



Case Study:

Pacific Maritime Industrial Zone Project

Prepared by:

Institute of National Affairs (INA),
Papua New Guinea





The Institute of National Affairs (INA) is a privately funded, non-profit policy research institute, or “think tank” in Papua New Guinea. Its core running and management costs are supported by private companies, with some project support from public institutions and foundations. INA was founded in 1976 by concerned individuals from both the government and the private sector to promote dialogue between the private sector and government and to offer alternative advice to the public service on economic and social policy. The INA’s primary role is to carry out public policy-related research and disseminate the results as widely as possible to the community, government agencies, statutory institutions, learning institutions and politicians. Research is carried out by world-class academics, from some of the world’s leading universities and other institutions, and has a conscious policy of including PNG academics in its research, where that is possible. The research is generally sponsored by PNG and international bodies. The research is published and made available to the public. The INA also administers the Consultative, Implementation and Monitoring Council (CIMC) as a mechanism for public, private sector and civil society dialogue on key issues of public interest relating to social, economic and wider development issues in PNG (including running the Family and Sexual Violence Action Committee, FSVAC).

Acronyms / Abbreviations

CSTB	Central Supply & Tenders Board
CAO	Compliance Advisor Ombudsman
CSYIC	China Shenyang International Economic & Technical Cooperation Corporation
CEPA	Conservation & Environment Protection Authority
DCI	Department of Commerce & Industry
DNPM	Department of National Planning & Monitoring
EEZ	Exclusive Economic Zone
EIA	Environment Impact Assessment
EIS	Environment Impact Statement
EMP	Environment Management Plan
EXIM	Export-Import Bank of China
GOPNG	Government of Papua New Guinea
ICDC	Industrial Centres Development Corporation
IFC	International Finance Corporation
KCS	Kiakapan Consulting Services
KCH	Kumul Consolidated Holdings
MPA	Madang Provincial Administration
MPG	Madang Provincial Government
MOA	Memorandum of Agreement
MOU	Memorandum of Understanding
MCI	Ministry of Commerce and Industry
NEC	National Executive Council
NFA	National Fisheries Authority
NMC	National Management Committee
NPS	National Procurement System
NTC	National Technical Committee
PRC	People's Republic of China
PIO	Project Implementation Office
PPP	Public Private Partnership Policy
TIPNG	Transparency International PNG
TPDC	Truk Pacifica Development Corporation

Introduction

The Institute of National Affairs (INA) is part of a group of think tanks in Southeast Asia and the Pacific to implement a project that aims to promote transparent and accountable governance in the region. The project is supported by the Center for International Private Enterprise (CIPE) with overarching goals to mitigate the impacts of corrosive capital and to make best use of these capital inflows. Corrosive capital is a term used to label financing from either state or private sources originating in authoritarian regimes—mainly China—that lacks transparency, accountability, and market orientation and exploits and worsens governance gaps in recipient nations.¹

This project includes a review of the legislative framework governing the procurement of goods and services in PNG and four project-specific case studies undertaken to assess compliance with this framework. The findings will be used to raise awareness and devise appropriate strategies to address identified gaps. The first case study project is the **Pacific Maritime Industrial Zone (PMIZ)**. The PMIZ was developed as a concept by the PNG National Fisheries Authority (NFA) and the Fishing Industry Association in 2004 to mitigate barriers in the industry. The government promised the project would generate up to 30,000 jobs and USD \$557 million (K2 billion) in economic activity each year. The project is under technical leadership from the PNG Department of Commerce and Industry (DCI), the NFA, and other government agencies.²

Background

The NFA and the Fishing Industry Association developed the plan for the PMIZ and presented it to the Government of Papua New Guinea (GoPNG) in 2004. The PMIZ was designed to take advantage of the thriving economic potential of considerable tuna stock caught in its waters and bolster investment in the fishing sector by establishing centralized ports, transportation systems, and processing facilities, resulting in general commercialized growth in the area.³ The PMIZ was intended to be the GoPNG's first Special Economic Zone (SEZ), a geographically delimited area in which authorized companies are exempt from the normal tax or customs regime applicable in-country, providing infrastructure and labor conditions that are conducive to investment.⁴

In 2008, the GoPNG requested the International Finance Corporation's (IFC) assistance in developing the strategy and legislative framework for SEZs, and the project commenced in April 2009. The IFC provided the DCI with guidance on best-practice approaches to developing and operating economic zones. The advice given pertained to the economic and legal conditions as well as assistance with site selection for the PMIZ.⁵ The SEZ framework legislation developed with IFC assistance seems to have ultimately been enacted in 2019 through the Special Economic Zone Authority Act.

1 "Corrosive Capital," CIPE, May 16, 2021, <https://corrosivecapital.cipe.org/>

2 Marian Faa, "Plans to Revive 'Dormant' Industrial Fishing Zone in Madang," *Australian Broadcasting Corporation*, February 18, 2021, <https://www.abc.net.au/radio-australia/programs/pacificbeat/png-fisheries-authority-to-take-back-pmiz/13166630>.

3 Marian Faa, "Plans to Revive 'Dormant' Industrial Fishing Zone".

4 Francios Bost, "Special Economic Zones: Methodology Issues and Definitions", UNCTAD's World Investment Report, Volume 26, (2019): 141-153 https://unctad.org/system/files/official-document/diaeia2019d2a7_en.pdf.

5 "IFC Helps Papua New Guinea Develop Economic Zone Strategy to Promote Growth," *IFC Press Release*, June 3, 2009, <https://pressroom.ifc.org/all/pages/PressDetail.aspx?ID=24058>; International Finance Cooperation, "Papua New Guinea / PNG SEZ-01/ Madang Province," July 12, 2011, http://www.cao-ombudsman.org/cases/case_detail.aspx?id=175.

The GoPNG chose to locate the PMIZ in Madang in 2012, at which point the IFC “stepped back from direct involvement ...when it became clear the government had already selected a site... and [was] developing the zone before a site and viability assessment could be completed.”⁶ This location was promoted by the Madang-based fisheries operator and processor RD Tuna Cannery Ltd (a subsidiary of the RD Group based in the Philippines). They claimed the predicted expansion in PNG’s tuna production capacity would allow the country to compete commercially with other centers of production and processing, notably within Southeast Asia.⁷ The Madang Provincial Government (MPG), the governmental branch where the project is geographically located, has indicated consistent support for the project due to anticipated economic benefits while also expressing concern regarding its own limited input into the project’s development process as compared to the national government.⁸ Local communities from Madang Lagoon have maintain much of more ambivalent views.

On November 23, 2015, then-Prime Minister Peter O’Neil officially launched the PMIZ project.⁹ Prime Minister O’Neil declared that once fully developed, the project would host ten tuna processing plants and create 30,000 jobs, generating significant economic activity.¹⁰ At the official launch of the PMIZ, the Ambassador of China to Papua New Guinea, Li Ruiyou, said the PMIZ would be constructed by China’s state-owned Shenyang International Corporation (CSYIC) and funded by a concessional loan from the China EXIM Bank. Ambassador Li described the project as “another milestone of pragmatic cooperation between Papua New Guinea and China.” He then proceeded to brief the audience, which included PNG’s Prime Minister, cabinet members, and the provincial governor about China’s current economic development and its plan for the Maritime Silk Road extension into the South Pacific (see Figure 1).¹¹ The Maritime Silk Road forms the “Road” portion of China’s Belt and Road Initiative, which PNG officially joined in June 2018 during the lead up to the Asia-Pacific Economic Cooperation (APEC) Summit in Port Moresby.¹² Because the project falls under the BRI’s Five Connectivities: trade, infrastructure, policy, people-to-people connections, and capital, the PMIZ could be “broadly regarded as a BRI project” even if it had not been formally linked with the initiative, according to a Chinese official interviewed by Australia-based researcher Peter Connelly.¹³

6 Karin Finkelston, “Memorandum: CAO Ombudsman Assessment Report: Complaint Regarding the Special Economic Zones (SEZ) Project in Papua New Guinea,” April 11, 2012. <http://www.cao-ombudsman.org/cases/document-links/documents/IFCresponsetoCAOassessmentreport-PNGSEZ564427.pdf>.

7 “Business Advantage PNG, RD Tuna: A Pioneer in PNG’s Fisheries Industry,” March 19, 2014. <https://www.businessadvantagepng.com/r-d-tuna-pioneer-pngs-fisheries-industry/>.

8 Compliance Advisor Ombudsman, “Ombudsman Assessment Report: Complaint Regarding the Special Economic Zones (SEZ) Advisory Services Project (#564427),” February 2012, <http://www.cao-ombudsman.org/cases/document-links/documents/AssessmentReportPNGSEZ.pdf>.

9 Rosalyn Albanie, “Funding Constraints Stall PMIZ progress,” *PNG Post Courier*, November 17, 2016, <https://postcourier.com.pg/funding-constraints-stall-pmiz-progress/>.

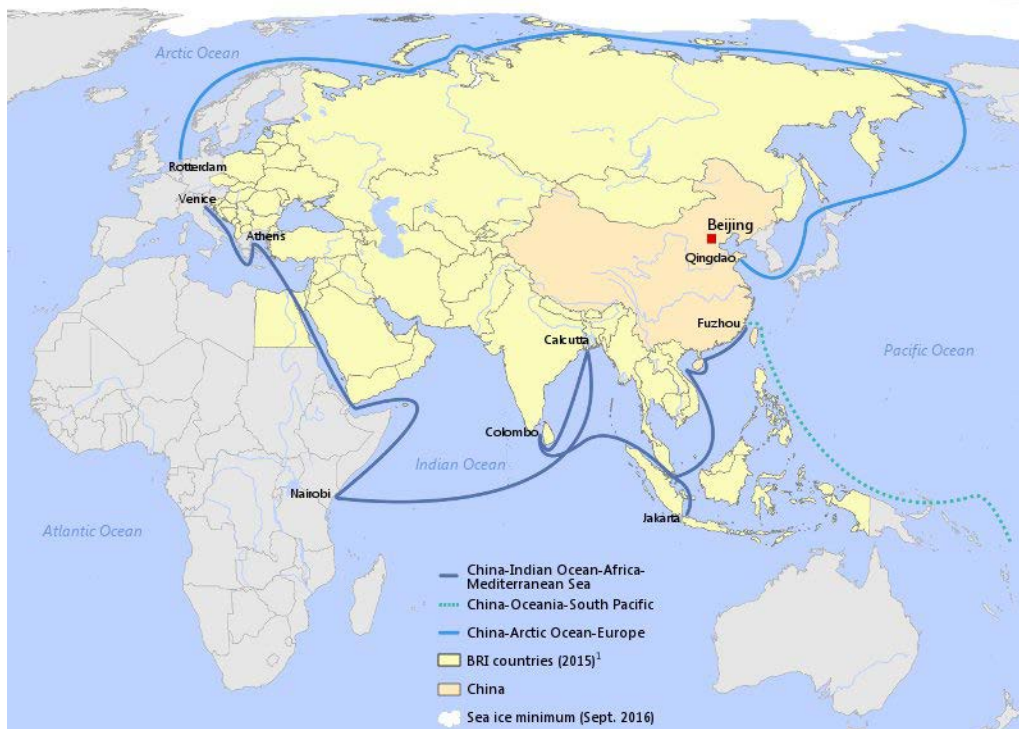
10 Karo Gynnie, “Fisheries Taking Back Process,” *The National*, November 27, 2020, <https://www.thenational.com.pg/fisheries-taking-back-project/>.

