is consistent with the WTO Obligations as practiced worldwide.**

The usual practice carried out by the National Quarantine Inspection Authority (NAQIA) in PNG is based on Import Risk Analysis (IRA) or Plant Risk Analysis (PRA) in which the risk is examined and condition negotiated between the trading partners to meet before trading occurs.

Q26. Papua New Guinea has referred to harvesting limits applied to fish. Could you please describe these harvesting limits and how they are applied?

A: **(To be responded to at later stage)**

Q27. Papua New Guinea has referred to quantitative or price controls on log exports. Could you please describe the export control measures imposed on logs?

III. SERVICES

Australia

Chapter 3(a)1: Business Services — Legal

Q28. Australia notes that a barrister or solicitor who is a non-citizen and practises as a barrister or solicitor outside PNG and is not ordinarily residing in PNG must apply to the Attorney-General for a certificate authorising him/her to appear in a case before the national or Supreme Court and, before making such application, he/she must be admitted to practise in PNG and hold a current practising certificate issued by the PNG Law Society. Australia requests clarification on what purpose the Attorney-General's certificate serves as the pre-requisite for such a certificate, ie current practising certificate from the PNG Law Society, appears to provide a right to appear before PNG courts?

A: **The rationale for the provision is to protect the interests of Papua New Guinean and resident lawyers in cases before the National and Supreme Courts. However where it is believed that lawyers with the relevant expertise/experience in certain cases are not in the country or are available, the Attorney-General would be asked to provide a certificate permitting the engagement of lawyers from overseas who had the necessary expertise/experience.**

Chapter 3(a)5: Other Professional; Services

Q29. Australia encourages the examination of further improvements on the restrictions to trade in professional services.

We would like to draw attention to the importance of reducing barriers in the professional services sector such as:

- long-term residency requirements before being able to practice a profession in a host country,
- limited areas of practice (such as in the legal field only being able to provide advice as a "consultant" or in relation to the country in which they are qualified) or
- the restrictions on any repatriation of profits etc.

Chapter 3(e): Education Services

Q30. We note positively the encouragement of partnership in the supply of services between foreign and national bodies.

Q31. Can you please elaborate on what each acronym means throughout the Education Sub-Chapter?

A: **Please find the full names of all the acronyms that have been provided in the Education sub-Chapter:**

- **GES-General Education Services**
- **OHE-Office of Higher Education**
- **OLA-Office of Library & Archives**
- **DLE-Department of Labour & Employment**
- **DTI-Department of Trade & Industry**
- **DOE-Department of Education**
- **DFA-Department of Foreign Affairs**
- **PNG-Papua New Guinea**

- **TSC-Teaching Services Commission**
- **NTC-National Training Council**
- **NATTB-National Apprentice Trade & Testing Board**

Q32. Under *Operational Requirements/Improvements Implemented Since Last IAP* can you please clarify the context of the following statement regarding the number of positions "The approved number of positions for the Ministry of Education, Research Science and Technology 34 643 including teachers. This includes 683 positions for the GES, 21 positions for TSC, 45 positions for OLA and 48 positions for OHE. Its own approved Parliamentary Act governs each sector." (Eg, what positions are these?)

A: **(To be responded to at later stage)**

Q33. Regarding *Current Entry Requirements***,** *wh*at are the entry regulations governed by the Department of Foreign Affairs and, do these requirements apply equally to domestic and foreign businesses/education suppliers? (Is there an information source explaining these requirements, eg. Website?)

A: **(To be responded to at later stage)**

Q34. Under *Foreign Entry/Current Entry Requirements* what is meant by "to succeed a foreigner in specific time frame eg, 10 years."

New Zealand

Q35. Tourism has become a key source of foreign exchange and development for many APEC economies. We note that this is the first IAP on travel and tourism. **Please outline progress achieved in the liberalisation and development of this sector, including inputs and investment from other APEC members?**

A: **On Tourism Services, the PNG Tourism Services has to date completed reviewing the Government's Tourism Policy. The review took into account appropriate incentives and tax allowances to be submitted to the Government for approval. The Tourism Authority's effort to promote and market PNG as a desired tourist destination ahs made some significant progress.**

In this context, National Government, amongst other, requested the PNG Tourism Authority and the Department of Foreign Affairs to submit a formal joint submission for the *REMOVAL OF TOURIST VISAS*.

In addition, the PNG Tourism Promotion Authority requested the government to undertake four things:

a) to increase government funding
b) provide tax incentives for tourism activities
c) to review and amend the existing TPA Act
d) to support institutional strengthening and collaborative efforts

As a result, the Government this year responded favourably to the PNG Tourism Authority's initiative in refocusing its attention towards achieving its corporate objectives through a number of structural changes including: the Development and Implementation of 2004-2008 Corporate Plan, Development of a destination Marketing Plan, and Organizational Restructuring in line with strategic response to improve its competitive strength in the regional tourism market.

Japan

Q36. State owned monopolies exist in the telecommunications, postal and power sectors. Due to the lack of competition in these areas there have been no improvements in prices, services or products. What are your long term policies regarding state owned monopolies?

A: **The Independent Consumer & Competition Commission (ICCC) is the Licensing Authority that handles to some extent issues relating to monopoly in the Telecommunications sector in PNG.**

At this juncture, the ICCC has granted Telikom PNG limited licences to provide Fixed, Mobile and Value Added Services for fifteen (15) years from

July 2002. The issue of monopoly on these services is determined by a ten (10) year Regulatory Contract issued by the ICCC in July 2002. This contract regulates the period of exclusivity for various services.

However, the PNG Government plans to partially sell Telikom PNG at which time the contract will be reviewed.

Note that the Papua New Guinea Telecommunications Authority (PANGTEL) only administers the technical aspects of the telecommunications industry or sector in PNG.

United States

Q37. Healthcare. To be provided at a later date.

Q38. Communication Services: Audio Visual. To be provided at a later date.

Q39. Education. To be provided at a later date.

