



## **Submission No 90**

### **Inquiry into Australia's Relations with Indonesia**

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## INDONESIA — AUSTRALIA BILATERAL RELATIONS

### I. General

1. Since the establishment of diplomatic relations in 1949, the overall Indonesia and Australia ties have been rock-solid and based on the principles of mutual respect, mutual understanding and mutual benefit. It is to be noted that with vast socio-political differences, the two neighboring countries have occasionally encountered a number of ups-and-downs in their relations.

2. The relations between Indonesia and Australia nose-dived when both countries confronted with internal as well as external pressures, which *inter alia* related to issues of human rights, good governance, democratization, self-determination, and terrorism. The roughest being the period after the popular consultations held in East Timor, which resulted in the separation of East Timor from Indonesia in 1999. Another issue that created formidable hurdles in Indonesia – Australia bilateral ties was the Afghani and Iraqi refugee's crisis, better known as the Tampa crisis. The leaders of the two neighboring countries had also differed on the US-led invasion of Afghanistan following the September 11 terrorist attacks.

3. The current relations between Indonesia and Australia have swung back to its springtime. A strong commitment to put bilateral relations on the right track was shown by the successful outcome of the 5<sup>th</sup> Meeting of the Australia – Indonesia Ministerial Forum (AIMF) in Canberra on 7 – 8 December 2000, attended by sixteen Australian and Indonesian ministers. Bilateral dialogues focusing on regional security and disarmament have recently been reinstated. On September 2002, senior officials of the two countries concluded their meeting after it was shelved in April 1999 in the wake of the East Timor crisis.

4. Further signs of strong relations were marked by the exchange of visits between senior officials and the political leaders of the two countries, especially in the last two years. The Bali bombings on 12 October 2002 that claimed almost 200 lives and injured 300 innocent people, notably Australians and Indonesians, have apparently brought the two countries even more closer. With the back-up of several countries, the two countries' law enforcement agencies have been working in tandem to investigate and track down those responsible of this heinous act of terrorism, allowing thereby the Indonesian government to apprehend a number of individuals thought to have committed such an abhorrent act.

5. It has to be admitted that the recent excessive raids conducted against some Indonesia's citizens by the ASIO and AFP have created formidable ripples in the relations between the two nations. The two countries have however managed to overcome this sensitive issue, avoiding it thereby to become a factor in the conduct of the joint investigation of the Bali bombing.

## **II. State and Official Visits**

6. The visits by the two country leaders have further boosted and solidified the relations between two countries.

7. After 29 years from the last Indonesian presidential visit to Australia President Abdurrahman Wahid visited Australia on 25 – 26 June 2001. This visit has been regarded as a historic moment that laid down a strong foundation for future cooperation. The visit of President Abdurrahman Wahid was followed by the visit of Prime Minister Howard to Jakarta on 6 – 7 August 2001 immediately after President Megawati Soekarnoputri was elected president. On this occasion, both leaders signed a joint communiqué to strengthen the relations between the two countries.

8. Another important event in the effort to restore bilateral relations was the visit of Indonesian Foreign Minister Hassan Wirayudha to Australia on 28 – 29 November 2001, during which Minister Hassan Wirayudha responded to the issues of people smuggling that was triggered by Tampa incident by suggesting to organize a regional conference on people smuggling. He also suggested to holding a trilateral dialog among Indonesia, Australia, and East Timor.

9. The visit of Prime Minister Howard to Indonesia in February 2002 was regarded as another milestone not only in the restoration of the existing bilateral relations, but also as a sign of the commitment of the two leaders to build forward looking and stronger relations. The signing of the memorandum of understanding on combating international terrorism by both countries marked a new beginning of closer cooperation in dealing with security and strategic issues.

10. Beside the exchange of visits of the head of governments and foreign ministers, during 2001 – 2002, there were around 50 other visits of high-ranking officials from both countries, including, Speaker of the People Consultative Assembly Amien Rais, Minister for Manpower and Transmigration Yakob Nuwa Wea, four Indonesian parliamentary delegations, State Secretary Bambang Kesowo, Minister of Health Dr. Suyudi, Secretary General of Department of Defense Johnny Lumintang, and the Governor of Yogyakarta Sri Sultan Hamengkubuwono X. That also included the visit of Australian senior officials such as Minister of Defense Robert Hill, Minister for Trade Mark Vaile, Minister for Family

and Community Service Amanda Vanstone, Minister of Immigration Philip Ruddock, former Minister of Defense Peter Reith, an Australian parliamentary delegation. There were also exchanges of visits among senior military officers such as, *inter alia*, Head of Military Intelligence Agency Ian Santoso, Director General of Defense Strategic Sudradjat, as well as Vice-Chief of Army Maj. Gen Leahy from Australia. Following the Bali bombing a number of Australian high-ranking officials also visited Indonesia, notably Denpasar. These include the Governor-General, Prime Minister, Deputy-Prime Minister, Foreign Minister, Minister of Justice, and, Federal Police Commissioner.

### **III. Bilateral Arrangement**

#### **A. *Indonesia – Australia Ministerial Forum (IA MF)***

11. In the field of bilateral cooperation, the two countries have been able to regularly conduct since 1992 the Australia – Indonesia Ministerial Forum (IAMF). The 5<sup>th</sup> IAME was held in Canberra on 7 – 8 December 2000 and attended by 11 ministers from Australia and five ministers from Indonesia. Minister for Foreign Affairs Alexander Downer led the Australian delegation and Minister for Foreign Affairs Alwi Shihab led the Indonesian delegation.

12. The broad coverage of this forum was reflected by the fact that it had been able to form 10 working groups responsible for conducting the bilateral cooperation in various fields. That includes trade, industry, investment, tourism; science and technology; agriculture and food cooperation; legal cooperation; health; environment; education, training, and manpower development; housing and public works; energy and mineral; and transportation. The 5 meeting was followed with investment mission and Australian trade to Indonesia on February 2001 committing A\$ 550 million for investment in financial, agribusiness, mining, industry, energy, and transportation.

13. The forum remained an extremely valuable mechanism for deepening and broadening practical cooperation between Australia and Indonesia, and could be used to strengthen relations between Ministers. The sixth session of this Forum will be held in Bali tentatively in first quarter of 2003.

#### **B. *Australia – Indonesia Development Area (AIDA)***

14. The Australia – Indonesia Development Area (AIDA) was jointly launched on April 24, 1997 by Australian Foreign Minister Alexander Downer and Indonesian Coordinating Minister for Production and Distribution Hartarto. AIDA aims to develop closer economic relations between Australia and the eastern provinces of Indonesia, and improve the environment for private sector trade and investment in the region. AIDA covers Australia and the Indonesian provinces of West Kalimantan,

Central Kalimantan, East Kalimantan, South Kalimantan, Bali, North Sulawesi, Central Sulawesi, South Sulawesi, Southeast Sulawesi, West Nusa Tenggara, East Nusa Tenggara, Maluku and Papua.

