

No. 24052

**PAPUA NEW GUINEA
and
INDONESIA**

**Basic Agreement on border arrangements. Signed at Port
Moresby on 29 October 1984**

Authentic text: English.

Registered by Papua New Guinea on 24 April 1986.

**PAPOUASIE-NOUVELLE-GUINÉE
et
INDONÉSIE**

**Accord de base relatif à des arrangements frontaliers. Signé
à Port Moresby le 29 octobre 1984**

Texte authentique : anglais.

Enregistré par la Papouasie-Nouvelle-Guinée le 24 avril 1986.

BASIC AGREEMENT¹ BETWEEN THE GOVERNMENT OF PAPUA NEW GUINEA AND THE GOVERNMENT OF THE REPUBLIC OF INDONESIA ON BORDER ARRANGEMENTS

The Government of Papua New Guinea and
The Government of the Republic of Indonesia,

Noting the provisions of the Agreement dated the 17th day of December one thousand nine hundred and seventy-nine and in particular Article 19 which called for a review of the Agreement upon the expiration of five years from the date of ratification;

Determined to further foster co-operation, goodwill and understanding between the two countries;

Determined to further co-operate in the administration and development of the Border Area for the mutual benefit of their peoples giving due consideration to the traditional rights and customs of the people living in the Border Area as already done by both Governments (in the past);

Recognising the need to replace the said Agreement dated the 17th day of December one thousand nine hundred and seventy-nine with a new Agreement;

As good neighbours and in a spirit of friendship and co-operation;

Have agreed as follows:

Article 1. THE BORDER AREA

1. The Border Area shall consist of the Census Divisions within Papua New Guinea and the Kecamatan-Kecamatan Perbatasan within the Republic of Indonesia in respect of which the Border forms part of their boundaries.
2. The Border Area may be varied from time to time by an Exchange of Letters and maps after mutual consultations.
3. For the purposes of implementation of paragraph 1 of this Article, the two Governments shall consult and each make the necessary arrangements for the survey and demarcation of the Boundary and mapping of that part of the Border Area on their respective sides of the Border, by a mutually agreed method.

Article 2. JOINT BORDER COMMITTEE AND CONSULTATION

1. There shall be established a Joint Border Committee consisting of senior officials of both Governments.
2. The Committee shall formulate guidelines and procedures for the effective implementation of this Agreement.
3. Members of the Committee shall, as appropriate, advise and make recommendations to their respective Governments on all matters, procedures and arrangements relating to the implementation of this Agreement and to the devel-

¹ Came into force on 12 December 1984 by the exchange of the instruments of ratification, in accordance with article 22 (1).

opment and review of border co-operation. The Committee shall meet at least once a year, and additionally as and when necessary, upon request by either Government. The venue for such meetings shall be by rotation in each country.

4. The two Governments may, if required, consult each other concerning the implementation and operation of this Article.

Article 3. LIAISON ARRANGEMENTS

1. To assist the Joint Border Committee there shall be established liaison meetings to discuss matters of mutual concern relating to the administration of the Border. Arrangements shall be made for regulating functions and working procedures for such meetings.

2. The liaison shall comprise officials from Port Moresby, Western and West Sepik Provinces and officials from the Province of Irian Jaya.

3. The main purpose of the liaison meetings shall be as follows:

- (i) To exchange information on all developments in the Border Area which are of mutual interest to both Governments;
- (ii) To devise, amend or establish arrangements to facilitate the practical operations, particularly at local and district levels, of the provisions of this Agreement; and
- (iii) To ensure that both Governments, through the Joint Border Committee, are kept informed of developments of significance relating to the Border Area and that their attention is drawn to any matters which may require consultation in accordance with this Agreement.

4. The liaison meetings shall take place as and when required but not later than [three-month] intervals.

Article 4. BORDER CROSSINGS FOR TRADITIONAL AND CUSTOMARY PURPOSES

1. Each country shall continue to recognize and permit movement across the Border by the traditional inhabitants of the other country who reside in the Border Area and are citizens of the country concerned for traditional activities within the Border Area such as social contacts and ceremonies including marriage, gardening, hunting, collecting and other land usage, fishing and other usage of waters, and customary border trade.

2. Such movement shall be the subject of special arrangements between the two Governments and normal immigration, customs, quarantine and health requirements shall not apply.

