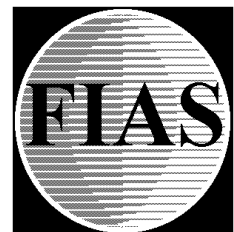


# **Pacific Islands Forum Secretariat**

National investment policy  
statements review: Pacific Forum  
Island Countries

September 2003

Foreign Investment Advisory Service  
A joint service of the International Finance  
Corporation and The World Bank



# Contents

Foreword	1
1 Assessing National Investment Policy Statements	3
The original purpose of this review	3
The Forum Secretariat's request to FICs	3
The FIC responses	3
An apparent decline in emphasis on investment matters	5
The changed emphasis of this review	5
2 The APEC principles	6
Five categories of principles	6
Inward foreign investment policy principles	6
Outward investment policy principle	8
The protection of public interest	9
In-country foreign investor behaviour principle	10
Investment policy style principle	10
3 NIPS development in the Pacific	12
FIC's difficulties with NIPS development	12
Difficulties with the initial preparation	12
Problems with on-going documentation and consolidation	12
The role and importance of a NIPS	13
A consolidated record	13
A common understanding and foundation	13
A likely outcome of a NIPS	14
4 NIPS' compliance with APEC principles	15
The assessment of compliance	15
5 Conclusions and recommendations	16
Investment policy reform appears to be receiving less attention	16
Re-focus attention on developing NIPS	17
Using a standard template approach	17
A regional investment policy statement	18

## Appendices

A	APEC non-binding investment principles	19
B	Summary of FIC submissions	22
C	Documentation submitted for 2003 assessment	24
D	FIC NIPS compliance assessment	25

## Foreword

The Pacific Forum Leaders' Meeting, held at Madang in 1995, initiated a focus on foreign investment issues for the Pacific island states. The meeting adopted the Asia Pacific Economic Cooperation (APEC) Non-binding investment principles (see Appendix A) and encouraged individual member states to implement them.

The Forum Finance Ministers' Meeting that followed placed emphasis upon the first of the principles, transparency in foreign investment policy, and required a report to be prepared for the 1996 Forum Leaders' Meeting on the level of transparency in Forum Island Countries' (FICs) investment policy statements. This led, in most cases, to the preparation of national investment policy statements (NIPS) since most members had no documented statements of national investment policy at that time.

The report to the Leaders' Meeting, and an update the following year, suggested that the level of transparency in FIC investment policy statements was low. Further, an initial assessment on the compliance by members with each of the other APEC principles (prepared for the Forum Economic Ministers' Meeting (FEMM) in 1997) observed that the poor response from members (only four submissions were received) made assessment of regional support for the principles difficult to ascertain. The meeting resolved that a further report be prepared for the 1998 FEMM on FIC compliance with the APEC principles (excluding transparency). Subsequently, the Forum Secretariat sought a further response from member countries.

The 1998 review concluded that compliance with the APEC principles, based on country self-assessments, appeared high. Nevertheless, that there was concern that the level of compliance may have been unintentionally overstated by respondents due to a limited appreciation of the full implications of individual APEC principles and, in some cases, because responses were based on policy that had not been formally adopted and implemented.

As there have been no further reviews since 1998, the Forum Secretariat, as part of a stock-take of previous meeting recommendations, is up-dating the assessment of the current position of FICs in complying with the APEC principles. The assessment is to be based on NIPS requested from member countries by the Secretariat in 2003.

# 1 Assessing National Investment Policy Statements

## The original purpose of this review

*This review examines compliance of FIC NIPS with the APEC non-binding investment principles*

The original purpose of this review is to report on the compliance by Forum Island Countries (FICs) with the Asia Pacific Economic Cooperation (APEC) non-binding investment principles. The assessment is based solely on FIC National Investment Policy Statements (NIPS).