11 Chinese Embassy in Papua New Guinea, “Ambassador Li Ruiyou Attends the Official Launching of the Pacific Maritime Industrial Zone,” November 26, 2015. https://www.fmprc.gov.cn/mfa_eng/wjb_663304/zwjg_665342/zwbdt_665378/t1318776.shtml; Chen Jia, “‘Belt and Road’ Takes New Route,” *China Daily*, April 15, 2015. https://www.chinadaily.com.cn/bizchina/2015-04/15/content_20435585.htm.

12 “China, PNG pledge to further boost ties, cooperation under Belt and Road Initiative,” *Xinhua*, October 31, 2018, http://www.xinhuanet.com/english/2018-10/31/c_137572273.htm

13 Peter Connolly, “The Belt and Road comes to Papua New Guinea: Chinese geoeconomics with Melanesian characteristics?” *Security Challenges*, Vol. 16, No. 4, (2020), <https://www.jstor.org/stable/26976257>.

Figure I: Map of the Belt and Road Initiative, April 2015



Source: <https://www.arctictoday.com/chinas-belt-and-road-initiative-moves-into-the-arctic>

The GoPNG has since afforded both budget support and political prioritization for the PMIZ in national plans.¹⁴ However, following an expansion of the project's scope in 2015 that fell outside of the terms of the initial loan agreement, it was withdrawn, resulting in the renegotiation for a new loan.¹⁵ According to a statement by Finance Minister Rainbow Paita in mid-2020, under the leadership of current Prime Minister, James Marape, a new scope of funding has been submitted to the existing loan agreement.¹⁶ The national government leads the project through the Industrial Center Development Corporation with the backing of the DCI. They are also supported by other government agencies including the NFA, which provides technical advisory and regulatory inputs, and Conservation and Environment Protection Agency (CEPA), formerly the Department of Environment and Conservation (DEC), which assesses environmental and community impact issues. Although the GoPNG established an interdepartmental task force for the project in 2006, its progress has been hampered by turnover in ministerial and departmental secretary posts, resulting in the recent submission for National Executive Council (NEC) to shift custody of the project to the NFA.¹⁷ Several different departments of the GoPNG have managed the project and as of June 2021, the project is planning to be returned to the NFA.

¹⁴ Department of National Planning and Monitoring, Medium Term Development Plan Vol II, 2018-2022, (September 2018): <https://www.theprif.org/sites/default/files/2020-08/PNG%20MTDP%20III%20Vol2.pdf>.

¹⁵ "Resume work on project: Govt," *The National*, June 16, 2021, <https://www.thenational.com.pg/resume-work-on-project-govt/>.

¹⁶ Karo Gynnie, "Fisheries Taking Back Process," *The National*, November 27, 2020, <https://www.thenational.com.pg/fisheries-taking-back-project/>.

¹⁷ Compliance Advisor Ombudsman, "Ombudsman Assessment Report: Complaint Regarding the Special Economic Zones (SEZ) Advisory Services Project (#564427)," February 2012, <http://www.cao-ombudsman.org/cases/document-links/documents/AssessmentReportPNGSEZ.pdf>; Karo Gynnie, "Fisheries Taking Back Process," *The National*, November 27, 2020, <https://www.thenational.com.pg/fisheries-taking-back-project/>.

Project development has stagnated for several reasons, including disputes over departmental responsibility, local community protests, construction issues, and questions about contractor capacity.¹⁸ To date, significant progress has failed to materialize, with reports that the project has amounted to little more than an overgrown plot of land.¹⁹ Currently, no canneries have been constructed in the zone, and only a few pieces of infrastructure have been built, including the main gate that famously cost more than USD \$1 million.²⁰ There are also reports that former Minister for Commerce and Industry Gabriel Kapris, who secured the initial project loan and was highly involved in the initial stages of the project, is now directing one of the few companies profiting from the PMIZ.²¹ On July 12, 2011, 105 local actors submitted a complaint regarding the IFC's role in developing the SEZ legislation for the PMIZ. They submitted the document to the Office of the Compliance Advisor Ombudsman (CAO), the independent recourse mechanism for the IFC.²² The CAO's investigation highlighted the need to:

- Promote economic growth and local investment;
- Maintain an open and transparent process;
- Keep all concerned parties, especially local community members, informed and educated about the PMIZ SEZ (timelines, benefits, roles and responsibilities, etc.) in a timely fashion;
- Honour and observe traditional and cultural rights of local communities;
- Maximize benefits of the SEZ for local communities for fair distribution;
- Reduce social tensions and potential for conflict;
- Minimize environmental damage; and
- Ensure project compliance with IFC standards and policies

The GoPNG has reportedly spent USD \$15.1 million (K50 million) on the project as of February 2018. Some of this spending came from the China EXIM Bank's "soft loan," which was allegedly put on hold when GoPNG expanded the project's scope.²³ The project reportedly remains a priority for the GoPNG, which has expressed interest in reviving its development as the main vehicle driving its ten-year strategic plan for fisheries.²⁴ In 2021, the Minister for Fisheries and Marine Resources, Dr. Lino Tom, stated that countries including China, Japan, and South Korea had shown interest in establishing factories in the PMIZ. The minister also encouraged establishing these factories in order to supply the Australian market.²⁵

18 Graeme Smith, "The Belt and Road to Nowhere: China's Incoherent Aid in Papua New Guinea," *The Interpreter [blog]*, Lowy Institute, February 23, 2018, <https://www.lowyinstitute.org/the-interpreter/belt-and-road-nowhere-china-s-incoherent-aid-papua-new-guinea>.

19 Graeme Smith, "The Belt and Road to Nowhere: China's Incoherent Aid in Papua New Guinea."

20 Graeme Smith, "The Belt and Road to Nowhere: China's Incoherent Aid in Papua New Guinea."

21 Patrick Gesh and Patrick Matbob, "The Pacific Marine Industrial Zone and the Village: Strategies to Convert the Resource Boom into Development," *Journal Contemporary PNG Studies: DWU Research Journal Vol. 24*, (May 2016): 71-85. https://www.dwu.ac.pg/en/images/All_Attachements/Research%20Journals/vol_24/2016-V24-6_Gesch_Matbob_PMIZ_the_village.pdf.

22 Compliance Advisor Ombudsman, "Ombudsman Assessment Report: Complaint Regarding the Special Economic Zones (SEZ) Advisory Services Project (#564427)," February 2012, <http://www.cao-ombudsman.org/cases/document-links/documents/AssessmentReportPNGSEZ.pdf>.

23 Graeme Smith, "The Belt and Road to Nowhere: China's Incoherent Aid in Papua New Guinea."

24 Ibid

25 Ibid

History

The PMIZ is located in Madang Province and was the first SEZ initiated by the GoPNG. There were plans for the economic zone to accommodate a large number of tuna catching and processing facilities to promote investment in onshore processing of regionally caught tuna notably from PNG's large and tuna-rich Exclusive Economic Zone (EEZ).²⁶ The project site is an old coconut plantation in Vidar, originally bought from the landowners in 1901 during the German Colonial Administration, and then owned by the Catholic Archdiocese of Madang, it is 20 km north of Madang Town (the provincial capital of the province). In 1992, the Madang Provincial Government acquired the 857 hectares (ha) estate from the church for USD \$768,000 (K800,000) for the development of a fisheries operation. The provincial government initially approached the church and a U.S.-based partner, ZZZ Ltd, but the firm experienced financial difficulties and withdrew. In 1997, the Philippine-owned RD Tuna Cannery Ltd bought the land from the provincial government for USD \$2.1 million (K3 million); 216 ha of that land was later sold to the GoPNG (reportedly for USD \$2.8 million, (then K4 million) and now hosts the PMIZ project.²⁷

Out of the 216 ha held by the GoPNG, 116 ha (53.7 percent) is allotted for the industrial zone, and the remaining 100 ha (46.3 percent) for residential and commercial use. Planned project infrastructure and facilities include a wastewater treatment plant, roads, communication and utility infrastructure, wharfs and piers, a commercial complex, a residential complex, a container freight station and terminal, cool storage, a fuel depot, a fish port, and up to ten canneries.²⁸

Project Costs and Financing

The official feasibility study for the PMIZ was conducted in 2008. It estimated the total cost of the PMIZ to be at USD \$235 million.²⁹ The study was funded by CSYIC, prepared by Philippines-based Truk Pacifica Development Corporation, and endorsed by then-DIC Minister Gabriel Kapris.³⁰ Phase 1 of the project involved the architectural design, engineering, and construction of facilities, with an estimated cost of USD \$95 million. Phase 2 with an estimated cost of USD \$140 million, involved building feeder roads, fences, container freight stations, and office space for the PNG Customs.³¹ Phase 1 was to be financed by the GoPNG through a concessional loan of USD \$74 million from the China EXIM Bank, with the GoPNG providing the remaining USD \$21 million as counterpart funding.³² By 2015, the cost of Phase 1 had gone from USD \$95 million to an estimated USD \$156 million.³³ This increase was due

26 "Govt to Pursue PMIZ Project in Madang," *The Papua New Guinea Post Courier*, September 14, 2017, <https://postcourier.com.pg/govt-pursue-pmiz-project-madang/>.

27 Patrick Gesch and Patrick Matbob, "The Pacific Marine Industrial Zone and the Village: Strategies to Convert the Resource Boom Into Development," *Contemporary PNG Studies*, May 1, 2016, https://devpolicy.org/Events/2015/2015-PNG-Update/Presentations/Day-2/Private-sector-development_paper.pdf.

28 Ibid

29 China Shenyang International Economic and Technical Cooperation Corporation, "Feasibility Study: Pacific Marine Industrial Zone Project," 2008, <https://www.canningparadise.com/thepacificmarineindustrialzone>.

30 "Feasibility Study: Pacific Marine Industrial Zone Project."

31 "Feasibility Study: Pacific Marine Industrial Zone Project."

32 "Global Chinese Official Finance Dataset," AidData, October 2017, <http://aiddata.org/data/chinese-global-official-finance-dataset>.