Q40. Education. In the interest of greater transparency, it would be helpful if Papua New Guinea could further explain the roles of the DTI, the DLE and the DOE as well as any interrelationships. For example, how would the process differ for an individual trainer wishing to offer his/her services in the Papua New Guinea market and an institution of higher education wishing to be granted “permitted school status”? It appears that providers would need to deal with multiple Papua New Guinea government agencies, and the whole process is unclear. (Do they have a web link they could provide that describes the process?)

A: (To be responded to at later stage)

Q41. Environmental Services. Papua New Guinea has made no commitments in environmental services, nor has it thus far made an offer in the Doha Round. With its natural resource based economy, wouldn’t an opening in certain environmental services sector help (e.g. landscape protection and biodiversity)?

A: **With regards to Environment Services, the following must be noted:**

- **Environment management consultancies does exist but in a very small way, particularly in major natural resource infrastructure developments. And such consultancies arrangements have always been open to any interested party whether foreign or national.**
- **On landscape protection, the services in landscape activities are very limited as the demand for such activity is small. Thus opportunities abound in this sector and there are always openings for any interested party whether foreign or national to undertake activities in this regards.**
- **The same also applies to biodiversity.**
- **On biodiversity sector, these are limited in terms of market opportunities.**

Q42. In Papua New Guinea, 28 percent of domestic economic growth is generated by services. This is relatively low by developing country standards. We would encourage Papua New Guinea to consider further opening in this sector to boost economic growth.

A: **Indeed PNG has a very small services sector and the 28 per cent outlined above reflects this scenario. On opening up the services sector, note that positive steps have been taken to opening up this sector following the Government's structural reforms program- the impacts of this structural reform program which suffice it to say has had far reaching consequences, many of which to a certain extent affect the services sector in a positive way. It is envisaged that in the long term and with the positive growth in the economy, such growth will result in the enlargement and further expansion of the services sector in PNG.**

Q43. Papua New Guinea has "no change" in every response for this chapter. To what "other services" categories is PNG referring? What is the baseline? In most cases, when an economy lists "no change" it presents last year's information in the middle column. Papua New Guinea has not provided any additional information.

A: **The "no response" in many of the services chapters is attributed to the fact that many of the activities outlined in some of these chapters particularly the**

activities outlined therein including the scope and the magnitude of some of these activities are very small or very limited. In a nutshell it should be noted that PNG therefore has a very small services sector.

APEC Review Team

Q44. In which sectors has Papua New Guinea undergone liberalization which may affect market access, national treatment or most-favored nation (MFN) for foreign service providers. How significant are these changes in the context of achieving the Bogor goals of free and open trade and investment. List those sectors that had total or partial restrictions in 1996 and compare that to the information for the most recent year. Please elaborate on specific areas of interest to other member economies and the business sector.

Q45. Please review Papua New Guinea's services regime in 1996 and the most recent year vis-à-vis the "Menu of Options for Voluntary Liberalization, Facilitation and Promotion of Economic and Technical Cooperation in Services Trade and Investment" adopted in 2001.

A: **(To be responded to at later stage)**

Q46. Papua New Guinea has indicated that the Board of Architects is conducting a review of entry requirements. When does Papua New Guinea envisage complete of this review? Is it anticipated that the review will further liberalize entry to the practice?

A: **(To be responded to at later stage)**

Q47. Papua New Guinea has referred to foreign entry requirements for Communications: Express Delivery and Communications: Audio Visual as being established by the Investment Promotion Authority. Please describe the foreign entry requirements established by the Investment Promotion Authority?

A: **Papua New Guinea through its foreign investment certification processes administered through the Investment Promotion Authority sets in place 'mechanism for check' to ensure that all foreign investment activities carried out by foreign enterprises in the country are officially certified and registered to ensure that they are operating within the confines of the established laws of the host country. First and foremost, it's a legal requirement for all the foreign companies wishing to carry out business activities in PNG to be registered and certified by the Investment promotion Authority. Subsequent operating licenses and permits are issued by respective industry/sector regulating authorities and in this case for telecommunication, PANGTEL is the regulating authority that issues licenses and permits. To date, market entry in this industry is open to all on a non-discriminatory basis implying that both foreign and national participation si encouraged in this sector/ industry.**

Q48. Papua New Guinea has indicated that it is undergoing a process to review its laws and regulations respecting telecommunications. Please outline the process for privatization of Telikom PNG?

A: **(To be responded to at later stage)**

Q49. Papua New Guinea has indicated that foreign entry requirements concerning the telecommunication sector will be amended. Does Papua New Guinea anticipate that these new requirements will be established and in place prior to privatization of Telikom PNG?

A: **(To be responded to at later stage)**

Q50. Papua New Guinea has indicated that there is no discriminatory treatment with respect to education services, but notes that under current entry requirements PNG nationals are given priority and foreign suppliers are only considered if nationals cannot supply. Could you please explain how this practice accords non-discriminatory treatment?

A: **The above would be deemed to be non discriminatory in the sense that when a demand for an education service is very high in the country and that the Department of Education cannot supply that particular service then foreign suppliers can enter the market place in order to satisfy the demand. This scenario happened immediately after Independence in 1975 when PNG was short of teachers it immediately recruited teachers from the Philippines to offset teacher shortages it experienced during that time.**

We should like to add that in specialized technical areas such as the teaching of science related subjects n national high schools and universities in PNG, teachers are recruited in an open and transparent way whereby positions are advertised in which applicants are appointed/ selected on merits regardless of their nationality. PNG national high schools, other higher institutions of learning and especially universities have a lot of foreign nationals inclusive of nationals who have taken up teaching positions on the basis of their merits or academic qualifications. Given the above, it goes without saying that PNG does not discriminate on any foreign citizen in this regards.

Q51. Papua New Guinea has indicated that the licensing and qualification requirements for Maritime Transport may be changed. Please describe the proposed changes to licensing and qualification requirements? Please describe the process and timing for these proposed changes?

A: **(To be responded to at later stage)**

Q52. Does Papua New Guinea intend to review its regulations that prohibit foreign flag vessels from carrying domestic cargoes within Papua New Guinea?

