

Government of Vanuatu

National Investment Policy

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Foreword

At the Forum Finance Ministers' Meeting in Port Moresby in 1995, transparency in foreign investment policy was chosen as a major item for consideration because of its pre-eminent position in the listing of APEC Non-binding Investment Principles. At the conclusion of that meeting, the Ministers resolved that a report be prepared on the level of transparency in member countries' National Investment Policy Statements.

This course of action led, in most cases, to the preparation of investment policy statements, for most members had no documented statements of investment policy at that time. It also led to consideration of how policies might be presented, in that an acceptance of transparency (just one of the APEC principles) implied that policies should be made public and be written to be understandable, predictable and consistent.

Vanuatu did prepare a National Investment Policy Statement in 1996. However, it was developed without widespread consultation or agreement on content and, while submitted to the Forum Secretariat, it was not distributed within Vanuatu.

Even were that document still available, there have been many changes in Vanuatu's investment policy since that time. Consequently, the Vanuatu Investment Promotion Authority (VIPA), with the support of all Government institutions that deal with investment issues and the private sector, has taken the initiative to prepare a current Statement of National Investment Policy for Vanuatu.

In compiling the document, all relevant and interested parties in Vanuatu were interviewed to gain their input. The draft was extensively reviewed to arrive at a consensus of current policy. The document was then presented to the Council of Ministers to be ratified and adopted as current policy.

The National Investment Policy Statement will serve several useful purposes. It will provide a transparent and public statement of investment policy for all private sector investors, enhancing investment prospects. It will be a valuable tool for VIPA in its investment promotion efforts. It will inform all officials of the extent of Government's investment policy, enabling all investment efforts to be better co-ordinated and directed. Finally, it will be a benchmark against which Government can effectively review investment policies to ensure those policies are best practice.

Executive Summary

The purpose of this statement of investment policy is to clarify and enhance understanding of the Vanuatu Government's policies on investment by investors, both foreign and domestic, and by government officials. This statement of Vanuatu's investment policy has, therefore, sought to be:

- comprehensive – it includes all key areas related to investment;
- accurate – it reflects current policies as well as proposed policy changes;
- concise – it avoids unnecessary detail;
- informative – it provides full definitions of criteria for all restrictions and approvals; and
- consistent with private sector investor's policy expectations - it covers all the issues contained in the Asia Pacific Economic Cooperation (APEC) Non-binding Investment Principles, which Forum Island Countries adopted at the Pacific Forum Leaders' Meeting, held at Madang in 1995.

The policy statement addresses the following investment related areas:

- sectoral investment priorities;
- investment guarantees (expropriation, intellectual property, dispute settlement, non-discrimination between source countries, national treatment, non-commercial risk);
- investment regulation in relation to company registration and business licensing;
- foreign investment approval;
- access to land;
- employment of citizens and expatriates;
- residency;
- Government revenue raising;
- importation and exportation;
- monetary issues involving local borrowing, funds repatriation, foreign exchange and interest rates;
- investment incentives;

- industrial infrastructure;
- environment protection; and
- investment promotion and facilitation.

For each of these areas, the policy statement states the Government's intended objectives and, where possible, explains why the Government is pursuing this course of action. This will help increase the level of stability, certainty and predictability for investors – foreign and domestic alike.

1 Overview

The Government of Vanuatu has as its goal the raising of the welfare of the general population. In seeking to meet this goal, the Government recognises the significant role that private enterprise makes to economic development through employment creation, the earning of essential foreign exchange and by contributing significantly to Government revenues.

The Government wishes to increase the contribution of private enterprise to economic development in Vanuatu. It intends to do so by having in place an investment environment that is conducive to the maintenance of existing and the creation of new investment. In attempting this, it is aware that the interests of Government, such as the protection of public health and safety, achieving environment sustainability and the accumulation of revenues for public spending, may constrain the private sector when attempting to meet its own profit objectives.

To achieve a balance that is acceptable to all, Government encourages constructive dialogue with the private sector on all matters related to investment. The objective is to have in place investment policies and procedures that are effective and efficient, incorporating, to the fullest extent possible, the principles of transparency, simplicity and automaticity. In addition to transparency, it is also intended that the policies will be consistent with the other APEC non-binding investment principles adopted by the Pacific Forum.