33 "Resume Work on Project: Govt," *The National*, June 16, 2021, <https://www.thenational.com.pg/resume-work-on-project-govt/>; Transparency International Papua New Guinea, "Case 1.2-Pacific Maritime Industrial Zone," January 6, 2019, <http://www.transparencypng.org/pg/case-1-2-pacific-maritime-industrial-zone/>.

to the GoPNG's expansion in the scope for the PMIZ project design to include new interests in power, water supply infrastructure, and further upgrade to increase the size of the existing wharves. This would allow them to cater not only to fishing vessels but also to mining and agricultural export interests. In line with its policy, the EXIM Bank responded by canceling the initial loan and advised the GoPNG to renegotiate for an additional loan of USD \$156 million.³⁴ Project work was delayed pending GoPNG approval, PRC approval, and the subsequent execution of a new loan agreement between the two parties. As of June 2021, it is unclear whether a new loan agreement has been finalized.

In July 2018, Secretary for Commerce and Industry, Andrew Liliura, explained that only ten percent of the original USD \$95 million loan had been drawn before it was canceled. The amount drawn by the GoPNG met contractual obligations to its Chinese contractors. The proposed new loan of USD \$156 million would cover the "re-scoping of the work and the operation of Phase I of the PMIZ project," according to Secretary Liliura, who said the original loan was inadequate to cover the costs of the new berthing wharf.³⁵

The PMIZ initial loan agreement was signed by the PNG Ministry of Treasury and Finance and the EXIM Bank in November 2009. China's Exim Bank provided a USD \$74 million concessional loan to Papua New Guinea for the construction of the PMIZ. The GoPNG supplied the remaining USD \$21 million, for a total project cost of USD \$95 million.³⁶ CSYIC was selected as the contractor in September 2009, prior to the completion of the EXIM Bank loan agreement. The award of the construction contract to CSYIC under the initial concessional loan of USD \$74 million was not processed through the Central Supply and Tenders Board as required under PNG law at the time,³⁷ but was awarded as a condition of the concession loan agreement.³⁸ Construction was scheduled to begin in 2011 and reach completion by 2013, with the zone planned to be operational by November 2015.³⁹

Three Madang local actors—Karkar local level government president Bager Wamm, Rempi community representative Frank Don, and a Kananam impact community representative made a court submission for an interim order to stop the project. On September 12, 2012, the representative for the local community, Lawyer Tiffany Twivey of Twivey Lawyers filed for an interim injunction against the project in the Madang National Court.⁴⁰ On October 22, 2012, the Madang Provincial Court ordered a hold on PMIZ progress until the court made a decision to proceed on sufficient

34 Government of Papua New Guinea, "The Public Investment Program, 2019-2023", Waigani. Vol. 3, (2019):489. https://www.treasury.gov.pg/html/national_budget/files/2019/Public%20Investment%20Program%20Volume%203A.pdf

35 "Revised PMIZ Loan Confirmed at USD \$156," *Post Courier*, July 13, 2018, <https://postcourier.com.pg/revised-pmiz-loan-confirmed-us156m/>.

36 Transparency International Papua New Guinea, "Case 1.2-Pacific Maritime Industrial Zone," January 6, 2019, <http://www.transparencypng.org.pg/case-1-2-pacific-maritime-industrial-zone/>.

37 Awarding the contract to CYCIC as a condition of the loan appears to have violated the Public Finances (Management) Act of 1995, which governed procurement at the time and required a public tender followed by Central Supply and Tenders Board approval. However, it would have been legal under the National Procurement Act (NPA) of 2018, which was passed nine years later. The NPA states that if the "agreement contains a condition that the provider shall originate from the country of the donor, procurement of the provider shall be in accordance with the agreement." "National Procurement Act (NPA) 2018," *Department of Finance*, November 28, 2018, http://www.finance.gov.pg/wp-content/uploads/2019/02/Certified_National_Procurement_Act_2018.pdf; Government of Papua New Guinea, *Public Finances (Management) Act 1995*, No. 21 of 1995. http://www.paclii.org/pg/legis/consol_act/pfa1995224/.

38 "Govt Splurges K4 million "Only" on Gate," *Post Courier*, December 4, 2017, <https://postcourier.com.pg/govt-splurges-k4-million-gate/>; Department of Commerce and Industry, *Pacific Marine Industrial Zone. Environment Impact Statement* (June 2010)).

39 "Global Chinese Official Finance Dataset, Version 1.0," *AID DATA*, 2017, <http://aiddata.org/data/chinese-global-official-finance-dataset>.

40 "Locals Make Submission," *The National*, September 21, 2012, <https://www.thenational.com.pg/locals-make-submission/>.

legal grounds.⁴¹ This decision put an immediate freeze on the release of the EXIM loan to develop the project, a week before the Government was to gain access to the USD \$3 million for progress development of the PMIZ.⁴² Twivey Lawyers argued that the loan agreement, signed on May 31, 2011, by then-Minister for Commerce and Industry Gabriel Kapris to commence construction of the PMIZ was illegal, unconstitutional, and jeopardized PNG's sovereignty. Under the contract, the laws of China, not PNG, would apply in the event of any dispute, and conflict would be resolved in Chinese courts. A statement by Mr. Twivey argued,

“By attempting to oust the jurisdiction of the laws of Papua New Guinea as well as the National and Supreme Courts of PNG, the loan agreement is contrary to the Constitution, which states that the National and Supreme Courts have unlimited jurisdiction in Papua New Guinea... Therefore the loan agreement is illegal and invalid.”⁴³

The lawyers also claimed that then-Minister for Commerce and Industry Gabriel Kapris did not have the authority to sign the contract because according to PNG laws, only the Head of State can sign agreements involving K5 million or more. Under the *Public Finance (Management) Act 1995*, only the Ministry for Treasury or the Head of State has the legal authority to sign loan agreements on behalf of the state and according to the government's procedural manual for the CSTB, the NEC must award contracts for tenders over K10 million before the Governor General or the Head of State can execute the contract.⁴⁴ In 2014, the Government of Papua New Guinea obtained a loan of \$1.2 billion or (K4.2 billion) from the Union Bank of Switzerland to buy a 10 percent stake in Oil Search Ltd. In August 2019, the Prime Minister, Hon James Marape, announced that a Commission of Inquiry will be set up to investigate and determine if any laws were broken when the UBS Sydney-based office loaned the money to the Papua New Guinea government.⁴⁵ The Commission of Inquiry was finally set up early this year, headed by a former Chief Justice, and has started investigations into the UBS loan with extensive hearings and interviews with key participants and their legal counsel already.

Some of the questions to be investigated by the inquiry are to determine the legality of such borrowing, similar to those questions raised in relation to the two case studies, including whether and which laws were breached in the process of securing the loan, which state minister(s) had the authority to sign loan document, whether the NEC and finally Parliament must approve the loan, and whether all legal processes and procedures were followed prior to the final approval of the loan.

Further legal issues include that Madang was declared not a province subject to the *Free Trade Zone Act*, which did not include Madang in its list of four provinces eligible for free industrial zones, and that the development of the PMIZ was not accounted for in the National Tuna Fisheries Management Plan, as required by the Fisheries Management Act of 1998.⁴⁶ In December 2012, an out-of-court

41 “Court Orders Stop to Accessing Exim Bank Loan to Fund Mandang PMIZ,” *EMTV*, October 24, 2012, <https://emtv.com.pg/court-orders-stop-to-accessing-exim-bank-loan-to-fund-madang-pmiz/>.

42 Ibid.

43 Andrew Pascoe, “Courts Put PMIZ on Hold Indefinitely,” *Act Now PNG [Blog]*, October 22, 2012, <https://actnowpng.org/content/courts-put-pmiz-hold-indefinitely>.

44 Government of Papua New Guinea, *Public Finances (Management) Act 1995*, No. 21 of 1995. http://www.paclii.org/pg/legis/consol_act/pfa1995224/.

45 Helen Davidson, “Papua New Guinea PM Announces Inquiry Into \$1.2bn Government Loan Scandal,” *Guardian*, June 26, 2019. <https://www.theguardian.com/world/2019/jun/26/papua-new-guinea-pm-announces-inquiry-into-12bn-government-loan-scandal>.

46 Andrew Pascoe, “Courts Put PMIZ on hold indefinitely,” *Act Now PNG [Blog]*, October 22, 2012, <https://actnowpng.org/content/courts-put-pmiz-hold-indefinitely>; Independent State of Papua New Guinea, *Free Trade Zones Act 2000*, No. 18 of 2000. http://www.paclii.org/pg/legis/consol_act/ftza2000168/; Independent State of Papua New Guinea, *Fisheries Management Act 1998*, No. 48 of 1998. https://6fa10be3-f53f-4508-a425-c0f600c1497e.filesusr.com/ugd/2c6676_691b0dec0ab849dd85932d6a2ba20d5e.pdf.

settlement was reached between the parties in addition with then-Prime Minister O'Neil and Minister of Commerce and Industry Richard Maru. Under the settlement, court cases challenging the legality of the PMIZ and seeking compensation for environmental damage or a lack of consultation by local community clan members were withdrawn, and the loan was released for the project to continue.⁴⁷

Under the current government's "take back" policy, and with cases such as the PMIZ, government under Prime Minister Marape has introduced the requirement under the National Procurement Act (NPA) for all contracts up to USD \$2.8 million (K10 million) to be awarded to 100 percent nationally owned companies. Additionally, all contracts between USD \$2.8 – USD \$8.4 million (K10 – K30 million) to have 50 percent national content.⁴⁸ Contracts with a value greater than USD \$8.4 million (K\$30 million) can be awarded to any company, but bids by local actors have a 15 percent margin of preference for goods and seven percent for services.⁴⁹

Key Project Stakeholders

i. Bilateral Partnerships

The key bilateral partners involved in the financing and implementation of the PMIZ are the government of the People's Republic of China (PRC), the China EXIM Bank, and GoPNG (with the DCI, NFA, Kumul Consolidated Holdings (KCH), and the Madang Provincial Government serving as the implementing agencies).

During project planning and implementation, several collaborative partnerships and project management mechanisms were put in place for effective coordination and timely implementation of the PMIZ. These are briefly highlighted in chronological order:

- i) In 2006, the NEC established a National Management Committee (NMC) for the PMIZ. This was headed by the Secretary for DCI and consisting of government, industry, and the Madang community representatives. The NMC had only two contracts with companies for site perimeter fencing and clearing since the PMIZ's groundbreaking ceremony in 2009.⁵⁰ The contract procurement and implementation status remains unclear at this stage.
- ii) In early May 2011, the GoPNG established an inter-governmental agency committee composed of officials from the DEC, DCI, NFA, and the Ministries of Land and Health in response to community concerns regarding the PMIZ.⁵¹

47 "Parties Withdraw Case, PMIZ Project to Continue," *The National*, December 20, 2012, <https://www.thenational.com.pg/parties-withdraw-case-pmiz-project-to-proceed/>.

