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COUNCIL**

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ORIGINAL: ENGLISH

UNITED NATIONS COMMISSION FOR INDIA AND PAKISTAN

ANNEXES TO THE INTERIM REPORT

ANNEX 1

(S/AC.12/Info.10, 16 February 1949)

RECORD NOTE OF MEETING HELD AT THE RESIDENCE OF THE
FOREIGN MINISTER, PAKISTAN, AT KARACHI on 8th FEBRUARY,
1949, at 11 a.m.

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Present:

1. H.M. Foreign Affairs & Commonwealth Relations
2. H.M. (without portfolio)
3. H.E. Dr. Alfredo Lozano
4. Mr. Hernando Samper
5. Mr. M. Ayub - Liaison Officer
6. Mr. A. N. Khan - Under Secretary

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The Foreign Minister thanked Dr. Lozano and Mr. Samper for giving him this opportunity of placing before them some of the doubts and misgivings entertained by the Pakistan Government with regard to the notes of the meetings between Dr. Lozano and the Prime Minister of India at New Delhi on 20th and 22nd December, 1948, a copy of which was communicated by Ambassador Colban to the Pakistan High Commissioner in New Delhi on 28th December, 1948. The Foreign Minister reminded Dr. Lozano that the Pakistan Government had accepted the Commission's proposals of 11th December, 1948, on 25th December, 1948, as explained and clarified to the Pakistan Government by Dr. Lozano in his memorandum of 25th December, 1948. The Pakistan Government, therefore, did not consider itself to be bound in any way by my clarifications or elucidations that may have been given by the Commission to the Government of India.

Dr. Lozano replied that this position was fully appreciated by the Commission. He welcomed the opportunity of removing any doubts or misgivings which may have arisen in the mind of the Pakistan Government with regard to the clarifications given to the Government of India.

2. The Foreign Minister observed that to facilitate discussion of the matter, a memorandum had been prepared analysing the Aide Memoire relating to Dr. Lozano's meetings at Delhi on 20th and 22nd December, 1948, and setting out the views of the Pakistan Government with regard to them. (The Foreign Minister then handed over to Dr. Lozano Mr. Gurmani's letter of 7th February, 1949, together with its enclosure). The Foreign Minister suggested and Dr. Lozano agreed that this memorandum might be discussed paragraph by paragraph so as to reduce to the minimum the points which require the consideration of the Commission as a whole. The result of the discussion is given in the succeeding paragraphs. (References are to the item in the memorandum attached to Mr. Gurmani's letter of 7th February, 1949):

Aide Memoire No. 1

3. Item (i) - Dr. Lozano confirmed that the only question for determination was whether the State of Jammu and Kashmir should accede to India or to Pakistan, and that this was to be determined through "the democratic method of a free and impartial plebiscite" as stated in clause 1 of the Commission's Resolution of 5th January, 1949. Dr. Lozano added that he had made it clear in the conversations with the Prime Minister of India that the Commission could not, at this stage, consider any other method of ascertaining the wishes of the people of Jammu and Kashmir, but "it would be up to the Plebiscite Administrator to report to the Security Council (through the Commission), if he found the plebiscite procedure to be impossible for technical or practical reasons". Dr. Lozano remarked that it was implicit in the whole arrangement and had been clearly stated by him in the General Clause of his memorandum of 25th December, 1948, that no modifications or additions to the Commission's proposals of 11th December, 1948 (subsequently embodied in the Commission's Resolution of 5th January 1949) could be entertained unless they were acceptable to the Commission and to the Governments of India and Pakistan.

H.K. (without portfolio) thanked Dr. Lozano for his clarification of the position, and remarked that the wording of paragraph 3 of the first aide memoire might tend to encourage the Government of India,

and the Maharaja's Government in particular, to place difficulties in the way of the conduct and organisation of a free and impartial plebiscite, if not to make it altogether impossible to hold. He wanted an assurance that lack of cooperation from either side would not be regarded as a practical and technical reason for not holding the plebiscite. Dr. Lozano gave this assurance.

4. Items (ii) and (iii) - The Foreign Minister recalled that during the discussions in Paris in November-December 1948, the Pakistan Representatives had requested the Commission to specify the powers of the Plebiscite Administrator, particularly with regard to such exercise of its authority by the administration as might affect the freedom and impartiality of the plebiscite. It was suggested in particular that the Plebiscite Administrator should have the powers of ~~direction and supervision~~ over the State forces and police, and over Government officials of the ~~révenue~~, forest, civil supplies and other departments to the extent that this was necessary to organise and conduct the plebiscite and to ensure its freedom and impartiality. The Commission had argued that it was unnecessary to do so, as clause B.3(b) of its draft proposals vested the Plebiscite Administrator with all the powers that he considered necessary for organising and conducting the plebiscite and for ensuring its freedom and impartiality, and that the manner in which these powers would be exercised and other details would have to be settled with the Plebiscite Administrator under clause E.10 of the Commission's proposals. The Pakistan Representatives acquiesced in this view, but were disturbed at the attempt of the Indian Representatives to exclude certain powers from the purview of the authority of the Plebiscite Administrator.

Dr. Lozano agreed that he had stated to the Prime Minister of India that the words "direction and supervision of the State Forces and Police" had been deliberately omitted from the Commission's proposals, and that it was not the intention of the Commission that the Plebiscite Administrator should interfere with the day-to-day administration of the State. At the same time, it had been made clear in the discussions with the Prime Minister of India that the Plebiscite Administrator would exercise all the powers which he considered necessary for organising and conducting the plebiscite and

for ensuring its freedom and impartiality. If any-thing was done by the Government of Jammu and Kashmir or the "local authorities" which, in the view of the Plebiscite Administrator, militated against the plebiscite being free and impartial, the Administrator would have full authority to rectify the situation.

5. Item (iv) - Dr. Lozano remarked that the Prime Minister of India was greatly concerned with regard to the large number of Azad Forces which would be left in the areas to be evacuated by the Pakistan Army under the terms of the truce, and therefore, he reassured him that it was the intention of the Commission that there should be large scale disarming of these forces, Dr. Lozano added that it was not the Commission's intention that this disarming should take place during the truce period and that on this point the position has been correctly stated in para 2 (c) of the Commission's letter of 19th September, 1948 to the Foreign Minister of Pakistan. With regard to the plebiscite stage, action will be taken as per clause 4 (b) of Dr. Lozano's memorandum of 25th December, 1948.

6. Item (v) - Dr. Lozano and Mr. Sanper explained that the provision with regard to the return of refugees to the State had been made out of a desire to solve a difficult human problem, and to enable all the citizens of the State to participate in the plebiscite. The Commission had not had the time or opportunity so far to examine the problem in all its aspects or to work out the manner in which its proposal should be implemented in practice. As far as they were aware, it was UNCIP's intention that the Pakistan Commission should operate only within Pakistan, and the Indian Commission only within the territory of India. Neither Commission would on its own operate within the territory of the State of Jammu and Kashmir, but the two Commissions would, no doubt, advise and assist the Plebiscite Administrator in evolving a machinery for facilitating the return of the refugees to the State. Dr. Lozano and Mr. Sanper added that this represented their own tentative views, and should not be taken to bind the Commission. They confirmed, however, as was clear from the language of clause 6 (a) of the Commission's Resolution of 5th January, that the Commission's intention was to enable the citizens of the State to return to the State and to exercise all their rights as such

citizens, but that the Commission had not yet considered matters pertaining to the rehabilitation of the refugees in their original homes.

7. Item (vi) - The Foreign Minister recalled that during the discussions in Paris he had explained to the Commission that whereas certain persons, such as bonafide tourists, traders, etc., had entered the State for a lawful purpose, there were several other categories, such as R.S.S. and Sikh terrorist bands and a large number of non-Muslims from India, who had been planted in various parts of the State, particularly in the Jammu province, who could not be said to have gone into the State for a lawful purpose, and should, therefore, be asked to leave before the plebiscite is held. This was quite apart from the fact that only the nationals of the State could participate in the plebiscite. The Foreign Minister added that he had not insisted on a definition of the term "lawful purpose" because he agreed with the Commission that this was one of the matters which would come up for discussion under clause B.10 of its proposals of 11th December. He, however, could not agree that one of the parties to the dispute, namely, the Maharaja's Government, would have the right to determine whether or not a person had entered the State for a lawful purpose. In these and in other similar matters, the decision must necessarily be taken by the Plebiscite Administrator.

Dr. Lozano said that the point had not been specifically considered by the Commission, but that in his view, whatever practical arrangements are arrived at, contentious cases would, no doubt, have to be referred to the Plebiscite Administrator for decision.

8. Item (vii) - The Foreign Minister observed that the suggestion contained in the aide memoire was not only misleading, but positively mischievous. He explained at length the circumstances in which India was partitioned and affirmed that the Pakistan Government was a no more theocratic and a no less secular a State than the Government of India. In any case, he felt that this was an altogether irrelevant consideration, and a free and impartial plebiscite could only be secured if there was complete freedom of speech and assembly throughout the State. The Foreign Minister, however, agreed that nothing should be done which would tend to disturb law and order. Dr. Lozano replied

that the aide memoire should not be taken to mean that he agreed with the views expressed by the Indian Representatives and that his own observations were limited to the remark "that any political activity which might tend to disturb law and order could not be regarded as legitimate. The same test would apply to freedom of press and speech".

9. Item (viii) - The Foreign Minister pointed out that the Pakistan Government's views with regard to this matter were the same as with regard to item no. (vi), namely, that decisions in such cases could not be left to one of the interested parties, and that all such matters fell within the purview of the Plebiscite Administrator. Dr. Lozano agreed that it was one of the responsibilities of the Plebiscite Administrator to ensure implementation of clause 7 of the Commission's Resolution of 5th January 1949, but that the manner in which this be carried out was a matter for discussion with the Plebiscite Administrator under clause 10 of the Resolution.

10. Item (ix) - Dr. Lozano remarked that what he had said with regard to item no. (viii) applied equally to item no. (ix).

Aide Memoire no. 2

11. Item (i) - Dr. Lozano agreed that, as stated in Part II A.3 of the Commission's Resolution of 13th August 1948, "the territory evacuated by the Pakistan troops will be administered by the local authorities under the surveillance of the Commission".

12. Item (ii) - Dr. Lozano confirmed that as he had stated with regard to item (v) of the first aide memoire, the Commission aimed at this stage to enable the refugees to participate in the plebiscite, but that the question of their permanent rehabilitation in their original homes had not yet been considered.

13. The Foreign Minister suggested, and Dr. Lozano agreed, that a record note of the meeting should be prepared and after it had been agreed with Mr. Samper, it should be sent to the secretariat of the United Nations Commission for the Commission's information.

Sd/ - H. Samper,
ALTERNATE REPRESENTATIVE FOR COLOMBIA
9/2/49

Sd/ - M. Ayub
LIAISON OFFICER
9/2/49

ANNEX 2

(S/AC.12/127, 14 February 1949)

LETTER DATED 12 February 1949 ADDRESSED TO THE PRIME MINISTER
OF INDIA AND TO THE MINISTER FOR COINTEGRATION OF PAKISTAN

Sir,

I have the honour to refer to Point E of Part I of the Commission's resolution of 13 August 1948 which reads as follows:

"The Government of India and the Government of Pakistan agree to appeal to their respective peoples to assist in creating and maintaining an atmosphere favourable to the promotion of further negotiations."

The Commission has read with great satisfaction statements by spokesmen both of India and of Pakistan after the establishment of the cease-fire in Kashmir emphasizing the great importance of this event as opening the road towards friendly relations between the two States in an atmosphere of mutual understanding and good will.

The Commission attaches very great importance to the rapid establishment of such an atmosphere. During the hostilities in Jammu and Kashmir much was said and done in the heat of the struggle, but the Commission feels that attention should now primarily be directed towards establishment of peaceful and friendly conditions in that State.

The Commission has reason to believe that the Government of India and/or Pakistan fully share its view in this respect and it sincerely hopes that they will exercise their influence in the proper quarters so as to bring about the cessation of all propaganda which goes beyond legitimate political activity.

I am writing in the same way to the Foreign Minister of Pakistan and/or the Prime Minister of India.

I have the honour to be,
Sir,
Your obedient servant,

/s/ Robert E. Maclean
Chairman.

9.1

ANNEX 3

(S/AC.12/129, 18 February 1949)

LETTER DATED 17 FEBRUARY FROM THE ACTING CHAIRMAN OF THE COMMISSION
TO THE SECRETARY-GENERAL, MINISTRY OF EXTERNAL AFFAIRS AND
COMMONWEALTH RELATIONS, GOVERNMENT OF INDIA

Dear Sir Girja,

I have the pleasure to refer to the conversation which Ambassador Lozano and I had with you on the afternoon of 15 February. I have brought to the attention of the Commission the point raised by you with respect to a communique issued on 16 January by the Government of Pakistan dealing, in part, with an interpretation of the views of the Commission regarding the meaning of the term "surveillance" as used in its Resolution of 13 August 1948, and based, apparently, on oral elucidations offered by the then Chairman.

The Commission has been careful to avoid any possible misunderstandings arising from oral elucidations, and has, therefore, maintained that it is bound only by its official correspondence with the Government of India and the Government of Pakistan and by agreed versions of conversations which appear in the form of memoranda and aides memoire.

The main concern of the Commission at the time when its Resolution of 13 August was under discussion, was focused on the cease-fire and the faithful observance of the truce. The Commission did not at that stage make specific provisions governing part III of its Resolution, then undefined. It did, however, take into account the continuing need for surveillance during the period following the signing of the truce agreement. The Commission's intention to extend the surveillance in the territory evacuated by the Pakistan Army to the interval between the signing of the truce agreement and a final settlement of the problem is evidenced in Part II A 3 of its Resolution which states that surveillance will apply "pending a final solution....".

It has been agreed by the Government of India and the Government of Pakistan, supplementary to Part III of the Resolution of 13 August 1948 that the final status of the State of Jammu and Kashmir will be determined through the democratic method of a free and impartial plebiscite. Although the Commission has not, as yet, had an opportunity to consider in detail the extent and scope of the term "surveillance", it fully recognizes that the principles relating to the organization and holding of the plebiscite must be given full effect. The Commission therefore attaches great importance to the conditions set forth in points 5, 6 and 7 of its Resolution of 5 January, and will use its best endeavours to see that these conditions are respected and guaranteed.

A copy of this letter is being forwarded to the Government of Pakistan for its information.

Yours sincerely,

/s/ Robert S. Macatee
Acting Chairman

ANNEX 4

(S/AC.12/138, 18 February 1949)

TERMS OF REFERENCE FOR THE INVESTIGATING SUB-COMMITTEE
FOR THE WESTERN SIDE OF KASHMIR

THE UNITED NATIONS COMMISSION FOR INDIA AND PAKISTAN

1. appoints a Sub-committee consisting of:

Mr. Harry Graeffs (Belgium) and

Mr. Ward P. Allen (United States)

to proceed as soon as practicable to the area of the State of Jammu and Kashmir under the control of the Pakistan High Command for the purposes of studying and investigating the administration of the area, together with the refugee situation;

2. instructs this Sub-committee to complete its investigation within a period of fourteen days and to report the results thereof to the Commission.

ANNEX 5

(S/AC.12/133, 22 February 1949)

TERMS OF REFERENCE FOR SUB-COMMITTEE
ON TRUCE AGREEMENT

The task of the Sub-committee shall be, in conjunction with the Military Adviser:

1. To meet with military representatives of both Governments.
2. To participate with them in the preparation of a draft Truce Agreement to be submitted to the Commission as soon as possible, together with recommendations as to further procedure.
3. To keep the Commission currently informed of the progress of its work.

ANNEX 6

(S/AC.14/134, 22 February 1949)

LETTER DATED 22 FEBRUARY 1949 TO THE SECRETARY-GENERAL,
MINISTRY OF EXTERNAL AFFAIRS AND COMMONWEALTH RELATIONS,
GOVERNMENT OF INDIA AND TO THE HIGH COMMISSIONER FOR
PAKISTAN IN INDIA FROM THE CHAIRMAN OF THE COMMISSION

Sir/Excellency,

I have the honour to inform you that the United Nations Commission for India and Pakistan has decided, in order that rapid progress may be made with the elaboration of the truce agreement under Part II of the Commission's Resolution of 13 August 1948, to set up a Sub-committee composed of representatives of Colombia and of the United States to work in conjunction with the Commission's Military Adviser. This Sub-committee will, through the Military Adviser, take steps to meet with military representatives of the Indian and Pakistan Governments to participate with them in the preparation of the truce agreement.

The Commission deems it necessary to continue for some time to hold its meetings in New Delhi and as the Commission should be able to contact the Sub-committee at any time, it is considered that the Sub-committee should likewise meet in New Delhi.

I would be grateful if you would be kind enough to inform your Government of the above.

I have the honour to be,

Sir,

Your obedient servant

J. KLAHR HUDDLE
Chairman

(S/AC.12/130, 21 February 1949)

LETTER DATED 18 FEBRUARY 1949 FROM THE SECRETARY GENERAL,
MINISTRY OF EXTERNAL AFFAIRS AND COMMONWEALTH RELATIONS,
GOVERNMENT OF INDIA, TO THE ACTING CHAIRMAN OF THE
COMMISSION

My dear Mr. Macatee,

When Dr. Lezane and you called on me on the 15th instant, you very kindly left with me a copy of the 'Record note' of a meeting held at the residence of the Foreign Minister, Pakistan, in Karachi, on the 8th February. I have shown this the Prime Minister who desires me to send you the following comments. The references are to paragraphs as numbered in the "Record Note".

1. Para. 3. The Pakistan Minister (without portfolio) wanted an assurance that lack of co-operation from either side would not be regarded as a practical and technical reason for not holding the plebiscite. It is not clear to us how the lack of co-operation from either side could not but be a practical obstacle to the holding of the plebiscite. If either party were to put serious obstacles in the way of the plebiscite being conducted, there would seem to be no means at the disposal of the Plebiscite Administrator or the Commission by which a free and fair plebiscite could be held in the face of such obstruction. This matter requires elucidation.
2. Para. 4 Referring to the powers of direction and supervision of the Plebiscite Administrator, Sir Zafrullah mentioned the discussions in Paris in November-December 1948, in the course of which he apparently suggested that the Plebiscite Administrator should have powers of direction and supervision over the State forces and Police, and over Government officials of the Revenue, Forest, Civil Supplies and other departments to the extent that this might be necessary to organise and conduct the plebiscite and to ensure its freedom and impartiality. The Commission had argued that it was unnecessary to do so, as clause B.3(b) of the draft proposals vested the Plebiscite Administrator with all the powers that he considered necessary for organising and conducting the plebiscite and for ensuring its freedom and impartiality. In our aide memoire No. 1, commenting upon this particular clause of the plebiscite proposals as presented to us in Paris, the Prime Minister pointed out that all that the plebiscite

Administrator could in reason expect was that, for the purpose of organising and conducting the plebiscite and ensuring its freedom and impartiality, the Government of Jammu and Kashmir should give him such assistance as he might require. We assume that this is still the intention of the Commission and that it is not intended that "the Plebiscite Administrator should have the powers of direction and supervision over the State forces and Police, and over Government officials of the Revenue, Forest, Civil Supplies and other Departments to the extent that this was necessary to organise and conduct the plebiscite and to ensure its freedom and impartiality." Such power would definitely involve an infringement of the sovereignty of Jammu and Kashmir State and be tantamount to interference in the State's day to day administration. Having agreed to a free and impartial plebiscite, the Government of India and the Government of Jammu and Kashmir may be relied upon to give the Plebiscite Administrator the requisite assistance in ensuring that the plebiscite is free and impartial.

3. Para. 5. The disarming of Azad forces is really a matter of chronology. First there must be a cease-fire and, after that, a truce, as envisaged in Parts I and II of the Commission's Resolution of the 13th August, 1948. After that, the condition precedent to arrangements for the holding of a plebiscite is the creation of conditions in which Kashmir nationalise can return to the area now in the occupation of Azad Kashmir forces. So far as non-Muslims are concerned, such a movement will not take place until large scale disarming of these forces has been carried out. We tried to make this clear to the Commission through Dr. Lozano in the course of our discussions last December and I have emphasised this point in our recent meetings.

4. Para. 7. Sir Zafarullah "could not agree that one of the parties to the dispute, namely, the Maharaja's Government, would have the right to determine whether or not a person had entered the State for a lawful purpose. In these and other similar matters, the decision must necessarily be taken by the Plebiscite Administrator". Dr. Lozano said, in reply, that "contentious cases would, no doubt, have to be referred to the Plebiscite Administrator for decision". As I have pointed out in (2) above, the only basis on which the

plebiscite arrangements can work satisfactorily is that all the parties concerned should act in good faith. It follows that, in disputed cases, there will be discussion between the Plebiscite Administrator and the State authorities and normally an agreed solution will be reached. If there is no agreement, the matter can be referred to the Government of India or their representative so that a recommendation can be made to the Government of Jammu and Kashmir which they will be under an obligation to accept. To give the Plebiscite Administrator authority to over-ride the Jammu and Kashmir Government would hardly be consistent with a position in which, according to the Commission's own Resolution, the Administrator derives his authority from the Government of Jammu and Kashmir.

5. Para. 8. We do not wish to get involved in an argument as to whether or no Pakistan is a secular State. What we are anxious to ensure is that appeals to religious or communal fanaticism should not be permitted as a means of influencing votes. That such appeals are likely to be made is clear from the extracts printed at pages 15 to 20 of the "Recent Pakistan propaganda on Kashmir", copies of which have been sent to the Commission. We cannot impress too strongly on the Commission that, unless such appeals are effectively prevented, there will be no free and impartial plebiscite.

6. Paras 9 & 10. It is not quite clear as to which part of the Security Council's Resolution of the 5th January these refer. Presumably some of the matters referred to in (7) of the Resolution are intended. To the extent that a difference of opinion between the Plebiscite Administrator and the Government of Jammu and Kashmir might have been in the mind of the Pakistan Foreign Minister, our general position is explained in what I have already said in para. 4 above with regard to item (vi) which is dealt with in paragraph 7 of the 'Record Note'.

7. Para. 11. I tried to put our point of view to the Commission during our talk on the 14th February and again in my conversation with you and Dr. Lozano on the 15th. We have to examine two things. (a) "Local authorities" and (b) "surveillance". As regards the former, there are not only local officials to consider

but also the headquarters organization of the so-called Azad Kashmir Government. When the August 13th Resolution was under discussion, we made it clear to the Commission that the sovereignty of the Government of Jammu and Kashmir State, even over the territory under the control of the "Azad Kashmir Government", could not be called into question, and the Commission accepted this view. The Commission now has to face the constitutional problem of not giving de facto recognition to this 'Government' but also the practical problem of ensuring that guarantees of freedom of speech etc., for which the Government of Jammu and Kashmir and the Government of India would be responsible in the part of the State under our control, do not mean only paper guarantees in "Azad territory" but are enforceable and enforced. This brings one to (b) 'surveillance', which, if a free and impartial plebiscite is to be taken, can only be interpreted as effective control by the Commission. What the Commission will, we hope, recognise is that, both theoretically and practically, there is a vacuum in the Azad Kashmir territory, since the Azad Kashmir Government is not an authority either legally recognised or legally responsible for the task of internal Government or for discharging international obligations. Such a vacuum does not exist in the territory held by us because there are two legally recognised authorities, namely, the Government of Jammu and Kashmir and the Government of India, the former operating in the sphere of internal government and the latter responsible for the discharge of international obligations. In the Azad territory, this vacuum can only be filled by the Commission.

8. The foregoing comments have been offered in no spirit of controversy but only to clarify the position of the Government of India. The Commission will, I feel sure, agree that the next phase of its work should not be clouded by any misunderstandings or obscurity of its intentions by India or Pakistan. It is for this reason that I have been asked to state at some length our views on points regarding which doubt may be said to exist. I shall, of course, be available for such discussion as the Commission may desire on one or more of these points.

Yours sincerely,

/s/ G. S. DIXIT

ANNEX 8

(S/AC.12/137, 25 February 1949)

WIDE MEMOIRE HANDED BY THE CHAIRMAN OF THE COMMISSION AND MR. LOZANO TO SIR GIRJA SHANKAR BAJPAI, SECRETARY GENERAL, MINISTRY OF EXTERNAL AFFAIRS AND COMMONWEALTH RELATIONS, GOVERNMENT OF INDIA, on 25 FEBRUARY 1949

Point 1

The Government of Pakistan raised the point regarding lack of co-operation in the holding of the plebiscite in connection with Dr. Lozano's statement to the Prime Minister of India on 20 December 1948, when the question of a solution other than by a plebiscite was brought up by the latter during the discussion of the Commission's proposals of 11th December. The Prime Minister was concerned lest the acceptance of specific proposals relating to a plebiscite should close all doors to alternative solutions of the dispute. Dr. Lozano explained that the proposals did not supersede Part III of the solution of 13 August, but were an elaboration of it. They did, however, take priority over the consideration of alternative methods and every effort had to be made towards putting those proposals into effect. It was in this connection that Dr. Lozano expressed the view that if the Plebiscite Administrator should find a plebiscite impossible for "technical or practical reasons" he or the Commission would then recommend to the Security Council a solution different from that of a plebiscite and acceptable to the Governments of India and Pakistan.

It was not intended at that stage to define what might constitute a "technical or practical reason" for not holding a plebiscite. It is true that a lack of co-operation from either side could create obstacles which, in fact, might make the organization and holding of a plebiscite extremely difficult, if not impossible. However, the Commission feels that the principles embodied in the resolution of 5 January, are not only binding on both Governments, but are based on and call for their fullest co-operation. Therefore, the Commission does not envisage a situation in which either side will withhold its co-operation.

It would seem that lack of co-operation, should it occur, would be considered not a "practical reason" but a breach of commitments formally undertaken by the Governments of India and Pakistan. In this event, the Plebiscite Administrator would presumably then report to the Security Council, through the Commission, not that the holding of the plebiscite is impossible for "practical or technical reasons", but rather that the lack of co-operation of either of the parties has rendered it impracticable.

Point 2

The Commission has not undertaken any definition of specific powers to be delegated to the Plebiscite Administrator. However, as recorded in the Aide Memoire No. 1 of the Government of India, the Commission does not intend that the Plebiscite Administrator "should usurp the functions of the State Government in the field of normal administration and law and order", but it is understood that he will have full authority to see that any situation which militates against the freedom and impartiality of the plebiscite is rectified. The Commission is grateful for the reassurance of the Government of India that it and the Government of Jammu and Kashmir may be relied upon to give the Plebiscite Administrator the requisite assistance in ensuring that the plebiscite is free and impartial.

Point 3

The observations contained under point 3 of your letter have been noted.

Point 4

In expressing his view that "contentious cases would no doubt have to be referred to the Plebiscite Administrator for decision", Dr. Lozano did not intend to imply infringement of the authority of the Government of Jammu and Kashmir. Since the Plebiscite Administrator is formally appointed by and derives his power from the State of Jammu and Kashmir, it may be found desirable, in formulating the provisions called for in Point 10 of the Commission's Resolution of 5 January 1949, to clothe him with the requisite powers of final decision in cases of the nature described in the event that such cases have not otherwise been satisfactorily disposed of.

Point 5

With respect to appeals to religious or communal fanaticism as a means of influencing votes, the Commission wishes to repeat that all subjects of the State of Jammu and Kashmir, regardless of caste, creed, or party shall be safe and free in expressing their views, but that any political activity which might tend to disturb law and order could not be regarded as legitimate.

Point 6

The general position of the Government of India with regard to this aspect of the problem has been noted.

Point 7

The Commission's letter under signature of Mr. Macatee, the acting Chairman, dated 17 February, covers these points insofar as the Commission at this stage can enter upon them.

ANNEX 2

(S/AC.12/139, 2 March 1949)

LETTER DATED 2 MARCH 1949 FROM THE CHAIRMAN OF THE COMMISSION TO THE SECRETARY-GENERAL, MINISTRY OF EXTERNAL AFFAIRS, GOVERNMENT OF INDIA, AND TO THE HIGH COMMISSIONER FOR PAKISTAN IN INDIA.

Sir/Excellency,

1. On behalf of the United Nations Commission for India and Pakistan I have the honour to inform you that the Commission has been gratified to note that since the cease-fire came into effect, both the Governments of India and Pakistan have continued to take action on certain matters on which agreement was reached under Part II of the Commission's Resolution of 13 August 1948. It has learned with interest that the Commanders-in-Chief of India and Pakistan met on 15 January 1949 and discussed in detail matters relating to the cease-fire, as well as certain aspects of the truce. Further, the Commission understands that the tribesmen have now withdrawn, that certain contingents of regular forces of both Dominions have been withdrawn, and that steps have been taken to stabilize the cease-fire line.
2. The Commission considers that the implementation of the truce is the most urgent matter now awaiting action by the two Governments. In the desire to offer such assistance as it may, the Commission invites the Government of India and the Government of Pakistan to send their civil and military representatives to meet with its Truce Subcommittee and its Military Adviser. The Commission trusts that Monday, 7 March 1949 at 4:00 p.m. will be a convenient time and the official temporary headquarters of the Commission at Baroda House, New Delhi, a convenient place for its first meetings.
3. The Commission suggests that, in order to advance the work as quickly as possible and to build upon discussions previously held, the representatives of your Government be prepared to inform the Sub-committee of the measures already taken by your Government with respect to the truce agreement and to present, for discussion, proposals for the further implementation of Part II of the Commission's Resolution of 13 August 1948.

4. A similar communication has been sent to the Government of India/Pakistan.

Please accept, Sir/Excellency, the renewed assurances of my highest consideration.

/s/ CARLOS A. LEGUIZAMON
Chairman.

ANNEX 10

(S/AS.12/TC.1, 9 March 1949)

STATEMENT BY THE PAKISTAN DELEGATION
AT THE MEETING OF THE TRUCE SUB-COMMITTEE
HELD AT DELHI ON 9 MARCH 1949

As a preliminary to giving the Pakistan Government's views as to the basis on which the military clauses of the truce agreement should be formulated, I would like to inform the Sub-Committee of the progress made in respect of cease-fire arrangements.

2. In accordance with the UNCIP's Resolution of 13 August 1948, Part I C, the Commander-in-Chief Pakistan met the Commander-in-Chief India at New Delhi on 15 January 1949. At that meeting it was agreed:

(a) that the cease-fire in Jammu and Kashmir should be advanced from an informal to a formal basis.

(b) that the following action should be taken in order to further the satisfactory implementation of the cease-fires:

(i) The local commanders in the areas Chote-Mazinar, Richmargali and Marol were authorized to make any slight adjustments in their dispositions to which they might mutually agree in order to avoid minor incidents. If the local commanders did not consider adjustment necessary, or were unable to reach agreement, the present dispositions were to continue.

(ii) The Pakistan Army required the use of the road Mirpur-Jhangar for the maintenance of their troops, and the Indian Army required the use of the road Poonch-Uri for a similar purpose. It was agreed that the local commanders should confer for the purpose of reaching mutual agreement on a satisfactory method of achieving these two objects.

3. As a result of the above agreement, meetings of local commanders were arranged for 26 and 28 January at Jhangar and Chakoti respectively.

The agreed records of these meetings were sent to the two High Commands for approval. The C-in-C Pakistan signalled his agreement to C-in-C India (Vide Pakistan-HQ Signal No. 21134/OPs.Plans, dated 31 January 1949). The approval of C-in-C India has not been notified as yet to C-in-C Pakistan, and consequently the local commanders' agreements have not been implemented. Another meeting of local Commanders was held at Chakoti on 13 February regarding the Gurnis front. The agreements reached at this meeting have also not been implemented.

4. The cease-fire, apart from minor incidents, has been effectively maintained since the 1st of January, 1949.

5. Part II of the Commission's Resolution of 13 August 1948 deals first with Pakistan's obligations and leaves the initiative entirely to Pakistan as to how those obligations should be discharged. It then goes on to set out the obligations devolving on India and states that these are to be discharged in stages to be agreed upon with the Commission. It is therefore obvious that Pakistan should start the ball rolling in this joint meeting by stating the basis on which it is proposed to discharge her obligations. Before doing this, I would stress that the August Resolution makes the Pakistan Government, and not the Azad Kashmir authorities, a party to the truce agreement, and therefore responsible that its terms are properly observed on the Azad Kashmir side of the line. It is therefore essential that the Pakistan Government must themselves be satisfied that, quite apart from the truce terms themselves, the conditions under which those terms are to be implemented are such as to enable the Pakistan Government effectively to discharge their responsibility for the proper observance of the truce conditions by the head Kashmir authorities and forces.

6. The declared objective of the truce arrangements is to create a military balance between the forces on each side so as to develop a feeling of mutual confidence between those forces themselves and among the displaced persons and refugees - both non-Muslims and Muslims - who will be returning to the State of Jammu and Kashmir during the

truce period as a preliminary to the taking of the plebiscite. Before putting forward the basis on which the Pakistan Government propose to carry out their part of the truce agreement, I would here mention three fundamental necessities. The first is the delimitation of the boundaries between the Indian and the Azad Kashmir controlled areas, secondly, the immediate lifting of all land mines by the side which sowed them so that the civilian population may move about on lawful occasions without the present risk to life and limb. And thirdly, agreement for the free use of roads throughout both areas for refugee movement, refugee maintenance and for free egress and ingress for all other legitimate purposes. As regards delimitation of boundaries, we would hope that this could be done in general terms during the present series of meetings, and that exact local delimitation could be left to local military commanders on both sides in each of the forward areas to settle with the help of the United Nations Observer parties.

