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Dear Sir

New Britain Palm Oil Ltd (NBPOL) takeover offer for Ramu Agri-Industries Ltd (RAI) www.gadens.com.au

We refer to your letter of 18 June 2008. We set out below the additional information requested by you.

- 1. **Analysis of the proposed acquisition taking into account the statutory factors set out in section 69(5) of the Act**

We deal with each of the statutory factors in turn, in relation to each of the five markets identified in the application.

Crude Palm Oil Market

- (a) *The actual and potential level of import competition in the market*

As noted in the application, the export market for crude palm oil lies outside PNG and is therefore not relevant for the purposes of section 69 of the ICCA Act.

No crude palm oil is imported into PNG. As the vast majority of crude palm oil produced in PNG is exported, there is no realistic potential that any crude palm oil will be imported into PNG in the future. The domestic production vastly exceeds the domestic demand.

- (b) *The nature and effect of barriers to entry to the market*

The major barriers to entry relate to the acquisition of land, related infrastructure and the capital required for establishment.

In order to grow a sustainable oil palm crop, a substantial area of land is required. As the most suitable land is held as customary land, there is a generally long time lag and a great deal of negotiation required to acquire this land. The land itself is not in short supply.

To establish a major oil palm development, a deep water port is required along with reliable all-weather roads for transporting the product to the port. This infrastructure is generally not available in conjunction with the suitable areas for cultivation, so that the lack of public investment in this basic infrastructure represents an existing barrier.

Oil palm development is relatively capital intensive. NBPOL estimates the establishment costs would total some K14,000 per hectare of planted land.

Taking these matters together, while at present it would be difficult to establish a new major oil palm development, the major barriers could easily be overcome with governmental support. The prospects for new entrants therefore are relatively positive, provided the Government sees this as beneficial and assists in removing the institutional and infrastructure barriers.

(c) *The number of buyers and sellers in the market*

This information is contained in the application. The only user of crude palm oil in the domestic PNG market is NBPOL at its own refinery. Crude palm oil has to be refined and fractionated before it is fit for human consumption.

(d) *The degree of countervailing power in the market*

As noted in the application, in the domestic market there is a single acquirer of crude palm oil for refining (NBPOL). The countervailing power held by suppliers is the existence of a global export market, which is easy for them to access. Therefore, NBPOL as acquirer is constrained by having to compete with the export market for supply.

(e) *The likelihood that the acquisition would result in the acquirer being able to significantly and sustainably increase prices or profit margins*

There is no such likelihood. RAI produced no crude palm oil in 2007 and is anticipated to produce less than 5% of the total volume in 2008. The combination of its production with NBPOL's will be insignificant and will not give NBPOL any material additional market power.

(f) *The extent to which substitutes are available, or are likely to become available, in the market*

There are many substitutes for refined palm oil in the PNG market, such oils emanating from soya, corn, sunflower, coconut and other vegetable oil seeds are all used as cooking oils, margarines and in some cases as baking products in the same manner as palm oil. However there is no competing unrefined oil, or crude oil, the refinery is not equipped to handle any substituted product.

(g) *The dynamic characteristics of the market, including growth, innovation and product differentiation*

There is currently only one producer of seed in PNG, the NBPOL-owned Dami Oil Palm Research Station. Oil palm breeding is a notoriously slow process, Dami produces high quality seed that not only satisfies the domestic market but meets export demand as well. In 2007 Dami produced 4 million seeds, of which just under 3 million were exported overseas, mainly to Indonesia. This year Dami is expected to export approximately 20 million seeds. So far only 230,000 seedlings have been sold to the domestic market.

Vitroplant Orangerie Bay Ltd is intending to develop some 12,000 hectares spanning the border of Milne Bay and Central Provinces. The Environmental Plan that was submitted in January 2008 to the Department of Environment and Conservation explains that work is expected to commence mid 2008.

Another proposal exists to develop an oil palm project in Inland Mekeo. This is in the Kairuku District Central Province. The developer is a Malaysian Company called CP Sawit, covering some 116,000 hectares.

- (h) *The likelihood that the acquisition would result in the removal from the market of a sustainable, vigorous and effective competitor*

RAI is a very small competitor in the market. In 2007 it produced no crude palm oil at all. Its prospective production volume is insignificant relative to that of the larger participants and the overall market.

- (i) *The nature and extent of vertical integration in the market*

The domestic market is vertically integrated in that NBPOL is both a primary producer of crude palm oil and operates the only refinery for the product. This state of affairs already exists and will not be impacted or exacerbated by the acquisition.

Wholesale market for refined palm oil products

- (a) *The actual and potential level of import competition in the market*

On the best information available to NBPOL at this time, NBPOL estimates that imported refined oils account for some 25% of the wholesale market. The balance is all produced by NBPOL from its refinery.

The information gathered by NBPOL is incomplete and, if anything, underestimates the level of import competition. The market is dynamically competitive and diverse.