48 "NPC Ready to Facilitate Procurement Act Review," November 11, 2020, <https://www.looppng.com/png-news/npc-ready-facilitate-procurement-act-review-95647.>; Dentons, "Major Reform of PNG's Public Procurement Laws," November 26, 2018, <https://www.dentons.com/en/insights/alerts/2018/november/26/major-reform-of-pngs-public-procurement-laws>.

49 Dentons, "Major Reform of PNG's Public Procurement Laws."

50 Liam Campling, Amanda Hamilton, and Elizabeth Havice, "Fisheries Trade & Development," *FFA Fisheries Trade News* (3), Pacific Islands Forum Fisheries Agency, no. 5 & 6, (July–August 2010). <https://www.ffa.int/node/386>.

51 "Government Body to Address PMIZ Issues," *The National*, reprinted on Act Now [blog], May 11, 2011, <https://actnowpng.org/content/govt-body-address-pmiz-issues>.

ii. Stakeholders:

In early April 2011, the Madang community stakeholders organized their own forum to learn more about the project. However, government officials (including ministers and secretaries) invited by the stakeholders failed to attend.⁵² In response, Sir Arnold Amet, the then-Member of Parliament for Madang Provincial seat, the Minister for Justice, and Attorney General, organized a public rally at Alexishafen in Madang province on April 29, 2011. The rally brought together stakeholders to discuss outstanding issues with the PMIZ project and was attended by GoPNG representatives, including the ministers for Commerce, Industry, Environment, and Conservation, Madang provincial government leaders, landowners, and impacted community members.⁵³ In early May 2011, then-Minister for Environment and Conservation Benny Allen announced that an inter-governmental agency committee composed of officials from the DEC, DCI, NFA, and the Ministries of Land and Health had been set up to look into concerns regarding the PMIZ.⁵⁴

- i) In September 2011 representatives from the national and provincial governments as well as representatives of landowners signed a collaborative partnership agreement. Mr. Steven Mera (then-secretary for DCI), and Mr. Sylvester Pokajam (then-managing director for NFA), both signed as government representatives. Mr. Bernard Lange signed as the Madang provincial government representative. Mr. Rudolf Aiyu signed as chairman for the landowner group Kananam Investment Ltd. Finally, Mr. Alphonse Miai signed in his capacity as chairman for landowner company Rehammb Holdings Ltd.⁵⁵
- ii) In response to a complaint from 105 local actors to the IFC regarding its role in setting up the PMIZ and associated SEZ legislation, the CAO visited the PMIZ project area in September and October in 2011, and in February 2012 to discuss the issues with key stakeholders.⁵⁶ Following these visits, on October 2012 the CAO convened a multi-stakeholder meeting at Madang Resort. The attendance at the stakeholder meeting had more than 100 people, including representatives from the MPA, DCI, RD Tuna Canning, and leaders representing the impacted communities. The outcomes of the meeting were:
 - The signing of a MOU in which parties agreed they “want the PMIZ project to proceed without hindrance to the benefit of impacted communities and Madang as a whole,” and adopted the action plan developed during the meeting.⁵⁷ This action plan included implementing mechanisms for community participation and undertaking an impacts and opportunities study.⁵⁸ Although most items from the action plan were not implemented, the government did establish an Environmental Office in Madang to act as a monitoring agent on environmental concerns.⁵⁹

52 Rait Man, “Landowners Announce Public Forum on PMIZ,” ActNow [blog], April 5, 2011, <https://actnowpng.org/content/landowners-announce-public-forum-pmiz>.

53 Jayne Safihao, “Tempers Flare at Madang Forum,” *The National*, May 1, 2011, <https://www.thenational.com.pg/tempers-flare-at-madang-forum/>

54 “Government Body to Address PMIZ Issues.” *The National*, reprinted on Act Now [blog], May 11, 2011, <https://actnowpng.org/content/govt-body-address-pmiz-issues>.

55 Yehiura Hriehwazi, “New Deal Inked to Lift PMIZ Project,” *The National*, reprinted on Act Now [blog], September 26, 2011, <https://actnowpng.org/content/new-deal-lift-pmiz-project>.

56 Compliance Advisor Ombudsman, “Papua New Guinea / PNG SEZ-01/Madang Province,” September 4, 2014, http://www.cao-ombudsman.org/cases/case_detail.aspx?id=175.

57 “Memorandum of Understanding (MoU) Between PMIZ Stakeholders,” October 16, 2012, http://www.cao-ombudsman.org/cases/document-links/documents/Signed_MoU_16-Oct-2012.pdf.

58 “Memorandum of Understanding (MoU) Between PMIZ Stakeholders.”

59 “Memorandum of Understanding (MoU) Between PMIZ Stakeholders.”

- A Joint Government Communiqué released on December 19, 2012, with the co-signers being Richard Maru, PNG Minister for Commerce and Industry; Mr. Bager Wamm, Karkar LLG President; Mr. Frank Don, representative of the Rempi impact community; and Mr. Francis Gem, representative of the impacted Kananam community.⁶⁰ The Communiqué recognized the “verbal commitments” made during the follow-up meeting held that day “acknowledged the effort the Minister is making” and previous government failures in relation to social and environmental risks; and recognized that the landownership of the PMIZ site is state land and “traditional landowners have no legal ownership.”⁶¹
- The stakeholders agreed to partake in a CAO-facilitated collaborative dispute resolution process to address the issues raised in the complaint.⁶² During CAO’s monitoring of the agreement implementation, community members and the Madang Provincial Government expressed concern that the Ministry of Commerce and Industry was not following through with the agreed actions. Despite multiple inquiries and requests for meetings, CAO was unable to obtain a response from the Ministry of Commerce and Industry. As a result, CAO was unable to continue with the dispute resolution process and its monitoring role. As the agreements were not fully implemented and CAO could not continue the dispute resolution process, the office transferred the case for a compliance review and it was ultimately closed.⁶³

iii. Contractors and Subcontractors:

The main contractor is the Chinese-headquartered CSYIC, with subcontractors providing specialized services. According to its webpage, CSYIC was founded in 1984 and is “the sole state-owned enterprise engaged in comprehensive foreign economic and technical cooperation business in Shenyang.” CSYIC is affiliated with Shenyang Zhongshen Assets Management Co., Ltd and “mainly engages in project contracting and foreign economic aid projects between governments, domestic and foreign investment and operation, international labour service cooperation, international trade, etc.”⁶⁴ ACT NOW, a PNG civil society organization, claims that 70 percent of the project’s funds are required to go to the main Chinese contractor, in this case, the CSYIC, which also uses Chinese equipment, labour, and technology.⁶⁵ Another loan condition is that the main contractor’s profit margin will be 20 percent of the contract value – at least USD \$7 million.⁶⁶ Given that the contract is not publicly available, these claims are difficult to confirm. However, in 2012, all USD \$4.8 million of the GoPNG counterpart funding went to CSYIC, which was selected as a condition of the loan.⁶⁷

60 CAO, “Papua New Guinea / PNG SEZ-01/Madang Province,” July 12, 2011, http://www.cao-ombudsman.org/cases/case_detail.aspx?id=175.

61 Richard Maru, Bager Wamm, Frank Don, and Francis Gem, “Joint Communiqué,” December 19, 2012, <http://www.cao-ombudsman.org/cases/document-links/documents/JointCommuniqué.pdf>.

62 CAO, “Ombudsman/Dispute Resolution Conclusion: Report-Papua New Guinea Special Economic Zone,” (July 2014). http://www.cao-ombudsman.org/cases/document-links/documents/PMIZ_Conclusion_Rpt_FINAL.pdf.

63 Ibid

64 CSYIC, “Company Profile,” Accessed June 8, 2021, <https://en.csyic.com.cn/intro/1.html>.

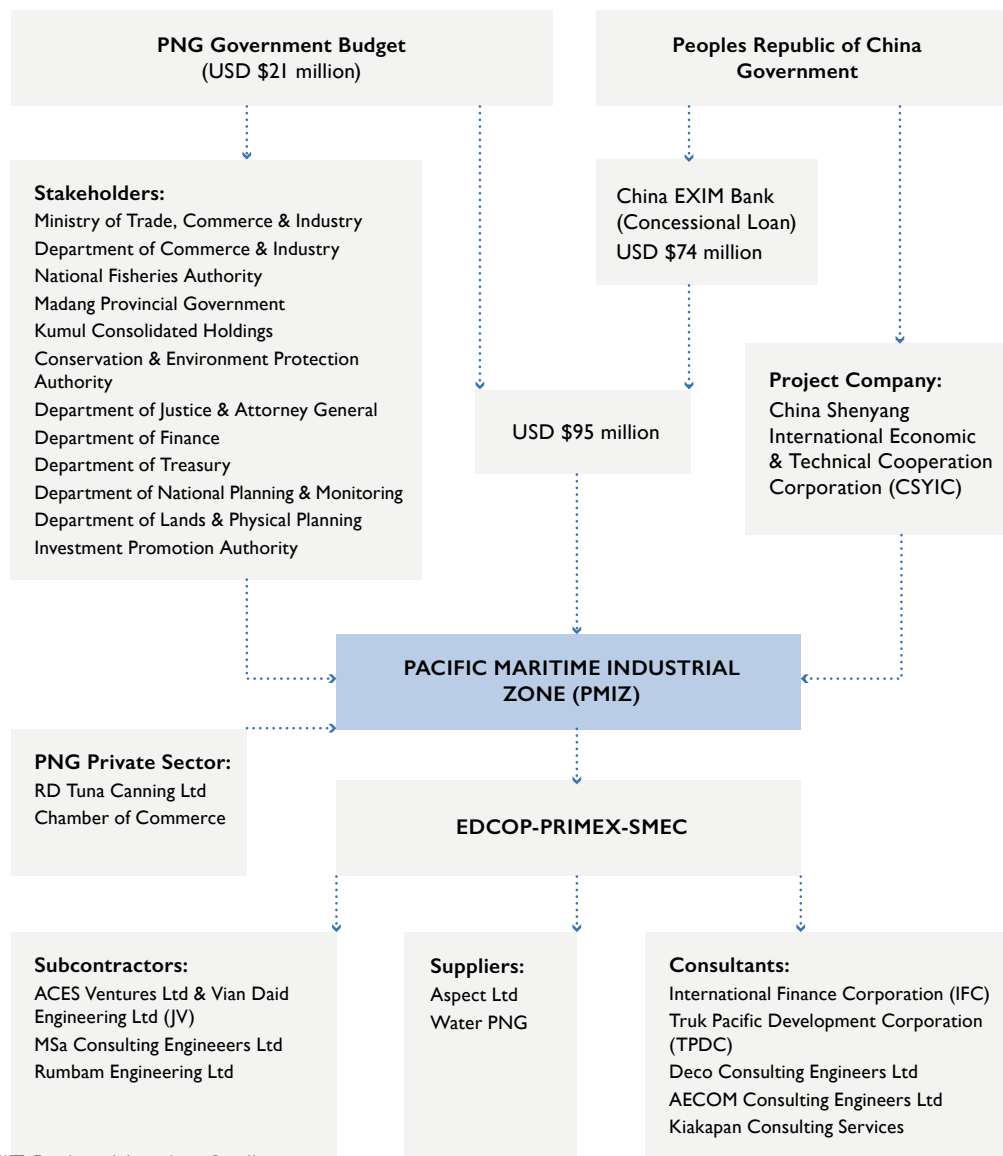
65 PMIZ Watcher, “PMIZ Loan from China is a Terrible Deal for PNG,” *Act Now*, March 10, 2011, <https://actnowpng.org/content/pmiz-loan-china-terrible-deal-png>.