7. To revert to the Pakistan Government's obligations under Part II A of the 13 August Resolution, these are firstly to do their best to secure the withdrawal from Azad Kashmir territory of tribesmen and nationals of Pakistan who had entered the territory for the purpose of fighting. Secondly, to withdraw all their regular forces from Azad Kashmir territory.

8. The first of these obligations, namely, the withdrawal of the tribesmen, has been carried out already -- in advance of the truce agreement, and was completed by February 15th.

9. The discharge of the second obligation -- namely, withdrawal of the Pakistan regular forces, is dependant upon plans acceptable to the Pakistan Government for synchronization of this withdrawal with that of the bulk of the Indian forces from Jammu and Kashmir State Territory. This is provided for in paragraph 10 of appendix 1 to the Commission's letter of 27 August 1948 to the Pakistan Government. These plans for synchronization must be acceptable to the Pakistan Government because they have to convince, in turn, the Azad Kashmir authorities, the tribesmen and the people of Pakistan that the truce conditions are such as to assure in due

course a free and impartial plebiscite. In this regard, I would stress that one of the main essentials is that the truce conditions must be such as to give non-Muslim refugees from the Azad Kashmir area full confidence that they can return in safety to that area and equally give Muslim refugees from the area controlled by the Indian and State Forces confidence as to their return to the latter areas. The fact that the Muslim refugees number nearly half a million as against some forty thousand non-Muslim refugees underlines the importance of this aspect to Pakistan.

10. This postulates organized and disciplined forces on both sides, strictly controlled by the authorities ultimately responsible for the proper observance of the truce terms, and capable of maintaining law and order in their respective territories. To produce such forces on the Azad Kashmir side, re-organization and training of the Azad Kashmir forces is essential. It will be recalled that at the meeting of the two Commanders-in-Chief on 15 January 1949, they agreed to recommend to their respective Governments that, as soon as the truce agreement was signed, the Azad Kashmir forces should be relieved in the forward areas by Pakistan regular forces and concentrated in the rear areas behind a minimum screen of regular Pakistan troops on the existing cease-fire line. The basis of this recommendation was the feeling that it was better in the early stages at least of the truce period to have regular troops opposite each other in the forward areas. The Commission's Military Adviser was informed of this recommendation at the time.

11. The Pakistan Government have considered the recommendations of this meeting and they informed the Commission on 4 February at a meeting in Karachi that they considered the following arrangements essential to enable them to discharge effectively their obligations under the Resolutions of the Commission:

First the relief of the Azad Kashmir forces now in the forward areas by Pakistan regular troops.

- Second the temporary withdrawal from the forward area and concentration in the rear areas of Azad Kashmir territory, of all Azad Kashmir forces to enable them to be reorganized and trained, under the supervision of G.H.Q. Pakistan, into a disciplined force of infantry units with the necessary administrative and ancillary units.
- Third the relief, on completion of this reorganization and training, of the Pakistan regular forces in the forward areas by the Azad Kashmir forces.
- Fourth the withdrawal from Azad Kashmir territory of the Pakistan regular forces as soon as this relief had been completed.
- Fifth overall operational and administrative control of the reorganized Azad Kashmir forces to continue to rest with G.H.Q. Pakistan, this being the most important safeguard the Pakistan Government would have that the Azad Kashmir forces would scrupulously observe the truce agreement.

12. The Commission has also been informed that it is estimated that a period of some three months would be needed for the reorganization and training of the Azad Kashmir forces, but that, in order not to allow this to delay implementation of the truce agreement, the withdrawal of the Pakistan regular forces would be started simultaneously with the relief of the Azad Kashmir forces in the forward areas. The Pakistan Government propose, subject to satisfactory arrangements for synchronization with the withdrawal of the bulk of the Indian forces on the other side, to reduce the Pakistan regular troops in Azad Kashmir territory to a screen of eight infantry battalions only in the forward area, and to withdraw the remainder, including all the Pakistan artillery, from Azad Kashmir territory altogether as soon as the relief of the Azad Kashmir forces and their concentration in the rear areas have been completed.

13. Here I would inform the Sub-Committee that at present the Azad Kashmir forces consist of:

(a) Artillery

One A.A. Bty. of eighteen 20 m.m. guns
One 25 pdr. gun
Two 6 pdr. A.T. guns
One Azad Mountain Battery armed with mortars

(b) Eight infantry brigades, numbers 2 and 7 of which consist of three battalions each, number 3 of six battalions, and the remainder of four battalions each, making a total of 32 battalions. The strength of an Azad battalion is 650 all ranks.

(c) Six Pioneer battalions employed on roads and only partly armed.

(d) Four Animal Transport and one Camel Company.

14. We propose to reorganize this force into a small artillery group containing the artillery units I have mentioned, and into eight infantry brigades each of three battalions, i.e., a total of 24 battalions as compared with the present 32 units. The remaining personnel will be reorganized into administrative and L of C units to produce as far as possible an administratively balanced force. I hope it will be clear to the Sub-Committee from this outline that the reorganized Azad Kashmir forces will be extremely weak in artillery, and completely lacking in air support, in ground reconnaissance units and in armour. It will be really an infantry force dependent on infantry weapons only.

15. The Pakistan Government intends to place these Azad Kashmir Forces under a General Officer Commanding appointed by them on the advice of the Commander-in-Chief, Pakistan Army, and that this G.O.C. be assisted by the requisite number of senior officers selected by G.O.C. Pakistan in consultation with the G.O.C. Azad Kashmir Forces. These arrangements are again necessary safeguards to ensure that the Azad Kashmir Forces can be relied upon to observe the truce agreement and fulfill their role of maintaining

law and order and of instilling confidence in all elements of the civil population of the Azad Kashmir territory during the truce period.

16. Thus, for the first, say, three months of the truce period, the military forces in Azad Kashmir territory would be eight Pakistan regular battalions, no Pakistan artillery or armour, and the Azad Kashmir forces in process of reorganization. For the remainder of the truce period the military forces in the Azad Kashmir territory would be the Azad Kashmir force of eight brigades of infantry, with practically no artillery, and no armour or other supporting arms.

17. The Commission has stated that it considers itself free to hear the views of the Pakistan Government on the way in which the withdrawal of the bulk of the Indian forces should be synchronized with the withdrawal of Pakistan regular troops. In view of this, and of the fact that, as I have stated, the declared objective of the truce agreement is to produce a balanced military situation during the truce, I now propose to give, in outline, the Pakistan Government's views on this point.

18. According to Part II B of the Resolution of 15 August 1948, the Indian withdrawal should start as soon as the Commission notifies the Indian Government that the Pakistan Forces are being withdrawn. As I have shown, the Pakistan withdrawal will start and be notified as soon as the relief of the Azad Kashmir forces in the forward areas has started. The Pakistan Government suggests that, by the time the Pakistan regular forces are reduced to a screen of eight battalions, the Indian regular forces should have been reduced to:

- (a) Two infantry brigades each of three battalions in the Valley area, that is, Uri-Tithwal, Guraiz.
- (b) Two infantry brigades each of three battalions in the Poonch-Banashert sector.
- (c) One infantry brigade group of three battalions and supporting arms in the Jammu sector.

19. Other than the normal proportion of artillery and armour with the infantry brigade group in Jammu, all other Indian regular artillery and armour should be withdrawn from Jammu and Kashmir State territory by the end of this first phase of the truce period.

20. This would give a total of 15 Indian regular infantry battalions plus supporting arms of one brigade group, plus the six Kashmir State Force brigades (which have a proportion of artillery and armour) as against the eight regular Pakistan battalions in the forward areas and the Azad Kashmir forces under reorganization and training in the rear areas. -The Commission may well object that this hardly represents a military balance owing to the great numerical preponderance on the Indian side especially in supporting arms. The Pakistan Government, however, on the advice of their Commander-in-Chief, are prepared to accept this during this stage of the truce agreement as an evidence of their belief that the object of both sides is to bring about conditions for a free and impartial plebiscite as soon as possible. The Pakistan Government will, of course, have to persuade their half million Muslim refugees that they can begin to return with confidence to their homes on the Indian side.

21. As regards the second stage of the truce period., by the time the reorganized Azad Kashmir forces have taken over the forward areas from the Pakistan regular screen, and the latter has been withdrawn from Azad Kashmir territory, thus completing the Pakistan Government's obligation to withdraw their regular forces in entirety, the Pakistan Government suggest that the final dispositions, for the remainder of the truce period, of the Indian and Kashmir State forces should be:

(a) In the Valley and Poonch-Naushera sector

Five Kashmir State Force Brigades with their proportion of artillery and armour; and

(b) In Jammu province

One Kashmir State Force Brigade with its proportion of artillery and armour, and
One Indian infantry brigade group.

22. Here again in this phase there is considerable difference between the military strengths in the Azad Kashmir area and those in the Indian controlled area; but for the reasons already given the Pakistan Government is prepared to accept this.

23. The Sub-Committee will have noted that I have not mentioned the Abtulla militia which we believe to number about 4000. The Pakistan Government hopes that early steps will be taken by the Indian Government to bring about the disbandment of this irregular force with the same object as the Pakistan Government had in effecting the withdrawal of the tribesmen during the cease-fire period instead of waiting for the truce agreement -- viz., the feeling that the presence of such irregular forces is one of the greatest obstacles to the return of mutual confidence. The Pakistan Government in this hope has not included this militia in giving its views on the basis for synchronization of withdrawals on both sides.

24. It will be clear, I hope, to the Committee that the above proposals of the Pakistan Government provide a framework within which, if it is agreed to, the two High Commands can work out together a detailed and synchronized withdrawal programme. I hope it is clear too that all these proposals refer to the period of the truce only and do not cover the plebiscite stage.

/s/ Major-General W.J. Cawthorn.

ANNEX 11

(S/AC.12/TC.2, 11 March 1949)

LETTER FROM THE SECRETARY-GENERAL, MINISTRY OF EXTERNAL AFFAIRS
AND COMMONWEALTH RELATIONS, GOVERNMENT OF INDIA, TO THE CHAIRMAN
OF THE COMMISSION

1 0 March 1949

Dear Mr. Chairman,

Our Representatives who attended the meeting of the Truce Sub-Committee of the United Nations Commission for India and Pakistan yesterday have given me 2 copy of the statement in which the Pakistan Delegation. The basic approach of the Pakistan Delegation to the truce is so fundamentally opposed to ours and to our understanding of Part II of the Commission's Resolution of the 13th August that I consider it necessary to explain our position explicitly and at once. In paragraph 6 of the statement, the declared objective of the truce arrangements is described as being the creation of "a military balance between the forces on each side". The proposals regarding (a) the strength, training and control of Azad Kashmir forces during the period of the truce and (b) the synchronisation of the withdrawal of Pakistan forces with the forces of the Government of India appear to be founded on this assumption. In the first place, the Government of India have never accepted the claim of Pakistan, much less of the so-called Azad Kashmir Government, which has no legal status, to equality of rights in the military or any other sphere. The presence of Pakistan troops in any part of Jammu and Kashmir State constitutes an act of aggression and a violation of international law. That the withdrawal of Pakistan troops from the State should in any way be conditional upon or connected with the training, by Pakistan officers, and the subsequent retention, in Azad Kashmir territory, of an Azad Kashmir Force of 24 Battalions plus the personnel of 8 Battalions as Administrative and L. of C. Units under a General Officer Commanding appointed by the Commander-in-Chief, Pakistan Army, assisted by the requisite number of senior officers selected by G.H.Q. Pakistan and under the overall operational and administrative control of Pakistan is a claim which the Government of

India cannot consider, Pakistan forces must be withdrawn entirely from Jammu and Kashmir State territory and the disposal of the so-called Azad Kashmir forces during the period of the truce must be so arranged as to prepare the way for the ultimate disbanding and disarming of these forces. Any other arrangement would be a preparation neither for peace nor a peaceful plebiscite but for the resumption of hostilities. It would also be contrary to the objective stated in para.3(1)(c) of the Prime Minister's letter dated the 20th August 1948, and broadly accepted by the Commission, that nothing should be done which would enable the territory evacuated by the Pakistan troops to be consolidated in any way during the period of the truce to the disadvantage of the State. The training and maintenance in this territory of any Azad armed forces at all, and, more so, in the strength and under the conditions of command and control proposed by the Pakistan Government would be the most effective way of "consolidating" it "to the disadvantage of the State". The Government of India are prepared to discuss with the Commission the question of the formation of a Civil Armed force for the maintenance of law and order in Azad Kashmir territory, but both the composition and the character of such a force must be adjusted to this primary purpose and not to the creation of "a military balance between the forces on each side".

2. As regards the synchronisation of the withdrawal of Indian and Pakistan forces envisaged in B.1 of Part II of the Resolution of the 13th August, I must point out that the understanding of the Government of India has all along been that the withdrawal of their forces will begin only after the tribesmen and Pakistan nationals referred to in A.2 of Part II of the Resolution have withdrawn, and also the bulk of the Pakistan forces who, as already stated, have no right to be on Jammu and Kashmir State territory. As I have already informed the Commission, the Government of India are prepared, to discuss with the Commission, the phasing of the withdrawal of their own forces after this condition has been fulfilled, at any time that may be convenient to the Commission. But the fulfilment by the Government of Pakistan of the conditions of withdrawal which I have described will be a condition precedent to the implementation by the Government of India of any arrangement that may be reached between them and the Commission regarding the withdrawal of their own forces as well as the strength of the forces that are to be left behind in the State.

3. The Statement of Pakistan Delegates goes on to make suggestions regarding the withdrawal of Indian forces and the strength of such forces that are to be maintained in Jammu and Kashmir State. B.1 of Part II of the Resolution of the 13th August 1948 clearly lays down that the withdrawal of the forces of the Government of India from the State is to be in stages to be agreed upon with the Commission. In this connection, I would invite the attention of the Commission to Paragraph 4 of this letter of the Prime Minister of India to Mr. Korbelt, dated the 20th August 1948, in which it is stated that "the time when the withdrawal of Indian forces from the State is to begin, the stages in which it is to be carried out and the strength of the Indian forces to be retained in the State, are matters for settlement between the Commission and the Government of India". The Government of India stand by this arrangement which was accepted by the Commission in Mr. Korbelt's letter to the Prime Minister, dated the 25th August 1948. It follows that the Government of India do not propose to comment upon the proposals made in the Pakistan statement regarding the withdrawal of Indian troops from the Jammu and Kashmir State.

4. In conclusion, I wish to state that the Government of India are as anxious as the Commission to go forward, as rapidly as possible, with the finalisation of a truce agreement. It is quite clear to them, however, that this task will be possible of accomplishment on the basis of the proposals of the Pakistan Delegation discussed in the preceding paragraphs of this letter.

Yours sincerely,

(Signed) G.S. BAJPAI

ANNEX 12

(S/AC.12/153, 16 March 1949)

LETTER DATED 14 MARCH 1949 FROM THE CHAIRMAN OF THE
COMMISSION TO THE SECRETARY GENERAL, MINISTRY OF
EXTERNAL AFFAIRS AND COMMONWEALTH RELATIONS, GOVERNMENT
OF INDIA

Dear Sir Girja,

The United Nations Commission for India and Pakistan has read with interest your letter of 10 March 1949 in which you state the views of the Government of India with respect to certain proposals contained in the statement presented by the Pakistan Delegation during the meeting of the Commission's Truce Subcommittee on 9 March 1949.

2. The question of a balance of military forces is one which the Pakistan Government raised in the discussions with the Commission during the consideration of the Resolution of 13 August and of the proposals of 11 December 1948. In the course of the conversations last August the Commission explained to the Government of Pakistan that in its view a "military balance" would exist in the State of Jammu and Kashmir during the Truce period in the sense and to the extent that the Resolution of 13 August did not call for the disarming or disbanding of the Azad Kashmir forces, which the Commission understood to number approximately 35 battalions. The Commission, however, cannot accept the interpretation that "the declared objective of the truce arrangements is to create a military balance between the forces on each side...." There can be no other objective of the truce arrangements than to establish peaceful and normal conditions throughout the State such as will be conducive to the organization and holding of a plebiscite. Similarly, the process of synchronizing the withdrawal of the Pakistan and Indian forces to be arranged between the respective High Commands and the Commission, in effect, tends to create a corresponding situation on either side as withdrawal of one and reduction of the other take place, but in no way does this affect the ultimate aims of the Resolution of 13 August and the principles embodied in that of 5 January.

- 2 -

3. With reference to your observations relating to the withdrawal of Pakistan troops from the State, the Commission's Resolution of 13 August 1948 does not make their withdrawal conditional upon other developments in the area to be evacuated by them.

4. The Commission observes that in paragraph 2 of your letter you state that the withdrawal of Indian forces will begin "only after the tribesmen and Pakistan nationals, referred to in A.2 of Part II of the resolution have withdrawn and also the bulk of the Pakistan forces". In order to avoid any possible misunderstanding in this connection the Commission wishes to refer to B.1 of Part II of its Resolution of 13 August under the terms of which the Government of India has agreed to begin the withdrawal of the bulk of their forces from the State in stages to be agreed upon with the Commission when the Commission shall have notified the Government of India that tribesmen and Pakistan nationals referred to in Part II 4.2 have withdrawn and that Pakistan forces are being withdrawn from the State.

5. The Commission is gratified to note the readiness of the Government of India to discuss the question of the formation of a civil armed force in the Azad Kashmir territory as well as the question of the phasing of the withdrawal of Indian forces from Kashmir. It is hoped that the Government of India will present its comprehensive views on these and other points relating to the implementation of Part II of the Resolution of 13 August 1948 during the forthcoming meetings of the Commission and its Truce Subcommittee.

6. A copy of your letter and of my present reply is being forwarded to the Pakistan Government.

Sincerely yours,

/s/ CARLOS A. LEGUIZAMON

ANNEX 13

(S/AC.12/156, 21 March 1949)

LETTER DATED 21 MARCH 1949 FROM THE CHAIRMAN OF THE COMMISSION TO THE SECRETARY-GENERAL, MINISTRY OF EXTERNAL AFFAIRS AND COMMONWEALTH RELATIONS, GOVERNMENT OF INDIA, REGARDING THE PAKISTAN REPRESENTATIVE IN SRINAGAR

Dear Sir Girja,

When the Commission establishes its Headquarters in Srinagar it will most probably be necessary to have present duly authorized representatives of the Governments of India and Pakistan; and when the Commission, in the near future, goes to Karachi for discussions with the Pakistani Government the Commission will suggest to that Government the appointment of a qualified person to go to Srinagar when requested by the Commission to do so.

I take it that the Pakistani Government will then want to know what will be the status of their representative in Srinagar.

I would assure the Pakistani Government that of course their representative will enjoy ordinary diplomatic privileges, including personal immunity for himself and his necessary staff and the inviolability of his correspondence, right to use cypher in telegrams, etc. I would also be glad to be able to inform the Pakistani Government that the Government of Jammu and Kashmir will make the necessary arrangements for the security of the Pakistani representative as well as of his staff during their stay in Srinagar and during their travelling to and from that town.

I should be grateful if you would kindly let me know what suggestions you might wish to put forward in this matter.

Yours sincerely,

/s/ R. VAN DE KERCHOVE
Chairman

ANNEX 14

(S/AC.12/157, 23 March 1949)

LETTER DATED 22 MARCH 1949 FROM THE
SECRETARY GENERAL OF THE MINISTRY OF EXTERNAL
AFFAIRS AND COMMONWEALTH RELATIONS, GOVERNMENT OF INDIA
TO THE CHAIRMAN OF THE COMMISSION REGARDING
THE PAKISTAN REPRESENTATIVE IN
SRINAGAR

Dear Mr. Chairman,

Kindly refer to your letter, dated the 21st March. When the idea of associating a Representative of Pakistan with the Commission was mentioned to me, I think by Ambassador Huddle, I explained to him orally that it would not be possible for us to agree to have such a Representative in Srinagar or anywhere else in the part of Jammu and Kashmir State under our control. The Government of Jammu and Kashmir, whom we have consulted, consider, and they have good reason for doing so, that the establishment of such an officer, with or without a staff in their capital, would merely create a focus for intrigue against them. The Government of India do not feel justified in overruling the Government of Jammu and Kashmir in a matter of this kind. We have not asked, at any time, that a Representative of ours should go to the territory held by "Azad Kashmir" and we do not see why we should be asked to extend to Pakistan facilities which we do not expect and for which we have not asked.

. Yours sincerely,

/s/ G.S. Bajpai

ANNEX 15

(S/AC.12/158, 23 March 1949)

LETTER DATED 23 MARCH 1949 FROM THE CHAIRMAN OF THE COMMISSION
TO THE SECRETARY GENERAL, MINISTRY OF EXTERNAL AFFAIRS AND
COMMONWEALTH RELATIONS, GOVERNMENT OF INDIA, REGARDING PAKISTAN
REPRESENTATION IN SRINAGAR

Dear Sir Girja,

I beg to acknowledge receipt of your letter of the 22nd of March in reply to mine of the previous day 'on the subject of the status of a Pakistan representative with the United Nations Commission when it moves to Srinagar or to another part of the Jammu and Kashmir State under the control of the Government of India.

Your letter states that the Government of Jammu and Kashmir do not deem it convenient to allow a representative of Pakistan to be with the Commission in their capital as that "would merely create a focus for intrigue against them". The Commission notes that the Government of India do not feel justified in overruling the Government of Jammu and Kashmir in a matter of this kind.

The Commission reserves its position in this connection but will revert to the subject should it decide, for the proper fulfillment of its mission, to go to Srinagar or to any other part of the territory of Jammu and Kashmir.

The Commission hopes that its work will not be impeded by a negative attitude on this matter on the part of the Government of Jammu and Kashmir. If that Government meet with difficulties arising out of the presence of a Pakistan representative, the Commission is sure that they will be able to deal with such difficulties appropriately.

Yours sincerely,

/s/ R. VAN DE KERCHOVE
Chairman

ANNEX 16

(S/AC.12/166, 29 March 1949)

LETTER DATED 28 MARCH 1949 FROM SIR GIRJA BAJPAI, SECRETARY-GENERAL, MINISTRY OF EXTERNAL AFFAIRS AND COMMONWEALTH RELATIONS, GOVERNMENT OF INDIA, TO THE CHAIRMAN OF THE COMMISSION

Excellency,

I am desirous to forward herewith, for the Commission's consideration a memorandum* embodying the views of the Government of India on the following points :

- (1) The Truce line in the North and North-East of the State of Jammu and Kashmir, beyond Waran, up to which point agreement has already been reached in principle between the representatives of India and Pakistan.
- (2) Formation of a civil armed force for the maintenance of law and order in Azad Kashmir territory.
- (3) The withdrawal of Indian forces from Jammu and Kashmir in accordance with the relevant provisions of Part II of the Commission's resolution, dated the 13th August, 1948.

A map showing the truce-line which the Government of India seek to establish is also enclosed.

2. The Government of India will be happy to send representatives to discuss the memorandum with the Commission at the Commission's convenience,

Yours sincerely,
/s/ G.S. Bajpai

* See Annex attached.

MEMORANDUM

As a result of discussions between Representatives of the Government of India on the one hand and the United Nations Commission for India and Pakistan and its Truce Sub-committee on the other, the Government of India have been invited to formulate their views on three points.

(1) The Truce line in the North and North East of the State of Jammu and Kashmir, beyond Keran, up to which point agreement has already been reached in principle between the Representatives of India and Pakistan.

(2) Formation of a civil armed force for the maintenance of law and order in Azad Kashmir territory.

(3) The withdrawal of Indian forces from Jammu and Kashmir in accordance with the relevant provisions of Part II of the Commission's Resolution, dated the 13th August 1948.

The Government of India's views on these three points are set out below serially:

1. TRUCE LINE

A map indicating the line which the Government of India wish to see established is attached. It will be observed that no claim is made to the inclusion of Gilgit District within the Indian part of the line. What is claimed for inclusion within the Indian line is territory which strictly answers the description given in the Prime Minister's letter, dated the 20th August, 1948, to Mr. Korbelt; it is territory over which the authority of the Government of Jammu and Kashmir has not been challenged or disturbed, except by roving bands of hostiles, or, in some places like Skardu, which has been occupied by irregular or other Pakistani troops. After Pakistan troops and irregulars have withdrawn from the region referred to, the responsibility for the administration of these areas will revert to the Government of Jammu and Kashmir and that for defence to the Government of India. It is not the intention to garrison these sparsely populated portions of the State of Jammu and Kashmir extensively. All that the Government of India propose to do is to maintain garrisons at selected points for the dual purpose of preventing the incursion of tribesmen, who obey no authority, and to guard the main trade routes from the State into Central Asia.

2. FORMATION OF A CIVIL ARMED FORCE

The Pakistan Representatives who appeared before the Truce Subcommittee had made certain recommendations in a memorandum, dated the 9th March, which, as has already been pointed out to the Commission, were designed to achieve the objective of a "military balance between the forces on each side". In the Secretary General's letter to the Chairman, dated the 10th March, 1949, it was explained that the proposals in the memorandum regarding the strength, training and control of Azad Kashmir forces during the period of the truce would be (i) a preparation neither for peace nor a peaceful pitbisciti but for the resumption of hostilities and (ii) contrary to the objective stated in para 3(1)(c) of the Prime Minister's letter, dated the 20th August, 1948, and broadly accepted by the Commission, that nothing should be done which would enable the territory evacuated by the Pakistan troops to be consolidated in any way during the period of the truce to the disadvantage of the State. The Government of India adhere to this view and re-affirm their request that action should be taken to disband and disarm the so-called Azad Kashmir forces. So long as these forces are not disbanded and disarmed, so long will it be necessary for the Government of India, in the interests of the security of the rest of the State of Jammu and Kashmir under their control, to maintain a larger force than would otherwise be necessary. A force of 32 battalions, armed but without discipline, and inspired by fanaticism would obviously be a menace to the security of a territory which it covets and against whose Government its fanaticism is directed. That discipline would make this force militarily more manageable does not imply that it would also eliminate the fanaticism of its members. Indeed, the disciplining and reorganisation proposed in the Pakistan memorandum would make this force a greater menace to the security of the part of the State. Moreover, as was explained to Dr. Lozano during his visit to Delhi in December 1948, so long as a military force of this character is maintained in the so-called Azad Kashmir territory, there will be no security for those inhabitants who do not fully subscribe to or share the political views of pro-Pakistan elements and, therefore, no inducement to the re-entry into this territory of State citizens of this class who had left it on account of the present conflict. Disbandment and disarming of these forces is, therefore, essential both to the fulfilment, by the Government of India, of their obligations under B.1

and 2 of Part II of the Commission's Resolution of the 13th August, and the creation, in the territory in question, of conditions which would ensure a free and impartial plebiscite.

For the maintenance of law and order in the so-called Azad Kashmir territory, a civil armed force has to be created. Before the outbreak of hostilities in the State, the total strength of the Police force maintained in this territory for the preservation of law and order was approximately 560 men of whom 256 were armed. The Government of India realize that the Physical and psychological conditions created by the conflict of the last 18 months necessitate a substantial augmentation of these numbers. They suggest, therefore, that a force of 2,500 persons, of whom one-half may be armed, be formed. This should be more than sufficient for the maintenance of law and order which must be the sole purpose of such a force.

Some of the considerations which have been urged in favour of disbanding and disarming the so-called Azad Kashmir forces equally govern, in the opinion of the Government of India, the composition of the armed police force and its command. If the force is composed of, or officered by, followers of Azad Kashmir alone, the fear of insecurity amongst persons, both muslims and non-muslims, who do not belong to this category, whether they are already resident in this territory or are entitled to return to it, will persist. It is, therefore, suggested, that, to the extent of half its numbers, the force should be composed of nationals (muslim and non-muslim) of Jammu and Kashmir State who are or were normally resident in this area, but who do not follow the political creed of Azad Kashmir. The higher officers in command of this force should be neutrals and appointed by the Commission.

3. WITHDRAWAL OF INDIAN FORCES

Part II of the Commission's Resolution of the 13th August, 1948, recommends

"B.1 When the Commission shall have notified the Government of India that the tribesmen and Pakistan nationals referred to in Part II A 2 (Of the Resolution) have been withdrawn....., that the Pakistan forces are being withdrawn from the State of Jammu and Kashmir, the Government of India agree to begin to withdraw the bulk of their forces from the State in stages to be agreed upon with the Commission.

B.2. Pending the acceptance of the conditions for a final settlement of the situation in the State of Jammu and Kashmir, the Indian Government will maintain within the lines existing at the moment of the cease fire, those forces of its Army which, in agreement with the Commission, are considered necessary to assist local authorities in the observance of law and order.....".

The Government of India accepted the Resolution of the 13th August, 1948, on the basis of clarifications furnished by the Commission which are explained in the Prime Minister's letter to the then Chairman of the Commission, dated the 20th August 1948. The portions of the Prime Minister's letter which are relevant to the part of the Resolution quoted are Paragraph 3 Sub-paragraph 2 and the second sub-paragraph of paragraph 4. The Government of India reaffirm their adherence to the position set out in these communications.

The memorandum presented by the Pakistan Representatives to the Truce Sub-committee of the Commission mentions three months as the period during which the withdrawal of Pakistan forces should be complete. This period seems to have been suggested with regard to the need for making suitable arrangements, inter alia, for the maintenance of law and order. Although, as explained in paragraph 2 of this memorandum, the Government of India are unable to agree with certain basic assumptions and with proposals regarding the strength and training of the force needed to maintain law and order made in the Pakistan memorandum, they are willing to accept the period of three months for the completion of the withdrawal of Pakistan forces and for the creation of a civil armed force which will maintain law and order in the so-called Azad Kashmir territory.

(At the request of the Government of India, the schedule of the withdrawal of troops is not reproduced here).

The fulfilment of the foregoing programme of withdrawal will be contingent upon

- (i) the complete withdrawal of Pakistan forces including ancillary forces and arms, equipment and stores;
- (ii) the disbanding and disarming of the so-called Azad Kashmir forces and the creation of the Civil Armed Force mentioned in para 2 of this memorandum.

The phasing of the withdrawal of Pakistan forces has not been discussed in this memorandum. The Government of India will be prepar-

to instruct their Representatives to discuss this matter with the Commission, its Truce Sub-committee and/or Pakistan Representatives, if desired. The Commission will appreciate that, so far as their own programme of withdrawal is concerned, the Government of India are not willing to disclose it to the Government of Pakistan until a satisfactory agreement has been reached regarding the withdrawal of Pakistan forces and the replacement of the so-called Azad Kashmir forces by a civil armed force.

This memorandum is limited to a description, in broad outline, of the views of the Government of India on the three points with which it deals, namely

- (1) The Truce line.
- (2) The formation of a civil armed force for the maintenance of law and order in Azad Kashmir territory.
- (3) The withdrawal of Indian forces from Jammu and Kashmir.

The Government of India will be happy to depute Representatives to discuss with the Commission the contents of the memorandum and to elucidate any parts of it that may need clarification or elaboration.

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ANNEX 17

(S/..C.12/177, 15 April 1949)

LETTERS DATED 15 APRIL 1949 FROM THE CHAIRMAN OF THE COMMISSION TO THE MINISTER WITHOUT PORTFOLIO, GOVERNMENT OF PAKISTAN, AND TO THE SECRETARY GENERAL, MINISTRY OF EXTERNAL AFFAIRS, GOVERNMENT OF INDIA, CONCERNING THE PROPOSALS ON THE IMPLEMENTATION OF PART II OF THE COMMISSION'S RESOLUTION OF 13 AUGUST 1948

Excellency,

The Commission has considered the developments which have taken place since it last addressed itself formally to both Governments with regard to the implementation of Part II of its Resolution of 13 August 1948. It has considered the viewpoints of both Governments and it has been studying the steps which have been and might be taken in connection with the further implementation of the Resolution of the Commission.

In the light of all the above factors, and in order to facilitate the restoration of peace in the State of Jammu and Kashmir and the holding of an early plebiscite, the Commission has decided to urge formally upon both Governments agreement upon the proposals contained in the enclosed documents.*

The Commission considers that these proposals represent an adjustment of viewpoints within the framework of and consistent with the spirit of the commitments already entered into. It is also convinced that in accepting these proposals, both Governments will have taken a further important forward step towards the attainment of the objective which animates both of them, as well as the Commission -- the prompt and peaceful solution of the problem of the State of Jammu and Kashmir through a free and impartial plebiscite.

The Commission requests that the Government of Pakistan signify their agreement on these proposals as soon as possible, and it hopes

* See Page 4 of this Annex

to be in possession of the agreement within three days, so that the Commission may then determine its future course of action.

Accept, Excellency, the assurances of my highest consideration.

/s/ Alfredo Lozano
Chairman

The Hon'ble Mr. K.A. Gurnani,
Minister without Portfolio,
Government of Pakistan,
Rawalpindi

Excellency,

The Commission has considered the developments which have taken place since it last addressed itself formally to both Governments with regard to the implementation of Part II of its Resolution of 13 August. It has considered the viewpoints of both Governments and it has been studying the steps which have been and might be taken in connection with the further implementation of the Resolution of the Commission.

In the light of all the above factors, and in order to facilitate the restoration of peace in the State of Jammu and Kashmir and the holding of an early plebiscite, the Commission has decided to urge formally upon both Governments agreement upon the proposals contained in the enclosed documents.*

The Commission considers that these proposals represent an adjustment of viewpoints within the framework of and consistent with

* See Para 4 of this Annex

the spirit of the commitments already entered into. It is also convinced that in accepting these proposals, both Governments will have taken a further important forward step towards the attainment of the objective which animates both of them, as well as the Commission, the prompt and peaceful solution of the problem of the State of Jammu and Kashmir through a free and impartial plebiscite.