## The Forum Secretariat's request to FICs

In April 2003, individual FICs were sent a questionnaire by the Forum Secretariat, which included the following request:

**National Investment Policy Statement (NIPS):** *Does your country have a NIPS?*

- Yes – please provide a copy of your current NIPS.
- No – state the difficulties faced and when would the NIPS be developed.

The Secretariat received responses from nine of the fourteen Forum members. Written responses are provided at Appendix B.

## The FIC responses

Of the nine FICs that responded, only three, Fiji, Samoa and Papua New Guinea (PNG), indicated that they had a NIPS, and their statements were subsequently received. In addition, and although it did not respond directly to the Secretariat, a policy statement was received from the Republic of Marshall Islands (RMI). Kiribati, although initially indicating it had no NIPS, did subsequently provide a policy statement.

A comparison between the responses received and those received for the last review in 1998 suggests a lack of continuity in the emphasis on and attention given to investment issues by FICs. In 1998, NIPS were received from eleven FICs. Those without statements at that time were the RMI, Nauru and Tuvalu.

While the RMI now has a statement, three countries with NIPS in 1998 have stated that they do not have statements in 2003 – these are Niue, Tonga and Vanuatu. In addition, three countries with NIPS in 1998 have not responded to the Secretariat this year (Cook Islands, Palau and Solomon Islands). In 2003, although not having a NIPS, two FICs, the Federated States of Micronesia and Tonga, did provide some documentation related to investment. The documentation was, however, not suitable for assessing compliance with the APEC principles.

A table of all the documentation received in 2003 is provided at Appendix C. Table 1 below indicates the year shown on each of the NIPS received in 2003.

**Table 1 Statement dates – 2003 submissions**

<b>Country</b>	<b>Statement date</b>
Fiji	1996
Kiribati	Undated
Marshall Islands	2000
Papua New Guinea	Part I 1998 Part II 1999
Samoa	2001 – 2002

Samoa has stated that its NIPS has been updated following policy changes. So, although dated 2001 – 2002, it is assumed their statement reflects current policy. Kiribati has also indicated that their policy statement reflects current policy. Based on the statement dates, however, and given the changes that have taken place in Fiji, PNG and the RMI, it would be surprising to find that the policy statements provided still reflect those nation's current investment policies.

## **An apparent decline in emphasis on investment matters**

What this present review seems to be demonstrating is that investment policy development, documentation and consolidation has significantly declined as an issue for FIC governments. The initial impetus for investment policy development that was generated through the Forum Leaders', Economic Ministers' and Heads of Investment Promotion Agencies' Meetings in the mid to late 1990s seems to have been dissipated.

## **The changed emphasis of this review**

*The limited number of NIPS for the review has led to a wider examination of the usefulness of a NIPS*

In light of the dearth of NIPS provided for the current review (36%), and concerns about the current status of a proportion of those, this review will focus less on an assessment of regional compliance of NIPS with the APEC non-binding investment principles.

Instead, the review will re-emphasise the merits of having a NIPS, particularly one that is compliant with the APEC principles. It will also introduce some regional strategies that might be considered for investment policy development.

In consequence:

- Chapter 2 examines the APEC non-binding investment principles and looks at how adoption of these would enhance every FICs investment policy.
- Chapter 3 then presents the perceived benefits of having a current NIPS in place.
- Chapter 4 reviews compliance with the APEC principles.
- Chapter 5 draws some conclusions and makes some recommendations for next steps.

## 2 The APEC principles

### Five categories of principles

*The APEC principles can be organised into five categories of investment related issues, which are wider than just inward foreign investment*

The 12 APEC non-binding investment principles adopted by the Forum Leaders in 1995 are provided in full at Appendix A.

While the APEC principles are intended to focus primarily on foreign investment, several are equally applicable to all investment, not just foreign investment. Further, they are not all just principles for inward foreign investment, but include outward investment, protection of public interests and, importantly, the style of the policies themselves.