15. During the Third meeting of AIDA, which took place simultaneously with the 5th AIMF, AUSTRALIA and Indonesia, had committed to reinvigorate the AIDA initiative. Australia will fund a project aimed at stimulating investment in eastern part of Indonesia. The meeting also expressed interest and will disseminate information about the Bitung Free Trade Zone in North Sulawesi Province to potential investors. An AIDA Business Directory has been prepared to facilitate business contacts between Australian and Indonesian enterprises.

### **C. MoU on Combating International Terrorism**

16. The signing of a memorandum of understanding (MoU) on combating international terrorism on the occasion of Prime Minister Howard visit to Indonesia in February 2002 was considered to be one among those important measures agreed by the two countries. It covers intelligence information sharing, reinvigorating the cooperation between the two countries' law agencies, and capacity building. Cooperation in this field has been further enhanced following the terrorist attack in Bali on 12 October 2002 through a joint investigation team assigned to investigate and hunt down the perpetrators and to bring them to justice.

### **D. The Extradition Treaty**

17. The extradition treaty between Indonesia and Australia was signed in 1992 and came into force in January 1995. The extradition treaty aims to make more effective the cooperation between the two countries in the repression of crime and specifically to promote the relations in matters of extradition.

18. However, the case of Hendra Rahardja a convict for banking offences, who has been on the run in Australia since 1999, shows that the treaty failed to promote its objectives. The difficulties to extradite Hendra Rahardja to Indonesia have lead Indonesians to believe that the treaty is legally non-applicable and technically non-implementable.

### **E. MoU on Combating Trans National Crime**

19. Indonesian Police and Australian Federal Police (AFP) have concluded an agreement on combating trans national crime on June 13, 2002. Under the MoU, both countries agree to enhance the existing cooperation in the form of technical cooperation in the areas of information intelligence exchange, joints operations, and other cooperation. In the wake of Bali bombings, Indonesian Police and AFP also agreed to establish a joint investigative team to find out the perpetrators and to bring them to justice.

## **F. Informal Meeting on Defense Cooperation**

20. Informal meeting between high-ranking officials of the Department of Defense from both countries in Bali, Indonesia, on September 12, 2001 marked a new beginning of closer cooperation between the two institutions after the East Timor crisis in 1999. During the meeting both sides pledged to bring about a normalization of defense cooperation.

## **G. Regional Cooperation**

21. As a response to the problem of illegal immigrants, Indonesia and Australia successfully co-sponsored a Regional Ministerial Conference on People Smuggling, Trafficking in Persons and Related Transnational Crime in Bali in February 2002. The conference has successfully enhanced a sense of shared purpose between regional states in addressing the threat posed by people smuggling.

22. Indonesia and Australia also worked together to create a secure and stable condition for the future of East Timor by holding a trilateral dialog between Indonesia, Australia and East Timor in February 2002 in Bali, Indonesia. In this regard, Indonesia and East Timor also worked closely to strengthen their bilateral cooperation by establishing a joint commission on October 8, 2002 to overcome *inter alia* the residual problems after East Timor gained its independence.

23. Indonesia also launched an initiative to establish a Southwest Pacific Dialog that includes Indonesia, Australia, East Timor, New Zealand, the Philippines, Brunei Darussalam, and Papua New Guinea. The first ministerial meeting was held in Yogyakarta, Indonesia on October 5, 2002 and declared the formation of this forum with the aims of achieving peace, stability, and prosperity of countries of the sub-region. It also designed to encourage the members to adopt an incremental approach in developing areas of cooperation, as well to bind themselves in friendship in the spirit of dialogue and consensus for their mutual benefit.

## **IV. Trade and Investment**

24. Trade relations between Australia and Indonesia have shown positive outcomes in January – December 2001 with bilateral trade totaling up to A\$ 7.1 billion, an increase of 27.5% compared to the previous year (source: Australian Bureau of Statistics). Before 1998, Indonesia always had a deficit in its trade balance with Australia. In 1998 and 1999, the monetary crisis weakened the Indonesian currency and in that same year Indonesia had a surplus in its foreign trade with Australia. However, in 2000 Indonesia encountered a deficit in the amount of A\$193 million. Meanwhile, in January - December 2001, Indonesia received another surplus amounting to A\$ 691 million, where Indonesian exports to Australia totaled A\$ 3.9 billion (up 44.82%) whereas

Indonesia's imports from Australia totaled up to A\$ 3.2 billion (up 11.28%) compared to the same period in the previous year.

25. In 2001, Indonesia ranked 10<sup>th</sup> in receiving Australian exports with its main exports products among other things are live cattle, milk-and-cream, aluminum, civil engineering equipment, and cotton. Additionally, Indonesia ranked 8<sup>th</sup> as Australia's import source in the same year, which means that its ranking is better than last year where it only ranked 13. Non-oil and gas products imported from Indonesia *inter alia* are non-monetary gold, machinery and transport equipments, furniture, food products, textile and textile products, electronics, paper and chemical products.

26. As the trade between Indonesia and Australia increases, the more apparent the benefits are to both economies. However, trade obstacles still exist, hence, need to be overcome. The relatively high dumping allegations by Australian industries on Indonesian export products can block accesses to the Australian market. There are approximately 27 cases of dumping found on Indonesian products from 1990 up to 2001. On Holding Order, there are 178 cases found and 101 cases have been revoked. Furthermore, quarantine rules and Australian standards, specifically on food products, are viewed by most Indonesian companies to be too strict.

27. Even though the proportion of foreign trade between Indonesia with Australia is still relatively small compared to Australia's total trade, Indonesia is an important market for certain exported products in Australia. For example, in 2001 Australia's export for cattle livestock reached 17% of its export total, cotton 27% and wheat 18%. This implies that a few of Australia's products depend quite heavily on Indonesia as a market for those products.

28. Up until now there are almost 400 Australian companies actively operating in Indonesia. Investment by these firms has driven Australia to become Indonesia's largest foreign investor during the period of 1967 – 2000 and steadily at the 8th largest foreign investor in the year 2001. The majority of investment from Australia has been in the areas of mining and gas, chemical, electronics, construction, metal industry and services. It is calculated that the cumulative investment approval by Australian companies stands at US\$ billion.

#### **Australian Investment in Indonesia 1996—2002**

<b>Year</b>	<b>No. of Projects</b>	<b>Value (US million)</b>
1995	58	446,40
1997	37	187,20
1998	69	84,50
1999	60	2.458,40

2001	67	48,10
2002 (up to 31 July)	31	205,40
<b>Total</b>	<b>322</b>	<b>3.431,00</b>

Source: Investment Coordination Board of Indonesia

29. Small and medium size enterprises (SMEs) constitute an important part of the Australian economy. Australian SMEs have also become investors in Indonesia, sharing business and technical expertise with the new generation of Indonesian small business people. This development could pave the way for an even greater investment and economic cooperation.

