

Treaty on Economic Cooperation between the Government of Australia and the Government of the Independent State of Papua New Guinea

Introduction

- 3.1 The *Treaty on Economic Cooperation between the Government of Australia and the Independent State of Papua New Guinea* (the proposed treaty) sets out a framework for bilateral cooperation in the areas of trade, investment, business relations and development cooperation.¹ When ratified, it will supplant the *Treaty on Development Co-operation between the Government of Australia and the Government of Papua New Guinea* that came into force in 1999.²

Background

Papua New Guinea's economy

- 3.2 Papua New Guinea's formal economy is based primarily on the export of natural resources. However, 85 per cent of the population is engaged in

1 National Interest Analysis [2014], *Treaty on Economic Cooperation between the Government of Australia and the Government of the Independent State of Papua New Guinea*, done at Port Moresby, 21 March 2014 [2014] ATNIF 3 (hereafter referred to as 'NIA'), para 4.

2 NIA, para 3.

the informal economy through subsistence agriculture and related enterprises.³

3.3 According to the National Interest Analysis (NIA), Papua New Guinea has experienced a decade of economic growth, and growth is expected to continue as a result of a liquefied natural gas project that has just commenced production, the PNG LNG project.⁴

3.4 PNG LNG is the largest investment project in the country's history, with the potential to double Papua New Guinea's gross domestic product in the near term.⁵

3.5 According to the PNG LNG website:

The PNG LNG Project commercialises natural gas in the Hides, Angore and Juha fields as well as associated gas from the currently operating oilfields of Kutubu, Gobe, Agogo and Moran in the Southern Highlands, Hela and Western Provinces of PNG. The Project has an expected operational life of 30 years.⁶

3.6 The project is exporting liquefied natural gas to China, Taiwan and Japan. PNG LNG reports that it has invested over \$US4.4b in the project to date, and has employed over 9 000 Papua New Guineans.⁷

3.7 The NIA characterises Australia's economic relationship with Papua New Guinea in the following way:

Australia's investment in PNG is worth more than \$19 billion – almost the same as Australia's investment in China – and Australia is PNG's largest trading partner. Two-way trade between Australia and PNG is valued at \$5.7 billion. Therefore, PNG is an increasingly important trading partner.⁸

3.8 Australia's two way trade with Papua New Guinea has remained relatively steady over the last five years, with the balance of trade favouring Papua New Guinea, as can be seen in the table below.

3 Central Intelligence Agency (CIA), *The World Fact Book: Papua New Guinea*, <<https://www.cia.gov/library/publications/the-world-factbook/geos/pp.html>>, accessed 10 September 2014.

4 NIA, para 5.

5 CIA, *The World Fact Book: Papua New Guinea*, <<https://www.cia.gov/library/publications/the-world-factbook/geos/pp.html>>, accessed 10 September 2014.

6 PNG LNG, *Project Overview*, <<http://pnglng.com/newsroom/fact-sheets/project-overview-fact-sheet>>, accessed 10 September 2014.

7 PNG LNG, *About PNG LNG*, <<http://pnglng.com/project/about>>, accessed 10 September 2014.

8 NIA, para 5.

Table 3.1 Annual two-way trade in merchandise between Australia and Papua New Guinea

Year	Trade from Australia	Trade to Australia	Total
	\$Ab	\$Ab	\$Ab
2009 – 2010	1.972	2.930	4.902
2010 – 2011	2.215	3.474	5.618
2011 – 2012	2.458	3.511	5.969
2012 – 2013	2.759	3.004	5.763
2013 – 2014	2.396	3.455	5.851

Source Australian Bureau of Statistics, 5368.0, *International Trade in Goods and Services, Australia*.

The proposed treaty

- 3.9 A 2010 review of the proposed treaty's predecessor, the *Treaty on Development Co-operation between the Government of Australia and the Government of Papua New Guinea* found that an economic cooperation treaty would better reflect the contemporary relationship between the parties.⁹
- 3.10 The change from a development treaty to an economic cooperation treaty is intended to be both practical and symbolic. It sets out areas of cooperation between the parties and emphasises the importance of an economic partnership type relationship working to remove barriers to the movement of goods, services and investment between the parties.¹⁰
- 3.11 The NIA notes that the proposed treaty is not a free trade agreement, and does not supplant other trade agreements to which Australia and Papua New Guinea are party.¹¹
- 3.12 According to the NIA:
- The [treaty] reflects a maturing relationship built on economic and strategic partnership.¹²

9 NIA, para 6.

10 Ms Kate Logan, Assistant Secretary, Papua New Guinea and Fiji Branch, Pacific Division, Department of Foreign Affairs and Trade (DFAT), *Committee Hansard*, Canberra, 1 September 2014, p. 1.