One way to look at the principles, therefore, is in five categories. They are those that deal with:

- government policies for inward foreign investments
- government policies for outward investment
- the protection of public interest
- the in-country behaviour of foreign investors
- the style of a government's investment policies.

Each of these is discussed in more detail in the remainder of this chapter.

### Inward foreign investment policy principles

There are eight principles that address policies for inward foreign investment. That these represent two-thirds of all the principles is a strong indicator that APEC and Forum Leaders view policies relating to inward FDI as having a high level of significance.

The APEC principles are also important because FICs are interested to attract foreign direct investment (FDI) into most sectors and activities of their economies. This reflects a growing awareness amongst FIC governments that citizen investment alone cannot achieve the desired level of economic development that is wanted. If nations are to have adequate and sustainable standards of living, then FDI is required to help fill the development gap.

The inward foreign investment principles are:

- no discrimination based on country of origin
- equal treatment with nationals within the host country
- expropriation and compensation only for public purposes under law
- avoidance of performance requirements that distort or limit trade or investment
- prompt repatriation of funds in freely convertible currency
- appropriate dispute resolution practices
- permitted entry and sojourn of key foreign investment personnel
- avoidance of double taxation.

International experience has demonstrated that national investment policies, which reflect the attributes represented by these eight principles, contribute substantially to an investment environment that is attractive to foreign investors. They can signal a host country's attitude toward investors. In brief, their inclusion can raise the level of certainty and predictability for investors that they can operate effectively and profitably, that they can distribute their investment returns as they wish, and that they are welcome in the community.

However, it is important to recognise that, while these eight principles provide benefits to foreign investors, their application acts to enable investment flows – they will not guarantee them.

Preparing and subsequently documenting and consolidating investment policies into a NIPS is not an end in itself. A NIPS will help make a country's policy, legislative and regulatory framework more stable, certain and predictable. It has to be complemented by wider economic determinants that encourage FDI – a favourable investment environment.

It is the combination of a favourable policy and economic environment that encourages inward FDI flows. Where these inflows occur, this increases opportunities for a host economy to take advantage of wider benefits that can be generated. Typically, these benefits are manifest in the creation of greater employment opportunities for citizens, increased levels of exports and associated foreign exchange earnings, transfer of greater managerial and technological skills and other spin-off activities. Tax revenues will be also be enhanced, disposable income will rise and greater choice in goods and services at lower costs will be available for all citizens.

### **Outward investment policy principle**

There is only one principle that focuses on outward investment. It seeks to minimise any restrictions or barriers that impede the outward flow of investment from a country.

Many citizens of developing economies might wonder why outward investment is an issue that needs to be addressed. Many would believe that domestic investments (both foreign and citizen owned) are needed at home and that few such established investments would desire to go elsewhere. Their perception is likely to be that developed countries, rather than developing countries, provide most foreign investors.

This is not the reality, however, for even investors in the less developed countries sometimes need to locate their investments elsewhere. As economies develop, investment opportunities change and some sectors or activities become less competitive. Investments in such sectors need to be able to relocate easily, if they are to remain profitable. As an example, Mauritius once had low investment levels and high unemployment. Through development of an attractive investment environment and effective investment promotion, that country was able to attract FDI in labour intensive assembly industries.

So effective has Mauritius been that unemployment levels have dropped enormously. However, as labour availability tightened, wages have been forced to rise so that Mauritius is now less attractive as an investment location for labour intensive industries. Some in those industries now need to move elsewhere where labour is more cost-effective. Mauritius' loss in these sectors, however, will be some other country's gain.

The Mauritius economy, though, will now have attributes that are attractive to other types of investment. Development will continue, but with less contribution from labour intensive investments. The country is, in fact, seeking to move to higher technology industries.

It is worth noting that some level of intra-regional investments has been realised in certain FICs. The leading countries involved in such exchanges are Fiji and PNG. Investors from the two countries are also known to have diversified into other FICs such as Samoa, Tonga and Vanuatu.

