



MALAYSIA

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31ST AUGUST, 1957

TO

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DI-CHETAK DI-JABATAN CHETAK KERAJAAN
OLEH THOR BENG CHONG, A.M.N., PENCHETAK KERAJAAN
KUALA LUMPUR
1963

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The Republic of the Philippines was one of the first countries to extend its recognition to the Federation of Malaya when it was established on 31st August, 1957. During the Merdeka Celebrations a delegation from the Philippines participated.

2. A more positive step in the forging of closer relations between the Federation and the Philippines took place in January, 1959, when the Prime Minister paid an official visit to the Philippines at the invitation of the then President, Mr Carlos P. Garcia, who in inviting the Prime Minister to visit his country stated that his "presence would work in a large measure in forging stronger links between our two countries and in creating deeper understanding between our two peoples who are indeed one in origin, ideals and traditions." The Prime Minister received a warm welcome in the Philippines and the Joint Communiqué issued at the end of the visit stressed the need for closer economic and cultural cooperation between the Philippines and the Federation. Specifically, the two Heads of Government agreed to take further and move positive steps towards the realisation of a proposal for the formation of an Association for the promotion of economic and cultural cooperation among countries in South-east Asia. Thus, the two countries made the first moves which later resulted in the birth of the Association of Southeast Asia (ASA).*

3. In October, 1959, under the care of a Charge d' Affaires, a Legation was established in Manila which was raised to an Embassy in October, 1961 and in March, 1962, the first Malayan Ambassador was appointed to Manila.

4. In February, 1961, President Carlos P. Garcia paid a return visit to the Federation which he referred to as "a sentimental journey to the land of our forebearers so as to forge firmer bonds of friendship". In a Joint Communiqué issued at the end of the visit, President Carlos Garcia expressed his satisfaction at the close friendship existing between the two countries and he pledged his continued cooperation with the Federation for peace and security of the area.

5. At this meeting the two leaders reviewed developments regarding the formation of ASA and agreed to take further steps towards its achievement. The Association was formally launched on 31st July, 1961, in Bangkok during a meeting of the Foreign Ministers of the Philippines, the Federation and Thailand in what has now come to be known as the "Bangkok Declaration".

6. Spadework continued between then and April, 1962, when a special meeting of Foreign Ministers was held in Kuala Lumpur/Cameron Highlands when several projects for immediate implementation were agreed to, primary among them being the abolition of Visa requirements for officials and visa fees for nationals visiting each others' countries and also a multilateral trade and navigation agreement among the three countries. This meeting saw the end of the preparatory stage of the Association and in the following period several projects were implemented in the economic, social and cultural fields.

* Appendix I.

7. Several exchanges of personnel, artistes and athletic and sporting teams took place and to all intents and purposes the world had started to take note of this Association. In fact, it was during this period that certain Asian countries both within and outside the region made tentative feelers about obtaining membership.

8. Encouraged by the progress made, the ASA Foreign Ministers agreed to undertake other programmes, the most significant of which were active consultations for the conclusion of the Multi-lateral Trade and Navigation Agreement, intensification of joint efforts to expand both intra-regional trade and world trade, encouragement to the private sector to take a more active part in the promotion of closer economic ties under ASA auspices and the establishment of an ASA Fund with an initial outlay of US\$3,000,000. Since April, 1963, implementation of the many projects envisaged have been pressed and clearly the close economic and cultural cooperation resulting from ASA was bringing the Philippines closer to the Federation and vice versa.

9. On May 27, 1961, the Prime Minister made his historic statement in Singapore in which he proposed the formation of Malaysia. There was no immediate reaction to the proposal in the Philippines, which could be explained by the fact that they were then too preoccupied with their Presidential elections which resulted in the election of Mr Diosdado Macapagal on December 13, 1961, as the President of the Philippines.

10. It was realised that President Macapagal would not announce his attitude towards the formation of Malaysia immediately in view of certain factors which he would have to carefully consider before determining the Philippines stand towards the proposal. In particular President Macapagal was one of the persons identified with the successful Philippine agitation for the return of the Turtle Islands from Great Britain in 1948 and, furthermore while a Member of Congress, President Macapagal together with six others had introduced a Resolution calling on the then President of the Philippines to negotiate with the British Government for the "restoration" of the ownership over British North Borneo, which they claimed belonged to the heirs of the Sultan of Sulu and the recognition of the sovereign jurisdiction of the Philippines over the territory. The Resolution was adopted by the House of Representatives on 20th April, 1950, but it failed to get the approval of the Senate.

