

Appendix B: Memorandum of Understanding Between the Government of Australia and the Government of the Republic of Indonesia Regarding the Operations of Indonesian Traditional Fishermen in Areas of the Australian Exclusive Fishing Zone and Continental Shelf (7 November 1974)

Following discussions held in Jakarta on 6 and 7 November, 1974, the representatives of the Government of Australia and of the Government of the Republic of Indonesia have agreed to record the following understandings.

1. These understandings shall apply to operations by Indonesian traditional fishermen in the exclusive fishing zone and over the continental shelf adjacent to the Australian mainland and offshore islands.

By "traditional fishermen" is meant the fishermen who have traditionally taken fish and sedentary organisms in Australian waters by methods which have been the tradition over decades of time.

By "exclusive fishing zone" is meant the zone of waters extending twelve miles seaward off the baseline from which the territorial sea of Australia is measured.

2. The Government of the Republic of Indonesia understands that in relation to fishing in the exclusive Australian fishing zone and the exploration for and exploitation of the living natural resources of the Australian continental shelf, in each case adjacent to:

Ashmore Reef (Pulau Pasir) (Latitude 12° 15' South, Longitude 123° 03' East), Cartier Islet (Latitude 12° 32' South, Longitude 123° 33' East), Scott Reef (Latitude 14° 03' South, Longitude 121° 47' East), Seringapatam Reef (Pulau Datu) (Latitude 11° 37' South, Longitude 122° 03' East), Browse Islet (Latitude 14° 06' South, Longitude 123° 32' East).

The Government of Australia will, subject to paragraph 8 of these understandings, refrain from applying its laws regarding fisheries to Indonesian traditional fishermen who conduct their operations in accordance with these understandings.

3. The Government of the Republic of Indonesia understands that, in the part of the areas described in paragraph 2 of these understandings where the Government of Australia is authorised by international law to regulate fishing or exploitation for or exploitation of the living natural resources of the Australian continental shelf by foreign nationals, the Government of Australia will permit operations by Indonesian nationals subject to the following conditions:

a) Indonesian operations in the areas mentioned in paragraph 2 of the understandings shall be confined to traditional fishermen.

b) Landings by Indonesian traditional fishermen shall be confined to East Islet (Latitude 12° 15' South, Longitude 123° 07' East), and Middle Islet (Latitude 12° 15' South, Longitude 123° 03' East) of Ashmore Reef for the purposes of obtaining supplies of fresh water.

c) Traditional Indonesian fishing vessels may take shelter within the island groups described in paragraph 2 of these understandings but the persons on board shall not go ashore except as allowed in (b) above.

4. The Government of the Republic of Indonesia understands that the Indonesian will not be permitted to take turtles in the Australian exclusive fishing zone. Trochus, beche de mer, abalone, green snail, sponges and all molluscs will not be taken from the seabed from high water marks to the edge of the continental shelf, except the seabed adjacent to Ashmore and Cartier Islands, Browse Islet and the Scott and Seringapatam Reef.

5. The Government of the Republic of Indonesia understands that the persons on board Indonesian fishing vessels engaging in fishing in the exclusive Australian fishing zone or exploring for or exploiting the living natural resources of the Australian continental shelf, in either case in areas other than those specified in paragraph 2 of these understandings, shall be subject to the provisions of Australian law.

6. The Government of Australia understands that the Government of the Republic of Indonesia will use its best endeavours to notify all Indonesian fishermen likely to operate in areas adjacent to Australia of the contents of these understandings.

7. Both Governments will facilitate the exchange of information concerning the activities of the traditional Indonesian fishing boats operating in the area west of the Timor Sea.

8. The Government of the Republic of Indonesia understands that the Government of Australia will, until the twenty-eighth day of February 1975, refrain from applying its laws relating to fisheries to Indonesian traditional fishermen in areas of the Australian exclusive fishing zone and continental shelf other than those specified in paragraph 2 of these understandings.