In summary, this principle seeks to facilitate investment through re-location. If countries constrain this movement, economies can become stifled. The severe restrictions placed on outward investment in Zimbabwe after independence, and the deleterious impact this had on productivity in that previously vibrant economy, is testament to the appropriateness of adopting this principle.

### **The protection of public interest**

Only one principle seeks to protect the public interest. It encourages governments not to provide investment incentives that relax public health and safety or environment standards. While this principle is worded specifically to address incentives for FDI, it is just as applicable for citizen owned investments.

Most FICs do have domestic legislation that protects public health and safety and the environment. However, within the region, there are examples where standards appear not to have been maintained for foreign investments. These have been mostly in investments that exploit natural resources, particularly mining and forestry.

Whether the failure to achieve standards has resulted from investment incentives that have been provided or from a failure to monitor compliance with domestic legislation is not known. However, if incentives to be provided it is likely that the long-term burden on society will be large and will outweigh the short-term returns from exploitation, without maintaining adequate standards.

## **In-country foreign investor behaviour principle**

There is one principle under this category. It states that citizens are much more accepting of foreign investment if foreign investors abide by the laws of the land. Although aimed at the behaviour of foreign investors, it is also directed at governments that exempt foreign investors from local laws. This is usually because of some notion that some foreign investors will not invest unless such exemptions apply, or because of rent seeking behaviour by legislators.

If it is appropriate for citizen owned investments to abide by domestic laws, then the laws should apply equally to all foreign investors. Those foreign investors that are not prepared to abide by appropriate domestic legislation should not be encouraged to invest by exemptions. Further, those that do breach domestic laws should be penalised as would any citizen owned investment.

## **Investment policy style principle**

There is just one principle under this category, and it is a particularly important one. It encourages governments to ensure that all investment policies and the laws, regulations and administrative procedures that arise from them, are transparent.

Transparency of foreign investment policies, legislation and procedures implies that they are:

- publicly documented, so that any investor can readily ascertain the policies and the procedures to follow in order to invest
- consistently applied, so that there is no uncertainty in the outcome from following them
- complete, so that potential investors know the full situation and there will be no surprises for them
- simply stated, so that they can be easily understood by everyone
- unambiguous, so that the meaning is indisputable.

Complete transparency means certainty for investors, whether foreigners or citizens, and no discretion and no rent-seeking behaviour. While transparency alone does not make bad policies good, its presence will greatly enhance any investment environment.

## **3 NIPS development in the Pacific**

### **FIC's difficulties with NIPS development**

#### **Difficulties with the initial preparation**

*FICS have had trouble in initially preparing and subsequently documenting and consolidating investment policies into NIPS*

The 1995 Forum Finance Ministers' meeting decision to report on the transparency of FIC investment policies meant that, for the majority of the FICs, investment policies had first to be documented – at the time, few had any written investment policy statements. This created considerable consternation for those tasked with the responsibility for preparing the policy statements, for few had any real idea of what comprised investment policy or how to go about documenting it. Fortunately, the Forum Secretariat was able to provide some written guidelines and, in addition, some interactive support.

The fact that only four countries submitted policy statements for the first review of transparency is perhaps demonstrative of how difficult most FICs found the task. This number increased to eleven for the review the following year. Now, five years later, in 2003, the number of statements has dwindled to five.

#### **Problems with on-going documentation and consolidation**

Investment policy needs to be in place in order for legislation and procedures to be developed for the implementation of the policy. Legislation to regulate many of the issues associated with investment is in place in each of the FICs. This suggests that the absence of investment policy is not the reason why so few FICs have policy statements. Rather, the problem seems to lie with documenting and then consolidating the policies.

There are possibly two broad reasons why documentation and consolidation have not occurred widely, neither of which is mutually exclusive:

- FICs see no purpose for a NIPS
- there are problems in undertaking the documentation, consolidation and updating.