A: **(To be responded to at later stage)**

Q53. Papua New Guinea has indicated that foreign ownership of domestic airlines is limited to no more than 49%. Does Papua New Guinea intend to review these limits?

A: **(To be responded to at later stage)**

Q54. Please describe the new oil and gas policies and regulations that are being considered. How would these policies and regulations better achieve Papua New Guinea's trade liberalization objectives?

IV. INVESTMENT

New Zealand

Q55. The Somare Government has given a strong priority to foreign investment in PNG's resource base as a key engine for national development. **Please provide an update on the impact of the Government's long term National Investment Policy and its contribution to APEC's non-binding Investment Principles.**

A: The Government Papua New Guinea has recently developed a long term National Investment Policy which builds on the considerable progress the Government has made to curtail the regulatory and administrative requirement.

The Investment Policy of PNG is aimed at providing transparency, equal treatment and consistency required by the foreign companies, to enable them to make medium term strategic decisions to invest in Papua New Guinea. In this context Papua New Guinea encourages and welcomes Foreign Direct Investment. It has an open and transparent investment environment.

The PNG Government in its drive to promote investment has enacted enabling legislations to complement the National Investment Policy (NIP) to create conducive investment environment.

Note that some of the undertakings include the implementation of the World Bank Structural Adjustment Program on Privatization of State Owned Enterprise and Market Deregulation of State Owned Enterprises monopolies and Financial Sector Reform, Tariff Reform and the development of a medium term development strategy that is aimed at providing the basic infrastructure.

The Government has also established a Committee on Removing impediments to trade and investment and the committee has identified a number of impediments and currently working towards addressing them in close

consultations with the Department of Foreign Affairs & Immigration and other appropriate Governments Agencies

The Government in line with its commitment to the APEC and WTO obligations will continue to undertake necessary reform to ensure that the liberalization process is progressed and sustained.

The Government upholds the principle of Most Favoured Nation (MFN) and National Treatment (NT) in promoting and facilitating foreign investment in the country. The Government accords equal treatment to investors of all origins and it upholds WTO Goods Agreement in Services (GATS) provision on the four modes of service delivery by foreign investors.

The Government encourages foreign investment in the resources sectors, hence provides a range of attractive/specific and compatible incentives as well as creating the investment environment conducive to foreign investment. The National Investment Policy is a long-term policy that guides the manner in which foreign investment is promoted and facilitated in the country by respective agencies. It is a comprehensive policy that complies with the country's international obligations and requirements such as on APEC and WTO as well as addressing its own development needs through the involvement of foreign investment.

The National Investment Policy's contribution to the APEC Non-Binding Investment Principle is reflected in the fact that, the NIP is compliant with the requirements of APEC and the implementation of NIP would result in the implementation of the Non-Binding Investment Principles (Refer to Q60).

United States

Q56. To be provided at a later date.

Q57. Papua New Guinea appears to have a fairly strict investment-screening regime. Could Papua New Guinea explain the rationale for this? It would seem that additional foreign investment would be in Papua New Guinea's interest.

A: (To be responded to at later stage)

APEC Review Team

Q58. To what extent has Papua New Guinea provided MFN and national treatment in investment? To what extent does the economy allow for any use of performance requirements that distort or limit the expansion of trade and investment?

A: **With the exception of a few business activities that are reserved for national participation, in line with Governments endeavor to encourage national entrepreneurship, the Reserved Activities List (RAL) was reviewed and most of the reserved activities have been opened for foreign participation. A revised RAL to be known as Cottage Business Activities List, will be available with the Investment Promotion Authority once the relevant amendments are effected by the First Legislative Council. The country generally accords MFN and NT to all investors so long as they meet the basic regulating requirements of entry.**

There is no performance requirement for foreign investors, except that there are basic foreign exchange requirements that must be observed for foreign exchange stability purposes.

Q59. Please review Papua New Guinea's investment regime in 1996 and 2004 vis-à-vis the "APEC Non-Binding Investment Principles" adopted in 1994 and the "Menu of Options for Investment Liberalization and Business Facilitation" adopted in 1998.

A: **PNG last updated its Investment Regime in 2003 and its approach to updating its Investment Regime is 'as and when' there are changes to existing investment legislation, regulations and polices or events that impact on investment significantly and the economy in general. The same approach is employed in reviewing and updating Menu of Options for Investment Liberalization and Business Facilitation. However, for 2004, the review for both will be conducted this year (2005).**

Q60. Please describe the National Investment Policy and whether it has been fully implemented? If the National Investment Policy has not yet been fully implemented, please advise when it is expected that the National Investment Policy will be fully implemented?

A: **A National Investment Policy (NIP) is needed in order to provide the transparency, equal treatment, and consistency required by the private sector to enable it to make medium to long term strategic decisions to invest in Papua New Guinea. The NIP is needed in order to make the investment policy consistent with:**

- **the Governments overall strategy for development- as set out in the Medium Term Development Strategy (MTDS) as well as other policy documents;**

- **the Government on-going commitments to greater participation in the global community through trade liberalization exemplified by PNG's membership to APEC and WTO.**

The objectives of the NIP among others are:

- **the creation of a social and economic environment conducive to private investment;**

- **the development and maintenance of infrastructure;**

- **the development of human resources;**

- **greater clarity and transparency in investment incentives;**

- **the elimination of regulatory and procedural obstacles to investment;**

- **the promotion of Small and Medium enterprises and the involvement of nationals in economic activities; and**

- **the utilization of natural resources through downstream processing.**

The NIP policy was indirectly implemented with reference to its objectives. Some components of the objectives have been fully implemented while others require more time for its implementation. Overall, most of the objectives of the NIP are addressed in the governments Medium Term Development Strategy and anticipate that within the tine frame of the MTDS (2004-2009), the objectives that are identified with the MTDS will be fully implemented while others will be implemented by individual organizations depending on the availability of resources.

Q61. Papua New Guinea noted that although it upholds MFN and National Treatment, it retains exceptions that allow it to safeguard national security, environmental conservation, health protection (plants, animals, humans) and development aspirations as provided for in the WTO and APEC Agreements. Could you please outline the safeguards currently in place and the extent to which these exceptions affect investment? Could you please advise whether Papua New Guinea intends to eliminate, maintain or expand these exceptions and, if so, in what circumstances would these be eliminated, maintained or expanded?

