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*National Investment and Development Act 1974*

## PUBLICATION OF NATIONAL INVESTMENT PRIORITIES SCHEDULE

I, THOMAS KINGSTON CRITCHLEY, High Commissioner, by virtue of the powers conferred by Section 40(1) of the *National Investment and Development Act 1974* and all other powers me enabling, and having received the advice of the Executive Council, hereby publish the attached First National Investment Priorities Schedule in accordance with Section 40(1) of the Act.

Dated this seventeenth day of April, One thousand nine hundred and seventy-five.

T. K. CRITCHLEY,  
High Commissioner.

### INTRODUCTION

The National Investment Priorities Schedule is created under Part 3, Sections 40-43 of the National Investment and Development Act.

This first National Investment Priorities Schedule represents a starting point in a new approach towards foreign investment in Papua New Guinea. Basically, it informs foreign investors of those business activities within Papua New Guinea in which the Government will welcome their participation as well as

#### I. THE PRIORITIES SCHEDULE

The Priorities Schedule specifies the particular activities in which foreign investment is presently being sought by the Government of Papua New Guinea. The Guidelines and Minimum Terms and Conditions for involvement in each category of activities are also detailed.

The First Priorities Schedule is made up of those projects "in the pipeline" at the time of commencement of the National Investment and Development Act. It indicates where the Government of Papua New Guinea presently stands in relation to foreign investment projects. As such, it deliberately does not embody any new policies regarding the further involvement of foreign enterprises in the development of particular sectors of the economy.

Section 40 of the National Investment and Development Act requires that the Schedule be revised at least once in every 12 month period. A Second (Revised) Priorities Schedule, which will incorporate new policy initiatives and more clearly indicate the policy background upon which the need for foreign investment in Papua New Guinea is built, will be published soon.

Proposals for investment in activities which are not on the Priorities Schedule can be considered, and applications to consider an activity for inclusion on the Priorities Schedule should be directed to the National Investment and Development Authority (NIDA). Inclusion on the Priorities Schedule how-

ever, would follow only if an activity was determined to be consistent with the Government's policies and guidelines and was considered to be in the national interest.

The National Investment Priorities Schedule is a multi-purpose document. It is intended to make as clear as possible the Government's intentions and its attitudes towards foreign investment. It also clarifies for the many different arms of the Government which projects are presently acceptable for foreign involvement and which ones are not. Above all, it is the method whereby direct control is achieved by the Government over the entry of foreign investment into Papua New Guinea.

Applications for consideration of investment proposals in activities on the Priorities Schedule should be done in the appropriate manner following initial contact with NIDA. Interested investors can obtain further information on a particular activity by contacting NIDA for referral to the appropriate Departments.

Investors who, at the time of publication, are actively considering a particular project not included on the Priorities Schedule should also contact NIDA.

#### A. MANUFACTURING

- Fish canning
- Canning and preserving of fruits and vegetables
- Flour and stock feed milling
- Manufacture of cement
- Manufacture of asbestos cement
- Manufacture of metal holloware
- Manufacture of nuts and bolts
- Manufacture of agricultural, domestic and industrial hand tools
- Manufacture of kerosene refrigerators
- Printing on flexible packaging products

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Manufacture of bare copper and aluminium conductors and/or insulated thermoplastic and other insulating materials

Manufacture of metal pipes

Light and heavy engineering establishments

Manufacture and further processing of palm oil (including oil palm cultivation)

**B. FISHING**

Offshore fishing

**C. FORESTS**

Integrated timber industries and ancillary activities

**D. EXPLORING FOR AND EXTRACTION OF MINERALS AND NATURAL HYDROCARBONS**

Prospecting and exploring for minerals and ancillary activities

Extraction of minerals and ancillary activities

Exploring for natural hydrocarbons and ancillary activities

Extraction of natural hydrocarbons and ancillary activities

**E. CONSTRUCTION**

Large scale construction activities

**F. PROFESSIONAL SERVICES, comprising:—**

Real estate

Legal services

Accounting, auditing and book-keeping services

Engineering, architectural and technical services

Advertising services

Business services

Machinery and equipment rental and leasing

Medical, dental and other health services

Electrical repair services

Repair of motor vehicles and motorcycles

Watch, clock and jewellery repair

Photographic studios, including commercial photography

Veterinary services

Bookmaking

**G. MINOR ACTIVITIES**

Activities involving an estimated capital investment of K75,000 or less.