*A NIPS provides a basis for an agreed understanding of a country's position on investment, which helps make the investment environment more attractive*

## **The role and importance of a NIPS**

The actual reasons why many FICs do not have NIPS are not known, other than in one or two cases where FICs have given reasons to the Secretariat. However, it may be that there is a lack of appreciation of the value of having a NIPS. In this case, the two key benefits from a NIPS are worth stating.

### **A consolidated record**

An effective NIPS provides a consolidated, unequivocal, publicly documented transparent record of the current investment policy in a country. Such a statement benefits everyone, by being the one central reference point for investment policy.

A NIPS can also provide an indication of future intent where a government is considering (or announcing) a proposed new policy regime – effectively the status of a government white paper. In this regard, it can still be used as a mechanism to provide a consolidated picture of existing and proposed policy for investment in a country.

### **A common understanding and foundation**

A NIPS provides all politicians with a common understanding of the current policy. They are better able to use it as a foundation when proposing, from time to time, additions or amendments to the policy. The NIPS also provides the common foundation for the development of appropriate legislation for implementing the policy and for keeping legislation relevant and current.

Government administrators also benefit from a common understanding of the policy when developing implementation procedures, and for understanding the implications of their procedures for investors and for other government agencies. They also benefit when proposing amendments to procedures and when advising investors during investment promotion activities.

The public, particularly in the private sector, also benefit by better understanding how and why investment is administered. Finally, investors, particularly foreign investors, benefit through clearly understanding what the policy is and being able to make their investment decisions in an environment that is more certain and predictable.

## **A likely outcome of a NIPS**

Given these benefits, it is worth reinforcing that a NIPS will help make a country's policy, legislative and regulatory framework more widely known and better understood. This will help increase the level of stability, certainty and predictability for investors – foreign and domestic alike.

However, a NIPS is a necessary but not a sufficient condition to guarantee success in terms of increased investment flows. It has to be complemented and reinforced by wider economic determinants, in the form of a favourable investment environment. Critical here is a combination of political and economic stability, market size and growth and the availability, quality and cost of skills, resources and infrastructure.

It is the combination of a favourable policy and investment environment that will encourage inward FDI flows. Where these inflows occur, this provides greater opportunities for a host economy to take advantage of wider benefits that can be generated, such as the generation of increased employment opportunities, greater levels exports and foreign exchange earnings etc.

## 4 NIPS' compliance with APEC principles

### The assessment of compliance

*The five NIPS assessed show a high level of compliance with some, but not all, the APEC principles*

Compliance with the APEC non-binding investment principles has been assessed for five FICs based on the NIPS submitted for this review. The estimates of compliance for individual countries against each principle using an arbitrary score from a scale of 0-3 (where a 0 signifies no compliance and a 3 full compliance) are provided at Appendix D.

Perusal of each NIPS suggests that none of the five policy statements has been written with the APEC principles specifically in mind. Not surprisingly, therefore, every NIPS fails to reflect at least two principles and, in one case, as many as nine principles are not assessable. The principles addressing investor behaviour and the removal of barriers to capital export were not assessable in all five NIPS. For four of the FICs, scores of 3 (full compliance) have been given but with an exclamation mark. This is to indicate that, while the policy appears to comply with the principle under consideration, the documentation is not explicit.

Based on the estimated scores for those principles where the documentation allowed an estimate, the level of compliance appears to be reasonably high. There were no instances where a NIPS clearly indicated that compliance had not been achieved (i.e. a zero score) and the majority of scores were a 3, albeit given with the proviso outlined above.

While the policy statements do register a high degree of apparent compliance in individual FICs, no attempt has been made to assess whether the application of the policy is consistent with the stated policy and, therefore, whether the investment principles are actually applied.

No conclusion can safely be drawn about regional compliance based on the five NIPS provided.