11. With the election of Mr Macapagal as President of the Philippines, agitation for the "recovery" of North Borneo was revived and very much increased, with active participation from the Philippine Press and certain individuals. The late Mr Nicasio Osmena, son of a former President of the Philippines, claimed that he had done considerable research on the subject and possessed documents which provided undeniable proof of Philippine sovereignty over North Borneo. He had obtained Powers of Attorney from the heirs of the Sultan of Sulu and had formed a company, the Kiram Corporation, whose main object was the commercial exploitation of North Borneo, once it came under Philippine sovereignty. However, he had also made it known that he was amenable to a cash settlement of the claim. In connection with the agitation for the North Borneo claim, opinion was expressed that Malaysia was a

proposal intended to deprive the Philippines of their just rights over North Borneo.

12. An important factor in Malaya-Philippine relations was the increasingly close cooperation brought about by the establishment of ASA which had definitely shown its value in the economic and cultural fields. The assertion of a claim over North Borneo was bound to have serious repercussions on this relationship.

13. The Philippine Government remained silent on the North Borneo claim until the ASA Conference held early in April, 1962, at Kuala Lumpur and Cameron Highlands when the Philippine Vice President, Mr Emmanuel Pelaez, took the opportunity to discuss with the Prime Minister the question of North Borneo's (Sabah's) entry into the proposed Federation of Malaysia in the context of a possible Philippine claim over the sovereignty of this territory. During the talk, the Prime Minister informed Mr Pelaez that if the claim was put forward it would be a matter purely between the Philippines and Britain. But he gave the assurance that North Borneo would only come in on a "clean slate" which suggested the absence of any action pertaining to the territory in a recognised court of tribunal. The Vice President appeared satisfied with this attitude.

14. On April 24, 1962, the Philippine House of Representatives unanimously passed a Resolution known as the Ramos Resolution urging the President of the Philippines to take "necessary steps" consistent with international law and procedure for the recovery of a certain portion of the Island of North Borneo and adjacent islands which appertain to the Philippines. This Resolution was subsequently passed by the Philippine Senate.

15. Despite the Resolution of Congress the Philippine Government did not make any immediate announcement of their stand on this question. On May 24th the British Government handed to the Philippine Ambassador in London an Aide Memoire in which the British Government expressed their appreciation of the fact that the Government of the Philippines had not hitherto associated itself publicly with the dispute over British Sovereignty in North Borneo. The document went on to express that the British were convinced of their right to sovereignty over North Borneo and that there was no valid claim whatsoever over this territory by any other person or parties. It went further to point out that the Federation and the United Kingdom had welcomed in principle the formation of Malaysia and any public dispute about North Borneo would have serious repercussions in the Federation and Borneo. On June 22, Mr Salvador P. Lopez, acting Secretary of Foreign Affairs, replied rejecting the view that the public dispute with the Philippine Government about North Borneo would have undesirable repercussions in the Federation and Borneo and declared that a dispute did exist between the Sultanate of Sulu and the Philippine Government on the one hand and the British Government on the other regarding the ownership and sovereignty over North Borneo. Despite the warning of undesirable consequences the Philippine Government confirmed categorically that they were entering into a dispute with the British Government over the ownership and sovereignty of North Borneo.

16. On 25th July, 1962, the acting Foreign Secretary called H.M.M. Ambassador to the Philippines and denied allegations that the Philippine claim to North Borneo was aimed at obstructing the formation of Malaysia. He gave an assurance that the Philippine Government fully supported the principle which formed the basis of the Malaysia proposal, but stated that the North Borneo claim was a long standing affair which had been neglected by previous governments but was now being taken up by the present Administration. He regretted that it came at a time when the Federation was putting forward a proposal for Malaysia but hoped that the dispute would be resolved by the time Malaysia was formed. He went on further to inform H.M.M. Ambassador that the President was so taken up with the principle of Malay States coming together that he had in mind to announce an even bigger proposal in the form of a Confederation of Malay States consisting of the Federation, Singapore, the Borneo territories and the Philippines. On July 27, the President publicly announced this proposal for a Malayan Confederation. It is significant to note that initially it was not proposed that Indonesia should be a member of the Confederation. It was reported that when he made the announcement, President Macapagal stated that he did not oppose the Malaysia proposal but his Malayan Confederation would render Malaysia unnecessary.

17. On August 1, 1962, it was announced that the British and the Federation Governments, after having studied the Report of the Cobbold Commission which showed that an overwhelming proportion of the people concerned was in favour of the formation of Malaysia, had agreed that Malaysia would be brought into being by August 31, 1963, and that by that date the sovereignty over North Borneo in particular would be relinquished by the British Government.

