

**National Interest Analysis [2024] ATNIA 10**

**with attachment on consultation**

**Agreement Between the Government of Australia and the Government of Papua New  
Guinea on a Framework for Closer Security Relations**

(Canberra, 7 December 2023)

**[2024] ATNIF 14**

Attachments:

**Attachment I      Consultation**

## NATIONAL INTEREST ANALYSIS: CATEGORY 1 TREATY

### Agreement Between the Government of Australia and the Government of Papua New Guinea on a Framework for Closer Security Relations

(Canberra, 7 December 2023)

[2024] ATNIF 14

#### Nature and timing of proposed treaty action

1. The proposed treaty action is the entry into force of the *Agreement Between the Government of Australia and the Government of Papua New Guinea on a Framework for Closer Security Relations* (the Agreement). The Agreement was signed by Australia and Papua New Guinea on 7 December 2023 in Canberra.
2. For the Agreement to enter into force, each Party must present the other with written notification, through diplomatic channels, confirming that it has completed its domestic requirements necessary to implement the Agreement. The Agreement would enter into force on the date of receipt of the last such notification (Article 11).
3. The Agreement would not replace or terminate any existing agreements in force between Australia and Papua New Guinea.

#### Overview and national interest summary

4. The purpose of the Agreement is to enhance bilateral ties between Australia and Papua New Guinea as traditional security partners, friends and near neighbours. It will establish a framework to deepen security cooperation and create obligations for Australia and Papua New Guinea to work more closely together on mutual security interests. The Agreement would serve Australia's national interest by providing a framework to encourage and facilitate bilateral security cooperation with our nearest geographical neighbour across a range of security domains.
5. The Agreement is an important step forward in our security partnership, reflecting long-standing cooperation, shared history, geographical proximity, and common regional strategic outlook. The Agreement builds on Australia and Papua New Guinea's long history of security cooperation reflected in a number of existing agreements and arrangements, including the *1977 Agreement between Australia and Papua New Guinea regarding the Status of Forces in the Territory of the other State*.

## **Reasons for Australia to take the proposed treaty action**

6. Establishing the Agreement was a commitment under the 2020 Papua New Guinea-Australia Comprehensive Strategic and Economic Partnership (CSEP), reconfirmed by the Australian Prime Minister, the Hon Anthony Albanese MP, and Papua New Guinea Prime Minister, the Hon James Marape MP, in January 2023.
7. Australia and Papua New Guinea share a mutual strategic interest in a safe, stable, peaceful and prosperous Indo-Pacific. The stability of Papua New Guinea, and its ability to address both traditional and non-traditional security threats, has a major impact on Australia's interests and the security of the region.
8. The Agreement represents an elevation of the security relationship between the two countries, as well as building on and preserving the existing network of agreements, arrangements and understandings between the Parties. It would create mutual obligations on both countries to work more closely together on security.
9. The Agreement will enhance our security partnership by providing a legally-binding framework for security cooperation across a number of traditional security domains (including defence, policing, border and maritime security), as well as a number of non-traditional areas (including addressing challenges in cyber security, climate change, violence against women and children, and critical infrastructure). It would make it easier for Australia and Papua New Guinea to support our respective security needs.
10. The Agreement is underpinned by mutual respect for each others' sovereignty and, through enabling mutual support, it reinforces our respective ability to protect our sovereignty against a range of challenges. The Agreement takes a broad approach to security consistent with the *Boe Declaration on Regional Security* (2018), and reflects the significance that both countries ascribe to Pacific regional security, Pacific-led security and cooperation with trusted partners. As such, the Agreement represents an important contribution to both bilateral and regional security.

## **Obligations**

### *Mutual Security Cooperation*

11. Article 3(1) of the Agreement commits the Parties to maintaining and strengthening their cooperation on common security interests, and provides a non-exhaustive list of the range of areas on which such cooperation would occur across a number of traditional security domains (including defence, policing, border and maritime security), as well as a number of non-traditional areas (including addressing challenges in cyber security, climate change, violence against women and children, and critical infrastructure).
12. Article 3(3) obliges the Parties to prioritise consultations with each other, and engage regularly on Papua New Guinea's security needs. Such needs would include obtaining security-related equipment, capacity building, infrastructure, advice, training, or logistics support, or any other needs as mutually determined by Australia and Papua New Guinea.

13. Article 3(4) provides that, where the Parties have mutually determined that mutual security cooperation requires the presence of personnel in the territory of the other Party, the status of those personnel shall be governed by Article 4 of the Agreement.

#### *Status of Forces and other personnel*

14. Article 4 provides that the presence of one Party's personnel in the territory of the other Party deployed to conduct mutual security cooperation shall be governed by the *Agreement between Australia and Papua New Guinea regarding the Status of Forces of Each State in the Territory of the other State*, signed on 26 January 1977 (1977 Agreement), or other applicable agreements or arrangements between the Parties in accordance with law. This upholds a longstanding regime of privileges and immunities for Papua New Guinea defence personnel operating in Australian territory or vice versa, established in the 1977 Agreement.

