

AGREEMENT<sup>1</sup> BETWEEN THE GOVERNMENT OF AUSTRALIA (ACTING ON ITS OWN BEHALF AND ON BEHALF OF THE GOVERNMENT OF PAPUA NEW GUINEA) AND THE GOVERNMENT OF INDONESIA CONCERNING ADMINISTRATIVE BORDER ARRANGEMENTS AS TO THE BORDER BETWEEN PAPUA NEW GUINEA AND INDONESIA

The Government of Australia (on its own behalf and on behalf of the Government of Papua New Guinea) and the Government of Indonesia,

Recalling the Agreement between the Australian and Indonesian Governments dated the twelfth day of February 1973<sup>2</sup> which, among other things, demarcates more precisely in certain respects the land boundaries on the island of New Guinea (Irian) and delimits territorial sea boundaries off the northern and southern coasts of that island,

Recognizing the need to protect the traditional rights and customs of people living in proximity to the border constituted by those boundaries,

Recognizing also the spirit of co-operation, understanding and goodwill that already prevails with regard to the administration of the border and border areas and the existing arrangements between Governments for liaison and other purposes in relation thereto,

Recognizing also the desirability of further fostering co-operation, goodwill and understanding and further strengthening and improving existing arrangements and to this end of formulating a broad framework within which the border and border areas shall be administered in the future,

Having in mind Papua New Guinea becoming an independent nation,

Recognizing also that until independence the border arrangements in relation to the Papua New Guinea side of the border will be carried into effect by the Government of Papua New Guinea with the understanding that after independence Australia shall cease to be responsible in respect of such arrangements,

As good neighbors and in a spirit of friendship and co-operation, Have agreed as follows:

*Article I*

For the purposes of this Agreement the border area on each side of the border shall be those areas notified by letters and shown approximately on maps to be exchanged on or before the

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<sup>1</sup> Came into force on 26 November 1974 by exchange of the instruments of ratification, which took place at Canberra, in accordance with article 14(1)

<sup>2</sup> United Nations, Treaty Series, vol. 975, p30

date of the exchange of instruments of ratification of this Agreement. The border areas may be varied from time to time by an exchange of letters and maps after mutual consultation.

## *Article 2. LIAISON ARRANGEMENTS*

1. The establishment of liaison on matters relating to the border is fully accepted. Arrangements should be made for regulating the functions and working procedures for each level of liaison.

2. Until otherwise mutually arranged, existing liaison arrangements shall continue and liaison meetings shall be held:

- a) by senior officials of the Government of Papua New Guinea and of the Provincial Government of Irian Jaya when requested by either Government on reasonable notice, and at least once a year, to review and develop border co-operation;
- b) by officials of West Sepik and Western Districts and the Jayapura, Jayawijaya and Merauke Kubupatens at regular intervals but at least every two months; and
- c) by officials of the sub-districts and kecamatans concerned at regular intervals but at least every two months, the location to be locally decided.

3. The main purposes of the liaison arrangements shall be:

- a) to exchange information on all developments in the border areas which are of mutual interest to the Governments;
- b) to devise, amend or establish arrangements to facilitate the practical operation particularly at local and district levels, of the provisions of this Agreement; and
- c) to ensure that Governments are kept informed of developments of significance relating to the border areas and that their attention is drawn to any matters which may require consultation in accordance with this Agreement.

## *Article 3. BORDER CROSSING FOR TRADITIONAL AND CUSTOMARY PURPOSES<sup>4</sup>*

1. The traditional and customary practices of the peoples, who reside in a border area and are citizens of the country concerned, of crossing the border for traditional activities such as social contacts and ceremonies including marriage, gardening and other land usage, collecting, hunting, fishing and other usage of waters, and traditional barter trade are recognised and shall continue to be inspected.

2. Such border crossings based on tradition and custom shall be subject to special arrangements, and normal immigration and other requirements shall not apply.

3. The special arrangements shall be formulated on the principle that such crossings shall be only temporary in character and not for the purpose of settlement.

#### *Article 4. CROSS BORDER RIGHTS TO LAND AND WATERS*

The traditional rights enjoyed by the citizens of one country, who reside in its border area, in relation to land in the border area of the other country and for purposes such as fishing and other usage of the seas or waters in or in the vicinity of the border area of the other country shall be respected and the other country shall permit them to exercise those rights on the same conditions as apply to its own citizens. These rights shall be exercised by the persons concerned without settling permanently on that side of the border unless Such persons obtain permission to enter the other country for residence in accordance with the immigration laws and procedures of that country.

#### *Article 5. SETTLEMENT*

It shall be an agreed objective to discourage the construction of villages or other permanent housing within a two kilometer zone on each side of the border.

#### *Article 6. BORDER CROSSING OTHER THAN FOR TRADITIONAL AND CUSTOMARY PURPOSES*

1. The crossing of the border by persons not coming within Article 3 above is to take place through designated points of entry and in accordance with the normal laws and regulations relating to entry.