18. On August 2, H.M.M. Ambassador was called to the Philippine Foreign Office and was handed an Aide Memoire* by Vice President Emmanuel Pelaez who was concurrently Secretary of Foreign Affairs. The Aide Memoire referred to the agreement reached in London between the Prime Minister of the Federation and the Prime Minister of the United Kingdom for the establishment of Malaysia and expressed the satisfaction of the Philippine Government over this development "insofar as it represented a step forward in the direction of increased cooperation and unity among Asian peoples". The Vice President expressed the belief that "this step would ultimately lead to a broader integration of the Malay peoples in the cultural and economic fields". The Aide Memoire pointed out the existence of the dispute between the Philippine Government and the British Government over the status of North Borneo which they hoped would be resolved by peaceful means between the two governments. It referred to the assurances given by the Prime Minister to the Vice President that the Federation Government would only agree to North Borneo joining Malaysia on a "clean slate" and hoped that the London Agreement for the establishment of Malaysia was not intended to ignore the Philippine claim to North Borneo. The Aide Memoire closed with the hope of the Philippine Government that "the action and decision of his Government in regard to the disputed territory of

* Appendix II.

North Borneo in no way affect adversely the fraternal relations existing between the two countries as evidenced by the strong support they have given to ASA".

19. On August 24, a Note was received by H.M.M. Embassy in Manila from the Philippine Foreign Office requesting that a visa be issued to Mr Nicasio Osmena, holder of a Philippine Diplomatic Passport. While in Kuala Lumpur Mr Osmena tried to see the Prime Minister with a view, it was reported, to obtaining a cash settlement of the North Borneo claim which he alleged he had full authority to do. He was unsuccessful in meeting the Prime Minister who firmly maintained that the dispute over the sovereignty of North Borneo was purely a matter between the Philippine Government and the British Government, and to which the Federation was not a party.

20. It was becoming obvious that the Philippine claim to North Borneo was affecting the relationship between the Philippines and the Federation. The Prime Minister came increasingly under attack by the Philippine Press and private individuals for allegedly standing in the way of the Philippine recovery of sovereignty over North Borneo and the Malaysia proposal was seen as a plan to deprive them of their "just" rights. In view of these criticisms, the Prime Minister deemed it wise to postpone his visit to Manila for the ASA Foreign Ministers Meeting which was scheduled to take place in November, 1962. The Philippines had hoped that their North Borneo claim would not affect ASA but it was obvious that their claim was in fact affecting their relations with the Federation.

21. On October 3, the Permanent Secretary for External Affairs handed an Aide Memoire* to the Philippine Ambassador in Kuala Lumpur in reply to that handed to H.M.M. Ambassador in Manila on 2nd August. The Aide Memoire emphasised that the Federation was going ahead with the establishment of Malaysia because it was in accordance with the wishes of an overwhelming majority of the people in the Borneo territories. In so far as North Borneo was concerned the Philippine Ambassador was informed that it was under the effective occupation and direct rule of the British Government and the question of sovereignty over this territory had at no time been in doubt and that the question was not before any court or tribunal. The Federation Government had therefore accepted the situation as sufficient to satisfy the terms stated by the Prime Minister as a "clean slate". If the Philippine Government had any reason to disagree with the claim that the British Government was entitled to and actually enjoyed sovereignty over it, such a dispute could not be otherwise than a matter strictly between the British Government and the Philippine Government. At no time before the announcement in July 1962 in London was a reference made to a claim by the Philippine Government that the British Government was not entitled to claim ownership or sovereignty over North Borneo or to transfer it to any other entity. It was only during the conversation on August 2nd 1962 between the Vice President and H.M.M. Ambassador in Manila that the Federation Government was first given an indication that the Philippine Government was making a formal claim to North Borneo. It went on further to point out that owing to

* Appendix III.

the undue excitement that had been aroused in the Philippine over the matter the Prime Minister did not consider it advisable for him personally to attend the ASA Foreign Ministers Conference then scheduled to take place in November, 1962.

22. Early in November Sheikh A. M. Azahari, President of the Party Rakyat of Brunei, made his first visit to Manila under the sponsorship of the late Mr Nicasio Osmena, with whom he stayed while in Manila, who, as referred to previously, was one of the leading figures in the agitation for the North Borneo claim. During his stay in Manila, Azahari met various Filipino leaders, official and private, seeking support for his proposal to oppose the formation of Malaysia. Among the government officials whom he met was Vice President Pelaez. Azahari also claimed that he had met President Macapagal.

