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INFORMATION FROM NON-SELF-GOVERNING TERRITORIES TRANSMITTED
UNDER ARTICLE 73 e OF THE CHARTER OF THE UNITED NATIONS

QUESTION OF EAST TIMOR

Note verbale dated 5 June 1995 from the Permanent Mission
of Portugal to the United Nations addressed to the
Secretary-General

1. With reference to the note of the Secretary-General dated 9 March 1995 (TR 100 (2) GEN), the Permanent Representative of Portugal to the United Nations has the honour to call his attention to the information provided by the Mission in its note verbale dated 20 June 1994 (A/49/184), as required by Article 73 e of the Charter of the United Nations, the terms of which remain valid.
2. Since the Government of Portugal continues to be prevented de facto from exercising its responsibilities for the administration of the Non-Self-Governing Territory of East Timor, owing to the latter's illegal occupation by a third country thus preventing its people from exercising freely their right to self-determination, it remains unable to provide any information concerning that Territory under Article 73 e of the Charter. Nevertheless, the Government of Portugal would like to draw attention to the following.
3. Upon the invitation of the Government of Indonesia, the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions of the United Nations Commission on Human Rights, Mr. Bacre Ndiaye, paid a visit to East Timor in July 1994. In his report (E/CN.4/1995/61/Add.1), he points out that most of the provisions that have been adopted by the Commission since 1992 on the situation of human rights in East Timor are still to be implemented and urges the

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Indonesian authorities, inter alia, to conduct proper investigations of the Santa Cruz killings of 12 November 1991, to identify and bring to justice the perpetrators, to determine the fate and the whereabouts of the missing persons, to grant compensation to the victims or to their relatives and to prevent the occurrence of further killings.

The Special Rapporteur, who speaks of an atmosphere of fear and suspicion currently prevailing in East Timor, is of the opinion that no confidence-building measures can be effective and no solution to the problems confronting East Timor can be found before justice has been done and he maintains that the conditions that allowed the Santa Cruz brutality to occur are still present. Mr. Ndiaye writes also that a drastic reduction of the military presence in East Timor is a prerequisite for confidence-building measures. His report concludes, moreover, that the shooting at the Dili cemetery was not an isolated incident but a planned military operation.

4. In fact, the human rights situation continued to be a source of deep concern in the second half of 1994 and its serious deterioration during the early months of the present year has been consistently reported.

Violent incidents occurred in Dili on 14 July 1994, in November 1994 and on 9 January 1995 and in Baucau on 1 January 1995 during which five people were reported killed, several injured and many arrested. It appears that ethnic tensions (between East Timorese and non-East Timorese) as well as religious provocations caused by the population transfers fostered by the Indonesian authorities have contributed to the occurrence of most of those incidents. These apparent new ethnic and religious factors thus appear to be aggravating an already intolerable human rights situation prevailing in the Territory.

5. On 12 November 1994, 29 East Timorese students entered the United States Embassy in Jakarta and displayed banners calling for the United States President to seek the release of the East Timorese resistance leader, Xanana Gusmão, to push for his participation in peace talks and to support a referendum on the political future of East Timor. With the cooperation of the International Committee of the Red Cross (ICRC), they were allowed to depart for Portugal on 24 November 1994.

All these events were widely reported by the international media, present in large numbers in Jakarta to cover the Asia-Pacific Economic Cooperation (APEC) summit meeting that was being held on that occasion.

6. A most serious incident, however, was to take place in the region of Liquiça on 12 January 1995, when six East Timorese civilians (José Nunes, Victor Nunes, Augusto Pinto Nunes, Abel Nunes, Américo Araújo and Osório Soares) were killed by the Indonesian armed forces. The occupying authorities maintained, in the beginning, that they were guerrilla fighters who had been killed while engaged in action by the Indonesian military. The National Human Rights Commission, however, after conducting an on-the-spot investigation, concluded that the six were in fact local civilians who had been tortured and shot by the soldiers. Another investigation by an "Officers' Honour Council" followed and, according to Indonesian military sources, two soldiers will be

court-martialled for their role in the killing and other officers and soldiers will be the subject of administrative and disciplinary measures.

7. This brutal incident in Liquiça, which prompted several embassies in Jakarta to express their concern to the Indonesian authorities requesting that the matter be fully investigated, highlighted the serious deterioration of the human rights situation in the Territory after the APEC summit, as if the Indonesian authorities were to take their revenge for the restraint they had had to exercise before the international press correspondents gathered in Jakarta (and in Dili too) for that occasion.