*Guidelines and Minimum Terms and Conditions relating to each category of activities appear later.*

**A. MANUFACTURING**

*Guidelines*

- (1) As a general rule, no agreement between the Government of Papua New Guinea and a foreign enterprise will be by an Act of the House of Assembly;
- (2) In the appraisal of investment projects, a Company's record of employer/employee relationships in other countries will be taken into account; and
- (3) The technology utilized should be the most labour-intensive determined to be economically feasible.

*Minimum Terms and Conditions*

Any foreign enterprise or individual wishing to engage in a manufacturing activity on the Priorities Schedule must agree to:

- (1) Comply with the laws of Papua New Guinea, as amended from time to time;
- (2) Permit Government or Papua New Guinean equity participation or options of equity participation, to the extent determined to be practical and appropriate;
- (3) Train Papua New Guineans for all levels of employment under a specific programme approved by the Government and, specifically, train Papua New Guineans in defined manufacturing skills;
- (4) Within the framework of the industrial relations legislation, agree to involve to the maximum extent practicable, Papua New Guinean employees in decision-making relating to the terms and conditions of employment;
- (5) Encourage and assist Papua New Guinean corporate entities or entrepreneurs in establishing businesses where new ancillary enterprises are required;
- (6) Utilize sources of supply and services within Papua New Guinea, preferably Papua New Guinean-owned, unless adequate justification for not doing so can be provided;
- (7) Operate within environmental guidelines established by the Government;

(8) Provide its own capital requirements to the maximum extent practicable, from sources outside Papua New Guinea, subject to condition (2);

(9) Provide required new infrastructure or compensate the Government at an agreed-upon rate or percentage for specific new infrastructure provided;

(10) Provide export marketing expertise or access to export markets, where the Government considers it appropriate;

(11) In the drawing up of all agreements and arrangements for the provision of goods and services, utilize ruling market prices as the basis for determining cost;

(12) Keep all books of account and company records in Papua New Guinea and in the English language; and

(13) Abide by any additional terms and conditions imposed by the Government as a condition for registration with NIDA.

**B. FISHING**

*Guidelines*

- (1) As a general rule, no agreement between the Government of Papua New Guinea and a foreign enterprise will be by an Act of the House of Assembly;
- (2) In the appraisal of investment projects, a company's record of employer/employee relationships in other countries will be taken into account;
- (3) The technology utilized should be the most labour-intensive determined to be economically feasible; and
- (4) Licenses to use a boat for fishing are issued for a period of one year and are renewable.

*Minimum Terms and Conditions*

Any foreign enterprise wishing to engage in offshore fishing must agree to:

- (1) Comply with the laws of Papua New Guinea, as amended from time to time;
- (2) Permit Government or Papua New Guinean equity participation or options of equity participation to the extent determined to be practical and appropriate;
- (3) Train Papua New Guineans for all levels of employment under a specific programme approved by the Government;
- (4) Within the framework of the industrial relations legislation, agree to involve to the maximum extent practicable, Papua New Guinean employees in decision-making relating to terms and conditions of employment.
- (5) Encourage and assist Papua New Guinean corporate entities or entrepreneurs in establishing businesses, where new ancillary enterprises are required;
- (6) Utilize sources of supply and services available in Papua New Guinea, preferably Papua New Guinean-owned, unless adequate justification for not doing so can be provided;
- (7) Operate within environmental guidelines established by the Government;
- (8) Provide its own capital requirements, to the maximum extent practicable, from sources outside Papua New Guinea, subject to condition (2);
- (9) Provide export marketing expertise or access to export markets, where the Government considers it appropriate;
- (10) Process fish to the maximum extent possible within Papua New Guinea, unless specific exemptions are made by the Government;
- (11) In the drawing up of all agreements and arrangements for the provision of goods and services, utilize ruling market prices as the basis for determining cost;
- (12) Keep all books of account and company records in Papua New Guinea and in the English language;
- (13) Abide by the conditions laid down in the licence to use a boat for fishing; and
- (14) Abide by any additional terms and conditions imposed as a condition for registration with NIDA.

**C. FORESTS**

*Guidelines*

- (1) As a general rule, no agreement between the Government of Papua New Guinea and a foreign enterprise will be by an Act of the House of Assembly;

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- (2) In the appraisal of investment projects, a company's record of employer/employee relationships in other countries will be taken into account; and
- (3) The technology utilized should be the most labour-intensive determined to be economically feasible.