NBPOL believes that at least 480,000 litres of refined oils are imported into PNG each month. The major importers are Bimoli, Panamex and Unison Pacific. NBPOL understands that other companies including Punjas, SVS and Seeto Kui are entering or planning to enter the import market as well.

- (b) *The nature and effect of barriers to entry to the market*

While NBPOL estimates that it would cost in excess of K45 million to build a refinery comparable to NBPOL's own refinery, and therefore that the barriers to entry as a domestic supplier of refined oils are quite high, import competition is a completely viable alternative and there are no real barriers to entry affecting that part of the market. PNG is entirely capable of accessing the global market via import competition.

- (c) *The number of buyers and sellers in the market*

So far as NBPOL is aware, the major sellers are Panamex and Bimoli, and Unison Pacific imported 9 containers of refined product in 2007.

The companies who purchase refined oils from NBPOL are as follows:

James Barners (PNG) Ltd
 JKT Lim Ltd
 Qun Qing Trading Ltd
 Lae Biscuits Ltd
 Punja & Sons Ltd
 Natural Foods International Ltd

Laga Industries Ltd
 Nestle (PNG) Ltd
 Arnott's Biscuits (PNG) Ltd
 KK Kingston Ltd
 Tropic Frond Oil Ltd

(d) *The degree of countervailing power in the market*

Because there are so many buyers, and the level of import competition is so high, buyers exercise very considerable countervailing power over NBPOL as producer. NBPOL's share of the market has declined in recent years and it expects this to continue. It is difficult to compete with the imported products.

(e) *The likelihood that the acquisition would result in the acquirer being able to significantly and sustainably increase prices or profit margins*

There is no such likelihood. As noted in the application, RAI does not compete in this market, therefore the acquisition will have no effect on NBPOL's position.

(f) *The extent to which substitutes are available, or are likely to become available, in the market*

Substitutes for palm oil include soybean oil, sunflower seed oil and canola seed oil. These products are not produced in PNG but are imported in margarine and cooking oil products.

(g) *The dynamic characteristics of the market, including growth, innovation and product differentiation*

NBPOL understands that JKT Lim may be planning the construction of a new refinery in Lae. This will provide a very strong competitive threat to NBPOL.

(h) *The likelihood that the acquisition would result in the removal from the market of a sustainable, vigorous and effective competitor*

RAI does not compete in this market, so this issue does not arise.

(i) *The nature and extent of vertical integration in the market*

The vertical integration consists of NBPOL's participation in production of crude palm oil and operation of the refinery. There is no other vertical integration present in the market, so far as NBPOL is aware.

Retail market for refined palm oil products

It is noted in the application that neither NBPOL nor RAI participates in the retail market for refined palm oil products. They only sell these products by wholesale, to retailers.

We do not propose therefore to respond in detail to the list of factors in section 69(5), in relation to this market, as those factors are not relevant to the consideration of the proposed acquisition. The acquisition will have no effect on the retail market at all.

However, if the Commission has any specific concerns regarding this market, we are happy to address them.

Wholesale market for cattle (beef) products

(a) *The actual and potential level of import competition in the market*

As noted in the application, approximately two-thirds of the total volume of beef sold in PNG is imported. Importers and local suppliers compete directly and openly, and the market is vigorously competitive. Demand for beef is likely to continue to increase, and import competition is likely to increase correspondingly.

(b) *The nature and effect of barriers to entry to the market*

There are many small suppliers of beef in the domestic market, and the wholesale market is quite diverse. This is indicative that there are low barriers to entry. The only barriers are the ability to acquire cattle and land on which to graze them. Access to the market is straightforward. There are no significant technology or know-how barriers. PNG is not short of land on which cattle can be raised, as is indicated by the fact that the current herd is less than half the size of that at Independence.

(c) *The number of buyers and sellers in the market*

There is an enormous number of buyers in the wholesale market, including all supermarkets and medium to large hotels which buy direct. In Port Moresby, the major buyers are:

Andersons Foodland
Best Buy
SVS
RH Hypermart
Boroko Food World
POM Freezers
PNG Trading

There are also numerous sellers of beef. There are estimated to be 70,000 to 75,000 head of cattle in PNG, broken up regionally as follows:

Markham Valley and North Coast	57,000
New Britain	9,000
New Ireland	1,000
Port Moresby	4,000
Popondetta	1,000
Madang	1,000
Highlands	3,000

Apart from a few larger holders such as RAI, Markham Farm and Trukai, the herd is spread in small numbers among many holders.

(d) *The degree of countervailing power in the market*

Because there are numerous suppliers and strong import competition, all suppliers of beef into the wholesale market are subject to strong countervailing power wielded by retailers. The market is open and fiercely competitive on both price and quality.

- (e) *The likelihood that the acquisition would result in the acquirer being able to significantly and sustainably increase prices or profit margins*

There is no such likelihood. Both NBPOL and RAI hold small market shares, and their combination will not give NBPOL any usable market power that would enable it to increase prices or margins. If it attempted to do so, it would be unable to secure sales in the face of the competition that exists and will continue to exist.

