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ALW 040325/1

NO. 18
20 AUG 1979

TASK OFFICER		REGISTRY
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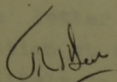
Miss Wilmshurst, Legal Advisers

cc: Mrs Wiseman, UND
 Mr Cooper, EID(E)
 Miss Croll, M & CD
 Mr Cowling, South America Dept ✓

EAST TIMOR

1. In his minute of 9 August, Mr Murray posed three questions in relation to possible recognition of the Indonesian annexation of East Timor. I attach the file containing the latest information about the effectiveness of Indonesian administration in East Timor, which it certainly appears that Fretilin resistance is extremely limited. See folio 7. I should be grateful for advice on the answers to Mr Murray's question (a). Presumably a need for formal recognition will arise if at some stage we are obliged to make formal representations to the authorities on the ground in East Timor. I should be grateful for advice about the precedents.

2. On the second question, in the unlikely Spanish or Argentinian invasions of Gibraltar or the Falklands respectively, British recognition of Indonesia's annexation of East Timor could weaken the force of our resultant protests. Belize is protected by British troops whose withdrawal could trigger a Guatemalan invasion regardless of what we say about Indonesia's annexation of East Timor. But here too, if we were able to make some arrangements with Guatemala on which they subsequently renegued, the force of our protests might be somewhat weakened by our acceptance of Indonesia's military action in East Timor. The main point seems to be that we and the rest of the Nine should seek to uphold international standards by delaying for as long as we can the moment of de facto recognition. The longer the Indonesian authorities have been established there and the smaller the resistance against them, the more respectable would be our recognition. I would be grateful if you or any of the other recipients of this minute could let me have by close of play on Wednesday 15 August any observations which you would wish to see included in a submission to Ministers on this subject.



J J Beale
 South East Asian Department

10 August 1979

Mr Simons
 Mr Cortazzi

These are confidential. Mr. Simons 7/11
to [unclear] Minute [unclear] 9/8

cc: Miss Wilmshurst, Legal Adviser
 Mrs Wiseman, UND
 Mr Cooper, EID(E)

EAST TIMOR

1. You asked for papers on our attitude towards Indonesia's forcible incorporation of East Timor.

A₁ K₂
 A₂
 2. I attach the latest Parliamentary answer on this matter, together with the briefing prepared for the European Community's Political Committee meeting on 5/6 June (at which the subject was not discussed). The next meeting will have to consider what attitude the Community should collectively adopt when the issue comes up in this year's UN General Assembly. Preliminary consideration was given to this by SEAD at the time of the Asia Working Group meeting in May (FCO telno 140 to Paris of 17 May). I recommend (a) that we postpone submission to Ministers until after the next Asia Working Group meeting (probably 30/31 August) when we should learn of any change in our partners' views, and (b) that there should be no change in our position meanwhile. The Department's legal adviser, UND and EID(E) concur.

BACKGROUND

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 D
 E
 3. The pros and cons of recognising the annexation were summarized in the paper produced last December by the Community Ambassadors in Jakarta (page 14 onwards of document enclosed with Mr O'Brien's letter of 28 December). The arguments in favour seemed inconclusive (Mr Simons' letter of 20 March). Recognition could complicate our position at the UN (Mr Byatt's letter of 18 January). Portugal is likely to continue to

/condemn

CONFIDENTIAL

- 2 -

- F condemn Indonesia (Mr Cortazzi's letter to Lord Moran of 20 February).
- G 4. Legal Advice is annexed. The Ambassadors' paper did not regard as significant the distinction between de facto and de jure recognition; de facto recognition may not wholly satisfy the Indonesians but when they are in full control it would accord with the facts of the situation. There can be no question of according de jure recognition. We should make this point strongly in the AWG.
5. The case for remaining silent while continuing to be helpful to the Indonesians at the UN has not been undermined by recent discussions - despite the Indonesian Counsellor's inaccurate comment to Mr Flower on 31 July that all except two of the EEC countries were now in favour of recognition. The EEC will, however, be in good company when it decides to recognise East Timor as an integral part of Indonesia; according to page 13 of the Ambassadors' paper, Australia, New Zealand, Japan, Canada and the USA are among 35 states who have already done so.

J. J. Beale

7 August 1979

J J Beale
South East Asian Department

~~Mr Murray~~

~~Mr Cortazzi~~

EAST TIMOR

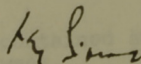
- B 1. The advice in FCO telegram No 140 to Paris is still valid.
H But in the light of the record of conversation at the Asia Working Group meeting in February, we should prepare a move at the forthcoming meeting on 30/31 August to secure a change in the Nine's attitude at the United Nations. *W*

/2.

CONFIDENTIAL

2. It would be advantageous for Ministerial approval to be sought in advance for our representative's brief for the August meeting. It would, in any case, be necessary to consult Mr Blaker soon afterwards in connexion with briefing for his proposed visit to Indonesia.