With reference to point B.1 of the enclosed proposals, the Commission submits the following plan for the withdrawal of the bulk of the Indian troops from the territory of the State of Jammu and Kashmir: (At the request of the Government of India, the schedule for the withdrawal of troops is not reproduced here).

The Commission requests that the Government of India signify their agreement on these proposals as soon as possible and it hopes to be in possession of the agreement within three days, so that the Commission may then determine its future course of action.

Accept, Excellency, the assurances of my highest consideration.

/s/ Alfredo Lozano
Chairman

Sir Girja Shankar Bajpai,
Secretary-General,
Ministry of External Affairs,
Government of India,
New Delhi

PROPOSALS PRESENTED TO THE GOVERNMENTS OF INDIA AND PAKISTAN
ON THE IMPLEMENTATION OF PART II OF THE COMMISSION'S RESOLUTION OF
13 AUGUST 1948

The Government of Pakistan agrees with the Commission that:

- A. 1. The Pakistan troops will immediately begin to withdraw from the territory of the State of Jammu and Kashmir as follows:
 - a) During the first three weeks twenty Infantry Battalions, plus the corresponding proportion of Artillery and Supporting Units, will be withdrawn.
 - b) During the following fortnight the remainder of the Pakistan troops will be withdrawn, with the exception of eight Infantry Battalions.
 - c) By the end of the seventh week, the total of the Pakistan troops, including their ammunition, stores, and material will have left the territory of the State.
2. The Government of Pakistan, having secured the withdrawal from the territory of the State of Jammu and Kashmir of the tribesmen, shall secure the withdrawal of any of the Pakistan nationals still in the territory of the State and not normally resident therein, who have entered the State for the purpose of fighting.
3. The territory evacuated by the Pakistan troops will be administered by the local authorities under the surveillance of the Commission and without prejudice to the sovereignty of the State.

The Government of India agrees with the Commission that:

- B. 1. As soon as the Commission shall have notified the Government of India that the tribesmen and the Pakistan nationals not normally resident in Jammu and Kashmir territory, who have entered the state for the purpose of fighting, have withdrawn, and that the Pakistan troops are being withdrawn from the State of Jammu and Kashmir, the Indian Army will begin to withdraw the

bulk of its forces in stages submitted to the Indian Government by the Commission. The schedule of the withdrawal of Indian forces will be published by the Commission immediately after the acceptance of these proposals by both Governments.

- C. 1. The Operations mentioned in the above paragraphs A and B will be carried out under the surveillance of the Commission's Military Adviser.
- D. 1. A cease-fire line based upon the factual positions occupied by the respective armies on 1 January 1949, has been fixed by the Commission, and is traced in yellow on the map annexed. Between CHAKHOTI AND TITHAL and from CHOKHANI to the north of MANAS, the line shall be demarcated as soon as possible by the Military Adviser of the Commission. The cease-fire line shall eliminate all no-man's land and shall be demarcated on the ground by agreement between the respective Local Commanders, assisted by the Commission's Military Observers. That line shall, to the greatest extent possible, follow easily recognizable features on the ground.
2. The Commission authorizes its Military Adviser to decide, without appeal, local adjustments of the cease-fire line.
3. The Commission will have observers stationed where it deems necessary. In the sparsely populated and mountainous region of the territory of Jammu and Kashmir in the north, Observers will be stationed who, in the event that the defense of this territory becomes necessary, will so advise the Commission. The Commission, in this case, or at the request of the Government of India, may agree that the Government of India post garrisons at specified points of this area.
- E. 1. All land mines will be immediately lifted by the side which sowed them.
2. There will be free use of the roads throughout the State for refugee movements, refugee maintenance, and for all other non-military purposes. There will also be free use of all

the waterways for all non-military purposes.

3. All prisoners of war will be released within one month.

4. All emergency laws promulgated as a consequence of hostilities will be repealed within one month, and all political prisoners arrested or prosecuted under these laws, whether condemned or not, will be released during the same period.

F. 1. These provisions are without prejudice to the territorial integrity and the sovereignty of the State of Jammu and Kashmir.

2. These provisions do not affect in any way the functions and powers of the Plebiscite Administrator.

ANNEX 18

(S/AC.12/179)

LETTER DATED 15 APRIL 1949 FROM THE MINISTER WITHOUT PORTFOLIO,
GOVERNMENT OF PAKISTAN, TO THE VICE CHAIRMAN OF THE COMMISSION
REQUESTING ELUCIDATION OF THE PROPOSALS OF 15 APRIL 1949

Excellency,

I have the honour to refer to Mr. Lozano's letter dated 15th April 1949 enclosing the Commission's proposals for the implementation of Part II of the Commission's Resolution of 13th August, 1948, which you very kindly handed over to me this morning.

2. The Commission has expressed the hope that the Government of Pakistan would be able to signify their agreement to these proposals within three days. As I explained to you this morning, I am going to Karachi to meet the Hon'ble the Prime Minister before he leaves for London on 18th April. I hope to be able to apprise the Commission of the views of the Pakistan Government on the Commission's proposals on my return to Rawalpindi on 19th April.

3. On a preliminary study of the Commission's proposals, I feel that I should request for elucidation of the points mentioned below:-

i). The implications of the phrase "without prejudice to the sovereignty of the State", used in Clauses A.3 and F.1.

ii). To enable the Pakistan Government to submit their views, as envisaged in the Commission's letter dated 3rd September, 1948 to the Foreign Minister of Pakistan, when does the Commission propose to give the Pakistan Government:

- (a) its proposed schedule for the withdrawal of the bulk of the Indian Forces, and
- (b) information regarding the Indian Forces which, under Part II, Clause B.2 of the Commission's Resolution of 13th August 1948, will be allowed to remain in the State for the purpose of assisting the local authorities in the observance of law and order?

iii). Am I right in presuming that

- (a) the withdrawal of the bulk of the Indian troops will be completed within the same period as is proposed for the withdrawal of the Pakistan troops; and
- (b) the synchronization of the withdrawal of the bulk of the Indian troops with the withdrawal of the Pakistan troops will be arranged between the Commission and the two High Commands as provided in para. 10 of the memorandum enclosed with the Commission's letter dated 27th August, 1948 to the Foreign Minister of Pakistan?

iv). Would the Commission kindly confirm that:

- (a) the cease-fire line between Chakothi and Tithwal, and from Shorwan to the north of Dras referred to in Clause D.1 will be demarcated by the Military Adviser of the Commission on the basis of the factual positions occupied by the respective forces on 1 January, 1948; and
- (b) local adjustments of the cease-fire line referred to in Clause D.2 will be of minor character and will be made for military considerations only?

v). (a) What are the limits of the area described in Clause D.3 as "sparsely populated and mountainous region of the territory of Jammu and Kashmir in the north"?

(b) What contingency has the Commission in mind which might necessitate "the defence" of the territory referred to in Clause D.3?

(c) Is it the intention of the Commission that posting of Indian garrisons at specified points will be permitted only when the Commission is satisfied that by no other means can the defence of the territory referred to in Clause D.3 be provided for?

(d) Will the local authorities and the Pakistan Government be apprised of the situation and their agreement obtained before any action is taken under Clause D.3?

vi). With regard to Clause D.2, am I correct in assuming that:

(a) the residents of the State shall have full freedom of entry and exit, and freedom of movement throughout the State; and

(b) that Pakistan nationals shall be free to enter the State for a lawful purpose, and shall have freedom of movement throughout the State?

4. I have postponed my departure for Karachi to 3 p.m. tomorrow in order to be able to obtain the Commission's elucidations of the points mentioned above, as these would greatly assist the Government of Pakistan in understanding the Commission's proposals. I shall be most grateful if you could kindly let me have a reply before I leave for Karachi.

Accept, Excellency, the assurances of my highest consideration.

/s/ GURLANI
(..... Gurhani)

His Excellency Minister Robert Montee,
Vice-Chairman
United Nations Commission for India and Pakistan
Rawalpindi

ANNEX 12

(S/AC.12/180, 18 April 1949)

LETTER DATED 16 APRIL 1949 FROM THE VICE CHAIRMAN OF THE COMMISSION
TO THE MINISTER WITHOUT PORTFOLIO, GOVERNMENT OF PAKISTAN,
ELUCIDATING THE PROPOSALS OF 15 APRIL 1949

Excellency,

I have the honour to acknowledge receipt of your Excellency's letter of the 15th of April 1949 addressed to me in the absence of the Chairman. Having discussed your letter with the other member of the Commission at present in Rawalpindi, I take pleasure in setting forth below, seriatim, replies to the questions raised.

i) By this phrase, the Commission means that the administration of the area by the local authorities under the surveillance of the Commission would not bring into question the sovereignty of the State of Jammu and Kashmir as a whole. It has consistently been the view of the Commission, as well as the Security Council that, pending the determination of the will of the people as regards the accession of the State to India or Pakistan, neither body will recognise any new sovereignty in the State. To do so would constitute a prejudgment of the will of the people.

ii) (a) and (b) - The Commission has already received the views of the Government of Pakistan on this matter under date of March 9, 1949, and has taken due account of them. The Commission will not find itself in a position to disclose the schedule of withdrawal of the bulk of Indian troops until agreement thereon has been reached with the Government of India and both Governments have indicated their agreement to the other provisions of the proposals.

iii) (a) - No presumption can be made with regard to this point until agreement has been reached between the Government of India and the Commission. In the preparation of the proposed schedules of

withdrawal, the Commission has been guided primarily by information supplied by its Military Adviser as to the time required for such withdrawals and, taking into account the problems created by the extent of the area, the nature of its terrain and the transportation facilities, the Commission has not found it feasible to propose that the completion of the withdrawal of the bulk of Indian troops should take place at as early a date as that of the Pakistan troops.

iii) (b) - As stated in paragraph 10 of appendix 1 to the letter of the Commission to the Government of Pakistan of the 7th of August 1948, synchronization of the withdrawal of the armed forces of the two Governments will be arranged between the respective High Commands and the Commission.

iv) (a) and (b) - I understand that the Military Adviser will base his determinations upon military and factual considerations, other considerations being beyond his competence.

v) (a) - By the phrase "sparsely populated and mountainous region of the territory of Jammu and Kashmir in the north" the Commission means the area of the State north of the positions presently occupied by the Indian Army with the exception of Gilgit Subdivision and Agency.

v) (b) - The Commission cannot forecast the contingencies which might require the defence of this area and is prepared to rely upon the information of its observers to be stationed there and the advice of its Military Adviser in this matter.

v) (c) - I understand the intention of the Commission to be that it may agree to the stationing of Indian troops at specified points should it be convinced, in the light of all the circumstances, that it is necessary for the defence of that territory.

v) (d) - Action to be taken under Clause D.3 would be a matter for agreement between the Commission and the Government of India. Any case which might arise would have to be dealt with in the light of the then-existing circumstances.

vi) (a) and (b) - It is my understanding that the sole intention of the Commission by clause E.2 was to abolish, so far as possible, any artificial conditions which might otherwise be occasioned

by the presence of the demarcation line established under Clause C. without prejudice, of course, to paragraph 7 of the Commission's Resolution of 5 January 1949.

With reference to points i) and iii) it may be added that the schedule of withdrawals of the forces of both Governments and the number of Indian troops to be left within the State is, of course, subject to modification in any future agreement which may be reached regarding the reorganization and reduction of the forces to remain in the area to be evacuated by the Pakistan troops.

Accept, Excellency, the assurances of my highest consideration.

/s/ R. MCATEE
Vice-Chairman

ANNEX 20

(S/AC.12/185, 20 April 1949)

LETTER DATED 17 APRIL 1949 FROM THE SECRETARY-GENERAL, MINISTRY OF EXTERNAL AFFAIRS, GOVERNMENT OF INDIA, TO THE CHAIRMAN OF THE COMMISSION REGARDING THE PROPOSALS OF 15 APRIL 1949

Excellency,

The Government of India have asked me to convey the following views on

- (a) your letter dated the 15th April, 1949, and
- (b) the proposals of the Commission on the implementation of Part II of its Resolution of 13th August, 1948, which you left with me on the 15th.

2. Neither in the letter nor in the proposals is there any reference to the disbandment and disarming of the so called "Azad Kashmir" forces to which, as the Government of India have repeatedly informed you, they attach the utmost importance. The omission, if I understood you correctly, is due to the fact that, in Part II of the Commission's Resolution of the 13th August, which the "truce agreement" is designed to implement, there is no reference to the disbanding and disarming of these forces. Since the disbanding and disarming of these forces has been repeatedly challenged, the Government of India would have preferred this matter to be dealt with in the "truce agreement". In any case, they desire that the assurance regarding the disbanding and disarming of these forces contained in the aide memoire of the conversation of 22nd December, 1948** between the Prime Minister on the one hand and the Ambassador Colban and you on the other should be made clear beyond any doubt. Discussions to implement this assurance should begin as soon as possible and decisions should be taken not later than the completion of the withdrawal of Pakistan troops (seven weeks) mentioned in A. of the Commission's proposals communicated to the Government of India on the 15th.

3. In the Prime Minister's letter of acceptance of the Commission's Resolution of the 13th August, it was stated that the strength of the Indian forces maintained in Kashmir should be conditioned by the over-riding factor of the effective insurance of the security of the State against external aggression. The presence, in the so-called "Azad Kashmir" territory, of 32 battalions of "Azad Kashmir" forces constitutes a factor which the Government of India must take into account in determining the phasing of the withdrawal of their own forces. During the period of withdrawal of Pakistan troops (seven weeks) mentioned in Part A of the Commission's latest proposals, the Government of India cannot, with due regard to the security of the State, the maintenance of law and order and the sealing off of the border against unwarranted infiltration, withdraw more than 12 battalions. Further withdrawals will depend upon and will have to be regulated according to the actual disbandment and disarming of the "Azad Kashmir" forces.

4. As regards A of the Commission's proposals - withdrawal of Pakistan forces - the Government of India assume that all irregular forces are included in the programme of withdrawal; also that no arms, equipment or military stores will be left behind by the Pakistan forces.

5. B. This has already been dealt with in paragraph 3 of this letter. The Government of India will have no objection to the publication by the Commission of the schedule of withdrawal of Indian forces that may be agreed upon between them and the Commission, but the programme of withdrawal of Pakistan forces should be published at the same time.

6. C. The Government of India agree.

7. D. 1 & 2. The Government of India agree to the procedure outlined in these proposals, except as regards the territory from Chutawan to the north of Dras, which, in the opinion of the Government of India, forms part of the sparsely populated mountainous region referred to in the Prime Minister's letter of 20th August to Mr. Korbol.

8. D.3. Although Pakistan forces, both regular and irregular, may be withdrawn from the sparsely populated and mountainous areas in the north, a large number of the local population, which Pakistan has armed, will remain and will constitute a threat and a menace both to the trade with Central Asia of the Jammu and Kashmir State and to the security of the valley of Kashmir. The Government of India, therefore, reaffirm their request that they be allowed to maintain garrisons at the strategic points mentioned in the memorandum which accompanied my letter No. 243-PASG/49, dated the 13th April 1949. As stated in that letter, the question of the administration of this area can be discussed separately.

9. The Government of India agree to E.1 and E.3. As regards E.2, they cannot agree to the unrestricted use of roads and waterways in the State of Jammu and Kashmir for refugee movement and for all other non-military purposes. Such freedom will make it impossible to check the infiltration into the State of persons who have no right to be there and will greatly aggravate the administrative difficulties which confront both the State and the Military authorities on account of the infiltration which is already in progress and which, considering the long border between the territory under the control of the Government of India and that of Pakistan, it is impossible effectively to control. I may point out that in Part II of the Commission's Resolution, there is no reference to the subject matter of this proposal of the Commission. The freedom of return to the State of persons who have left it on account of the disturbances is referred to in 6(a) of the Commission's Resolution of 5th January 1949, only, and can be discussed only as part of the arrangements connected with the plebiscite. On purely humanitarian grounds, however, the Government of India are prepared to discuss arrangements for the movement of food convoys by both India and Pakistan under the supervision of the International Red Cross.

10. E.4. It is not clear under which provision of the Resolution of the 13th August, this proposal has been made. This matter falls under (7) of the Commission's Resolution of the 5th January 1949, and cannot

be reported by the Government of India as legitimately connected with the truceagreement now proposed.

114 F.1 and 2. The Government of India agree.

Please accept, Excellency, the assurance of my highest consideration.

/s/ G. S. BAJPAI
Secretary General

ANNEX 21

(S/AC.12/195, 2 May 1949)

TRUCE TERMS TRANSMITTED TO THE GOVERNMENTS OF
INDIA AND PAKISTAN BY THE COMMISSION

I, CEASE-FIRE LINE

- A. The **cease-fire** line will be the line fixed by the Commission and, except as noted below, traced in yellow on the map annexed, and based upon the factual positions occupied on 1 January 1949 by the forces under the control of the Indian and Pakistan High Commands. Based also upon the same factual considerations, the line between CHAKHOTI and TITHNAL and from CHORIAN to the north of DRAS, shall be demarcated as soon as possible by the Military Adviser of the Commission. The **cease-fire** line shall eliminate all no-man's lands and shall be demarcated on the ground by agreement between the respective local Commanders, assisted by the Commission's Military Observers. The line shall, to the greatest extent possible, follow easily recognizable features on the ground.
- B. The Commission's Military Adviser shall decide, without appeal, local adjustments of the **cease-fire line** in cases where no agreement is reached between the local Commanders.
- C. The Commission will have Observers stationed where it deems necessary throughout the State of Jammu and Kashmir.
- D. Observers will advise the Commission and/or the Plebiscite Administrator regarding developments in the sparsely populated and mountainous region of the territory of Jammu and Kashmir in the north. Without prejudice to the provisions of point 8 of the Resolution of 5 January 1949, should the Commission and/or the Plebiscite Administrator conclude upon advice from the Observers, or upon reports from the Government of India, that it is necessary for the defence of the area, the Commission and/or the Plebiscite Administrator may request the Government of India to post garrisons at specified points,

II. WITHDRAWAL OF TROOPS

A. The Government of Pakistan agrees:

1. To withdraw its troops from the territory of the State of Jammu and Kashmir in seven weeks as follows:
 - a) During the first three weeks twenty Infantry Battalions, plus the corresponding proportion of Artillery and Supporting Units.
 - b) During the following fortnight the remainder of the Pakistan troops, with the exception of eight Infantry Battalions,
 - c) By the end of the seventh week, all Pakistan troops, including their ammunition, stores, and material will have left the territory of the State,
2. That, having secured the withdrawal of the tribesmen from the territory of the State of Jammu and Kashmir, it shall secure the withdrawal of Pakistan nationals still in the territory of the State and not normally resident therein, who have entered the State for the purpose of fighting.

B. The Government of India agrees:

1. To withdraw the bulk of its forces from the State of Jammu and Kashmir in stages submitted by the Commission for the agreement of the Government of India. The withdrawal will begin as soon as the Commission shall have notified the Government of India that the tribesmen, and Pakistan nationals, not normally resident in Jammu and Kashmir territory who have entered the State for the purpose of fighting, have withdrawn, and that the Pakistan troops are being withdrawn from the State of Jammu and Kashmir.
2. That the schedule of the withdrawal of Indian forces will be made public by the Commission with the schedule of the withdrawal of Pakistan forces immediately after the acceptance of these terms by both Governments.

C. The operations mentioned in the above paragraphs A and B will be carried out under the surveillance of the Commission through its Military Adviser.

II-C. GENERAL PROVISIONS

- A. The territory evacuated by the Pakistan troops will be administered by the local authorities under the surveillance of the Commission.
- B. Immediately upon the acceptance of these terms, the Commission would enter into consultations with the Government of India regarding the disposal of the Indian and state armed forces, and with the local authorities regarding the disposal of the armed forces in the territory to be evacuated by Pakistan troops, with a view to initiating implementation of point 4(a) and (b) of the Commission's Resolution of 5 January 1949.
- C. If, before the expiration of the seven weeks contemplated in point II. A. decisions are reached in the consultations for the initial implementation referred to in III. B. above, the schedule of withdrawal of the Pakistan Army, as provided for in II. A. above, may be extended to three months, in order to facilitate the implementation of decisions relating to point 4 (b) of the Commission's Resolution of 5 January 1949.
- D. All prisoners of war will be released within one month.
- E. All land mines will be immediately lifted by the side which sowed them.
- F. It will be made publicly known throughout the State of Jammu and Kashmir that peace, law, and order will be safeguarded and that all human and political rights will be guaranteed.
- G. These terms are without prejudice to the territorial integrity and the sovereignty of the State of Jammu and Kashmir.
- H. These terms do not prejudice the functions and powers of the Plebiscite Administrator.
- I. These terms will become effective and will be published by the Commission immediately upon their acceptance by both Governments.

ANNEX 22

(S/AC.12/193, 2 May 1949)

LETTER DATED 28 APRIL FROM THE CHAIRMAN OF THE
COMMISSION TO THE ACTING MINISTER FOR EXTERNAL
AFFAIRS, GOVERNMENT OF INDIA, REGARDING THE
TRUCE TERMS

Excellency,

1. I have the honour to acknowledge the receipt of your Government's reply to the Commission's proposals of 15 April 1949 regarding the implementation of Part II of the Resolution of 13 August 1948.
2. The Commission has given serious study to the replies of the Government of India and the Government of Pakistan and has formulated truce terms which I have the honour to transmit to Your Excellency herewith. The terms now submitted to your Government endeavour to reconcile so far as possible the views of both Governments with respect to the present situation and adhere to the framework of the Resolution of 13 August 1948.
3. The Commission considers it essential that the Governments of India and Pakistan agree on terms which will permit the implementation of the provisions of the truce without further delay, and cannot but express to Your Excellency the urgency which it attaches to the withdrawal of armed forces from the State of Jammu and Kashmir. The Commission does not believe that fruitful results would be obtained from further discussions. It is in this spirit that the Commission requests your Government's unreserved acceptance of the enclosed terms.
4. To aid your Government's consideration of certain points of the truce terms, the Commission sets forth below the following observations.

(a) The Government of India will understand that the Commission cannot deal at this stage with the question of disbanding and disarming the Azad Kashmir forces since it does not fall within the purview of Part II of the Resolution of 13 August. Nevertheless the Commission

appreciates the significance of the question and is anxious to consider it without delay. While the Commission cannot share the view of the Government of India that a reduction of its forces beyond the strength mentioned in your letter of 17 April 1949 must depend upon the actual disbanding and disarmament of the Azad Kashmir forces, it is convinced that an early study of the matter would hasten the preparations for the plebiscite. In an effort to meet your Government's point of view, the Commission has provided for consultations on the disposal of forces in the State, under Point 4 (a) and (b) of the Resolution of 5 January 1949, by advancing the consideration of this point to the moment at which the Governments of India and Pakistan have signified their acceptance of the enclosed terms. Section III D contemplates decisions on the question of the Azad Kashmir forces at an early stage in the implementation of the truce.

(b) The Government of India has requested that it be allowed to post and maintain garrisons at the strategic points mentioned in its memorandum of 13 April 1949 with respect to the sparsely populated and mountainous region to the north. The Commission believes that to achieve the purposes of the truce, it is essential to restrict the field of military activities as far as possible. Furthermore, the Commission cannot agree to any measures which it fears may disturb conditions in any part of the State and thus be detrimental to the achievement of the common objective of an early plebiscite. Nevertheless, in an effort to meet the position of your Government in this matter, the enclosed terms provide that, without prejudice to the provisions of point 8 of the Resolution of 5 January 1949, should the Commission and/or the Plebiscite Administrator conclude that it is necessary for the defence of the area, the Commission and/or the Plebiscite Administrator may agree to your Government stationing garrisons north of the cease-fire line, as contemplated under Section I D.

(c) The Commission hopes that your Government will do all in its power to further the objective set forth in Section III F. It believes that the announcement of the release of political prisoners and the abrogation of emergency laws relating to civilian movement in the State and other similar measures, would be valuable contributions

to the achievement of those conditions which will enable rapid progress in the preparations for the plebiscite.

5. With respect to point II. B, the Commission, with due regard to the security of the State, presents the following plan of withdrawal for the bulk of the Indian forces from the territory of the State of Jammu and Kashmir.

(at the request of the Government of India,
the schedule of the withdrawal of troops
is not reproduced here).

6. The Commission requests your Government's reply within one week.

Accept, Excellency, the renewed assurances of my highest consideration.

/s/ A. LOENNO
Chairman

ANNEX 23

(S/AC.12/194, 2 May 1949)

LETTER DATED 28 APRIL FROM THE CHAIRMAN OF THE
COMMISSION TO THE MINISTER WITHOUT PORTFOLIO,
GOVERNMENT OF PAKISTAN, REGARDING THE TRUCE TERMS

Excellency,

1. I have the honour to acknowledge the receipt of your Government's reply to the Commission's proposals of 15 April 1949 regarding the implementation of Part II of the Resolution of 13 August 1948.
2. The Commission has given serious study to the replies of the Government of Pakistan and the Government of India and has formulated truce terms which I have the honour to transmit to Your Excellency herewith. The terms now submitted to your Government endeavour to reconcile so far as possible the views of both Governments with respect to the present situation and adhere to the framework of the Resolution of 13 August 1948.
3. The Commission considers it essential that the Governments of Pakistan and India agree on terms which will permit the implementation of the provisions of the truce without further delay and cannot but express to Your Excellency the urgency which it attaches to the withdrawal of armed forces from the State of Jammu and Kashmir. The Commission does not believe that fruitful results would be obtained from further discussions. It is in this spirit that the Commission requests your Government's unreserved acceptance of the enclosed terms.
4. To aid your Government's consideration of certain points of the truce terms, the Commission sets forth below the following observations:
 - (a) With respect to Section II, it is desired to emphasize to the Government of Pakistan that the schedules of withdrawals of the Pakistan troops and the bulk of the Indian forces will be faithful to the Commission's Resolution of 13 August 1948 and represent a co-ordination of timing which in the view of the Commission will constitute a synchronized action.

(b) A period of three months for the withdrawal of Pakistan troops was previously contemplated in view of your Government's suggested re-organization of the Azad Kashmir forces. The Government of India had agreed in principle to a three months withdrawal period for the Pakistan troops on the understanding that there would be a reduction of the Azad Kashmir forces. The Government of Pakistan insisted that the question of the Azad Kashmir forces be considered only in the light of point 4(a) and (b) of the Resolution of 5 January 1949 and be acted upon only after the acceptance of the truce. The Commission has based its terms on Part II of the Resolution of 13 August 1948 and has not felt able to modify its proposals of 15 April 1949 in this regard, except as indicated below.

(c) Section III C, in relation to III B, provides for the extension of the period of the withdrawal of Pakistan troops in order to expedite the implementation of decisions which might be taken as a result of the consultations envisaged under point 4 (b) of the Commission's Resolution of 5 January 1949, which are to be immediately entered into upon the acceptance of the enclosed terms.

(d) Section III G recognizes that the Commission cannot prejudge the sovereignty and integrity of the State as a whole. It should not be construed as envisaging the introduction into the area to be evacuated by Pakistan troops of civil or military officials of the Government of Jammu and Kashmir or of the Government of India for the purpose of administration or control. The Commission does not feel that the presence of this clause in the enclosed terms introduces a controversial subject nor does it in any way affect the agreement already reached by both Governments in their acceptance of the Commission's Resolution of 13 August 1948.

(e) The Commission hopes that your Government will do all in its power to further the objective set forth in Section III F. It believes that the announcement of the release of political prisoners and the abrogation of emergency laws relating to civilian movement in that State and other similar measures, would be valuable contributions to the achievement of those conditions which will enable rapid progress in the preparations for the plebiscite.

5. The Commission request your Government's reply within one week.
Accept, Excellency, the renewed assurances of my highest consideration.

/s/ Alfredo Lozano
Chairman

(S/AC.12/190, 3 May 1949)

LETTER DATED 26 APRIL 1949 FROM THE MINISTER WITHOUT PORTFOLIO,
GOVERNMENT OF PAKISTAN, TO THE CHAIRMAN OF THE COMMISSION, REGARDING
THE NORTHERN AREAS.

Excellency,

In continuation of Mr. Ayub's letter of 23rd April, 1949, to Ambassador Colban forwarding a note regarding the areas north of the cease-fire line, it might be of assistance to the Commission if I were to recapitulate why we regard the proposal to post Indian troops in the area north of the cease-fire line in any contingency as a clear contravention of Part II of the Commission's Resolution of 13 August 1948.

In the first place, the area north of the cease-fire line is 'evacuated territory' precisely in the same way as any area west of the cease-fire line. In their letter of 3rd September, 1948, to the Foreign Minister of Pakistan, the Commission explained that the term "evacuated territory" used in paragraph A.3 of Part II of the Resolution of 13th August, 1948 "refers to those territories which are at present under the effective control of the Pakistan High Command". The area north of the cease-fire line was as much under the effective control of the Pakistan High Command as the area west of the cease-fire line.

The Commission also gave us an undertaking on 31st August, 1948, that neither the Government of India nor the Maharaja's Government would be permitted to send any military or civil officials to the evacuated territory. The posting of Indian garrisons in any part to the area north of the cease-fire line would be a violation of this undertaking.

Secondly, under para B.2 of Part II of the Commission's Resolution of 13th August, 1948, such Indian forces as are allowed to stay after the withdrawal of the "bulk" of the Indian forces are to be posted "within the lines existing at the moment of the cease-fire". This applies as much to the area north of the cease-fire line as to the rest of the evacuated territory.

2. During the discussions preceding the acceptance of the Resolution of 5th January, 1949, by the Governments of India and Pakistan, the Government of India had, again and again, stressed their interest in the security of the State. Nevertheless, the Commission did not recognize their right to post Indian troops beyond the cease-fire line. The undertaking given by the Pakistan Government to deal effectively with any possibility of a tribal raid within their own borders applies as much to the areas north of the cease fire line as to areas west of the cease-fireline.

3. I would, therefore, submit that the proposal to post Indian garrisons in areas north of the cease-fire line in any contingency is as much a violation of the Part II of the Commission's Resolution as a similar proposal in respect of areas west of the cease-fire line would be.

Accept, Excellency, the assurances of my highest consideration,

/s/ M. A. Gurmiani

PAPER PRESENTED BY THE GOVERNMENT OF PAKISTAN ON THE AREA NORTH OF THE
CEASE-FIRE LINE ENCLUDING GILGIT AGENCY AND GILGIT SUB-DIVISION

1. Definition

This area comprises the Astor, Skardu and part of Kargil Tehsils, and Guraiz Sub-Tehsil.

2. Scope

This deals with -

- (a) the geography, communications and economic conditions of the area;
- (b) a brief history of the fighting in this area;
- (c) the system of civil administration; and
- (d) defence against external aggression.

3. Geography

The whole area is extremely mountainous with the high Korakoram range averaging 13,000 ft. in the North, and range of hills, enclosing the Kashmir Valley on the north and north-east, to the South. The whole area forms the basin of the river Indus. To the north the passes are 15,500 - 19,000 ft. high, and to the South end south-east 12,000 -- 16,000 ft. These passes remain blocked for roughly 5-7 months in the year due to snow. The routes along the river Indus are the only ones which remain open throughout the year.

The population is concentrated in the river Valleys.

4. Communications - Land routes

The land routes fall into three categories:-

- (a) trade routes leading from Central Asia. These are:-
 - (i) Kashgar (Sinkiang Province), Mintaka Pass (15,450 ft) Hunza-Gilgit-Chilas.
 - (ii) Another route from Russian Turkestan and the Wakhan province of Afghanistan joins route (i) just south of the Mintaka Pass and crosses the Kilik Pass (15,400 ft.)
 - (iii) Yarkand-Karakor; Pass (18,240 ft) Changla Pass (18,370 ft)-Lah, This route skirts this area to the south and south-east, and falls directly into Indian held territory.

These routes cross very high passes, and are used by traders for only four or five months in the year during which the Passes remain open. Only pack animals can be used on these routes. The railheads for normal trade in case of all these routes are located in Pakistan.

(b) Those connecting the area with Kashmir Valley:

Astor-Burzil/Kumri Pass (13,500 ft) Gurez-Tragbal (11,500 ft) Srinagar - 150 miles.
Srinagar-Gurez approx. 70 miles, now jeepable.

(Note: Leh, which is held by Indian forces is connected with the Kashmir Valley through Kargil, Dras, Zojila Pass (11,500 ft), Sonmarg, Srinagar - 220 miles. The whole of this route is in Indian hands. Leh is also connected with India through the following route:-

Leh-Upshi-Taglangla (17,479 ft) - Bara Lacha La (16,200 ft) - Manali - Kulu - (Kangra Valley, East Punjab: approx 300 miles. This route is extremely long and difficult one, crosses high passes and remains open only for about 4 months in the year, and is seldom, if ever, used by traders. India found it extremely difficult to use this route even for reinforcing Leh during the fighting in 1948.

(c) Those connecting the area with Pakistan:

(i) Skardu - Ronda - Gilgit) - Chilas - Babusar (13,000 ft) - Bunji)
Balakot - Havelian (Railhead in Hazara District (N.W.F.P.)) - approx. 272 miles. Also from Chilas down the Indus river to Hazara District and S.Wat state.

There is no high pass along the Indus route. The route Gilgit - Bunji - Chilas - Babusar - Balakot is jeepable. Efforts are being made to make the route Gilgit) - Skardu Bunji , also jeepable within a short period.

