

UNTEA and West New Guinea

Daniel Gruss

- I. History of the WNG Conflict
 1. Colonial History of New Guinea
 2. Two Adversaries Positioning Themselves
 3. Fighting a Losing Battle
 4. The “Bunker Plan”
- II. The Mandate of the United Nations for WNG
 1. Cease-Fire Observation
 2. UNTEA
 - a. Preparations
 - b. Implementation
 - aa. UNSF
 - bb. UNTEA
 3. Act of Free Choice
- III. Evaluation

Annex: GAOR 17 Sess. Annexes, Agenda Item 89, Doc. A/5170, Annex-Agreement between the Republic of Indonesia and the Kingdom of the Netherlands concerning West New Guinea (West Irian)

UNTEA, the United Nations Temporary Executive Authority, was engaged in West New Guinea (WNG)¹ from 1962 to 1963. This UN mission was based on an agreement by the Netherlands and Indonesia – regarding the transfer of authority over WNG – and subsequently

¹ For this article the territory will be termed West New Guinea (WNG) as other terms have political implications. WNG was named Irian Barat (West Irian) until 1973, after which it was termed Irian Jaya. Since 2002 WNG officially is termed Papua.

authorised by a General Assembly resolution. Set during the Cold War UNTEA was the first mission in which the United Nations directly administered a territory. Although UNTEA was to ensure a smooth administrative transfer in a decolonisation process, it is still of interest today, especially with regard to the right of self-determination and the role of the United Nations in this respect.

This case study will initially describe the historical context that led to the involvement of the United Nations, followed by an explanation of the mandate and its implementation. The main focus will be based on the period of UNTEA administering the territory, since this is the most relevant period. The observation of the cease-fire agreement and the United Nations involvement in the 1969 “act of free choice” will also be summarised briefly. Finally, an analysis of the involvement of the United Nations in WNG and its relevance will be presented.

I. History of the WNG Conflict

1. Colonial History of New Guinea

New Guinea, the second largest island in the world, is divided into two parts: Firstly, there is Papua New Guinea, now an independent state; a former British² and German colony.³ After World War I the British Government administered the former territory of German New Guinea on behalf of the Commonwealth of Australia, that had received a corresponding mandate from the League of Nations.⁴ Following the Japanese occupation during World War II the territories of Papua and New Guinea were placed under UN trusteeship⁵ and were administered by Australia until Papua New Guinea achieved its independence in 1975.⁶

² Territory of Papua, proclaimed a British protectorate, covering the southern coast of New Guinea.

³ Former Territory of New Guinea, in the northeast of the island.

⁴ SDN, Actes de l'Assemblée 1 (1920), Séances des Commissions, II Sixième Commission du 16 Décembre 1920, 375.

⁵ A/RES/63 (I) of 13 December 1946.

⁶ Papua New Guinea Independence Act 1975, Act No. 98 of 1975 of 9 September 1975, available at: <<http://www.austlii.edu.au/cgi-bin/disp.pl/au/legis/cth/consol%5fact/pngia1975247/notes.html?query=papua+new+guinea+independence+act>>.

Secondly, there is West New Guinea, the western half of New Guinea, which is a province of the Republic of Indonesia.⁷ WNG used to be part of the Dutch East Indies. By 1660 the Dutch had been able to strengthen their rule in the Moluccans with the help of the Dutch East India Company.⁸ Sovereignty over the western half of New Guinea was declared in 1828 by the Netherlands and trading posts were established after the recognition of Dutch claims by the United Kingdom and Germany in 1885 and 1895. WNG remained under Dutch administration after World War II, despite the fact that the rest of the Dutch East Indies, after an independence struggle of four years, grew into the newly founded state of Indonesia. When the Netherlands formally recognised the sovereign independence of Indonesia in 1949, the status of WNG remained unresolved. It was agreed in 1949 between the Netherlands and Indonesia that the issue would be postponed for a further year.

2. Two Adversaries Positioning Themselves

As a final agreement could not be reached at this point and both parties had agreed to determine the political status of the territory within one year, the *status quo* remained in the meantime. The Netherlands considered themselves as sovereign power, while Indonesia interpreted the Dutch role there to be strictly administrative. In 1950 Indonesia, however, began dismantling federal structures and proclaimed a unitary state on 15 August 1950, “[...] which made a profound impression on the Dutch policy and completely shattered the possibility of a lenient and conciliatory Dutch policy in the New Guinea controversy.”⁹ Additionally Australia, previously a critic of the Dutch Indonesian policy, now encouraged the Dutch in retaining their control over WNG.¹⁰

Consequently no agreement was met in 1950; Indonesia kept demanding the incorporation of WNG into its territory and the Dutch refused to hand over sovereignty.¹¹ An offer by the Netherlands to bring the case before the ICJ was rejected by Indonesia. Several Indonesian

⁷ Henceforth “Indonesia”.

⁸ A. Lijphart, *The Trauma of Decolonization; The Dutch and West New Guinea*, 1966, 23.

⁹ Lijphart, see above, 126.

¹⁰ Lijphart, see note 8, 127.