East Timor was swept during the first months of the present year by a wave of terror, when hooded "ninja" gangs roamed the streets of Dili and villages in rural areas attacking those supposed to be opposed to Indonesian rule. Amnesty International reported that the authorities reacted to the unrest in the Territory with arbitrary detention, beatings and torture, as exemplified by the handling of the 9 January protest at the University of Dili.

8. More East Timorese have been sentenced to prison terms for their peaceful political activities. That was the case with José António Neves, a theology student, arrested in East Java in May 1994 and sentenced in February to four years in prison, accused of seeking to gain international support for East Timor's independence by sending faxes with information on human rights abuses in East Timor to overseas non-governmental organizations.

Isaac Soares, Miguel de Deus, Pantaleão Amaral, Rosalino dos Santos and Pedro Fátima Tilman were sentenced to 20 months' imprisonment for taking part in a peaceful pro-independence demonstration staged before a party of foreign journalists on 14 April 1994 in Dili.

In connection with the peaceful demonstration of 9 January at the University of Dili, José António Belo was sentenced to 17 months in jail. After the reading of the sentence he appealed to the Indonesian authorities to stop torturing the imprisoned East Timorese, referring to torture inflicted on a group of prisoners in the Becora military prison. Lemos Barreto and Inácio Jesus Santos (20 months), José Pinto, Pedro Costa and Alex Costa (26 months), Carlos Barreto and José Amaral (30 months) were the others to whom jail terms were handed down by Indonesian courts for taking part in the demonstration.

Thus, in contradiction with the commitments undertaken before the Commission on Human Rights and in the last rounds of talks over the question of East Timor held under the auspices of the Secretary-General, not only were those East Timorese already convicted for non-violent activities not released, but more have also been recently sentenced for engaging in peaceful political action.

9. Again according to Amnesty International, hundreds of suspected supporters of independence for East Timor were subjected to short-term detention, ill-treatment and harassment during 1994.

10. While some progress was made as regards access to East Timor, it is a matter of fact that human rights organizations such as Amnesty International and Human Rights Watch/Asia have still not been able to visit the Territory. It is also specially worrisome that, since early January, foreign journalists have been barred from the Territory.

Here again appeals made by the Commission on Human Rights to the Indonesian authorities to grant access to East Timor by human rights and humanitarian organizations, as well as by international media, have received no positive response.

11. The fourth and fifth rounds of talks on the question of East Timor held under the auspices of the Secretary-General took place on 6 May 1994 and on 9 January 1995, respectively.

Since the positions of the Governments of Portugal and Indonesia on the Territory's status remain far apart, efforts so far have concentrated on defining and carrying out a number of confidence-building measures, among which those pertaining to the improvement of the human rights situation are predominant, though with limited practical results, as may be seen from the previous paragraphs.

Certain important steps forward were made, however, at both meetings regarding the encouragement of the dialogue among East Timorese and of contacts between the Foreign Ministers of the two countries and leading East Timorese belonging to different political movements and tendencies. On 4 October 1994, the Minister for Foreign Affairs of Portugal met in Luxembourg with a delegation of supporters of integration. Similarly, on 6 October 1994, in New York, the Foreign Minister of Indonesia met with those in favour of self-determination.

It was further decided that in the fifth round of talks the Secretary-General would facilitate and offer the necessary arrangements for the convening of an all-inclusive East Timorese dialogue, as a contribution to his own efforts. This dialogue is supposed to address informally a number of practical ideas and possible actions that could lead to the improvement of the situation in the Territory and ease tension over the issue as a whole. It will not replace the ongoing talks at ministerial level but, instead, act as a kind of advisory forum for the Secretary-General. A first meeting is scheduled to take place from 2 to 4 June next in Burg Schlainning (Austria), following a generous offer made by the Government of Austria.

Having consistently favoured the association of the East Timorese in this process and bearing in mind that the interests of the inhabitants of the colonial territories are paramount, in accordance with Article 73 of the Charter, Portugal views this development as particularly positive. It is hoped that an open, free and constructive spirit may prevail, allowing common grounds of understanding to emerge, thus paving the way to the formulation of positive and useful proposals on the issue.