30. In February 2001, the Minister for Trade of Australia led an investment mission of senior business executives from Australia to Indonesia. Sixteen companies, with current investments in Indonesia totaling A\$6 billion, were represented in this delegation. As a result of the visit, AS 650 million in new investment deals were agreed. Members of that Ministerial mission forecast further investments of about AS 800 million over the next five years. A bright future certainly lies ahead for Indonesia – Australia bilateral investment relationship.

31. Similarly, Indonesian investment in Australia even though showing a more fluctuate chart but generally is in the up trend. However, most of the Indonesian investments in Australia are neither in the form of direct investment nor portfolio investment, but categorized by the Australia Bureau of Statistic as other types of investment. It is believed that most of the Indonesian investments in Australia are in the property or real estate sectors since during the last several years there were massive marketing promotion activities of Australian property in the Indonesian major cities.

#### Indonesian Investment in Australia (A\$ million)

	96/97	97/98	98/99	99/00	00/01
Direct Investment	46	55	Np	59	69
Portfolio Investment	1	1	Np	54	8
Other investment	207	160	Np	414	340
<b>Total</b>	<b>254</b>	<b>218</b>	<b>339</b>	<b>527</b>	<b>417</b>

Source : Australian Bureau of Statistic

Np : Not published

#### V. Tourism

32. Cooperation in the tourism sector between Australia and Indonesia considered as one of the most robust activities between the two countries. For Indonesia, Australia is regarded as a potential market for its domestic tourism, especially Bali. According to the latest data from Australian Bureau of Statistic the number of Australian residents traveling abroad has been increasing over the last nine financial years.



The main holiday destinations for Australian residents have remained quite consistent over the past decade, with nine of the top ten main destinations in 1999 – 2000 also being in the top ten in 1989 – 1990. The top ten main destinations for Australians going on a short-term holiday in 1999 – 2000 were Indonesia, which includes Bali (13%), New Zealand (12%), the United States of America (11%), the United Kingdom (10%), Thailand (7%), Fiji (5%), Malaysia (4%), Singapore (4%), Hong Kong (3%) and Italy (2%).

#### MAIN DESTINATIONS FOR AUSTRALIAN RESIDENTS DEPARTING ON HOLIDAYS

Rank	1989 – 1990		1999 – 2000	
	Country	%	Country	%
1.	US	14.3	<b>Indonesia</b>	<b>13.0</b>
2.	United Kingdom	11.3	New Zealand	12.1
3.	<b>Indonesia</b>	<b>11.1</b>	United States of America	11.1
4.	New Zealand	10.5	United Kingdom	9.7
5.	Fiji	7.1	Thailand	7.2
6.	Thailand	6.6	Fiji	5.0
7.	Singapore	5.3	Malaysia	4.1
8.	Hong Kong	5.4	Singapore	3.5
9.	Malaysia	3.3	Hong Kong	3.5
10.	Greece	1.7	Italy	2.4
	Total	100.0	Total	100.0

Source: Australian Bureau of Statistic

33. Indonesia and Australia have signed a Memorandum of Understanding on Tourism Cooperation in June 2001 which stipulates inter alia that the two countries would embark upon several bilateral cooperation programs in the fields of research and development program, capacity building, promotion, investment, and inter-private sector cooperation. This bilateral cooperation is directed to promote mutual visit between tourists from both countries as well as developing the activities in the tourism sector.

34. The efforts to improve the performance of the tourism industry of Indonesia has been unfortunately hampered by the recent terrorist attack in Bali forcing a large numbers of tourist, mainly Australians, to flee the country, and has deterred potential visitors from visiting Indonesia. Worse still, the Australian Government issued travel warnings to discourage Australians to visit Indonesia. It is important to underline that encouraging people to stop visiting Indonesia will only serve the interests of the terrorists whose objectives are to create fear, political instability, and economic disaster.

35. To respond to the mounting threat of terrorism in the country, the Indonesian government has recently issued two presidential decrees

giving swift power to the police to take stern action against those linked to terrorism.

## **VI. Development Cooperation**

36. Development cooperation between Australia and Indonesia is strongly committed to eradicating poverty and contributing to economic, political and social development in Indonesia. Australia's bilateral development program to Indonesia is only second in size to PNG.

37. Throughout 2001 – 2003, the strategy of Australia – Indonesia development cooperation is aimed to contribute to poverty reduction, sustainable economic recovery and democratization in Indonesia. Alongside major programs of assistance with health, water supply and basic education and training, Australia is working to build capacity in key institutions of government and civil society. Throughout 2002 – 2003, Australia also supports an initiative that will help build the capacity of Indonesian community based organizations and non-government organizations (NGOs).

38. Australia continues to assist Indonesia in implementing its extensive program of economic and financial management reform. Key areas of cooperation include work to develop a comprehensive anti-money laundering regime and assistance with taxation reform. Australia will also assist the Indonesian government with the critical task of managing domestic government debt through a new three-year project with the Indonesian Ministry of Finance.

39. Successful decentralization of government functions and responsibility is critical to Indonesia's development. Throughout 2002 – 2003, Australia will continue to support the development of an appropriate fiscal framework for decentralization, and to build the capacity of local governments in Indonesia.

### **Australian Aid to Indonesia (1995 – 1996 to 2001 – 2002) A\$ million**

	95-96	96-97	97-98	98-99	99-00	00-01	01-02	02-03
Country Program	65	75	80.4	82.9	90.7	93.5	99.5	102.0*
Other	65	31	16.7	44.1	30.4	27.0	22	19,6*
<b>Total</b>	<b>130</b>	<b>106</b>	<b>97.1</b>	<b>127.0</b>	<b>121.1</b>	<b>120.5</b>	<b>121.5</b>	<b>121,8*</b>

Source : STATS 08 - Budget Papers

\* : Estimated

## **VII. Indonesia – Australia Business Link**

40. The Australia – Indonesia Business Council is the main industry group promoting business relationships between the two countries, and comprises more than 700 members including large corporations, medium and small enterprises. The council aims to represent the interests of members in bilateral commercial and trade matters relating to Indonesia, and foster friendship and cultural understanding between the business communities and people of Australia and Indonesia.

41. On yearly basis, the Council and the Indonesia – Australia Business Chamber of Commerce, based in Indonesia, hold a joint business conference, alternating between venues in Australia and Indonesia. Business people from both countries and officials from both governments attend this conference.

## **VIII. Education**

42. Compared to other countries, the number of Indonesian students studying in Australia is relatively significant in numbers. There are presently around 18,000 Indonesian students in Australia, a few of whom are Australian scholarship recipients. According to statistics provided by the Department of Education, Science and Training (DEST), Indonesia was the 4<sup>th</sup> highest source country for overseas students in Australia in 2000, and the 2<sup>nd</sup> highest source country in previous years.