¹¹ Lijphart, see note 8, 163.

attempts to have the situation resolved through resolutions by the UN General Assembly from 1954-1957 failed as well.¹²

While the United Kingdom, Australia and the United States generally aided the Netherlands in the mid fifties, Soviet support swung towards Jakarta. A visit to Moscow by Sukarno, President of Indonesia in 1956 had ensured Soviet consent to a credit worth approximately US\$ 100 million for that year.¹³ With Soviet and developing Chinese support Indonesia also sided with anti-colonialists, a movement that grew in importance as more and more African and Asian countries gained independence. In 1956 the Round Table Conference Agreement was abrogated unilaterally by Indonesia¹⁴ and only one year later Jakarta, frustrated by failure of several draft resolutions and with the support of Moscow and Beijing, confiscated Dutch property in Indonesia and expelled thousands of Dutch citizens.

By 1960 the position of the anti-colonialist movement had grown stronger and Resolution 1514 (XV)¹⁵ was passed, stating: "All peoples have the right to self-determination, by virtue of that right they freely determine their political status [...]". Since 1951 the Netherlands had aimed at preparing the inhabitants of WNG for independence and finally took this opportunity to increase the level of developmental aid and educational efforts in WNG significantly.¹⁶ More and more Papuans were admitted into government services in WNG and the Netherlands promoted the establishment of political parties, and local councils.¹⁷

To resolve the growing conflict between Indonesia and the Netherlands, Malaysia proposed in October 1960, to install some form of UN trust for WNG. The Netherlands may have accepted such a proposal

¹² R. Higgins, *United Nations Peacekeeping: Documents and Commentary 1946-1967*, Vol. 2, 1969, 94; J. Saltford, *The United Nations and the Indonesian Takeover of West Papua, 1962-1969: The Anatomy of Betrayal*, 2002, 6.

¹³ Saltford, see above, 7.

¹⁴ C.L.M. Penders, *The West New Guinea Debacle: Dutch Decolonisation and Indonesia, 1945-1962*, 2002, 259.

¹⁵ A/RES/1514 (XV) of 14 December 1960, para. 2.

¹⁶ P. W. van der Veur, "The United Nations in West Irian: A Critique", *International Organization* 18 (1964), 53 et seq. (53); J.M. van der Kreuf, "West New Guinea: The Uncertain Future", *Asian Survey* 8 (1968), 691 et seq. (693 et seq.), both stating exact figures.

¹⁷ van der Kreuf, see above, 693 et seq.

but Indonesia, “no doubt recognizing that the logical end of UN trusteeship was independence”,¹⁸ rejected this mediation attempt. Subsequently the Dutch government continued their efforts to strengthen self-governance in WNG. This finally led to elections for the WNG Council, a body with advisory function to the governor, in February 1961.¹⁹

Jakarta on the other hand argued with the doctrine of *uti possidetis juris*,²⁰ after having convinced most of the anti-colonialist movement that WNG had been an inherent part of the former Dutch East Indies. Therefore, if the Dutch transferred sovereignty to WNG and not to Indonesia, this would be considered an act of separatism.²¹ The deteriorating situation finally led Indonesia to brake off diplomatic relations with the Netherlands in 1960²² and at the same time it initiated paratrooper landings and commando infiltration by sea into the territory of WNG.²³ Consequently the antagonists strengthened their forces in the region, with Indonesia receiving ever-growing support from the Soviets.²⁴

3. Fighting a Losing Battle

The security situation in south East Asia kept deteriorating as a whole, with Jakarta simultaneously introducing its *Confrontasi* approach towards a British-backed Malaysia and with steadily increasing support

¹⁸ E. Luard, *A History of the United Nations. Volume 2: The Age of Decolonization, 1955-1965*, 1989, 332.

¹⁹ Penders, see note 14, 332.

²⁰ Meaning in regard to the period of decolonisation that territorial boundaries of new states should coincide with former colonial borders. See S.R. Ratner, “Drawing a Better Line: Uti Possidetis and the Borders of New States”, *AJIL* 90 (1996), 590 et seq. (610-611).

²¹ Saltford, see note 12, 8.

²² D.W. Wainhouse, *International Peacekeeping at the Crossroads, National Support - Experience and Prospect*, 1973, 137.

²³ van der Kreuf, see note 16, 691, et seq.

²⁴ Saltford, see note 12, 8, “By 1962 the relationship was such that Indonesia was the largest non-communist recipient of Soviet Bloc aid with credits exceeding US\$ 1.5 billion. In total, between 1961 and 1963, Jakarta spent approximately US\$ 2 billion on military equipment [...]”.

for South Vietnam by the United States.²⁵ But the effort in Vietnam to contain communist expansionism was only one product of the heightening Cold War. Additionally all international support for the Dutch position towards WNG had vanished and together with Portugal the Dutch remained the last “diehard colonialists”.²⁶

The growing international and domestic pressure, led the Dutch Foreign Minister Luns to submit a draft resolution to the General Assembly of the United Nations in September 1961, calling for a transfer of Dutch sovereignty to the Papuan people, entrusting the United Nations with the administration of the territory until the political development had progressed, and finally allowing a plebiscite to be carried out on the final status of WNG.²⁷ Although the Dutch government was not willing to entrust sovereignty of WNG to Indonesia, this plan showed a change in Dutch perception.²⁸

Jakarta, however, viewed the resolution only as an instrument to help parts of its territory secede under the cover of the “right to self determination” and directly responded with threatening the use of force.²⁹ With support for its position by communist and non-aligned states Indonesia successfully gathered enough opposing votes and the Plan by Minister Luns was bound to fail in the General Assembly.³⁰ In the meantime the WNG Council had not only agreed with the plan by Minister Luns but had also renamed the territory to West Papua, and had approved on an anthem as well as on a flag, which was to fly alongside the Dutch flag.³¹

Further resolutions failed to be passed as well and Sukarno increased pressure by continuously transferring armed forces to the region and threatening to announce a general mobilisation in December 1961.³² The situation deteriorated once again after a naval clash occurred in January 1962 between Indonesian and Dutch vessels, Sukarno’s an-

²⁵ J.R. Verrier, “Is West Papua Another Timor?”, *Current Issues Brief* No. 1 (2000), 1.