## 5 Conclusions and recommendations

### Investment policy reform appears to be receiving less attention

*The impetus for investment policy reform appears to be in decline and FICS do not appear to be consciously incorporating the APEC principles into NIPS, where these are in evidence*

It is apparent that the impetus for investment policy reform established through initiatives by the Pacific in 1995 has waned, at least to some extent, in the region. Although there have been significant enhancements to investment legislation, particularly foreign investment legislation, in a majority of the FICs since 1995, few have in place a publicly documented, consolidated statement of national investment policy. Given that such a document provides the foundation for both on-going investment reform, as well as for investment promotion, this is somewhat surprising.

There is little evidence to suggest that the APEC non-binding investment principles, adopted by the Forum Leaders in 1995, have been consciously incorporated into investment policy by any of the FICs. Although the five NIPS assessed against the APEC principles demonstrate a reasonable level of compliance, the group is unlikely to be representative of all the FICs and each still falls well short of full compliance.

Investment policies alone do not make an investment environment attractive. The attributes of the economy must also allow the earning of an acceptable profit by investments. However, taking as given the natural attributes of an economy (land, labour, natural resources, proximity to markets etc.), good policy, which would encompass, amongst many other things, the APEC principles, will encourage investment far more than poor policy.

Further, having in place a public, consolidated and transparent statement of the investment policy will significantly enhance understanding of the investment environment and provide greater scope for maximising investment.

If FICs are serious about attracting and gaining benefits from inward FDI, having in place a NIPS is a necessary and fundamental starting point.

Notwithstanding the comments on compliance with the APEC principles in the previous Chapter, an understanding of the region suggests that there is a considerable level of commonality among the FICs in relation to a great many elements of investment policy. For instance, some FICs now have best practice FDI legislation in place (e.g. Tonga), and others are likely to follow suit (e.g. Fiji is considering amendments to its Foreign Investment Act).

It is also likely that there is a high degree of commonality in the acceptance of the APEC principles. In due course, therefore, large components of investment policy might be included in a common regional policy statement. This would mean that, apart from small variations in policy due to local issues, investment location decisions would be made on profitability considerations within the region. It would also mean investment promotion might be more effectively done on a shared regional basis.

## **Re-focus attention on developing NIPS**

### **Using a standard template approach**

*A template approach might help FICs in developing a NIPS and common elements across NIPS could be used as the basis for developing a regional investment policy statement*

In order to further these issues, we strongly recommended that FICs be encouraged to develop national investment policy statements.

On this occasion, consideration might be given to the development of a more useful template so that all essential policy elements, including the APEC principles, are included in the documentation prepared. The template would incorporate a standard set of questions to be addressed to ensure that relevant policy issues are addressed and incorporated into a NIPS.

More proactive support should be provided through the Secretariat to facilitate the development of the statements and to assist in increasing compliance. In some cases, limited resources appear to be constraining FICs in documenting and consolidating investment policies into a NIPS.

Provision of support will need to include the participation of individual investment promotion agencies and consultation with national private sector representatives and the Forum Trade Offices.

To reinforce their importance, we also recommend FIC Ministers with direct responsibility for investment related issues be involved in documenting and consolidating investment policies into their NIPS. This is similar to the approach adopted with trade related issues, where FIC trade Ministers have been involved in the development of the Pacific Island Countries Trade Agreement (PICTA).

### **A regional investment policy statement**

If NIPS can be prepared for each country, it will be possible to ascertain which elements are common across the region and, therefore, which could be included in a regional investment policy statement. This should supplement the efforts of the FICs towards having a freer regional trade and investment environment, particularly given that the PICTA came into effect in April 2003.

Acceptance of a regional policy statement would also provide scope for adoption of legislation that is more regionally consistent. It would also allow much more effective regional investment promotion. Therefore, while the NIPS are being prepared, it is recommended that discussion on regional investment policy statement development and regional investment promotion be commenced.

# **A APEC non-binding investment principles**

## **Transparency**

Member countries will make all laws, regulations, administrative guidelines and policies pertaining to investment in their economies publicly available in a prompt, transparent, and readily accessible manner.