A: **(To be responded to at later stage)**

Q62. Papua New Guinea has indicated that it has negotiated, and is negotiating Bilateral Investment Promotion Protection Agreements. Which countries have entered into a Bilateral Investment Promotion Protection Agreement with Papua New Guinea? How many negotiations are currently planned, and with which countries? Could you please provide a copy of a model Bilateral Investment Promotion Protection Agreement?

A: **Papua New Guinea has entered into Bilateral Investment Treaties with a few countries that it thinks has the potential of reciprocal benefits. The following are the countries that it currently has IPPA's with:**

> **Germany, Canada, United Kingdom, Australia, People's Republic of China, and Malaysia.**

Those that are currently under negotiations include the Republic of India, Indonesia, Philippines and Kingdom of Thailand.

Q63. With respect to performance requirements, Papua New Guinea has indicated that it applies exceptions to WTO TRIMs requirements concerning development, public health and environmental sustainability. Please describe the exceptions currently in place and the extent to which these exceptions affect investment into Papua New Guinea? Could you please advise whether Papua New Guinea intends to eliminate, maintain or expand these exceptions and, if so, in what circumstances would these be eliminated, maintained or expanded?

A: **(To be responded to at later stage)**

Q64. Papua New Guinea has noted that it has "time factored" incentives in the form of tariffs that benefit some domestic industries. These "time factored" incentives are described as according preferential treatment to the protected domestic industries on a case-by-case basis and that they will be subject to review. Could you please advise whether tariffs are the only form of "time factored" incentives currently in place? Could you please advise whether any other form of "time factored" incentives are foreseen? Could you please describe the extent to which Papua New Guinea relies on "time factored" incentives including a description of the domestic industries that benefit from these incentives? Could you please describe the review process applied to these "time factored" incentives and how these reviews are held? Finally, could you please advise whether Papua New Guinea intends to eliminate, maintain or expand these "time factored" incentives and, if so, in what circumstances would these be eliminated, maintained or expanded?

A: **(To be responded to at later stage)**

V. STANDARDS AND CONFORMANCE

United States

Q65. To be provided at a later date.

APEC Review Team

Q66. Are there any problems or other considerations that Papua New Guinea is facing in promoting alignment of its standards with international standards, as well as participation in international standardization activities and MRAs in both regulated and voluntary sectors? If so, please review how the economy is addressing such problems.

A: **(To be responded to at later stage)**

VI. CUSTOMS PROCEDURES

Australia

Q67. What is the timeframe for reviewing legislation relating to appeals provisions?

A: **(To be responded to at later stage)**

Q68. Could PNG please clarify their dispute resolution procedures in relation to tariff classification?

A: **(To be responded to at later stage)**

Q69. Does PNG Customs conduct regular consultative meetings with industry?

A: **(To be responded to at later stage)**

Hong Kong, China

Q70. On paperless trading, direct trader input will be introduced to enhance paperless trading. We would like to know how it could encourage wider application and gain traders support.

A: **(To be responded to at later stage)**

Q71. We would like to know more about the "Preclearance System" and how it could help speed up clearance of goods.

A: (To be responded to at later stage)

APEC Review Team

Q72. Please outline Papua New Guinea's current status in implementing each of the SCCP CAP items. For those items that are not fully implemented, what is Papua New Guinea's target completion date?

A: (To be responded to at later stage)

Q73. Papua New Guinea has indicated that a Customs website is being prepared. When it is expected that the Customs website will be completed and launched?

A: (To be responded to at later stage)

Q74. Papua New Guinea has indicated that a new Customs Act has been introduced. When will the Act be presented to Parliament? When will the Act take effect? Could Papua New Guinea please provide a copy of the Act.

A: (To be responded to at later stage)

Q75. Papua New Guinea has indicated that legislation implementing the WTO TRIPs Agreement has been introduced. Could you please advise when this legislation is expected to take effect? If possible, could you please provide a copy of this legislation.

A: **(To be responded to at later stage)**

VII. INTELLECTUAL PROPERTY RIGHTS (IPRs)

Australia

Q76. In addition to the Copyright and Neighbouring Rights Act 2000, does PNG have a separate "Copyright Act" (as referred to in the IAP), and if so, is it is in operation?

A: **(To be responded to at later stage)**

Q77. If so, we would be interested in obtaining a copy of that Act, and suggest that it would be useful if PNG could make a copy of that Act available on their country website so other APEC economies are able to obtain ready access to it.

A: **(To be responded to at later stage)**

Q78. Is the Copyright and Neighbouring Rights Act 2000 is currently in operation?

United States

Q79. TRIPs Article 41 requires member states to enact enforcement procedures to permit effective action against any act of infringement of intellectual property rights, including expeditious remedies to prevent infringements and remedies which constitute a deterrent to further infringements. Please describe any recent laws, rules, or decrees that Papua New Guinea has promulgated to comply with this article.

A: **(To be responded to at later stage)**

Q80. Article 39.3 of the TRIPs Agreement obliges members, when requiring (as a condition of approving the marketing of pharmaceutical or agricultural chemical products) the submission of undisclosed test or other data, to protect such data against unfair commercial use and disclosure. Please explain how the Papua New Guinea complies with this provision.

A: **(To be responded to at later stage)**

Q81. Please let us know when Papua New Guinea plans to accede and fully implement the WIPO Copyright Treaty and the WIPO Performance Phonograms Treaty.

A: **(To be responded to at later stage)**

ABAC Japan

Q82. Papua New Guinea is encouraged to participate in the APEC IPR Service Center scheme and to establish a Center or Centers at the earliest convenience.

A: **(To be responded to at later stage)**

Q83. ABAC asks for Papua New Guinea's adoption and ratification of the WIPO Digital Treaties (i.e., the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT)), and for the enactment of strong laws and enforcement mechanisms to control optical media production to complement civil and criminal measures.