²⁶ Penders, see note 14, 330.

²⁷ Higgins, see note 12, 95, et seq.; Luard, see note 18, 334.

²⁸ Penders, see note 14, 336.

²⁹ Higgins, see note 12, 98.

³⁰ Wainhouse, see note 22, 137.

³¹ Saltford, see note 12, 11.

³² Saltford, see note 12, 11.

nouncement to “liberate” WNG in the course of the year, and the order of general mobilisation of Indonesian troops in February.³³

In view of this steadily increasing threat of a large invasion by Indonesia, the United States administration feared that further armed escalation of the situation would drive Indonesia into the firm grip of communism.³⁴ Since the inauguration of president Kennedy support had shifted towards supporting Sukarno resulting in a US\$ 100 million economic aid promise after a visit by Sukarno to the United States in 1961.³⁵ This led the Dutch government to give into a request by U Thant, who had followed Dag Hammarskjöld as new acting Secretary-General in November 1961, to begin negotiations with Indonesia and abandon its earlier pre-requisite of a Papuan right to self-determination.³⁶ After a further delay due to Sukarno insisting on a transfer of sovereignty prior to negotiations, a visit by Robert Kennedy to the Netherlands and Jakarta finally allowed the talks to commence.³⁷

4. The “Bunker Plan”

As both parties had agreed the negotiations took place in Virginia, under the auspices of the United Nations, with US Ambassador Ellsworth Bunker acting as a mediator and as representative of U Thant. Despite the ongoing talks, incursions by sea and air by Indonesian armed forces into WNG continued.³⁸ Under pressure of the US government and a “less-than-honest” Ambassador Bunker³⁹, the Dutch eventually dropped their demand for an Indonesian recognition of the right of self-determination for the Papuan people entirely.⁴⁰ This opened an opportunity for the so-called “Bunker plan”, which stipulated an interim

³³ Luard, see note 18, 337 et seq.

³⁴ K. Lagerberg, *West Irian and Jakarta Imperialism*, 1979, 87.

³⁵ Penders, see note 14, 335.

³⁶ van der Kreuf, see note 16, 694, who points out that for “[...] many politically articulate Papuan circles the relatively sudden accession of the Dutch (under heavy U.S. pressure) to the Indonesian claim on the territory came as a deeply traumatic disappointment, [...]”.

³⁷ Penders, see note 14, 351 et seq.

³⁸ Luard, see note 18, 339.

³⁹ A.J.R. Groom, “The Trusteeship Council: A Successful Demise”, in: *The United Nations at the Millennium: The Principal Organs*, 2000, 167.

⁴⁰ Groom, see above, 167 et seq.; see also Lijphart, see note 8, 277.

administration of WNG by the United Nations prior to transferring sovereignty to Indonesia, nevertheless, under the precondition that a plebiscite be held to determine the will of the Papuans.⁴¹ After some more delays, the threat of war, which the Dutch felt they could not win, and the United States exerting strong pressure on the Netherlands the *Agreement Concerning West New Guinea (West Irian)*⁴² was signed on 15 August 1962.⁴³ All negotiations took place without any involvement or any representation of the Papuan people.

The Agreement called for the transfer of administration to the United Nations for an interim period, after which authority could be transferred to Indonesia. Due to Indonesian pressure the final agreement had reduced the UN interim administration period to 7 months although Bunker had initially envisaged a period of two years.⁴⁴ In general the Dutch conceded to the Agreement, but Jakarta allowed detailed provisions regarding guarantees for the population and the right of self-determination.⁴⁵ Whether these concessions by Jakarta were ever meant to be implemented remains highly doubtful.⁴⁶

II. The Mandate of the United Nations for WNG

The Agreement and its subsequent documents foresaw three phases for the United Nations in WNG:

1. Providing military observers to supervise the cease-fire that went into effect on 18 August 1962;
2. Administering the territory of WNG through the United Nations Temporary Executive Authority (UNTEA) with the help of a United Nations Security Force (UNSF), which was to maintain law and order;

⁴¹ Penders, see note 14, 360.

⁴² A/RES/1752 (XVII) of 21 September 1962 henceforth the Agreement, reprinted as Annex to this paper.

⁴³ For a detailed account see Penders, see note 14, 357-363.

⁴⁴ van der Veur, see note 16, 55.

⁴⁵ See article XVI-XXI of the Agreement; according to article XX "The act of self-determination will be completed before the end of 1969." For Indonesian adherence to these provisions see below.

⁴⁶ See under II. 3.