In seeking the greater participation of the private sector in economic development in Vanuatu, the Government appreciates that citizen owned investment cannot, alone, meet its development targets. Government therefore welcomes the involvement of foreign investment in Vanuatu to supplement and complement the efforts of citizen investors. However, to foster citizen owned investment endeavours in certain activities, entry to those particular activities is reserved for citizen investors only.

As part of its commitment to private sector development, Government has in place a policy that continues the objective of privatising Government owned investments. In recent years, a number of corporatisations have occurred, including Vanuatu Post, the Civil Aviation Authority, and the Ports Authority.

Although Government appreciates the long term need for effective competition policy to protect the interests of civil society, no immediate plans are in place for the implementation of appropriate competition legislation.

2 Sectoral priorities

The Government welcomes private sector investment in all sectors of the economy, with the exception of a short list of prohibited activities closed to all investors to protect public health and safety. The list is provided at Part 1, Schedule 1 of the Vanuatu Foreign Investment Promotion Act (VFIP Act).

The Government believes that the areas of greatest comparative advantage for Vanuatu lie in the tourism, agriculture and services sectors. While highlighting these sectors, however, investment is welcome in all sectors. No specific incentives or inducements are provided by the Government to encourage investment in any sector, however, other than some exemptions on import duties.

Tourism

Tourism has developed significantly in Vanuatu over the last 25 years due to the appeal of Ni-Vanuatu culture and the attractiveness of the natural environment, particularly for resort development and diving. Many opportunities for investment in the tourism industry continue to exist in these traditional sectors and in new endeavours.

The current objectives for the tourism sector are:

- to promote the industry as a means of conserving Vanuatu's unique cultural patterns, archaeological and historical sites, and the natural environment;
- to develop tourism so that it attracts the range and quality of tourists who appreciate the culture and the environment of the country;
- to expand and ensure an effective government organization with adequate resources for tourism planning, development and marketing, essential for the continued development of the industry in Vanuatu; and
- to allow sufficient flexibility of foreign investment where large amounts of capital are needed or when specialized operations or skills are necessary in order to offer variety in tourism attractions that currently do not exist. Examples might include theme parks, dolphin parks, dolphin therapy (for health), sea world, etc.

Investment by foreign investors is generally encouraged in the tourism sector, with the exception of the following activities that are reserved for Ni-Vanuatu investors:

- local tour agent if the annual turnover is less than VT 20 million¹,
- local tour operator if the investment is less than VT 50 million,
- commercial cultural feasts (Melanesian, Polynesian etc.),
- guest houses if the number of beds is less than 50 or less than 10 rooms or annual turnover is less than VT 20 million,
- bungalows if the annual turnover is less than VT 30 million, and
- hotels and motels if the total value of the investment is less than VT 10 million or the annual turnover is less than VT 20 million.

The Government has established the Vanuatu Tourism Office (VTO) to promote tourism flows into Vanuatu. In addition, the National Tourism Development Office (NTDO) assists investors with products planning and development, and training. It also makes recommendations on trades tax concessions for approved tourism projects. Items covered include building materials for a new establishment and/or new developments to an existing establishment, fuel to operate generators in rural areas, machinery other than vehicles, and white goods for a new resort.

No sectoral licences are required by investments in the tourism sector.

Agriculture

Vanuatu has land and a climate suitable for a wide array of agricultural, livestock and horticultural pursuits. Government encourages new investment in these areas, particularly those that lead to agro-processing and export.

No sectoral licences are required by investments in the agriculture, livestock or horticulture sectors.

Concessions on trades taxes are available to agricultural, livestock or horticultural projects for plant, machinery, materials and equipment, including fuel oils.

Services

Because of the “tax haven” status and the creation of an appropriate legislative framework, Vanuatu is an attractive location for off-shore financial sector investments. Opportunities also exist within the general services sector.

¹ In July 2004, the exchange rate for US\$1.00 was approximately Vatu (VT) 110.

While the Government welcomes and encourages investments in the services sector, no special concessions or inducements are offered to investors other than trades tax concessions for inter-island shipping.

