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MINISTERIE VAN BUITENLANDSE ZAKEN

Kopie No. 1

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van delegatie
betreft n n g

r u c tweehonderd tweenzeventig

als antwoord op de nederlandse resolutie en het
onder nr a viernegeneenvijf gecirculeerde nederlandse
memorandum heeft indonesie tot dusverre volstaan met
het circuleren van subandrio s rede voor v n dag hk
a viernegenviervier slhk stp het is echter niet uitgesloten
dat indonesie alsnog besluit tot het circuleren als
document van de algemene vergadering hetzij van het
indonesische memorandum on west irian kma hetzij van
het indonesische stuk quo comments on and analysis
of the netherlands draft resolution unquo of van beide
stp

mede gezien de mogelijkheid kma dat de nederlandse
resolutie op zeer korte termijn aan de orde komt hk
mijn zeshonderd negenendertig slhk acht ik het van
belang dat wij indonesie voor zijn en een nieuw memorandum
laten circuleren kma dat kan dienen als antwoord aan
subandrio en tegelijk de argumenten van beide hoger
genoemde indonesische stukken weerlegt stp

verzoeke derhalve omgaand machtiging om het alhier
opgestelde quo memorandum on the status and the future
of netherlands new guinea unquo hk mijn zeshonderd
tweentwintig slhk met de wijzigingen vervat in uw
tweehonderd tweenzeventig en eventueel nog aangevuld
met passages uit uw zesnulzes negennulzes op korte
termijn als v n document aan te bieden en te laten
circuleren stp

bij bevestigend antwoord zal ik u zo spoedig
mogelijk definitieve tekst seinen kma alsmede datum
van verschijning als v n document kma opdat deze te
uwent gelijktijdig kan worden gepubliceerd stp

Schurmann 642 ++

GEHEIM

3. Over de inhoud van een codeber. mag niet met verwijzing naar dat bericht
per telefoon worden gesproken.
4. Dossiers, welke codeber. bevatten, dienen veilig te worden opgeborgen.

2. Alschritten van codeberichten mogen uitsluitend
door de afdeling Verbindingen worden afgevaardigd.

Op een codeber. mag teleg. niet in open taal worden geantwoord,
tenzij aan bepaalde voorwaarden wordt voldaan (Richlijnen).

Nummer - - - - -

Bijlage - - - - -

**Memorandum inzake de status en de toekomst van Nederlands Nieuw-Guinea, ingediend door Nederland
op 4 november 1961 (A/4954)**

I. THE STATUS OF NETHERLANDS NEW GUINEA

When in 1949 under the auspices of the United Nations' Commission for Indonesia the sovereignty over the former Netherlands East Indies was transferred to Indonesia, the territory of New Guinea was explicitly excluded:

1. in view of the marked ethnological, cultural and religious differences between Indonesians and Papuans and
2. because the Papuan population had not been in a position to express themselves freely on their political status. The proclamation of Indonesian independence of 17 August 1945 could in no way constitute an expression of will by the Papuan people as there was, because of wartime circumstances, no means of communication with New Guinea.

Article 2 of the Charter of Transfer of Sovereignty (UN Treaty Series, Vol. 69, I no. 894, page 206) which formed an exception to art. 1 pertaining to the transfer of sovereignty, stipulated that the *status quo* of the residency of New Guinea should be maintained with the proviso that within a year from the date of Transfer of Sovereignty to the Republic of the United States of Indonesia the question of the political status of New Guinea be determined through negotiations between the Republic of the United States of Indonesia and the Kingdom of the Netherlands. In this article it was also clearly stated that "it has not yet been possible to reconcile the views of the parties on New Guinea, which remain, therefore, in dispute".¹

In an exchange of letters the parties to the Round Table Conference agreed on the following clarification of Article 2 of the Charter of Transfer of Sovereignty (UN Treaty Series, Vol. 69, I no. 894, page 332).

"The clause in Article 2 of the Draft Charter of Transfer of Sovereignty reading: the *status quo* of the residency of New Guinea shall be maintained means: through continuing under the government of the Netherlands."²

That *status quo* was and is that the Kingdom of the Netherlands exercises full and complete sovereignty over West New Guinea.