43. The expenditure of Indonesian students on Australian education is indeed sizeable. The self-funded students spend approximately A\$450 million annually in Australia, whilst the Australian government in providing education and related support for the Indonesian scholarship recipients spends a fraction of A\$16.25 million.

## **IX. Conclusions**

44. In the post-East Timor and Tampa crises, the bilateral relations between Indonesia and Australia have significantly increased, allowing thereby the two neighboring countries to engage themselves in a much mature and solid relations in a lucid socio-political environment. The solid relations between the two peoples (people-to-people relations) have significantly contributed to solidifying the relations at the governmental level.

45. The relationship between the two countries even moves closer when they experienced brutal acts of terrorism in Bali, despite the hurly-burly of ASIO and AFP raids against the Indonesian citizens residing in Australia.

Canberra, 23 November 2002

## INDONESIA'S INTERNAL AFFAIRS

### I. General

1. Indonesia hosts approximately 220 million inhabitants and more than 350 ethnic groups. It also consists of approximately 17,500 islands, where all major religions of the world are present. Indonesia is, hence, the most diverse country geographically and demographically in the world.

2. It has been currently undergoing political, social, and economic reforms prompted by the economic and political crises that swept the country in 1997 – 1998. Such a dramatic change has presented the Indonesian people with an opportunity to reshape and rebuild the country politically, legally, and socio-economically.

3. In pursuing these goals, the Indonesian people have inevitably encountered a series of formidable challenges in various fields. With its limited capabilities and resources, the government has relentlessly been working to address the following issues.

### II. Democratization Process

4. The democratization of Indonesia is considered by many as on the right track. The change of government from President B.J. Habibie to President Abdurrahman Wahid, and at the later stage to President Megawati Soekarnoputri took place in a peaceful manner to the relieve of the Indonesian people and, certainly, the whole world. Indeed, to witness Indonesia remains intact is a near-miracle achievement of the Indonesian people, taking into account that it hosts all the potentials to fall apart as the most diverse country on earth.

5. The parliament has played an assertive role so as to create a real '*check-and-balance*' in the decision making process. The people now have more opportunity to express themselves, enjoy the right to assemble as well as the freedom of the press.

6. The 1945 Constitution has been amended since it is no longer considered to be able to level the people's growing political demands. The amendments include:

6.1. to conducts direct presidential election;

6.2. to terminate the military (TNI) representation in the Assembly, and;

6.3. to establish a constitution committee to further amend the constitution.

7. The government has also introduced two bills into the parliament to regulate the next general elections in 2004, besides installing

independent and non-partisan members of the General Election Commission.

### **III. Reforms of TNI**

8. The Indonesian Defense Forces (TNI) have started to reform and withdrawn from domestic politics. TNI have decided to improve the professionalism within its rank and files, especially in carrying out their constitutional duties to repel any security threats – be it from within or from without.

9. As such, the TNI are in a dilemmatic situation. On one hand, they are required to perform their constitutional duties to defend the national and territorial integrity of the country, including responding to armed separatist rebels in Aceh and Papua. While on the other, they have to avoid being accused of abusing human rights. To address this dilemma, the military have started to run programs on how best to observe human rights while in combat missions. Some countries also have similar concerns. The US has recently made it clear that it will not become party to the international criminal court under the pretext of exposing its military personnel to charges against human rights abuses while in combat duties.

10. The military personnel involved in criminal acts or human rights abuses have been dealt with the existing legal mechanism in accordance with Indonesia's judicial system, including through the newly established human rights court. It is to be regretted that there have been a few cases that may cast doubt over the judges' credibility in implementing the existing laws *'by the book'*, the legacy left behind by the previous regime.

### **IV. Terrorism**

11. It has become clear that Indonesia became the target of terrorist attacks as yet unknown terrorist group exploded a number of bombs in Bali on October 12, 2002 that claimed hundreds of victims, particularly Australians, as well as inflicted damage of an unprecedented scale.

12. Immediately after these tragic and despicable events, the Indonesian government strongly condemned the bombings and conveyed its heartfelt condolences and deepest sympathy to the families of the victims.

13. The Indonesian government also reiterated its readiness to cooperate with the international community to combat terrorism. It has taken concrete actions by setting up a joint investigative team involving several friendly countries, including Australia, to hunt down the perpetrators and bring them to justice. More specifically, the Indonesian Police and the Australian Federal Police (AFP) have agreed to establish a joint Australia – Indonesia Police investigation team to probe into the case.

14. Against this backdrop, the Indonesian government has worked hard to convince the Indonesian public, including members of parliament

that it is imperative for the government to have adequate legal basis to effectively combat the terrorist threat. Accordingly, the Government issued Presidential Decree No.1/2002 on Combating Terrorism on 18 October 2002 that by virtue of Presidential Decree No. 2/2002 is made retroactive as to enable it to cover the Bali bombing.

15. These decrees provide the government with sufficient legal power to deal with terrorists without ignoring human rights, rule of law, and, non-discriminatory and democratic principles.

16. The main features of the decree can be summarized as follows:

16.1. the decree is applicable within Indonesian territory, but other countries may also exercise their jurisdiction in Indonesia should their citizens or properties be involved or attacked by terrorist acts. It is also applicable to acts against Indonesians citizens overseas, Indonesia's representatives and their premises and/or properties;

16.2. the criminal acts that are categorized as acts of terrorism under the decree include actions by anybody or party who has intentionally used violence or has threatened to use violence creating fear and an atmosphere of terror among people, or has caused substantial casualties by way of robbing their freedom or their lives and belongings, or has inflicted damage or destruction upon vital and strategic infrastructures, the environment, public, and international facilities;

16.3. the sentence for the defendant is classified into three, namely: jail sentence from 4 – 20 years, life imprisonment, and capital punishment;

16.4. the decree also applies to anybody or party who illegally imports or plans to import, receive, possess, acquire, control, carry, hide, and hand-over fire arms, ammunition, or explosive materials or any other hazardous materials to be used for acts of terrorism. It also applies to the use of chemical and biological weapons, radiology, microorganism, radioactive and its components for acts of terrorism;

16.5. the decree also targets anybody or party who provides or raises funds to obtain and use or threaten to use those listed materials as well as anybody or party who assists, plans, conspires and encourages anybody else to commit acts of terrorism. The corporate body, which is involved in acts of terrorism, may also be subject to this decree. The same rule applies to anybody or party hampering the investigation and legal proceedings against acts of terrorism;

16.6. on legal proceedings, the decree sanctioned among other things:

16.6.1. for the purpose of investigation and prosecution, the investigators are given the power to detain suspects for

up to six months;

- 16.6.2. to get initial evidence, the investigators may use any intelligence report, and if the judges find that such information is sufficient, the judges may order an investigation;
  - 16.6.3. the evidence may consist of information in the form of statements, electronic data, and recorded information;
  - 16.6.4. the investigators may detain the suspect based on preliminary evidence up to seven days;
  - 16.6.5. the investigators, public prosecutors, and the judges may order all banks or financial institutions to freeze any accounts that are used or allegedly used to support acts of terrorism. They may also obtain financial statements of anybody who is allegedly committed acts of terrorism. In conducting their duties, the investigators, public prosecutors, and the judges and their families shall be protected;
  - 16.6.6. the investigators may also open or confiscate any letters, or intercept any communication considered to be connected to acts of terrorism;
  - 16.6.7. the decree also provides provisions for compensation, restitution, and rehabilitation for the suspects who are proven to be not guilty; and,
- 16.7. the decree includes as well a provision for international cooperation in the fields of intelligence in combating terrorism in accordance with the prevailing regulations in Indonesia.