There is no pass between Skardu-Gilgit-Chilas along this route. Before the War the Chilas-Babusar-Balakot-Havelian route was the main and cheapest trade route, and was used by traders in preference to the longer and more costly routes through the Kashmir Valley to Rawalpindi railhead.

- (ii) Skardu-Gilgit-Shandpur Pass (12,210 ft.) - Chitral Dargai (Railhead in Mardan District, N.W.F.P.) is open all the year round for pack animals.

5. Air communications

There exist :-

A good all weather Dakota strip at Gilgit

A good all weather Dakota strip at Skardu

A Dakota strip at Chilas

Rawalpindi to Gilgit is approx. 1 hr. 30 min.

Rawalpindi to Skardu is approx. 2 hrs.

Aircraft have to follow the Indus Valley and cross no passes.

Flying is possible all the year round, except in inclement weather.

Between Kashmir Valley and the north, high passes have to be crossed and flying is not safe in the winter, when the passes are often covered by fog and clouds. No flying has ever been attempted between East Punjab and the Leh area.

6. The economic conditions of the area

The area is self sufficient in foodgrains, and woollen clothes which are worn, are locally manufactured. The main imports into the area are salt, tea, sugar and kerosene oil. Salt comes from the Khewra mines in Pakistan, as only rock salt is consumed. The other imports also come from Pakistan via the Beshkar and Chitral routes.

In addition to necessities of life, other goods such as fine cloth, soap, cigarettes, etc. have begun to move in fair quantities since the construction of Dakota strips at Gilgit and Skardu, and the making of the Balakot - Gilgit road into a jeepable one.

This area is in no way dependent upon the Kashmir Valley which produces none of the supplies it needs. The fact that it has been cut off from the Kashmir Valley for the last 18 months has produced no adverse effects upon the economic life of the area.

7. A brief history of the revolt and subsequent operations

In October, 1947 there were the following forces in the area and the adjoining territories:-

- (5) Gilgit Agency and Sub-division approx. 500 Gilgit Scouts

officered by Jammu and Kashmir State officers, and two British officers in State employ.

(b) Gilgit Wazarat and Baltistan

Gilgit Wazarat - One Battalion, less one Coy (State forces 50% Muslim, 50% non-Muslim)

Skardu (Baltistan) - One Coy (State force, 25% Muslim, 75% non-Muslim)

Leh - One Coy. less one platoon
(State forces - all non-Muslims)

On 28th October, 1947, the Gilgit Scouts, assisted by the Muslim element of the State army, staged a successful bloodless coup-d'etat, and the military Governor and the non-Muslim elements of the State Army and Civil Administration were disarmed and arrested. The treasury, and large quantities of arms, ammunition, equipment, clothing and supplies were captured.

An emergency administration was set up which took over effective control of the entire Gilgit Agency and Sub-division, Gilgit Wazarat and Rondu Sub-Tehsil of Baltistan. The local authorities announced the desire of the people to accede to Pakistan in a series of telegrams to the Pakistan Government.

In view of the international importance of the area, and the danger of foreign intervention in disturbed conditions, the Pakistan Government sent a Political Agent in the middle of November, 1947 to provisionally take over the administration in order to restore law and order and to stabilize conditions.

The Muslim element of the State Army (approx. 400 strong) started raising more volunteers for the Azad Army, and equipped them with weapons they had seized from the non-Muslim elements. This Azad Army set up its Headquarters in Astor (Gilgit Wazarat), and towards the middle of January 1948, sent out a strong column to Baltistan.

On 10th February, 1948 the column reached Skardu where it was joined by the Muslim elements of the garrison with their arms, and by hundreds of local Baltistani volunteers. The non-Muslim elements of the garrison, along with the non-Muslim civil population of Skardu, withdrew into the fort where they were besieged.

All the local Rajas of Baltistan (who are all Muslims) denounced the Maharaja's rule and pledged their allegiance to Azad Kashmir.

Civil administration was set up in the area up to, but excluding Kargil. Volunteers were recruited and organised into battalions.

Towards the end of February, 1948 a column of the Maharaja's State forces sent by the Indian Army to relieve the besieged garrison of Skardu, was almost completely wiped out north of Kargil, and its supplies and equipment captured.

Early in April, 1948, an Azad column from Astor (one Battalion) moved South and occupied Gurais and the Kishenganga Valley, and captured Tragabal Pass. A civil administration was set up in the whole area and local militia was raised.

About the end of April a much stronger relief column, approx. 2 Battalions or State forces, with some Indian army troops under the overall command of Lt. Col. Sampuran Singh (Indian Army), left Kargil in a determined attempt to relieve Skardu. This column was completely routed, losing approximately half in killed and nearly all the rest taken prisoner. All their arms, ammunition, and equipment were captured. After this victory the Azad forces pushed through to capture Kargil on 11 May, Dras on 27 May, the Zojila Pass early in June, and advanced to within 30 miles of Leh. This force was composed mainly of locals. The trained nucleus for tactical direction and leadership was provided by the ex-servicemen of the area and the Muslim element of the State Army who had revolted earlier.

In June, 1948 a contingent of about 400 volunteers from Chitral State arrived in Skardu and were entrusted with its siege. The local forces thus released were able to extend their operations to the Ladakh Tehsil till by the middle of July Leh was virtually besieged.

On 12th August 1948 the Skardu garrison, having run out of supplies and ammunition capitulated.

After repeated attempts supported by artillery, and air force, one Indian brigade succeeded in recapturing Tragabal Pass and Gurais in June 1948, but was firmly held and could not make any further advance beyond this point in any direction.

In the Zojila Pass area repeated attacks by four Indian Battalions, supported heavily by artillery, armour and air during the period June-November, 1948 were beaten back with very high casualties. In

November-December, 1948, however, after a 14 days continuous air and artillery bombardment, and led personally by Major-Gen. Thimanya, they succeeded in breaking through the Azad positions, and this only after the Azad forces had completely run out of ammunition. The Indian Army captured Dras and Kargil early in December, 1948 and achieved a link up with Leh. The Azad forces re-established a defence line north of Kargil and west of the line Zojila-Kargil. This line held firm until cease fire and is still held. A small Azad force east of the road Zojila-Kargil-Leh remained in control of the entire Zaskar-Suru areas to the south of Leh up to the day of cease-fire. This force is still occupying the above area.

No Pakistan regular troops have at any stage been employed in any of these operations. The only Pakistan force in this area is one company of infantry stationed at Gilgit, since October, 1948.

Ever since May, 1948 when Pakistan troops entered Kashmir and overall tactical control was taken over by G.H.Q. Pakistan, the Commandant Gilgit Scouts, a Pakistan Army Officer, has been exercising overall tactical and administrative control of Gilgit Scouts, Baltistan Scouts and the local Militias.

8. Civil Administration

Before the overthrow of the Maharaja's administration in October, 1947, the civil administration of Gilgit Wazarat was in charge of a 'Revenue Assistant' with headquarters at Astor, and in the Baltistan-Ladakh area there was a Wazir-i-Wazarat with winter headquarters at Skardu and summer headquarters at Leh. The above officials were helped by a small number of police, Public Works Department, Forests and Revenue Officials.

Since the overthrow of the Maharaja's administration in October, 1947, the civil administration of this area has been run by an Assistant Political Agent, assisted by two Tehsildars for Skardu and Kargil Tehsils, and three Naib-Tehsildars for the Doodai, Kargil-Marol, and the Skardu-Rondu areas. After the capture of Skardu fort on 12th August, 1948, the headquarters of the Assistant Political Agent were located at Skardu. The Gilgit Wazarat has been administered by another Assistant Political Agent with his headquarters at Astor, assisted by one Tehsildar and two Naib-Tehsildars for Astor and Guraig areas.

The above officials are helped by the requisite number of Police, Public Works Department and Revenue officials. Revenue is properly collected and credited to the local treasury. The civil administration is running much more efficiently than in the days of Dogra rule, and the people are content.

The Political Agent, Gilgit, keeps a general eye on the civil administration.

9. Defence

Any danger of a tribal incursion into this area can be ruled out as such an incursion- could only take place through territory held by Pakistan. The Pakistan Government have already given an assurance to deal effectively with any such incursions within their own borders even if this should necessitate the use of their armed forces.

The only possibility of external aggression is from the North.

A threat from the north can develop along two main routes:-

- (i) Kashgar-Hunza-Gilgit
- (ii) Sinkiang-Leh-Kargil-Zojila

The latter one is entirely under Indian Army control and need not be considered in this paper.

If any threat develops along the former route, it would necessarily have to be met by Pakistan with the active assistance of the local population. The natural hardihood and the superb fighting qualities of the locals of this area, accustomed to living in the cold and at high altitudes, have proved beyond any doubt the superiority of the locals of this area to the men from the plains of India when it comes to fighting in these high altitudes. The heavy Indian losses in this region, and the failure of their numerically superior and better equipped troops supported by artillery and air, to make headway against much smaller and poorly equipped local forces, is a testimony to the latter's fighting qualities and adaptation to the terrain.

The Muslim population of this area is approximately 200,000. It can easily produce a force of at least 30 thousand men. This force without much help from the Pakistan army, could hold even a major attack launched South during the few summer months when the high passes remain open. The willing assistance of the local population against

foreign aggression would be available to Pakistan but not to India.

In addition to the above, this route is flanked by the Black mountain areas, Swat and Chitral States etc. who owe their allegiance to Pakistan, and would provide large number of good fighting men to fight any aggression against Pakistan territory.

It might be argued that an aggressor power could drop thousands of parachutists and maintain them by air supply. This is feasible, although extremely hazardous in view of the danger of a too fast descent in rarified air. But a parachute landing can only be successful if a land link up with them can be quickly achieved, or they get the assistance of the local population. This would be practically impossible against Pakistan, but might be achieved against India if Indian control is forcibly imposed upon the population.

Indian forces will depend on a single unmetalled and very precarious road, hundreds of miles long, from India for their maintenance. On the other hand, Pakistan could rely upon a considerable force of locals, who are the world's finest fighters in the geographical and climatic conditions that prevail in these parts.

The above appreciation is based on the hypothetical assumption of an aggression from the North. In point of fact, owing to the political conditions now obtaining in Central Asia, no such threat is likely to materialise in the near future, and even if it did, there is less likelihood of the predominantly Muslim people of Sinkiang launching an attack on territory controlled by Pakistan than if India were in control. In any case, any act of foreign aggression would be a matter for the Security Council to consider and to take appropriate measures to deal with it. It could not at any time be regarded as the sole, or even primary, concern of India, as Pakistan is even more directly interested in the security of this area. Another aspect which deserves consideration is that the population of this area is wholly Muslim and is so opposed to the imposition of Indian rule that even a mention of a proposal to post Indian garrisons in a future contingency would create intense unrest. The actual posting of Indian garrisons would have still more disastrous effects on the peace and tranquillity of the area, as it would give rise to a war of resistance against the Indian forces,

10. Conclusions

(a) Geographically, the country in spite of its vastness, is in reality mainly the Indus river basin and the few tributaries of the Indus River which flow into Pakistan, and provide the only route which is open throughout the year both for land traffic and air communication. All the routes leading in and out of the area into India are for longer, more difficult, and blocked for a longer period of the year than those leading into territory controlled by Pakistan.

(b) Ever since the overthrow of the Dogra regime, the territory has been firmly under Azad control and has been properly administered. In fact, the administration has been better than ever in the past. This is proved by the successful resistance of the local population against the superior forces ranged against them by India.

There is no basis in fact for India's claim that the Maharaja's administration in this area remained undisturbed except by "roving bands". After the overthrow of the Maharaja's regime in October, 1948, the Maharaja never recovered his hold over any part of this territory.

The holding up beyond Guraiz and Zojila of the advance of an Indian force of over two Brigades supported by armour, artillery, and air for eight months, the inflicting of very heavy losses in killed, wounded and nearly 600 prisoners, the 8 months siege of and capitulation of Skardu, the isolation of Leh for 9 months, all prove that it was not "roving bands" but an organised and determined force of local men who fought the Indian Forces and kept them at bay.

(c) Economically the country is more or less self sufficient, only a few necessities of life having to be imported. These come almost entirely from Pakistan over the routes already mentioned.

(d) There is no real danger of any tribal incursion as any such incursion would be dealt with by Pakistan. As regards the hypothetical possibility of foreign aggression from the North, Pakistan is in a much better position to deal with it than India because it enjoys the support of the local population who are the best fighters under the conditions obtaining in this region. The posting of Indian garrisons far from ensuring security against foreign attack, would result in an unending civil war, and would thus create conditions in which foreign intervention might be sought and become effective.

ANNEX 25

(S/AC.12/224, 4 July 1949)

LETTER DATED 2 JULY 1949 FROM THE COMMISSION TO THE GOVERN-
MENTS OF INDIA AND PAKISTAN INVITING
MILITARY REPRESENTATIVES TO A
JOINT MEETING IN KARACHI

Excellency,

As your Government is aware, the Commission has made repeated efforts to establish a cease-fire line in the State of Jammu and Kashmir, mutually agreed upon by the Governments of Pakistan and India, and based on the factual positions at the moment of the cease-fire on 1 January 1949.

It had been the Commission's hope that the joint meeting of the Commanders-in-Chief of Pakistan and India on 15 January 1949, which offered promise of success in the settlement of the numerous matters which arose as a result of the cease-fire, would be the first of a series of similar conferences. The joint meetings held in New Delhi in March of this year under the auspices of the Commission's Truce Sub-committee were an attempt to take advantage of the manifest benefits of such meetings as a means of reaching agreement on military questions.

The demarcation of a line is an urgent necessity. Further, the cease-fire line is a complement of the suspension of hostilities, which falls within the provisions of Part I of the Resolution of 13 August 1948, and can be considered separately from the questions relating to Part II of the same resolution.

In view of the foregoing, the Commission invites your Government to send fully authorized military representatives to meet jointly with those of India, (Pakistan) in Karachi, under the auspices of the Commission's Truce Sub-committee. The first of these proposed meetings if suitable to your Government, might be held on Monday, 11 July.

The meetings will be for military purposes; political issues will not be considered. They will be conducted without prejudice to negotiations concerning the Truce Agreement.

The cease-fire line proposed by the Commission in its letter of 28 April 1949, and completed by the Commission's Military Adviser as envisaged in paragraph 1 of the Commission's Truce Terms of 28 April, will be the basis of discussion.

The Commission proposes these meetings in the hope that the discussions between the military representatives will result in an agreed cease-fire line.

In anticipation of your reply, accept, Excellency, the assurances of my highest consideration.

/s/ CARLOS A. LEGUIZANON

ANNEX 26

(S/AC.12/TC.4, 29 July 1949)

AGREEMENT BETWEEN MILITARY REPRESENTATIVES OF INDIA AND
PAKISTAN REGARDING THE ESTABLISHMENT OF A CEASE-FIRE LINE
IN THE STATE OF JAMMU AND KASHMIR

I

INTRODUCTION

A. The Military representatives of India and Pakistan met together in Karachi from 16 July to 27 July 1949 under the auspices of the Truce Sub-committee of the United Nations Commission for India and Pakistan.

9. The members of the Indian Delegation were:

Lt. Gen. S. M. Shrinagesh
Maj. Gen. K. S. Thimayya
Brig. S.H.F.J. Manekshaw

As observers:

Mr. H.M. Patel
Mr. V. Sahay

C. The members of the Pakistan Delegation were:

Maj. Gen. W. J. Cawthorn
Maj. Gen. Nazir Ahmad
Brig. M. Sher Khan

As observers:

Mr. M. Ayub
Mr. A. A. Khan

D. The members of the Truce Sub-committee of the United Nations Commission for India and Pakistan were:

Chairman: Mr. Hernando Samper (Colombia)
Mr. William L.S. Williams (United States)
Lt. Gen. Maurice Delvoie (Military Adviser)
Mr. Miguel A. Marin (Legal Adviser)

II AGREEMENT

A. Considering:

1. That the United Nations Commission for India and Pakistan, in its letter dated 2 July 1949, invited the Governments of India and Pakistan to send fully authorized military representatives to meet jointly in Karachi under the auspices of the Commission's Truce Sub-committee to establish a cease-fire line in the State of Jammu and Kashmir, mutually agreed upon by the Governments of India and Pakistan;
2. That the United Nations Commission for India and Pakistan in its letter stated that "The meetings will be for military purposes; political issues will not be considered," and that "They will be conducted without prejudice to negotiations concerning the Truce Agreement.";
3. That in the same letter the United Nations Commission for India and Pakistan further stated that: "The cease-fire line is a complement of the suspension of hostilities, which falls within the provisions of Part I of the Resolution of 13 August 1948, and can be considered separately from the questions relating to Part II of the same Resolution.";
4. That the Governments of India and Pakistan, in their letters dated 7 July 1949 to the Chairman of the Commission, accepted the Commission's invitation to the military conference in Karachi;

B. The Delegations of India and Pakistan, duly authorized, have reached the following agreement:

1. Under the provisions of Part I of the Resolution of 13 August 1948, and as a complement of the suspension of hostilities in the State of Jammu and Kashmir on 1 January 1949, a cease-fire line is established.
2. The cease-fire line runs from MUNAWAR in the south, north to KOTAN and from KOTAN east to the glacier area, as follows:

(a) The line from MANAMAR to the south bank of the JHELUM River at URUSA (inclusive to India) is the line now defined by the factual positions about which there is agreement between both parties. Where there has hitherto not been agreement, the line shall be as follows:

- (i) In PATR NA area: KOEL (inclusive to Pakistan) north along the KHUMALA KAS Nullah up to Point 2276 (inclusive to India), thence to KIEMI (inclusive to India).
- (ii) KHAMBAHA, PIR SATWAN, Point 315C and Point 3606 are inclusive to India, thence the line runs to the factual position at BAGLA GALLA, thence to the factual position at Point 3300,
- (iii) In the area south of UFI the positions of PIR KINTHI and LEDI GALLI are inclusive to Pakistan.

(b) From the north bank of the JHELUM River the line runs from a point opposite the village of URUSA (HL 972109), thence north following the BALLASETH DA NAR Nullah (inclusive to Pakistan), up to ML 973140, thence northeast to GHOTI KAZINAG (Point 10657, inclusive to India), thence to NW 010180, thence to NW 037210, thence to Point 11825 (NW 025354, inclusive to Pakistan), thence to TUTMARI GALLI (to be shared by both sides, posts to be established 500 yds. on either side of the GALLI), thence to the northwest through the first "R" of BUEJI NAR to north of GABDORI, thence straight west to just north of Point 9870; thence along the black line north of BIJILDHAR to north of B. TAMSII, thence to just south of SUBPURA, thence due north to the KATHAKAZINAG Nullah, thence along the Nullah to its junction with the GELANGNAR Nullah, thence along the latter Nullah to KAJNWALA PATHRA (inclusive to India), thence across the DANHA ridge (following the factual positions) to RICHEER GALLI (inclusive to India), thence north to TELINDA KATHA Nullah, thence north to the KISHANGANGA River. The line then follows the KISHANGANGA River up to a point situated between JARGI and TARBAN, thence (all inclusive to Pakistan) to BANKORAN, thence northeast to KHORI, thence to the hill feature 8430 (in Square 9053), thence straight north to Point 10164 (in Square 9057), thence to Point 13323 (in Square 9161), thence northeast straight to GUTHUR, thence to BHUTPATHRA, thence to NL 980707, thence following the BUGINA Nullah to the junction with the KISHANGANGA River at Point 4739. Thereafter the line follows the KISHANGANGA River to KERAN and onwards to Point 4996 (NL 975813).

(c) From Point 4996 the line follows (all inclusive to Pakistan) the JANGAR Nullah eastward to Point 12124, to KATWARE, to Point 6678, thence to the northeast to SARIAN (Point 11279), to Point 11837, to Point 13090, to Point 12641, thence east again to Point 11142, thence to DHAKKI, thence to Point 11415, thence to Point 10301, thence to Point 7507, thence to Point 10685, thence to Point 8388, thence south-east to Point 11312; Thence the line runs (all inclusive to India) to Point 13220, thence across the River to the east to Point 13449 (DUMAT), thence to Point 14586 (ANZBARI), thence to Point 13554, thence to Milestone 45 on the BURZIL Nullah, thence to the east to ZIANKAI (Point 12909), thence to the southeast to Point 1114, thence to Point 12216, thence to Point 12667, thence to the east to Point 11264, thence to KARO (Point 14985), thence to Point 14014, thence to Point 12089, thence following the track to Point 12879. From there the line runs to Point 15647 (KAROBAI GALL, to be shared by both sides). The cease-fire line runs thence through RETAGAH CHHISH (Point 15316), thence through Point 15889, thence through Point 17392, thence through Point 16451, thence to MARPO LA (to be shared by both sides), thence through Point 17561, thence through Point 17352, thence through Point 16400, thence through Point 16760, thence to (inclusive to India), DALUNANG.

(d) From DALUNANG eastwards the cease-fire line will follow the general line Point 15495, ISHMAN, MANUS, GANGAM, GUNDERMAN, Point 13620, JUNKAR (Point 17628), MARMAK, NAKSARA, SHANGRUTH (Point 17531), CHOEBAT LA (Point 15700), CHALUNKI (on the SHYOK River), KHOR, thence north to the glaciers. This portion of the cease-fire line shall be demarcated in detail on the basis of the factual Position as of 27 July 1949 by the local commanders,, assisted by United Nations Military Observers.

C. The cease-fireline described above shall be drawn on a one inch map (where available) and then be verified mutually on the ground by local commanders on each side with the assistance of the United Nations Military Observers, so as to eliminate any no-man's land. In the event that the local commanders are unable to reach agreement, the matter shall be referred to the Commission's Military Adviser, whose decision shall be final. After this verification, the Military Adviser will issue to each High Command a map on which will be marked the definitive cease-fire line.

D. No troops shall be stationed or operate in the area of the BURZIL Nullah from south of MINIMARG to the cease-fire line. This area is bounded on the west by the Ridge leading northeast from DEDGAI KIL to Point 12071, to Point 9447, to Point 13466, to Point 13463, and on the east by the Ridge running from Point 12470, to Point 11608, to Point 13004, to Point 13976, to Point 13450. Pakistan may, however, post troops on the western of the above ridges to cover the approaches to KHARAFI BAI Pass.

E. In any dispositions that may be adopted in consequence of the present agreement troops will remain at least 500 yards from the cease-fire line except where the KISHANGANGA River constitutes the line. Points which have been shown as inclusive to one party may be occupied by that party, but the troops of the other party shall remain at a distance of 500 yards.

F. Both sides shall be free to Adjust their defensive positions behind the cease-fire line as determined in paragraphs A through E, inclusive, subject to no wire or mines being used when new bunkers and defenses are constructed. There shall be no increase of forces or strengthening of defences in areas where no major adjustments are involved by the determination of the cease-fire line.

G. The action permitted by paragraph F above shall not be accompanied or accomplished by the introduction of additional military potential by either side into the State of Jammu and Kashmir.

H. Except as modified by paragraphs II A to II G, inclusive, above, the military agreements between the two High Commands relating to the cease-fire of 1 January 1949 shall continue to remain operative.

I. The United Nations Commission for India and Pakistan will station Observers where it deems necessary.

J. The Delegations shall refer this agreement to their respective Governments for ratification. The documents of ratification shall be deposited with the United Nations Commission for India and Pakistan not later than 31 July 1949.

K. A period of 30 days from the date of ratification shall be allowed to each side to vacate the areas at present occupied by them beyond the cease-fire line as now determined. Before the expiration of this 30-day period there shall be no forward movement into areas to be taken over by either side pursuant to this agreement, except by mutual agreement between local commanders.

IN WITNESS WHEREOF THE UNDERSIGNED SIGN THIS DOCUMENT IN THREE ORIGINAL COPIES.

Done in Karachi on 27 July 1949

For the Government of India

s/ S.M. Shrinagesh

For the Government of Pakistan

s/ J. Cawthorn
Maj. Gen.

For the United Nations Commission
for India and Pakistan

s/ Herr-i-do Samper
M. Delvoic

(S/AC.12/210, 10 August 1949)

LETTER DATED 9 AUGUST 1949 FROM THE CHAIRMAN OF THE COMMISSION TO THE GOVERNMENTS OF INDIA AND PAKISTAN INVITING THEM TO THE JOINT MEETING, ENCLOSEDING THE CRITERIA ON EACH GOVERNMENT'S POINT OF VIEW ON THE COMMISSION'S TRUCE TERMS OF 28 APRIL 1949, AND A PROVISIONAL AGENDA

Excellency,

The United Nations Commission for India and Pakistan has taken note of your Government's reply dated 30 May [In letter to India (18 May)] to the Commission's truce proposals of 25 April 1949. [In letter to India (The Commission has likewise taken cognizance of your letters dated 17 and 19 June on the same subject)] The Commissioner has also received a reply to the truce proposals from the Government of India [Pakistan].

21 The Commission notes that neither Government has given its unreserved acceptance to the proposals and that they still hold divergent views on the problem. While the Commission remains convinced of the readiness of both Governments to fulfill the commitments they have already made, it appears that further separate negotiations to bring about agreement can hardly be expected to render the desired result within a reasonable time.

3. The Commission invited the two Governments to a joint military meeting in Karachi for agreement on a cease-fire line. The successful result of that meeting and the spirit of cooperation and mutual understanding shown by the Delegations of Pakistan and India lead the Commission to hope that similar meetings for the purpose of agreeing on the implementation of the truce could prove equally successful.

4. After having ascertained informally that both Governments favour in principle such a procedure I therefore have the honour, on behalf of the Commission, to propose joint meetings at Ministerial level of representatives of your Government with representatives of the Government of India [Pakistan] under the auspices of the Commission for the implementation of Part II of the Commission's Resolution of 13 August 1949.

5. The Commission would propose that these meetings should begin in New Delhi, and according to circumstances, be continued in Karachi.

6. In informal conversations both Governments have suggested that the Commission submit a provision-1 agenda for those meetings. Further, the Chairman of the Commission was requested by Your Excellency to recommend to the Commission that it communicate to your Government the substance of the points of view of the Government of India [Pakistan] on the implementation of the truce. The Government of India [Pakistan] made a similar request.

7. In accordance with the wish thus expressed by both Governments the Commission has drafted the annexed provisional agenda*. It is understood that both parties will be free to propose modifications of this agenda at the opening session,

8. Two additional documents are annexed, one giving in substance the views of the Indian Government on the Commission's truce proposals of 28 April 1949, and the other giving in substance the views of the Pakistan Governments**. It should, however, be understood that the discussions in the joint meetings will be independent of the said truce proposals.

9. The Commission is anxious to proceed in this matter as soon as possible. I should be grateful if Your Excellency would indicate whether it would be convenient to the Pakistan [Indian] Government that the first joint meeting should take place on 17 August at such premises in New Delhi as the Government of India may be able to place at the disposal of the Commission for this purpose.

Accept, Excellency, the assurances of my highest consideration.

/s/ HERNANDO SAMPER
Chairman

* Page 3 of this annex

** Pages 4 to 7 of this annex

PROVISIONAL AGENDA

1. Adoption of the agenda.
2. Withdrawal of Pakistan armed forces from the State of Jammu and Kashmir. (Resolution of 13 August 1948, Part II, A 1).
3. Withdrawal of tribesmen and all Pakistan nationals not normally resident in the State of Jammu and Kashmir who have entered the State for the purpose of fighting. (Resolution of 13 August 1948, Part II, A 2).
4. Withdrawal of the bulk of the Indian armed forces from the State of Jammu and Kashmir. (Resolution of 13 August 1948, Part II, B 1, 2).
5. Related questions.

MEMORANDUM ON THE GOVERNMENT OF INDIA'S POINT OF VIEW
WITH RESPECT TO THE COMMISSION'S TRUCE TERMS OF 28 APRIL
1949

Disbanding and Disarming of "Azad Kashmir" forces (Truce Terms of
28 April 1949, Paragraph III, B and C)

1. The Indian Government, in a letter of 18 May 1949, declared, that both from the standpoint of the security of the State and the freedom and impartiality of the plebiscite, the disbanding and disarming of "Azad Kashmir" forces should not be left in a state of uncertainty or be hereafter the subject of challenge and dispute. It therefore declared it to be of the utmost importance (1) that the agreement of the Government of Pakistan should be obtained now to the disbanding and disarming of the 32 battalions of Azad Kashmir forces, and (2) the discussions regarding the procedure and phasing of the disbandment and disarming should commence immediately after the Truce is signed. In the view of the Government of India decisions on a program designed to achieve this objective should be taken as soon as possible, and (3) the phasing of the withdrawal of Indian troops should not be divorced from and should depend on the progress made with the actual disbanding and disarming of the Azad Kashmir forces.

2. In a letter of 17 June 1949 the Indian Government further stated that if, by the end of the 7 weeks referred to in III.C of the Commission's proposals, the Commission should find that the large scale disbanding and disarming of the Azad forces is impracticable, the conditions mentioned in point 2 of the Commission's Resolution of 5 January 1949 will be deemed not to have been completed.

Treatment of the Sparsely Populated and Mountainous Areas in the North
(Truce Terms, Paragraph I.D)

3. In its letter of 18 May 1949, the Government of India referred to the Prime Minister's letter to Mr. Korbelt of 20 August 1948, and maintained that the principle that Indian troops should garrison important strategic points should be accepted.

4. In a letter of 17 June 1949, the Indian Government declared that it is willing to occupy only a certain limited number of points, in the expectation that all Pakistan forces, regular and irregular, will be withdrawn from the State. Should this expectation not be realized or should a threat to the security of the State or the maintenance of internal order arise in the area from any other source, the Government of India should be free to garrison with their forces all or any other points previously mentioned.

5. In a letter of 17 June the Indian Government submitted a program of withdrawal for the Indian Forces. The Government of India has further maintained that such withdrawal plan as may subsequently be agreed upon with the Commission should not be communicated to Pakistan until a truce agreement has been arrived at.

MEMORANDUM ON THE GOVERNMENT OF PAKISTAN'S POINT OF VIEW
WITH RESPECT TO THE COMMISSION'S TRUCE TERMS OF 28 APRIL
1949

Northern Area (Truce Terms of 28 April 1949, Paragraph I.D)

1. The Pakistan Government submits that the proposal contained in paragraph I.D of the Truce Terms is not in accordance with the Commission's Resolution of 13 August 1948, is unnecessary, and, far from assuring peace and tranquility in this area, is likely to create conditions of unrest and insecurity.

Withdrawal of Troops (Truce Terms, Paragraph II. 1. B and C)

2. The Pakistan Government states that it has already carried out an important part of its obligations in effecting the withdrawal of tribesmen and of almost all Pakistan Nationals who had entered the State for the purpose of fighting. It is also ready to withdraw all Pakistan troops from the State of Jammu and Kashmir under the terms of the Resolution of 13 August 1948, as elucidated to the Pakistan Government.

3. The Pakistan Government declares that without knowing the schedule of withdrawal of the Indian forces, on the basis of which a synchronous withdrawal of the two armies could be arranged, the Pakistan Government is not in a position to take a decision on the Commission's Truce Terms, the central feature of which is the withdrawal programme of the two armed forces.

Disposition of the Indian State Forces and the Azad Kashmir Forces
(Truce Terms, Paragraph III. B and C)

4. The Pakistan Government declares that it is understood that it is the Commission's intention to associate the Plebiscite Administrator with the discussions under these paragraphs from the outset, even though he may not have been formally appointed to office by then. The Pakistan Government also understands that the Pakistan Army, during the extended time, would be able only to reorganize the Azad Kashmir forces so as to facilitate the implementation of decisions relative to point 4(b) of the Commission's Resolution of 5 January 1949, the actual implementation

of the decisions to start only after Parts I and II of the Commission's Resolution on 13 August have been fully implemented.

General Provisions (Truce Terms, Paragraphs III. F and G.)

5. The Pakistan Government trusts that the Commission will do everything possible for the restoration of human and political liberty in the State in actual practice.

ANNEX 28

(S/4C.12/242, 12 August 1949)

LETTER DATED 12 AUGUST 1949 FROM THE SECRETARY-GENERAL,
GOVERNMENT OF INDIA TO THE CHAIRMAN OF THE COMMISSION IN
ANSWER TO THE COMMISSION'S INVITATION TO A JOINT POLITICAL
MEETING

Excellency,

I have the honour to acknowledge receipt of your letter dated the 9th August which was delivered by a member of your staff to the Secretary for Kashmir Affairs, Mr. Vishnu Sahay, that evening.

2. The Government of India agree to joint meetings at Minister's level of their Representatives and Representatives of Pakistan under the auspices of the Commission for the implementation of Part II of the Commission's resolution of 13th August, 1948. As regards the provisional agenda prepared by the Commission, the Government of India propose the addition of the following items:

(1) Clarification of A.3 of Part II of the Resolution of 13 August as regards (a) local authorities and (b) the surveillance of the Commission.

(2) The Commission have already accepted the need for a large scale disbanding and disarming of the Azad Kashmir forces. This decision is not open to argument. Steps for its implementation, however, have to be discussed. Measures necessary for disbanding and disarming these forces should, therefore, figure on the agenda.

(3) In the Prime Minister's letter dated the 20th August, 1948, to Mr. Korbé, the subject of the administration and defence of the sparsely populated and mountainous region of the Jammu and Kashmir State in the North was dealt with. It was pointed out in the letter that after all Pakistan troops and irregulars have withdrawn from this region - as they have to under the 13th August Resolution - the responsibility for its administration will revert to the Jammu and Kashmir Government and that for its defence to the Government of India. It is desirable that the question of the effective discharge of this responsibility should be clarified at the forthcoming conference. Though this is a matter for settlement between the Commission and the Government of India, it is necessary that Pakistan should be made fully aware of its implications.