In the minutes of the Round Table Conference it was stated that the proviso that the *status quo* of New Guinea was to be maintained, meant that the territory would remain "under Netherlands Sovereignty".

A further proof that the sovereignty over New Guinea was not transferred to Indonesia and was not intended to be transferred together with the sovereignty over the rest of the former Netherlands East Indies, is found in a note to the Agreement concerning the assignment of citizens which reads as follows (UN Treaty Series, Vol. 69, I no. 894, page 280):

"None of the provisions of this agreement shall apply to the nationality of the inhabitants of the residency of New Guinea in case the sovereignty over this territory is not transferred to the Republic of the United States of Indonesia."

¹ For the text of the Charter of Transfer of Sovereignty see Annex I.

² For the text of this exchange of letters see Annex II.

Consequently, the question as to what was ultimately to happen to West New Guinea was left open. It was, however, definitely laid down that no change in the existing situation would take place, unless such a change were explicitly agreed on between the parties.

Nevertheless, the Government of Indonesia which freely accepted and signed the Round Table Conference Agreements including the Charter of Transfer of Sovereignty, from 1951 onwards denied that New Guinea had been excluded from the transfer of sovereignty.

II. THE DISPUTE

In accordance with Article 2 of the Charter of Transfer of Sovereignty a Netherlands-Indonesian Conference was held in December 1950. The Netherlands made proposals to the effect that sovereignty be assigned to the Netherlands-Indonesian Union established by the Round Table Conference Agreements.

Indonesia, however, rejected this proposal and refused to consider any other solution but the transfer of sovereignty over New Guinea to Indonesia. For this reason the conference failed. The Indonesian attitude after the conference was described in a report of the United Nations' Commission for Indonesia of April 13, 1951 (Doc. S/2087, par. 57). It said that "the Indonesian Government was prepared to resume negotiations only if it were understood *in advance* that the sovereignty over Western New Guinea would be transferred to Indonesia". Thus, in 1950 Indonesia itself took the view that the sovereignty over New Guinea had *not* been transferred in 1949.

Since 1951 Indonesia took a different approach to the problem and contended that Netherlands New Guinea was already a part of the Indonesian sovereign territory, illegally occupied by the Netherlands. During a conference in the beginning of 1952 it was suggested by the Netherlands that Indonesia should submit the legal aspects of the dispute, that is its contention that New Guinea formed a part of the Indonesian sovereign territory, to the International Court of Justice. *However, this suggestion was rejected by Indonesia.* The Netherlands offer to submit the legal aspects of the dispute to the Court has been consistently rejected by Indonesia, lastly on October 20, 1961, in the Fourth Committee of the General Assembly.

In 1954, 1955 and twice in 1957 Indonesia sought a recommendation of the General Assembly urging the Netherlands and Indonesia to arrive at a settlement of the dispute on the sovereignty over New Guinea by "negotiations". In its approach to the United Nations Indonesia, however, based itself exclusively on its claim, that the sovereignty over the territory belonged already to Indonesia and consequently the "negotiations", in the Indonesian view, could only concern the time and the manner of transfer of the Territory to Indonesia without any plebiscite.

Four times in succession the General Assembly refused to back up the Indonesian thesis.

Ever since 1949 the Netherlands Government consistently maintained that no solution would be acceptable and in accordance with the principles of the UN Charter, *if it were not agreed to by the Papuan people.*

The Netherlands view was clearly stated in the report to the Security Council of the UN Commission for Indonesia of 13th April 1951 (Document S/2087).

Paragraph 50 of that report, dealing with the Netherlands-Indonesian negotiations of 1950, reads:

"50. Broadly speaking, the Netherlands members based their arguments on considerations of the interests of the local population. In the Netherlands opinion, the transfer of sovereignty over New Guinea would deprive the population of its right of self-determination before it even had the chance to apply that right. Since the Netherlands Government was bound by the provisions of article 73 of the Charter of the United Nations, the continuation of the Netherlands administration left to the population the chance to take advantage of the right of self-determination at a later date and to decide its future by a plebiscite."

