

DEPARTMENT OF FOREIGN AFFAIRS AND TRADE

Protocol

Concerning the Bougainville Transition Team

Made pursuant to the Agreement,

Done at Port Moresby on 5 December 1997,

between Australia, Papua New Guinea,

Fiji, New Zealand and Vanuatu

Concerning the neutral Truce Monitoring Group

for Bougainville,

as amended by the Protocol,

done at Port Moresby on 29 April 1998

(Sydney, 30 June 2003)

Entry into force : 30 June 2003

AUSTRALIAN TREATY SERIES
[2003] ATS 15

THE PARTIES TO THIS PROTOCOL:

BEARING IN MIND the Preamble of the Agreement between Papua New Guinea, Australia, Fiji, New Zealand and Vanuatu concerning the Neutral Truce Monitoring Group for Bougainville, as amended by the Protocol, done at Port Moresby on 29 April 1998 (which Agreement and Protocol are hereinafter referred to as “the Agreement, as amended”); [1997] ATS 30; [1998] ATS 12

TAKING NOTE of the Bougainville Peace Agreement, done at Arawa, Bougainville, Papua New Guinea on 30 August 2001, in particular the provisions for an agreed weapons disposal plan, an autonomous Bougainville government and a referendum on Bougainville’s political future 10 to 15 years after the election of the first autonomous Bougainville government;

WELCOMING progress to date in implementing the *Bougainville Peace Agreement*;

WELCOMING the success of the unarmed Truce Monitoring Group and Peace Monitoring Group;

DESIRING to maintain an international presence in Bougainville to promote and instil confidence in the peace process and in the transition towards autonomous government;

DESIRING to further amend the Agreement, as amended, to provide for the mandate and conditions of the Bougainville Transition Team;

HAVE AGREED AS FOLLOWS:

Article 1

1. The text of Article 1 of the Agreement, as amended, shall be replaced with the following:

“In this Agreement,

(a) ‘Area of Operations’ means all areas throughout the territory of Papua New Guinea where the Group, or any member of it, is deployed in the performance of its functions, and includes military installations or other premises and lines of communication and supply utilised by the Group;

(b) ‘Burnham Truce’ means the Truce signed on 10 October 1997 at Burnham Military Camp, New Zealand;

(c) ‘Group’ means the Bougainville Transition Team, established pursuant to Article 5 of this Agreement and comprising personnel contributed by Australia, Fiji, New Zealand and Vanuatu or other Participating States;

(d) ‘Commander’ means the Leader of the Group or such other member or members of the Group who may be authorised by the Commander to undertake all or any of his functions;

(e) ‘Papua New Guinea Authorities’ means the national and local, civil and military courts and authorities from time to time authorised or designated under the law of Papua New Guinea or by the Government of Papua New Guinea for the purpose of exercising the powers in relation to which the expression is used;

(f) 'Participating State' means Australia, Fiji, New Zealand, Vanuatu or such other State of the South Pacific region which, with the concurrence of the Parties to this Agreement, contributes personnel to the Group;

(g) 'United Nations observers' means persons appointed as official observers for and in accordance with the procedures of the United Nations, in response to an official request from the Government of the Independent State of Papua New Guinea.

(h) 'Lincoln Agreement' means the Lincoln Agreement on Peace, Security and Development on Bougainville, signed at Lincoln University, Christchurch, New Zealand on 23 January 1998"

2. The definitions described in paragraph 1 of this Article shall apply to both the Agreement, as amended and this Protocol.

3. Article 2 of the Agreement, as amended shall be replaced with the following:

**“Article 2
Peace Process Consultative Committee**

There shall be a Peace Process Consultative Committee, established by the parties to the Lincoln Agreement, which shall receive regular reports from the Commander. It shall have no direct involvement in command of the Group or the deployment decisions made by the Commander.”

4. Article 3 of the Agreement, as amended, shall be deleted.

5. The text of Article 5 of the Agreement, as amended, shall be replaced with the following:

“1. The Participating States shall establish the Group. The mandate of the Group shall be to:

(a) promote and instil confidence in the peace process and in the transition towards autonomous government through its presence, good offices and interaction with people in Bougainville;

(b) liaise with all groups to support effective policy and processes in the transition to autonomous government; and

(c) provide such assistance in the implementation of the Bougainville Peace Agreement as the parties to the Bougainville Peace Agreement and the Parties to this Protocol may mutually determine and available resources allow.