66 Tok Stret, “PMIZ Loan from China is a Terrible Deal for PNG,” PMIZ Watcher [blog], *ActNow PNG*, March 10, 2011, <https://actnowpng.org/content/pmiz-loan-china-terrible-deal-png>.

67 Government of PNG, 2013, “The Public Investment Program, 2013-2017”, Waigani. Vol 3, (December 2013): 325. https://www.treasury.gov.pg/html/national_budget/files/2013/budget_documents/Volume3/Vol3.pdf.

The primary subcontractor, Aces Ventures, is partly owned and managed by former Minister of Commerce and Industry Gabriel Kapris, who was a key force behind the PMIZ project and helped secure the project’s original loan.⁶⁸ Aces Ventures is also reportedly the holder of five Special Agricultural and Business Leases (SABLs) in the PMIZ area; Since 2005, SABLs have been widely used as a means to access the forest and other customary-owned land resources without following due process, suggesting a serious conflict of interest.⁶⁹ Additional consultants associated with the PMIZ are listed in Section 6.2 Engagement of Suppliers & Service Providers and in Figure 2.⁷⁰

Figure 2: PMIZ Project Stakeholders



Source: PMIZ Project Mapping Outline

68 Kristian Lasslett, “Ministerial PMIZ Concerns Spot On,” PNGi, December 18, 2017, <https://pngicentral.org/reports/ministers-pmiz-concerns-spot-on>.

69 Patrick Gesh and Patrick Matbob, “The Pacific Marine Industrial Zone and the Village: Strategies to Convert the Resource Boom into Development,” *Journal Contemporary PNG Studies: DWU Research Journal Vol. 24*, (May 2016): 71-85. https://www.dwu.ac.pg/en/images/All_Attachements/Research%20Journals/vol_24/2016-V24-6_Gesch_Matbob_PMIZ_the_village.pdf.

70 Colin Filer, “The Commission of Inquiry into Special Agricultural and Business Leases in Papua New Guinea: Fresh Details for The Portrait of A Process of Expropriation,” *Land Deal and Politics Initiative*, (October 2019). https://openresearch-repository.anu.edu.au/bitstream/1885/24982/2/01_Filer_The_Commission_of_Inquiry_into_2012.pdf.

PMIZ Project Progress

PMIZ INFORMATION SUMMARY

Size: 100 hectares industrial zone and 115 hectares residential and commercial zone

Cost: Total USD \$235 million, Phase I: USD \$156 million

Initiated in 2006 by the National Fisheries Authority and Fishing Industry Association

Funded by a concessional loan from EXIM Bank of China (78%) and the GoPNG (22%)

Construction by: China Shenyang International Corp. Set for completion in November 2016

Ownership: A joint venture between Kumul Consolidated Holdings and the Madang Provincial Government

Delayed after legal challenges on environmental grounds, which were withdrawn in early 2021

- i) **In 2006**, the NEC approved the PMIZ concept.⁷¹
- ii) **In 2008**, the GoPNG sought the assistance of the IFC to develop a model legislative framework for the development, establishment, and operation of SEZs in PNG. In April 2009, the IFC agreed to provide advisory services. The IFC drafted a model legal framework that was submitted to the GoPNG for consideration through the DCI. The framework seems to have become the basis for the Special Economic Zone Authority Act of 2019.⁷²

Also in 2008, CSYIC engaged the Philippines-registered Truk Pacifica Development Corp (TPDC) to conduct a feasibility study of the proposed PMIZ site. After field inspection, a report was submitted to CSYIC by a team comprising the CSYIC engineer Narciso D. Cauquiran Jr., with Dr. Wilfred Hugo and Engr. Conrado Baylon of TPDC.⁷³

On June 18, 2008, CSYIC and the GoPNG representatives signed an MOU in Manila, Philippines. The MOU was signed by the GoPNG representative Minister Kapris and CSYIC representative Narciso D. Cauquiran Jr., a country manager for PNG. The MOU was witnessed by Dr. Wilfredo Hugo, President of Truk Pacifica Development Corporation (TPDC), and Mr. Anton Kulit, Secretary for DCI. The MOU authorized CSYIC to represent the GoPNG in negotiating and developing a loan package with any Chinese banks for the PMIZ project.⁷⁴

- iii) **In 2009**, Phase I of the PMIZ project was officially launched in Madang by then-Minister for Commerce and Industry Gabriel Kapris, who drew up the MOU with CSYIC, which had financial backing from the China Exim Bank.

In November 2009, the GoPNG and the Chinese government signed a framework agreement during the Chinese Vice Premier's visit to PNG, allowing the GoPNG to access an EXIM Bank concessional loan.

- iv) **In 2010**, the DEC approved the project's Environment Impact Assessment. This assessment is not publicly available. According to the DCI's 2010 Environment Impact Statement (EIS), the

71 Ibid.

72 "IFC Helps Papua New Guinea Develop Economic Zone Strategy to Promote Growth" International Finance Corporation (2009). <https://ifcext.ifc.org/IFCExt/pressroom/IFCPressRoom.nsf/0/C47F04CBCF8C4FBD852575CA0051A342>.

73 Ibid

74 Ibid

construction phase of the project was scheduled for a three-year period from 2009–2011. Production was set to begin in 2012, immediately following the construction phase.⁷⁵

In June 2010, the DCI submitted the Environmental Impact Statement and Environment Management Plan for the PMIZ to the Conservation and Environment Protection Authority (CEPA). The DCI engaged PNG-based Kiakapan Consulting Services to prepare these documents in compliance with the provisions of the **Environment Act of 2000**. After internal technical assessment, CEPA gave its approval-in-principle of the PMIZ in early 2011. In March of the same year, Minister for Environment and Conservation Benny Allen formally announced the approval-in-principle for the project at a signing ceremony at the Gateway Hotel in Port Moresby.⁷⁶

In October 2010, the GoPNG signed a general contract with CSYIC in Port Moresby, PNG. Then-Minister of Commerce and Industry Gabriel Kapris stated the signing of the project contract was close to completion and that the EXIM Bank evaluation would allow the GoPNG to draw the USD \$74 million loan for the PMIZ project.⁷⁷

- v) **In March 2011**, acting DCI Secretary John Andreas signed a deal with Australia-based Auspect PNG for future development projects within the PMIZ, including a warehouse, hotel, residential areas, and education and health centers.⁷⁸

In May 2011, the GoPNG and CSYIC signed a supplementary project agreement in Manila, Philippines. Mr. John Andreas, then Acting Secretary for the DCI, signed the agreement as the GoPNG representative and Narciso Cauguiran Jr., CSYIC country manager, signed as the authorized company representative. According to Mr. Andreas, the supplementary agreement was necessary to receive loan approval for the project.⁷⁹

Also in May 2011, then-Minister for Commerce and Industry Gabriel Kapris signed the project loan agreement on behalf of the GoPNG in May 2011 in Beijing, China.⁸⁰

- vi) **In 2012**, an out-of-court settlement was reached between the GoPNG and local parties following an extended delay resulting from complaints and legal action from traditional landowners regarding land rights, employment, financial concerns, impacts on marine resources, and environmental issues.

75 Department of Commerce and Industry, *Pacific Marine Industrial Zone. Environment Impact Statement*, June 2010, <https://www.canningparadise.com/thepacificmarineindustrialzone>; Government of Papua New Guinea, "The Budget Estimates of Revenue and Expenditure for National Government Department," Waigani, Vol 2C, (2018): 326. https://www.treasury.gov.pg/html/national_budget/files/2018/Volume%202c.pdf.

76 "DEC Approves Three Major National Projects," *The National*, March 14, 2011, <https://www.thenational.com.pg/dec-approves-three-major-national-projects/>.

77 Jason Gima Wuri, "Marine Industrial Zone Close to Reality," *The National*, October 3, 2010, <https://www.thenational.com.pg/marine-industrial-zone-close-to-reality/>.

78 "PNG, Auspect Sign Deal on PMIZ Project," *The National*, March 3, 2011, <https://www.thenational.com.pg/png-auspect-sign-deal-on-pmiz-project/>.

79 "USD \$95m Draw Down for PMIZ Getting Closer," *The National*, May 16, 2011, <https://www.thenational.com.pg/us95m-draw-down-for-pmiz-getting-closer/>.

80 Ancilla Wrakuale, "PMIZ Gets USD \$95mil Loan Facility," *The National*, June 29, 2011, <https://www.thenational.com.pg/pmiz-gets-us95mil-loan-facility/>.