A: **(To be responded to at later stage)**

APEC Review Team

Q84. Please outline the changes since 1996 and the timing for fully implementing Papua New Guinea's Bogor goals?

Q85. How effectively does Papua New Guinea implement the various measures and procedures that have been recently introduced with a view to providing for expeditious granting of IPRs, and ensuring adequate enforcement against infringement of IPRs?

A: (To be responded to at later stage)

Q86. What plans does Papua New Guinea have to establish enforcement mechanisms and procedures?

Q87. When does Papua New Guinea envisage implementing its public awareness program for intellectual property rights?

A: (To be responded to at later stage)

Q88. Has the Regulation on Collective Management been approved by Parliament? If not, what is the anticipated date on which the regulation will be approved and enter into effect? Could you please provide a copy of the Regulation.

A: (To be responded to at later stage)

VIII. COMPETITION POLICY

Australia

(Australia has directed these questions to VIII Competition Policy and X Deregulation)

General policy framework

Q89. What competition laws have been introduced under the act governing the Independent Consumer and Competition Commission?

Q90. Is the ICCC a national body? Which sectors is it responsible for regulating?

Reviews of competition policies and/or laws

Q91. What reviews of competition policies or competition laws are planned for the coming year?

Competition institutions (including enforcement agencies)

Q92. We note that the ICCC can seek a ruling from the National Court on any cases of possible breach of the competition laws. How many such cases have been referred to the National Court and in how many of these cases did the court rule that contravention of the law had occurred?

A: **In 2000, the PNG Government initiated a process of review of the then pricing and regulatory arrangements relating to public utilities. Although largely directed towards putting in place regulatory reforms that would apply following the proposed privatization of a number of publicly owned**

utilities in PNG, the reforms went beyond these specific utilities to embrace the whole business sector in PNG.

During the 1990s and certainly since the floating of the PNG currency the Kina, there had been a growing awareness in PNG of the need for some form of competition reform. The price control arrangements that had been put in place in the early 1970s as a temporary arrangement to address the oil price shock of that ear, needed review & reform. Pricing decisions made under these arrangements were not always fully explained or justified. Also the form of price control being applied did not encourage new investment and efficiency improvements that would ultimately benefit wider community through improved service delivery and ultimately more efficient cost reflective prices.

In addition, during the 1990s there was a growing recognition of the need for reform of PNG's competition laws. A process of competition reform had been underway on a world wide basis since the 1980s and it was increasingly recognized that if PNG was to maintain its markets for its major agricultural and mining based exports, it needed to improved the overall efficiency of its domestic economy. Reform of competition laws in PNG was therefore seen as being an integral part of the wider reform of the PNG economy of which the floating of the PNG currency Kina was but one step.

Thus within this context of economic reform and a move towards a more efficient and competitive domestic economy, that the Review of the existing Price Control Arrangements and competition policy was undertaken in 2000/01. This subsequently resulted in the enactment of the *INDEPENDENT CONSUMER & COMPETITION COMMISSION ACT* and the formation of the *INDEPENDENT CONSUMER & COMPETITION COMMISSION IN 2002.*

The functions of the Independent Consumer and Competition Commission include the promotion of competition and fair trading, regulation of prices for certain goods and services and the protection of consumers' interest and related purposes. The ICCC Act in particular introduces a new regime for regulating prices covering electricity, telecommunications, water, ports and harbors, postal and third party motor vehicle insurance.

The establishment of the ICCC as an independent body responsible for the administration of the ICCC Act set a new precedent in PNG. Whereas previously the Prices Controller had been given powers under the PRICES Regulation Act to control and set prices and the Price Controller could not operate independently from the Department of Treasury as he was answerable to the Department of Treasury.

In addition there was no requirement upon the price controller to explain individual pricing decisions or adopt an agreed, standard assessment procedure when reviewing price claim adjustment claims. Thus, there was a tendency for the Price Controller to reach decisions on prices that the *BUSINESS SECTOR* in particular could not readily understand or that potentially were inconsistent.

Moreover, the impact of the ICCC Legislation is as follows:

- **the Commission is to be independent of the Government ultimately responsible to the people through the parliament;**
- **decisions of the Commission, particularly in relation to pricing matters are to be transparent and fully explained in public reports prepared and made available by the Commission;**
- **all members of the community are to have access to the Commission including commenting on the Commission's draft findings and decisions;**
- **the Commission is to have regard to the legitimate interests of the suppliers or producers of goods or services subject to price regulation and as well as the interests of users and consumers of those regulated goods and services; and**
- **prices should reflect efficient costs.**

Additional information on PNG's competition policy has been transmitted electronically to the main website of the APEC Secretariat in Singapore. Interested party(ies) can simply log on to the APEC main website and have access to PNG's IAP Chapter on Competition Policy.

Measures to deal with horizontal restraints

Q93. In the past year, how many breaches of laws relating to horizontal agreements have been detected?

Measures to deal with vertical restraints

Q94. In the past year, how many breaches of laws relating to vertical agreements have been detected?

A: **(To be responded to at later stage)**

Other issues addressed by competition policy

Q95. How many authorisations were granted in the past year? Is there a public register of these?

A: **(To be responded to at later stage)**

New Zealand

Q96. What recent developments has PNG achieved in the area of competition policy? Has there been progress with the proposed establishment of a National Competition Council and Competition Commission and associated frameworks and legislation?

United States

Q97. The Independent Consumer and Competition Commission Act was enacted in April 2002. Please describe major actions taken to date to implement the Act. For example, we would appreciate receiving information on:

- the structure of the Commission
- the number and professional background of the staff
- the Commission's current top enforcement priorities

Q98. Part VI of the Act prohibits certain anticompetitive market practices. Please briefly summarize key actions taken to enforce Part VI of the Act.

Q99. The IAP lists four competition institutions and enforcement agencies; please describe the role of each and the relationship among these institutions.

Q100. What steps has the Commission taken to implement the APEC Transparency Standards on Competition Law and Policy?

Q101. The IAP states that authorizations are granted for certain types of conduct that substantially lessen competition if the public benefits accruing from the conduct outweigh any countervailing anticompetitive detriment. Can you describe the type of public benefits considered in this kind of analysis?