Certain services sector activities, however, are reserved for citizen owned investments in order to protect their interests. These include:

- kava bars;
- open air vendors;
- mobile shops;
- door to door sales;
- taxis and bus services;
- private security services;
- professional services covered under Category F of the Business Licences Act No.19 of 1998 if turnover is less than VT 5 million;
- retail shops if turnover is less than VT 30 million;
- coastal shipping for vessels less than 80 tonnes; and
- electricians, electro-technicians and building constructors.

Fisheries

The marine resources of Vanuatu have attracted investments in pelagic and reef fisheries, sport fishing, trochus shell and beche-de-mer harvesting and aquarium fish trade. While continued investment in these areas is encouraged, Government is also looking to promote opportunities in aquaculture. An aquaculture development plan is expected to be in place within the near future. Progress is also being made on a Tuna Management Plan with support from the Canadian South Pacific Oceanic Development Program (CSPOD).

The Vanuatu fisheries are managed by the Department of Fisheries under the Fisheries (Amendment) Act No.2 of 1989 [CAP 158], however the Act is currently being revised. The mission of the Department is to ensure the sustainable management, development and conservation of fish resources in order to achieve maximum social and economic benefits to Vanuatu for present and future generations. Changes to the legislation, therefore, can be expected to reflect a strong move towards sustainable management of the marine resource.

Under the Fisheries Act, all marine activities require a fishing licence issued by the Department of Fisheries. In particular, fishing boats, both foreign and local, require a fishing licence. Licences can be issued annually or quarterly, the current foreign fishing licence fee being US\$11,000 per annum. The fee is normally to be paid in that currency.

Investments in fishing within archipelagic waters within the meaning of the Maritime Zones Act No. 23 of 1981 [CAP 138] and the first 6 nautical miles of the territorial sea within the meaning of the Act are reserved for citizens.

Game or sport-fishing boats are currently licensed by the Department of Customs. It is anticipated that this function will be transferred to the Department of Fisheries during 2004.

Concessions on trades taxes are available to fisheries projects. The concessions cover boats and boat building materials, fuel oils, machinery, materials and equipment, including in-board and outboard motors and refrigeration equipment.

Mining

Vanuatu has significant mineral resources, including precious metals and manganese. Although there has been extensive exploration and prospecting since the 1970s, no mineral extraction has yet been undertaken.

Mining prospecting, exploration and extraction all require licences or permits under the Mines and Minerals Act of 1986 [CAP 196]. Amendments to the legislation are currently under consideration by Government, particularly aimed at enhancing environmental safeguards.

Exemptions on trades taxes are available to mining projects for plant, machinery, materials and equipment, including fuel oils.

Industry

Government appreciates the small size of the domestic market and the limited opportunities for industrial investors to be able to compete on price and quality with imports. Because of the employment opportunities that do exist in industry, Government does provide some protection to investors in this sector through the imposition of a tariff regime.

Exemptions on trades taxes are available to manufacturing and processing for raw materials, machinery and equipment. Export manufacturers are exempt from trades taxes on their production inputs and from any taxes on exports.

Government is considering the establishment of an export processing zone (EPZ), however, no decision has yet been reached on whether a zone would be beneficial and, if it were, when it might be put in place.

Forestry

Vanuatu's forest resources continue to provide investment opportunities for the private sector. The forest resource is able to environmentally sustain an annual cut of 68,000 cubic metres.

Government also encourages the establishment of plantation forests. It has leased large tracts of land in Espiritu Santo that could be sub-leased to private sector investors for this activity.

Government's policy in forestry is to maximise local value added in timber products. It therefore prohibits, in general, the export of logs and fitches. It also seeks to protect the interests of citizen investors in sawmilling by reserving for such investors the use of mobile or walkabout sawmills that cut up to 500 m³ per annum.

To regulate the sector, investors require a Forestry Licence issued by the Forestry Board, the latter comprising representatives of the Departments of Forestry, Lands and Environment. A licence for logging attracts an annual fee of VT100 per cubic metre of annual allowable cut.

Concessions on trades taxes are available to forestry projects for plant, machinery, materials and equipment, including fuel oils.

3 Investment guarantees

Expropriation

Government guarantees that it will not expropriate foreign investments or take measures that will have a similar effect. The exception is expropriation for a designated public purpose and will be done on a non-discriminatory basis. Such expropriation would only occur in accordance with the Vanuatu Foreign Investment Promotion Act No. 15 of 1998, other domestic laws and the principles of international law. Such action would result in the prompt payment of adequate and effective compensation.