2. Information shall be exchanged with respect to the migration laws and policies operating on each side of the border to maintain more effective control of the border areas.

3. Persons who cross the border other than in accordance with the practices recognised by Article 3 above or the normal laws and regulations relating to entry shall be treated as illegal immigrants.

4. In administering its laws and policies relating to the entry of persons into its territory across the border, each Government shall act in a spirit of friendship and good neighborliness bearing in mind relevant principles of international law and established international practices and the importance of discouraging the use of border crossing for the purpose of evading justice and the use of its territory in a manner inconsistent with the preamble or any provision of this Agreement. Each Government shall also take into account, where appropriate, the desirability of exchanging information and holding consultations with the other.

#### *Article 7. SECURITY*

1. In a spirit of goodwill and mutual understanding and so as to maintain and strengthen the good neighborly and friendly relations already existing, the Governments on either side of the border agree to continue to co-operate with one another in order to prevent the use of their respective territories in or in the vicinity of their respective border areas for hostile activities against the other. To this end, each Government shall maintain its own procedures of notification and control.

2. The Governments shall keep each other informed and where appropriate consult as to developments in or in the vicinity of their respective border areas, which are relevant to their security.

#### *Article 8. BORDER TRADE*

The Governments agree to exchange information concerning cross-border trade and when appropriate to consult in relation thereto.

#### *Article 9. CITIZENSHIP*

The desirability is recognised of having a regular exchange of relevant information regarding laws and regulations on nationality and citizenship and each Government agrees, if so requested, to have consultations on any problem being encountered in relation thereto.

#### *Article 10. QUARANTINE*

1. The co-operation already existing in the field of health and quarantine, including mutual visits of officials and exchange of information and periodical reports, shall be continued and developed.

2. In the case of an outbreak or spread of an epidemic in a border area, quarantine and health restrictions on movement across the border may be imposed, notwithstanding Article 3 above.

#### *Article 11. NAVIGATIONAL FACILITIES IN BOUNDARY WATERS*

Arrangements shall be made as appropriate in order to facilitate navigation of traffic in main waterways in boundary waters, especially the Fly River Bulge.

#### *Article 12. POLLUTION*

The Governments agree that when mining, industrial, forestry, agricultural or other projects are being carried out in the respective border areas the necessary precautionary measures shall be taken to prevent serious pollution of rivers flowing across the border. There shall be consultations, if so requested, on measures to prevent pollution, arising from such activities, of rivers on the other side of the border.

#### *Article 13. CONSULTATIONS AND REVIEW*

1. The Governments shall, if so requested, consult on the implementation, operation and scope of this Agreement.
2. This Agreement shall be reviewed upon the expiration of five years from the date of exchange of the instruments of ratification.

#### *Article 14. SIGNATURE AND RATIFICATION*

1. This Agreement is subject to ratification in accordance with the constitutional requirements of each country, and shall enter into force on the day on which the instruments of ratification are exchanged.
2. It is understood that the concurrence of the Government of Papua New Guinea in this Agreement is a condition thereof and such concurrence is evidenced by the signing of this Agreement on its behalf by Maori Kiki, Minister for Defence and Foreign Relations of Papua New Guinea.

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

DONE in triplicate at Port Moresby this 13th day of November one thousand nine hundred and seventy-three in the English and Indonesian languages.

For the Government  
of Australia:  
[Signed - Signe]<sup>1</sup>

For the Government  
of Indonesia:  
[Signed – Signe]<sup>2</sup>

For the Government  
of Papua New Guinea:  
[Signed - Signi]<sup>3</sup>

RECTIFICATIONS<sup>4</sup> TO THE INDONESIAN TEXT OF THE AGREEMENT OF 13 NOVEMBER 1973<sup>5</sup> BETWEEN THE GOVERNMENT OF AUSTRALIA (ACTING ON ITS

<sup>1</sup> Signed by M.T.Somare-Signe par M.T.Somare.

<sup>2</sup> Signed by A.Malik- Signe par A.Malik.

<sup>3</sup> Signed by Maori Kiki-Signe par Maori Kiki.

<sup>4</sup> The Rectifications have been incorporated into the Indonesian text; see p300 and 303 of Indonesian text.

OWN BEHALF AND ON BEHALF OF THE GOVERNMENT OF PAPUA NEW GUINEA)  
AND THE GOVERNMENT OF INDONESIA CONCERNING ADMINISTRATIVE BORDER  
ARRANGEMENTS AS TO THE BORDER BETWEEN PAPUA NEW GUINEA AND  
INDONESIA

Effected by an agreement in the form of an exchange of notes dated on 3 and 25 January 1974,  
which came into force on 25 January 1974 by the exchange of the said notes.

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<sup>5</sup> See P 294 of this volume