3. Dispatching a representative of the Secretary-General to participate in the arrangements for the act of free choice and to observe this act.

1. Cease-Fire Observation

As the administration of WNG was, according to the Agreement, to be transferred to UNTEA on 1 October 1962 there was little time for preparations and the first UN military observers arrived in WNG as early as 24 August 1962. General Indar Jit Rikhye, military adviser to the Secretary-General, led the cease-fire observation team that consisted of 21 military observers, all but two of whom were already serving with UN missions.⁴⁷ By the use of radio stations and leaflets Indonesian and Dutch armed forces were informed of and called to observe the cease-fire. After the Indonesian troops had been concentrated and their supply had been ensured General Rikhye informed the Secretary-General on 21 September 1962 that all actions concerning the cessation of hostilities had been accomplished, making UNTEA possible.⁴⁸

2. UNTEA

a. Preparations

While the cease-fire monitors were already operating the General Assembly passed resolution 1752 (XVII) on 21 September 1962 by 89 votes to none and with 14 abstentions, thereby acknowledging the Agreement and authorising UNTEA, the first UN-mission to ever directly administer a territory.⁴⁹ Also with regard to the financial issues UNTEA was unprecedented, as all expenses were shared equally by Indonesia and the Netherlands.⁵⁰ The resolution conferred onto the Sec-

⁴⁷ Saltford, see note 12, 17.

⁴⁸ Wainhouse, see note 22, 142; however one breach occurred on 21 August, 1962, when 14 Indonesian troops landed near Hollandia, see Saltford, see note 12, 17.

⁴⁹ M. Ottolenghi, "Stars and Stripes in Al-Fardos Square: The Implications for the International Law of Belligerent Occupation", *Fordham L. Rev.* 72 (2003-2004), 2177 et seq. (2195).

⁵⁰ Article XXIV of the Agreement.

retary-General, and not onto the Security Council, the power to establish UNTEA under his jurisdiction and convey to him the power to carry out the Agreement.⁵¹

UNTEA was to assume quasi-governmental functions by administering the territory of WNG,⁵² legislating within certain restraints,⁵³ appointing government officials and members of representative councils,⁵⁴ and guaranteeing civil liberties and property rights⁵⁵. UNSF was thus to assist UNTEA in the administration by maintaining law and order and was therefore an integral part of the UN-mission in helping to uphold its authority. By providing for UNSF, UNTEA was not reliant upon Dutch forces and could facilitate the “phasing-in” of Papuan and Indonesian personnel into the WNG police force.⁵⁶ As U Thant described it in his annual report in 1963:

“In these consultations [referring to the negotiations led by Ambassador Bunker], the desirability was emphasized of maintaining essential services in the territory without interruption. It was also agreed that steps would be taken to explain to the population the tasks entrusted to the United Nations, the measures proposed for the maintenance of law and order, and those relating to financial and monetary policies.”⁵⁷

Preparations for UNTEA started immediately after the signing of the Agreement and prior to the passing of the authorising resolution. Swift action was essential, with only a period of six weeks from signing the Agreement to its implementation.

⁵¹ As Higgins, see note 12, 121 et seq., points out, the lack of debate concerning this issue at that time was surprising, especially with regard to the role of the Soviet Union. The Soviet Union earlier had stressed the point – concerning the UN Congo operation – that it was the right of the Security Council and not that of the Secretary-General to select the participating contingents participating in a UN peacekeeping action. Nevertheless, Article 14 was interpreted in a way allowing the Secretary-General a great deal of competences. The Agreement between both parties, the very limited time frame of the UN mission and the fact that no costs were to be born by the UN most likely contributed to this outcome.

⁵² Article V of the Agreement.

⁵³ Article XI of the Agreement.

⁵⁴ Arts IX and XXIII of the Agreement.

⁵⁵ Article XXII of the Agreement.

⁵⁶ Higgins, see note 12, 124.

⁵⁷ GAOR 18th Sess. Suppl. 1, 36-40 covering the period 16 June 1962-15 June 1963.

Before the appointment of Dr. Djalal Abdoh as administrator of UNTEA on 22 October 1962, José Rolz-Bennett, assumed the role of an interim administrator.

On 1 October 1962, he witnessed the raising of the UN flag next to the Dutch flag in Hollandia, the capital of WNG. Although there was some discussion whether the Papuan flag should be raised as well, it was decided that only the Dutch, retrospectively the Indonesian and the UN flag, should fly from official buildings.⁵⁸ The “Morning Star”, the Papuan flag, had been adopted by the WNG Council as the official flag of the territory and was a powerful symbol of West Papuan nationalism, dating back to a nationalist movement before World War II.⁵⁹ In order to simplify communications between UNTEA, liaison missions for Indonesia as well as the Netherlands were immediately established in Hollandia, providing a forum to which questions of concern to the parties could be addressed.

b. Implementation

aa. UNSF

1,500 UNSF troops arrived by 7 October 1962 with Major-General Said Uddin Khan as Commander. The government of Pakistan, after having been asked by the Secretary-General, provided for the entire contingent.⁶⁰ The approximately 4,500 Dutch forces were placed under command of Major-General Khan once the United Nations had assumed responsibility. Repatriation of the Dutch forces was to commence “as rapidly as possible” and the withdrawal occurred according to a timetable agreed by Rolz-Bennett, General Khan and the Commander of the Netherlands forces in WNG.⁶¹ The Netherlands fully co-operated with UNSF and UNTEA, provided UNSF with equipment, and had fully repatriated its troops by 15 November 1962. All Indonesian forces, about 1,200, that had infiltrated to WNG were also placed under the command of General Khan and they participated in joint controls with UNSF; thereby the presence of Indonesian troops in WNG was legiti-

⁵⁸ Higgins, see note 12, 137.

