

**AGREEMENT BETWEEN THE GOVERNMENT OF PAPUA NEW GUINEA AND
THE GOVERNMENT OF SOLOMON ISLANDS CONCERNING THE
ADMINISTRATION OF THE SPECIAL AREAS**

(Port Moresby, 25 January 1989)

ENTRY INTO FORCE: 05 MARCH 2004

STATUS REPORT

THE GOVERNMENT OF PAPUA NEW GUINEA AND THE GOVERNMENT OF
SOLOMON ISLANDS,

CONSCIOUS of the traditional bonds of friendship and good-neighbourly relations between
their two countries and

DESIRING to further strengthen them.

RECALLING the conclusion of the Treaty between the Independent State of Papua New
Guinea and Solomon Islands concerning Sovereignty, Maritime and Seabed Boundaries
between the two countries and co-operation on Related Matters, signed at Port Moresby on 25
January, 1989.

RECOGNISING the importance to both countries of protecting the traditional rights of
movement, fishing and other traditional activities of the traditional inhabitants of the Special
Areas on either side of the maritime boundary and

RECALLING in this connection the provisions of Article 7 of the aforesaid Treaty.

HAVE AGREED AS FOLLOWS:

Article 1

Definitions

1. In this Agreement:-

(a) “free movement” means movement by the traditional inhabitants for or in the course of traditional activities;

(b) “Special Areas” means the Areas defined in Article 2;

(c) “traditional activities” means activities performed by traditional inhabitants of the Special Areas in accordance with local tradition such as social contacts and ceremonies including marriages, gardening and other land usages, collecting, hunting, fishing and other usages of waters and customary border trade including non-commercial market trade.

In the application of this definition except in relation to activities of a commercial nature, “traditional” shall be interpreted liberally and in the light of prevailing custom.

(d) “traditional fishing” means the taking by traditional inhabitants by method limited only to nets, bows, poles, spears, hands or by lines for their own or their dependents consumption, or for use in the course of other traditional activities, of the living natural resources of the sea, seabed, estuaries and coastal tidal areas;

(e) “traditional inhabitants” means indigenous persons who:

(i) are citizens of Papua New Guinea and Solomon Islands;

(ii) traditionally live in or come from the Special Areas of the two countries; and

(iii) maintain traditional customary associations with areas of features in the Special Areas in relation to their subsistence or livelihood or social, cultural or religious activities.

(f) “non-commercial market trade” means trade by traditional inhabitants at the local market places within the Special Areas where goods are sold in exchange for money or to pay for other goods to be consumed by them and their dependents and not for the purpose of sale to other people to earn profit.

Article 2

Special Areas

1. For the purpose of this Agreement, the limit of the Special Areas shall be as specified below:-

(i) For Papua New Guinea, the Constituencies of the North Solomon as listed in Annex I of this Agreement as represented on the map attached as Annex II, in respect of which the maritime border forms part of their boundaries;

(ii) For Solomon Islands, the Wards of the Western Province, Malaita Province and Choiseul (Lauru Islands) Province as listed in Annex I of this Agreement and as represented on the map attached as Annex II, in respect of which the maritime border forms part of their boundaries.

2. For the purpose of implementation of paragraph 1 of this Article, the Parties shall consult and each make the necessary arrangements for the mapping, by a mutually agreed method, of that part of the Special Areas on their respective sides of the border.

Article 3

Free Movement for Traditional Activities

1. Each Party shall continue to permit the traditional inhabitants of either Party free movement for the performance of lawful traditional activities within the limits of the Special Area.

2. Paragraph 1 of this Article shall not be interpreted as sanctioning inhabitants of one Party into areas under the jurisdiction of the other Party not traditionally fished by them prior to the date of entry into force of this Agreement.

Article 4

Traditional Customary Rights

Where the traditional inhabitants of one Party enjoy traditional customary rights of access to and usage of land, seabed, sea, estuaries and coastal areas that are located within the limits of the Special Areas and are under the jurisdiction of the other Party and these rights are acknowledged by the traditional inhabitants living in or in proximity to those areas to be in accordance with local tradition, the other Party shall permit the continued exercise of those rights on conditions not less favourable than those applying to like rights of its own traditional inhabitants.

Article 5

Protection and Preservation of the Living Natural Resources and the Marine Environment

The Parties shall consult each other with a view to co-ordinating their policies in accordance with international law on the protection and preservation of the living natural resources and marine environment of the Special Areas.

Article 6

Border Crossing Cards

Each Party shall provide for traditional inhabitants with a Border Crossing Card, which contains his or her name, place and date of birth, citizenship, place of residence, and other necessary details.

A list of Border Crossing Card holders, with the relevant numbers, will be exchanged between the two Parties.

Article 7

Police, Immigration, Customs, Quarantine & Health

1. Each Party shall, in a spirit of mutual friendliness and good neighbourliness, apply its immigration, customs, quarantine and health procedures in such a way as not to prevent or hinder free movement for the performance of traditional activities in the Special Areas by the traditional inhabitants of the other Party.
2. Traditional inhabitants of one Party who wish to enter the other country, except for the performance of traditional activities in the Special Areas, shall be subject to the same immigrations, customs, health and quarantine requirements and procedures, as citizens of that Party who are not traditional inhabitants.
3. Each Party reserves its rights to limit free movement to the extent necessary to control abuses involving illegal entry or evasion of justice; and
4. Each Party reserves its right to apply such immigration, customs, health and quarantine measures, temporary or otherwise, as it considers necessary to protect the public health and public interest of its people, as well as in the case of an outbreak or spread of an epidemic in or in the vicinity of the Special Areas with a view to preventing such occurrence.