Intellectual Property

To protect and safeguard intellectual property in Vanuatu, the Government has passed the Copyright and Related Rights Act No.42 of 2000. However, the legislation has not yet been gazetted.

The Act will apply to works, performances, sound recordings, broadcasts and expressions of indigenous culture. In particular, original intellectual creations include artistic, literary, dramatic, musical, audiovisual and collective works.

Works are protected by the sole fact of their creation and irrespective of their mode or form of expression, content, quality or purpose.

Dispute settlement

Although Government is aware of the benefits for investment of having access to a range of appropriate dispute settlement mechanisms, resolution through the Vanuatu courts is the only legislative avenue available at this time. Non-litigious legislation, such as an arbitration law, is not in place.

Government is yet to sign and ratify either the Washington Convention on the Settlement of Investment Disputes between States and nationals of other States or the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. Historically, however, foreign investors have achieved dispute resolution through the auspices of the International Chamber of Commerce.

Vanuatu entered into an agreement with the United Kingdom for the promotion and protection of their foreign investments in December 2003. Additional investment promotion and protection agreements are currently being developed with the USA, the Peoples Republic of China, Japan, France, Australia, New Zealand and New Caledonia.

Non-discrimination between source countries

Government extends equal treatment to investors from any country in relation to the establishment, expansion and operation of investments. The treatment of any individual is no less favourable than that which is extended to an investor from any other country in a like situation, without prejudice to any and all relevant international obligations.

National treatment

Except as provided for under the VFIP Act, the Government accords to all foreign investors treatment no less favourable than that accorded to domestic investors in like situations with respect to the establishment, expansion, operation and protection of their investments.

Non-commercial risk

Government appreciates that foreign investors' uncertainty in investing in a new country can be partly alleviated if they have access to some form of internationally recognised investment protection. Consequently, Vanuatu is a member of the Multilateral Investment Guarantee Agency (MIGA), a part of the World Bank Group. MIGA can guarantee against non-commercial risks such as currency transfers, expropriation, and war and civil disturbance (civil risks).

4 Investment regulation

Government regulates many investment related matters, including, amongst others, those associated with the maintenance of public health and safety, the environment, and building standards. Two of the more specific regulations of relevance to investment are company registration and business licensing.

Company registration

Government requires all companies doing business in Vanuatu to be incorporated under the Companies Act [CAP 191] of 1986 and registered with the Registrar of Companies (the Vanuatu Financial Services Commission).

Fees applicable for incorporation vary with the value of the nominal share capital. They are VT 30,000 for a nominal share capital of VT 35 million or less, and VT 250,000 for a nominal share capital of more than VT 350 million.

Business licensing

Government requires all businesses operating in Vanuatu to hold a business licence. Primarily this is to maintain a register of business activities for planning purposes and to uphold business practice standards in economic activities not regulated by specific industry legislation. It also allows the raising of some revenue.

The licence is issued under the Business Licences Act No 19 of 1998 and is administered by the Department of Customs. The issue of such licences is a straightforward, automatic registration procedure for any business that meets the publicly stated, transparent registration criteria. Renewal is automatic, providing the annual fee is paid and the licence holder has not breached any conditions of the licence.

An annual fee is payable for a business licence. The extent of the fee varies with the type of business and turnover as follows:

Turnover	Business License fee / year
< VT 10 million	VT 20,000
VT 10 million – <50 million	VT 50,000
VT 50 million – < 200 million	VT 250,000
> VT 200 million	VT. 1,000,000

Commercial banks and other financial institutions pay a minimum fee of VT 5,253,000 and VT 315,180 respectively. Insurance companies and professional and business services that are zero rated for VAT purposes pay a fee equivalent to 5% of turnover.

5 Foreign investment approval

While the Government welcomes foreign investment to Vanuatu, it also seeks to protect the interests of citizen investments in certain sectors of the economy and to appraise foreign investment applications on economic feasibility and investor bonafides.

Foreign investment definition

A foreign investor is defined as:

- a person who is not a citizen of Vanuatu; or
- a body corporate:
 - that is not wholly controlled by persons who are citizens of Vanuatu;
 - or that has any of its shares (voting or otherwise) beneficially owned or controlled by persons who are not citizens of Vanuatu; or
- any entity other than a natural person or a body corporate where control of, or benefit to be derived from the entity, will vest wholly in persons who are not citizens of Vanuatu or a body corporate that is a foreign investor.