23. On November 29, Azahari left Manila for Singapore to return on December 6, 1962, and his arrival signalled the outbreak of a revolt in Brunei soon thereafter. From Manila Azahari proclaimed the formation of the Unitary State of Kalimantan Utara consisting of Brunei, Sarawak and North Borneo with himself as Prime Minister, and the Sultan of Brunei as the Head of State. Certain leading Filipinos gave moral support to the rebellion, among whom were the late Mr Nicasio Osmena and Mr Hermiglio Atienza, then Legal Adviser to President Macapagal, who was reported to be the Presidential Liaison Officer to Azahari.

24. Some Filipinos saw in Azahari's Kalimantan Utara a possible way in which they could attain their objective in the North Borneo claim and Azahari apparently gave them reason to hope that once the new State was established he would see to it that the claim was settled in favour of the Philippines. By clever use of publicity and public relations, Azahari made it appear that the revolt in Brunei was a popular one and that it was against British imperialism and not against the Sultan of Brunei, against whom it in fact was. As a result of publicity given to him, and ignorance of the true state of affairs in the territories concerned, public sympathy in the Philippines was in his favour. The Philippine Government made no positive stand in this matter and by its silence merely encouraged support. However, in the latter stages of the revolt the Vice President issued a statement that the Government would not give facilities to volunteers who wished to join Azahari's rebels.

25. On December 13, 1962, the Philippine Acting Undersecretary of the Foreign Affairs informed the Federation's Charge d' Affaires in the absence of H.M.M. Ambassador who had returned to Kuala Lumpur for consultations, that hitherto Azahari had not approached the Philippine Government for formal recognition of his proclaimed State and further the Philippine Government would allow Azahari and his companion to stay in the Philippines for as long as they wished, provided their visit to Manila was properly documented. However, after the Passports of these persons were declared cancelled by the British Government the Philippines Government continued to allow them to stay in the Philippines, despite the fact that Azahari was fomenting a rebellion and claiming to be the leader of a "government" with jurisdiction over North Borneo, Sarawak and Brunei, which were involved in the Malaysia plan. Azahari, while enjoying sanctuary on Philippine soil and

under the pretext of championing the subject peoples in Borneo, was allowed unabatedly to viciously attack the Federation which was amicably disposed towards the Philippines and which had given assurances to the Philippines that the Malaysia proposal had the support of the majority of the people of the territories concerned. However, the revolt in Brunei soon appeared to be one lacking not only in popular support but also in determination even among the few that originated the revolt, and support for Azahari and his companions became much reduced and provided embarrassment to his supporters in Manila.

26. On November 22, 1962, President Sukarno on his way home from Japan went out of his way to stop in Manila for three hours in order to meet President Macapagal. It was reported that the two Presidents held secret discussions and no official communique or report was issued on the meeting. Newspaper speculation was to the effect that the two had discussed President Macapagal's proposal for the Confederation of Malay States and the proposed formation of Malaysia.

27. The attitude of the Philippine Government with regard to the proposal for the formation of Malaysia now appeared to be veering towards the opposition as evidenced not only by its tacit support for the anti-Malaysian objectives of the Party Rakyat, headed by Azahari, but also by a speech which was made by a Philippine delegate to the United Nations, Mr Godfredo Ramos, the Chairman of the Philippine House of Representatives' Committee on Foreign Affairs, when he said that the Malaysia proposal was being forced on the people against their wishes, whereas the Federation Government had already given assurances to the Philippine Government that Malaysia had the majority support of the people in the territories concerned and that it was still open to them whether or not to finally join Malaysia. This attitude on the part of the Philippine Government was inconsistent with the statement made by the Vice President and concurrently Foreign Affairs Secretary, Mr Emmanuel Pelaez, who informed H.M.M. Ambassador in Manila, on August 2, 1962, that Malaysia represented a step forward in the direction of increased co-operation and unity among Asian peoples which would ultimately lead to a broader integration of the Malay peoples in the area.

28. On January 20, 1963, Dr Subandrio, the Foreign Minister of the Republic of Indonesia announced his Government's confrontation policy against the Federation. Eight days later on January 28, President Macapagal in a State of the Nation Message* delivered at the Opening of the 1963 Session of Congress attacked the Malaysia proposal as being not in accordance with the principle of self-determination, but, he stated, "appears to be a continuation of colonialism based only on an expedient of false security and that North Borneo's entry into Malaysia would be an arbitrary arrangement". He contended that the Federation had no authority, claim or right to take over North Borneo.