## **Non-discrimination between source countries**

Member economies will extend to investors from any economy treatment in relation to the establishment, expansion and operation of their investments that is no less favourable than that accorded to investors from any other economy in like situations, without prejudice to relevant international obligations and principles.

## **National treatment**

With exceptions as provided for in domestic laws, regulations and policies, member economies will accord to all foreign investors in relation to the establishment, expansion, operation, and protection of their investments treatment no less favourable than that accorded in like situations to domestic investors.

## **Investment incentives**

Member economies will not relax health, safety, and environment regulations as an incentive to encourage foreign investment.

## **Performance requirements**

Member countries will minimise the use of performance requirements that distort or limit the expansion of trade and investment.

## **Expropriation and compensation**

Member economies will not expropriate foreign investments or take measures that will have a similar effect, except for a public purpose and on a non-discriminatory basis, in accordance with the laws of each economy and principles of international law, and against the prompt payment of adequate and effective compensation.

## **Repatriation and convertibility**

Member economies will further liberalise towards the goals of the free and prompt transfer of funds related to foreign investment, such as profits, dividends, royalties, loan payments and liquidations, in freely convertible currency.

## **Settlement of disputes**

Member economies accept that disputes arising in connection with a foreign investment will be settled promptly through consultations and negotiations between the parties to the dispute or, failing this, through procedures for arbitration in accordance with member's international commitments or through other arbitration procedures acceptable to both parties.

## **Entry and sojourn of personnel**

Member economies will permit the temporary entry and sojourn of key foreign technical and managerial personnel for the purpose of engaging in activities connected with foreign investment, subject to relevant laws and regulations.

## **Avoidance of double taxation**

Member economies will endeavour to avoid double taxation related to foreign investment.

## **Investor behaviour**

Acceptance of foreign investment is facilitated when foreign investors abide by the host economy's laws, regulations, administrative guidelines and policies, just as domestic investors should.

## **Removal of barriers to capital exports**

Member economies accept that regulatory and institutional barriers to the outflow of investment will be minimised.

## B Summary of FIC submissions

Country	Response
Fiji	Yes – To be provided
Kiribati	No – We do not have a NIPS but we do have a National Policy Statement drafted and compiled by the Ministry of Finance Economic Planning. It covers in general the national development strategies and policies for the 2003-2006 timeframe. ‘Improving the Quality of Life of an I-Kiribati’ is our national policy. All that we have done, do and plan to do to promote and to attract foreign investment must have and must contribute positively to this overarching goal or national policy statement.
Micronesia, FS	No – Although a National Investment Policy, per se, has not been formally developed, the FSM National and State Governments have, however, adopted new and updated foreign investment legislations and regulations as well as some general policy guidelines and strategies through the adoption of the FSM Planning Framework. The Department of Economic Affairs is initiating a project for the development of a National Investment Policy Statement as well as a Strategic Plan that could be put in place by the end of the coming year.
Niue	No – Draft form
Papua New Guinea	Yes – The Papua New Guinea National Government has approved the National Investment Policy Volume I in 1998 which sets out the policy framework consistent with PNG’s APEC/WTO membership requirements and to ensure transparency, equal treatment and consistency needed by the private sector to enable it to make medium term strategic decisions to invest in PNG. The Volume II of the National Investment Policy provides the list of Investment Incentives available to businesses operating in PNG. These Investment Incentives are provided under the Tax Code, and they cover and include various incentives under direct and indirect taxation, Tax Holidays, Double Depreciation, Accelerated Depreciation, Duty Drawback, Financial and Factor Incentives. This volume of the NIP was approved by the National Government in 1999. Copies of the NIP Volume I & II are provided for information.