B
3. I would propose to submit that we should stick on the guidance in the FCO telegram for as long as possible, and that we should attempt to dissuade our colleagues from moving too far from it. But, as fall-back positions, we should be prepared, with them, to alter our UN vote, and, in the last resort, to go so far as to recognise Indonesian occupation of East Timor de facto.



A M Simons
South-East Asian Department

7 August 1979

Copies to:

Miss Wilmshurst, Legal Advisers

Mrs Wiseman, UN

Mr Cooper, EID(E)

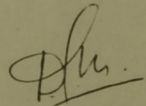
Mr Simons

1. We must be practical about this. East Timor has now been absorbed into Indonesia and I see no prospect that the actual situation will ever be different. By this I mean that Indonesia will exercise control and government, irrespective of what the world thinks about sovereignty and of the degree of unrest in the island. The legal opinion at Flag H is helpful guidance but is, I suspect, out of date in its assessment of the degree of Indonesian control over the region. I believe we are in a position where we could recognise de facto the absorption of East Timor into Indonesia but refrain from recognising de jure on the analogy of the Baltic States.

2. The real question is what this would involve. So far as action in Indonesia is concerned, I see no reason why we should not regard East Timor as part of Indonesia, eg for purposes of travel and visits by Embassy staff and even the Ambassador himself (a distinction without a difference). However, if action is required elsewhere, eg at the UN, particularly if we have to change our present attitude on UN Resolutions, then the implications for British policy elsewhere have to be considered and a submission made to Ministers.

3. Taking FCO telegram to Paris No 140 (Flag B) as the starting point, and assuming that what we want is tacit acceptance of the fact of East Timor's absorption into Indonesia, we need answers to the following questions:-

- (a) Is there any need for a formal recognition of de facto ^{not} sovereignty? Are there precedents for this and, if ~~so~~ why should we create a precedent this time?
- (b) What would be the precise disadvantages to the British attitude on Gibraltar, Belize and Falkland Islands of a formal announcement on recognition, and are these disadvantages so overriding (I hope they are) that we must make it clear to the Nine and to Indonesia that we can never join in formal action of this sort?
- (c) What, equally, would be the effect on our policies on Gibraltar, Belize and the Falkland Islands of a British vote against a UN Resolution critical of Indonesia, as distinct from an abstention?
4. I think we need a self-contained submission and we ought to get this to a Minister next week.



D F Murray

9 August 1979

cc Miss Wilmshurst, Legal Adviser
Mrs Wiseman, UND
Mr Cooper, EID(E)
Mr Cortazzi

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Mr Duggan

EAST TIMOR: IMPLICATIONS FOR FALKLANDS POLICY

1. Please see the papers below from SEAD about recognition of Indonesia's annexation of East Timor. There are, as you will see from Mr Murray's minute of 9 August implications for the Falklands which might arise if we were formally to recognise East Timor's absorption into Indonesia. Our comments are required by close of play on Wednesday, 15 August. TW
2. If we formally recognised Indonesia's annexation of East Timor this would hardly of itself encourage an Argentine military adventure against the Islands. But if the Argentines did invade I think we must recognise that they could resist any subsequent British attempt to orchestrate condemnatory moves (eg within the UN) had we previously given recognition to Indonesia's forcible annexation of East Timor. This applies with equal force to both points (b) and (c) of Mr Murray's minute. W74
3. But that said these considerations do not seem of "overriding" importance and this is, I believe, the view we should put to SEAD.

J. R. Cowling
J R Cowling
SAmD

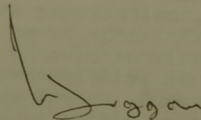
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Mr Beale SEAD

EAST TIMOR RECOGNITION: IMPLICATIONS FOR FALKLAND ISLANDS

1. From the Falkland Islands stand point, and subject to what the lawyers say, I think it would be unwise to set such a precedent with East Timor.
2. An Argentine invasion of the Falkland Islands is at the moment unlikely; but we cannot rule out the possibility of such an invasion in the future, particularly if our negotiations go badly wrong and we are not able to meet Argentine claims for sovereignty.
3. Physically, there is little or nothing that we could do to prevent an Argentine invasion or to dislodge an invading force once there. Our only recourse would be to bring international diplomatic pressure to bear on Argentina, not least through the United Nations. Our case at the UN would obviously be seriously flawed if we had recognised the Indonesian take-over of Timor, following an invasion which would be very similar to any Argentine action in the Falkland Islands, and not least only four years after it had happened.


G A Duggan
South America Department

14 August 1979

cc:	
Miss Wilmshurst	Legal Advisers
Mr Chamberlain	Legal Advisers
Mrs Wiseman	UND
Mr Cooper	EID(D)
Miss Croll	M&CD