3. With regard to the subject-matter of the agenda, the Commission has already reached certain conclusions in respect of some of the items.

The large ~~scale~~ **disbanding and disarming** of the Azad Kashmir forces is an example. The **Government of India assume that conclusions of this character** will not be thrown open to debate. As I explained to Your **Excellency** during our conversations when the preliminaries of the proposed Conference were discussed, it is in the interests of the solution of the problem of the **truce** that the Commission and the Government of India earnestly desire **that** the Conference should not reopen matters which have already been **determined**.

4. The Government of India **will** be represented at **the proposed Conference** by the Hon'ble Shri N. Gopalaswami Ayyangar, Minister for Transport and **Railways**. The date proposed for the opening of the **Conference**, namely the **17th**, **will** not be convenient since it happens to be the day of an important religious **festival**, and, during the period 13th to 18th **August**, both dates **inclusive**, the Constituent Assembly will be in recess and several **Members** of Government may be out of **New Delhi**. The Government of India, therefore, suggest that the **Conference** should begin **with effect** from **Monday**, the **22nd August**.

5. In conclusion, I am to explain that it would save time if each Government were informed in advance of the **suggestions** of the other regarding the agenda. The Government of India suggest; **therefore**, that the additions to the-agenda proposed by them be communicated to the Government of Pakistan.

Accept, **Excellency**, the assurance of my highest consideration.

/s/ G.S. BAJPAI
Secretary-General

(S/C.12/241, 12 August 1949)

LETTER DATED 11 AUGUST 1949 FROM THE MINISTER OF FOREIGN AFFAIRS GOVERNMENT OF PAKISTAN, TO THE CHAIRMAN OF THE COMMISSION, IN ANSWER TO THE COMMISSION'S INVITATION TO A JOINT POLITICAL MEETING.

Excellency,

I have the honour to acknowledge receipt of your letter dated 9th August proposing joint meetings at Ministerial level of representatives of the Governments of Pakistan and India under the auspices of the Commission for the implementation of Part II of the Commission's Resolution of 13th August 1948; the meetings to begin in New Delhi on the 17th August and to be continued according to circumstances in Karachi.

2. Subject to the following observations regarding the provisional agenda proposed by the Commission, the Pakistan Government agree to the proposed joint meetings:-

- (i) In the interest of clarity and precision the heading should be "Provisional agenda for the implementation of Part II of the Commission's Resolution of 13th August 1948".
- (ii) No provision has been made in the agenda for the implementation of Para B3 of Part II of the Commission's Resolution of 13th August 1948. Item 5 should therefore be worded as follows:

"Implementation of para B3 of Part II of the Commission's Resolution of 13th August 1948."

- (iii) With the inclusion in the agenda of the item proposed at (ii) above, all matters included in Part II of the Commission's Resolution of 13th August 1948 requiring implementation will be provided for. Since the proposed joint meetings will be concerned solely with the implementation of Part II of the Commission's Resolution of 13th August 1948, item 5 proposed by the Commission, namely, "Related questions" should be deleted. In any case this item is open to objection on the ground that it is vague and indefinite.

Accept, Excellency, the assurances of my highest consideration.

/s/ Zafrulla Khan
Minister of Foreign Affairs and
Commonwealth Relations.

(S/AC.12/243, 15 August 1949)

LETTERS DATED 13 AUGUST 1949 FROM THE CHAIRMAN OF THE
COMMISSION TO THE GOVERNMENTS OF INDIA AND PAKISTAN RE-
GARDING THEIR REPLIES TO THE INVITATION TO THE JOINT
MEETING

Letter to India

Excellency,

I have the honour to acknowledge receipt of the letter dated 12 August 1949 in which your Excellency was kind enough to reply to the Commission's letter of the 9th inst. regarding the proposed joint meetings in New Delhi.

2. Complying with the request of your Government, the Commission is transmitting to the Government of Pakistan the text of Your Excellency's reply. Annexed, for the information of the Government of India, is the text of the reply of the Pakistan Government.

3. The Commission trusts that the Government of Pakistan will accept Your Excellency's suggestion that the conference begin with effect from Monday, 22 August. The Commission has requested the Government of Pakistan to communicate the composition of its delegation to the joint meetings. As soon as this information is received it will be forwarded to Your Excellency.

4. The suggestions of your Government and the observations of the Government of Pakistan concerning the provisional agenda can be examined in the consideration of the adoption of the agenda, following the terms of paragraph 7 of the Commission's letter dated 9 August.

5. The Commission is pleased to note that the Hon'ble Shri M. Gopalaswami Ayyangar is heading the Indian Delegation to the meetings. The Commission would be grateful to be informed as soon as possible of the further composition of the delegation.

Accept, Excellency, the assurances of my highest consideration.

/s/ Hernando Samper
Chairman

Letter to Pakistan

Exc ellency ,

I have the honour to acknowledge receipt of the letter dated 11 August 1949 in which Your Excellency was kind enough to reply to the Commission's letter of the 9th inst. regarding the proposed joint meetings in New Delhi.

2. At the request of the Government of India the text of their reply to the Commission's invitation is annexed. The text of the reply of Your Excellency's Government is likewise being communicated to the Government of India:-

3. It will be noted that the Government of India proposes that the conference should begin with effect from Monday, 22 August. The Commission trusts that this date will be agreeable to Your Excellency's Government.

4. The observations of your Government and the suggestions of the Indian Government concerning the provisional agenda can be examined at the time of the discussion of the adoption of the agenda, following the terms of paragraph 7 of the Commission's letter dated 9 August.

5. The Commission would be glad to know as soon as possible the composition of the Pakistan Delegation to the meeting, in order to communicate it to the Government of India.

Accept, Excellency, the assurances of my highest consideration,

/s/ Hernando Semper
Chairman

(S/AC.12/245, 19 August 1949)

LETTER DATED 18 AUGUST 1949, FROM THE SECRETARY GENERAL
MINISTRY OF EXTERNAL AFFAIRS, GOVERNMENT OF INDIA, TO
THE CHAIRMAN OF THE COMMISSION, CONCERNING THE PROPOSED
JOINT MEETING.

Excellency,

I have the honour to acknowledge the receipt of your predecessor's letter dated the 13th August, 1949. It would appear from the Pakistan Foreign Minister's letter to him, dated the 12th August, that the Pakistan Delegation do not wish to include, in the agenda of the proposed Conference

(1) measures necessary for disbanding and disarming the so-called "Azad Kashmir" forces, and

(2) the subject of the administration and defence of the sparsely populated and mountainous region of the Jammu and Kashmir State in the north.

While the Government of India have no strong objection to the suggestion in paragraph 4 of your predecessor's letter, namely that the suggestions of my Government conveyed in my letter No. 528-PASG/49, dated the 12th August 1949, be examined in the consideration of the adoption of the agenda, I wish to point out that we consider the inclusion in the agenda of the two items just mentioned as essential.

2. Besides the Hon'ble Shri N. Gopalaswami Ayyangar, who will lead it, the Indian Delegation will consist of Mr. Vishnu Sahay, two Military officers and myself. The names of the two Military officers will be communicated to your Excellency as soon as possible.

Please accept, Excellency, the assurances of my highest consideration.

/s/ C. S. Bajpai

(S/AC.12/244, 19 August 1949)

LETTER DATED 16 AUGUST 1949 FROM THE MINISTER FOR
FOREIGN AFFAIRS, GOVERNMENT OF PAKISTAN, TO THE CHAIRMAN
OF THE COMMISSION CONCERNING THE PROPOSED JOINT MEETINGS

Excellency,

I have the honour to acknowledge receipt of your letter dated the 13th August, 1949 forwarding a copy of the Government of India's letter dated the 12th August, 1949, and suggesting postponement on the joint truce talks from 17th to 22nd August 1949.

2. We had made all plans to leave for Delhi on 16th August and postponed our previous engagements to later dates. The proposed postponement of the joint truce talks to the 22nd August would therefore greatly inconvenience our delegation. In deference, however, to the wishes of the Government of India and of the Commission we agree to the revised date proposed for the start of the conference.

3. The Pakistan delegation will consist of the following:

- (1) Minister for Foreign Affairs and Commonwealth Relations
... .. Leader.
- (2) The Hon'ble Mr. M. A. Gurnani
(Minister for Kashmir Affairs)
- (3) Mr. Mohammad Ali, Secretary General
- (4) Major General Nazir Ahmad.
- (5) Brigadier M. Sher Khan.
- (6) Mr. M. Ayub
- (7) Mr. A. A. Khan

The composition of our delegation has already been intimated to the Government of India.

4. In their letter dated the 12th August, 1949, the Government of India have suggested the addition of three items to the provisional agenda, two of which, viz: those relating to the disbanding and disarming of Azad Kashmir Forces and the transfer of military and administrative control over the Northern areas to the Government of India and the Maharaja's Government respectively, are extraneous to Part II of the Commission's Resolution of 13 August, 1946, and should therefore not be

included in the agenda of the Conference convened for the implementation of Part IS of the Commission's Resolution of 13th August, 1948 (vide paragraph 4 of your letter dated the 9th August, 1949).

5. The Commission is well aware of Pakistan's views with regard to the two additional items to which objection has been taken above but for convenience of reference these might be briefly recapitulated:

(a) Azad Kashmir Forces -- The Commission's resolution of 13th August, 1948, provides for the withdrawal of the Pakistan Army and of the bulk of the Indian Army but makes no mention of the Azad Kashmir forces. In paragraph 2 (c) of its letter dated 19th September, 1948, the Commission gave a categorical assurance to the Pakistan Government that the Resolution of 13th August "does not contemplate the disarmament or disbanding of Azad Kashmir Forces". While explaining clause 4 of the Commission's proposals of 11th December, 1948, relating to the plebiscite stage, Dr. Lozano is reported to have told the Prime Minister of India on 20th December, 1948, that it was the Commission's intention that there should be large scale disarming of Azad Kashmir Forces. Dr. Lozano assured me on 25th December, 1948, that the disarming and disbanding of Azad Kashmir Forces would take place only at the plebiscite stage and along with the final disposal of the Indian and Kashmir State forces as envisaged in clause 4 of the Commission's proposals of 11th December 1948. He added that the exact scope of this reduction of the forces on both sides will be determined by the Commission and the Plebiscite Administrator in consultation with the authorities concerned. This was reaffirmed by Dr. Lozano and myself on 8th February, 1949 when you agreed that it was not the Commission's intention that the Azad Kashmir Forces should be disarmed during the truce period. The minutes of the meeting of 8th February, 1949, were communicated by the Commission to the Government of India, and in his letter dated 18th February, 1949, Sir Girja Shankar Bajpai recognised that the disarming of Azad Kashmir Forces was really a matter of chronology and would arise only after Parts I and II of the Commission's Resolution of 13 August, 1948, have been implemented.

In view of these considerations the question of disbanding and disarming of Azad Kashmir Forces cannot be discussed during the forthcoming truce talks. It can only be discussed after the appointment of office of the Plebiscite Administrator along with the disposal of

India and Kashmir State Forces on the Indian side of the cease-fire line, as provided for in clause 4 of the Commission's Resolution of 5th January, 1949.

(b) Northern Areas -- As explained in paragraph 6 of our letter dated the 30th May, 1949, the claim of the Government of India to military and administrative control over the "Northern Areas" is contrary to the clear provisions of clause B.2 of Part II of the Commission's Resolution of 13th August, 1949, read with the Commission's letter of 3rd September, 1948, and paragraph 4 (d) of the Commission's letter dated 28th April, 1949. According to these documents the "evacuated territory" will be administered by the "local authorities", and no official of either the Government of India or the Maharaja's Government will be permitted to enter the "evacuated territory". After the withdrawal of the bulk of the Indian Forces the balance of the Indian Forces will have to remain even during the truce period "within the lines existing at the moment of the cease-fire" -- (vide clause B.2 of Part II of the 13th August Resolution). There is no conceivable justification for the posting of any Indian troops in the areas north of the cease-fire line the defence of which has hitherto been and will continue to be the responsibility of the local authorities.

We therefore consider that the suggestion contained in paragraph 2 (3) of the Government of India's letter dated 12th August 1949, is not only outside the scope of the proposed joint truce talks but is contrary to the clear provisions of the 13th August Resolution and cannot be entertained.

6. With regard to paragraph 3 of the Government of India's letter dated 12th August, 1949, the Pakistan Government wish to observe that the conclusions of the Commission with regard to the subject matter of the agenda are contained in the Commission's Resolution of 13th August, 1948, which have been accepted by the Governments of India and Pakistan. We agree that the provisions of the Resolution should not be thrown open to debate, but the contention which the Government of India have put forward regarding the Azad Kashmir Forces is incorrect.

7. The Government of Pakistan wish to reiterate their view that since the proposed joint meetings will be concerned solely with the implementation of Part II of the Commission's Resolution of 13th August 1948, the discussion should be confined to the provisions of this part of the Resolution and that no extraneous matters should be introduced in the agenda.

Accept, Excellency, the renewed assurances of my highest consideration.

ANNEX 33

(S/AC.12/247, 22 August 1949)

TELEGRAM DATED 18 AUGUST 1949 FROM THE CHAIRMAN OF THE COMMISSION, TO THE SECRETARY-GENERAL, MINISTRY OF EXTERNAL AFFAIRS, GOVERNMENT OF INDIA, AND THE MINISTER FOR EXTERNAL AFFAIRS, GOVERNMENT OF PAKISTAN,* WITHDRAWING COMMISSION'S INVITATION TO A JOINT MEETING IN DELHI.

TO PREVENT FURTHER PREPARATION FOR JOINT POLITICAL MEETING DELHI
AUGUST TWENTY SECOND I HAVE THE HONOUR TO INFORM YOUR EXCELLENCY
THAT THE COMMISSION HAS DECIDED TO WITHDRAW ITS INVITATION AND
THEREFORE THE MEETING WILL NOT TAKE PLACE STOP LATTER FOLLOWS

CHIEF
CHAIRMAN
UNCIP

* This telegram was also transmitted to the
High Commissioner for Pakistan in India.

(S/AC.12/246, 19 August 1949)

LETTER DATED 19 AUGUST 1949 FROM THE CHAIRMAN OF THE COMMISSION TO THE SECRETARY-GENERAL, MINISTRY OF EXTERNAL AFFAIRS, GOVERNMENT OF INDIA, AND THE MINISTER FOR FOREIGN AFFAIRS AND COMMONWEALTH RELATIONS, GOVERNMENT OF PAKISTAN, CONCERNING THE PROPOSED JOINT MEETINGS

Excellency,

1. I have the honour to acknowledge receipt of your letter dated 18 August (16 August) in which your Excellency informed the Commission of the Indian (Pakistan) Government's view with regard to the agenda for the proposed Joint Meetings in Delhi.
2. The Commission has also received a letter on the same subject from the Government of Pakistan (India), a copy of which is enclosed with this letter.
3. In comparing the two communications and keeping in mind the background of the question, the Commission concludes that the proposed Joint Meetings would not lead to any positive results.
4. Under these conditions, and taking into account your Government's preoccupation concerning the consequence of a possible failure of such meetings, the Commission feels obliged to abandon the idea of the proposed joint meetings. I had the honour to inform your Excellency to that effect by telegram last evening.
5. The Commission is now considering the situation which has arisen as a result of the position adopted by the two Governments concerning the implementation of the Truce Agreement.
6. A similar communication is being sent to the Government of Pakistan (India).

Accept, Excellency, the assurances of my highest consideration.

/s/ Dr. O. Chyle
Chairman

ANNEX 35

(S/AC.12/251, 26 August, 1949)

MEMORANDUM APPROVED BY THE COMMISSION AT ITS 6TH MEETING
ON 25 AUGUST 1949

1. The United Nations Commission for India and Pakistan has given long and intensive study to the replies of the Governments of India and Pakistan of May 18 and 30, 1949, respectively, to the Commission's Truce Terms of April 28, as well as to the letter of the Government of India of June 17 and the results of the consultations between representatives of the Commission and the Government of Pakistan in Karachi, June 25 to 28, 1949. As the two Governments are aware, the Commission has recognized that neither Government has found it possible to give to the Truce Terms the unreserved acceptances requested by the Commission.

2. The Commission subsequently decided to seek to bring about agreement on a cease-fire line through meetings of the military representatives of the two Governments. The Commission is highly gratified that these meetings, held in Karachi from July 18 to 28, 1949 resulted in the definition of an agreed cease-fire line, thus completing the implementation of Part I of the Resolution of August 13, 1948.

3. Hoping that the success of the meetings of the military representatives held in Karachi presented a new and more suitable opportunity for both Governments to agree on the problem relating to the implementation of Part II of the Commission's Resolution of August 13, 1948, the Commission invited the Governments of India and Pakistan to send representatives to meet together under the auspices of the Commission. In view of the letters of reply from both Governments, wherein they reaffirmed their opposed position with respect to the provisional agenda, the Commission felt constrained to withdraw its invitation, for the reasons expressed in its letter of 19 August 1949.

4. The implementation of Part II of the Commission's Resolution of 13 August 1948, remains unaccomplished. The Commission strongly feels that early and definitive action in this regard is desirable, and has no doubt that both Governments share this view. The Commission remains convinced of the sincere desire of both Governments to solve the Kashmir problem by peaceful means and of their firm intention to fulfill

the commitments they have entered into in this regard.

5. The Commission has therefore, in the light of existing circumstances, decided to ask both Governments whether they will agree to the course of action outlined below for the conclusion of the Truce:

(i) The two Governments agree

- (a) That they will submit to arbitration the differences existing between them concerning all questions raised by them regarding the implementation of Part II of the Resolution of 13 August 1948, the Arbitrator to decide these questions according to equity, and his decisions to be binding on both parties;
- (b) That the arbitration will terminate once the truce terms are decided upon;
- (c) That Fleet Admiral Chester W. Nimitz will be the Arbitrator;
- (d) That the procedure for the arbitration will be worked out subsequently;
- (e) Since the procedure of Arbitration will be limited to the conclusion of a truce the Commission will continue in the exercise of its functions. Upon an arbitral decision the Commission will undertake the tasks assigned to it under the truce and under the Resolution of 5 January, 1949.

(ii) With reference to paragraph (i) (d), above, the Commission considers that it would be inappropriate, in advance of approval by the parties of the proposed course of action and of the person of the arbitrator, to seek to define the exact procedure to be followed.

6. The Commission recommends this course of action as an effective means of overcoming the obstacles which have so far stood in the way of implementation of the Truce Agreement. If accepted by the two Governments the Commission is confident that the implementation of the Truce Agreement will be speedily begun and that the Commission and the two Governments be placed in a position to pursue their respective task leading to the final settlement of the problem, the continued existence of which is a source of grave concern not only to both Governments, but also to the other member states of the United Nations.

7. The Commission request that, after your Government has given the matter its careful and deliberate consideration, it may be favoured with a written reply.

(S/KC.12/262, 9 September 1949)

LETTER DATED 8 SEPTEMBER 1949 FROM THE SECRETARY-GENERAL,
GOVERNMENT OF INDIA, TO THE CHAIRMAN OF THE COMMISSION
REGARDING THE COMMISSION'S MEMORANDUM ON ARBITRATION

Excellency,

As requested in the concluding paragraph of the memorandum that you gave me on the 30th August on behalf of the United Nations Commission for India and Pakistan, I am communicating to you, in writing, the views of my Government on the suggestion for arbitration described in paragraph 5 of the memorandum.

2. According to sub-paragraph (i)(a) of paragraph 5, the "two Governments are requested to agree that they will submit to arbitration the differences existing between them concerning all questions raised by them regarding the implementation of Part II of Resolution of the 13th August, 1948, the arbitrator to decide these questions according to equity, and his decisions to be binding on both parties". In the course of the conversation that I had with Your Excellency and Ambassador Colban on the 30th August, I asked two questions:

(i) whether the Commission would state to the arbitrator the points submitted to arbitration;

(ii) whether the Commission would furnish to the arbitrator a clear account of the circumstances leading up to the present position and the Commission's own conclusions on points like the disbanding and disarming of the "Azad Kashmir" forces on which it had already reached a conclusion.

In answer to the first question, Your Excellency said that the Commission would prefer both parties to accept the wording of 5(i)(a) and to present, to the arbitrator, the specific points on which they seek his decision. It would then be for the arbitrator to decide whether the issues raised by each party were germane to

the truce or not.' About the second question, Your Excellency explained that the Commission was now approaching the problem from an entirely new angle and entirely afresh. Therefore, it did not wish to go into the past. Each party must state its own view, in their historical context, on the points that may be referred to arbitration.

3. The effect of the explanation given by Your Excellency in answer to my first question would be that the arbitrator would be free to determine the points on which he should arbitrate. So far as the Government of India are aware, this procedure is novel and without precedent, and could hardly be justified.

4. As regards the answer to the second question, the Government of India can only express their surprise and disappointment at the attitude of the Commission. Apart from either party setting out its own version of past events, it would have been just and proper if the Commission, which has dealt with the matter during all these months, gave an impartial and authoritative account of the facts which are within its knowledge and of the assurances given to us.

The Truce proposals, embodied in Part II of the Commission's Resolution of 13th August, cannot be divorced, either from the events and discussions that preceded the acceptance, by the Government of India, of that resolution or the events and negotiations that have followed since. The presence of Pakistan troops in the territory of Jammu and Kashmir, which the Commission described as constituting "a material change in the situation since it was represented by the Government of Pakistan before the Security Council", is only one instance of Pakistan's aggression in the State of Jammu and Kashmir which, by reason of its accession to India, accession the legality of which the Commission has not questioned and is in fact and law beyond question, is part of India. The aggression began with the invasion of the State by tribesmen and other Pakistan nationals whom Pakistan aided and abetted. It has continued ever since, not only by reason of the entry of Pakistan regular forces into Jammu and Kashmir but by the waging of war by Pakistan against Indian and State forces, the enlargement and organisation of the so-called "Azad Kashmir" forces under the operational command of the Pakistan Army, and the penetration of Pakistan troops into the thinly

populated and mountainous territory in the north of the State. Pakistan's spirit of aggression has been further repeatedly manifested in the refusal even to discuss the disbanding and disarming of the Azad forces, whose strength constitutes a menace, as was pointed out to Dr. Lozano during his conversations with the Prime Minister last December, to the security of the portion of the State now under Indian control and an obstacle to the holding of a free and impartial plebiscite. The same conclusion can be drawn from Pakistan's claim, put forward in the correspondence with the Commission regarding the conference which the Commission recently decided to abandon, that the sparsely populated and mountainous region in the north of the State should be treated in exactly the same manner as the so-called "Azad Kashmir" area referred to in A.3 or "Part II of the Commission's Resolution of 13th August. The Commission will note that this latest claim of Pakistan renders nugatory the assurance given by the Commission in Mr. Korbell's letter of 25th August, 1948, to the Prime Minister that the problem of administration or defence in this large area "could be considered in the implementation of the Resolution."

5. The Government of India have repeatedly affirmed, before the Commission and elsewhere, that no settlement of the dispute over Jammu and Kashmir could be either just or lasting which did not take into account the moral element inherent in an act of aggression. This is a true statement of a settlement of the dispute over the truce terms as of the overall dispute about the future of this State. The throwing open of the whole of this issue to debate before the arbitrator would, in the absence of an objective statement by the Commission of all relevant facts, inevitably prolong the proceedings and thus indefinitely postpone "that early and definitive action" to implement Part II of the Resolution of 13th August, 1948, which the Commission and the Government of India desire.

6. In the Government of India's view, the attitude of the Government of Pakistan towards the large-scale disbanding and disarming of the "Azad Kashmir" forces is a fatal obstacle to the bringing about of the peaceful conditions required for a plebiscite. According to our understanding, Pakistan's contention is that, since no reference is made to such disbanding and disarming in Part II of

the Resolution of 13th August, this matter cannot even be discussed in considering the implementation of Part II of the Resolution of 13th August. But the Government of Pakistan forget that before they agreed to accept that Resolution, this matter was discussed between us and the Commission and we were given a specific assurance on behalf of the Commission that large-scale disbanding and disarming of "Azad" forces would take place. When discussing the proposals presented by the Commission to the Representatives of India and Pakistan in Paris on the 11th December, 1948, with Dr. Lozano on the 20th and 22nd December, 1948, the Prime Minister drew attention to the fact that the "Azad Kashmir" forces which had been armed and equipped by Pakistan and were under the operational command of the Pakistan Army ran into tens of thousands, that their presence in the territory referred to in A.3 of Part II of the Resolution of 13th August, even after demobilisation, would be a constant threat to the territory under the control of Indian and State forces, a deterrent to the return of many refugees, and thus, an obstacle to the free expression of opinion regarding the future of the State by a substantial number of persons normally resident in the area concerned. For the purpose of ensuring the security of the State, the Government of India have, in all their discussions with the Commission about the truce, insisted upon the inter-dependence of the phasing of the withdrawal of their forces from the State under 3.1 of Part II of the Resolution of 13th August and the adoption of measures to implement the Commission's intention "that there should be large-scale disarming of these 'the Azad' forces". Such disbanding and disarming is also essential to the holding of a free and impartial plebiscite for reasons which were explained to Dr. Lozano by the Prime Minister in the course of their conversations held on the 20th and 22nd December, 1948. Dr. Lozano recognised the force of the Prime Minister's argument on this point and disclosed to us that the intention of the Commission was that there should be a large-scale disbanding and disarming of the "Azad Kashmir" forces. To allow an assurance of this kind to be reopened even to the extent of placing this disbanding and disarming on the same level with the geographical disposition of the Indian and State forces left in the state, will be to resile from a position reached between us and the

Commission. If the arbitrator is free to decide that there should be no disbanding and disarming of these forces, there could be no fair and impartial plebiscite. If, while accepting the need for such disbanding and disarming, the arbitrator is free to postpone consideration of the matter until after the bulk of Indian forces in the State of Jammu and Kashmir has been withdrawn, the security of the State will be in great jeopardy during the period that intervenes between the withdrawal of the bulk of the Indian forces and the adoption of measures for the large-scale disbanding and disarming of the "Azad Kashmir" forces. As has been frequently explained to the Commission, the Government of India cannot possibly take this risk which would be incompatible with their paramount responsibility to protect the portion of the State under their control against a repetition of the horrors of the invasion of the State in October 1947.

Since the assurance about the disbanding and disarming of the "Azad Kashmir" forces was given on behalf of the Commission to the Government of India, it is understood that the number of these forces has grown considerably. A new situation has thus been created of greater peril to the State and their disbandment has become even more necessary. For all practical purposes, the "Azad Kashmir" forces are a part of the regular Pakistan Army, trained by that Army and under its operational control. A withdrawing aggressor cannot, in reason, prefer any claim for leaving behind him 32 battalions or more, trained and equipped by him and ready for battle.

7. The Government of India are convinced, therefore, that this outstanding issue of the large-scale disbanding and disarming of the "Azad Kashmir" forces is not a matter for arbitration but for affirmative and immediate decision. Once ways and means for the large-scale disbanding and disarming of the Azad forces have been agreed upon, the Government of India anticipate no difficulty in reaching agreement with the Commission as provided for in B.1 of Part II of the Resolution of 13th August, 1948, about the phasing of the withdrawal of their forces from the State. Nor would they raise any objection to the Pakistan Government being informed of the programme of the withdrawal of Indian forces once the question of the disbanding and disarming of the Azad forces has been disposed

of and Pakistan has begun to withdraw its forces.

8. To sum up, my Government cannot reasonably be expected to accept a suggestion for arbitration which leaves it to the arbitrator to determine the points on which he should arbitrate and which does not provide for the submission to him, by the Commission, of its own appreciation of the events leading up to the present situation or of the observance by him of the assurances which it has given. The Government of India's main objection, however, to the present suggestion for arbitration is that, as explained in paragraphs 6 and 7 of this letter, the principal issue is one which cannot be solved by arbitration. It follows that they cannot accept the suggestion incorporated in 5(i)(a) of the memorandum that you left with me on the 30th August. Since that suggestion is not acceptable, it is unnecessary to express any views on the other suggestions in this paragraph which are subsidiary.

9. While unable to agree to the course of action outlined in paragraph 5 of the memorandum, my Government wish to make it clear that they are not opposed to arbitration in principle. Arbitration is under Article 33(1) of the Charter of the United Nations one of the methods of achieving a peaceful solution of a dispute which is likely to endanger the maintenance of international peace and security. India has subscribed to the Charter and is a firm believer in the principles embodied therein. The reference to arbitration should, however, be on a precise and defined issue which, if settled by this method, will have the effect of creating conditions for ending a dispute that threatens international peace and security. In any case, India does not wish this or any other dispute to be settled by the sword. She will always be ready to consider any method of solution that would lead to a peaceful settlement of the entire dispute.

10. In conclusion, I am to explain that the Government of India still hold that the people of Jammu and Kashmir should decide their future of their own free-will. They firmly stand by that offer, and shall be ready to leave the question of the continued accession of Jammu and Kashmir State to India to the people of the State, to be decided through the democratic method of a free and impartial

plebiscite, provided that the conditions necessary for making the plebiscite really 'free and impartial' are created. This, as they have endeavoured to explain on this and on previous occasions, will be impossible, if the Commission's assurances in this behalf are not implemented.

Please accept, Excellency, the assurance of my highest consideration.

/s/ G. S. BAJPAI
Secretary-General

ANNEX 37

(S/AC.12/261, 9 September 1949)

LETTER DATED 7 SEPTEMBER 1949 FROM THE MINISTER FOR KASHMIR AFFAIRS, GOVERNMENT OF PAKISTAN, TO THE CHAIRMAN OF THE COMMISSION REGARDING THE COMMISSION'S MEMORANDUM ON ARBITRATION

Excellency,

I have the honour to refer to the Memorandum handed by you on behalf of the commission to the Pakistan Foreign Minister on the 29th August, 1949, and to state that the Pakistan Government agree to the course of action proposed by the Commission in Paragraph 5 of the Memorandum for implementing Part II of the Commission's Resolution of 13th August, 1948. .

Accept, Excellency, the assurances of my highest consideration.

/s/ M. A. Gurmani

(S/AC.12/263, 12 September 1949)

LETTER DATED 10 SEPTEMBER 1949 FROM THE CHAIRMAN OF THE
COMMISSION TO THE SECRETARY-GENERAL, GOVERNMENT OF INDIA,
REGARDING THE COMMISSION'S MEMORANDUM ON ARBITRATION

Excellency,

I have the honour to acknowledge the receipt of your letter dated 8 September 1949, in which Your Excellency communicates to the Commission the views of your Government on the suggestion for arbitration as contained in the Commission's memorandum delivered on 30 August 1949.

2. The Commission is concerned to note that the nature of your Government's reply appears to have been determined by considerations arising out of two questions about which there seems to be some misunderstanding, namely,

- (i) whether the Commission would state to the arbitrator the points submitted to arbitration;
- (ii) whether the Commission would furnish to the arbitrator a clear account of the circumstances leading up to the present position and the Commission's own conclusions on points like the disbanding and disarming of the "Azad Kashmir" forces on which it had already reached a conclusion.

3. Since the Commission finds that your Government's interpretation, as stated in the observations set forth in Your Excellency's letter, does not exactly reflect the intention of the Commission, is reluctant to consider that reply as a final one: and therefore begs to convey the following comments which, the Commission trusts, will provide a more accurate understanding of its views.

4. As regards the first question, Your Excellency will note that sub-paragraphs (i)(d) and (ii) of paragraph 5 refer to procedure and indicate that this is a matter which should be decided upon subsequently. The Commission is of the opinion that it would be preferable first to have the Governments' acceptance of the course of action as presented, and then to consult with them regarding the several

methods which might be agreed upon for the further procedure. The procedure inherent in Your Excellency's question is one of these and is, consequently, not precluded.

5. As regards the second question, the Commission wishes to assure Your Excellency that it will of course be at the disposal of the arbitrator and present him with a full account of the facts which are within its knowledge.

6. In suggesting arbitration as a means of reaching a prompt and effective implementation of the Truce, the Commission has never intended that the commitments entered into for a peaceful solution of the dispute should be disregarded. The objective of a free and impartial plebiscite and the principles relating to the conditions which must be created in order that it be truly free and impartial, remain unquestioned.

7. In this connection Your Excellency has referred to the disarming and disbanding of the "Azad Kashmir" forces. The Commission wishes to point out that both Governments have agreed to a large-scale disbanding and disarming of these forces as one of the conditions precedent to the holding of the plebiscite. The difference which has arisen between the two Governments with respect to decisions on this matter has not been one of substance but of scope, method and timing. Arbitration would apply to this aspect only.

8. The Commission does not consider it necessary at this time to comment further on your letter.

9. The Commission hopes that in the light of the foregoing your Government may reconsider the memorandum submitted to Your Excellency on 30 August 1949.

Accept, Excellency, the assurances of my highest consideration.

/s/ ROBERT D. MACGILL
Chairman

ANNEX 39

(S/AC.12/265, 16 September 1949)

LETTER DATED 15 SEPTEMBER 1949, TO THE CHAIRMAN OF THE COMMISSION,
FROM THE SECRETARY-GENERAL, GOVERNMENT OF INDIA, REGARDING
ARBITRATION.

Excellency,

I have the honour to reply to Your Excellency's letter, dated the 10th September, 1949, which you were good enough to leave with me on the 12th instant.