## **V. Sectarian/Communal Conflicts**

17. Initially, the communal conflicts in the Moluccas and Poso were not related to religious rivalry. They actually had to do with those exerting control over the finite resources severely shrunk by the economic crisis that hit the nation in 1997. Indeed, some irresponsible quarters have not been hesitant to employ heinous tactics such as manipulating the religious and primordial sentiments to control such dwindling resources.

18. The government has been delicately working hard to find the solutions to these communal conflicts, by *inter alia*, taking the following measures:

- 18.1. to bring the conflicting parties to the negotiation table. These efforts have brought the conflicting parties both in Poso and the Moluccas to sign peace agreements locally known as 'Malino Accord I' and 'Malino Accord II' to end these tragic conflicts. Since then, the situation has generally improved. Regretfully, recently

there have been some efforts put up by irresponsible elements to foil the implementation of these agreements by provoking the locals to re-ignite the conflicts. Security enforcement is now underway to swiftly deal with this alarming trend;

- 18.2. to continue with the reconstruction program and the rehabilitation of public infrastructures;
- 18.3. to address the internally displaced persons caused by the conflicts;
- 18.4. to take legal actions against the perpetrators and to maintain law and order, including expelling those who are non-residents of these trouble-hit areas;
- 18.5. to call all conflicting parties to voluntarily surrender their weapons which members of the society have positively responded to. Yet, the government is still continuing its sweeping operation against those who defied the call; and,
- 18.6. to revive the local's economic activities, as it is absolutely a key to solving the conflicts. Only through the improvement of people's welfare will the peace become sustainable.

## **VI. Separatism**

19. The conflicts in Aceh and Papua have different roots and basically stem out from the injustices and exploitative policies of the previous administrations.

20. The current government is working hard to rectify and address those problems by implementing a reasonable and sensible 'middle-way solution' in form of special autonomy arrangements. This policy is aimed at addressing the grievances of the people in these provinces without undermining the government constitutional duty to maintain the national and territorial integrity of the country.

### **VI.A. Aceh**

21. The government has made it clear that it remains committed to finding a peaceful solution to the conflict through dialogues with the armed rebels; to accelerate the region's economic development, social rehabilitation, law enforcement and protection of human rights, restoration of peace, and to build channels of information and communication between the two conflicting parties. All these comprehensive and integrated approaches are encapsulated in the special autonomy package offered to the Province of Nanggroe Aceh Darussalam (NAD).

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\* ***Sectarian conflicts have always been very difficult to dealt with. The UK government has similar difficulties in handling the situation in the Northern Ireland. Spain has also similar difficulties in handling the ETA.***



22. The dialogues have been conducted through the good offices of the 'Henry Dunant Center' (HDC) of Geneva and managed to *inter alia* produce:

- 22.1. a humanitarian pause agreement on May 2000;
- 22.2. a provisional understanding (not to use force) on January 2001;
- 22.3. an agreement on 'Points for Further Consultation' on February 2002;
- 22.4. a joint statement, underlining the acceptance of NAD Law as a starting point for a democratic all-inclusive dialogue, involving all elements of Acehese society facilitated by HDC on May 2002;
- 22.5. an agreement on the cessation of hostilities signed by the Government of the Republic of Indonesia and the Free Aceh Movement on 9 December 2002 in Geneva, Switzerland in order to bring the conflict in Aceh into a peaceful conclusion through a confidence building process. Under this agreement, both sides agree *inter alia*:
  - 22.5.1. not to increase their military might in Aceh;
  - 22.5.2. to support the process of all-inclusive dialogue in Aceh facilitated by the HDC;
  - 22.5.3. to reactivate the Joint Security Committee (JSC) in order to formulate the implementation of the agreement and to monitor the security situation in Aceh. The JSC has also empowered to undertake investigations of any security violations, to take appropriate action to restore the security situation and to apply the sanctions. To focus its attention in establishing and maintaining the security in Aceh, the JSC will establish certain regions in Aceh as 'peace zones';
  - 22.5.4. to bring all issues or disputes arising from the implementation of the agreement to be solved through a joint council composed of the most senior representatives of the Indonesian Government, the Free Aceh Movement and of the HDC.

23. To implement the agreement, the JSC declared the first peace zone in Aceh covering Indrapuri District in the Greater Aceh regency on 25 January 2003. The purpose of the zone – where soldiers and GAM members are prohibited from carrying weapon – is to improve security and allow foreign donors to deliver humanitarian and economic assistance. On 10 February 2003, the JSC further designated peace zones covering Kaway XVI in West Aceh regency, Peusangan in Bireuen

regency, Tiro in Pidie regency, Sawang in West Aceh regency, Simpang Keramat in North Aceh regency and Idi Tunong in East Aceh regency.

24. The JSC has also begun the five-month disarmament process in the province since 9 February 2003. Under the agreement, GAM in phases, will begin the process of disarming in those designated areas. At the same time, the Indonesian defense forces (TNI) will begin to relocate its personnel, reformulating its mandate from that of an offensive to a defensive mode.

25. At the meeting of the Consultative Group on Indonesia (CGI) in January 2003, the international donors agreed to grant Indonesia US 2.7 billion in aid for financial year of 2003 and substantial part of it was attributed to Aceh.

26. Although the progress in implementing the agreement has been encouraging, there are reports on activities conducted by both sides at the lower level that may harm the spirit of the agreement, such as:

- 26.1. the continued use of violence by GAM and TNI toward each other;
- 26.2. GAM's continued activities in extorting money from large companies, people from various professions and ordinary people through kidnapping activities as well as enforcing what so called 'Nanggroe taxes';
- 26.3. GAM's continued activities to recruit a new member for their military wing and to establish a new government structure;
- 26.4. GAM's continued campaigns to have a referendum for independent organized in Aceh;
- 26.5. GAM's activities to distort information regarding the cessation agreement.

#### **VI.B. Papua**

27. Indonesia is determined to maintain its sovereignty over Papua, as it is in accordance with the international law (historical and legal backgrounds are hereby attached).