⁵⁹ Saltford, see note 12, 21.

⁶⁰ Wainhouse, see note 22, 14, points out this turning away from earlier practice deploying a multinational force was due to the relative small number of troops and the relatively short period of service.

⁶¹ Wainhouse, see note 22, 148.

mised by the United Nations.⁶² According to an arrangement between UNTEA and Jakarta these troops were exchanged with fresh troops with better discipline. The 400 native soldiers of the Papuan Volunteer Corps ceased to be part of the Netherlands armed forces and were placed under the command of UNSF. Being a vast, extremely poorly developed mountainous island covered with dense forests, with practically no roads, communications and accessibility of the various regions proved to be major problems. This required splitting up the UNSF troops to smaller detachments and deploying them in the administrative towns, each contingent being independent in administrative and ancillary service.⁶³ UNSF troops were positioned at six locations and with the help of aircrafts and crews provided by the governments of Canada and the United States, transportation and a working system of communications could be ensured only after some time.⁶⁴

bb. UNTEA

During the first weeks Rolz-Bennett was primarily concerned with replacing the Dutch administration with as little disruption as possible with UNTEA personnel. Despite UN expectations Dutch officials were for the most part not willing to stay during the UNTEA period but left WNG thus creating a vacuum.⁶⁵ With only one quarter of the Dutch personnel remaining in WNG and a shortage of appropriately trained Papuans an international task force needed to be set up. Members of the secretariat of the United Nations and a few international experts filled the top positions of the administration, as these posts could not be covered by either Indonesian or Dutch nationals.⁶⁶ The departure of Dutch officials also left numerous vacancies within the police force, since most officers had been of Dutch origin. To fill these empty posts, officers

⁶² Higgins, see note 12, 124.

⁶³ Wainhouse, see note 22, 145.

⁶⁴ See Wainhouse, see note 22, 145 et seq.

⁶⁵ van der Veur, see note 16, 59 at note 16 lays out the exact figures: "On September 1, 1962, the administration was manned by 2,540 Netherlands officials and 7,618 local employees. By October 1, these figures were down to 775 and 7,032 respectively." Wainhouse, see note 22, 143, points out these numbers again shrunk to 250 by early November.

⁶⁶ Article IX of the Agreement.

from the Philippines were employed temporarily until Indonesian officials replaced them by March 1963.⁶⁷

UNTEA faced further problems as it was not only difficult to employ enough personnel in time, but the United Nations staff was also ill prepared as to administer the territory. UNTEA lacked personnel capable of translating the Dutch files and records, which was necessary to administer the territory, and personnel able to communicate in Malay/Indonesian in order to address the native inhabitants.⁶⁸

By the time Dr. Abdoh arrived in WNG, on 13 November 1962, Indonesia had begun to campaign for an early withdrawal of UNTEA and the abandonment of an act for self determination, hence further increasing the fragility of the situation. Peaceful protests in the first weeks after the arrival of UNTEA by Papuans and the display of Papuan flags had already caused the Indonesian government to call upon UNTEA to prevent such incidents. Steady Indonesian interference set off a great deal of hostility between many of the Papuans and the Indonesians.⁶⁹ Jakarta openly stated in December 1962 that the “act of free choice” would probably not be decided by a one man one vote plebiscite but rather be determined in consultation with Papuan leaders.⁷⁰

As Indonesian Foreign Minister Subandrio argued, an early integration of WNG into Indonesia would accelerate the rehabilitation of WNG in the light of the changed situation in the territory and the ever-increasing unemployment.⁷¹ Although Abdoh contended that UNTEA was bound by the terms of the Agreement and an early withdrawal could only commence after a renewed agreement by the two parties, he urged U Thant that the UNTEA period should not be abbreviated.⁷² Indonesian demands and pressure to shorten the UNTEA administration period and immediately transfer the territory exacerbated the whole situation. Jakarta aimed at undermining the authority of UNTEA while at the same time clarifying that Papuan resistance to Indonesian rule was intolerable.⁷³ Claims of an early withdrawal were backed by a joint declaration by representatives of the WNG Council asking “for a shortening of the UNTEA period of administration and

⁶⁷ Wainhouse, see note 22, 149.

⁶⁸ van der Veur, see note 16, 59.

⁶⁹ Saltford, see note 12, 42.

⁷⁰ van der Veur, see note 16, 63.

⁷¹ Saltford, see note 12, 31 et seq.

⁷² With references Saltford, see note 12, 32.