29. On the same day Mr Emmanuel Pelaez, the Vice President, leading a Philippine delegation to the Anglo-Philippine Talks concerning problems affecting Anglo-Philippine relations, in an

* Extract at Appendix IV.

opening statement gave further clarification of his government's opposition to the proposed Federation of Malaysia. He declared that Malaysia would be hardly viable and that it would not be in the security interest of the area. He predicted, on the contrary, that Malaysia would give rise to disturbances and unrest which would be dangerous to the security of the area. He stated that the "restoration" of North Borneo territory to the Philippines would be in the best interest of the security of the Philippines and within the larger context of the defences of the free world in the South-west Pacific. The Philippines, he claimed, would be better able to keep North Borneo out of Communist control. However, if "restored", the Philippines was prepared to adopt measures in order that, within a reasonable period, a referendum would be held to enable the people to express their true will.

30. On February 14, 1963, H.M.M. Ambassador in Manila in an interview with the President conveyed the Federation Government's regrets at the apparent misconception of the proposal for the formation of Malaysia which was inconsistent with their stand as previously expressed to the Ambassador by the Vice President. He explained to the President that all steps were taken by the Federation Government as well as by the British Government to ensure that the people in the territory concerned fully understood the Malaysia proposal and that both governments were particularly careful to ensure that the principle of self-determination was strictly observed. He reiterated that his Government was firmly convinced that the Malaysia proposal was in the best interest of the people not only of the territories concerned but also of the region as a whole. The President, however, maintained his view regarding Malaysia but assured H.M.M. Ambassador that he was prepared to keep an open mind in the matter and expressed a willingness and a desire to meet the Prime Minister in order to discuss the question further. Soon after the interview H.M.M. Ambassador returned to Kuala Lumpur to report to the Prime Minister.

31. So far as the Philippine claim to North Borneo was concerned the Anglo-Philippine Talks in London did not resolve the dispute. Both countries however agreed that there should be an exchange of documents in Manila so that the next step in the dispute could be considered. In particular, the Philippines was disposed to bringing the matter to the International Court of Justice, whereas the British would only give a decision after they had seen the documents in the possession of the Philippine Government relating to the claim. To-date as far as is known this exchange has not taken place.

32. In the meantime the Indonesian Government was actively pursuing their policy of confrontation and a stream of hostile propaganda and statements were being issued from Indonesia, and, consequently, relations between Indonesia and the Federation grew from bad to worse.

33. On his return from London Vice President Pelaez publicly proposed a Summit Meeting among President Macapagal, President Sukarno and the Prime Minister in order to discuss their differences with a view to arriving at, if possible, an amicable solution in the interest of peace and security and good neighbourly

relations among the Malay nations. The proposal was immediately warmly welcomed by the Prime Minister whereas President Sukarno was rather non-committal.

34. Early in March the Deputy Prime Minister, while in Manila as leader of the Federation Delegation to the ECAFE Ministerial Conference, had an interview with President Macapagal who formally proposed the holding of Talks at Ministerial level among Indonesia, the Philippines and the Federation on the lines proposed by Vice President Pelaez with a view, possibly, to a meeting at Summit level. The Deputy Prime Minister gave his agreement to the Talks being held but suggested that before the Ministers meet there should be a meeting of top officials in order to pave the way for the Ministerial Talks. The President also had a similar discussion with Dr Subandrio, the Indonesian Foreign Minister, who was also in Manila for the ECAFE Conference. He gave his agreement to the holding of talks.

35. The three countries having given their agreement, Tripartite Talks at Subministerial level were held from April 9 to 17, with Indonesia represented by Dr Suwito Kusumowidagdo, First Deputy Foreign Minister; the Federation by Enche' M. Ghazali bin Shafie, Permanent Secretary for External Affairs, and the Philippines by Mr Salvador P. Lopez, Under-secretary for Foreign Affairs. At this discussion the agenda and procedure for the Tripartite Talks at Ministerial level was discussed. It was agreed that the agenda should be:

- (i) a general exchange of views on current problems concerning stability, security, economic development and social progress of each country and of the region as a whole and exposition of the efforts being exerted by the three countries either individually or jointly to solve them;
- (ii) discussion of ways and means by which the three countries can achieve closer cooperation and assist one another in solving the problems referred to above on the basis of mutual respect and consistent with their national, regional and international responsibilities or obligations.

At the end of the meeting, a Joint Communique* was issued.

36. Early in April the Prime Minister visited Manila to participate in the ASA Foreign Ministers Meeting. He stayed at Malacanang, the Presidential Palace, and had several meetings with President Macapagal. During these meetings there was a free exchange of views between the two leaders in an atmosphere of cordiality and frankness. They reviewed the situation in the area particularly the problems concerning security and stability. They agreed on the need for forging harmony and goodwill among the three countries of Malay origin in the area, namely, Indonesia, the Philippines and the Federation, and, recognising the many problems and obstacles which beset these objectives, agreed that there should be consultations among responsible officers and leaders of the three countries. The Prime Minister reiterated his willingness to sit down in Tripartite Talks with President Macapagal and President Sukarno in an honest endeavor to iron out difficulties and to remove any misunderstanding that stood in the way of close relations among the three countries.