APEC Review Team

Q102. Please review Papua New Guinea's competition policy and/or laws and the enforcement thereof in 1996 and the most recent year, taking into account the "APEC Principles to Enhance Competition and Regulatory Reform" adopted in 1999.

Q103. Has the Independent Consumer and Competition Commission established any codes or rules relating to the conduct of a regulated industry or entity? If so, please describe the codes or rules adopted and advise whether the Commission intends to adopt any other codes or rules? If not, please advise whether the Commission intends to adopt any codes or rules, what those codes or rules would cover and when they would be adopted?

Q104. Papua New Guinea has referred to a proposed review of the Independent Consumer and Competition Commission by the Central Agencies Working Group. Can Papua New Guinea advise whether a review will be held and, if so, outline the terms of reference of the review. If a review is to be held, can Papua New Guinea also describe the review process and timing.

Q105. Papua New Guinea has noted that structural reforms are needed to dismantle excessive market power that will impede effective competition. Could you please describe this excessive market power and the structural reforms required? Could you also please outline the processed order by the National Executive and when it is expected that this process will be concluded?

IX. GOVERNMENT PROCUREMENT

Hong Kong, China

Q106. We note that PNG has not provided details on its current GP regime in the 2004 IAP. We suggest PNG provide such information as far as possible.

A: (To be responded to at later stage)

United States

Q107. We encourage Papua New Guinea to provide a more comprehensive explanation of their procurement practices in their IAP. An explanation of legislation that governs their procurement practices, as well as an overview of implementation procedures would be helpful. Presently, there is not adequate information to comment on.

APEC Review Team

Q108. Please review Papua New Guinea's government procurement regime in 1996 and the most recent year with the "APEC Non-Binding Principles on Government Procurement" adopted in 1999, and highlight the steps taken to improve the consistency with the Non-Binding Principles.

A: **(To be responded to at later stage)**

X. DEREGULATION/REGULATORY REVIEW

New Zealand

Q109. We would welcome an update on the Government's public sector reforms, including progress with the "corporatisation" and privatisation of several agencies. **How has this contributed to APEC objectives for Deregulation and Regulatory Review?**

A: **In 2000, the PNG Government initiated a process of review of the then pricing and regulatory arrangements relating to public utilities. Although largely directed towards putting in place regulatory reforms that would apply following the proposed privatization of a number of publicly owned utilities in PNG, the reforms went beyond these specific utilities to embrace the whole business sector in PNG.**

During the 1990s and certainly since the floating of the PNG currency the Kina, there had been a growing awareness in PNG of the need for some form of competition reform. The price control arrangements that had been put in place in the early 1970s as a temporary arrangement to address the oil price shock of that ear, needed review & reform. Pricing decisions made under these arrangements were not always fully explained or justified. Also the form of price control being applied did not encourage new investment and efficiency improvements that would ultimately benefit wider community through improved service delivery and ultimately more efficient cost reflective prices.

In addition, during the 1990s there was a growing recognition of the need for reform of PNG's competition laws. A process of competition reform had been underway on a world wide basis since the 1980s and it was increasingly recognized that if PNG was to maintain its markets for its major agricultural and mining based exports, it needed to improved the overall efficiency of its domestic economy. Reform of competition laws in PNG was therefore seen as being an integral part of the wider reform of the PNG economy of which the floating of the PNG currency Kina was but one step.

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In addition there was no requirement upon the price controller to explain individual pricing decisions or adopt an agreed, standard assessment procedure when reviewing price claim adjustment claims. Thus, there was a tendency for the Price Controller to reach decisions on prices that the *BUSINESS SECTOR* in particular could not readily understand or that potentially were inconsistent.

Moreover, the impact of the ICCC Legislation is that:

- **The Commission is to be independent of the Government ultimately responsible to the people through the parliament;**
- **Decisions of the Commission, particularly in relation to pricing matters are to be transparent and fully explained in public reports prepared and made available by the Commission.**

- **All members of the community are to have access to the Commission including commenting on the Commission's draft findings and decisions.**
- **The Commission is to have regard to the legitimate interests of the suppliers or producers of goods or services subject to price regulation and as well as the interests of users and consumers of those regulated goods and services.**
- **Prices should reflect efficient cost.**

With regard to Deregulation and Regulatory Review both can be considered within the Competition Policy Framework under the auspices of the Independent Consumer & Competition Commission and ICCC Act. Some of the pertinent issues are discussed here below:
The ICCC Act has now provided an important mechanism relating to good public policy in PNG. Firstly, PNG now has an Agency within the necessary Legislative power to encourage and promote the emergence of greater competition in the domestic economy.

Competition will act to ensure that prices paid by consumers reflect the best available price from overseas suppliers or from Domestic producers. When undertaking a review of prices.

The Commission is required by legislation to determine whether there is sufficient competition in the relevant market to remove the need for direct price control or price monitoring.

In the PNG context, Price Regulation must be seen as being a second best option if there are other ways of freeing up the market to allow competition to determine the best available price.

The Commission is "pro competition" and will use its legislative powers to encourage greater competition within PNG. This will not only act as a counterbalance to the automatic pass through of imported cost inflation, but will ultimately contribute to a more efficient and internationally competitive domestic economy.

Thus, the Commission now determines prices and adopts price adjustment mechanisms that reflect the efficient costs of providing the services. The Commission is not constrained to accept the automatic pass through of inefficient cost increases. Rather, the Commission is able to review and consider what is an efficient cost base for purposes of setting the price of a declared good or services, and to apply what we refer to as *EFFICIENT PRICE ADJUSTMENT MECHANISMS* with a built in mechanism to encourage greater operating efficiency.

With respect of Deregulation in particular, the Government through a process of privatization has deregulated market in most of the services and utility sectors, which it had monopoly on, through the establishment of the INDEPENDENT PUBLIC BUSINESS CORPORATION (IPBC). The IPBC would serve as a vehicle upon which these state owned enterprises or entities are sold or disposed of. The manner of sale and acquisition of those assets is through transparent public tendering process both domestically and internationally in common print media.