Article 8

Liaison Arrangements

1. The Parties shall designate representatives who shall facilitate the implementation at the local level of the provisions of this Agreement.

The designated representatives shall:-

- (a) exchange information on relevant developments in and in the vicinity of the Special Areas;
- (b) consult together and take such action as is appropriate to their respective functions to facilitate the practical operation at the local level of the provisions of this Agreement and resolve any problem arising therefrom;
- (c) keep under review free movement by the traditional inhabitants of one Party into areas under the jurisdiction of the other Party and the local arrangements applying in respect of such free movement; and
- (d) draw to the attention of their Governments, and make recommendations as appropriate on any matter affecting the implementation of the provisions of this Agreement or arising therefrom which are not capable of resolution at the local level or which may otherwise require considerations by both Parties.

2. In the exercise of his functions, each representative shall:

- (a) consult closely with representatives of the traditional inhabitants of his country, particularly in relation to any problem which may arise in respect of free movement, traditional activities and the exercise of traditional customary rights as provided for in this Agreement and convey their views to his Government; and
- (b) maintain close liaison with national, provincial and local authorities of his country on all matters falling within their respective responsibilities.

3. Unless a different location is required by the circumstances, the representative of Papua New Guinea shall be based in Buin and the representatives of Solomon Islands shall be based at Korovou and Ontong Java.

Article 9

Establishment and Functions of the Joint Advisory Committee

1. The Parties shall jointly establish and maintain an advisory and consultative body, which shall be known as the Joint Advisory Committee.
2. The functions of the Joint Advisory Committee shall be:-
 - (a) to seek solutions to problems arising at the local level and not resolved pursuant to Article 8 of this Agreement.
 - (b) to consider and make recommendations to the parties on any activities, proposals or controls of free movement including to the extent necessary recommend timely restrictions of such free movement which might affect the protection of the traditional way of life and

livelihood of the traditional inhabitants, their free movement, performance of traditional activities and exercise of traditional customary rights as provided for in this Agreement; and

(c) to review from time to time as necessary, and to report and make recommendations to the Parties on any matters relevant to effective implementation of this Agreement.

3. The Joint Advisory Committee shall consist of twelve (12) members, six (6) members from each Party who shall include:-

(a) at least two (2) national representatives;

(b) at least two (2) members representing the North Solomon Province in the case of Papua New Guinea and one member representing the Western Province, Malaita Province and Choiseul (Lauru Islands) Province in the case of the Solomon Islands; and

(c) at least two (2) members representing the traditional inhabitants, with each Party being free to decide from time to time as to how these members are to be drawn from its side.

The Joint Advisory Committee shall meet once each year or earlier at the request of each Party. Consecutive meeting of the Joint Advisory Committee shall be chaired alternatively by a representative of Papua New Guinea, and a representative of Solomon Islands. Meetings shall be held alternatively in Papua New Guinea and Solomon Islands or as may from time to time be otherwise necessary.

Article 10

Consultation and Review

1. The Parties shall consult at the request of either, on any matter relating to this Agreement.

2. This Agreement may be renewed upon the expiration of each five year beginning from the date of exchange of instruments of ratification. It may also be reviewed earlier, within three months upon request by either Party.

Article 11

Settlement of Disputes

1. Any dispute between the Parties arising out of the interpretation of implementation of this Agreement shall be settled by consultation or negotiation.

Article 12

Annexes

1. The Annexes to this Agreement shall have force and effect as integral parts of this Agreement.

Article 13

Ratification and Entry into Force

1. This Agreement is subject to ratification and shall enter into force on the exchange of the instruments of ratification.

IN WITNESS WHEREOF, the undersigned being duly authorized have signed this Agreement.

DONE IN DUPLICATE at Port Moresby on this 5th day of March two thousand and four

FOR THE GOVERNMENT OF PAPUA NEW GUINEA

[Signed] FOR THE GOVERNMENT OF THE SOLOMON ISLANDS

[Signed]

ANNEX 1

The Special Areas referred to in Article 2 of the Agreement includes:-

SCHEDULE I

(A) For Papua New Guinea, the following Constituencies as determined under the Constituencies Act 1978 (as amended) of the North Solomon Province:-

- (1) Bagana
- (2) Ioro-Eivo
- (3) Nasioi-Pirung
- (4) Koromira Kongara
- (5) Basina
- (6) Siwai
- (7) Rerebere
- (8) Porobere
- (9) Atolls
- (a) Mortlock Islands
- (b) Fead Islands
- (c) Tasman Islands

SCHEDULE II

(B) For Solomon Islands, the following Wards:-

(1) in the Western Province:-

- (a) Inner Shortland
- (b) Outer Shortland

as established under the Local Government Act (Cap 14) and Legal Notice 53/74.

(2) in the Malaita Province:-

- (a) Luaniva
- (b) Pelau

as established under the Local Government Act (Cap 14) and Legal Notice 53/74.

(3) in the Choiseul (Lauru Islands) Province