2. The Government of India note that, in the view of the Commission, my letter No. 584-PASG/49, dated the 8th September, "does not exactly reflect the intention of the Commission", presumably in respect of points (i) and (ii) which are stated in paragraph 2 of your letter, dated the 10th September. The Government of India regret that there should have been this misunderstanding. They wish to assure the Commission that they endeavoured to interpret its memorandum, which Dr. Chyle delivered on the 30th August, 1949, to the best of their ability, with due regard to the language of the memorandum and my understanding of certain elucidations which I sought from Dr. Chyle and Ambassador Colban.

3. The Government of India have given the fullest consideration to the Commission's memorandum in the light of Your Excellency's letter. I wish to point out, in the first place, that our original reply to the proposals contained in the Commission's memorandum of 30th August 1949, was based not on any minor considerations but on the fundamental condition that the creation of public confidence and of a peaceful atmosphere is a necessary preliminary to preparation for a plebiscite. This is a condition which both my Government and the Commission have accepted and it cannot, therefore, be left to the decision of an arbitrator.

I shall deal now with para. 7 of Your Excellency's letter. As explained in my letter of the 8th September, one of the most important

issues, namely that of the large-scale disbanding and disarming of the "Azad Kashmir" forces, is one which cannot be settled by arbitration. To quote from paragraph 6 of that letter:

"for the purpose of ensuring the security of the State, the Government of India, have in all their discussions with the Commission about the Truce, insisted upon the inter-dependence of the phasing of the withdrawal of their forces from the State under B.1 of Part II of the Resolution of the 13th August and adoption of measures to implement the Commission's intention that there should be large-scale disbanding of these (the Azad) forces. Such disbanding and disarming is also essential to the holding of a free and impartial plebiscite for reasons which were explained to Dr. Lozano by the Prime Minister in the course of their conversations held on the 20th and 22nd December, 1948. Dr. Lozano recognized the force of the Prime Minister's argument on this point and disclosed to us that the intention of the Commission was that there should be a large scale disbanding and disarming of the 'Azad Kashmir' forces".

Para 7 of Your Excellency's letter of the 10th September states that "the Commission wishes to point out that both Governments have agreed to large-scale disbanding and disarming of these forces as one of the conditions precedent to the holding of the plebiscite. The difference which has arisen between the two Governments with respect to decisions on this matter has not been one of substance but of scope, method and timing. Arbitration would apply to this aspect only". In answer to this, I wish to repeat the view expressed by the Government of India in paragraph 6 of my letter of the 8th September, viz: that "if while accepting the need for such disbanding and disarming, the arbitrator is free to postpone consideration of the matter until after the bulk of Indian forces in the State of Jammu and Kashmir has been withdrawn, the security of the State will be in great jeopardy during the period that intervenes between the withdrawal of the bulk of the Indian forces and the adoption of measures for the large-scale disbanding and disarming of the "Azad Kashmir" forces. As has been frequently explained to the Commission, the Government of India cannot possibly take this risk which would be incompatible with their paramount responsibility to protect the portion of the State under their control against a repetition of the horrors of the State in October, 1947", especially when, according to their information, the number of these forces has grown considerably. The Government of India,

therefore, maintain that the large-scale disbanding and disarming of the "Azad Kashmir" forces on which, apart from other considerations depends the phasing of the withdrawal of Indian forces under B.1. of Part II of the Resolution of the 13th August, 1948, is no more a matter for arbitration than the complete withdrawal of the Pakistan forces. Any lack of certainty on this issue would open the door to the aggressor to benefit by his aggression.

4. Paragraph 4 of Your Excellency's letter refers to sub-paragraphs (i)(d) and (ii) of paragraph 5 of the Commission's memorandum and Your Excellency was good enough to explain that the question as to what the points for arbitration should be would be dealt with, as a matter of procedure, "in consultation with the two Governments". Explaining the Commission's intentions in this regard further, Your Excellency said that if, as a result of these consultations, the two Governments could not reach agreement on the points to be referred for arbitration, arbitration will be regarded as having failed. In the Government of India's view, the process of consultation with the two Governments to determine the points of reference to arbitration should precede and not follow acceptance of the proposal for arbitration. Since whether or no arbitration takes place will depend upon agreement between the two Governments upon the points to be referred to arbitration, this would be the more logical and appropriate course. It is also in conformity with the accepted procedure in respect of arbitration.

5. The Government of India do not feel called upon at this stage to comment upon the choice of an arbitrator. The stage for that will be after the points for arbitration have been precisely defined and accepted by the Governments of India and Pakistan.

Accept, Excellency, the assurances of my highest consideration.

/s/ G.S. PAJPAI

ANNEX 40

(S/AC.12/268, 20 September 1949)

LETTERS DATED 19 SEPTEMBER 1949 FROM THE CHAIRMAN OF THE COMMISSION TO THE SECRETARY-GENERAL, GOVERNMENT OF INDIA, AND TO THE MINISTER FOR KASHMIR AFFAIRS, GOVERNMENT OF PAKISTAN, REGARDING ARBITRATION

Latter to India

Excellency,

The Commission has the honour to acknowledge receipt of your letter of 15 September 1949 in answer to the Commission's letter of 10 September concerning the suggestion for Arbitration contained in the Commission's memorandum delivered to you on 30 August.

In the light of that letter and your Excellency's letter of 8 September 1949 the Commission understands that the Government of India is unable to accept the course of action suggested in that memorandum.

In these circumstances the Commission has decided, under its terms of reference, to report to the Security Council its activities on the Sub-continent since its last Interim Report.

The Commission intends to leave the Sub-continent in the very near future. The Military Adviser and the Military Observers will, of course, remain and pursue their normal activities.

Before the Commission leaves, it hopes to have the pleasure of calling on your Excellency to express its appreciation for the courtesy extended to it during its stay on the Sub-continent.

Accept Excellency the assurances of my highest consideration.

/s/ ROBERT B. MACATEE
Chairman

Letter to Pakistan .

Excellency,

The Commission has the honour to acknowledge receipt of your Excellency's letter of 7 September 1949* concerning the suggestion for arbitration contained in the memorandum handed to the Pakistan Foreign Minister on 29 August 1949*.

The Commission notes with satisfaction that your Government has agreed to the course of action proposed by the Commission in paragraph 5 of that memorandum.

The Commission has also received an answer from the Indian Government to an identical memorandum handed to Sir Girja Dajpai, Secretary-General, Government of India. It appears from this answer that the Government of India is unable to accept the course of action suggested,

In these circumstances, the Commission has decided, under its terms of reference, to report to the Security Council on its activities on the Sub-continent since its last Interim Report.

The Commission intends to leave the Sub-continent in the very near future. The Military Adviser and the Military Observers till, of course, remain and pursue their normal activities.

Before the Commission leaves it hopes to have the pleasure of calling on your Excellency's Government to express its appreciation for the courtesy extended to it during its stay on the Sub-continent.

Accept, Excellency, the assurances of my highest consideration.

/s/ Robert B. Macatee
Chairman

* Document S/AC.12/261
S/AC.12/251

ANNEX 41

(S/C.12/269, 22 September 1949)

PRESS RELEASE ISSUED ON 22 SEPTEMBER 1949 BY THE COMMISSION
ON THE OCCASION OF ITS DEPARTURE FROM THE SUB-CONTINENT

The United Nations Commission for India and Pakistan has notified the Governments of India and Pakistan of its decision to leave the Sub-continent to prepare a Report to the Security Council.

Throughout its negotiations with the Governments of India and Pakistan, the Commission has been reluctant to give publicity to its conversations and proposals in the belief that its task could best be accomplished through the exercise of discretion. The Commission, however, has observed that there has been some misunderstanding in the Press as to the sequence of events and the nature of the clarifications on its resolutions which have been given to both Governments. The Commission believes it important to issue a statement which might help to correct these misunderstandings.

A clear view of the present situation can best be obtained by summarizing the three major phases of the Commission's activities.

Under the terms of reference of the Security Council's Resolution of 21 April 1948, which was not accepted by either party and whose most immediate aim was to establish law and order in the State of Jammu and Kashmir, the Commission arrived on the Sub-continent in July of last year. Throughout six weeks of separate consultations with the Governments of India and Pakistan the Commission sought an agreement to a cease-fire. The Government of Pakistan envisaged an unconditional cease-fire leading to a final settlement, whereas the Government of India was reluctant to consider the conditions for such a settlement until the Pakistan troops and nationals who had entered the State for the purpose of fighting had withdrawn from the State. In order to bridge the gap, the Commission drew up its resolution of 13 August 1948.

The resolution envisaged three related but distinct steps: a cease-fire, a truce period, during which the withdrawal of forces would take place, and finally, consultations to establish the conditions

by means of which the free will of the people of the State would be expressed. The Government of India accepted the Commission's Resolution. The Government of Pakistan attached conditions - mainly relating to Part III of the Resolution - which the Commission was forced to conclude were tantamount at that stage to a refusal. It should be borne in mind that of the problems which have since become major obstacles to the implementation of the Truce two were not dealt with in the resolution: provisions for the administration and defence of the sparsely populated and mountainous region to the north and the question of the disarming and disbanding of the Azad Kashmir forces.

The second phase of the Commission's activities began when, on its arrival in Paris in November 1948 to report to the Security Council, the Commission renewed conversations with representatives of India and Pakistan. From these conversations it appeared that agreement might be possible on principles relating to the holding of a plebiscite in the State. The Commission requested one of its members, Dr. Lozano, to proceed to the Sub-continent in order to confer with the two Governments. The Governments of India and Pakistan agreed to the principles - the details to be worked out in later consultations - which were embodied in the Resolution of 5 January 1949. Aides-memoire of the conversations were drawn up.

It is important to keep in mind that these conversations related exclusively to an elaboration of Part III of the Resolution of 13 August 1948. Parts I and II were not affected.

It was at this stage that assurances were given with respect to the Azad Kashmir forces in relation to the final disposition of all forces throughout the State. In the aides-memoire of the conversations with the Prime Minister of India, Pandit Nehru, and the Foreign Minister of Pakistan, Sir Mohammad Zafrullah Khan, it is stated that there would be a large scale disbanding and disarming of these forces as a precedent to the holding of a plebiscite.

When the Commission in February 1949 returned to the Sub-continent the cease-fire was in effect and insofar as Part I of the 13 August resolution was concerned there remained only the demarcation of the line on the ground. The Commission was hopeful that this would

be expeditiously achieved and that a prompt implementation of the Truce under Part II might take place.

The third phase of the Commission's activities began in February when it was requested by both Governments to furnish additional explanations of its Resolutions, and, in turn, was apprised of their views on the Truce.

After a series of separate negotiations, from which it appeared that the Governments were not likely to agree directly between themselves, the Commission formulated its own compromise suggestions for the establishment of a Truce Agreement. On 15 April it submitted to the Governments of India and Pakistan its first Truce proposals.

The Commission, in the light of the reactions of the two Governments, modified its Truce proposals and submitted them to the two Governments on 28 April with the request that they be accepted unreservedly. On 18 and 30 May 1949, the Commission received the replies of the Governments of India and Pakistan respectively. Neither reply constituted an unreserved acceptance,

The Commission made a further attempt to narrow the differences between the two Governments. These were principally connected with the schedule of withdrawal of troops, the status of the Azad Kashmir forces, and the question of the mountainous, sparsely populated northern areas in the State of Jammu and Kashmir. The positions taken by the two Governments, however, remained far apart.

Confronted with these opposed views, the Commission suggested that, as the demarcation of a cease-fire line remained a pressing need, then the military aspect be separated from the political for the purpose of arriving at an agreement on such a line. It invited the two Governments to send military representatives to a meeting in Karachi with the Commission's Truce Sub-committee on 18 July 1949. Agreement was reached on 28 July on the entire cease-fire line, and was ratified without delay by both Governments.

In view of the cordial atmosphere which prevailed during the meeting with the Truce Sub-committee, the Commission hoped that the two Governments might be ready to meet under the auspices of the

Commission to settle their remaining differences concerning the Truce, The two Governments were invited to a joint meeting in New Delhi on 22 August. In accepting this procedure, the Governments of India and Pakistan asked the Commission to draw up a provisional agenda for their consideration and to furnish them with background knowledge of each other's views. Their comments on this agenda made it clear that the positions still remained fundamentally opposed. While one Government maintained that certain issues could not be discussed nor entertained, the other insisted that inclusion in the agenda of precisely these issues was essential. The Commission therefore felt that as a responsible body it could not continue to sponsor a conference which appeared bound to fail at the outset. It informed both Governments to that effect on 18 August.

Concluding that the possibilities of its further mediation, restricted by previous commitments in a changing situation, had been exhausted, the Commission decided to ask both Governments whether they would agree to submit to arbitration the differences concerning questions raised by them regarding the implementation of the Truce. The Government of Pakistan agreed to the Commission's suggested course of action while the Government of India found itself unable to accept.

* * * *

Throughout its negotiations the Commission has always been consistent in its policy and has strictly avoided giving any assurance to one Government without informing the other. Its forthcoming report to the Security Council will make the entire position clear,,

The Commission reaffirm its belief that a peaceful solution of the present situation in Kashmir will be reached and leaves India and Pakistan in the hope that its report to the Security Council will further this purpose.

(S/AC.12/276, 12 October 1949)

LETTER DATED 1 OCTOBER 1949 FROM THE MINISTER FOR KASHMIR AFFAIRS,
GOVERNMENT OF PAKISTAN, TO THE CHAIRMAN OF THE COMMISSION CONCERNING
RELEASED DOCUMENTS ON ARBITRATION

Excellency,

I have the honour to refer to the documents released by the Commission on 23rd September 1949, concerning the Commission's proposal for arbitration and the statement released to the Press by the Commission on 25 September 1949, reviewing its activities in the Indo-Pakistan sub-continent.

2. The Government of Pakistan note the Commission's statement in paragraph 6 of its letter dated the 10 September 1949 to the Secretary-General of Government of India to the effect that "in suggesting arbitration as a means of reaching a prompt and effective implementation of the Truce, the Commission has never intended that the commitments entered into for a peaceful solution of the dispute should be disregarded. The objective of a free and impartial plebiscite and the principles relating to the conditions which must be created in order that it be truly free and impartial, remain unquestioned."

The Government of Pakistan are of the same opinion, and regard a free and impartial plebiscite to determine whether the State of Jammu and Kashmir should accede to Pakistan or to India the only basis for a peaceful solution of the Kashmir dispute. This objective can be achieved only if both parties to the dispute faithfully implement their obligations under the Commission's Resolution of 13 August 1948 and 5 January 1949, which after having been accepted by the Government of India and Pakistan constitute an international agreement. The Pakistan Government reaffirm once again their desire and determination to implement their obligation under both these Resolutions and trust that the Commission and the Security Council would call upon the Government of India to do the same.

3. The Commission has already been fully apprised of the point of view of the Government of Pakistan on the various issues which have stood in

the way of a Truce agreement. I find it nevertheless necessary to make a few observations on some of the statements made in Sir Girja Shankar Bajpai's letters dated the 21 August and 8 and 15 September 1949. The Pakistan Government note with regret that the Government of India have thought fit to repeat allegations and insinuations against the Pakistan Government which were found to be baseless and unfounded in the course of the prolonged debates in the Security Council from January to April 1948. It is even more regrettable that in dealing with issues such as those relating to the A.K. Forces and the Northern Areas of Jammu and Kashmir, the Government of India have tried to go back upon the position taken up by them in the past before the Commission, and to place in jeopardy the whole structure of a peaceful settlement worked out with such assiduous care and effort by the Security Council and the Commission.

4. In his letter dated 8 September 1949, Sir Girja Shankar Bajpai has accused Pakistan of aggression against the State of Jammu and Kashmir on the basis of India's contention that the State had acceded to India and was a part of India. The Commission is well aware of the history of the dispute in Kashmir which from the very beginning has centred round the question whether the State should accede to Pakistan or to India. The overwhelming majority of the people of the State desired to accede to Pakistan in view of the geographical, cultural and economic unity of the State with Pakistan, and demonstrated this desire in no uncertain terms, immediately on the establishment of Pakistan. Although the Hindu Maharajah entered into a Standstill Agreement with Pakistan on 15th August 1947, in respect of all subjects hitherto dealt with by the British Government of India, he sought by force and fraud to bring about the accession of the State to India. In pursuance of this design a campaign of terror and intimidation was started in August 1947, on the model of the happenings in East Punjab and East Punjab States such as Patiala and Kapurthala. This led to a revolt in the State, and fighting broke out on a large scale between the people of the State and Maharajah's forces in September 1947. Events followed with extreme rapidity. Towards the end of October a contingent of tribesmen came to the assistance of their brethren in the State. The Maharajah's authority collapsed and he fled from the capital. The Maharajah who had been conspiring with India asked for its military assistance. The Government of India, without making any reference to Pakistan which, under the

Standstill Agreement was responsible, inter alia, for the Defence and External Affairs of the Jammu and Kashmir State, flew in large forces to occupy and subjugate the State, thus entering upon a course of aggression against the people of Jammu and Kashmir which is still continuing and which can only end with the complete withdrawal of the Indian Armed Forces from the State. As a part of this conspiracy the Maharajah executed the so-called instrument of accession which although totally devoid of all legal and moral validity is continually used by India to bolster up its claim to the inclusion of Kashmir in India and to mask its aggression against the people of the State.

5. In the correspondence referred to above Sir Girja Shankar Bajpai has raised once again the question of the legality of the so-called accession of the State of Jammu and Kashmir to India which he maintains "the Commission has not questioned", and which in the view of the Government of India "is in fact and law beyond question". There is no basis whatsoever for either of these assumptions. As explained in greater detail in our answer to questions 10, 11 and 12 of the Commission's questionnaire, dated the 4th August 1948, the State of Jammu and Kashmir had executed a Standstill Agreement with Pakistan on 15 August 1947, which debarred the State from entering into any kind of negotiation or agreement with any other country.

Secondly, the Maharajah of Jammu and Kashmir had no authority left to execute an instrument of accession on the 26 October 1947, because his people had successfully revolted, had overthrown his Government, had compelled him to flee from the capital.

Thirdly, the act of accession was brought about by violence and fraud and as such it was invalid ab initio and,

Fourthly, the Maharajah's offer of accession was accepted by the Governor-General of India on the condition that as soon as law and order had been restored, the question of the accession of the State would be decided "by a reference to the people". The Indian Constitution Act does not recognise a conditional accession. The action of the Maharajah and of the Government of India has, therefore, no validity in law.

Sir Girja Shankar Bajpai's observation that the legality of the State's accession to India has not been questioned by the Commission is

misleading and wrong. According to both the Security Council and the Commission the question in dispute in regard to the State of Jammu and Kashmir is whether the State should accede to India or to Pakistan. In the preamble to its Resolution dated 21st April 1948, the Security Council noted "with satisfaction that both India and Pakistan desire that the question of the accession of Jammu and Kashmir to India or Pakistan should be decided through the democratic method of a free and impartial plebiscite". Clause 1 of the Commission's Resolution of 5 January 1949, reiterates the same conclusion and states that "The question of the accession of the State of Jammu and Kashmir to India or Pakistan will be decided through the democratic method of a free and impartial plebiscite". The accession of the State to India or to Pakistan is thus an open question which has yet to be decided and not a settled fact. Sir Girja Shankar Bajpai's contention that the State has acceded to and is a part of India begs the very question which is in dispute. The Commission is also aware of the manner in which the Government of India have sought to evade the obligations flowing from their acceptance of the Commission's Resolution of 5 January 1949, by inviting the Maharajah to nominate four members to the Indian Constituent Assembly. Reference is invited to my letter dated the 11th June 1949.

6. I regret having had to traverse again before the Commission the ground relating to some of the events preceding the settlement, but the many mis-statements made in the recent correspondence addressed by the Government of India to the Commission have left me no choice in the matter. The events preceding the settlement were fully taken into account by the Commission in formulating its Resolutions of the 13 August 1948 and 5 January 1949, and their recital at this stage can serve no useful purpose. The only relevant issue at present is the implementation of the terms of the settlement embodied in the Commission's Resolutions.

7. It is hardly necessary for me to comment in detail on the various statements made on behalf of the Government of India concerning the question of the A.K. Forces. The Pakistan Government's stand regarding this matter is well known to the Commission, and I am glad to observe that it has been vindicated by the Commission's own statement of 25 September 1949. There are, however, two points to which I might draw the

Commission's attention. The omission of any reference to the Azad Kashmir Forces in the Commission's Resolution of 13 August 1948 was deliberate and the reasons therefor were fully explained by the Commission to both Governments. At the meeting held in New Delhi on 17 August 1948 Mr. Korbelt the Chairman of the Commission informed the Prime Minister of India that according to the provisions of the Commission's Resolution "limited Government of India forces would remain and that on the other side only the Azad people would remain in their present positions" (vide the summary record of the meeting which appears at annexure 12 of the Commission's Interim Report, dated 9.11.1948). The Pakistan Government were informed on 19 September 1948, that "the Resolution does not contemplate the disarmament and disbandment of the A.K. Forces". This position was not questioned by the Indian representatives and no demand was put forward by the Government of India before their acceptance of the Commission's Resolution of 13 August 1948 and 5 January 1949, for the disarmament or disbanding of the A.K. Forces during the truce period. Indeed even as late as 18th February 1949, the Government of India recognised that this question could arise only at the plebiscite stage. This is evident from paragraph 3 of Sir Girja Shankar Bajpai's letter dated 18th February 1949, which reads as follows:-

"The disarming of Azad forces is really a matter of chronology. First there must be a cease-fire and, after that, a truce, as envisaged in Parts I and II of the Commission's Resolution of the 13 August 1948. After that, the condition precedent to arrangements for the holding of a plebiscite is the creation of conditions in which Kashmir nations can return to the area now in the occupation of Azad Kashmir forces. So far as non-Muslims are concerned, such a movement will not take place until large-scale disarming of these forces has been carried out. We tried to make this clear to the Commission through Dr. Lozano in the course of our discussions last December and I have emphasized this point in our recent meetings".

In his letter dated 21 August 1948, Sir Girja Shsnkar dajpai has tried to confuse the issue by quoting only the first two sentences of the passage quoted above and leaving out the next two really relevant sentences.

From the correspondence between the Government of India and the Commission, which has only now become available to us, it appears that it

was only when the Commission, formulated its truce proposals in April 1949, that the Government of India deviated from their original position and contended that the withdrawal of the bulk of the Indian Forces under Part II of the Commission's Resolution of 13 August 1948 should be conditional upon the disbandment and disarming of the Azad Kashmir Forces. The Pakistan Government hold that this contention is totally unwarranted, and is an attempt at introducing a new condition into the settlement arrived between India and Pakistan for the peaceful resolution of the Kashmir dispute.

8. In his letter dated 8 September 1949, Sir Girja Shankar Bajpai has also tried to raise the bogey of a threat to the security of the Jammu and Kashmir State from the Azad Kashmir Forces during the truce period. These fears are wholly unwarranted. The Commission's Resolutions of 13 August 1948 and 5 January 1949 are a carefully devised plan for the withdrawal and disposal of all armed forces in the State of Jammu and Kashmir in well defined stages after taking into account all relevant considerations, including those relating to the security of the State. The Government of India, after having accepted this plan, is now attempting to upset it in order to retain their forces in the state and to delay and obstruct the plebiscite which is the object of the whole plan. The Pakistan Government wish to reiterate their belief that the presence of Indian forces in the State of Jammu and Kashmir is the greatest obstacle to the restoration of normal life and liberty in the State and to the creation of the conditions in which a really free and impartial plebiscite could take place.

There is also no basis for Sir Girja Shankar Bajpai's statement that the number of the Azad Kashmir forces have "grown considerably" since 5 January 1949. This is the first time that such an allegation has been made, and I wish to state categorically that it is wholly unfounded.

9. As regards the Northern Areas, the claim of the Government of India to post Indian garrisons in this area is not in accord with clause B-2 of Part II of the Commission's Resolution of 13 August 1948 which permits the retention of Indian troops only "within the lines in existence at the moment of the cease-fire". The cease-fire line has since been fixed and the "Northern Areas" do not fall on the Indian side of the line.

This claim also conflicts with the assurance given by the Commission on 31 August 1948 that neither the Government of India nor the

Maharajah's Government will be permitted to send any military or civil officials to the "evacuated territory". In its letter dated 3 September 1948, to the Foreign Minister of Pakistan, the Commission explained that the term "evacuated territory" used in paragraph 4.3 of Part II of the Resolution of 13 August 1948 "refers to those territories in the State of Jammu and Kashmir which are at present under the effective control of the Pakistan High Command". The area north of the cease-fire line has been as much under the effective control of the Pakistan High Command as the area west of the cease-fire line.

The assurance that no civil or military official of the Government of India or of the Maharajah's Government would be allowed to cross into the evacuated territory "for the purpose of administration or control" was reiterated in paragraph 4(d) of the Commission's letter dated 28 April 1949, to the Government of Pakistan,

It is thus clear from the analysis made above that the claim of the Government of India for administrative and military control of Northern Areas is in direct conflict with the provisions of the Commission's Resolution of 13 August 1948, and is, therefore, untenable.

10. I should further point out that the Government of India abandoned this untenable claim long before the settlement between India and Pakistan regarding Kashmir was reached. As stated by the Commission in paragraph eighty of its Interim Report dated 9th November 1948, Sir Girja Shankar Bajpai informed the Commission that India's acceptance of the 13 August Resolution was not conditional upon acceptance by the Commission of the contents of Prime Minister of India's letter dated 20 August 1948 laying claim to administrative and military control over the "Northern Areas". A claim of this nature which is inconsistent and incompatible with the settlement and which the Government of India had themselves dropped before the settlement was reached cannot be entertained at this stage.

11. I would not like to conclude without expressing the Pakistan Government's appreciation of the patience and determination shown by the Commission in the performance of its duties and expressing the hope that the Commission would persist in its efforts to secure prompt and effective implementation of its Resolutions of 13 August 1948 and 5 January 1949.

Accept, Excellency, the renewed assurances of my highest consideration.

(Signed) GURMANI
(M. A. GURMANI)

ANNEX 43

(S/AC, 12/284, 28 November 1949)

LETTER DATED 21 NOVEMBER 1949 FROM THE SECRETARY-
GENERAL, GOVERNMENT OF INDIA, TO THE CHAIRMAN OF
THE COMMISSION COMMENTING ON Mr. GURMANI'S LETTER
OF 1 OCTOBER 1949

Excellency,

Under cover of his letter dated 12th October, 1949, Mr. Colban sent us a copy of a letter, dated 1st October, 1949, from the Minister for Kashmir Affairs, Government of Pakistan, to the Chairman of the Commission concerning released documents on Arbitration. The Government of India regret that, owing to the absence from India of the Prime Minister it was not possible for them to send to the Commission their comments on Mr. Gurmani's letter earlier. They are now being submitted to the Commission with the request that they should be given due weight by the Commission and, if Mr. Gurmani's letter is published, that this letter should also be given simultaneous and full publicity.

2. Mr. Gurmani's letter can be most conveniently dealt with under two broad heads -

- A. The validity of the accession to India of the State of Jammu and Kashmir, and the events leading up to that accession.
- B. The position of the Government of India in regard to

(a) the disbandment and dimming of the
Azad Kashmir forces,

and

- (b) the treatment of the sparsely populated mountainous regions in the north of the State.

A. Accession of
Jammu and
Kashmir to
India.

3. The Pakistan Minister for Kashmir Affairs has stated:-

(i) That the Standstill Agreement between Pakistan and the State debarred the latter from entering into an agreement with India.

(ii) That the Maharaja of Jammu and Kashmir had no authority left to execute an instrument of accession.

(iii) That the act of accession was brought about by violence and fraud and was, therefore, invalid ab initio.

(iv) That the acceptance by India of the Maharaja's offer of accession was conditional and, therefore, invalid in law,

Thereby of the Government of India to these contentions is set out below.

(i) The Standstill Agreement between Pakistan and the State debarred the latter from entering into an agreement with India.

4. Prior to the enactment of the Indian Independence Act of 1947, the Indian States were under the suzerainty of the British Crown and, as part of this relationship the Crown was responsible for the conduct of their external relations and defence. These rights and responsibilities which, in the language of the Government of India Act, 1935, were described as 'the functions of the Crown in its relation with Indian States', were exercised by the Crown Representative in India. Side by side with these functions of the Crown, the States had a number of agreements and administrative arrangements with the Central and Provincial Governments in India relating to matters of common concern like customs, transit and communications, coinage, currency and exchange regulations, posts and telegraphs, extradition, civil supplies and the like. A measure of co-ordination between these two distinct sets of functions and responsibilities was secured by the appointment of one and the same person to the post of Governor General

of India and "His Majesty's representative for the exercise of the functions of the Crown in its relations with Indian States". With the enactment of the Indian Independence Act of 1947, the suzerainty of His Majesty over the Indian States lapsed, and it was provided that along with it, the treaties and engagements in force on the date of the passing of the Act between His Majesty and the Indian States should lapse. States were thus released from the rights and obligations of Paramountcy which the British Crown possessed. This did not, however, dispose of the agreements relating to matters of common concern and administrative arrangements which the States had with the Central and Provincial Governments in India. To deal with these arrangements, there was a proviso to sub-section (1) of Section 7 of the Indian Independence Act of 1947, which said that "notwithstanding anything contained in paragraph (b) of this sub-section, effect shall, as nearly as may be, continue to be given to the provisions of any such agreement as it therein referred to which relate to customs, transit and communications, posts and telegraphs, or other like matters until the provisions in question are denounced by the Ruler of the Indian State on the one hand or by the Dominion or provinces or other parts thereof concerned on the other hand, or are superseded by subsequent agreements".

The State of Jammu and Kashmir had a number of agreements with the pre-partition Government of India and the pre-partition Provincial Government of the Punjab. By virtue of the proviso to sub-section (1) of Section 7 of the Indian Independence Act, 1947, quoted above, these agreements automatically continued till they were either denounced by either party or replaced by subsequent agreements. On

● cust 12, 1947, the Prime Minister of Jammu and

Kashmir State telegraphed to the Pakistan Government that "the Jammu and Kashmir Government would welcome Standstill Agreements with Pakistan on all matters on which these exist at present moment with the outgoing British Indian Government. It is suggested that existing arrangements should continue pending the settlement of details and formal execution of fresh agreements". On the 16th August, 1949, the Government of Pakistan replied "Your telegram of the 12th. The Government of Pakistan agree to have a Standstill Agreement with the Government of Jammu and Kashmir for the continuance of existing arrangements pending settlement of details and formal execution of fresh agreements". The agreements referred to in the telegram of the Jammu and Kashmir Government were agreements about matters like customs, communications, posts and telegraphs, civil supplies and the like. There was no question whatsoever of these agreements covering foreign relations or defence.

5. Paragraph 15 of Document III which was presented to the Security Council by Sir Zafrullah Khan with his letter of January 15, 1946, as a reply to India's complaint to the Security Council, states that "on 15th August 1947, the Jammu and Kashmir State, like other States, was free to accede or not to accede to either Dominion. It entered into a Standstill Agreement with Pakistan under which inter alia the administration of posts and telegraphs services was entrusted to Pakistan". Again, in his speech to the Security Council on January 17, 1948, Sir Zafrullah Khan said: "I have explained yesterday to the Security Council what the Standstill Agreements mean. Kashmir had arrived at a Standstill Agreement with Pakistan with regard to her communications, supplies and post office and telegraphic arrangements". It is inconceivable that, if the Government of Pakistan had considered defence and foreign relations to be

covered by this Standstill Agreement, they would have failed to urge this when the Kashmir Dispute was debated at length before the Security Council from January to April 1948. In my case, the constitutional position explained earlier in this letter should dispose of the new claim that the Standstill Agreement between the State and Pakistan debarred the State from lawfully acceding to India.

6. It is not irrelevant, in this connection, to mention that on the date on which the Government of Jammu and Kashmir State approached the Pakistan Government with the request that the two enter into Standstill Agreements, a similar request was addressed to the Government of India. The Government of India invited the State to send an authorised representative to Delhi to discuss the matter. Owing to changes in the personnel of the State Government and, subsequently, the invasion of the State, this request could not be complied with. That the Jammu and Kashmir State should have simultaneously asked both Pakistan and India to enter into Standstill Agreements which involved control of the State's foreign relations and defence has only to be mentioned to be dismissed as impossible.

(ii) & (iii).
The Maharaja had no authority left to execute an Instrument of accession and the accession-119 brought about by violence and fraud.

7. As regards (ii) and (iii) a brief recapitulation of some of the events before accession provides a sufficient answer. To take first, the charge (by no means new) that the accession was obtained by violence and fraud. On the transfer of power to India and Pakistan the State of Jammu and Kashmir became free to accede to either country. The State executed a Standstill Agreement with Pakistan as an interim measure to continue the arrangements on administrative matters which already existed. In violation of this agreement Pakistan first imposed what amounted to an economic blockade on the State. Subsequently, it aided and abetted an invasion of the territory of the State. The invaders consisted of

tribesmen, members of regular Pakistan forces whose presence had to be explained on some such excuse as their being "on leave", and a number of inhabitants of the western part of the State, e.g., Poonch. In their march through the valley of Kashmir, the marauders spared nobody. If Mr. Gurmani's argument that the Standstill Agreement into which Kashmir entered with Pakistan covered defence and external relations is correct, all that India need have done was to accept the request for a similar agreement made by the State Government to the Government of India on the same date that the request for such an agreement was addressed to Pakistan. By doing so, India would have had no need to resort, as alleged by the Pakistan Minister, to force and fraud to obtain Kashmir's accession subsequently. As already stated, however, there is no substance in the argument that the Standstill Agreement included the subjects of external relations and defence. India sent forces into Kashmir at short notice and solely for the purpose of protecting the State against an extension of the destructive activities of the invaders, extension which would have created a situation between India and Pakistan that could only have resulted in war. If any party used force to secure the accession of Jammu and Kashmir it was Pakistan; if any party practised fraud to secure that accession, again it was Pakistan. It is difficult to describe, by any other word, the arguments that Pakistan has used to explain away its share in the invasion of the State which led to the present dispute.