⁷³ Saltford, see note 12, 45.

for unification with Indonesia ‘in the shortest possible time’.⁷⁴ Yet according to van der Veur Indonesia “dined, flattered, pressured, and (if necessary) intimidated, those [Papuan delegates] who did not succumb to Indonesian wishes.”⁷⁵

Simultaneously the world held its breath, being focused on the Cuban missile crisis. Even though the Secretary-General resisted shortening the period of UNTEA, the Indonesian advance did not pass without effect. U Thant eventually conceded that Indonesian officials would be phased-in early, thus ensuring a smooth transfer of responsibility by 1 May 1963.⁷⁶ Such a transfer meant to practically abandon the so-called “second phase” of UNTEA that was to last for a period left entirely to the discretion of the UNTEA Administrator and during which the Administrator could transfer all or part of the administration to Indonesia.⁷⁷ Another concession to Sukarno was to allow the raising of the Indonesian flag next to the UN’s already on New Year’s Day 1963, despite the problems this might cause with the Papuan nationalists. For the Papuan nationalists, however, the implication of raising the Indonesian flag was a crucial point and several protests were reported.⁷⁸

Throughout the period of UNTEA the situation was generally calm, apart from two incidents on 15 December 1962 that occurred in the aftermath of the ban of a demonstration in celebration of the anniversary of the Papuan flag.⁷⁹ This celebration was banned by UNTEA after the Indonesian Foreign Minister had informed the Secretary-General that anti-Indonesian demonstrations might lead to an intervention by Indonesian troops.⁸⁰ Contrariwise, UNTEA was unable to prevent Indonesian flag raising, thereby demonstrating its lack of authority over Indonesian officials.⁸¹

⁷⁴ As reprinted by Higgins, see note 12, 131.

⁷⁵ van der Veur, see note 16, 63.

⁷⁶ By UNTEA announcement on 9 February 1963, stating the transfer of authority would occur on 1 May 1963 at 12:30; see van der Veur, see note 16, 64.

⁷⁷ First Phase of UNTEA Administration, see arts IX, X, and XI of the Agreement; Second Phase of UNTEA Administration see arts XII and XIII.

⁷⁸ Saltford, see note 12, 47 et seq.

⁷⁹ Saltford, see note 12, 43.

⁸⁰ Luard, see note 18, 342.

⁸¹ Saltford, see note 12, 47.

The calmness of the situation during the UN-administration in WNG was mostly achieved by UNTEA giving into Indonesian interference and pressure on numerous occasions.⁸² In order to avoid conflict with Indonesia, UN officials attempted to prevent public anti-Indonesian or pro-independence expression.⁸³ It is therefore highly questionable whether UNTEA fulfilled its obligation to defend rights and freedoms of the Papuan population, as set out in the Agreement.

In the meantime especially the judicial organs were affected by the departure of the Dutch and UNTEA responded by appointing qualified Indonesian personnel.⁸⁴ Yet the recruitment of Indonesian civil servants did take time and was part of the “phasing-in” of Indonesian personnel to facilitate the subsequent transfer of administrative responsibilities to Indonesia.⁸⁵ At the same time relations between the Netherlands and Indonesia improved, last but not least, through UNTEA; and diplomatic relations resumed on 13 March 1963.

In consideration of the economy UNTEA was concerned with a high level of unemployment. Most Dutch contractors, following the retreat of the Dutch officials, stopped working and returned to the Netherlands. This not only caused a high level of unemployment but also disrupted services. In co-operation with Indonesia UNTEA implemented projects re-establishing operation of basic services. The UN administration kept the general price level in check and ensured adequate supplies for the population.⁸⁶ An outbreak of cholera, which had started spreading in the southwest of WNG, could be contained with the help of the World Health Organization. Prior to transferring authority to Indonesia UNTEA ensured that food supplies for the two months following its departure were available.⁸⁷

By the end of April 1963 the phasing in of Indonesian personnel was completed with 1,564 Indonesian officials working in the administration.⁸⁸ Additional Indonesian troops had arrived and UNSF had been concentrated in Biak for embarkation. Full administrative control was

⁸² van der Veur, see note 16, 72; Saltford, see note 12, 181.

⁸³ Luard, see note 18, 342.

⁸⁴ Higgins, see note 12, 130, note 3.

⁸⁵ See note 57.

⁸⁶ See note 57.

⁸⁷ P. W. van der Veur, “West Irian in the Indonesian Fold”, *Asian Survey* 3 (1963), 332 et seq. (333).

⁸⁸ See note 57.

transferred to Indonesia on 1 May 1963, with a second phase at best lasting a few hours, ending UNTEA's mission.

3. Act of Free Choice

After the United Nations had handed over responsibility of the territory to Indonesia all UNTEA personnel withdrew. Indonesia subsequently banned all partisan political activity, initiated control over the free press, and imposed restrictions on the movement of persons.⁸⁹ In the following years, the Organisasi Papua Merdeka (OPM – Independent Papua Organisation) was founded and an armed resistance against the Indonesian army started.⁹⁰ According to the Agreement, the Secretary-General dispatched a Representative, Ambassador Ortiz-Sanz, to WNG on 1 April 1968 in order to “advise, assist and participate” in a referendum determining the future status of the territory.⁹¹ Due to corruption of and repression by Indonesian officials, Western observers in WNG at this time agreed almost unanimously that an open election could not be won by Indonesia.⁹² Under pressure from Jakarta 1026 delegates were selected by election, by choice of social, cultural or religious organisations, or by eight regional assemblies.⁹³ Efforts by Ortiz-Sanz to facilitate a more direct representation remained unsuccessful and Jakarta maintained tight political control over WNG.⁹⁴ The delegates in their vote unanimously wished for WNG to remain with Indonesia. Although Ortiz-Sanz had reservations about the implementation of article XXII of the Agreement in view of the “rights of free speech, freedom of movement and of assembly, of the inhabitants of the area” he reported that within:

⁸⁹ van der Kreuf, see note 16, 695.