In April 2012, South Korean DECO Consulting Engineers, which had been engaged by the NFA, submitted its independent design and assessment of the two proposed wharves to the Minister for Commerce and Industry. This report formed the basis for the then Commerce Minister Charles Abel's briefing to Parliament on DECO's design for the wharves and the impacted communities' willingness to proceed with the implementation as planned.⁸¹

- vii) **In 2013**, The GoPNG sought an additional loan from China's EXIM bank and sought an extension of its agreement with RD Corporation.⁸²
- viii) **In March 2013**, CSYIC and Rumbam Engineers Ltd. signed another agreement for the design and construction of project infrastructure. The details of the agreement are unknown. Rumbam is the owner and principal engineer for Bamake Rumbam and is also a former NFA Board Chairman.⁸³ *The National* reported that as part of the agreement, Rumbam Engineers Ltd was tasked with monitoring CSYIC to ensure that the design and construction of the PMIZ complied with PNG and international standards.⁸⁴ At the signing ceremony, DCI Acting Secretary Gerald Dogimab, stated the project had been delayed by five years due to changes in scope and financing and urged all parties involved to hasten the start of the project.⁸⁵
- ix) **In 2015**, then-Prime Minister Peter O'Neill traveled to Madang Province to officially re-launch the project with the new DCI Minister Richard Maru. Although the new loan of USD \$156 million from China EXIM Bank has not been finalized as of June 2021, the GoPNG has already budgeted and spent substantial funds through the government budgeting and expenditure process. For example, the PMIZ project was allocated USD \$17.1 million (K57.5 million) between 2017 to 2019, of which 78.2 percent, or USD \$13.4 million (K45 million) was anticipated to come from EXIM Bank loan financing.^{86,87} In 2012, the GoPNG also directed funds to CSYIC without receiving any from the EXIM Bank; the GoPNG counterpart payment of USD \$4.8 million (K10 million) to CYCIC was just below the USD \$5.6 million (K11,640,200) threshold required to trigger the draw of the EXIM loan.⁸⁸

Also in 2015, KCH engaged U.S.-based professional technical services consultant AECOM to undertake the design and specification review of CSYIC's engineering inputs.⁸⁹

81 Ancilla Wrankuale, "Abel: PMIZ Project on Target," *The National*, 2012, <https://www.thenational.com.pg/abel-pmiz-project-on-target/>.

82 Mindanews, "PNG Seeks Renewal of Agreement with PH Tuna Firm," September 10, 2013, <https://www.mindanews.com/business/2013/09/png-seeks-renewal-of-agreement-with-ph-tuna-firm/>.

83 "PMIZ Project to Start Soon," *The National*, March 21, 2013, <https://www.thenational.com.pg/pmiz-project-to-start-soon/>; <https://pngiportal.org/search/?q=SEMBE+RUMBAM>.

84 Gynnie Kero, "PMIZ Project to Start Soon."

85 Gynnie Kero, "PMIZ Project to Start Soon."

86 The PMIZ was not allocated any funding in the 2020 budget. PNG Department of Treasury, "2020 National Budget, Vol. 2C," https://www.treasury.gov.pg/html/national_budget/files/2020/Volume%202c.pdf.

87 Papua New Guinea Department of Treasury, "Volume 3: Public Investment Program, 2017-2021," *2017 National Budget Vol. 3 (2017)*: http://www.treasury.gov.pg/html/national_budget/files/2017/Vol3-Public%20Investment%20Program.pdf; Papua New Guinea Department of Treasury, "2018 Budget Estimates of Revenue and Expenditure for National Government Departments," *2018 National Budget, Vol. 2C (December 2018)*: http://www.treasury.gov.pg/html/national_budget/files/2018/Volume%202c.pdf; Papua New Guinea Department of Treasury, "2019 Budget Estimates of Revenue and Expenditure for National Government Departments," *National Budget Vol. 2C, (2019)*: https://www.treasury.gov.pg/html/national_budget/files/2019/Volume%202c.pdf.

88 Government of PNG. 2013. *The Public Investment Program, 2013-2017, Waigani*. Vol 3, p. 325.

89 Department for Commerce and Industry, "Pacific Marine Industrial Zone: Environment Impact Statement," June, 2010, <https://www.canningsparadise.com/thepacificmarineindustrialzone>.

In April 2015, the NEC selected Oil Search Limited under the Public Private Partnership (PPP) policy to provide biomass energy and Water PNG to provide water services respectively to the PMIZ.⁹⁰ By late 2015, the GoPNG was in the process of signing an agreement for a contract framework with the two service providers. On January 26, 2016, Water PNG signed a USD \$47.1 million (K145 million) agreement to supply and manage water into the PMIZ with the DCI. Phase 1 of the agreement, which involved setting up the water pipelines, was anticipated to take 6 months and cost USD \$8.1 million (K25 million). Phase 2, which was estimated to cost USD \$39 million (K120 million), would complete water extracting and full treatment.⁹¹ As of June 2021, a finalized agreement with Oil Search Limited has not been released.

In November 2015, the Department of Lands and Physical Planning issued ten land titles for the project area at the formal launch in November 2015 in response to a DCI application for the land subdivision and associated land titles. These titles were intended to allow for the leasing of ten tuna processing companies in the PMIZ area.⁹²

In March 2016, a Supplementary Agreement III for PMIZ was signed between CSYIC and Treasurer Patrick Pruaitch for the PNG stake for USD \$95 million for completion in 33 months from commencement.

- x) **In 2017**, a review by the Ministry of Commerce and Industry revealed that roughly USD \$8.6 million of the USD \$95 million (K30 million of K332.7 million) allocated for the project had been spent, with a number of contract variations and unjustifiable expenses, including the use of USD \$1 million (K4 million) on the zone's main gate alone. The Minister also noted additional issues: despite above-average per-unit costs, the access road was unsatisfactory; per-unit perimeter fencing costs were above average; and surveying and physical zoning remained incomplete even though payment for these services had been issued eight years prior. In response, the ministry announced it would establish a PMIZ project management team and would review the commercial contract with CSYIC.⁹³
- xi) **In July 2018**, DCI Secretary Andrew Liliura stated that 10 percent of the initial approved loan, roughly USD \$9.5 million of the USD \$95 million, was drawn down before its cancelation in 2015.⁹⁴
- xii) **In 2020**, a new Minister and Board for the Special Economic Zone Authority to administer SEZ projects was appointed as directed by the Special Economic Zone Authority Act of 2019. The Board proceeded to conclude EXIM Bank loan negotiations after determining what should

90 "PMIZ Development Powers Ahead," April 8th, 2015, <https://www.pngreport.com/government/news/1110073/pmiz-development-powers-ahead>.

91 "Firm Signs Seal to Supply Sater for PMIZ," *The National*, January 27, 2016, <https://www.thenational.com.pg/firm-signs-deal-to-supply-water-for-pmiz/>; Merlisha Yafoi, "PNG Signs PMIZ Water Bill," *Post Courier*, January 27, 2017, <https://postcourier.com.pg/water-png-signs-pmiz-water-deal/>; Delly Waigeno "Utility Projects for PMIX projects," EMTV, January 26, 2017, <https://emtv.com.pg/utility-projects-for-pmiz/Delly>; Delly Waigeno, "Utility Projects for PMIZ," EMTV Online, January 26, 2016, <https://emtv.com.pg/utility-projects-for-pmiz/>; Merlisha Yafoi, "Water PNG Signs PMIZ Water Deal," *PNG Post Courier*, January 27, 2016, <https://postcourier.com.pg/water-png-signs-pmiz-water-deal>.

92 Clarissa Moi, "Investors Sought to Give Land Titles for Project," *The National*, January 27, 2019, <https://www.thenational.com.pg/investors-sought-to-give-land-titles-for-project/>.

93 Ibid

94 Transparency International Papua New Guinea, "Case 1.2-Pacific Maritime Industrial Zone," January 6, 2019, <http://www.transparencypng.org.pg/2019/01/06/>.

be included in the new scope.⁹⁵ This conclusion of loan negotiations occurred despite ongoing concerns about project transparency and spending levels.⁹⁶

xiii) In 2021, the NFA has lobbied the GoPNG to take control of the PMIZ.⁹⁷

Slow Progress on PMIZ Implementation

Legal challenges over aspects of the PMIZ project filed by impacted landowners against the state and developer contributed to delays and slow progress in project implementation. The issues contested in court ranged from the validity of the loan agreement and its associated conditions to the legality of the proposed project. In October 2012, attorneys representing the landowners successfully obtained a court order from the Madang National Court that stopped the GoPNG from accessing the EXIM Bank loan. The order also prompted EXIM Bank executives to put a stop to the release of loan funds to PNG. The court challenges continued until 2015.⁹⁸

Since 2009, the PMIZ project has been disrupted by a variety of stakeholder protests. Generally, the protests stem from the lack of meaningful consultation by the government with landowners and people in areas impacted by the project.⁹⁹ In the early stages of the project, some landowners and their representatives supported the project. However, over time inaction and slow responses from the GoPNG regarding issues of concern caused many to protest the project.¹⁰⁰ In 2011, a former Madang provincial governor criticized the GoPNG and the PMIZ project developer for excluding local actors from consultations.¹⁰¹ In 2017, current provincial governor Peter Yama requested that GoPNG include Madang-based stakeholders in future PMIZ consultations.¹⁰² In January 2019, Madang Member of Parliament Bryan Kramer described the project as “nothing but a white elephant for the rats in Waigani [the location of the PNG Government] to squander millions in public funds borrowed from China Exim Bank with nothing to show for it,” stating that “the only way this project will get off the ground will be through a transparent process, taking in to consideration the social and environmental impact on the local people in Madang and meaningful participation.”¹⁰³

95 “Project’s Scope Delays Work,” *The National*, August 21, 2020, <https://www.thenational.com.pg/projects-scope-delays-work/>.

96 Ibid

97 “Minister: NFA Ready for Pacific Marine Industrial Zone Project,” *The National*, June 16, 2021, <https://www.thenational.com.pg/minister-nfa-ready-for-pacific-marine-industrial-zone-project/>.

98 Andrew Pascoe, “Courts Put PMIZ on Hold Indefinitely,” ACT NOW [Blog], October 22, 2012, <https://actnowpng.org/content/courts-put-pmiz-hold-indefinitely.lbid>.

99 Jeremy Hance, “Protests over tuna industry development plans in Papua New Guinea,” October 29, 2009, <https://news.mongabay.com/2009/10/protests-over-tuna-industry-development-plans-in-papua-new-guinea/>.

100 Jeremy Hance, “Protests over tuna industry development plans in Papua New Guinea.”

101 Jeffrey Elapa, “Gau Blames Government and Developers of PMIZ,” *The National*, May 3, 2011, <https://www.thenational.com.pg/gau-blames-govt-and-developers-of-pmiz%e2%80%88/>.

102 “Call for Government to consult PMIZ stakeholders,” *Papua New Guinea Post Courier*, September 22, 2017, <https://postcourier.com.pg/call-govt-consult-pmiz-stakeholders/>.

103 Franklin Kolma, “Kramer Adamant Pacific Marine Industrial Zone Will Not Happen,” *Post-Courier*, January 18, 2019, <https://postcourier.com.pg/kramer-adamant-pacific-marine-industrial-zone-will-not-happen/>.