- (f) *The extent to which substitutes are available, or are likely to become available, in the market*

While it is arguable that other red meat products are close substitutes for beef in the retail market, it is likely that there is a distinct wholesale market for beef. However, if beef became relatively very expensive, then other red meats may become direct substitutes even in the wholesale market. This acts as a permanent downward constraint on the price of beef.

- (g) *The dynamic characteristics of the market, including growth, innovation and product differentiation*

The market is dominated by imported beef. This, plus the lack of available state lease land for agriculture in PNG, means that there is not likely to be any significant development in the domestic production market.

- (h) *The likelihood that the acquisition would result in the removal from the market of a sustainable, vigorous and effective competitor*

As NBPOL is currently a very minor participant in the wholesale market, its combination with RAI will have no discernible effect. NBPOL is primarily a palm oil producer and has no plans for expansion of its beef cattle interests. It is really coincidental to the proposed acquisition that NBPOL has an existing small presence in that industry.

- (i) *The nature and extent of vertical integration in the market*

There is very little vertical integration. RAI conducts a small retail outlet at its Ramu operation, and CPL and PNG Forest Ltd who are both cattle owners operate one retail outlet each. Neither NBPOL nor RAI participates in the retail market.

Retail market for cattle (beef) products

It is noted in the application that neither NBPOL nor RAI participates in the retail market for beef. They only sell beef by wholesale, to retailers.

We do not propose therefore to respond in detail to the list of factors in section 69(5), in relation to this market, as those factors are not relevant to the consideration of the proposed acquisition. The acquisition will have no effect on the retail market at all.

However, if the Commission has any specific concerns regarding this market, we are happy to address them.

2. List the countries/markets to which crude palm oil is exported

Crude palm oil produced in PNG is sold onto the world market and therefore is likely to be exported to any number of different countries.

3. Explain the difference between crude palm oil, palm kernel oil and palm kernel expeller including but not limited to their use

Fresh fruit bunches (FFB) are first sterilized using a combination of steam and pressure, then threshed to separate the individual fruitlets and pressed to extract crude palm oil (CPO) from the flesh of the fruit. The residual fibre and nuts are then dried, the fibre being used a fuel to power the mill, while the nuts are further processed and the shell is then cracked to release the kernel. The kernels are taken to Kumbango Kernel Mill where they are pressed. This process produces two products, palm kernel oil and palm kernel expeller.

From a tonne of FFB NBPOL expects to yield 229 kg of CPO, 23 kg of palm kernel oil (PKO) and 29 kg of palm kernel expeller (PKE).

Both CPO and PKO core products are further processed so that they can be used in a number of foods such as frying oil, margarine, biscuits, chocolate, cakes, noodles and ice cream. Non food uses include biodiesel, industrial lubricants, printing ink, candles, soaps, detergents and candles. PKE is used primarily as a livestock feed.

In 2007 NBPOL produced 1,216,119 tonnes of FFB, which yielded some 274,489 tonnes of CPO. NBPOL put some 77,584 tonnes of CPO through the refinery, which yielded some 73,412 tonnes of refined palm oil (RPO) and 3,397 tonnes of palm fatty acid distillate (PFAD). The RPO was then fractionated yielding 27,104 tonnes of palm olein, 14,897 tonnes of palm superolein and 11,540 tonnes of palm stearin. Of the 53,541 tonnes of fractionated product sold last year, only 18,523 tonnes were sold domestically. In summary therefore, NBPOL exported 196,905 tonnes of CPO, 19,871 tonnes of RPO, 3,397 tonnes of PFAD, 35,018 tonnes of fractionated product and sold 18,523 tonnes of fractionated product domestically.

The PKE that NBPOL produces is either used to feed its own cattle herd or is exported to Australia. In 2007 NBPOL produced 35,218 tonnes of PKE and sold 25,420 tonnes to Australia, the balance being used as feed for NBPOL's own herd.

4. In relation to question 3, in which stage of production would each product be produced?

See the answer to question 3 above.

5. List the refined palm oil products produced and the name of clients to whom these products are sold

Palm oil is used in the production of many food and non-food products, as listed in question 3. They are sold to a vast number of customers, as noted in the discussion above of the wholesale market.

6. In relation to question 5, can these refined products be imported and by whom?

Yes, all these products can be and are imported. The major importers are referred to above.

7. What are the underlying reasons, if any, for the take over of RAI?

Commercial synergies, the opportunity for improvements in efficiency, production and sales, and cost savings.

8. Please provide copies of the 2007 NBPOL and RAI annual reports

The NBPOL annual report is available on the NBPOL website. We suggest you contact RAI for its annual report.

Yours faithfully

A handwritten signature in black ink, appearing to be 'Erik Andersen', with a long, sweeping horizontal line extending to the right.

Erik Andersen
for **GADENS LAWYERS**