Reserved list activities

To protect the interests of citizen investors, the Government has reserved some investment activities for citizen investment. Those sectors or activities that are reserved for citizen investors and the conditions that apply to them are listed in Part 2, Schedule 1 of the VFIP Act. In the main, these protections are put in place for small retailing, services, tourism and inter-island trade operations, the trade in local natural products, the manufacturing of handicrafts, residential building and construction and fishing within coastal waters.

Foreign investment administration

To administer its foreign investment entry policy, Government requires all foreign investments to be licensed under the VFIP Act. In determining an application for a foreign investment approval certificate, the Vanuatu Foreign Investment Promotion Board assesses whether the proposal is for a reserved or prohibited activity. If the investment proposed is acceptable in this regard, the proposal is further assessed for economic feasibility, whether the applicants are fit and proper persons and whether the financial resources for the venture are adequate. The Board will make its decision within 7 working days of the receipt of a completed application.

A successful applicant is issued a foreign investment approval certificate valid for a period of 12 months. The certificate is renewable annually, providing the annual fee is paid and the investment is not in breach of any conditions of the certificate.

The prescribed application fee for the issue of an approval certificate is based on investment size as follows:

Investment size	Application fee
< VT 10 million	VT 15,000
VT 10 – 50 million	VT 25,000
> VT 50 million	VT 50,000

The annual renewal fee for an approval certificate is VT 5,000.

The issue of an approval certificate entitles the recipient to a minimum of two residence permits and two work permits. It also ensures the issue of a business licence, and a certificate for negotiating the leasing of land. Further, it provides for VAT or import duty exemptions under the Value Added Tax Act No 12 of 1998, the Import Duties (Consolidation) Act [CAP 91] of 1983 and the Customs Act No 15 of 1999. It does not in any way, however, exempt foreign investors from meeting all their requirements under any other laws in Vanuatu.

6 Access to land

Under the 1980 Constitution, all land in Vanuatu belongs to Ni-Vanuatu and it is not possible for non-citizens to purchase land. However, under the Land Leases Act [CAP 163] of 1983, Government policy allows investors to lease land for up to 75 years for commercial purposes and 50 years for agriculture. Lease conditions are usually subject to review every 5 years.

The Government acknowledges that difficulties with clear determination of land owners and boundaries can be problematic for investors. This is particularly so for those seeking to invest in areas outside the larger urban centres where a secondary lease market is in effect. Nonetheless, the Government is committed to ensuring that investors have legally binding access to land for productive purposes. As it also wishes to safeguard the interests of the customary owners, however, the Government has established a set of procedures to help contribute to these goals.

Where a secondary market for leased land is not available, essentially in rural areas, the procedure to be followed to acquire access to land is as follows:

- Identification of a suitable site by the investor. The Government may provide some facilitation assistance if required.
- Acquisition of a Negotiator's Certificate from the Land Management Development Committee through the Department of Lands, allowing the investor to commence negotiations for leasing the site from the customary owners.

The Department will facilitate the investor to identify the customary owners through the completion of an identification of customary land ownership form. Identification may require a ruling under the Land Tribunal Act of 2000 if ownership is unclear.

- Acquisition of the consent of the customary owners to the proposal enables the investor to have the site surveyed and registered by the Department of Land Surveys. A lease can then be drawn up, either by the Department of Lands or by a private agent recognised by the Department. Once signed by the parties, the lease is registered by the Department of Lands.

One lease condition of particular interest to investors is the “development clause”, requiring that the development must proceed if the lease is not to be cancelled.

To further facilitate development, Government has legislated the Strata Titles Act of 2001, enabling strata titling of existing leases. The Government has also introduced a new policy, referred to as ‘75 Plus’, permitting current leases to be re-issued in order to re-establish the 75 year lease period.

Government levies fees on the acquisition of land, charging 2% of the unimproved capital value as a registration fee and 5% of the unimproved capital value as stamp duty.