8. The contention that the Maharaja of Jammu and Kashmir had no authority to execute an Instrument of Accession and that this accession was invalid ab initio has, in its legal and constitutional aspect, been dealt with under A. (paragraphs 4, 5 and 6 supra). It is difficult to understand why the Maharaja, faced

with invasion, had no authority to turn to a friendly neighbour for aid which accession would make lawful. That this request for accession had the support of Sheikh Abdullah, leader of the most representative popular party in the State, and that the people of the State offered such resistance as lay in their power to the invaders should be sufficient evidence of the support which the demand for accession had, not only from the Ruler but from the majority of the inhabitants of the State.

9. It seems worthwhile to comment also on Mr. Gurmani's assertion made in paragraph 4 of his letter that "the overwhelming majority of the people of the State desire to accede to Pakistan". The free will of the people has yet to be ascertained. It is not without significance, however, that when the invaders came near Srinagar in October 1947, the local population rose almost to a man to resist them, even though it was practically unarmed. If even a fraction of this population had been in sympathy with the invaders, it could have rendered impossible, by damaging the airport, the landing of the Indian forces that went to their rescue.

10. As regards the contention in (iv), namely that the accession of the State to India was invalid because its acceptance was conditional, the Commission's attention is drawn to the following passage from the statement of Shri Gopalaswami Ayyangar made to the Security Council:

"The Instrument of Accession is a document complete in itself. To the best of my memory the Instrument, in the case of Kashmir, does not contain any condition. It does not state that this accession is provisional. The commitment which the Government of India made for themselves on the question of

ascertaining the wishes of the people was contained in a letter accompanying the accepted Instrument of Accession. The Government of India is certainly bound by its commitment, but it would be wrong to call the accession itself a provisional accession".

The accession became complete and operative on the 26th October, 1947, the date on which the relevant document was signed. Under Section 2 of the Independence of India Act, any Indian State was at liberty to accede to either Dominion or to remain independent. If a State did accede to a Dominion, it could not legally withdraw from that accession except with the permission of the Dominion to which it had acceded. The effect of the Government of India's declaration that if the vote of the people went against accession to India, India would release Kashmir from the accession was not to modify in any way the legal position but only to clarify India's declared policy that it would, in the matter of accession, be ultimately guided by the freely declared will of the people of the State,

11. The Pakistan Minister has also sought to deduce from the preamble to the resolution of the Security Council, dated the 21st April, 1948, that the words "that the Council noted with satisfaction that both India and Pakistan desire that the question of the accession of Jammu and Kashmir to India or Pakistan should be decided through the democratic method of a free and impartial plebiscite" signify that "the accession of this State to India or Pakistan was an open question". As has already been explained above, this view is legally untenable. According to the Government of India's understanding, neither the Council nor the Commission has questioned the legality of the accession of the Jammu and Kashmir State to India. In the opinion of the Government of India, the words quoted from the preamble do more

'than express approval of the method of plebiscite as a democratic way of settling the question whether or not the State should continue its accession to India or, in the alternative, should accede to Pakistan,

12. Before leaving the subject of accession, the Pakistan Minister's complaint that "the Government of India have sought to evade the obligations flowing from their acceptance of the Commission's resolution of January 5, 1949, by inviting the Maharaja to nominate four members to the Indian Constituent Assembly" might also be dealt with until the people of the State decide otherwise, the State, in the opinion of the Government of India, remains legally acceded to India. While the constitution of India, -which, inter alia, provides for the relations of acceding States to the Government of India was under consideration, it would have been unfair to the Government and people of the State of Jammu and Kashmir to deny them the opportunity of participating in the discussion of that constitution. Such participation was not intended to and does not, in fact, alter the Government of India's determination to abide, in the matter of accession, by the freely declared will of the people of Jammu and Kashmir. Should that will be against the State continuing to be part of India, if and when it comes to be expressed in a constitutional way under conditions of peace and impartiality, the representation of the State in the Indian Parliament would automatically cease and the provisions of the Constitution of India that govern the relations of the State of Jammu and Kashmir with the Union of India will also cease to operate,

B. (a) Disbandment and disarmament of the Azad Kashmir forces.

13. To the Pakistan Minister "it appears that it was only when the Commission formulated its truce proposals in April, 1949, that the Government of India deviated from their original position and

contended that the withdrawal of the bulk of the Indian Forces under Part II of the Commission's Resolution of 13th August, 1948, should be conditional upon the disbandment and disarming of the Azad Kashmir Forces". The Commission should, in the light of their various discussions with representatives of the Government of India and their correspondence with that Government, be aware of the correct position. It is untrue to suggest, as Mr. Gurnani has done, that the Government of India have made an attempt to introduce a new condition into the settlement arrived at between "India and Pakistan for the peaceful resolution of the Kashmir dispute". The Government of India's view of the Commission's two resolutions of the 13th August, 1948, and the 5th January, 1949, respectively is set out clearly in the related correspondence and records of discussions between the Commission or its representatives and the Government of India. In accepting the Resolution of 13th August, 1948, the paramount obligation of the Government of India to ensure the security of the State was emphasised in unequivocal terms. The request made to Dr. Lozano in December, 1948, by the Prime Minister for the disbandment and disarming of the Azad Kashmir forces was prompted as much by the need of security for the State as by the additional consideration arising out of the Resolution of the 5th January, then under discussion in draft form, that the proposed plebiscite should be held under conditions in which those who had left the so-called Azad Kashmir territory should be able to return to that area to exercise their vote freely and without fear. Neither condition could be satisfied if the Azad Kashmir forces, whose number, according to Pakistan's own admission, made in February 1949, had swollen to 32 battalions, and whose effectiveness as a fighting force must have greatly increased as a

result of their having been brought under the operational control of Pakistan Army, were to remain untouched. India's insistence that the phasing of the withdrawal of its own forces must be linked with the adoption of practical steps to effect the large-scale disbanding and disarming of the Azad Kashmir forces was not, as suggested by the Pakistan Minister, an attempt to modify the Resolution of 13th August, 1948, but an inevitable consequence of the change in the strength and quality of these forces and, therefore, fully consistent with the understanding on which the Government of India accepted the Resolution, viz., that they would be free to take suitable measures to discharge, effectively, their obligation to maintain the security of the State.

14. The Pakistan Minister's interpretation of paragraph 3 of my letter dated 18th February, 1949, is supported neither by the quotations made by him from that letter nor by the position consistently taken up by the Government of India in this matter. All that the words quoted by the Minister intended to convey was that, after the cease-fire, and before the plebiscite could actually be held, conditions must be created in which Kashmir nationals could return to the area now in the occupation of "Azad Kashmir" forces. The period, after the cease-fire, up to and including the period covering the plebiscite, during which there were no hostilities, could only be described by the word "truce". Consistently with the Commission's agreement that there should be large-scale disbandment and disarming of the "Azad Kashmir" forces before Kashmir nationals who had left the so-called Azad Kashmir area could return to that area, such disbandment and disarming had to begin well in advance of the plebiscite. From the standpoint of the security of the State, effective measures for such disbandment and disarming had to be devised and adequate arrangements

made for their implementation before any large-scale withdrawal of Indian forces from the State could start. The quotation from my letter, dated the 18th February, 1949, as amplified by the Pakistan Minister, conveys this meaning and is not rationally susceptible of any other interpretation. The suggestion that I sought "to confuse the issue by quoting only the first two sentences of the passage" has no basis in logic or fact.

B(b). The
Northern areas.

15. The Pakistan Minister for Kashmir has argued, in effect, that both as regards administration and defence, it was the Commission's intention that the sparsely populated and mountainous regions in the north of the State should be treated on the same footing as the so-called Azad Kashmir area, referred to in the Commission's resolution of the 13th August, 1948. Mr. Korbelt's letter of the 25th August, 1948, in reply to the Prime Minister's letter of the 20th August, 1948, on the subject of these areas should be sufficient to negate this extraordinary interpretation. Had the Commission intended, as urged by Mr. Gurmiani, "that neither the Government of India nor the Maharaja's Government will be permitted to send any military or civil officials to the evacuated territory" into the sparsely populated and mountainous northern regions, the Commission would have said so instead of stating, as Mr. Korbelt did, "that the question raised in your letter (the Prime Minister's letter, dated the 20th August, 1948) could be considered in the implementation of the resolution".

16. Both as regards the disbandment and the disarming of the 'Azad Kashmir' forces and the question of the northern areas, the Pakistan Minister for Kashmir Affairs has only reaffirmed the view of the Government of Pakistan that the resolution of the 13th August, 1948, was intended by the Commission to apply, not to the conditions prevalent in August, 1948, but to the situation of today. That the refusal of the Government

of India to accept this view can legitimately be regarded as evidence of their desire to evade any of their obligations is wholly unjustified. The Government of India stand by every commitment that they have made; only the fulfilment of those commitments must be related to facts as they are and not sought to be adjusted to false and fanciful arguments.

Please accept, Excellency, the assurances of my highest consideration.

(sgd.) G.S. Bajpai
SECRETARY-GENERAL.

(S/628, 2 January 1948)

LETTER FROM THE REPRESENTATIVE OF INDIA ADDRESSED TO THE
PRESIDENT OF THE SECURITY COUNCIL

DATED 1 JANUARY 1948

Sir,

The Government of India have instructed me to transmit to you the following telegraphic communication:

Begins:

"1. Under Article 35 of the Charter of the United Nations, 'my member may bring any situation, whose continuance is likely to endanger the maintenance of international peace and security, to the attention of the Security Council. Such a situation now exists between India and Pakistan owing to the aid which invaders, consisting of nationals of Pakistan and of tribesmen from the territory immediately adjoining Pakistan on the north-west, are drawing from Pakistan for operations against Jammu and Kashmir, a State which has acceded to the Dominion of India and is part of India. The circumstances of accession, the activities of the invaders which led the Government of India to take military action against them, and the assistance which the attackers have received and are still receiving from Pakistan are explained later in this memorandum. The Government of India request the Security Council to call upon Pakistan to put an end immediately to the giving of such assistance which is an act of aggression against India. If Pakistan does not do so, the Government of India may be compelled, in self defence, to enter Pakistan territory, in order to take military action against the invaders. The matter is therefore one of extreme urgency and calls for immediate action by the Security Council for avoiding a breach of international peace.

"2. From the middle of September 1947 the Government of India had received reports of the infiltration of armed raiders into the western parts of the Jammu Province of the Jammu and Kashmir State; Jammu adjoins West Punjab which is a part of the Dominion

of Pakistan. These raiders had done a great deal of damage in that area and taken possession of part of the territory of the State. On 24 October, the Government of India heard of a major raid from the Frontier Province of the Dominion of Pakistan into the valley of Kashmir. Some two thousand or more fully armed and equipped men came in motor transport, crossed over to the territory of the State of Jammu and Kashmir, sacked the town of Muzaffarabad, killing many people, and proceeded along the Jhelum Valley road towards Srinagar, the summer capital of the Jammu and Kashmir State. Intermediate towns and villages were sacked and burnt, and many people killed. These raiders were stopped by Kashmir State troops near Uri, a town some fifty miles from Srinagar, for some time, but the invaders got round them and burnt the power house at Mahora, which supplied electricity to the whole of Kashmir.

"3. The position, on the morning of 26 October, was that these raiders had been held by Kashmir State troops and part of the civil population who had been armed, at a town called Baramulla. Beyond Baramulla there was no major obstruction up to Srinagar. There was immediate danger of these raiders reaching Srinagar, destroying and massacring large numbers of people, both Hindus and Muslims. The State troops were spread out all over the State and most of them were deployed along the Western border of Jammu Province. They had been split up into small isolated groups and were incapable of offering effective resistance to the raiders. Most of the State officials had left the threatened area and the civil administration had ceased to function. All that stood between Srinagar and the fate which had overtaken the places en route followed by the raiders was the determination of the inhabitants of Srinagar, if all communities, and practically without arms, to defend themselves. At this time Srinagar had also a large population of Hindu and Sikh refugees who had fled there from West Punjab owing to communal disturbances in that area. There was little doubt that these refugees would be massacred if the raiders reached Srinagar.

"4. Immediately after the raids into the Jammu and Kashmir State commenced, approaches were informally made to the Government of India for the acceptance of the accession of the State to the

Indian Dominion. (It might be explained in parenthesis that Jammu and Kashmir form a State whose ruler, prior to the transfer of power by the United Kingdom to the Dominions of India and Pakistan, had been in treaty relations with the British Crown which controlled its foreign relations and was responsible for its defence. The Treaty relations ceased with the transfer of power on 15 August last, and Jammu and Kashmir like other States acquired the right to accede to either Dominion.)

"5. Events moved with great rapidity, and the threat to the Valley of Kashmir became grave. On 26 October the Ruler of the State, His Highness Maharaja Sir Hari Singh, appealed urgently to the Government of India for military help. He also requested that the Jammu and Kashmir State should be allowed to accede to the Indian Dominion. An appeal for help was also simultaneously received by the Government of India from the largest popular organization in Kashmir, the National Conference headed by Sheikh Mohamed Abdullah. The Conference further strongly supported the request for the State's accession to the Indian Dominion. The Government of India were thus approached, not only officially by the State authorities, but also on behalf of the people of Kashmir, both for military aid and for the accession of the State to India.

"6. The grave threat to the life and property of innocent people in the Kashmir Valley and to the security of the State of Jammu and Kashmir that had developed as a result of the invasion of the Valley demanded immediate decision by the Government of India on both the requests. It was imperative on account of the emergency that the responsibility for the defence of the Jammu and Kashmir State should be taken over by a Government capable of discharging it. But, in order to avoid any possible suggestion that India had utilized the State's immediate peril for her own political advantage, the Government of India made it clear that once the soil of the State had been cleared of the invader and normal conditions restored, its people would be free to decide their future by the recognized democratic method of a plebiscite or referendum which, in order to ensure complete impartiality might be held under international auspices.

"7. The Government of India felt it their duty to respond to the appeal for armed assistance because:

1. they could not allow a neighbouring and friendly State to be compelled by force to determine either its internal affairs or its external relations;
2. the accession of the Jammu and Kashmir State to the Dominion of India made India really responsible for the defence of the State.

"8. The intervention of the Government of India resulted in saving Srinagar. The raiders were driven back from Baromulla to Uri and are held there by Indian troops. Nearly 19,000 raiders face the Dominion forces in this area. Since operations in the Valley of Kashmir started, pressure by the raiders against the Western and South-Western border of the Jammu and Kashmir State has been intensified. Exact figures are not available. It is understood, however, that nearly 15,000 raiders are operating against this part of the State. State troops are besieged in certain areas. Incursions by the raiders into the State territory, involving murder, arson, loot and the abduction of women, continue. The booty is collected and carried over to the tribal areas to serve as an inducement to the further recruitment of tribesmen to the ranks of the raiders. In addition to those actively participating in the raid, tribesmen and others, estimated at 100,000, have been collected in different places in the districts of West Punjab bordering the Jammu and Kashmir State, and many of them are receiving military training under Pakistan nationals, including officers of the Pakistan Army. They are looked after in Pakistan territory, fed, clothed, armed and otherwise equipped, and transported to the territory of the Jammu and Kashmir State with the help, direct and indirect, of Pakistan officials, both military and civil.

"9. As already stated, the raiders who entered the Kashmir Valley in October came mainly from the tribal areas to the Northwest of Pakistan and, in order to reach Kashmir, passed through Pakistan territory. The raids along the South-west border of the State, which had preceded the invasion of the valley proper, had actually been conducted from Pakistan territory

and Pakistan nationals had taken part in them. This process of transmission across Pakistan territory and utilization of that territory as a base of operations against the Jammu and Kashmir State continues. Recently, military operations against the Western and South-western borders of the State have been intensified, and the attackers consist of nationals of Pakistan as well as tribesmen. These invaders are armed with modern weapons, including mortars and medium machine guns, wear the battle dress of regular soldiers and, in recent engagements, have fought in regular battle-formation and are using the tactics of modern warfare. Man-pack wireless sets are in regular use and even mark V mines have been employed. For their transport the invaders have all along used motor vehicles. They are undoubtedly being trained and to some extent led by regular officers of the Pakistan Army. Their rations and other supplies are obtained from Pakistan territory.

"10. These facts point indisputably to the conclusion

- a. that the invaders are allowed transit across Pakistan;
- b. that they are allowed to use Pakistan territory as a base of operations;
- c. that they include Pakistan nationals;
- d. that they draw much of their military equipment, transportation and supplies (including petrol) from Pakistan; and
- e. that Pakistan officers are training, guiding and otherwise actively helping them.

There is no source other than Pakistan from which they could obtain such quantities of modern military equipment, training or guidance. More than once, the Government of India had asked the Pakistan Government to deny to the invaders facilities which constitute an act of aggression and hostility against India, but without any response. The last occasion on which this request was made was on 22 December, when the Prime Minister of India handed over personally to the Prime Minister of Pakistan a letter in which the various forms of aid given by Pakistan to the invaders were briefly recounted and the Government of Pakistan were asked to put an end to such aid promptly; no reply to this letter has yet been received in spite of a telegraphic reminder sent on 26 December

"11. It should be clear from the foregoing recital that the Government of Pakistan are unwilling to stop the assistance in material and men which the invaders are receiving from Pakistan territory and from Pakistan nationals including Pakistan Government personnel, both military and civil. This attitude is not only unneutral, but constitutes active aggression against India, of which the State of Jammu and Kashmir forms a part.

"12. The Government of India have exerted persuasion and exercised patience to bring about a change in the attitude of Pakistan. But they have failed, and are in consequence confronted with a situation in which their defence of the Jammu and Kashmir State is hampered ~~and~~ their measures to drive the invaders from the territory of the State are greatly impeded by the support which the raiders derive from Pakistan. The invaders are still on the soil of Jammu and Kashmir and the inhabitants of the State are exposed to all the atrocities of which a barbarous foe is capable. The presence, in large numbers, of invaders in those portions of Pakistan territory which adjoin parts of Indian territory other than the Jammu and Kashmir State is a menace to the rest of India. Inasfinite continuance of the present operations prolongs the agony of the people of Jammu and Kashmir, is a drain on India's resources and a constant threat to the maintenance of peace between India and Pakistan. The Government of India have no option, therefore, but to take more effective military action in order to rid the Jammu and Kashmir State of the invader.

"13. In order that the objective of expelling the invader from Indian territory and preventing him from launching fresh attacks should be quickly achieved, Indian troops would have to enter Pakistan territory; only thus could the invader be denied the use of bases and cut off from his sources of supplies and reinforcements in Pakistan. Since the aid which the invaders are receiving from Pakistan is an act of aggression against India, the Government of India are entitled, under International Law, to send their armed forces across Pakistan territory for dealing effectively with the invaders. However, as such action might involve armed conflict with Pakistan, the Government of

India, ever anxious to proceed according to the principles and aims of the Charter of the United Nations, desires to report the situation to the Security Council under Article 35 of the Charter. They feel justified in requesting the Security Council to ask the Government of Pakistan:

1. to prevent Pakistan Government personnel, military and civil, from participating or assisting in the invasion of the Jammu and Kashmir State;
2. to call upon other Pakistan nationals to desist from taking any part in the fighting in the Jammu and Kashmir State;
3. to deny to the invaders: (a) access to and use of its territory for operations against Kashmir, (b) military and other supplies, (c) all other kinds of aid that might tend to prolong the present struggle.

"14. The Government of India would stress the special urgency of the Security Council taking immediate action on their request. They desire to add that military operations in the invaded areas have, in the past few days, been developing so rapidly that they must, in self-defence, reserve to themselves the freedom to take, at any time when it may become necessary, such military action as they may consider the situation requires.

"15. The Government of India deeply regret that a serious crisis should have been reached in their relations with Pakistan. Not only is Pakistan a neighbour but, in spite of the recent separation, India and Pakistan have many ties and many common interests. India desires nothing more earnestly than to live with her neighbour-state on terms of close and lasting friendship. Peace is to the interest of both States; indeed to the interests of the world. The Government of India's approach to the Security Council is inspired by the sincere hope that, through the prompt action of the Council, peace may be preserved.

"16. The text of this reference to the Security Council is being telegraphed to the Government of Pakistan." Ends.

I am, Sir,

Your obedient Servant,

(P.P. Filled)

Representative of India to the United Nations.

(S/646, 15 January 1948)

LETTER FROM THE MINISTER OF FOREIGN
AFFAIRS OF PAKISTAN ADDRESSED TO THE
SECRETARY-GENERAL DATED 15 JANUARY
1948 CONCERNING THE SITUATION IN
JAMMU AND KASHMIR

Sir,

I have the honour to forward the following documents:

Document - I being Pakistan's reply to the complaint preferred by India against Pakistan under Article 35 of the Charter of the United Nations.

Document - II a statement of disputes which have arisen between India and Pakistan and which are likely to endanger the maintenance of international peace and order; Pakistan being a member of the United Nations has the honour to bring these to the attention of the Security Council under Article 35 of the Charter of the United Nations.

Document - III which contains a statement of the particulars of Pakistan's case with reference to both the matters dealt with in Documents I and II.

2. It is requested that these documents may be placed before the Security Council and that the Security Council may be requested to deal with the complaint referred to in Document II at the earliest possible date. It is further requested that all action required by the rules in connection with these documents may kindly be taken as early as possible.

I have the honour to be,

Sir,

Your most obedient servant,

Minister of Foreign Affairs,
Government of Pakistan,

GOVERNMENT OF PAKISTAN
DOCUMENT I
PAKISTAN'S REPLY TO INDIA'S COMPLAINT

1. The Government of India have under Article 35 of the Charter of the United Nations, brought to the notice of the Security Council the existence of a situation between India and Pakistan in which the maintenance of international peace and security is likely to be endangered. The situation in their view is due 'to the aid which the invaders consisting of nationals of Pakistan and of tribesmen from the territory immediately adjoining Pakistan on the North-West are drawing from Pakistan for operations against Jammu and Kashmir State which acceded to the Dominion of India and is a part of India'. They have requested the Security Council 'to call upon Pakistan to put an end immediately to the giving of such assistance which is an act of aggression against India'. They have also threatened that if Pakistan does not do so, the Government of India may 'enter Pakistan territory in order to take military action against the invaders'.

2. The specific charges which the India Government has brought against Pakistan are:

- (a) that the invaders are allowed transit across Pakistan territory;
- (b) that they are allowed to use Pakistan territory as a base of operations;
- (c) that they include Pakistan nationals;
- (d) that they draw much of their military equipment transport and supplies (including petrol) from Pakistan, and
- (e) that Pakistan officers are training, guiding and otherwise helping them.

3. While the particulars of Pakistan's case are set out in Document III, the Pakistan Government emphatically deny that they

are giving aid and assistance to the so-called invaders or have committed any act of aggression against India. On the contrary and solely with the object of maintaining friendly relations between the two Dominions the Pakistan Government have continued to do all in their power to discourage the tribal movement by all means short of war. This has caused bitter resentment throughout the country, but despite a very serious risk of large scale internal disturbances the Pakistan Government have not deviated from this policy, In circumstances which will become clear from the recital of events set out in Document III, it may be that a certain number of independent tribesmen and persons from Pakistan are helping the Azad Kashmir Government in their struggle for liberty as volunteers, but it is wrong to say that Pakistan territory is being used as a base of military operations. It is also incorrect that the Pakistan Government are supplying military equipment, transport and supplies to the 'invaders' or that Pakistan officers are training, guiding and otherwise helping them.

GOVERNMENT OF PAKISTAN
DOCUMENT II
PAKISTAN'S COMPLAINT TO THE UNITED NATIONS

1. For some time past a situation has existed between the Dominion of India and the Dominion of Pakistan which has given rise to disputes that are likely to endanger the maintenance of international peace and security. Under article 35 of the Charter of the United Nations, the Government of Pakistan hereby bring to the attention of the Security Council the existence of these disputes and request the Security Council to adopt appropriate measures for the settlement of these disputes and the restoration of friendly relations between the two countries.
2. While the particulars of the background and circumstances out of which these disputes have arisen are set out in Document III, a brief statement of these disputes is:

A. In anticipation of the award of the Boundary Commission set up under the Indian Independence Act, 1947, to effect a demarcation of boundaries between East and West Punjab and East and West Bengal, an extensive campaign of 'genocide' directed against the Muslim population of East Punjab, Delhi, Ajmer, and the States of Kapurthala, Faridkot, Jind, Nabha, Patiala, Bharatpur, Alwar and Gwalior, etc. was undertaken by the non-Muslim Rulers, people, officials, police and armed forces of the States concerned and the Union of India beginning in the month of June 1947 which is still in progress. In the course of the execution of this well-planned campaign large numbers of Muslims - running into hundreds of thousands - have been ruthlessly massacred, vastly larger numbers maimed, wounded and injured and over five million men, women and children have been driven from their homes into neighbouring areas of Western Pakistan. Brutal and unmentionable crimes have been committed against women and children. Property worth thousands of millions of rupees has been destroyed, looted and forcibly taken possession of. Larger numbers of Muslims have, by extreme violence and the threat of violence, been compelled to make declarations renouncing their faith and adopting the Sikh or

Hindu faith. Vast numbers of Muslim shrines and places of worship have been desecrated, destroyed or converted to degrading uses. For instance in the State of Alwar no single Muslim place of worship has been left standing. Among other results of this campaign, the most serious has been to drive into Western Pakistan territory over five million Muslims in an extreme condition of destitution, a very large proportion of whom are faced with death owing to privation, disease and the rigorous climate of Western Pakistan during the winter. Apart from the appalling volume of human misery and suffering involved, the economy of Western Pakistan has been very prejudicially affected by the incursion of these vast numbers of refugees. These events have established that the religion, culture and language of the 35 million Muslims within the Union of India, and indeed their very existence is in danger, as not only have the Government of India failed to provide adequate protection to the Muslims in areas which have been referred to above, but the Police and the armed forces of the Union of India and the rulers of the States concerned, have actively assisted in the massacre and other atrocities committed upon the Muslim population.

B. In September 1947, the States of Junagadh and Manavadar acceded to, as they were entitled to do under the agreed scheme of partition and the Indian Independence Act, 1947, and thus became part of Pakistan and entitled to the benefits of the standstill agreement between Pakistan and India. As soon as the accession was announced India started a war of nerves against these two States and certain other smaller States in Kathiawar, whose intention to accede to Pakistan was well known. A so-called 'provisional' Government of Junagadh was set up in Bombay with the connivance of the Government of India and the active aid of its officials and later transferred its headquarters to Rajkot in Kathiawar where it proceeded to occupy forcibly property belonging to the Junagadh State and ejected Junagadh officials therefrom. The forces of the Indian Union, along with the forces of certain Hindu States in Kathiawar in accession with the Indian Union invested the State of Junagadh in all directions on the landward side and rendered it practically impossible for the State authorities and for the Muslim population of the State to hold any communication

with the outside world through normal channels. The running of Jammu and Kashmir railways and the post and telegraph services of the State vis-a-vis the rest of the country were virtually put an end to. By the adoption of various devices a state of panic was created inside the State, the object of which was to bring the administration to a standstill. Eventually the forces of the Indian Union marched into the State under the excuse of an alleged invitation from the Dewan (Prime Minister) of the State. With the entry of these forces into the State was inaugurated an orgy of massacre and looting directed against the Muslim population of the State. A reign of terror was thus set up which still continues.

This action on the part of the Government of India amounted to a direct attack upon and aggression against Pakistan which Pakistan was entitled to repel by force. Pakistan, however, refrained from taking military action in the hope that the situation could be satisfactorily resolved by conciliatory means. This hope has, in spite of a continued series of protests and representations by Pakistan, proved vain. If the situation is not now firmly handled and satisfactorily resolved there would be no course left open to Pakistan but to take appropriate military action to clear these States of India's armed forces and to restore the States to their lawful rulers.

C. The States of Jammu and Kashmir, which on the south and west is contiguous to Western Pakistan and has a Muslim population of nearly 80 per cent and a Hindu ruler, entered into a standstill agreement with Pakistan in the latter half of August 1947. The territory of the State was purchased by the great grandfather of the present Ruler from the East India Company in 1816 for 7.5 million rupees and ever since the Muslim population of this State has been oppressed and exploited by its Hindu Dogra Rulers. On several occasions the Muslim population has risen in rebellion against its oppressors, but these risings have always been mercilessly suppressed. The Maharajah was thus aware that any attempt by him to accede to the Union of India would not be tolerated by his people and would provoke violent

reactions and uprisings throughout the State which he would be unable to control with the help of his own forces. Apparently he entered into the standstill agreement with Pakistan to secure his communications, all of which ran through Pakistan, and also a continuation of his supplies which could only be moved through Pakistan. The State obtained a narrow outlet into East Punjab and thus into the Union of India as the result of the most unfair and unjust Boundary Award of Sir Cyril Redcliffe. The Maharajah's own desire, as subsequent events have proved beyond a doubt, was to accede to the Union of India, but he dared not take that step for fear of the well-known attitude of the overwhelming majority of his people and the consequences to which such a step might expose him. The device adopted by him was to ally the feelings of his Muslim subjects by means of the standstill agreement and then to bring about a state of affairs which would furnish him with an excuse to call in the military aid of the Union of India and thus transfer to the Government of India the responsibility of dealing with his people. In order to carry this plan into effect massacres of the Muslim population of the State by armed bands of Sikhs and Hindus and by the forces of the Maharajah were started in the latter half of September and provoked risings of the Muslim population in different parts of the State. The tragic events and the happenings in East Punjab and the Sikh and Hindu States in and around that Province had convinced the Muslim population of Kashmir and Jammu State that the accession of the State to the Indian Union would be tantamount to the signing of their death warrant. When the massacres started the Muslim population of the State realized that the fate that had overtaken their co-religionists in Kapurthala, Faridkot, Nabha, Jind, Patiala, Bharatpur and Alwar, etc. was about to overtake them also. A wave of terror thus ran throughout the State and the neighbouring districts of West Punjab and the North West Frontier Province. In their desperate situation the Muslim population of the State decided to make a final bid for liberty and indeed for their very existence, in which they had the full sympathy of their relations and fellow Muslims in the neighbouring districts of Pakistan. Several thousands of the Muslim people of the State, particularly in the

area of Poonch, had served in support of the cause of the United Nations during the second World War, and they decided to sell their lives dearly in the struggle with which they were now faced. The Maharajah made this the excuse to "access" to the Union of India and the Government of India thereupon landed its troops in the State without consultation with or even any notice to the Government of Pakistan with whom the State had concluded a standstill agreement and to the territories of which it was contiguous throughout practically the whole of its southern and western border. The Pakistan Government made several efforts to bring about an amicable settlement of the situation but everyone of these was rejected by the Maharajah and the Government of India. In the meantime the Muslim population of the State are being subjected to an intensified campaign of persecution and oppression in areas which are in the occupation of the Indian forces.

The Muslim population of the State have set up an Azad (Free) Kashmir Government, the forces of which are carrying on their fight for liberty. It is possible that these forces have been joined by a number of independent tribesmen from the tribal areas beyond the North West Frontier Province and persons from Pakistan including Muslim refugees from East Punjab who are nationals of the Indian Union.

The allegation made by the Indian Government that the Pakistan Government is affording aid and assistance to the Azad Kashmir forces, or that those forces have bases in Pakistan territory, or that these forces are being trained by Pakistan officers, or are being supplied with arms or material by the Pakistan Government are utterly unfounded.

On the contrary, armed bands from the State have repeatedly carried out incursions and raids into Pakistan territory and the air force of the Indian Union has on several occasions bombed Pakistan areas causing loss of life and damage to property. Protests made by the Pakistan Government of India have passed unheeded. Attacks by units of the Indian Air Force over Pakistan territory have been described as due to errors of judgment. These attacks still continue.

It has been announced by the Government of India that it is their intention after restoring 'order' in the State to carry out a plebiscite to ascertain the wishes of the people in the matter of the accession of the State to India or to Pakistan. Anybody having the most superficial knowledge of the conditions that have prevailed in the State during the last 100 years would not hesitate to affirm that 'a plebiscite held while the Sikh and Hindu armed bands and the forces of the Union of India are in occupation of the State and are carrying on their activities there, would be no more than a farce. A free' plebiscite can be held only when all those who have during the last few months entered the State territory from outside, whether members of the armed forces or private have been cleared out of the State, and peaceful conditions have been restored under a responsible, representative and impartial administration. Even then care must be taken that all those that have been forced or compelled to leave the State since the middle of August 1947 are restored to their homes as it is apprehended that in the Jammu Province and elsewhere whole areas have been cleared of their Muslim population,

D. Ever since the announcement of the decision to carry out a partition of the sub-continent of India into Pakistan and India, those responsible for giving effect to the 'decision on behalf of India have adopted an attitude of obstruction and hostility towards Pakistan, one of the objects being to paralyse Pakistan at the very start by depriving it of its rightful share of financial and other assets. Even in cases in which agreement was reached the implementation thereof was either delayed or sabotaged altogether. This has been illustrated conspicuously by India's failure to implement the clauses of the settlement arrived at between Pakistan and India early in December 1947 and announced on 9 December, comprising the division of military stores, cash balances and other matters. Particulars of some of the instances in which India has committed default in implementing its obligations are set out in paragraphs 26 to 29 of Document III.