#### *Security consultation and security assistance*

15. Article 5(1) requires each Party to share information regarding key security-related developments likely to affect the party requesting the information. Information must be shared in accordance with domestic and international commitments.
16. Article 5(2) requires the Parties to consult each other (at the request of either Party) and consider whether any measures should be taken in relation to an event that threatens the sovereignty, peace or stability of either Party or the Pacific region.
17. In the event of an external armed attack on either Party, Article 5(3) obliges each Party to consult the other for the purpose of deciding what measures should be taken in relation to the attack.
18. Article 6 provides that a Party may request assistance from the other Party on a security-related matter or threat affecting its sovereignty, peace or stability and the Party that receives the request would then be obliged to use their best endeavours to respond. Article 6 also obliges Australia and Papua New Guinea to coordinate on matters relating to capacity to respond and the involvement and contribution of third parties.

#### *Other agreements and arrangements*

19. Article 7(2) provides that the Parties may enter into subsidiary agreements or apply implementing arrangements, including to implement the provisions of the Agreement.
20. Article 7(3) obliges the Parties, in accordance with their respective constitutions, to ensure that the status of the other Party's personnel, conducting mutual security cooperation or security assistance in its territory under this Agreement, is no less favourable than the status afforded to personnel from other countries carrying out similar functions under current or future agreements or arrangements.

### *Protection of information*

21. Article 8(1) obliges the Parties to process, use, store, handle and protect Classified Information provided or generated under the Agreement according to their respective laws, regulations and policies, or any security of information agreements or arrangements between Australia and Papua New Guinea. Where no such agreements or arrangements are in place, the procedures set out in Article 8(2) would apply (see below).
22. Article 8(2) creates obligations where either Party decides, on a case-by case basis, to release Classified Information to the other Party. This would include a requirement to transfer Classified Information through government-to-government channels, comply with release conditions, protect against unauthorised disclosure, and to not disclose such information to third parties without prior written consent.
23. Under Article 8(3), Parties would also be obliged to comply with limitations on use, disclosure, release or access stipulated by the other Party regarding information falling within the meaning of 'Unclassified Information' and 'Sensitive Information'. 'Classified information' and other relevant terms are defined in the clause.

### *Settlement of disputes*

24. Article 9 obliges the Parties to settle disputes arising under the Agreement regarding its interpretation, application or implementation by consultation or negotiation. The Parties shall not refer any such disputes to any national or international tribunal or court, or any other third party for resolution.

### **Implementation**

25. No changes to Australian legislation are required to implement the Agreement. However, amendments may be required to certain legislation and regulations (including the *Defence (Visiting Forces) Regulations 1977*) in the event that Article 7(3) rights and obligations are triggered, noting that this is circumstance-dependent and will be given effect through subsidiary agreements or arrangements negotiated between the Parties in accordance with Articles 3(2) or 7(2) of the Agreement.
26. In accordance with Article 7(3), Australia would need to afford PNG personnel a status no less favourable than that afforded to the personnel of other countries when carrying out similar functions in Australian territory under current or future agreements or arrangements. This would require an assessment of whether the functions being carried out by PNG personnel are 'similar' to those contemplated by personnel of other countries, and if so, the status afforded to those personnel under Australia's other security agreements or arrangements in force at the time.

## **Costs**

27. Australian responses to consult on common security interests or provide security assistance at the request of Papua New Guinea would incur costs. It is not possible to estimate these costs until the nature of the request and Australia's response is known.

## **Future treaty action**

28. Article 10 of the Agreement provides that the Agreement may be amended in writing by mutual consent of the Parties. Any amendment would be subject to Australia's domestic treaty-making requirements, including tabling in Parliament and consideration by the Joint Standing Committees on Treaties. Any amendment would take effect on the date of the later notification by either Party that they have completed their domestic implementation requirements for entry into force of the relevant amendment.
29. Article 7(1) of the Agreement provides that both Parties may review existing agreements or arrangements in accordance with their respective review provisions, or by mutual agreement, for the purposes of advancing the Agreement. Article 7(2) further provides that the Parties may enter into subsidiary agreements or apply implementing arrangements, including to implement the Agreement's provisions.
30. Article 3(2) of the Agreement provides that the Parties may enter into subsidiary agreements or arrangements for any mutual security cooperation or assistance.

## **Termination**

31. Article 11(2) of the Agreement provides that the Agreement would continue in force unless terminated. Article 11(3) provides that either Party may terminate the Agreement by providing written notice to the other Party. The Agreement would be terminated six months following the date on which the other Party received the written notice of termination. Under Article 11(4) the Parties may agree in writing to terminate the Agreement at any time and on the date agreed by the Parties.

## **Contact details**

PNG Political and Strategy Branch  
Pacific Melanesia Division  
Office of the Pacific  
Department of Foreign Affairs and Trade

## **Attachment I**

### **ATTACHMENT ON CONSULTATION**

#### **Agreement Between the Government of Australia and the Government of Papua New Guinea on a Framework for Closer Security Relations**

(Canberra, 7 December 2023)

**[2024] ATNIF 14**

#### **CONSULTATION**

##### Commonwealth Departments

1. The Department of Foreign Affairs and Trade consulted the Australian Federal Police, Attorney-General's Department, Australian Government Solicitor, Department of Defence, Department of Home Affairs and Department of Prime Minister and Cabinet.

##### State and Territory Governments

2. The Agreement is assessed to have negligible impact on the States and Territories and therefore no State or Territory Government representatives were directly engaged in considering the matter.