* Appendix V.

37. On May 23, 1963, on his way to Tokyo, President Sukarno stopped in Manila for two hours and had a meeting with President Macapagal. In their Joint Statement* the two Presidents expressed satisfaction over the close relations between Indonesia and the Philippines and increasing contacts between the two peoples. They reiterated their determination to move towards the objective of forging the closest ties of friendship.

38. The Tripartite Foreign Ministers Conference took place in Manila from June 7 to 11. The Federation Delegation was led by the Deputy Prime Minister, the Indonesian Delegation by Dr Subandrio, the Foreign Minister, and the Philippine Delegation by Mr Emmanuel Pelaez, the Vice President. The Joint Communiqué† issued by the three Foreign Ministers on June 11, 1963, stated that the deliberations were held in a frank and most cordial atmosphere, a manifestation of the determination of the nations in this region to achieve closer cooperation in their endeavor to chart a common future.

39. The Report and Recommendations of the Foreign Ministers can be summarised into four sections. The first dealt with the subject of President Macapagal's proposal for the formation of a Confederation of nations of Malay origin. The Foreign Ministers supported the plan which envisaged the three countries working together in closest harmony, and with this objective in mind, the Foreign Ministers agreed to recommend that as an initial step there would be established a machinery for frequent and regular consultations in order to enable the three governments to hold regular consultations at all levels on problems of common concern such as security, stability, and economic, social and cultural development.

40. The second concerned the subject of the formation of Malaysia. Indonesia and the Philippines agreed to welcome the formation of Malaysia provided the support of the people of the Borneo territories was ascertained by an independent and impartial authority, the Secretary General of the United Nations, or his representative. The subject of the Philippine claim to North Borneo formed the third category. Finally the Foreign Ministers agreed to recommend that a Meeting of their respective Heads of Government should be held in Manila.

41. On 31st May, 1963, a Meeting took place between the Prime Minister and President Sukarno in Tokyo in an atmosphere of cordiality and friendship. The two leaders reaffirmed their agreement to meet together with President Macapagal in Manila.

42. During this period there was a significant reduction in the Indonesian confrontation activities against the Federation.

43. On 9th July the London Agreement was signed wherein it was agreed that Malaysia would come into being on 31st August, 1963. The signing of this Agreement brought about renewed Indonesian Confrontation on the grounds that the Prime Minister had broken a promise made to President Sukarno that the Federation

* Appendix VI.

† Appendix VII.

would not proceed with the formation of Malaysia until after the Summit Meeting. This accusation was denied by the Prime Minister who stated that he had entered into no such agreement with President Sukarno in Tokyo. The fact that the Federation Government was going to London to negotiate with the British Government to finalise plans regarding the formation of Malaysia had been communicated to President Sukarno at the Tokyo talks. Both the Indonesian Government and the Philippine Government were aware of the intention of the Federation Government to finalise the Malaysia Agreement in London. In fixing the date of the Summit Meeting, this fact was taken into consideration by the other two governments. There had been no representation made by either government against the Federation's continuing pursuit of the implementation of the Malaysia plan.

44. President Sukarno insisted that he had been insulted and renewed his confrontation against the Federation while at the same time indicating that he might not go to Manila for the Summit Conference. On the other hand the Prime Minister communicated his willingness to attend the Conference provided the Indonesian President also agreed to do so because insofar as he was concerned his conscience was quite clear and there was nothing which would justify the Summit Meeting being cancelled.

45. The Summit Conference was scheduled for July 30 to August 5 and whether it would be held or not was in doubt until the last minute.

46. The Summit Conference lasted six days and the Joint Communiqué* of the Conference showed great promise of a new era being born in Southeast Asia by the confirmation of the willingness on the part of Indonesia and the Philippines, firstly to welcome the formation of Malaysia provided the United Nations Secretary-General or his representative ascertained that the majority of the people in Sarawak and Sabah supported its establishment, and secondly by agreeing to take initial steps towards the establishment of Maphilindo by the holding of frequent and regular consultations at all levels to be known as "Mushawarah Maphilindo".

47. The Recommendations of the Foreign Ministers were accepted in toto and a Declaration† was issued by the three leaders in which was embodied the common aspirations and objectives of the peoples and governments of the three countries and in which the three leaders pledged themselves to cooperate and work together in the common interest of their countries for their economic, social and cultural progress and to maintain fraternal relations in the interest of peace and security in their part of the world.