2. The Peace Monitoring Group will cooperate with United Nations observers in respect of the objectives of the Lincoln Agreement, subject to such terms and conditions as may be mutually determined in consultation between the United Nations and the Parties to this Protocol.”

6. The text of Article 7, paragraph 1 of the Agreement, as amended, shall be replaced with the following:

“1. During the period of their assignment to the Group, any military members shall remain under national command but shall be under the operational control of the Commander. Arrangements for command of military members may be made between the Participating States separately.”

7. The text of Article 8 of the Agreement, as amended, shall be replaced with the following:

“1. Members of the Group shall carry a valid passport during the period of their deployment to the Area of Operations.

2. The Government of Papua New Guinea shall issue members of the Group with a visa that will enable the Members of the Group to fulfil their mandate within the Area of Operations. Any terms and conditions of such visa shall be without prejudice to the provisions of this Agreement.”

8. Article 11 of the Agreement, as amended shall be replaced with the following:

**“Article 11
Discipline**

The Commander shall take all appropriate measures to ensure maintenance of discipline and good order among members of the Group.”

9. The text of Article 13, paragraph 1 of the Agreement, as amended shall be replaced with the following:

“1. Members of the Group shall normally wear, while performing their official duties, such distinctive items of uniform as are prescribed by the Commander. The Commander may authorise the wearing of civilian dress.”

10. The text of Article 29, paragraph 3 of the Agreement, as amended, shall be replaced with the following:

“3. Unless otherwise mutually determined by the Parties, this Agreement shall expire on the withdrawal of the Group from the Area of Operations.”

11. Article 29, paragraph 5 of the Agreement, as amended shall be deleted.

**Article 2
Purpose and legal effect**

1. This Protocol is made in accordance with Articles 25 and 28 of the Agreement, as amended.

2. References to “the Group” in the Agreement, as amended, and all provisions establishing and facilitating the operations of the Peace Monitoring Group in the Agreement, as amended shall apply, by virtue of this Protocol, to the Bougainville Transition Team.

3. Notwithstanding the entry into force of this Protocol, the Agreement, as amended, shall continue to apply to the Peace Monitoring Group until the withdrawal of the Peace Monitoring Group from the Area of Operations.

4. Notwithstanding the date of entry into force of this Protocol, this Protocol shall apply to the Bougainville Transition Team from the date of the Team’s deployment.

Article 3
Consultation and liaison

1. Any matter arising under this Protocol with respect to its interpretation, application or implementation shall be settled in accordance with Article 27 (Consultations) of the Agreement, as amended.
2. The Parties shall each designate a point of contact in Papua New Guinea to facilitate liaison and urgent consultations between the Parties.

Article 4
Good offices

The Participating States will continue to offer their good offices in supporting the achievement and maintenance of peace in Bougainville.

Article 5
Entry into force

1. This Protocol shall be open for signature by Australia, Papua New Guinea, Fiji, New Zealand, Vanuatu and such other states of the South Pacific region which with the concurrence of the Parties, contribute personnel to the Group.
2. Each Signatory shall notify the others of the completion of the constitutional formalities required by its laws for the entry into force of this Protocol. This Protocol shall enter into force on the date of the later of the two notifications by Papua New Guinea on one part and New Zealand or Australia on the other. This Protocol shall enter into force subsequently for each other Party on the date of notification by that Party.¹

Article 6
Depository for this Protocol

New Zealand shall be the depository of this Protocol.

IN WITNESS WHEREOF, the undersigned being duly authorised thereto by their respective Governments, have signed this Protocol.

DONE at Sydney on 30 June 2003,
in a single original in the English language.

¹ Entered into force on 30 June 2003 following notification, in accordance with Article 15.2, of the completion of constitutional formalities by Papua New Guinea and Australia.

FOR AUSTRALIA

The Hon Mr Alexander Downer
Minister for Foreign Affairs

FOR PAPUA NEW GUINEA

The Hon Sir Rabbie Nabaliu
Minister for Foreign Affairs

FOR FIJI

FOR NEW ZEALAND

The Hon Mr Phil Goff
Minister for Foreign Affairs

FOR VANUATU