7 Employment

Government seeks to protect the interests of workers in Vanuatu through appropriate legislation and has in place the Employment Act [CAP 160] of 1983, the Trade Unions Act [CAP 161] of 1983, the Trades Disputes Act [CAP 162] of 1983 and the Minimum Wage Act. The Trade Unions and Trade Disputes Acts are currently under review to bring them into line with current international best practice. An Industrial Relations Bill to replace these acts is expected to be introduced into Parliament during 2005.

A Workman’s Compensation Act, first introduced into Parliament in 1987, was gazetted in April 2004. A comprehensive Review of this Act was completed in February 2005 and will be enforced in 2006.

The Employment Act covers Government policy on contracts of employment, remuneration, hours of work and overtime pay, annual leave and sick leave. It also covers the employment of women and young persons, safety precautions and medical facilities, the termination of employment contracts, severance, and repatriation of employees. The Labour Advisory and Minimum Wages Boards established under the legislation has largely become inactive but is to be re-activated during 2005.

The Minimum Wage Act addresses Government’s policy on minimum wages. The current minimum wage applicable in the private sector is VT 16,000 per month.

The Government has a small vocational training program in place, but it is expected that investors will undertake training programs particular to their own private sector investments. Although recognising its importance, the Government does not provide any financial support for such training.

8 Expatriate employment

The creation of employment opportunities for citizens is a major expectation by Government for investment in Vanuatu. Nonetheless, Government is aware that the citizen workforce does not necessarily include people with appropriate skills and experience in all the areas that investors may, from time to time, require. Government endeavours to accommodate this need by issuing work permits for expatriate employment.

All non-citizens require a work permit if they wish to work in Vanuatu, with the exception of foreign investors who wish to manage their own investments. Such investors are exempted from the need for a work permit.

To facilitate foreign investors and to ease their uncertainty in relation to the employment of key personnel of their own choosing, Government automatically awards two work permits to each investment issued a foreign investment approval certificate. Additional work permits may also be obtained, if requested by the investor.

While being prepared to issue work permits, the Government, nonetheless, wishes to increase the pressure to localise already present through the market-place. It seeks to do this by tightly regulating the issue and duration of work permits, levying significant fees and requiring training of counterparts. Investors can be exempted from the requirement to train counterparts, however, by application to the Commissioner of Labour.

Investors employing expatriates are required to pay a number of fees. The normal work permit application fee is VT 10,000. The renewable annual validity of work permit fee is VT 200,000. An exemption fee of VT 10,000 is charged for work permits ranging from 1 day to 1 month and VT 40,000 for a temporary work permit fee (for permits to work from 1 day to 4 months). Also payable is a residence permit application fee of VT 20,000. Work permits will not be issued for employment categories included on a public list of occupations reserved for citizens. This list is provided at Schedule 2 of the VFIP Act.

While work permits can be issued for periods of up to five years, they are routinely issued for a period of only one year. On application, the permits are renewable annually for an additional four years. Temporary work permits are available for employment periods of up to four months.

To obtain a work permit, an employer must make an application on a prescribed form to the Commissioner of Labour, who is authorised to issue the permit. Applications will be processed within five working days or the applicant has the right to appeal to the Minister for Labour for a decision.

When applying, the employer must demonstrate that the position for which a work permit is required was advertised locally and that, of those citizens who applied, none were suitable for the position. In addition, the following factors are considered:

- whether the position is an occupation reserved for citizens by Ministerial Order;
- the employer's employment record;
- the employer's ability to provide training facilities for citizen counterparts;
- the qualifications and experience of the proposed expatriate employee;
- conformity of the position's employment conditions with Vanuatu laws; and
- protection of local and national interests.

9 Residency permits

The Government appreciates that non-citizens residing in Vanuatu can make a positive contribution to economic development. From the perspective of investment, the Government offers residency to investors who wish to reside in Vanuatu and manage their investment if it is awarded a foreign investment approval certificate. Such residency is available without the need for a work permit. Residency is also available to non-citizens nominated to fill work permit positions in an investment. Further, and indirectly related to investment, residency is offered to retirees who are prepared to transfer the equivalent of VT 300,000 per month to their Vanuatu bank account.