APEC Review Team

Q110. Please describe some examples of industry or sector-specific regulatory reform where reform may eliminate distortions on trade and investment or restrictions on competition.

A: **(To be responded to at later stage)**

XI. IMPLEMENTATION OF WTO OBLIGATIONS AND RULES OF ORIGIN

New Zealand

Q111. We welcome recent comments by Trade Minister, Hon Paul Tiensten, for PNG to play a more active and engaged role in the **World Trade Organisation,** especially in the lead up to the WTO Ministerial Meeting in Hong Kong in 2005. **What are PNG's priorities for the Doha Development Agenda?**

A: **At this juncture, one if not the most important priorities for PNG in the Doha Development Agenda is to participate actively in the WTO Ministerial Meeting and to build its human and institutional capacity from assistance that is available from the Doha Development Agenda.**

APEC Review Team

Q112. To what extent has Papua New Guinea implemented its commitments under UR/WTO?

A: **(To be responded to at later stage)**

Q113. What measures has the economy taken to ensure the impartial, transparent and neutral preparation and application of rules of origin?

A: **(To be responded to at later stage)**

XII. DISPUTE MEDIATION

APEC Review Team

Q114. Please provide an overview of how Papua New Guinea has settled disputes with other economies with respect to trade and investment, citing a few recent examples.

A: **(To be responded to at later stage)**

Q115. Has Papua New Guinea had any dispute with its trading partners? If so, how were these resolved?

A: **(To be responded to at later stage)**

XIII. MOBILITY OF BUSINESS PEOPLE

Australia

Q116. Australia welcomes PNG's participation in the APEC Business Travel Card scheme and its efforts in 2004 to put into place the necessary legislation and arrangements, to enable PNG to commence a local operation. Australia is ready to install the system and to provide the training to local staff.

Q117. As invited by PNG, Australia will conduct an Advance Passenger Information (API) Feasibility Study in PNG in 2005.

Mexico

Q118. (Business Visa Requirement) Which are the requirements for temporary business entry (other than short-term business visitors) as well as the information on streamlined arrangements, if any, for executives and senior managers on intra-company transfers, as described in the Mobility of Business People OAA guidelines.

A: (To be responded to at later stage)

Q119. (Regulatory Visa Regimes) How are the visa waiver program's established, in order to facilitate entry to member economies.'

A: (To be responded to at later stage)

Q120. (Short Term Business Entry) If short-term business visitors are allowed to enter as tourists, is it possible to engage and sign contracts, or perform professional activities?

A: **(To be responded to at later stage)**

ABAC Japan

Q121. ABAC strongly recommends that Papua New Guinea implement the APEC Business Travel Card (ABTC) scheme at the earliest possible time.

Q122. ABAC encourages Papua New Guinea to introduce e-lodgement arrangements for temporary residency applications.

Q123. Papua New Guinea is asked to make VISA application forms and visa information available on the web, including on the website of its embassies/consulates in APEC economies and through the APEC Business Travel Handbook.

APEC Review Team

Q124. When does Papua New Guinea anticipate conclusion of its review of migration legislation?

A: **(To be responded to at later stage)**

Q125. Does Papua New Guinea consider that this review will result in changes to existing requirements affecting the mobility of business persons?

A: **(To be responded to at later stage)**

Q126. In 2001 Papua New Guinea reported that a Foreign Policy Review was being held that could result in changes to visa types and classes. Did this review result in any changes?

A: **(To be responded to at later stage)**

Q127. Please highlight some measures as examples that the economy has taken to enhance the mobility of business people.

Annex 4 IAP Peer Review Team

Moderator: New Zealand

Discussant: Peru

Expert: **Mr. Gordon LaFortune**
Consultant
Grey, Clark, Shih and Associates Ltd (GCS), Canada

APEC Secretariat:
Mr. Tong Xianguo
Director, Programme
APEC Secretariat

PNG
IAP PEER REVIEW

Discussant's Remarks

We congratulate PNG for its important progress towards the Bogor Goals.

WE congratulate Mr. Gordon LaFortune for the excellent report on the IAP of PNG. It is very enlightening and useful.

Given the size of the economy of PNG and taking into consideration its evolution since its independence in 1975, the 1999 reform programs are most welcome steps for the fulfillment of the Bogor Goals. We hope that the full implementation of these reforms and the enactment of further ones will continue to contribute to the economic growth of PNG and at the same time pursue trade and investment liberalization and facilitation.

The Report of Mr. LaFortune is throughout and very comprehensive. It shows the important effort being undertaken by PNG´s officials to promote growth in the economy.

Having said that, and without further general considerations, I would like to share come comments and request our colleagues of PNG to further enlighten us on the following issues:

1. It is commendable the implementation of the Tariff Reform Program (TRP) of 1999). In this regard, it would be useful to learn about the number of tariff lines and what percentage of the total tariff lines are subject to the Intermediate (15% by 2006), Protective (25%), Prohibitive (40%) and Exceptional (85 – 100%) rates. What percentages of PNG´s imports fall in each one of these rates?
2. Since PNG intends to continue with its tariffs reform, authorities may want to consider not only further reductions on the rates applied, but also reclassify items among the different existing categories, some of them have been mentioned already. Furthermore, you may consider reducing the number of categories, since some of them already have 0% tariff (Free, Input rate and Basic rate), or to set a different way for setting categories based suitable criteria to promote growth.
3. Another aspect that can be of interest is to learn if there have been studies and/or evaluations of the effects of the Tariff reform and for that matter, of the other reform PNG has undertaken and reported in this IAP Peer Review. Can you brief us on theses matters?

4. It is clear that PNG has made progress in most IAP areas, but there are still important activities that it has to undertake to facilitate trade and investments, as has been mentioned in the questions sent by member economies.
5. Finally, in your progress toward trade and investment liberalization and facilitation, could you inform us about the most important accomplishments since 1999 and what are the main actions to be taken in the immediate future so PNG get closer to the Bogor Goals?

