

Agreement Between the Republic of Indonesia and the Kingdom of the Netherlands Concerning West New Guinea (West Irian)

(Signed at the Headquarters of the United Nations, New York, on 15 August 1962)

The Republic of Indonesia and the Kingdom of the Netherlands,
Having in mind the interests and welfare of the people of the territory of West New Guinea (West Irian) hereinafter referred to as "the territory",
Desirous of settling their dispute regarding the territory,
Now, therefore, agree as follows:

RATIFICATION OF AGREEMENT AND RESOLUTION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS

Article I

After the present Agreement between Indonesia and the Netherlands has been signed and ratified by both Contracting Parties, 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, acknowledges the role conferred upon the Secretary-General of the United Nations therein, and authorizes him to carry out the tasks entrusted to him therein.

TRANSFER OF ADMINISTRATION

Article II

After the adoption of the resolution referred to in article I, the Netherlands will transfer administration of the territory to a United Nations Temporary Executive Authority (UNTEA) established by and under the jurisdiction of the Secretary-General upon the arrival of the United Nations Administrator appointed in accordance with article IV. The UNTEA will in turn transfer the administration to Indonesia in accordance with article XII.

UNITED NATIONS ADMINISTRATION

Article III

In order to facilitate the transfer of administration to the UNTEA after the adoption of the resolution by the General Assembly, the Netherlands will invite the Secretary-General to send a representative to consult briefly with the Netherlands Governor of the territory prior to the latter's departure. The Netherlands Governor will depart prior to the arrival of the United Nations Administrator.

Article IV

A United Nations Administrator, acceptable to Indonesia and the Netherlands, will be appointed by the Secretary-General.

Article V

The United Nations Administrator, as chief executive officer of the UNTEA, will have full authority under the direction of the Secretary-General to administer the territory for the period of the UNTEA administration in accordance with the terms of the present Agreement.

Article VI

1. The United Nations flag will be flown during the period of the United Nations administration.
2. With regard to the flying of the Indonesian and Netherlands flags, it is agreed that this matter will be determined by agreement between the Secretary-General and the respective Governments.

Article VII

The Secretary-General will provide the UNTEA with such security forces as the United Nations Administrator deems necessary; such forces will primarily supplement existing Papuan (West Irianese) police in the task of maintaining law and order. The Papuan Volunteer Corps, which on the arrival of the United Nations Administrator will cease being part of the Netherlands armed forces, and the Indonesian armed forces in the territory will be under the authority of, and at the disposal of, the Secretary-General for the same purpose. The United Nations Administrator will, to the extent feasible, use the Papuan (West Irianese) police as a United Nations security force to maintain law and order and, at his discretion, use Indonesian armed forces. The Netherlands armed forces will be repatriated as rapidly as possible and while still in the territory will be under the authority of the UNTEA.

Article VIII

The United Nations Administrator will send periodic reports to the Secretary-General on the principal aspects of the implementation of the present Agreement. The Secretary-General will submit full reports to Indonesia and the Netherlands and may submit, at his discretion, reports to the General Assembly or to all United Nations Members.

FIRST PHASE OF THE UNTEA ADMINISTRATION

Article IX

The United Nations Administrator will replace as rapidly as possible top Netherlands officials as defined in annex A with non-Netherlands, non-Indonesian officials during the first phase of the UNTEA administration which will be completed on 1 May 1963. The United Nations Administrator will be authorized to employ on a temporary basis all Netherlands officials other than top Netherlands officials defined in annex A, who wish to serve the UNTEA, in accordance with such terms and conditions as the Secretary-General may specify. As many Papuans (West Irianese) as possible will be brought into administrative and technical positions. To fill the remaining required posts, the UNTEA will have authority to employ personnel provided by Indonesia. Salary rates prevailing in the territory will be maintained.

Article X

Immediately after the transfer of administration to the UNTEA, the UNTEA will widely publicize and explain the terms of the present Agreement, and will inform the population concerning the transfer of administration to Indonesia and the provisions for the act of self-determination as set out in the present Agreement.