12. On 1 March 1995, the Commission on Human Rights adopted by consensus a new Chairman's statement on the situation of human rights in East Timor, following those approved in 1992 and 1994, and resolution 1993/97 adopted in 1993. In

considering the issue, the Commission had before it the report of the Secretary-General pursuant to the statement adopted at the previous session (E/CN.4/1995/72), the above-mentioned report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions on his visit to East Timor in July 1994 (E/CN.4/1995/61/Add.1) and information regarding the action taken by Special Rapporteurs and Working Groups of the Commission on Human Rights concerning East Timor (E/CN.4/1995/31 and Add.2, E/CN.4/1995/34, E/CN.4/1995/36 and E/CN.4/1995/61).

It is worth recalling that the Commission expressed its deep concern at the continuing reports of human rights violations in the Territory and again urged the Government of Indonesia to live up to its commitments regarding the improvement of human rights in East Timor, namely, the full investigation of the 12 November killing in Santa Cruz, and in particular of the fate of those people still missing and the circumstances surrounding the incident; the early release of the East Timorese convicted; and the granting of access to human rights and humanitarian organizations and the international media. The United Nations High Commissioner for Human Rights is to be invited to visit East Timor in 1995 and to submit a report to the Commission on Human Rights at its fifty-second session. Relevant thematic Special Rapporteurs and/or Working Groups of the Commission are also to be invited, taking into consideration requests made by them, when necessary, for assistance in fulfilment of their duties.

13. The Government of Indonesia, instead of reducing their troop strength in East Timor (as it has been pledging for years), in fact - according to all testimonies available - significantly increased their number during the months that followed the demonstrations staged in November in Jakarta and Dili, as mentioned above.

An unexpected source, the Foreign Minister of Australia, Senator Gareth Evans, said publicly on 16 May 1995:

"There is no doubt there is an oppressive military presence in East Timor far and away beyond that which is needed for the security of the place."

Mr. Evans's comments were prompted by an Australian nurse's claims of atrocities in East Timor. Mr. Simon de Faux, who served for two months in East Timor as a volunteer health worker for the Catholic Church (February-April 1995), said he had treated people there who had been tortured, raped and beaten by Indonesian soldiers. He added that they included women who had been repeatedly raped, men tortured by being tied naked to a metal bed and having electric charges sent through their bodies and youths almost drowned in barrels of water. There were also many beating victims and torture was fairly common (see The Age, 16 May 1995). While dismissing these charges, the Indonesian authorities stated, nevertheless, that an investigation into the matter would be carried out.

14. The International Court of Justice met from 30 January to 16 February 1995, under the provisions of articles 43 to 47 of its Statute, to hear the oral arguments of Portugal and Australia in the case relating to East Timor (Portugal v. Australia), brought before the Court by an Application filed by Portugal on 22 February 1991 instituting proceedings against Australia.

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These oral arguments followed two rounds of written pleadings consisting of a Memorial and a Counter-Memorial by Portugal and Australia, respectively, as well as a Reply by Portugal and a Rejoinder by Australia, all duly filed within the prescribed time-limits.

In its Application, Portugal contends that Australia, by negotiating with Indonesia an agreement relating to the exploration and exploitation of the continental shelf in the area of the Timor Gap (signed on 11 December 1989), by ratifying that agreement and by initiating its implementation, as well as by negotiating the delimitation of the shelf and by excluding any negotiation on these matters with Portugal, had caused serious legal and moral damage to the people of East Timor and to Portugal as administering Power, which will also become material damage if the exploitation of hydrocarbon resources begins.

The International Court of Justice is now deliberating on the case and a decision will be taken in due course on a date still to be announced.

15. In addition to these reports, a number of official United Nations documents have been circulated regarding the situation prevailing in East Timor. It would be worth recalling here those documents and their references:

(a) Letter dated 18 July 1994 from the Chargé d'affaires a.i. of the Permanent Mission of Germany to the United Nations addressed to the Secretary-General on behalf of the European Union (A/49/267-S/1994/853);

(b) Letter dated 15 November 1994 from the Chargé d'affaires a.i. of the Permanent Mission of Portugal to the United Nations addressed to the Secretary-General.

16. The Permanent Representative of Portugal to the United Nations has the honour to request that the present note be circulated as an official document of the General Assembly under items 88 and 94 of the preliminary list.