<b>Country</b>	<b>Response</b>
Samoa	Yes - Samoa has had its NIPS document for several years now and is being updated every time there are changes to policy or legislation (attached).
Tonga	No - Our Foreign Investment Act was passed last year and we are working to complete the Regulations before the Act effect. This is expected to be completed at the end of the third quarter. Then we will start to promote Investment, base on the Act. We plan to create a Web site for the Investment Promotion only. We need to include National Investment Policy Statement in it and other Investment information. However, we are now on the process of collecting investment information, and NIPS need to be considered now as a priority information for this page. One of our officers is attending a course in Fiji of using internet for promoting Investment and this will also assist our intended project.
Tuvalu	<p>For the past two years, the Trade and Investment Department have established a Task Force, which was tasked to draw up the National Investment Policy Statement as its main work. The Task Force has sought assistance from Samoa's TIPU and Vanuatu IPA with the provision of their NIPS as guide and example for Tuvalu to follow. The work of the Task Force ever since is hindered by the:</p> <p>reshuffling of senior personnel from the Ministry concerned (Ministry of Trade, Tourism and Commerce) to the Ministry of Finance, Economic Planning &amp; Industries;</p> <p>the lack of personnel in the Department concerned;</p> <p>and,</p> <p>the lack of fund allocated for the Department to enable it to carry out the task</p>
Vanuatu	No – Vanuatu does not have one as yet. We plan to work on an NIP in 2003.

## C Documentation submitted for 2003 assessment

Country	Submission		2003 assessment documents
	1998	2003	
Cook Islands	Yes	No	
Fiji	Yes	Yes	National Investment Policy Statement – 1996
Kiribati	Yes	Yes	National Investment Policy Statement – Undated
Marshall Islands	No	Yes	National Investment Policy Statement – 2000
Micronesia, FS	Yes	Yes	Private Sector/Commerce and Industries Committee Report (undated) Private Sector/Com and Ind Policy Matrix (undated) Expenditure and Performance Progress Report, Dept Econ Affairs Trade and Invest Unit – 1 <sup>st</sup> & 2 <sup>nd</sup> Quarter FY 2003
Nauru	No	No	
Niue	Yes	No	
Palau	Yes	No	
Papua New Guinea	Yes	Yes	National Investment Policy Volume I – June 1998 National Investment Policy Statement Volume II “Investment Incentives for Papua New Guinea” – February 1999
Samoa	Yes	Yes	National Investment Policy Statement 2001/2002
Solomon Islands	Yes	No	
Tonga	Yes	Yes	Foreign Investment Act 2002 Foreign Investment Regs 2002
Tuvalu	No	No	
Vanuatu	Yes	No	

## D FIC NIPS compliance assessment

### Assessment of compliance

The table below summarises the apparent compliance of the five listed FICs with the APEC non-binding investment principles based on the NIPS submitted to the Forum Secretariat.

Country	APEC non-binding investment principle											
	1	2	3	4	5	6	7	8	9	10	11	12
Fiji	2	3!	3!	3!	?	3	2	3	3	2	?	?
Kiribati	2	3!	3!	3!	3!	?	3	2	3	1	?	?
Marshall Islands	2	3!	3	3!	3!	2!	3	?	3	?	?	?
Papua New Guinea	2	?	?	?	?	?	?	?	2!	2	?	?
Samoa	3!	3!	3!	3!	3!	?	3	?	3	?	?	?

### Notes and explanations

#### *APEC non-binding investment principles*

- 1 Transparency
- 2 Non-discrimination between source countries
- 3 National treatment
- 4 Investment incentives
- 5 Performance requirements
- 6 Expropriation and compensation
- 7 Repatriation and convertibility
- 8 Settlement of disputes
- 9 Entry and sojourn of personnel
- 10 Avoidance of double taxation
- 11 Investor behaviour
- 12 Removal of barriers to capital exports

### ***Assessment scales used***

Compliance scale:

- 0 – not compliant
- 1 – some compliance
- 2 – less than full compliance
- 3 – full compliance

! (an exclamation mark) indicates some uncertainty with the score allocated.

? (a question mark) indicates a score could not be given based on the information provided.