Expanding project scope has also delayed the project and increased costs. After the GoPNG expanded the project to cater to mining and agricultural export interests in addition to the fishing industry in 2015, projected costs rose from USD \$95 million to USD \$156 million. In response, EXIM Bank canceled its initial loan and advised the GoPNG to renegotiate a new loan of USD \$156 million, further delaying project progress.¹⁰⁴

Government coordination of the project has been hindered by the absence of one clearly dedicated agency to lead with responsibility for the project's planning and implementation. Management of the PMIZ project has been transferred multiple times between several government departments and agencies, contributing to the confusion and delay in project implementation. Initially, the project was under the control and management of DCI, but it was moved to the KCH in 2016.¹⁰⁵ In early 2019, then-Prime Minister O'Neill announced that the project would again be moved to the Madang Provincial Government.¹⁰⁶ As of August 21, 2020, the project is jointly managed by the DCI and the Department of Finance, the government agency responsible for overseeing the operationalization of the Special Economic Zone Act of 2019.¹⁰⁷ In 2020, then Commerce and Industry Minister Duma said he expected responsibility for the PMIZ to be imminently transferred to NFA from DCI, a prediction that was echoed by Fisheries Minister Dr Lino Tom in February 2021 and again on June 15, 2021.¹⁰⁸

Controversial Issues Surrounding the PMIZ

i. Operation Outside Legal Frameworks and Financial Mismanagement Procedures

The contract for Phase I of the project, which involved the construction of the base infrastructure, was not processed through the PNG National Procurement System (NPS) (then called the Central Supply & Tenders Board (CSTB)). Instead, the contract was awarded directly to Chinese contractor CSYIC as a condition of the \$74 million loan from EXIM Bank.¹⁰⁹ This practice is in direct violation of a PNG law. In their 2012 study of PMIZ, PNG-based researchers Philip Gibbs, Lorraine Basse, and Thomas Warr found "according to the loan agreement, 70 percent of the project contracting must go to a Chinese developer (China Shenyang International Economic and Technical Cooperation) using Chinese technology, labor and equipment" and the Chinese developer is guaranteed a 20 percent profit, estimated at USD \$7 million.¹¹⁰ These kinds of conditions attached to project financing limit the government's ability to procure value for services through the open market tendering process. These conditions also favor the lender more than the GoPNG, which was required to act contrary to its usual public procurement laws, which require public tenders, and labour laws, which require employers to advertise for job positions within PNG.¹¹¹

¹⁰⁴ "Project's Scope Delays Work," *The National*, August 21, 2020, <https://www.thenational.com.pg/projects-scope-delays-work/>.

¹⁰⁵ Ibid

¹⁰⁶ Ibid

¹⁰⁷ "Project's Scope Delays Work."

¹⁰⁸ Ibid; "NFA Ready to Implement PMIZ," *Post Courier*, June 15, 2021, <https://postcourier.com.pg/nfa-ready-to-implement-pmiz/>.

¹⁰⁹ Rait Man, "PMIZ Hits a Legal Hurdle," *ACT NOW* [blog], June 29, 2010, <https://actnowpng.org/content/pmiz-hits-legal-hurdle>.

¹¹⁰ Philip Gibbs, Lorraine Basse, and Thomas Warr, "PMIZ—Promise and Plight," *Contemporary PNG Studies: DWU Research Journal* Volume 16, May 2012. https://www.dwu.ac.pg/en/images/All_Attachements/Research%20Journals/vol_16/2012-V16-3_Gibbs_Basse_Warr_PMIZ_Promise_Pligh.pdf.

¹¹¹ Government of Papua New Guinea, *Public Finances (Management) Act 1995*, No. 21 of 1995. http://www.paclii.org/pg/legis/consol_act/pfa1995224/; Government of Papua New Guinea, *Employment of Non-Citizens Act 2007*, No. 10 of 2007. <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/82389/90175/F749145263/PNG82389.pdf>.

The terms of the loan also allow CSYIC to operate exempt from any “rate, charge, duty, or imposition of any kind under PNG laws.” In addition, the government “irrevocably waived” sovereign immunity for PNG in any dispute over the loan. According to a challenge to the EXIM Bank loan agreement brought before the Madang Provincial Court in October 2012, the loan also required the use of Chinese laws and legal forums to settle disputes under the loan agreement.¹¹²

There is no information regarding how much of the initial loan of USD \$74 million was actually drawn down before cancellation. Despite the cancellation of the initial loan in 2015 and pending renegotiation of a new loan, funds were still allocated to the project from 2017 to 2019, including anticipated funding listed from EXIM bank.¹¹³ As highlighted above, the GoPNG had anticipated that 78.2 percent allocated to the project for 2017 to 2019 would come from EXIM Bank. If this loan was not received, this could imply that the GoPNG’s funds were paid to Chinese contractors as dictated by the contract even if the project was not being funded by the EXIM Bank during that time.

In 2017, the Ministry of Commerce and Industry instituted a review of the management and expenditures for the PMIZ project. The review found that USD \$10 million (K30 million) had already been used for the project, but that there had been little progress on project construction. Minister Mori claimed that:

Despite sufficient funding, the status of the 2.47 kilometer access road is unsatisfactory, including a 400m segment of the road for which K5.5 million was already paid. Four million [PNG Kina] was paid for only one item, that is the main gate. Survey and physical zoning remain incomplete, despite K2.25 million paid to landmark valuers eight years ago.¹¹⁴

The minister further noted that several variations in the contracted base infrastructure represented “unjustifiable and excessive expenses.”¹¹⁵ This is a clear indication of mismanagement of public funds earmarked for the project.

ii. Transparency

Two examples of the lack of transparency for the PMIZ include the award of contracts for the construction in the initial development contracts to engineering companies owned by (now former) the Minister of Commerce and Industry Gabriel Kapris, and by the former NFA Board Chairman Bamake Rambam.

¹¹² “Court Orders Stop to Accessing Exim Bank Loan to Fund Mandang PMIZ,” *EMTV*, October 24, 2012, <https://emtv.com.pg/court-orders-stop-to-accessing-exim-bank-loan-to-fund-madang-pmiz/>.

¹¹³ Papua New Guinea Department of Treasury, “Budget Estimates of Revenue and Expenditure for National Government Departments,” *2020 National Budget*, Vol. 2C (2020), https://www.treasury.gov.pg/html/national_budget/files/2020/Volume%202c.pdf; Papua New Guinea Department of Treasury, “Volume 3: Public Investment Program, 2017-2021,” *2017 National Budget*, Vol. 3, (2017), http://www.treasury.gov.pg/html/national_budget/files/2017/Vol3-Public%20Investment%20Program.pdf; Papua New Guinea Department of Treasury, “Budget Estimates of Revenue and Expenditure for National Government Departments,” *2018 National Budget*, Vol. 2C (2018), http://www.treasury.gov.pg/html/national_budget/files/2018/Volume%202c.pdf; Papua New Guinea Department of Treasury, “Budget Estimates of Revenue and Expenditure for National Government Departments,” *2019 National Budget*, Vol. 2C, (2019), https://www.treasury.gov.pg/html/national_budget/files/2019/Volume%202c.pdf.

¹¹⁴ Transparency International Papua New Guinea, “Case 1.2-Pacific Maritime Industrial Zone,” January 6, 2019. <http://www.transparencypng.org.pg/2019/01/06/>.

¹¹⁵ “Govt Splurges K4 Million ‘Only’ On Gate,” *Post-Courier*, December 4, 2017. <https://postcourier.com.pg/govt-splurges-k4-million-gate/>.

A 2019 report from the Transparency International PNG (TIPNG) illustrates the difficulty members of the public have in accessing documents from government departments. Based on a survey of 24 agencies from 2018 to 2019, agencies would not provide any information in response to over-the-counter information requests 90 percent of the time. According to TIPNG, this problem partially stems from the lack of any law exists to clearly identify the process by which the public can access information, which is a constitutional right under Section 51.¹¹⁶ In a step toward increasing transparency, the government has committed to drafting a Right to Information Law, endorsed by the Cabinet under NEC Decision No.323/2019: work is in progress.¹¹⁷ This will fulfill an outstanding requirement included under the Basic Rights specified in the National Constitution.

In the preceding paragraphs, INA researchers highlighted the low level of transparency for this project. They also repeatedly asked the relevant offices for meeting appointments, to no avail. Researchers also wrote letters directly to heads of organizations asking for project-specific information regarding financing terms, the process followed in the engagement of contractors, project implementation reports, and any other relevant information. However, the organisations have not acknowledged receiving the letters, even after scanned copies were resent by email. A list of these requests and their recipients follows:

- **Secretary, Department of Foreign Affairs and Trade (request dated September 25, 2020):** request for information in relation to the bilateral PNG–PRC collaborative partnership framework, including projects funded under BRI.
- **Secretary, Department of National Planning & Monitoring (September 25, 2020):** request for project implementation updates and other documents relating to our case study projects.
- **Secretary, Department of Treasury (initial request September 14, 2020; second request October 16, 2020, after failure to provide feedback):** request for project financing agreements for all case study projects.
- **Secretary, Department of Commerce and Industry with a copy to Managing Director, Industrial Development Centre (September 30, 2020):** request for PMIZ project-specific information on financing, project agreements, and status updates.
- **Chief Executive Officer, National Procurement Commission (October 30, 2020):** request for project information, especially regarding whether the project complied with procurement policies and guidelines. This received no response from other key central and line agencies; INA aimed to liaise with the Procurement Commission directly but has yet to receive feedback.

INA also met with senior officers from the Department of the Prime Minister, NEC, the Auditor General's Office, and the Information and Communication Department who claimed they were unable to assist, citing sensitivity of the information, difficulty accessing the information, and difficulty asking their colleagues for more information.

¹¹⁶ "PNG Needs Right to Information (RTI) Law to Address Public-Sector Corruption," Transparency International PNG, September 27, 2019, <https://www.transparencypng.org.pg/png-needs-right-to-information-rti-law-to-address-public-sector-corruption/>.

¹¹⁷ "Government Commitment on Freedom of Information Law is Key," Transparency International PNG, September 28, 2020. <https://www.transparencypng.org.pg/government-commitment-on-freedom-of-information-law-is-key/>.

iii. Conflict of Interest

Lack of information and opacity generally breeds corruption. Although there is no clear available evidence on corruption of government officials, the former Minister for Commerce and Industry Gabriel Kapris illustrates an example of conflict of interest. Minister Kapris was the PNG lead representative to negotiate the loan with China. In 2008, he was representing the GoPNG to sign an MOU with CSYIC in the Philippines. He now is Managing Director of Aces Ventures, one of the few companies that are profiting from the PMIZ and has been lobbying for the continuation of the project.

