

## 'JOINT BOUGAINVILLE NEGOTIATING POSITION'

(14 December 1999)

For Negotiations with the Government of Papua New Guinea

### A. AUTONOMY

#### PRINCIPLES

1. The highest level of self-government short of independence shall be established in Bougainville immediately.
2. Under the highest level of self-government the Bougainville government shall have exclusive responsibility for the full range of powers and functions of government other than agreed essential powers and functions that may be reserved primarily to the Government of PNG.

#### PROPOSALS TO GIVE EFFECT TO PRINCIPLES

##### i) Establishing self-government:

Adopting a Bougainville Constitution -- structures a matter for Bougainville Constitution to be adopted by Constituent Assembly after consultation.

Status of the Bougainville Constitution

To prevent change by PNG statutes high status in PNG hierarchy of laws shall be given to the Constitution.

Transfer of functions, personnel funds and assets

Mechanisms to be agreed with Government.

##### ii) Government arrangements for Bougainville:

Internal government structures and arrangements for Bougainville to be developed in Bougainville constitution.

Democracy, transparency and accountability in the Bougainville government: essential principles of Bougainville Government.

iii) Jurisdiction of Institutions of the Government of PNG in Bougainville will continue until Bougainville makes its own provisions.

##### vi) Division of legislative powers:

Legislative powers of Bougainville (primarily Bougainville legislative subjects): The laws of Bougainville shall prevail over the laws of PNG in relation to all legislative subjects (including the economy, land, natural resources, environment, culture, policing and courts) but not over PNG laws on subjects reserved primarily for the Parliament of PNG (below).

Continuing operation of PNG laws: The laws of PNG on a primarily Bougainville subject will continue to operate in Bougainville until the Bougainville legislature chooses to pass legislation on the subject.

Legislative powers of PNG (primarily PNG subjects): The laws of PNG will prevail over the laws of Bougainville only in relation to the following subjects that will be reserved primarily to the Parliament of PNG:

Defence, (but with provisos as to deployment of PNGDF and the establishment of a Bougainville Reserve Military Force);

Foreign relations, subject to Bougainville having control over certain matters, for example:

customs and immigration matters for Bougainville;  
trade and other missions in countries (including attaching officers to PNG missions);  
membership of regional organisations;  
entering teams as a sovereign nation in international sports organisations and events;  
entering into treaties.

Transfer of Powers functions, personnel and funds and assets: Mechanisms shall be agreed for the transfer of functions, personnel, funds and assets between the Government of PNG (inclusive of statutory bodies and 'privatised' bodies carrying out functions formerly carried out by government or statutory bodies) to the Government of Bougainville.

v) Foreign relations and treaties:

Foreign relations: The Government of Bougainville will have authority to enter into foreign relations as specified under the heading of "Legislative Powers" (above).

Treaties: The Government of Bougainville will have power to enter into treaties and the Government of PNG will take action necessary to facilitate international recognition of the ability of the Government of Bougainville to enter into treaties.

vi) Territory:

Maritime territories: The Government of Bougainville shall have all title, powers and jurisdiction over the maritime territories associated with Bougainville's land territory equivalent to that which the Government of PNG has under international law.

Land territory: The land territory of Bougainville shall be, at least, that defined under the Organic Law on Provincial Boundaries.

Defining internal maritime boundaries: The maritime territories of Bougainville within PNG shall be agreed through consultations carried out by a consultative group, comprised of officers of the Government of PNG and of the Bougainville Administration, and those agreed boundaries shall then be defined by Organic Law and by a schedule to the Bougainville Constitution. If the consultative group cannot reach agreement the matter shall be referred to the mediation panel with jurisdiction to deal with disputes about implementation of the agreed arrangements (below), and that panel shall be guided by the principle that neither PNG nor Bougainville should have jurisdiction beyond that available on the basis of the equi-distant principle.

Defining international maritime boundaries: The Government of Bougainville shall be a party to any negotiations that the Government of PNG may have with any state or any regional or international organisation concerning, or that may impinge upon, the maritime territories of Bougainville or, prior to those territories being defined, any area that may reasonably be expected to be included in those territories.

vii) Funding arrangements:

Dependent upon the autonomy arrangements, the details to be negotiated after the autonomy arrangements are agreed, but to include:

Grants - unconditional grants as main source of revenue when economic base is weak;  
Grants reduce as internal revenue increases.

Internal revenue - all sources to Bougainville - remit agreed share to PNG.

Overseas aid - Bougainville able to deal directly with donors.

Loans - Bougainville able to raise loans, issue securities, etc.

viii) Human rights:

Bougainville able to have its own regime wholly or in part

Bougainville to have own enforcement provisions

ix) Coordination of PNG functions in Bougainville:

Representative of PNG shall represent interests of PNG on Bougainville.

x) Guarantees for Bougainville:

Bougainvilleans shall have the same rights and access as PNG citizens.

xi) Disputes:

There shall be an agreed mechanism for resolving disputes.

xii) Review of arrangements:

There shall be a periodic review of these arrangements.

## B. IMPLEMENTING AND GUARANTEEING THE AGREED PACKAGE

### PRINCIPLES

The PNG Government shall take all necessary steps to implement agreed arrangements and shall guarantee implementation by Constitutional amendments in an agreed form.

### PROPOSALS TO GIVE EFFECT TO PRINCIPLES

A treaty shall be entered between PNG and the Bougainville representatives.

### VARIATION OF ARRANGEMENTS

These arrangements shall not be varied without the agreement of the Government of Bougainville.

## C. REFERENDUM

### PRINCIPLES

A referendum on independence shall be held among Bougainvilleans.

### PROPOSALS TO GIVE EFFECT TO PRINCIPLES

Timing of holding of the referendum - The referendum shall be held on a date to be determined by the autonomous Government of Bougainville after consultation with the Government of Papua New Guinea.

Trigger - The Government of Bougainville shall consider the following matters in determining a date for the referendum:

Capacity of the Bougainville Administration,  
Progress towards reconciliation,  
The Political and Economic situation,  
Progress in the operation of autonomy arrangements,  
Progress on Arms disposal.

Rejection of holding referendum (including method) - The Bougainville Legislature may determine not to hold a referendum - to be confirmed by the people of Bougainville by referendum.

Manner of the conduct of a referendum.

Consequences of definitive "yes" vote and of definitive "no" vote.

'Binding' effect of referendum (the mechanism).

Guarantee of agreed referendum arrangements.

Referendum on a referendum (holding a referendum on the issue of whether or not a referendum should be held).

Agreed and adopted this 13th day of December 1999.

SIGNED BY:

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