Any non-citizen wishing to reside in Vanuatu must hold a valid residence permit issued by the Department of Immigration. Because of concerns for public health and safety, applications are screened using medical and police clearances provided by the applicant. Work permit documents and a VIPA approval certificate, if applicable, must also accompany applications. Further, as an indicator of the resources available to the investor, a bank reference must be provided certifying a minimum deposit of VT 5 million in a Vanuatu bank. Applicants are also required to lodge a bond to cover the costs of the repatriation of the expatriate (normally the equivalent of a return airfare) and an application fee of VT 100,000. The passport of the proposed expatriate employee must be valid for a period of at least six months.

Residence permits are issued annually but can be renewed for a maximum of three years. The annual fee for a residence permit is VT 20,000.

10 Government revenue raising

Vanuatu is free of income tax at both the corporate and individual levels. As Government policy is to raise revenue through a taxation system that is fair, simple, and conducive to investment, the majority of Government revenue is raised by levying trade, excise and value added taxes.

To supplement revenues raised by these taxes, a wide array of fees are levied for the provision of licences, permits or approvals and for an array of Government services. The most significant of these, from an investment perspective, are for business licences, work permits, residence permits, foreign investment licences, land leases, land taxes, rent taxes, and company registration.

Trade taxes

Trade taxes are a major source of Government revenue. Because the current schedule contains many different rates, inconsistencies and complexities, the rates and administration arrangements are currently under review. This review will also ensure compliance with Vanuatu's obligations under the Melanesian Spearhead Group and the Pacific Island Countries Trade Agreement (PICTA). It is anticipated, in the short term, that the review will result in a reduction in the number, spread and magnitude of the rates and that by 2015 trades taxes will, essentially, be phased out.

Valued added tax (VAT)

In 1998, the need for Vanuatu to broaden its tax base led to the introduction of a Value Added Tax (VAT). It replaced the then Sales Tax and the ad valorem Business Licence fee and made Vanuatu less dependent upon revenue collected on international trade. At present, the VAT rate is 12.5% and raises approximately 37% of Government's revenue.

The Value Added Tax Act No.12 of 1998 requires any entity in Vanuatu carrying on a "taxable activity" with a turnover of at least VT 4 million to register for Value Added Tax. A "taxable activity" is defined as any activity (personal, professional, corporate or otherwise) carried on continuously or regularly involving the supply of goods or services to any other person for a consideration.

There are several exemptions to VAT, including any activity carried on by a company registered under the International Companies Act No.32 of 1992. Such companies, instead, pay a business licence fee based on 5% of turnover.

Also exempted are any engagement, occupation, or employment under any contract of service or as a director of a company. There is also no VAT on the making or supply of goods or services, which are already exempt under the Act.

The First Schedule of the Value Added Tax Act designates supplies that are exempt under the Act. From an investor's perspective, this schedule includes a number of financial services possibly applicable to an investment. The Second Schedule of the Act exempts certain goods from VAT that are imported free of duty under the Import Duties (Amendment) Act No.27 of 2003 [CAP 91]. However, these exemptions, in general, do not apply to investment related goods. The Third Schedule of the Act establishes supplies that are zero-rated. From an investment perspective, these supplies include exports.

11 Import and export

The Government levies trade taxes on all imported goods as a mechanism for raising revenues, protecting selected local manufactures and encouraging import substitution. Trades tax exemptions are available to approved investments. While a trades tax drawback scheme is available for exporters, they are encouraged to seek trades tax relief through the trades tax exemption scheme rather than trades tax drawback.

Government policy is to clear:

- Green Lane imports (goods that do not pose any potential risk and do not include prohibited and restricted items) within 45 minutes.

- Yellow Lane imports (goods with a wrong tariff code, where a quarantine certificate is required or where the importer is prone to making false declarations) clearances occur within 1 day.
- Red Lane imports (goods subject to random check or considered high risk for fraud) clearances occur within 3 days.

The Government supports and encourages all export-oriented investments and does not levy any export taxes on the export of any goods or services with the exception of shells and raw logs.

Vanuatu is not a member of the World Trade Organisation and has suspended consideration of membership for the time being. Vanuatu is a member of the Melanesian Spearhead Group and the Pacific Islands Countries Trade Agreement (PICTA), which came into effect in 2001. The Government is currently in the process of putting in place domestic legislation to implement the PICTA.

12 Monetary matters

Local borrowing

Government does not place any restrictions on investors borrowing locally, decisions on local lending being at the discretion of the commercial banks. There is an expectation, however, although not a requirement, that foreign investors will bring their investment capital from abroad.