As a former key high-level official of GoPNG, Minister Kapris could have access to confidential government information about the PMIZ. Confidential government information means information that has been obtained under governmental authority and which the government is prohibited by law from disclosing to the public or has a legal privilege not to disclose and which is not otherwise available to the public. He is now apparently using the information that could advance his company's interests and the information he possesses could be used to his company's advantage. This is a prime example of special conflict of interest of a former government official and politically exposed person.

iv. Other issues – Social and Environmental Issues and Public Protest

The lack of legislation or provisions protecting local communities from long-term effects on their environment, health, or land from the PMIZ development has caused criticism.¹¹⁸ The general lack of consultation and awareness was also a driver for many protests in Madang demanding government explanations.¹¹⁹ The 2010, DCI and EIS identified several environmental issues associated with the project, including water quality degradation, destruction of habitat, species loss, oil spills causing toxic contamination, noise, dust, and machinery emissions.¹²⁰ Notably, the World Wildlife Fund (WWF) identified the Madang Lagoon, where the PMIZ is located, as a hotspot for marine biodiversity, noting the area is “the largest and the most critical remaining leatherback turtle nesting sites in the Pacific.”¹²¹ The WWF's 2017 report on the lagoon found that the deterioration of the marine environment due to unsustainable mining and construction practices in the region had already led to a decline in fish populations, threatening both biodiversity and traditional livelihoods in the area.¹²²

DCI and EIS also identified potential health and social risks associated with the PMIZ, including risks to public health from sewage disposal; potential damage to welfare stemming from the loss of subsistence use of land, recreation and local economic opportunities; destruction of cultural sites with the associated loss of tourism potential and aesthetic value; transmittable diseases; law and order issues; and migration and population issues. A 2011 European Union report also raised potential social risks associated with the project, including exacerbation of existing local divisions, eviction, relocation, cultural tensions, pressure on

118 Jayne Safihao, “Tempers Flare at Madang Forum,” *The National*, May 2, 2011, <https://www.thenational.com.pg/tempers-flare-at-madang-forum/>.

119 Ibid; Jeremy Hance, “Protests Over Tuna Industry Development Plans in Papua New Guinea,” October 21, 2009, <https://news.mongabay.com/2009/10/protests-over-tuna-industry-development-plans-in-papua-new-guinea/>.

120 Philip Gibbs, Lorraine Basse, and Thomas Warr, “PMIZ—Promise and Plight,” *Contemporary PNG Studies: DWU Research Journal* 16, (May 2012):37–51. <http://www.philipgibbs.org/pdfs/PMIZ%20Promise%20&%20Plight.pdf>; Jonh B. Sengo, et al., “Pacific Marine Industrial Zone: Environmental Impact Statement,” Department for Commerce and Industry, (June 2010). https://130a4068-6ab9-cff0-eb3f-e23f77fab438.filesusr.com/ugd/ec3c4a_3c2acb0f4d1bbad77d1fcd430e6e7a2.pdf

121 World Wildlife Fund, “Madang: Improving Livelihoods and Strengthening Fisheries Management in Coastal Communities,” 2017. https://wwfint.awsassets.panda.org/downloads/madang_case_study.pdf.

122 Ibid.

land and existing infrastructure, sex work with associated health risks, and effects on local fishing activity.¹²³ While the leaders of the two umbrella landholding companies, Kananam Investment Limited and Rehammb Holding Company, ostensibly represent the Kananam and Rempi peoples, there are also divisions within the clans, as some residents inclusive women are more negatively affected by the development than others. These strong community concerns and divisions led to extended project delays.

v. Evictions

The announcement of the PMIZ project reportedly went forward without notification or consent of those living on the land and in surrounding communities. There was reportedly no compensation for those living there, and residents that remained on the land were forcibly evicted by the police on October 21, 2011. This issue was later raised before the National Court, which decided in favor of the evicted residents.¹²⁴ One source notes that police razed the site at the behest of Aces Ventures without a court order and then proceeded to unlawfully destroy homes and personal property.¹²⁵

vi. Intimidation

In 2015, the DCI attempted to silence some of the most vocal opponents of the PMIZ project. The DCI obtained court summons to bar eleven of the most vocal PMIZ project opponents from organizing meetings, visiting the project site, and publicly opposing the project. These defendants included a local Member of Parliament, a prominent conservationist, eight local landowners who have spoken out against the project, and an anthropologist from the Madang-based Divine Word University. On June 22, 2015, nine of these defendants appeared in court to face the GoPNG, and in July 2015, the DCI decided against further pursuing the court case and withdrew the lawsuit.¹²⁶ The GoPNG also paid landowners roughly USD \$461,900 (K1.3 million) for participating in the development and construction phase of the PMIZ, according to then-Minister for National Planning Charles Abel.¹²⁷ It is not clear how this payment was disbursed and whether local landowners received it.

123 PMIZ Watcher, "ESI Paints a bad picture of PMIZ impacts," *Act Now (Blog)*, March 16, 2011, <https://actnowpng.org/content/eis-paints-terrible-picture-pmiz-impacts>.

124 Kristian Lasslett, "Ministerial PMIZ Concerns Spot On," *PNG*, December 18, 2017, <https://pngicentral.org/reports/ministers-pmiz-concerns-spot-on>; Papua New Guinea National Court of Justice, "Samoua v. Aces Venture Ltd [2013] PGNC 149; N5325," August 16, 2013, <http://www.paclii.org/cgi-bin/sinodisp/pg/cases/PGNC/2013/149.html>; Bismark Ramu Group, "Land is Life – Land Justice for Papua New Guinea," Accessed June 25, 2021, <https://www.globalgiving.org/projects/land-is-life-bismark-ramu-group/reports/>.

125 Ibid.

126 ACT NOW, "I Represent Myself: PMIZ Landowners," *Act Now Blog*, July 7, 2015, <https://actnowpng.org/node/25616>; Radio New Zealand, "PNG Industrial Park Activists Given Reprieve," July 22, 2015. <https://www.rnz.co.nz/news/pacific/279435/png-industrial-park-activists-given-reprieve>.

127 Ancilla Wrakuale, "Abel: PMIZ project on target" *The National*, May 15, 2012, <https://www.thenational.com.pg/abel-pmiz-project-on-target/>.

Conclusion and Recommendations

The infrastructure development of the PMIZ through a concessional loan from China's EXIM Bank stood out as an interesting project for our case study. This is because although the loan remains PNG's biggest soft loan to date from China and the PMIZ continues to remain on the government's list of priorities to progress development, the project was stalled after reports of the lack of community consultations, transparency, mismanagement, and corruption. As the first SEZ under the auspices of the PNG Special Economic Industrial Zone policy, the multiple project-related issues highlight the problems resulting from unclear and inconsistent government management.

Our data collection, which was mainly from secondary sources and analysis due to lack of information from official sources, reveals a poorly designed and uncoordinated project. It is difficult to ascertain how much of the initial USD \$95 million budgeted for the project has been spent and which components of the project received funding before the cancelation of the original loan in 2015 prompted by an expansion in project scope by the GoPNG and the consequent increase in total cost. A new loan of USD \$156 million is awaiting renegotiation and conclusion by the GoPNG and the EXIM Bank.

The engagement of CSYIC, the leading Chinese contractor for the project, became difficult since a condition of the loan did not comply with the PNG public procurement process in the award of contracts over certain thresholds as indicated in the NPA 2018. Additional conditions requiring the employment of Chinese workers under the loan additionally violate PNG laws relating to contracting and the engagement of workers, further limiting the benefit to local PNG businesses and workers. Lack of transparency and accountability of senior public servants who are directly responsible for the oversight and management of the PMIZ resulted in misspent funds and violations of the procurement process. Engagement of local contractors also lacked transparency, suggesting the possibility that some of the officials involved in the process may have had conflicts of interest.

Substantial funds have been budgeted and seemingly mismanaged over the past sixteen years, resulting in few actual project outputs. The PMIZ was still described as an EXIM bank-funded project from 2017 to 2019, when the actual project loan financing was under renegotiation, leading PNG funds to be allocated to the Chinese contractor as dictated by the loan agreement even though PNG was receiving no funding from the EXIM bank. Lack of transparency surrounding the project appears to have opened the possibility for corruption, with the companies of two former government officials directly benefiting from PMIZ-related contracts and project costs exceeding services delivered. There is no guarantee that the renegotiated loan of USD \$156 million will be utilized efficiently to achieve the intended project objectives given the prevalent lack of transparency, accountability, and good governance in the public sector.

The shifting of the PMIZ project management to government ministries more directly relevant to the project suggests that the administration may improve in the future. However, shifting responsibilities for the project between ministries may continue to complicate the project's management. Aspects of project implementation have been placed under the Department of Finance, which leads the operationalization of the Special Economic Zones Authority Act of 2019. Both the commerce and fisheries ministers have expressed a desire for the NFA to take a leading role in the management of the project, which might result in clear and comprehensive management going forward.

Ultimately, any change in government management must be accompanied by greater transparency and community participation. It must also address community concerns over serious potential social, environmental, labor, and benefit-sharing issues. A critical step toward greater transparency would be the finalization and approval of the Public's Right to Information legislation. Otherwise, as the current Justice Minister and Member for Madang Open Brayn Kramer stated, this project will remain a "White Elephant" in the future, a massive incomplete project with little impact on the value chain of the fishing industry, as in the absence of a complete and well-developed project, fisheries, operators, and processors, will remain based elsewhere in PNG or overseas.¹²⁸ The capacity of the government entity responsible for the project would need to be boosted immediately with technically competent staff who have the capacity and integrity to manage PMIZ-type projects in the coming years. While achieving greater domestic value-adding and job creation from PNG fisheries should be a priority, maybe other options in less environmentally sensitive locations than Madang Lagoon should also be considered and maybe one more commercially, rather than bureaucratically driven and managed.

¹²⁸ Kolma, "Kramer Adamant Pacific Marine Industrial Zone Will Not Happen."



What is BRI Monitor?

BRI Monitor is a collaborative effort by five civil society organizations in Southeast Asia and the Pacific: the Institute for Democracy and Economic Affairs (IDEAS) of Malaysia, Stratbase Albert Del Rosario Institute (ADRI) of the Philippines, Sandhi Governance Institute (SGI) of Myanmar, the Institute of National Affairs (INA) of Papua New Guinea and the Future Forum of Cambodia to promote transparency and accountability in major infrastructure projects funded through the Belt and Road Initiative (BRI) in the region.

These organizations have studied the regulatory environments governing these large infrastructure projects in respective countries, including public procurement, official development assistance, public private partnership (PPP), and more, to identify regulatory gaps. They have each researched a set of case studies to identify implementation gaps and governance gaps. Each case study assesses the level of transparency based on almost 40 data points, from basic project information to the tendering process to project completion. Last but not least, each organization maps out the structure of the projects in question in order to identify domestic and international entities involved in the project and to understand the degree of public financial exposure resulting from each project.

This website is intended to be a platform for the publication of our research outputs and as a knowledge repository. We also hope that the website can be used as a platform for knowledge sharing and a tool to advocate better governance of major infrastructure projects in the region.

BRI Monitor is supported by the Center for International Private Enterprise (CIPE).

BRI **MONITOR**  **R**