⁹⁰ E. Brundige/ W. King/ P. Vahali/ S. Vladeck/ X. Yuan, “Indonesian Human Rights Abuses in West Papua: Application of the Law of Genocide to the History of Indonesian Control”, of 2004, available at <http://www.law.yale.edu/outside/html/Public_Affairs/426/westpauahrights.pdf, 18>.

⁹¹ See arts XVII and XVIII of the Agreement.

⁹² US Department of State, Consular Trip to West Irian, 6 January to 2 February 1968, available at: <<http://www2.gwu.edu/~nsarchiv/NSAEBB/NSAEBB128/8.%20Airgram%20A-570%20from%20Jakarta%20to%20State%20Department,%20May%2010,%201968.pdf>>, 16.

⁹³ Brundige/ King/ Vahali/ Vladeck/ Yuan, see note 90, 19.

⁹⁴ Doc. A/7723 of 6 November 1969.

“the limitations imposed by the geographical characteristics of the territory and the general political situation in the area, an act of free choice has taken place in West Irian in accordance with Indonesian practice, in which the representatives of the population have expressed their wish to remain with Indonesia.”⁹⁵

III. Evaluation

A telegram by the US Embassy in Jakarta that was declassified last year gives a different view of the situation:

“The act of free choice (AFC) in West Irian is unfolding like a Greek tragedy, the conclusion preordained. The main protagonist, the GOI [Government of Indonesia], cannot and will not permit any resolution other than the continued inclusion of West Irian in Indonesia. Dissident activity is likely to increase as the climax is reached but the Indonesian armed forces will be able to contain and, if necessary, suppress it.”⁹⁶

Nevertheless, the outcome of the act of free choice was only the fruit of a seed, which had been planted much earlier. The UN’s involvement in WNG took place during the Cold War, a fact, which naturally influenced the whole UN system, its activity, and the role of other actors as well. The political climate greatly differed from the situation today and most likely from that in the future. At a time of an escalation of the Cold War, with the failed invasion of the Bay of Pigs, the Berlin Wall being built, and the Cuban Missile Crisis, the United States exerted pressure on the Netherlands to concede to an agreement that should prevent Indonesia from siding with Moscow.⁹⁷ Indonesia, additionally, had successfully employed military threat and used its armed forces to attain its goal of incorporating WNG with the blessing of the United Nations. Only a few years later Indonesia, most likely encouraged by its success in assimilating WNG, once again enlarged its terri-

⁹⁵ Ibid.

⁹⁶ Telegram – Summary The Act of Free Choice of 9 July 1969, available at: <<http://www2.gwu.edu/~nsarchiv/NSAEBB/NSAEBB128/26.%20Telegram%203614%20from%20Jakarta%20to%20State%20Department,%20June%209,%201969.pdf>>, 1.

⁹⁷ Especially on this topic see declassified documents by the US Department of State at: <<http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB128/index.htm>>.

tory by use of force, in an outright annexation of East Timor.⁹⁸ Through embracing the Agreement, the United Nations had agreed to secure its proper fulfilment. As the official Report of the Secretary General⁹⁹ shows, the “act of free choice” was not conducted in accordance with international practice and the United Nations failed to protect the political rights and freedoms of the Papuan people, regardless of the acknowledged right of self-determination in the Agreement.

Diametrically opposed views on the right of self-determination furthermore were inherent in the Agreement. On the one hand, the Papuan people were not involved in any consultations regarding the future status of WNG and the transfer of control treated the Papuan people as if they had no right to self-determination. On the other hand, the Agreement provided for an act of self-determination, clearly contradicting the genesis of the Agreement.¹⁰⁰ Determining a date for the act of self-determination would have been decisive for its result but no such date had been specified in the Agreement. Had the act of self-determination occurred during the UNTEA period, it would have been safe to presume veracity of such an act. By 1969, however, Indonesia had already administered the territory for six years and was therefore in a position to manipulate the subsequent poll.¹⁰¹ Prior to conducting the act of free choice the Papuans were not offered any other concrete proposals, or economic assistance in case of independence, by any other nation. Consultations with neither Papua New-Guinea nor Australia, regarding the unification of the island, were allowed to be conducted. The strong presence of armed forces finally did its part in determining the outcome of the act of self determination.

The UN acted upon a resolution based on the Agreement by the two adversaries and did not act under Chapter VII. Only the consent of Indonesia and the Netherlands, regardless of their motivation, made UNTEA possible. Seconding in a decolonisation process and acting as a “neutral” buffer between two adversaries, the United Nations allowed a smooth transfer of administration. In distinction from missions that aim at state (re)-construction or nation construction, which usually occur in post-conflict situations and take more time, UNTEA adminis-

⁹⁸ See M. Benzing, in this Volume.

⁹⁹ See note 94.

¹⁰⁰ R. Wilde, “From Danzig to East Timor and Beyond: The Role of International Territorial Administration”, *AJIL* 95 (2001), 583 et seq. (591).