3. The special arrangements shall be formulated on the principle that such movement across the Border shall only be temporary in character and not for the purpose of resettlement.

Article 5. EXERCISE OF TRADITIONAL RIGHTS TO LAND AND WATERS IN THE BORDER AREA

1. Where the traditional inhabitants of one country who reside in the Border Area and are citizens of the country concerned but enjoy traditional rights of access to and usage of areas of land or waters in the Border Area of the other country, that country shall permit the continued exercise of those rights subject to

its existing laws and regulations on the same conditions as those applying to its own citizens.

2. The traditional rights to use land and waters referred to in paragraph 1 shall not constitute proprietary rights over the same.

3. The rights referred to in paragraph 1 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 and other laws and or procedures of that country.

Article 6. BORDER CROSSINGS BY NON-TRADITIONAL INHABITANTS

1. Crossing of the Border by persons not falling under the provisions of Article 4 of this Agreement is to take place through designated points of entry and in accordance with the relevant existing laws and regulations relating to entry. Designated points of entry shall be as agreed from time to time by an Exchange of Letters after consultations.

2. Information shall be exchanged with respect to the migration laws and policies existing on each side of the Border in order to maintain more effective control of the Border Area.

3. Persons who cross the Border other than in accordance with Article 4 of this Agreement or the relevant laws and regulations relating to entry shall be treated as illegal immigrants. The preceding sentence does not apply to crossings for purposes as agreed upon by both Governments.

4. In administering its laws and policies relating to entry of persons into its territory across the Border each Government shall act in a spirit of friendship [and] good-neighbourliness, bearing in mind relevant principles of international law and established international practices and the importance of discouraging the use of border crossing for the purposes of evading justice and the use of its territory in a manner inconsistent with 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 the spirit of goodwill and mutual understanding and in order to maintain and strengthen the existing good neighbourly and friendly relations, the two Governments shall continue to actively co-operate with one another in order to prevent the use of their respective territories in or in the vicinity of the Border Area as sanctuary, staging areas, bases or routes for any kind of hostile or illegal activities against the other. To this end, each Government shall maintain its own procedures of notification and control.

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

Article 8. BORDER CO-OPERATION

In the event of natural disasters or major accidents in the Border Area, the two Governments shall establish close contacts with one another and shall render all possible assistance, particularly in search and rescue operations.

Article 9. CUSTOMARY BORDER TRADE

1. The two Governments shall make arrangements to facilitate the continuation of customary cross-border trade by the inhabitants of the Border Area.

2. In making such arrangements the two Governments shall be mindful of the following limitations:

- (a) That such arrangements shall only apply to Papua New Guinea and Indonesian citizens who traditionally live in the Border Area;
- (b) That the cross-border trade be of a traditional nature and conducted in order to satisfy the needs of the people in the Border Area; and
- (c) That the goods traded are not prohibited by either Government.

Article 10. TRANSPORT AND COMMUNICATION

The two Governments shall consider, in accordance with the normal procedures and practices:

- (a) The continuation of the operation of the existing direct trans-border telecommunication links for border-liason purposes;
- (b) Aeronautical communication between the Air Traffic Service Units of the two countries relating to international flights;
- (c) Radio frequency co-ordination crossing trans-border areas; and
- (d) Matters relating to the improvement of communication systems and direct trans-border transport.

Article 11. CITIZENSHIP

The desirability is recognised of having a regular exchange of relevant information regarding laws and regulations on nationality and citizenship and the two Governments shall, if either so requests, consult each other on any problem being encountered in relation thereto.

Article 12. 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 the Border Area, quarantine and health restrictions on movement across the Border may be imposed, notwithstanding Article 4 of this Agreement.

*Article 13. NAVIGATION AND THE PROVISION
OF NAVIGATIONAL FACILITIES*

1. Nationals of either country or vessels registered in either country may navigate freely throughout the boundary waters of the Fly River Bulge and the two Governments shall make arrangements for the provision of navigational facilities in the said waters.

2. Where, for the purposes of a national development project, either Government requires a right of transit navigation between two points in its territory, through a river in the territory of the other country, then the two Governments recognise that such a right may be exercised in accordance with terms and

conditions to be determined by them, according to the individual requirements of that project.