III. THE IMPLEMENTATION OF THE DECLARATION ON THE GRANTING OF INDEPENDENCE TO COLONIAL COUNTRIES AND PEOPLES (Resolution 1514 (XV))

The afore-going leads to the conclusion that sovereignty over New Guinea was never transferred to Indonesia and that the territory remained under the sovereignty and the administration of the Netherlands.

Resolution 1514 (XV) is fully applicable and should *in the interest of the Papuan people* be implemented forthwith.

It has been asserted that the Netherlands proposals violate par. 6 of the Declaration embodied in Resolution 1514 (XV). This assertion does not hold, because an independent national unit comprising both Indonesia and New Guinea has never existed. Therefore, the territorial integrity of the Indonesian Republic cannot be disrupted by the recognition of the right of self-determination for the Papuan people.

IV. THE NETHERLANDS PROPOSALS OF OCTOBER 9, 1961 ¹

The Netherlands proposals are clear and unambiguous. They can be summarized as follows:

1. self-determination in accordance with the Charter,
2. internationalization under the United Nations,
3. transfer of sovereignty to the Papuan people,
4. continuation of financial assistance to the amount of \$ 30 million a year without any strings attached,
5. United Nations fact-finding and enquiry without any restrictions.

The Netherlands wishes to reaffirm the following points:

- a. the Netherlands proposals are made under the *one sole condition that the right of self-determination of the Papuan be guaranteed.*
- b. self-determination for the Papuan people implies a free choice between
 1. integration with Indonesia,
 2. independence,
 3. the possibility of future association with the other part of the island of New Guinea and other islands of the Pacific region.

¹ Statement by the Netherlands Minister of Foreign Affairs in the general debate on 26 September 1961 (A/PV.1016), draft resolution of 9 October (A/L.354) and memorandum of 9 October 1961 (A/4915).

- c. the Netherlands wishes irrevocably to terminate its history as a colonial power. Resolution 1514 (XV) should be applied to Netherlands New Guinea *as soon as possible*. Under the Netherlands proposals the final target-date for self-determination should be decided upon by the United Nations after consultation of the Papuan people.
- d. the Netherlands is prepared to transfer *all* its present powers to an International Development Authority with full executive powers. It is prepared to continue its responsibility *only* if and where required by the United Nations, and requests its civil servants to remain in function again, *only* if the United Nations deems this necessary.
- e. if an International Development Authority takes over the administration, responsibility for the external defense should rest with the United Nations. Consequently, the Netherlands would withdraw its armed forces unless the Organization decides otherwise.
- f. as soon as an International Development Authority takes over the administration, the Netherlands will immediately transfer sovereignty to the Papuan people.
- g. the United Nations Commission as envisaged in the Netherlands proposals, should have full powers of unrestricted enquiry. If the Indonesian assertion of unrest, wide-spread resistance to Netherlands authority and persecution were true, Indonesia should welcome this opportunity of full and impartial enquiry.
- h. the Netherlands would wish its proposals acted upon as soon as possible. Therefore, the United Nations Commission should be requested to report to the seventeenth General Assembly.

V. THE NETHERLANDS PROPOSALS AND INDONESIA

The Netherlands proposals are not aimed against Indonesia. By its offer to transfer its powers to an international authority and to transfer its sovereignty to the Papuan people, the Netherlands clearly shows that it pursues no interests of its own in the area. The dispute between Indonesia and the Netherlands with regard to New Guinea is a territorial dispute, which in accordance with the principle of self-determination can – as in the case of Mauretania – best be solved by letting the people decide for themselves. If in such a dispute one of the parties offers to relinquish its sovereign powers, it is hard to understand how such a move could be construed as detrimental to the other party or to a peaceful solution of the dispute.

The Netherlands Government and people would wish for nothing better than to restore friendly relations with Indonesia.

If the Netherlands proposals have been submitted without consultation of Indonesia, the reason is that Indonesia has persistently refused to recognize the right of self-determination of the Papuan people and has broken off diplomatic relations with the Netherlands, thus severing the last channels of communication between the two governments.