¹⁰¹ R. Wilde, “Representing International Territorial Administration: A Critique of Some Approaches”, *EJIL* 15 (2004), 71 et seq. (87).

tered the territory of WNG for a very short period. Aimed at ensuring a peaceful hand-over of administration from the former Dutch colonial power to Indonesia, UNTEA only provided for a transitional solution. Prevention of an imminent armed conflict between Indonesia and the Netherlands is, however, certainly an achievement of UNTEA.

With regard to the direct administration of the territory, after some difficulties in the beginning, the UN mission was successful and certainly instructive for future missions, although it took thirty years until such significant administrative powers were once again assigned to the United Nations.¹⁰² The great exodus of Dutch personnel caused severe disruption in services and great economic challenges that could by and large be absorbed through UNTEA. However, only by yielding to constant Indonesian pressure was UNTEA able to maintain the general calm of the situation.

Although further armed conflict and an escalation between Indonesia and the Netherlands could be circumvented, the Agreement and the UN involvement appears to be nothing more than a face-saving device for the former colonial power, especially in view of the conflicting ideas regarding self-determination and no inclusion of a specified date for the “act of free choice” in the Agreement. What meant conflict-prevention for the former colonial power and its legal successor, meant, contrariwise, averting self-determination for the Papuan people founded on the principle of *uti possidetis juris*.¹⁰³ Upholding the right to an independent nation for the Papuan people was impossible for the Dutch government, especially against the background of a very narrowly construed external right of self-determination.¹⁰⁴ The idea of establishing a UN trust for WNG, nevertheless, had been discussed and the Netherlands probably could have acted unilaterally in this matter; such a proceeding would have without doubt seriously exacerbated the situation. Most certainly, this would have also set a precedent contrary to *uti possidetis juris* endangering the territorial integrity in particular of numerous newly founded decolonised states, bearing in mind that eventually independence is the final objective of a UN trust.¹⁰⁵ Despite the UN

¹⁰² See L. Keller, in this Volume.

¹⁰³ Wilde, see note 100, 89 rightly argues that the labelling of UNTEA as a “conflict-prevention” mission legitimises the mission by its achievements neglecting the UN’s role in denying the Papuan people their right to self-determination.

¹⁰⁴ See J. Friedrich, in this Volume.

¹⁰⁵ See Article 76 UN Charta.

Resolution 1514 (XV)¹⁰⁶, which embraced the right of self-determination, neither a right to secession nor to democratic representation of ethnic groups within a territory could be assumed, but only a right to external independence from the colonial power.¹⁰⁷ As the strong resistance by the international community in the cases of Katanga and Biafra had proven,¹⁰⁸ the United Nations would impede a secession attempt by one part of its Member States.¹⁰⁹ In line with this restrictive interpretation of the right to self-determination, the UN's role regarding WNG was actually pivotal in denying the Papuan people self-determination, as set forth in the Agreement.¹¹⁰ As the exemplary case of Kosovo shows, the interpretation of self-determination is still a far-reaching matter today.¹¹¹

During the last decades, the separatist movement in WNG has been very active and numerous clashes with the Indonesian army occurred.¹¹² A great number of refugees keep moving eastwards into Papua New Guinea to avoid reprisals by the Indonesian military.¹¹³ The political transformation process in Indonesia finally led to a bill in 2001, granting special autonomy to WNG. Whether this step will suffice remains to be seen.

¹⁰⁶ A/RES/1514 (XV) of 14 December 1960.

¹⁰⁷ For a concise account of the right of self-determination during the era of decolonisation see G.J. Simpson, "The Diffusion of Sovereignty: Self-Determination in the Postcolonial Age", *Stanford J. Int'l L.* 32 (1996), 255 et seq. (264 et seq).

¹⁰⁸ E. Hasani, "Uti Possidetis Juris: From Rome to Kosovo", *Fletcher Forum of World Affairs* 27 (2003), 85 et seq. (88).

¹⁰⁹ Simpson, see note 107, 264. The case of East Timor is an exception, as East Timor had been annexed by Indonesia and had not been part of the Dutch East Indies, meaning *uti possidetis juris* could not apply in this case. In its Resolution A/RES/3485 (XXX) of 12 December 1975 the United Nations also condemned the annexation by Indonesia.

¹¹⁰ Wilde, see note 100, 591.

¹¹¹ For a discussion on the contemporary discussion see J. Friedrich, in this Volume.

¹¹² "New Guinea: Crash Landing in the 20th Century", of 8 January 1994, *Neue Zürcher Zeitung*.

¹¹³ See above.

Annex
GAOR 17 Sess.
Annexes, Agenda
Item 89, Doc. A/5170, Annex of 20 August 1962

Agreement between the Republic of Indonesia and the Kingdom of the Netherlands concerning West New Guinea (West Irian)

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 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 the 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 cease 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 peri-

odic 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 Nations Representative and his staff, to give the people of the territory the opportunity to exercise freedom of choice. Such arrangements will include:

- a. Consultations (Musjawarah) 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 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 IV, 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 proces-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 this fifteenth day of August 1962, 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.

(Signed)

Subandrio, For the Republic of Indonesia; J. H. van Roijen, For the Kingdom of the Netherlands; C. Schurmann, For the Kingdom of the Netherlands