28. The Indonesian government recognized the grievances and injustices Papuan people have long endured, especially during the New Order Government, and also realized that it needs to be immediately addressed and rectified.

29. Accordingly, the government has taken significant steps by introducing a sensible and reasonable policy that can well offer a middle way and peaceful solution to this problem through the enactment of

special autonomy law for Papua (Law No.: 21/2001), granting the Papuans:

- 29.1. a greater opportunity to manage their own affairs and resources, except in the areas of defense, fiscal, and monetary policy, foreign policy and religious affairs;
- 29.2. an opportunity to form a Papuan People's Consultative Assembly (MRP), which would function to protect the rights of the local people and whose membership would consist of public figures representing the entire province, including tribal, cultural as well as religious and women's groups. In terms of its powers, it will have the authority to nominate and approve all local government appointments, including that of the Papuan Governor; to draft bills; and to process and attend to peoples' complaints;
- 29.3. an additional financial aids already committed to be allocated to Papua in 2002 by the government through the general allocation funding arrangements totaling of 80% of the government's revenues collected from forestry and fishery and 70% of revenue from oil and gas and mining;
- 29.4. an annual budget totaling US\$ 277 million (400% increase compared to the previous year) with only 2.3 million population (as a comparison, the East Java province hosts approximately 36 million inhabitants, while its budget is only a fraction of that of Papua);
- 29.5. a right to have their own flag and provincial anthem that will feature as a cultural symbol, but would not be taken as a symbol of sovereignty; and,
- 29.6. an opportunity to set up cooperation with foreign parties to promote the province's interests. The Papuan Administration is entitled to send its representative(s) – as part of Indonesia's Embassies abroad – to represent its interests.

30. The military personnel involved in Theys Eluay's murder are being brought to justice, while the investigation over the killing of several civilians in Timika on 31 August 2002 is also underway. It is to be noted that an eyewitness account prepared by credible security agents attested that the perpetrators of this heinous act of terrorism might well be the local rebels.

31. On 27 January 2003, the Indonesia government has issued the Presidential Decree No. 1/2003 to accelerate the implementation of Law No. 45/ 1999 on the formation of the provinces of West Irian Jaya and Central Irian Jaya. The rationales for doing so are, as follows: the province of 422,000-square-kilometers is too large and diverse for a stand-alone administration to efficiently and effectively discharge government services and as a means to lifting the people's living standards. The move is also motivated by the government's

determination to provide much wider participation of the locals in the decision-making-process, while keeping in tact the spirit of absolute autonomy to the three provinces.

## **VII. Economic Outlook**

32. For almost the last four years, the Indonesian government has been persistently undertaking the economic recovery measures to restore effective functioning of the banking system, to revive the real sectors, to minimize deficit in the expenditure, to lessen the burden of the payment of domestic and foreign debts for both their capital and interest, and boost the investors' trust.

33. To achieve these objectives, the government has set priority on stability in macro economy and monetary and has taken initial steps by securing fiscal policy. As the results, in the first quarter of 2002 the Indonesian economy started a moderately strong short-term recovery:

33.1. the gross domestic product growing at about 2.5% rate. The growth is projected to reach 4% for 2002, which moderately increased from the year 2001 that was 3.3% well below the growth in 2000 that was 4.9%;

33.2. with the total population about 216.5 million in 2001, income per capita in terms of local currency increased 14.6% compared to that of the previous year. However in dollar terms, taking into account of the depreciation of rupiah, income per capita of Indonesian people decreased from US\$742 in the year 2000 to US\$697 in 2001;

33.3. the inflation has been relatively low but rising, with prices increased 5.31% in the year to July 2002. Higher utilities, transportation and communication costs are partly responsible to this;

33.4. the new investment that since December 1999 had been slowly recovering from major crisis induced falls, has declined again in the first semester of 2002 with total approval of Foreign Direct Investment reached only US\$2.5 billions, smaller than the same period during the year 2001 which recorded at US\$4.3 billions;

33.5. in spite of the growth, it could not adequately reduce unemployment rate, which was at 6.1% in the year 2000. Total unemployment had reached 8.1 million people in year 2001 represented 8.0% of the total manpower, and this increased from the previous year which totaled 5.7 million people;

33.6. the overall balance of payment in 2002 is estimated to be quite stable, with a surplus in the current account of US\$4.7 billion and reserves amounting to US\$28.9 billion or equivalent to 5.8 months of foreign exchange for import and payment of the government's foreign debt. In the year 2003, Indonesia's balance of payment is estimated to suffice with an increase of reserves in the amount of

US\$29.3 billion;

- 33.7. the exports declined almost 7% in the year to June 2002. While imports were also declining almost 23% in the year to June 2002 compared to the same period at the previous year. However, 2002 capital account transactions were less promising. In 2001, Indonesia's net private direct capital outflow was about US\$9 billion, while in the first quarter of 2002 the Indonesia's net private direct capital outflow reached a bout US\$1 billion; and,
- 33.8. by late 2000, a marked divide, characteristic of a dual economy, was emerging between the performance of export-oriented and small and medium enterprises (SMEs) and large corporations. The cheap rupiah assists exporters, especially those able to access external funds for trade credit and investment, and many SMEs, previously denied access to bank credit, are now debt-free, and can capitalize on growing domestic and foreign demand. On the other hand, most large corporations, particularly those operating in construction, real estate and tourism sectors, remain mired in the unreconstructed debt and are technically insolvent.
34. It is to be expected that the Bali bombing will slightly hamper the government's effort to achieve the set priorities. However, there have been positive signs detected in the post-Bali bombing such as, *inter alia*, the hotel occupancy rate is reported to be around 20%.

Canberra, 21 February 2003

## ANNEX I

### PAPUA

#### **I. Historical and Legal Background**

1. From historical context, various records confirmed that Papua (see attachment), which was also called the Netherlands New Guinea had all along been part of the Netherlands East Indies that at the later stage was to be geopolitically called as Indonesia.

2. The colonial government had administered the territory along with other regions from Batavia (Jakarta), the capital city of the formerly known the Netherlands East Indies. Based on these records, Indonesia legitimately claimed it when it proclaimed its independence on August 17, 1945 and hence exercised its rights of sovereignty over the Netherlands East Indies, including the Netherlands New Guinea – currently known as Papua – as an integral part of the Unitary State of the Republic of Indonesia.

3. International law sanctioning such a case asserts that the boundaries of nascent post-colonial countries conform to their pre-sovereign ones. Hence, in legal principle and simple logic, the issue of title over Papua ends there.

#### **II. The Incomplete Decolonization of Netherlands East Indies**

4. The Papua's issue came to light when the Netherlands refused to completely decolonize the Netherlands East Indies and unilaterally insisted on maintaining its presence in Papua, apparently in an attempt to form a sanctuary for the retrieving colonial power as well as to salvage some of its colonial glory.