The Netherlands is in duty bound to reject all suggestions from the Indonesian side that it should sacrifice the right of self-determination of the Papuans in exchange for economic gain or under duress. The threats of military intervention

which have from time to time been uttered by Indonesia are obvious principles of the Charter of the United Nations.

The present proposals do in no way prejudice the future status. To alleviate any Indonesian misgivings in this respect the Netherlands wishes solemnly to reiterate that if the Papuan people should choose Indonesia, the Netherlands Government will raise no objections whatsoever repeatedly stated before - will fully respect such a decision as it respects any other decision of the Papuan people.

New York, 3 November 1961.

ANNEX I

CHARTER OF TRANSFER OF SOVEREIGNTY ¹

Article I

1. The Kingdom of the Netherlands unconditionally and irrevocably transfers complete sovereignty over Indonesia to the Republic of the United States of Indonesia and thereby recognizes said Republic of the United States of Indonesia as an independent and sovereign State.

2. The Republic of the United States of Indonesia accepts said transfer on the basis of the provisions of its Constitution which as a draft has been in the knowledge of the Kingdom of the Netherlands.

3. The transfer of sovereignty shall take place at the latest on 1 January 1949.

Article 2

With regard to the residency of New Guinea it is decided:

- a. in view of the fact that it has not yet been possible to reconcile the parties on New Guinea, which remain, therefore, in dispute,
- b. in view of the desirability of the Round Table Conference concluding fully on 2 November 1949,
- c. in view of the important factors which should be taken into account in the question of New Guinea,
- d. in view of the limited research that has been undertaken and conducted with respect to the problems involved in the question of New Guinea,
- e. in view of the heavy tasks with which the Union partners will be confronted, and
- f. in view of the dedication of the parties to the principle of resolving differences by peaceful and reasonable means any differences that may hereafter exist or arise between them,

that the status quo of the residency of New Guinea shall be maintained until stipulation that within a year from the date of transfer of sovereignty to the Republic of the United States of Indonesia the question of the political status of New Guinea shall be determined through negotiations between the Republic of the United States of Indonesia and the Kingdom of the Netherlands.

ANNEX II

EXCHANGE OF LETTERS WITH REGARD TO ARTICLE 2 OF THE DRAFT CHARTER
OF TRANSFER OF SOVEREIGNTY ¹

NETHERLANDS DELEGATION
TO THE ROUND TABLE
CONFERENCE

Secretariat

No. 875

The Hague, 2 November 1949.

*To the Chairmen of the Delegations of the
Government of the Republic Indonesia and
of the Federal Consultative Assembly.*

Sirs,

I have the honour to inform you that the Netherlands Delegation to the Round Table Conference states that the following has been agreed upon by the Delegation to the Conference.

The clause in article 2 of the Draft Charter of Transfer of Sovereignty reading: "the status quo of the residency of New Guinea shall be maintained" means: "through continuing under the Government of the Netherlands".

I shall appreciate learning if you can agree to the foregoing.

I have the honour to be,

Your obedient servant,

J. H. VAN MAARSEVEEN.

*Chairman of the Netherlands
Delegation to the Round Table
Conference.*

**DELEGATION OF THE
REPUBLIC INDONESIA**

No. 2/E.L.

**F.C.A.-
DELEGATION**

The Hague, 2 November 1949.

Sir,

We have the honour to acknowledge receipt of your letter and we can inform you that the Delegations of the Republic Indonesia and the Federal Consultative Assembly to the Round Table Conference state that the following has been agreed upon by the Delegations to the Conference.

The clause in article 2 of the Draft Charter of Transfer of Sovereignty reading: "the status quo of the residency of New Guinea shall be maintained" means: "through continuing under the Government of the Netherlands".

We have the honour to be,

Your obedient servants,

MOHAMMAD HATTA,

*Chairman of the
Republican Delegation
to the Round Table
Conference.*

HAMID,

*Chairman of the
F.C.A.-Delegation to the
Round Table Conference.*

*To the Chairman of the Netherlands Delegation
to the Round Table Conference,
The Hague.*