48. With reference to the Recommendations regarding the ascertainment of the wishes of the people in Sabah and Sarawak in regard to Malaysia the Summit spelt out certain details regarding the manner in which the Secretary-General was to carry out his task. The Secretary-General or his representative was asked to carry out his task within the context of General

* Appendix VIII.

† Appendix IX.

Assembly Resolution 1541 (XV) Principle IX* of Annex by a fresh approach which in the opinion of the Secretary-General was necessary to ensure complete compliance with the principle of self-determination within the requirements embodied in Principle IX taking into consideration:

- (i) The recent elections in Sabah and Sarawak but nevertheless further examining, verifying and satisfying himself as to whether:
 - (a) Malaysia was a major issue, if not the main issue;
 - (b) electoral registers were properly compiled;
 - (c) elections were free and there was no coercion, and
 - (d) votes were properly polled and properly counted, and
- (ii) The wishes of those who, being qualified to vote, would have exercised their right of self-determination in the recent elections had it not been for their detention for political activities, imprisonment for political offences or absence from Sabah or Sarawak.

In addition the Federation Government undertook to consult the British Government and the Governments of Sabah and Sarawak in order to enable the Secretary-General or his representative to carry out his task. Further the three Heads of Government considered it desirable to send observers to witness the carrying out of the task to be undertaken by the United Nations and that the Federation Government would obtain the cooperation of the governments concerned in this regard.

49. The Summit Conference closed with feelings of rejoicing and optimism for future close and fraternal relations among the three nations of Malay origin in Southeast Asia. In addition to the Joint Communique and the Manila Declaration, the Manila Accord† was also signed. In his closing address President Sukarno spoke of their common destiny which has been written down in history and from which they could not escape. President Macapagal declared that the Summit was a chapter of profound import for the peoples of Indonesia, the Federation and the Philippines, which marked the beginning of an important new stage in the development of the three countries as independent States.

50. In accordance with the Agreement the Secretary-General was invited to send teams to carry out the task envisaged by the Summit Meeting. The Secretary-General accepted the invitation and appointed two teams each consisting of four members from among his staff, under the chairmanship of Mr Lawrance Michelmores to carry out the task of ascertainment in accordance

* Principle IX of Annex to General Assembly Resolution 1541 (XV)
 "Integration should have come about in the following circumstances:

- (a) The integrating territory should have attained an advanced stage of self-government with free political institutions, so that its peoples would have the capacity to make a responsible choice through informed and democratic processes;
- (b) The integration should be the result of the freely expressed wishes of the territory's peoples acting with full knowledge of the change in their status, their wishes having been expressed through informed and democratic processes, impartially conducted and based on universal adult suffrage. The United Nations could when it deems it necessary, supervise these processes."

† Appendix X.

with the request of the three countries. The teams arrived in the Borneo territories on August 17, 1963, one for Sabah and the other for Sarawak. Prior to this the Secretary-General made it clear that he was undertaking his task only with the consent of the British Government and that neither the Report of his representative nor his conclusions would be subject in any way to ratification or confirmation by any of the governments concerned. This was confirmed by all the three countries.

51. Owing however to disagreement over the question of the number of observers the work of the U.N. team was held up pending the solution of the problem. Indonesia initially expressed a wish to send a team of some 30 persons and later took the position of wanting to send one observer for each member of the U.N. team. This line was closely followed by the Philippines who opposed vigorously the British decision that they would permit only one observer for each territory. When the British Government relaxed their position by agreeing to two observers for each territory or a total of four observers, the Philippines expressed satisfaction and despatched their team to Singapore, only asking that the Federation should use its good offices with the British Government to obtain agreement to the addition to the team of a clerical assistant.

52. The Indonesian Government however refused to accept the British limitation of the observer teams to four from each country. Immediately this became generally known, the Philippines reversed its position and their team was instructed not to proceed to the Borneo territories until further instructions. Thereafter, the Philippines appeared to follow rather closely the line that Indonesia was taking. Eventually, after the U.N. Secretary-General had intervened the British Government agreed that each country could send a team composed of two observers and two clerical assistants for each territory and this was accepted by both Indonesia and the Philippines. A dispute arising out of both Indonesia's and the Philippines' wish to send as clerical assistants persons who were obviously not clerical assistants further delayed the arrival of the observers' teams from these two countries and when they arrived, the U.N. Team had already in fact commenced their task of ascertainment and the Indonesian and Filipino observers were able to witness the U.N. team carrying out their task for only a few days before the completion of the work on September 5, 1963.

53. The Federation Government voluntarily restricted itself to four observers, and the Government's attitude towards the whole question of observers was that the observers were not an integral part of the ascertainment exercise nor were they essential in view of the fact that the Manila Agreement stated that the three Governments considered it only "desirable" to have observers present during the ascertainment exercise.