11 NIA, para 8.

12 NIA, para 4.

Obligations

Economic obligations

- 3.13 The proposed treaty commits the parties to a set of principles promoting mutual benefits in trade, investment cooperation, business cooperation and development cooperation.¹³ The significant provisions include:
- obligations to support bilateral economic relations. This includes obligations to provide fair and transparent treatment in business, immigration and professional matters to each other's nationals;¹⁴
 - undertakings to improve trade, investment and business cooperation between the parties consistent with existing trade agreements, such as the World Trade Organisation agreement;¹⁵
 - promoting a favourable environment for trade and other economic linkages;
 - providing protection for intellectual property rights;¹⁶
 - improving cooperation and consultation on sanitary and phytosanitary measures, and technical barriers to trade such as product standards;¹⁷ and
 - supporting increased business links to encourage investment and private sector interaction, particularly through business organisations and focussing on small to medium enterprises.¹⁸

Development obligations

- 3.14 While the proposed treaty changes the focus of the bilateral relationship from trade to economic cooperation, it will also continue to govern the development relationship between the parties.¹⁹
- 3.15 Article 5 of the proposed treaty reaffirms the parties' commitment to the 2008 non treaty level agreement, the *Papua New Guinea – Australia Partnership for Development*.²⁰

13 NIA, para 9.

14 NIA, para 10.

15 NIA, para 11.

16 NIA, para 11.

17 NIA, para 11.

18 NIA, para 12.

19 Ms Logan, DFAT, *Committee Hansard*, Canberra, 1 September 2014, p. 1.

20 NIA, para 13.

- 3.16 In addition, Article 5 requires that all Australian development assistance to Papua New Guinea must comply with the procedures set out in the Annex to the proposed treaty.²¹
- 3.17 The Annex provides that the parties will consult and agree on the quantum of assistance provided to Papua New Guinea. The quantum will be subject to Papua New Guinea meeting performance targets determined by the parties.²²
- 3.18 Contributions by Australia can include:
- the costs of professional and other goods and services required to implement development activities;
 - the cost of providing and transporting supplies for development activities;
 - the cost of travel, living allowances, fees and other associated costs related to student scholarships and training awards; and
 - any other form of development cooperation reportable under the Organisation for Economic Cooperation and Development's Development Assistance guidelines.²³
- 3.19 The Government of Papua New Guinea is required to contribute:
- agreed levels of counterpart funding for joint activities;
 - transportation and facilitation of travel within Papua New Guinea associated with development activities;
 - permission to use the communications infrastructure of Papua New Guinea;
 - furnished offices;
 - salaries and allowances for ancillary personnel;
 - other measures, such as land, that may be required for the development activity.²⁴
- 3.20 The Annex requires regular consultation, with annual meetings of the parties, periodic reviews of development activities, and accountable and transparent tender processes.²⁵

21 NIA, para 13.

22 *Treaty on Economic Cooperation between the Government of Australia and the Government of the Independent State of Papua New Guinea*, done at Port Moresby, 21 March 2014 [2014] ATNIF 3 (hereafter referred to as 'the proposed treaty'), Annex article 3.

23 The proposed treaty, Annex article 4.

24 The proposed treaty, Annex article 5.

25 The proposed treaty, Annex article 7.

Fraud prevention obligations

- 3.21 In terms of fraud prevention, the proposed treaty represents an improvement over its predecessor treaty in that it explicitly articulates a shared commitment to the prevention and detection of fraud.²⁶
- 3.22 The Annex to the proposed treaty states that:
- The Parties are committed to preventing and detecting fraud, corruption and bribery...
- The Parties shall not make or cause to be made, receive or seek to receive, any offer, gift or payment, consideration or benefit of any kind, which would or could be construed as an illegal or corrupt practice, either directly or indirectly to any party, as an inducement or reward in relation to the Program or the provision of funds in relation to any Activity.²⁷
- 3.23 The proposed treaty also commits the Government of Papua New Guinea to make every effort to recover funds lost to fraud and corruption.²⁸
- 3.24 According to the Department of Foreign Affairs and Trade:
- The intent is to minimise the opportunity for fraud and corruption in the delivery of the Australian Government aid program in PNG, and to provide an avenue to raise and resolve cases when such may occur.²⁹

Costs and implementation

- 3.25 The proposed treaty contains no specific financial commitments, and will therefore have no net impact on the Budget as a result of ratification.³⁰
- 3.26 The NIA states that development assistance to Papua New Guinea will continue to be funded through the *Papua New Guinea – Australia Partnership for Development*.³¹
- 3.27 Any costs arising from trade and investment cooperation under the proposed treaty will be met from within the budgets of relevant agencies.³²

26 Department of Foreign Affairs and Trade (DFAT), *Submission 5*, p. [1].

27 The proposed treaty, Annex article 19.

28 DFAT, *Submission 5*, p. [2].

29 DFAT, *Submission 5*, p. [2].

30 NIA, para 15.

31 NIA, para 15.

32 NIA, para 15.

- 3.28 There will be no legislative or regulatory amendments as a result of the ratification of the proposed agreement.³³

Conclusion

- 3.29 It is clear from the relatively minor role played by Australian interests in the PNG LNG project that Papua New Guinea is forging an independent economic identity. Under these circumstances, it is appropriate for Australia and Papua New Guinea to change their bilateral relationship to reflect the mature nature of the economic relationship enjoyed by these close countries.
- 3.30 The Committee supports the ratification of the *Treaty on Economic Cooperation between the Government of Australia and the Government of the Independent State of Papua New Guinea*.

Recommendation 2

The Committee supports the ratification of the *Treaty on Economic Cooperation between the Government of Australia and the Government of the Independent State of Papua New Guinea* and recommends that binding treaty action be taken.

33 NIA, para 14.