Article XI

To the extent that they are consistent with the letter and spirit of the present Agreement, existing laws and regulations will remain in effect. The UNTEA will have power to promulgate new laws and regulations or amend them within the spirit and framework of the present Agreement. The representative councils will be consulted prior to the issuance of new laws and regulations or the amendment of existing laws.

SECOND PHASE

Article XII

The United Nations Administrator will have discretion to transfer all or part of the administration to Indonesia at any time after the first phase of the UNTEA administration. The UNTEA's authority will lease at the moment of transfer of full administrative control to Indonesia.

Article XIII

United Nations security forces will be replaced by Indonesian security forces after the first phase of the UNTEA administration. All United Nations security forces will be withdrawn upon the transfer of administration to Indonesia.

INDONESIAN ADMINISTRATION AND SELF-DETERMINATION

Article XIV

After the transfer of full administrative responsibility to Indonesia, Indonesian national laws and regulations will in principle be applicable in the territory, it being understood that they be consistent with the rights and freedoms guaranteed to the inhabitants under the terms of the present Agreement. New laws and regulations or amendments to the existing ones can be enacted within the spirit of the present Agreement. The representative councils will be consulted as appropriate.

Article XV

After the transfer of full administrative responsibility to Indonesia, the primary task of Indonesia will be further intensification of the education of the people, of the combating of illiteracy, and of the advancement of their social, cultural and economic development. Efforts also will be made, in accordance with present Indonesian practice, to accelerate the participation of the people in local government through periodic elections. Any aspects relating to the act of free choice will be governed by the terms of this Agreement.

Article XVI

At the time of the transfer of full administrative responsibility to Indonesia a number of United Nations experts, as deemed adequate by the Secretary-General after

consultation with Indonesia, will be designated to remain wherever their duties require their presence. Their duties will, prior to the arrival of the United Nations Representative, who will participate at the appropriate time in the arrangements for self-determination, be limited to advising on, and assisting in, preparations for carrying out the provisions for self-determination except in so far as Indonesia and the Secretary-General may agree upon their performing other expert functions. They will be responsible to the Secretary-General for the carrying out of their duties.

Article XVII

Indonesia will invite the Secretary-General to appoint a Representative who, together with a staff made up, inter alia, of experts referred to in article XVI, will carry out the Secretary-General's responsibilities to advise, assist and participate in arrangements which are the responsibility of Indonesia for the act of free choice. The Secretary-General will, at the proper time, appoint the United Nations Representative in order that he and his staff may assume their duties in the territory one year prior to the date of self-determination. Such additional staff as the United Nations Representative might feel necessary will be determined by the Secretary-General after consultations with Indonesia. The United Nations Representative and his staff will have the same freedom of movement as provided for the personnel referred to in article XVI.

Article XVIII

Indonesia will make arrangements, with the assistance and participation of the United Nation Representative and his staff, to give the people of the territory the opportunity to exercise freedom of choice. Such arrangements will include:

- a. Consultations (Musyawarah) with the representative councils on procedures and appropriate methods to be followed for ascertaining the freely expressed will of the population;
- b. The determination of the actual date of the exercise of free choice within the period established by the present Agreement;
- c. Formulation of the questions in such a way as to permit the inhabitants to decide (a) whether they wish to remain with Indonesia; or (b) whether they wish to sever their ties with Indonesia;
- d. The eligibility of all adults, male and female, not foreign nationals, to participate in the act of self-determination to be carried out in accordance with international practice, who are resident at the time of the signing of the present Agreement and at the time of the act of self-determination, including those residents who departed after 1945 and who return to the territory to resume residence after the termination of Netherlands administration.

Article XIX

The United Nations Representative will report to the Secretary-General on the arrangements arrived at for freedom of choice.

Article XX

The act of self-determination will be completed before the end of 1969.

Article XXI

1. After the exercise of the right of self-determination, Indonesia and the United Nations Representative will submit final reports to the Secretary-General who will report to the General Assembly on the conduct of the act of self-determination and the results thereof.
2. The Parties to the present Agreement will recognize and abide, by the results of the act of self-determination.