54. Soon after the Summit Conference the Federation Government had announced that the establishment of Malaysia, which, according to the Agreement with the Governments of the United Kingdom and the territories concerned, was scheduled for 31st August, 1963, would be postponed until the U.N. Survey team had completed their task. On August 29, it was announced that Malaysia would be established on 16th September, 1963. This

announcement was made in accordance with Section II of the Malaysia Act which makes it a statutory requirement to proclaim before 31st August the date for the establishment of Malaysia. Advance information and the reasons for the decision were given to the Government of the Philippines. They were informed that the Federation Government considered that the decision to fix the date for the establishment of Malaysia was fully consistent with the spirit and letter of the Manila Accord in which it was agreed by the Federation that the ascertainment would be done prior to the formation of Malaysia. As the Secretary-General had indicated to the three parties that he expected the task of ascertainment to be completed and the conclusions made known by 14th September, September 16 would be in conformity with the undertaking given by the Federation Government in that the ascertainment would have taken place prior to the establishment of Malaysia.

55. The Secretary of Foreign Affairs of the Philippines, Mr Salvador P. Lopez, in a Press Statement declared the proclamation of Malaysia as being premature and not in conformity with the letter and spirit of the Manila Agreement. However, he agreed that the ascertainment was not a prerequisite for the formation of Malaysia but was a prerequisite for Philippine "recognition" under the Manila Agreement. He stated that the Philippines could not welcome Malaysia before the results of the U.N. ascertainment was announced. On September 12, 1963, the Press in Manila quoted reports from Honolulu that on his way to the United Nations to attend the General Assembly Session, Mr Lopez had criticised the manner in which the U.N. Survey Team had carried out their tasks thus giving the indication that the Philippine Government was likely to reject the Report of the Secretary-General, but the Undersecretary of Foreign Affairs, Mr Librado Cayco, stated that the Philippines was morally bound to accept the Report of the Secretary-General.

56. On September 14, 1963, U Thant, the U.N. Secretary-General, published his Report on the Survey which stated that a great majority of the people in Sarawak and Sabah was in favour of Malaysia. The Philippine representative at the United Nations continued to criticise the manner in which the U.N. Ascertainment Team had carried out its work, that the U.N. Team had been a victim of British deception and that the British Government had stage-managed the proceedings thus implying that the conclusion of the Team could not be relied upon. Nevertheless the Philippine Government agreed that the Secretary-General's conclusion was not subject to ratification. The Malaysian Delegation to the United Nations answering the charges in the General Assembly stated that Philippine objection to the manner in which the survey was conducted could only be regarded as an attempt to separate the Report from the conclusions with a view to having complete freedom to criticise the former and at the same time not risk the obvious disadvantage of criticising the Secretary-General.

57. On September 15, 1963, H.M.M. Ambassador in Manila was called to the Foreign Office by the Undersecretary of Foreign Affairs, Mr Librado Cayco, and was informed that the Philippine Government had decided to defer action on the question of "recognition" of Malaysia. He was further informed that the President's decision in effect meant that the Philippine would have

no relations with the new State of Malaysia and that the Philippine Ambassador in Kuala Lumpur, Mr Yusup R. Abubakar, was being recalled for immediate consultations. The Philippine Government proposed that pending a decision from the President on the question of "recognition" Consular relations could continue on a reciprocal basis.

58. As the Philippine Government had previously recognised the Federation, the question of recognition of Malaysia did not arise.

59. Constitutionally, Malaysia and the Federation of Malaya established in 1957 are one and the same international person. In accordance with the terms of the Federation of Malaya Agreement 1957 made between Her Majesty the Queen and Their Highnesses the Rulers of the nine Malay States, a federation of those States and of the former British colonies of Malacca and Penang was established under a constitution which was scheduled to the Agreement. The constitution allowed for its amendment by Act of the Federation Parliament and provided for the admission of new members to the federation also by Act of Parliament. The Malaysia Act of 1963 amended Article 1 (1) of the Constitution by changing the name of the Federation of Malaya to "Malaysia" and admitted to the federation the States of Sabah, Sarawak and Singapore. The constitutional position therefore is that no new state has come into being, but that the same state has continued in an enlarged form known as Malaysia. There was no severance of the continuity of the old state's existence nor had it been brought to an end in any way. The same written constitution continued to govern the whole nation and furthermore there had been no change of government.

60. The Government considered the Philippine Government's proposal to reduce the status of representation to consulate level unwarranted and unacceptable. In view of this, the Malaysian Government had no alternative but to recall H.M.M. Ambassador and his staff from Manila.