*Minimum Terms and Conditions*

Any foreign enterprise or individual wishing to engage in an integrated timber industry must agree to:

- (1) Comply with the laws of Papua New Guinea as amended from time to time;
- (2) Permit Government or Papua New Guinean equity participation or options of equity participation, to the extent determined to be practical and appropriate;
- (3) Train Papua New Guineans for all levels of employment under a specific programme approved by the Government;
- (4) Within the framework of the industrial relations legislation, agree to involve to the maximum extent practicable, Papua New Guinean employees in decision-making relating to terms and conditions of employment;
- (5) Encourage and assist Papua New Guinean corporate entities or entrepreneurs in establishing businesses associated with the timber projects and directly connected with the main timber operations;
- (6) Utilize sources of supply and services available in Papua New Guinea, preferably Papua New Guinean-owned, unless adequate justification for not doing so can be provided;
- (7) Operate within environmental guidelines established by the Government;
- (8) Engage in reforestation programmes as agreed with the Government;
- (9) Provide required new infrastructure, or compensate the Government at an agreed upon rate or percentage for specific new infrastructure provided;
- (10) Provide export marketing expertise or access to export markets, where the Government considers it appropriate;
- (11) Agree to process all timber to the maximum extent practicable within Papua New Guinea, unless specific exemptions are made by the Government;
- (12) In the drawing up of all agreements and arrangements for the provision of goods and services, utilize ruling market prices as the basis for determining cost;
- (13) Keep all books of account and company records in Papua New Guinea and in the English language; and
- (14) Abide by any additional terms and conditions imposed by the Department of Forests and/or as a condition for registration with NIDA.

**D. EXPLORING FOR AND EXTRACTION OF MINERALS AND NATURAL HYDROCARBONS**

*Guidelines*

- (1) As a general rule, no agreement between the Government of Papua New Guinea and a foreign enterprise will be by an act of the House of Assembly;
- (2) In the appraisal of investment projects, a company's record of employer/employee relationships in other countries will be taken into account;
- (3) The technology utilized should be the most labour-intensive determined to be economically feasible;
- (4) The Government has adopted the following three basic principles relating to the utilization of mineral resources;
  - (a) Minerals under the earth and water belong to the people of Papua New Guinea, and the Government and people must receive a fair price in return for the extraction of those minerals;
  - (b) foreign companies, whose expertise and capital are needed for commercial exploitation of mineral deposits, should receive a reasonable return on their investment, but any extraordinary gains unrelated to extra company inputs (such as a rise during a period of high world market prices) will go in a very large part to the Government; and
  - (c) The Government has the right to regulate the activities of mining companies in such a way as will maximize the benefits of mining to the local community while minimizing the potentially harmful social and economic costs;

- (5) Permission may be granted for prospecting and exploring for minerals for a two year period, renewable, from time to time, for further periods up to two years at the discretion of the Minister;
- (6) Permission may be granted for on-shore exploration for natural hydrocarbons for a one year period initially, renewable from time to time, for further periods of three years, for a total term of 10 years; and
- (7) Permission may be granted for off-shore exploration for natural hydrocarbons for a six year initial period, renewable for a further period of five years over 50% of the original area.

*Minimum Terms and Conditions*

Any foreign enterprise or individual wishing to engage in exploring and/or extraction of minerals and/or natural hydrocarbons must agree to:

- (1) Comply with the laws of Papua New Guinea, as amended from time to time;
- (2) Permit Government of Papua New Guinean equity participation or options of equity participation, to the extent determined to be practical and appropriate;
- (3) Train Papua New Guineans for all levels of employment under a specific programme approved by the Government;
- (4) Within the framework of the industrial relations legislation, agree to involve, to the maximum extent practicable, Papua New Guinean employees in decision-making relating to terms and conditions of employment;
- (5) Encourage and assist Papua New Guinean corporate entities or entrepreneurs in establishing businesses, where ancillary enterprises are required.
- (6) Utilize sources of supply and services available in Papua New Guinea, preferably Papua New Guinean-owned, unless adequate justification for not doing so can be provided;
- (7) Operate within environmental guidelines established by the Government;
- (8) Provide required new infrastructure or compensate the Government at an agreed-upon rate or percentage for specific new infrastructure provided;
- (9) Process all minerals and/or natural hydrocarbons to the maximum extent possible within Papua New Guinea, unless specific exemptions are made by the Government;
- (10) In order to prospect and explore for minerals or to explore for natural hydrocarbons, agree to a minimum work programme as laid down by the Director, Office of Minerals and Energy;
- (11) In the drawing up of all agreements and arrangements for the provision of goods and services, utilize ruling market prices as the basis for determining cost;
- (12) Keep all books of account and company records in Papua New Guinea and in the English language; and
- (13) Abide by any additional terms and conditions imposed under the relevant mining legislation by the Director, Office of Minerals and Energy and/or as a condition for registration with NIDA.