5. Trying to maintain grips over Papua, the Netherlands also reneged on a series of commitments made prior to the Round Table Conference of 1949 in Den Haag. For instances, The Linggadjati Agreement of 1947 explicitly stated '*The United States of Indonesia shall comprise the entire territory of the Netherlands East Indies*'. The Renville Agreement of 1948 further underlined '*Sovereignty throughout the Netherlands Indies is and shall remain with the Kingdom of Netherlands until, after a stated interval, the Kingdom of the Netherlands transfers its sovereignty to the United States of Indonesia*', and the Roem-Van Royen Agreement of 1949 which in sum stated that the '*United States of Indonesia shall comprise of the entire territory of the Netherlands East Indies in accordance with the terms of the Renville Agreement*'.

6. Two other documents prove in an unambiguous term that it had never been the intention of the Dutch to separate West Papua from the rest of the East Indies colony. These were the Netherlands Constitution

of 1948 and the Netherlands Report on its colony to the United Nations in 1949.

### **III. The United Nations' Involvement**

7. Indonesia decided to bring this matter to the 9<sup>th</sup> United Nations General Assembly Session (UNGA, 1954), for no progress achieved at the bilateral level, requiring thereby an international intervention. Indonesia received full back-ups from many countries and even the final communiqué of the 1955 Asian-African Conference *inter alia* urged the United Nations to intervene to enable the two disputing parties to reach a peaceful solution.

8. Accordingly, the UNGA included this item into its agenda for years, nonetheless a peaceful solution proved to be elusive. For eight long years, the UNGA had been unable to find an acceptable solution to both parties.

9. To overcome the impasse, the Indonesian and Netherlands governments agreed to the intermediary of the UN Secretary-General U Thant and Ambassador Eilsworth Bunker of the United States of America. As a result, the two sides reached an agreement in 1962, which later on referred to as the New York Agreement.

### **IV. The 1962 New York Agreement**

10. The agreement basically sanctioned an initial transfer of administration of this disputed territory from the Netherlands to an interim UN authority (United Nations Temporary Executive Authority/UNTEA) effective as of October 1<sup>st</sup>, 1962 and to be then finally transferred from UNTEA to Indonesian control after May 1<sup>st</sup> 1963.

11. It also stipulated that an act of free-choice would take place before the end of 1969 in order to determine whether or not the West Papuan people wished to remain part of Indonesian, the arrangements of which were to rest solely with the Indonesian government.

### **V. The Act of Free-Choice**

12. Based on the 1962 New York Agreement, the act of free-choice was conducted from July 14 to August 2, 1969 with the assistance and participation of the United Nations Representative and his staff.

13. In accordance with the agreement, the representative councils of Papua were consulted on the appropriate procedures and methods to ascertain the will of the people. Considering the specific difficulties of the terrain and the condition of the population at that time, the modalities of consultations with the representative councils on procedures and methods were the best option to carry out this task.

14. Accordingly, the enlarged councils were established, which

included a total of 1026 members. They pronounced themselves, unanimously on behalf of the people in Papua to remain with Indonesia. This was confirmed by the report of the UN Secretary-General which crystal-clearly stated: *'without dissent, all the enlarged councils pronounced themselves in favor of the territory remaining within Indonesia'*.

15. In reflecting the overwhelming support of the international community, the UNGA's Resolution 2504 (XXIV) of 1969 was adopted with 84 members voting in favor, none against and 30 abstentions, as the entire process had met the requirements of the New York Agreement.

16. It should be recalled in this context that the earlier UNGA 1752 (XVII) had taken note of that instrument when authorizing the UN Secretary-General to carry out the tasks entrusted to him. The UNGA took note of the agreement as envisaged in Article 1 of the agreement, stipulating that: *'... Indonesia and the Netherlands will jointly sponsor a draft resolution in the United Nations under the terms of which the General Assembly of the United Nations takes note of the present Agreement'*.

## **VI. Final Closure**

17. Accordingly, the Papua's issue had ever since been legally and politically terminated.

18. Opening this delicate issue will not only open old wounds, but also run the risk of breaking up the agreement painstakingly achieved through the United Nations. If it were to be allowed, many countries would like to revisit and redraw the world's map to their own liking that, in turn, would create political havoc of an unprecedented magnitude. Understandably, Indonesia – or any other former colonies, including Australia for that matter – cannot and will not tolerate such a destabilizing move. As a matter of fact, artificial boundaries created by those colonial powers have continued to haunt many countries in Europe, Latin America, Asia – Pacific, and Africa, solutions to which are yet to be found.

19. It is against this backdrop that the Indonesian government has and will continue to exercise its sovereign rights over Papua. The current government is highly sensitive about the demand of the Papuans to self-govern themselves. Accordingly, it has relentlessly worked with the Papuans to enact and implement the Law No.: 21/2001 granting a special autonomy status to this region and giving the locals the freedom to preserve their identity and prosper economically without any interference from the central government.

20. The government of Indonesia takes note with satisfaction the reaffirmation of Indonesia's sovereignty over Papua by friendly countries, including the Pacific Islands Forum's states as stipulated in its recent communiqué issued after the Forum's Summit held in Suva, Fiji, 15 – 17 August 2002 and Indonesia is committed to resolving the issue of Papua through peaceful means.



## Attachment

### HISTORY OF PAPUA

1. The first records of the Indonesian archipelago dated back from the period of the Kingdom of Sriwijaya in South Sumatra, which lasted to the 12<sup>th</sup> century and ruled over many parts of the archipelago. At about the same time, the Kingdom of Majapahit (1292-1521) ruled over East Java. During this period, West Irian was called '*Djanggi*'. In all the records dating from this time onwards, '*Djanggi*' was unquestionably considered as part of Indonesia, which at that period was named Nusantara.

2. Prior to the arrival of the Dutch, the Indonesian islands constituted a field for competition between the two rivals – Portugal and Spain. They reached an agreement, which partitioned Indonesia into two halves – the western half was to be frequented only by the Portuguese and the eastern half, including West Irian, by the Spanish. Soon after, the name of Nveba Gvince (New Guinea) was invented by a Spanish sailor, while the Portuguese had earlier referred to the big island in the east by the name of '*Ilha de Papoia*'.

3. When the 80 years' war between Spain and Holland ended in favor of the Dutch, they concluded the Munster Pact (1648) by which the Dutch obtained privileges and gained complete monopoly over all the Indonesian islands. This Pact was reiterated and reinforced by the Utrecht Agreement (1714) and by the Agreement of St. Ildefonso (1797). Henceforth, it was the Dutch who exclusively carried on trade with the Indonesian islands, including West Papua.