We have noted in Mr. LaFortune report (the version sent on the second week on February) that several of the response to questions posed by economies and APEC Review Team are “To be responded to at later stage” or there are in blank. Is it possible to know the most convenient moment for PNG to furnish the answers?

It is also noted that in some cases, the United States will provide “its questions at later time” Does the USA provided the questions to PNG?

Julio Chan
APEC Director
Ministry of Foreign Trade and Tourism
PERU

Papua New Guinea IAP Peer Review Session

Additional Comments/questions on Papua New Guinea's IAP

(submitted by Australia)

Intellectual Property Rights

We note that questions on Intellectual Property Rights will be responded to at a later stage. We understand that PNG may have resource issues which could complicate response times but we would be grateful if you could provide an indication of when you might be able to provide these responses.

Education Services

We note that answers on education services will be provided to at a later stage and we look forward to receiving them.

Tariffs/Non-Tariff Measures

Australia notes that the current treatment of automotive goods is a marked improvement on the prohibitive rates of duty that previously applied to imports of vehicles for private use.

Papua New Guinea IAP Peer Review Session

Additional question on Papua New Guinea's IAP

(submitted by Japan)

According to the expert's study report, the ADB noted that, "Corruption is a critical problem, and is publicly acknowledged by government leaders as well as the general public." In this regard, please elaborate on what Papua New Guinea has done to combat corruption and what specific plan the government of Papua New Guinea has?

Additional questions on Papua New Guinea's IAP

(submitted by New Zealand)

The questions that New Zealand asked at the IAP Peer Review Session for Papua New Guinea:

1) What do you see as the key driving forces of growth in the PNG economy over the next five years?

2) What measures are being contemplated to further enhance the attractiveness of PNG as a destination for foreign investment?

3) What is the expected timing for the implementation of the business mobility initiatives mentioned in PNG's presentation?

Papua New Guinea IAP Peer Review Session

Additional Comments/questions on Papua New Guinea's IAP

(submitted by Korea)

1. Standards and Conformance (Chapter 5)

○ Could you be more specific on the areas that Papua New Guinea puts its focus or what priorities when reviewing all the 1400 PNGS to conform to international standards throughout 2005?

○ We applaud Papua New Guinea's efforts to implement agreements made at the SCSC. Based on your experience with the implementation of agreements made under APEC, could you propose some improvements to help developing economies better implement decision made under the APEC umbrella? If there had been difficulties, what measures would have made it easier?

2. Protection of Intellectual Property Rights (Chapter 7)

○ We note Papua New Guinea's efforts in amending domestic laws to conform to the TRIPS agreement. However, as your IAP already states, enforcement would rise as the next issue that has to be addressed in this context. Could you explain your present situation and what would be a proper enforcement mechanism for your economy?

Papua New Guinea IAP Peer Review Session

ABAC COMMENTS

(Contributed by ABAC New Zealand)

General Issues: Progress Towards the Bogor Goals

Without understating the magnitude of the challenges that still lie ahead, ABAC is of the view that Papua New Guinea has made commendable progress in recent years. This is a tribute to the extent of the structural changes underway and the Government's determined push to fully implement the programme.

Whether the goals of free and open trade and investment are achieved by 2020 will depend on a continued resolute approach to maintaining the momentum of liberalization reform. This will require firm and transparent political commitment, adequate funding support, and tackling basic infrastructural and capacity weaknesses that continue to inhibit business and export growth and discourage investment.

The comments below address specific aspects of the IAP Report of particular interest to the regional export business community.

(a) Tariff Structure

In the past five years under a deliberate reform process, significant advances have been made in lowering tariffs and making the regime easier to understand and adhere to, at the cost of declining tariff revenue which will be difficult to compensate for. By comparison with many APEC developing economies Papua New Guinea is far from being staunchly protectionist. The notable exceptions are imported salt and sugar.

The few non-tariff measures appear WTO consistent, and - apart from teak- there are no constraints on exports.

The Papua New Guinea authorities should be encouraged to remain on track with their reform schedule.

(b) Services

From the external perspective, the potential attraction of the Papua New Guinea services sector would be improved by easing the existing visa and immigration rules. And by reducing the number of commercial activities restricted to Papua New Guinea ownership.

Acceleration of the programme of privatization of state-owned enterprises and measures to facilitate foreign investment is highly recommended.

(c) Investment

Papua New Guinea has individual but non-discriminatory Investment Promotion agreements in place or being negotiated with a number of APEC economies. These form part of a positive programme of investment liberalization and complement the measures to mitigate the effects of the former reserved list of commercial activities. "Time-factored" incentive schemes with selected foreign investors remain an anomaly. Access to customary land is difficult.

Papua New Guinea should be encouraged to persevere with its investment liberalization programme.

(d) Standards and Conformance

Papua New Guinea has identified a worthy list of intentions in respect of participation in international standards bodies and a readiness to meet their expectations. The ability to do so will be handicapped by significant capacity constraints that the government will need to address. The problem also applies to WTO participation. How much priority PNG will address to this issue?

(e) Customs Procedures

The final comment under (d) regarding capacity limitations applies as well to the Customs regime, where there are constructive reforms underway; for example, to introduce paperless trading, tighten consultative arrangements with the business community, and more fully align with the Kyoto Convention.

(f) Intellectual Property Rights (IPR)

IPR measures are becoming increasingly more robust. Effective enforcement is the challenge.

(g) Competition Policy

The recent creation of an independent agency, the Independent Consumer and Competition Commission (ICCC), with significant powers to apply competition policy and law, and lift public awareness in this field, is proving to be notable and much needed infrastructural improvement.

In addition, the ICCC has the valuable role of conducting regulatory reviews and identifying candidates for deregulation.

(h) Government Procurement

Useful progress has been made; for example, by restructuring the tender boards network. However, further reform should tackle the arrangements that permit the continued use of ministerial waivers and sole source procurements.

(i) Business Persons Moblility

Changes in hand to ease immigration requirements are designed to encourage greater business travel. This includes steps to comply with the APEC Business Travel Card scheme. Here again, capacity building within the relevant bureaucracy is a priority. How soon will the Business Travel Card be in place in PNG and used by business people to enter PNG?