The Commission finds that Australian policy towards Indonesia and Timor-Leste during this period was influenced not only by an interest in maintaining good relations with Indonesia, but also by an assessment that it would achieve a more favourable outcome to the negotiations on the maritime boundary in the Timor if it was dealing with Indonesia rather than with Portugal or an independent Timor-Leste on the issue.

The Commission also finds from its examination of the documentary record that that Australia’s presentation of its stance confirmed the Indonesian Government in its resolve to take over the territory of Timor-Leste. Australia’s indifference to Indonesia’s actions in pursuit of its goals, including its incursions into the territory, almost certainly had a similar effect. Conversely had Australia given greater weight to the right of the East Timorese to self-determination and to the inviolability of its sovereign territory in its dealings with Indonesia, it may have been able to avert the Indonesian use of force. The Commission finds that during the Indonesian occupation successive Australian governments not only failed to respect the right of the East Timorese people to self-determination, but actively contributed to the violation of that right. After supporting the first resolution in 1975 it abstained from or voted against subsequent General Assembly resolutions recognising the right of the East Timorese people to self-determination. It refused to receive José Ramos-Horta or other Fretilin representatives, and even banned their entry to Australia for a number of years. In 1978 it recognised de facto Indonesian control over Timor-Leste, and implicitly gave de jure recognition in 1979 when it began negotiations with Indonesia for the delimitation of the maritime boundary between Australia and Timor-Leste. In 1985 it unequivocally gave de jure recognition to the integration of Timor-Leste into Indonesia, and in 1989 concluded the Timor Gap Zone of Cooperation Treaty with Indonesia. Australia also provided economic and military assistance to Indonesia during this period and worked as an advocate for the Indonesian position in international fora.

Australia played a leading role in the Interfet force that ultimately ended the violence surrounding the ballot in 1999, and has consequently tended to portray itself as a liberator of Timor-Leste. However the Commission finds that even when President Habibie was moving towards his decision to offer the East Timorese a choice between remaining part of Indonesia and independence, the Australian Foreign Minister, Alexander Downer made it clear that his Government believed that it should be several years before the East Timorese exercised their right to make that choice and that it would be preferable from an Australian point of view if Timor-Leste remained legally part of Indonesia. The actions of the Government of Australia in supporting Indonesia’s attempted forcible integration of Timor-Leste was in violation of its duties, under the general principles of international law, to support and refrain from undermining the legitimate right of the East Timorese people to self-determination and to take positive action to facilitate the realisation of this right. According to the Human Rights Committee:

States must refrain from interfering in the internal affairs of other States and thereby adversely affecting the exercise of the right to self-determination.

Australia’s actions during the period of Indonesia’s illegal military occupation of Timor-Leste did, in fact, adversely affect the East Timorese people’s ability to exercise their right to self-determination.

8.6.4 Responsibility of the United States of America

The Commission finds that the United States of America failed to support the right of the East Timorese people to self-determination, and that its political and military support were fundamental to the Indonesian invasion and occupation. The support of the United States for Indonesia was given out of a strategically-motivated desire to maintain a good relationship with Indonesia, whose anti-communist regime was seen as an essential bastion against the spread of communism in South-East Asia. President Gerald Ford met President Soeharto twice in 1975.
The second meeting was in Jakarta on 6 December, the day before the Indonesian invasion of Dili, when the impending invasion was discussed. The Commission finds on the basis of the available documentary evidence that the United States was aware of Indonesian plans to invade and occupy Timor-Leste. It also finds that the United States was aware that military equipment supplied by it to Indonesia would be used for this purpose. However, in the light of the its assessment of the importance of good relations with Indonesia, the United States decided to turn a blind eye to the invasion, even though US-supplied arms and military equipment were sure to be used.

US-supplied weaponry was critical to Indonesia’s capacity to intensify military operations from 1977 in its massive campaigns to destroy the Resistance in which aircraft supplied by the United States played a crucial role. These were the campaigns which resulted in severe suffering and hardship to tens of thousands of civilians sheltering in the interior at the time. The campaigns forced the mass surrender of tens of thousands of civilians, whom it then held it in the highly restrictive conditions of the resettlement camps where thousands of civilians died from starvation and illness. During the famine of this time US administration officials refused to admit that the primary reason that East Timorese were dying in their thousands was the security policies being pursued by the Indonesian military. Instead they maintained that that the deaths were due to drought, an argument which the Commission finds to have bee without merit.

Successive administrations, even those such as the Carter administration which made much of its commitment to human rights, were driven by hard-nosed realism in their policy towards Timor-Leste: they all consistently stressed the overriding importance of the relationship with Indonesia and the supposed irreversibility of the Indonesian takeover, even as they acknowledged that the people of Timor-Leste had been denied their right to self-determination.

Although the United States suspended its military cooperation programme with Indonesia after the Santa Cruz massacre in 1991, its policy on Timor-Leste on that and other occasions was reactive rather than proactive. In response to the massive violations that occurred in Timor-Leste in September 1999 President Clinton threw the considerable influence of the United States behind efforts to press the Indonesian Government to accept the deployment of an international force in the territory, demonstrating the considerable leverage that it could have exerted earlier had the will been there.

In the Commission’s view, the support given by the United States to Indonesia was crucial to the invasion and continued occupation of Timor-Leste. This was so not only because weapons and equipment purchased from the United States played a significant role in Indonesian military operations in Timor, but also because it never used its unique position of power and influence to counsel its Indonesian ally against embarking on an illegal course of action.

The actions of the Government of the United States of America in supporting Indonesia’s invasion of Timor-Leste was in violation of its duties, under the general principles of international law, to support and refrain from undermining the legitimate right of the East Timorese people to self-determination17 and to take positive action to facilitate the realisation of that right.18

8.6.5 Responsibility of the United Nations

The Commission finds that the United Nations took inadequate action to protect the right of the East Timorese people to self-determination during the period of the invasion and military occupation.

The General Assembly passed a resolution on the situation in East Timor every year from 1975 until 1982. During this period the texts of the resolutions became increasingly weak and the number of countries voting in favour of them steadily diminished until in 1981 only about one third