4. The northern part of West Papua at that time was under the Sultanate of Tidore which was extended through Government Acts by the Netherlands in 1814, and to cover finally the whole western part of the island in 1848, as far as 140 degrees east longitude in the north and 141 degrees east longitude in the south. The Sultanate of Tidore in North Moluccas was used by the Dutch to establish their power in West Papua because of the striking similarities in customs between Tidore and several parts of West Irian. The Dutch scholar, Vollenhoven, recently confirmed this fact.

5. Afterwards, Dutch policy was aimed at gradually disassociating West Papua from the Sultanate and at bringing the region under its direct control. The first step was taken in 1905 by granting the Sultan 6000 guilders per annum in exchange for his rights to the southern part of West Papua. The second step was directed towards the remaining part – the northwest of Irian. Strangely indeed, the Dutch government met with strong resistance even from among the Dutch themselves. Dr

Hovenkamp, a former commissioner for the residency of Ternate, said: *'It is a pure misconception to presume the absence of practical ties between Tidore and the northern and north-western Papua. There have always been close ties, but they have been weakened by our Government, who should have strengthened them for the benefit of the people'*. In July 1949, the Dutch made use of an agreement signed in 1909 between some Sultanates in East Indonesia and the Netherlands-Indies Government, in which the Dutch had managed to obtain the right of bringing under their direct control any of the self-governing territories at any time.

6. In the international context as well, West Papua had long been acknowledged as an integral part of Indonesia. During the war between England and Napoleon's France, the Indonesian islands fell into the hands of the British. At the conclusion of the war, the colonies were returned to the Dutch according to the London Agreement (1814-1824). In the sixth article of that Agreement, special mention was made of the eastern islands, including West Papua. Thus, 141 degrees east longitude was accepted without question in history and in international agreements as the eastern boundary of Indonesia. Another confirmation is to be found in the English Parliamentary Letters of July 1886, the *'Correspondence respecting New Guinea'* which gave detailed particulars regarding the boundary of the Netherlands New Guinea.

7. Prior to World War II, West Papua was included in the Dutch East Indies administration as the government (province) of Moluccas with the town of Ambon as the seat of the Governor. This government (province) was sub-divided into two residencies, the residency of Ambon, to which belonged the southern part of West Papua, and the residency of Ternate, to which belonged the northern part of West Papua. As the world knows, the Moluccas, with the towns of Ambon and Ternate, are and has always been part of Indonesia. So is the territory of West Papua, which was never mentioned apart from the Netherlands East Indies. It was and has always been looked upon as part of the Netherlands East Indies, and thus, also part of Indonesia.

8. The status of the Netherlands East Indies territory including West New Guinea, was never in question is further confirmed by the following events concerning the validity of Indonesia's position :

8.1. In December 1946 the Dutch Governor-General Dr. H.J. Van Mook reiterated the view of his government: *'Decidedly not the intention of the Government (the Dutch Government) to exclude New Guinea from Indonesia'*.

8.2. On 17 January 1948, the Renville Agreement reached under the auspices of the United Nations Good Offices Committee stated, inter alia: *'Sovereignty throughout the Netherlands East Indies is and shall remain with the Kingdom of the Netherlands until, after a*

*stated interval, the Kingdom of Netherlands transfers its sovereignty to the United States of Indonesia'.*

9. The preliminary agreement on the Round Table Conference, the so-called Roem-Van Royen Agreement of 7 May 1949 asserted that: *'the discussions will take place as to the way in which to accelerate the unconditional transfer of real and complete sovereignty to the United States of Indonesia in accordance with the Renville Agreements'.*

10. The same viewpoint was reaffirmed in the letter by the Netherlands representative to the United Nations dated 2 March 1949: *'the Netherlands Government has reached the conclusion that the best solution of the pending problem is to be found in an accelerated transfer of sovereignty over Indonesia to an Indonesian federal government which will be fully representative of the whole of Indonesia'.*

11. It is pertinent to note that the delegation of the Netherlands had concluded the earlier preliminary Roem-Van Royen Agreement at the Round Table Conference and affirmed in the Security Council proceedings. *'As I explained at the outset, this dispute is not about the question of whether or not Indonesia will become independent. All parties agree that what used to be the Netherlands East Indies should become an independent State as soon as possible'.* Furthermore, Dr. Van Royen stated at that meeting: *'the population of Indonesia consists of about seventeen ethnic and linguistic groups which, in their turn, contain a still greater number of sub-groups...'. 'Common existence under the Netherlands Crown has created a sense of Indonesian nationality'.*

12. This statement is most relevant because it demonstrates not only the common existence but also common fate and common struggle of the people of West Papua with the rest of Indonesia against colonial rule. Despite these unquestionable grounds of commonality of interests between the peoples of Indonesia and West Papua, Indonesia found it deeply regrettable and troubling that during the Round Table Conference, the government of the Netherlands took a position contrary to its previous commitments. By reneging on its commitments, the Dutch authorities insisted on retaining their control over West Papua. The reason being, it was widely believed that the Dutch wanted the territory exclusively for settlement by Dutch-Indonesians under continued Dutch colonial rule.

13. In addition, the name Indonesia was legalized by the Netherlands itself and contained in Article 1 of the Netherlands Constitution of 1922, which reads: *'The Kingdom of the Netherlands consists of the territories of the Netherlands, the Netherlands Indies, Suriname and the Netherlands Antilles'.* Later in 1948, when the Constitution of the Netherlands was amended, it provided: *'The Kingdom*

*of the Netherlands consists of the Netherlands, Indonesia, Suriname and the Netherlands Antilles'.*

14. Such a clear demarcation was also contained in the Constitution of Indonesia, in 1945 and 1950 as the separation of Indonesia from West Papua was only meant to be temporary pending negotiations between the concerned parties. West Papua was thus never mentioned apart from the Netherlands East Indies. After World War II, it was part of the Residency of Ternate within the province of Moluccas with Ambon as its capital. Later, it became a residency itself. Thus, it was only logical for the government of the Netherlands in the 1949 report to the United Nations to state: *'Indonesia consists of a series of island groups in the region of the equator, extending from the mainland of Asia to Australia. The principal groups are the Greater Sunda Islands, the Moluccas and New Guinea, west of 141 degrees east longitude'.*

15. In the contemporary world, Indonesia is accepted throughout the world as one nation comprising numerous and diverse ethnic and cultural groups that live in the territory of the former Netherlands Crown as a single entity. As a matter of fact, the West Papuans use the national language of Indonesia – Bahasa Indonesia – as their lingua-franca with their brethren from other parts of the country. This language is also used by the West Papuans to communicate with people from different linguistic groups within their territory. Regardless of ethnical, cultural and linguistic differences, people in different parts of the islands call themselves Indonesians. Indonesia is their nationality and they all live in the territory once governed by the Netherlands as a single entity known as the Netherlands East Indies, of which West Papua was an integral part.

16. The West Papua and its people shall hence remain under the jurisdiction of the Unitary State of the Republic of Indonesia.