RIGHTS OF THE INHABITANTS

Article XXII

1. The UNTEA and Indonesia will guarantee fully the rights, including the rights of free speech, freedom of movement and of assembly, of the inhabitants of the area. These rights will include the existing rights of the inhabitants of the territory at the time of the transfer of administration to the UNTEA.
2. The UNTEA will take over existing Netherlands commitments in respect of concessions and property rights.
3. After Indonesia has taken over the administration it will honour those commitments which are not inconsistent with the interests and economic development of the people of the territory. A joint Indonesian-Netherlands commission will be set up after the transfer of administration to Indonesia to study the nature of the above-mentioned concessions and property rights.
4. During the period of the UNTEA administration there will be freedom of movement for civilians of Indonesian and Netherlands nationalities to and from the territory.

Article XXIII

Vacancies in the representative councils caused by the departure of Netherlands nationals, or for other reasons, will be filled as appropriate consistent with existing legislation by elections, or by appointment by the UNTEA. The representative councils will be consulted prior to the appointment of new representatives.

FINANCIAL MATTERS

Article XXIV

1. Deficits in the budget of the territory during the UNTEA administration will be shared equally by Indonesia and the Netherlands.
2. Indonesia and the Netherlands will be consulted by the Secretary-General in the preparation of the UNTEA budget and other financial matters relating to United Nations responsibilities under the present Agreement; however, the Secretary-General will have the final decision.
3. The Parties to the present Agreement will reimburse the Secretary-General for all costs incurred by the United Nations under the present Agreement and will make available suitable funds in advance for the discharge of the Secretary-General's responsibilities. The Parties to the present Agreement will share on an equal basis the costs of such reimbursements and advances.

PREVIOUS TREATIES AND AGREEMENTS

Article XXV

The present Agreement will take precedence over any previous agreement on the territory. Previous treaties and agreements regarding the territory, may therefore be terminated or adjusted as necessary to conform to the terms of the present Agreement.

PRIVILEGES AND IMMUNITIES

Article XXVI

For the purposes of the present Agreement, Indonesia and the Netherlands will apply to the United Nations property, funds, assets and officials the provisions of the Convention on the Privileges and Immunities of the United Nations. In particular, the United Nations Administrator, appointed pursuant to article N, and the United Nations Representative, appointed pursuant to article XVII will enjoy the privileges and immunities specified in section 19 of the Convention on the Privileges and Immunities of the United Nations.

RATIFICATION

Article XXVII

1. The present Agreement will be ratified in accordance with the constitutional procedures of the Contracting Parties.
2. The instruments of ratification will be exchanged as soon as possible at the Headquarters of the United Nations by the accredited representatives of the Contracting Parties.
3. The Secretary-General will draw up a process-verbal of the exchange of the instruments of ratification and will furnish a certified copy thereof to each Contracting Party.

ENTRY INTO FORCE

Article XXVIII

1. The present Agreement will enter into force upon the date of the adoption by the General Assembly of the resolution referred to in article I of the present Agreement.
2. Upon the entry into force of the present Agreement, the Secretary-General of the United Nations will register it in accordance with Article 102 of the Charter.

AUTHENTIC TEXT

Article XXIX

The authentic text of the present Agreement is drawn up in the English language. Translations in the Indonesian and Netherlands languages will be exchanged between the Contracting Parties.

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorized for that purpose by their respective Governments, have signed the present Agreement.

DONE at the Headquarters of the United Nations, New York, on the fifteenth day of August 1967, in three identical copies, of which one shall be deposited with the Secretary-General and one shall be furnished to the Government of each of the Contracting Parties.

For the Republic
of Indonesia:

(Signed) SUBANDRIO

For the Kingdom
of the Netherlands:

(Signed) J.H. VAN ROUEN
(Signed) C. W.A. SCHURMANN

Note: In accordance with article XXVIII, the Agreement came into force on 21 September 1962, the date of the adoption by the General Assembly of the resolution envisaged in article 1 of the Agreement (A/RES/1752 (XVII)). The Instruments of ratifications were exchanged on 20 September 1962 at the Headquarters of the United Nations, in accordance with article XXVII.

(Source: Department of Foreign Affairs of the Republic of Indonesia)