Article 14. EXCHANGE OF INFORMATION ON MAJOR CONSTRUCTION

The two Governments shall keep each other informed of any proposed major construction such as roads, dams, bridges and aerodromes within a 5 kilometer zone on either side of the Border, provided such construction could affect the movement of the people from one side of the Border to the other.

Article 15. MAJOR DEVELOPMENT OF NATURAL RESOURCES

1. The two Governments, recognising the need which either Government may have to develop, for the benefit of its people generally, any naturally occurring resources in an area adjacent to or in close proximity to the Border, agree to keep each other informed, either by consultation or through their respective representatives on the Joint Border Committee, as to particulars of such developments or proposed developments.

2. The two Governments further recognise the need which may arise from time to time for them to co-operate in order to formalise mutually satisfactory arrangements which will assist in facilitating the establishment and continued operation of such developments in either country, in a manner consistent with the provisions of this Agreement.

3. Having regard to the provisions of this Article, the two Governments recognise in particular the Ok Tedi Mining Project as being such a major development and agree to consult as appropriate, at the request of either Government, on any matter of concern relating to that development.

4. If any single accumulation of liquid hydrocarbons or natural gas, or if any other mineral deposit on land or subsoil thereof, extends across the Border, and the parts of such accumulation or deposit that is situated on one side of the Border, is recoverable wholly or in part from the other side of the Border, the two Governments will seek to reach agreement on the manner in which the accumulation or deposit shall be most effectively exploited and on the equitable sharing of the benefits derived from such exploitation.

Article 16. PROTECTION OF THE ENVIRONMENT

When mining, industrial, forestry, agricultural or other projects are carried out in areas adjacent to, or in close proximity to the Border, the Government responsible for such development shall ensure that all necessary precautionary measures are taken to prevent or control pollution of the environment across the Border.

Article 17. UTILISATION AND CONSERVATION OF NATURAL RESOURCES

The two Governments shall, as appropriate and at the request of either Government, consult each other on matters regarding the utilisation and conservation of such natural resources as fresh water and forest resources (including wildlife) in areas adjacent to, or in close proximity to the Border, with a view to preventing the adverse effects which might arise from the exploitation of such resources.

Article 18. FAUNA AND FLORA

Each Government shall use its best endeavour, and shall enhance mutual co-operation to protect species of indigenous fauna and flora that are or may become threatened with extinction, in and in the vicinity of the Border Area.

Article 19. COMPENSATION

1. Each Government shall pay due compensation for damages caused intentionally or otherwise to the other Government for acts and related activities within its responsibility in the Border Area.

2. Damages in the Border Area caused by acts of each other's citizens, except by elements hostile to each other's country may be compensated in accordance with traditional and customary practices, under the supervision of both Governments, without limiting the right of each Government to consult directly.

Article 20. PROMOTION OF THE AGREEMENT

The two Governments shall promote amongst their people, particularly those in the Border Area, an understanding of the Agreement in order to develop a stable and harmonious border regime, reflecting the good-neighbourly relations between the two countries.

Article 21. CONSULTATION AND REVIEW

1. The two Governments shall, if so required, consult each other on the implementation, operation and scope of this Agreement.

2. This Agreement shall be reviewed upon the expiration of a five-year period, or earlier with the approval of both Governments beginning from the date of the exchange of instruments of ratification.

3. The members of the Joint Border Committee may make recommendations to their respective Governments on any matters concerning border arrangements not specifically regulated by this Agreement.

4. Upon receiving of information that an influx of border crossings or other border crossings have taken place other than border crossings under Articles 4, 5 and 7, the two Governments shall consult immediately at liaison level. The two Governments shall agree to meet at higher levels if the need arises.

Article 22. 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. On the day this Agreement enters into force, it replaces the Basic Agreement between the Government of Papua New Guinea and the Government of the Republic of Indonesia on Border Arrangements dated the 17th day of December one thousand nine hundred and seventy-nine.

IN WITNESS WHEREOF the undersigned, being duly authorised by their respective Governments, have signed this Agreement.

DONE in duplicate at Port Moresby this twenty-ninth day of October one thousand nine hundred and eighty-four, in English.

For the Government
of Papua New Guinea:
The Honourable RABBIE NAMALIU

For the Government
of the Republic of Indonesia:
Dr. MOCTHAR KUSUMAATMADJA