Repatriation of funds

The Government places no restrictions on the repatriation of funds, providing this guarantee through the VFIP Act. The allocation of foreign exchange is at the discretion of the commercial banks.

Foreign Exchange

The value of the Vatu in terms of other currencies is determined by the Reserve Bank acting in accordance with written instructions from the Government after consultation with the Reserve Bank. The current instructions are the use of an undisclosed basket of currencies, weighted according to trade and tourism receipts. The rate is established daily by the Reserve Bank and communicated to the commercial banks via electronic and surface mail.

Interest rates

The Reserve Bank establishes the 'official' interest or rediscount rate after regular assessment of international and domestic economic, monetary and financial conditions. The rate is communicated to the commercial banks through the Governor's Quarterly meeting with the Bankers Association of Vanuatu and published in the Bank's Quarterly Economic Review, the Bank's Monthly publication and on its website. The Bank's objective in managing this function is the promotion of monetary or price stability.

With inflation low, currently at less than 3% per annum, the official interest rate is at 6.5% per annum and has been at this level for approximately 18 months.

13 Investment incentives

There is no corporate income tax in Vanuatu and, therefore, there is no scope for offering income tax holidays. Nonetheless, to assist investments to become established in Vanuatu, Government does provide certain types of investments with concessions on trades taxes, classified as economic reliefs. These are listed in Section 1, Schedule III of the Import Duties Act. The section includes goods imported for:

- manufacture or processing;
- agriculture, horticulture, livestock or forestry projects;
- inter-island shipping;
- tourism development projects;
- mineral exploration and extraction; and
- fisheries industry equipment.

While the ultimate decision on concessions lies with the Comptroller of Customs, investors are required to lodge applications with the appropriate sectoral department or with VIPA. These institutions make recommendations to the Comptroller. Concessions are normally awarded on an annual basis but are renewable.

The concessions provide for full exemptions on trade taxes for manufacturing, processing and mineral exploration and extraction of raw materials and capital items. For other sectors, the benefit, in general, is a reduction of trades taxes to not less than 5%. The extent of the reduction is discretionary.

The rationale and procedures for the award of these concessions to investments in Vanuatu are currently under review by Government to ensure they meet Government objectives and are applied equitably, efficiently and effectively.

14 Industrial infrastructure

The Government has not developed an industrial park and provides no financial assistance to investors in their acquisition of appropriate investment floorspace. The VIPA will assist investors to locate suitable premises or investment site if requested. Investors are required to lease or build their own facilities.

15 Environmental protection

The Government recognises the intrinsic value of Vanuatu's natural environment and is concerned about its conservation, sustainable development and management. The Government's environment policy is reflected in the Environmental Management and Conservation Act No 12 of 2002. Although the Act requires the development and implementation of a comprehensive National Environment Plan, detailed work on this plan is yet to begin.

The Act also requires all projects, proposals or development activities that cause or are likely to cause significant environmental, social and or custom impact in Vanuatu to be subject to an environmental impact assessment. Included in this requirement are investments that will or are likely to have all or any of the impacts specifically listed in the Act. These include:

- physical impacts, such as changes in landscapes or river courses;
- social or cultural impacts, such as relocation or access that affect livelihood and lifestyle;
- economic impacts, such as ability to continue income generating activities; and
- environment or ecological impacts, such as land based activities affecting coral reefs through increased sedimentation.

Further, the legislation also requires any investment involving bioprospecting to hold a permit issued by the Biodiversity Advisory Council. Bioprospecting is the harvesting or exploitation of samples of genetic resources, samples of any derivatives of genetic resources for the purposes of research, product development, conservation or industrial or commercial application. It also includes the knowledge, innovations and customary practices of local communities associated with those genetic resources.

16 Investment promotion and facilitation

The Government established the Vanuatu Investment Promotion Authority (VIPA) under the VFIP Act to undertake investment promotion activities in Vanuatu. While the Authority is responsible for the promotion of foreign investment, it is also responsible for the regulation of foreign investment in Vanuatu.

As a promotion unit, the Authority seeks to generate foreign investment interest in Vanuatu. It also acts as a single point facilitator for interested investors by meeting their investment related information needs and assisting them through the regulatory processes required to get into and stay in business in Vanuatu.