**E. CONSTRUCTION**

*Guidelines*

- (1) As a general rule, no agreement between the Government of Papua New Guinea and a foreign enterprise will be by an Act of the House of Assembly;
- (2) In the appraisal of investment projects, the company's record of employer/employee relationships in other countries will be taken into account;
- (3) The technology utilized should be the most labour-intensive determined to be economically feasible; and
- (4) As a general rule, enterprises with Papua New Guinean partners or Papua New Guinean equity participation will be given preference in the awarding of Government contracts.

*Minimum Terms and Conditions*

Any foreign enterprise or individual wishing to engage in large scale construction activities must agree to:

- (1) Comply with the laws of Papua New Guinea, as amended from time to time;
- (2) Permit Government or Papua New Guinean equity participation to the extent determined to be practical and appropriate;

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- (3) Train Papua New Guineans for all levels of employment under a specific programme approved by the Government, and specifically, train Papua New Guineans in defined construction skills;
- (4) Within the framework of the industrial relations legislation, agree to involve to the maximum extent practicable, Papua New Guinean employees in decision-making relating to terms and conditions of employment;
- (5) Encourage and assist Papua New Guinean corporate entities or entrepreneurs in establishing businesses where ancillary enterprises are required or where subcontracting is economically feasible;
- (6) Utilize sources of supply and services available in Papua New Guinea, preferably Papua New Guinean-owned, unless adequate justification for not doing so can be provided;
- (7) Operate within environmental guidelines established by the Government;
- (8) Provide required new infrastructure or compensate the Government at an agreed-upon rate or percentage for specific new infrastructure provided;
- (9) In the drawing up of all agreements and arrangements for the provision of goods and services, utilize ruling market prices as the basis for determining cost;
- (10) Keep all books of account and company records in Papua New Guinea and in the English language; and
- (11) Abide by any additional terms and conditions imposed by the Government as a condition for registration with NIDA.

#### F. PROFESSIONAL SERVICES

- (1) As a general rule, enterprises with Papua New Guinean partners or Papua New Guinean equity participation will be given preference in the awarding of Government contracts.

##### *Minimum Terms and Conditions*

Any foreign enterprise or individual wishing to engage in the provision of professional services specified on the Priorities Schedule must agree to:

- (1) Comply with the laws of Papua New Guinea, as amended from time to time;
- (2) Where appropriate, train Papua New Guineans for all levels of employment under a programme approved by the Government;
- (3) Utilize sources of supply and services available in Papua New Guinea, preferably Papua New Guinean-owned, unless adequate justification for not doing so can be provided;
- (4) In the drawing up of all agreements and arrangements for the provision of goods and services, utilize ruling market prices as the basis for determining cost;
- (5) Keep all books of account and company records in Papua New Guinea and in the English language; and
- (6) Abide by any additional terms and conditions imposed by the Government as a condition for registration with NIDA.

#### II. THE RESERVED LIST

The Reserved List portion of the National Investment Priorities Schedule specifies those activities which are reserved for Papua New Guinean investment.

Foreign enterprises may request registration to engage in these activities, if:

- (a) it is demonstrated that Papua New Guineans are not prepared to undertake the activity in the particular area in which the foreign enterprise proposes to establish; and
- (b) it is demonstrated that the activity is required and desired in the particular area; and
- (c) the proposed undertaking meets the Guidelines and Minimum Terms and Conditions established for Minor Activities on the Priorities Schedule, unless a specific exemption is made by the High Commissioner in Council.

Existing foreign enterprises engaged in activities on the Reserved List may not expand their operations beyond normal sales growth without Government approval.

- Copra plantations
- Pig raising for slaughter
- Sheep raising
- Growing of root crops
- Flower growing

#### G. MINOR ACTIVITIES

##### *Guidelines*

- (1) The estimated capital investment in the new undertaking must not exceed K75,000;
- (2) Applications for registration will be considered only if—
  - (a) the undertaking is consistent with the Government's policies and guidelines relating to economic development and foreign investment;
  - (b) benefits will accrue to the economy as a result of the undertaking;
  - (c) the undertaking is important to an existing or new sector of the economy in a particular area;
  - (d) Papua New Guineans are not prepared to carry out the activity in the particular area; and
  - (e) the undertaking is desired in the particular area;
- (3) In the approval of projects, a company's record of employer/employee relationships will be taken into account; and
- (4) The technology utilized should be the most labour-intensive determined to be economically feasible.

##### *Minimum Terms and Conditions*

Any foreign enterprise or individual applying for registration of a new undertaking classified as a Minor Activity must agree to:

- (1) Comply with the laws of Papua New Guinea, as amended from time to time;
- (2) A programme for the phasing-in of Papua New Guinean equity participation over a specific period of time, to the extent and at a rate determined to be practical and appropriate;
- (3) Train Papua New Guineans for all levels of employment under a specific programme approved by the Government;
- (4) Within the framework of the industrial relations legislation, agree to involve, to the maximum extent practicable, Papua New Guinean employees in decision-making relating to terms and conditions of employment;
- (5) Utilize sources of supply and services in Papua New Guinea, preferably Papua New Guinean-owned, unless adequate justification for not doing so can be provided;
- (6) Operate within environmental guidelines established by the Government;
- (7) In the drawing up of all agreements and arrangements for the provision of goods and services, utilize ruling market prices as the basis for determining cost;
- (8) Keep all books of account and company records in Papua New Guinea and in the English language; and
- (9) Abide by any additional terms and conditions imposed by the Government as a condition for registration with NIDA.

Sago cultivation

Spice growing

Processing of cocoa (collection through to dry bean)

Processing of copra (collection through to dry copra)

Gatherings of uncultivated forest materials such as gums and resins, wild rubber, saps, barks, herbs, wild fruits and flowers, mosses, leaves, needles, reeds and roots

Processing of sago

Handloom weaving

Silk screen printing of piece goods

Manufacture of rubber thongs

Manufacture of small moulded rubber goods

Manufacture of household, office and public building furniture and fixtures which are mainly made of wood for the internal market

Manufacture of traditional artifacts and handicrafts, and commercial reproductions of same

Manufacture of chalk

Manufacture of paper clips

General construction work, excluding civil engineering projects, involving contracts of K50,000 or less

Wholesaling of traditional artifacts and handicrafts

Purchase of coffee (grower to factory or exporter)

**Publication of National Investment Priorities Schedule—*continued***

Purchase of copra (grower to exporter or factory)  
 Trade stores (general country store)  
 Retailing of petrol  
 Retailing of traditional artifacts and handicrafts  
 Mobile trading establishments  
 Retailing of flowers  
 Taverns  
 Mobile food canteens

Refreshment stands, sandwich and coffee shops  
 All road passenger transportation  
 Long distance trucking businesses operating trucks under eight tons  
 Hire, repair and maintenance of vending machines  
 Office and window cleaning services  
 Boot and shoe repairing  
 Amusement parlors

**III. INVESTMENT GUARANTEES**

Upon registration with NIDA to engage in a particular activity on the Priorities Schedule, a foreign enterprise or individual is entitled to the following rights:

- (1) There will be no nationalization or expropriation of the property of the enterprise or its investors except—
  - (a) in accordance with law; and
  - (b) for a public purpose defined by law; and
  - (c) in payment of compensation as defined by law.
- (2) Subject to any laws relating to taxation and exchange control, the enterprise and its investors shall be allowed the right:
  - (a) to remit overseas earnings and expatriate capital; and
  - (b) to remit amounts necessary to meet payments of

principal, interest and service charges and similar liabilities on foreign loans, and the costs of other foreign obligations, approved by the Government, at the exchange rate prevailing under any law of Papua New Guinea at the time of remission or repatriation.

- (3) Subject only to the exchange rate prevailing under any law of Papua New Guinea at the time, the enterprise and its investors shall be allowed the right to remit overseas all compensation received in accordance with the guarantee set out in paragraph (1) (c).
- (4) Subject to any agreement between the Government and the enterprise, no rate, tax, rent, charge, due, duty, tariff or other levy and no related procedure or practice shall discriminate against the enterprise or its investment on the grounds of its origin.