E. In its complaint preferred to the Security Council under Art. 35 of the Charter of the United Nations India now threatens Pakistan with direct attack,

3. To sum up, Pakistan's complaint against India is:
 1. That India has never wholly and fully accepted the partition scheme and has, since June 1947, been making persistent attempts to undo it;
 2. that a pre-planned and extensive campaign of 'genocide' has been carried out, and is still in progress against Muslims in certain areas which now form part of the Indian Union, notably East Punjab, Delhi, Ajmer, and the States of Kapurthala, Faridkot, Jind, Nabha, Patiala, Bharatpur, Alwar, and Gwalior, etc., which are in accession with India, by the non-Muslim rulers, people, officials, police and armed forces of the States concerned and of the Union of India;
 3. that the security, freedom, well-being, religion, culture and language of the Muslims of India are in serious danger;
 4. that Junagadh, Mangrochar and some other States in Kathiawar, which have lawfully acceded to Pakistan and form part of Pakistan territory have been forcibly and unlawfully occupied by the armed forces of the Indian Union and extensive damage has been caused to the life and property of the Muslim inhabitants of these States, by the armed forces, officials and non-Muslim nationals of the Indian Union;
 5. that India obtained the accession of the State of Jammu and Kashmir by fraud and violence and that large scale massacre and looting and atrocities on the Muslims of Jammu and Kashmir State have been perpetrated by the armed forces of the Maharajah of Jammu and Kashmir and the Indian Union and by the non-Muslim subjects of the Maharajah and of the Indian Union;

6. that numerous attacks on Pakistan territory have been made by the Royal Indian Air Force, by armed bands from the Indian Union and the State of Jammu and Kashmir;
 7. that India has blocked the implementation of agreements relating to or arising out of partition between India and Pakistan including the withholding of Pakistan's share of cash balances and military stores;
 8. that under pressure from the Government of India, direct or indirect, the Reserve Bank of India is refusing to honour to the full its obligations as Banker and Currency Authority of Pakistan, and that such pressure is designed to destroy the monetary and currency fabric of Pakistan;
 9. that India now threatens Pakistan with direct military attack;; and,
 10. that the object of the various acts of aggression by India against Pakistan is the destruction of the State of Pakistan.
4. The Pakistan Government request tins Security Council:
1. to call upon the Government of India.
 - (a) to desist from acts of aggression against Pakistan;
 - (b) to implement without delay all agreements between India and Pakistan including the financial settlement arrived at between India and Pakistan and announced on 9 December 1947, with regard to the division of the cash balances and military stores of the pre-partition Government of India and other matters.
 - (c) to desist from influencing or putting pressure directly or indirectly on the

Reserve Bank of India in regard to the discharge of its functions and duties towards Pakistan;

2. to appoint a Commission or Commissions.

(a) to investigate the charges of mass destruction of Muslims in the areas now included in the Indian Union, to compile a list of the Rulers, officials, and other persons guilty of 'genocide' and other crimes against humanity and abetment thereof, and to suggest steps for bringing these persons to trial before an international tribunal;

(b) to devise and implement plans for the restoration to their homes, lands and properties of Muslim residents of the Indian Union who have been driven out of or have been compelled to leave, the Indian Union and seek refuge in Pakistan, to assist in the relief and rehabilitation of such refugees; to secure the payment to them by the Indian Union of due compensation for the damage and injuries suffered by them and to take effective steps for the future security, freedom and well-being of Muslims in India and for the protection of their religion, culture and language;

(c) to arrange for the evacuation from Junagadh, Manavadar and other States of Kathiawar which have acceded to Pakistan of the military force³ and civil administration of the Indian Union and to restore these States to their lawful Rulers;

(d) to assist the restoration to their homes, lands and properties of residents of the States referred to in (c) who have fled from, or have been driven out of such States, and for payment of compensation by the Indian Union for loss or damage caused by the unlawful actions and activities of the military forces, civil officials and nationals of the Indian Union in these States;

- (e) to arrange for the cessation of fighting in the State of Jammu and Kashmir; the withdrawal of all outsiders whether belonging to Pakistan or the Indian Union including members of the armed forces of the Indian Union; the restoration and rehabilitation of all Muslim residents of the Jammu and Kashmir State as on 15 August 1947, who have been compelled to leave the State as a result of the tragic events since that date, and the payment to them by the Indian Union of due compensation for the damage and injuries suffered by them; to take steps for the establishment of an impartial and independent administration in the State of Jammu and Kashmir, fully representative of the people of that State; and thereafter to hold a plebiscite to ascertain the free and unfettered will of the people of the Jammu and Kashmir State as to whether the State shall accede to Pakistan or to India; and,
- (f) to assist in and supervise the implementation of all agreements arrived at between India and Pakistan in pursuance of the decision to partition the sub-continent of India and to resolve any differences in connection therewith.

5. In conclusion the Pakistan Government wish to assure the Security Council and the Government of India of their earnest desire to live on terms of friendship with India and to place the relations between the two countries on the most cordial, co-operative and friendly basis. This happy state of affairs so earnestly desired by Pakistan can only be achieved through a just and satisfactory settlement of the differences that at present unfortunately divide the two countries. Any attempt to settle any of these questions in isolation from the rest is bound to end in frustration and might further complicate a situation already delicate and full of explosive possibilities. Friendly and cordial relations can only be restored by the

elimination of all differences that are at present generating friction and causing exacerbation. The disputes to which the attention of the Security Council has been drawn in this document are all inter-related and are specific manifestations of the spirit that is poisoning the relationship between the two countries. The restoration of this relationship to a healthy and amicable state depends entirely upon a just and fair settlement of every one of these disputes being simultaneously achieved. Pakistan hopes and trusts that this will be secured as speedily as possible through the Security Council.

GOVERNMENT OF PAKISTAN
DOCUMENT III
PARTICULARS OF PAKISTAN'S CASE

1. The Pakistan Government are glad that the Government of India have chosen to make a reference to the Security Council. In fact they have for some time been of the view that this is the only feasible method of peacefully settling the differences between the two countries. They have already unsuccessfully tried over a period of many months to seek a solution of the disputes between the two Dominions by the methods described in Article 33 of the Charter.
2. India has chosen to confine the reference to the Security Council to one single aspect of the Kashmir question which ignores the basic and fundamental issues affecting the State of Jammu and Kashmir. But even the Kashmir episode in all its aspects is but one link in the chain of events which has been unfolding itself ever since it became obvious that there was no solution of the Hindu-Muslim problem except the partition of India. A reference to the Security Council must therefore cover much larger ground and embrace all the fundamental differences between the two Dominions.
3. The story begins as early as the middle of 1946 following the demonstration of Muslim solidarity throughout the country after the last Provincial elections. It then became clear that the achievement of Pakistan was the unalterable goal of the Muslims. The inevitability of the partition of the country which now became evident gave rise to a wave of deep resentment among the Hindu and Sikh population of the sub-continent. As a direct result of this severe communal rioting occurred in several towns and provinces of India such as Calcutta, Noakhali, Bihar, Bombay, Garhmukteshwar, Rawalpindi, Lahore and Amritsar. Such communal strife had not been unknown previously, but what was astonishing was the unprecedented scale of killings that took place in Bihar and Garhmukteshwar proving beyond doubt the existence of a well-settled plan of extermination of the Muslims.

It was during these disturbances that the Rashtriya Sewak Sangh came to be known as the author of some of the most brutal massacres. The orgy of blood, however, died down in due course, but, as later events proved only temporarily.

4. The political activity which took place in the early part of 1947 produced a lull, but soon after the partition plan was announced on 3 June 1947, clear indications began to be received that the country was going to be plunged into a blood bath by the fanatic Sikhs and the militant Hindu groups headed by the Rashtriya Sewak Sangh who had made no secret of their opposition to the partition scheme, in spite of its being accepted by the representatives of all the three major communities.

5. The preparations which the Sikhs were making for creating large scale disturbances were known to the authorities, and in fact the Sikh leaders made no secret of them. So overwhelming was the evidence that the Viceroy compelled to warn the Maharaja of Patiala, Master Tara Singh and the other Sikh leaders, that strong action would be taken against them. At a meeting which the Viceroy had in the beginning of July 1947 with Congress and Muslim League leaders and members of the Interim Government it was decided to arrest immediately prominent Sikh leaders including Master Tara Singh and Udharn Singh Nagoke. These arrests were however postponed on one ground or another and the Sikh plan was allowed to be put into operation with a carefully prepared attack on a special train carrying Pakistan Government employees and their families from Delhi to Karachi on 9 August 1947.

6. As the plan unfolded itself it became clear that the Sikhs encouraged and actively assisted by the Hindus had determined to liquidate by violent and bloody means the entire Muslim population of East Punjab. The object of the plan was to kill or drive out Muslims in order to settle in their place the Sikh population which was being pulled out of West Punjab under a planned scheme. The modus operandi was to disarm the Muslim population and then to leave it at the mercy of armed bands who were actively assisted by the Army and police. There is abundant evidence that this plan had the full support and active assistance not only of the officers

of the East Punjab Government but also of the Sikh States such as Patiala, Kapurthala, and Faridkot. Months before the partition of the country in August 1947, Alwar and Bharatpur had set the example, in liquidating their entire Muslim population by massacres, forced conversions on a mass scale and by driving out the rest. Patiala, Faridkot, Jind, Kapurthala, in fact, all the Hindu and Sikh States in the East Punjab followed this example with added atrocities and fresh horrors. Malerkotla, a small neighbouring State in the East Punjab, which has a majority of non-Muslims in the population and a Muslim Ruler provides a refreshing contrast since there has been no disturbance of any kind in that State and the non-Muslim population has been perfectly safe. On the other hand, Kapurthala which like Kashmir had a majority of Muslims in the population with a non-Muslim Ruler has today hardly any Muslims left. Similarly large tracts of Muslim majority areas which under the Boundary Award had been most unjustly included in East Punjab were cleared of Muslims by massacres, forced conversions and expulsions. The whole country was ravaged by fire and sword, vast numbers were butchered and countless women were abducted. Indeed, decency forbids mention of some crimes committed against women. Millions were forcibly and ruthlessly driven out of their homes. The process went on sector by sector and culminated in the tragedy that was enacted in Delhi, the capital of India. According to the Government of India themselves there was a breakdown of administration in the capital for a number of days. The destruction and desecration of mosques, tombs and holy places and forcible conversions on a mass scale were special features of these happenings. In Alwar for example every mosque has been destroyed.

7. While this vast scheme of 'genocide' was being put into execution in East Punjab and neighbouring areas the Pakistan Government made repeated efforts to persuade the Union of India to arrest its course. A number of conferences were held between the two Dominions almost invariably at the instance of the Pakistan Government but while lip-service was paid to the necessity of restoring order no serious effort was made by the Indian Government to implement their promises. In fact it became clear that they

were determined to leave no Muslims in East Punjab. The Pakistan Government appealed to the Governments of the British Commonwealth to arrange a conference to find ways and means of removing this serious threat to the peace and security of the sub-continent but the Indian Government opposed this proposal on the ground of outside interference. The Pakistan Government also proposed that United Nations observers should immediately visit the disturbed areas but this too was opposed by India.

8. This plan of liquidation of the Muslim population is still proceeding despite the pious professions of the Government of India. The latest example of this is provided by the happenings in the holy city of Ajmer, about which the Government of Pakistan had warned the India Government some weeks ahead. In this connection the Government of Pakistan find it difficult to believe that the Government of India are innocent of complicity in this vast scheme of 'genocide' started by the Sikhs and Hindus and encouraged and supported by persons in authority as a means of destroying the newly created State of Pakistan. This is amply supported by the speeches and declarations of Hindu and Sikh leaders. The Muslims of India are being subjected to calculated insults and humiliations and pressure is being brought on them by prominent Hindu leaders including Premiers of Provinces to renounce their language and culture. All sorts of tests of loyalty are being demanded from them. The one on which particular emphasis is laid is that they should denounce Pakistan and try to undo the partition and express their readiness to fight Pakistan on the side of India in the event of war between the two Dominions, which last is an indication of the future intentions of the Government of India. It is a matter of deep regret that even today responsible members of the Government of India, including the Prime Minister, openly declare their intention or hope of bringing Pakistan back into the Indian Union, well knowing that this can be done only through conquest by arms. The Pakistan Government have pointed out many times to the India Government that speeches and statements of this nature are calculated to excite and provoke the Muslims and thus impair friendly relations between the two countries; but these representations have had no effect.

Such an attitude can only mean that the Hindu and Sikh leaders while giving their agreement to the partition plan did so without any intention of permitting its implementation and, further, that India is determined to undo the settlement by all means at its disposal. In other words, Pakistan's very existence is the chief causus belli as far as India is concerned.

9. The events which took place following the announcement of the accession of Junagadh and Manavadar States to Pakistan lend further support to the contention of the Pakistan Government that the Government of India intend by all possible means at their disposal to destroy Pakistan.

10. In accordance with the agreed scheme of partition and the Indian Independence Act, 1947, Indian States were under no compulsion to accede to either of the two Dominions. Notwithstanding this clear provision the Government of India by a combination of threats and cajolery forced a number of States into acceding to the Indian Union. The Rulers of Junagadh and Manavadar were similarly threatened but they stood firm and acceded to Pakistan. This was the signal for India to launch with full force its attack, using every possible weapon in order to force the States, against their will, to change their affiliations. Protests were made to the Pakistan Government, pointing out that a State which had a Hindu majority population could not accede to Pakistan, as the country had been divided on a communal basis. Another reason given was that Junagadh, though accessible from Western Pakistan by a short sea passage, was not physically contiguous to Pakistan and that its accession to Pakistan was calculated to cause disruption in the integrity of India. Simultaneously with these protests, the Government of India put large bodies of Indian troops on the borders of Junagadh and encouraged the neighbouring Hindu States, which had acceded to India, to do likewise. In clear violation of the standstill agreement the Junagadh State was subjected to an economic blockade involving stoppage of all vital supplies, including food, cloth and coal into the State territory. Lines of communication including railway and telegraph were operated in such a manner that it became virtually impossible for the State or the Muslim

population of Junagadh to communicate with the outside world by the usual means. A strong press campaign calculated to destroy the morale of the State administration and to create panic among the population was launched both inside and outside the State.

11. Another line of attack was adopted by setting up a 'provisional government' with headquarters first at Bombay and later at Rajkot, which claimed the right to liberate the non-Muslim population of Junagadh State. The so-called 'Azad Fauj' of the provisional government was created and armed by the men and officers of the Indian Dominion. The 'provisional government' not only proceeded to seize by force State property in Rajkot but by violent means created conditions in which it became impossible for the State administration to function. At this point the Government of India sent their troops and occupied the State under the plea of an alleged 'invitation' by the Dewan. Since then an orgy of murder, arson, rape and loot has been let loose against the Muslims in the State by the military forces of India in exactly the same manner as in northern India and Muslims have had to flee from the State. It should be added that as long as the State was under the administration of the Nawab, there was no molestation of any section of the population whatever. According to newspaper reports Mr. Samaldas Ganeshi, the head of the so-called provisional government, has openly thanked the Deputy Prime Minister of India for the assistance received. All this was done in utter disregard of the international code of conduct and ordinary neighbourly decency. In the interest of peace between the two Dominions Pakistan refrained from sending a single soldier to Junagadh. Occupation by force of Junagadh which is Pakistan territory is a clear act of aggression against Pakistan. Pakistan is entitled to send its forces into Junagadh to clear out the invading forces of India by military action and in the event of the present position continuing would be under the necessity of taking such action in discharge of its obligation to the ruler and the people of Junagadh, as under the terms of the Instrument of Accession executed between Junagadh and Pakistan "Defence" is an obligation of Pakistan.

12. In the case of Manavadar not even the flimsiest show of justification was considered necessary and the State was taken under military occupation without any explanation being offered. A similar fate befell the Talukdari States of Sarangarh, Bantva, Sultanabad and Mangrol. The unfortunate Rulers of some of these States have been kept in detention and have been subjected to considerable pressure to wear them from their affiliation to Pakistan.

13. Kashmir provides the culminating illustration of the hostility of the India Government to Muslims and Pakistan and their determination to satisfy their imperialistic ambition of rule over the entire sub-continent by fascist tactics and use of naked force.

14. The State of Jammu and Kashmir was purchased by the great grand father of the present Hindu Dogra Maharaja from the East India Company in 1846 for the paltry sum of 7.5 million rupees. Nearly 80 per cent of the population of the State is Muslim but the administration, civil and military, is almost entirely in the hands of non-Muslims. The administration has been notoriously oppressive and retrograde and the Muslim population has been kept in a state of abject poverty and misery.

15. On the 15 August 1947 Jammu and Kashmir State like other States was free to accede or not to accede to either Dominion. It entered into a standstill agreement with Pakistan under which inter alia the administration of post and telegraph services was entrusted to Pakistan. Since all the natural outlets of the State fell into Pakistan all outside supplies reached the State through Pakistan.

16. In view of the communal composition of the population of the State and the continuous oppression and degradation to which they had throughout the period of Dogra rule been subjected and against which they had risen a number of times, it was perfectly obvious to the Maharajah that any attempt made by him to accede to the Union of India and thus to perpetuate the slavery of the overwhelming Muslim population of his State to Hindu rule would immediately provoke a widespread and violent uprising which he

would be utterly unable to withstand with the help of his own forces. He, therefore, chose to enter into a standstill agreement with Pakistan which served for the time being to allay the uneasiness of the Muslim population of the State and led them to hope that the standstill agreement would eventually ripen into full accession. This was, however, only a device on the part of the Maharajah to gain enough time within which to create conditions which would furnish him with a plausible excuse to call in the forces of the Indian Union so that after trampling down all popular opposition with their help he might be able to accomplish his desire of acceding to the Union of India, thus putting upon the latter the responsibility to deal with his rebellious people.

17. During September 1947 disturbing news of repression and massacres of the Muslims of the State by the Sikh armed bands and Rashtriya Sewak Sangh assisted by the Hindu Dogra police and army of the State started reaching Pakistan through Muslim refugees who sought asylum in Pakistan. Soon the number of refugees swelled and it became obvious that the happenings of the East Punjab and the States like Patiala and Kapurthala were being re-enacted in Jammu and Kashmir. At the same time the number of raids by armed bands from the State territory into Pakistan increased. The Pakistan Government repeatedly tried to discuss these questions with the Kashmir Government as well as the complaints of the Kashmir Government regarding supplies which owing to the breakdown of communications in the Punjab were not reaching the State in full. The Pakistan Government sent a representative of their Ministry of Foreign Affairs to Srinagar to discuss these matters with the State, but Mr. Mahajan, who had taken over charge as Prime Minister of the State on 15 October, refused to hold discussions with him and he had to return. On the very day that Mr. Mahajan took over charge he addressed a telegram to the Prime Minister of Pakistan threatening that unless Pakistan agreed to an impartial enquiry into the matters in dispute between the two States he would be compelled to ask for outside assistance. The Prime Minister of Pakistan at once accepted the proposal for an impartial enquiry and asked the Prime Minister of Kashmir to nominate a

representative for this purpose. The Government of Kashmir made no further reference to this matter. On 18 October, the Prime Minister of Kashmir in a communication to the Governor General of Pakistan repeated his charges against Pakistan and concluded it by saying that he wished to make it plain that the attitude of the Government of Pakistan could be tolerated no longer and that he would be justified in asking for outside assistance. On 20 October, the Governor General replied calling attention to the repeated attempts of Pakistan to maintain friendly relations with Kashmir and invited the Prime Minister of Kashmir to come to Karachi and talk things over with him. The Governor General also pointed out that the threat to call outside help amounted almost to an ultimatum and showed that the real aim of the Kashmir Government's policy was to seek an excuse to accede to the Indian Union. In the opinion of the Government of Pakistan the course of these negotiations clearly shows that the Kashmir Government had never any intention of maintaining friendly relations with Pakistan and that, at any rate, as early as 15 October, they had made up their minds to call in outside assistance in concert with the Government of India.

18. Meanwhile, the repression of Muslims in the State was increasing in intensity. Repression was followed by resistance particularly in the area of Poonch, which includes in its population 65,000 ex-soldiers who fought for the United Nations during the last world war. The resistance in its turn was sought to be put down with severer oppression until the Dogra savagery supported by the brutality of Sikhs and Rashtriya Sewak Sangh created a reign of terror in the State. In sheer desperation the Muslim population of the State broke out into open revolt in several areas and declared their independence of the Maharajah. Many of them were ruthlessly cut down and acts of indescribable horror were perpetrated by the Dogra forces of the Maharajah assisted by the Sikhs and the Rashtriya Sewak Sangh. This state of affairs naturally aroused strong feelings of sympathy throughout Pakistan where the presence of millions of Muslim refugees from East Punjab (nationals of the Indian Union) and Indian States, was an ever constant reminder of the fate which was about to overtake the Muslims

of Kashmir. Consequently, some of these refugees and other Muslims from contiguous areas who had numerous ties of relationship with the persecuted Muslims of the State, went across to assist their kinsmen in the struggle for freedom and indeed for existence itself. It is to be noted that the first outside incursion into the State occurred more than a week after the Prime Minister of Kashmir had threatened to call in outside assistance. It is clear that the sole responsibility for these events must rest on the Maharaja's Government who ordered the oppression of the Muslims as a matter of State policy on the model of what had happened in East Punjab and States like Razia, Bharatpur, Alwar, etc. In conspiracy with the India Government, they seized upon this incursion as the occasion for putting into effect the pre-planned scheme for the accession of Kashmir as a coup d'etat and for the occupation of Kashmir by the Indian troops simultaneously with the acceptance of the accession by India. The Pakistan Government have not accepted and cannot accept the accession of Jammu and Kashmir State to India. In their view the accession is based on violence and fraud. It was fraudulent inasmuch as it was achieved by deliberately creating a set of circumstances with the object of finding an excuse to state the 'accession'. It was based on violence because it furthered the plan of the Kashmir Government to liquidate the Muslim population of the State. The accession was against the well-known wishes of an overwhelming majority of the population and could not be justified on any grounds whether moral, constitutional, geographical, economic, cultural or religious.

19. For some time past the India Government have been engaged in misleading the world as to the true wishes of the people of Kashmir by playing up the National Conference and its leader Sheikh Abdullah. Sheikh Abdullah had been sentenced by the Maharaja's Government in 1946 to a long term of imprisonment on a charge of treason. He was released early in October 1947 as part of the plan to accede to India. On the other hand, the true leaders of the Muslims of the State whose only representative organization is the Muslim Conference are kept in jail on technical grounds. Their real offence is that being the true representatives of the majority of Muslims of the State they favour the accession of the State of Pakistan.

20. If the Government of India had extended to the Pakistan Government the courtesy of consulting them before embarking on their enterprise and suddenly landing troops in Kashmir, or even notifying Pakistan of their proposed action thus providing an opportunity for discussion and consultation, it might have been possible to avert the tragedy of Kashmir. The events following the forcible occupation of the State by the Indian troops more than confirmed the worst fears of the Muslims. Massacres, atrocities and crimes against women, were now committed on a scale surpassing anything which the Maharaja's forces had previously perpetrated. Jammu Province which had a majority of Muslims has today very few Muslims left in areas in the occupation of the Indian forces. The condition created by the military intervention of the Government of India served to swell the torrent of popular resentment in Pakistan to an uncontrollable degree.

21. In view of this background it is not surprising if independent tribesmen and persons from Pakistan, in particular the Muslim refugees (who, it must be remembered, are nationals of Indian Union) from East Punjab are taking part in the struggle for the liberation of Kashmir as part of the forces of the Azad Kashmir Government. In regard to the modern military equipment which is alleged to be in the possession of the Azad Kashmir Forces, to the best of the information of the Pakistan Government, these forces are poorly equipped and such few modern weapons as they possess have either been captured from the Dogras and Indian troops or have been in their possession since the days of the British. The Pakistan Government emphatically repudiate the charge that they have supplied military equipment, transport and supplies to the 'Invaders' or that Pakistan officers are training, guiding and otherwise helping them.

22. The military resistance of Azad Kashmir has no doubt come as an unpleasant surprise to the India Government who appear to have underestimated the valour and patriotism of a people stirred to their depths by the horrors perpetrated upon them and their co-religionists in certain parts of the Indian Union. The character of the terrain, the climate, the familiarity of the Azad Kashmir Forces (the bulk of whom are drawn from the State) with the country in which they

are operating, their military traditions and the military skill acquired by them during their fight on the side of the United Nations have all combined to nullify to a large extent the vastly superior equipment of the Indian forces.

23. This recital of the events in Kashmir would be incomplete without a statement of the many efforts made by the Pakistan Government to reach a peaceful settlement of this question. Immediately after the intervention of the Government of India in Kashmir on 27 October the Governor General of Pakistan arranged a conference to be attended by the two Governors General, the two Prime Ministers of the Dominions and the Maharaja and Prime Minister of Kashmir. This conference fell through owing to the indisposition of Pandit Jawaharlal Nehru, the Prime Minister of India. A second meeting was arranged for 1 November but again at the last minute Pandit Nehru could not come and only the Governor General of India came. During the discussion with the Governor General of India, the Governor General of Pakistan put forward the following proposals:

1. to put an immediate stop to fighting, the two Governors General should be authorised and vested with full powers by both Dominion Governments to issue a proclamation forthwith giving forty-eight hours' notice to the two opposing forces to cease fire. Governor General of Pakistan explained that he had no control over the forces of the Azad Kashmir Government or the independent tribesmen engaged in the fighting but that he would warn them in that if they did not obey the order to cease fire immediately the forces of both Dominions would make war on them.
2. Both the forces of the India Dominion and the outside 'invaders' to withdraw simultaneously and with the utmost expedition from Jammu and Kashmir State territory.
3. With the sanction of the two Dominion Governments the two Governors General to be given full powers to restore peace, undertake the administration of Jammu and Kashmir State and arrange for a free plebiscite without delay under their joint control and supervision.

24. No reply was received to these proposals for many days. On 2 November, however, the Prime Minister of India made it clear in a broadcast that the India Government intended to force a decision by military action and to continue their occupation and the puppet administration set up by them. The plebiscite which he has announced would be held after the complete subjugation of the State of the Indian armed forces is bound to be no more than a farce and must result in the permanent occupation of the State by India which is the aim of the India Government. All subsequent discussions between the two Dominions have proved fruitless owing to the insistence of India on keeping their troops in the State and their refusal to agree to an impartial administration as the pre-requisite of a free and unfettered plebiscite. The Pakistan Government suggested as early as 17 November that the whole matter including the retention of troops, the character of the interim administration and the holding of the plebiscite should be entrusted to the United Nations but India Government refused to accept this proposal.

25. While Pakistan is doing its best to maintain peaceful relations with India, there have been many attacks on Pakistan territory by armed bands from Jammu and Kashmir State territory supported by the forces of the Maharaja and those of the Indian Union. The Pakistan Government have sent repeated representations to the India Government on the subject but without any effect. The Royal Indian Air Force has also made numerous attacks on Pakistan territory causing considerable damage to life and property. The protests of the Pakistan Government have only elicited the assertion by the Government of India that these are minor incidents due to error of judgment by Indian airmen. The attacks have, however, continued to be persisted in.

26. India's treatment of Pakistan in respect of administrative, economic and financial matters indicates the same attitude of hostility towards Pakistan. The process of partition itself was punctuated by all manner of obstruction aimed at depriving Pakistan of its rightful share of financial and other assets, and even in cases in which agreement was reached the implementation was delayed or sabotaged. A large number of instances can be quoted in support of this statement but it will suffice to mention the following:

1. Division of military stores;
2. Division of cash balances;
3. Interference with the Reserve Bank so as to destroy the monetary and currency fabric of Pakistan.

27. To supervise the division of arms, ammunitions and military stores a Joint Defence Council was set up consisting of Lord Mountbatten, Governor General of India, as Chairman, representatives of the two successor authorities - India and Pakistan - and Field-Marshal Auchinleck, the Supreme Commander, as impartial authority to implement the decisions of the Joint Defence Council. It was estimated that the Supreme Commander would be able to complete his task by 31 March 1948. Within a very short time of the setting up of the Supreme Command, India created so hostile an atmosphere in Delhi that the Supreme Commander found it impossible to discharge his responsibilities and was forced to recommend the abolition of his headquarters long before he had completed his task. In spite of the protests of Pakistan, the Government of India succeeded in doing away with this impartial organization which could have ensured equitable distribution of the stores and proper reorganization of the armed forces. The India Government pledged their word at the time that Pakistan would get its due share of military stores. These assurances were supported by Lord Mountbatten who at a meeting of the Joint Defence Council held on 8 November stated that "he believed that in view of the unanimous endorsement given by the Indian Cabinet to the pledge that India would deliver to Pakistan the latter's full share of stores, Pakistan's principal objection had been met". This pledge like other similar pledges of the India Government has not been honoured and the slight trickle of military stores to Pakistan shows signs of stopping altogether.

28. The story of the division of cash balances is even more illustrative of the attitude of the Government of India. The cash balances of the undivided Government of India on 14 August 1947 were four-thousand million rupees. Pakistan representatives demanded that out of these one-thousand million rupees should be handed over to Pakistan as its share. Since the matter could not be settled it was decided to refer the case to the Arbitral Tribunal. In the beginning

of December 1947, however, all outstanding cases which had been referred to the Arbitral Tribunal were settled by agreement between the two Dominions and Pakistan's share of the cash balances was fixed at 750 million rupees. This financial settlement was reached on its own merits and was in no way linked with the Kashmir question or any other issue. Nevertheless India has since refused to hand over the amount until the Kashmir question is settled. India's action is made possible only by the fact that the Reserve Bank of India which holds the cash balances, is controlled and dominated by the India Government and is not functioning as it should, as a trustee of both the Dominions.

29. According to the arrangements agreed to at the time of Partition, the Reserve Bank of India was to act as Banker and Currency Authority both for the Indian Union and Pakistan. As it was realised that it would take some time for Pakistan to establish its own currency and Banking Authority and to substitute its own currency for the common currency of the pre-partition India which is in use all over the sub-continent, it was agreed that Pakistan's own currency should commence coming into use from 1 April 1948, but that a separate currency Authority should be set up by Pakistan by 1 October 1948. On the suggestion of the Reserve Bank made before the partition, it was agreed that:

(a) so long as there were notes available in the Banking Department, Pakistan should be freely allowed ways and means advances on payment of interest at one-half per cent and the only limitation on these ways and means advances would be the availability of notes in the Banking Department; and

(b) that when ways and means advances were needed by Pakistan to meet its requirements which could not be otherwise met out of its cash balances or ways and means advances, Pakistan should be able to have its currency expanded against its own ad hocs. The limit for such ad hocs was fixed at 30 million rupees. It was agreed as a part of financial settlement between India and Pakistan announced on 9 December 1947, that India would not object to the removal of this top-limit

if the Reserve Bank did not raise any objection.

Such 22 notes were to be retired against the Pakistan share of the assets of the Reserve Bank in its Issue Department.

Under pressure from the Government of India, direct or indirect, the Reserve Bank is now refusing to honour to the full its obligations. This pressure is continuing and is designed to destroy the monetary and currency fabric of Pakistan, thus endangering the safety of the State.

30. Not content with these various acts of hostility and aggression against Pakistan, the Government of India now threaten Pakistan with a direct military attack.

ANNEX 46

(S/726, 22 April 1948)

&SOLUTION ON THE INDIA-PAKISTAN QUESTION SUBMITTED JOINTLY
BY THE REPRESENTATIVES OF BELGIUM, CANADA, CHINA,
COLOMBIA, THE UNITED KINGDOM AND
THE UNITED STATES OF AMERICA, ADOPTED AT THE
TWO HUNDRED AND EIGHTY-SIXTH MEETING OF THE SECURITY COUNCIL
21 APRIL 1948

THE SECURITY COUNCIL,

Having considered the complaint of the Government of India concerning the dispute over the State of Jammu and Kashmir, having heard the representative of India in support of that complaint and the reply and counter complaints of the representative of Pakistan,

Being strongly of opinion that the early restoration of peace and order in Jammu and Kashmir is essential and that India and Pakistan should do their utmost to bring about a cessation of all fighting,

Noting with satisfaction that both India and Pakistan desire that the question of the accession of Jammu and Kashmir to India or Pakistan should be decided through the democratic method of a free and impartial plebiscite,

Considering that the continuation of the dispute is likely to endanger international peace and security;

Reaffirms the Council's Resolution of January 17th,

Resolves that the membership of the Commission established by the Resolution of the Council of January 20th, 1948, shall be increased to five and shall include in addition to the membership mentioned in that Resolution, representative of -- and -- and that if the membership of the Commission has not been completed within ten days from the date of the adoption of this Resolution the President of the Council may designate such other member or members of the United Nations as are required to complete the membership of five,

Instructs the Commission to proceed at once to the Indian sub-continent and there place its good offices and mediation at the disposal of the Governments of India and Pakistan with a view to

facilitating the taking of the necessary measures, both with respect to the restoration of peace and order and to the holding of a plebiscite by the two Governments, acting in Go-operation with one another and with the Commission and further instructs the Commission to keep the Council informed of the action taken under the Resolution, and to this end,

Recommends to the Governments of India and Pakistan the following measures as those which in the opinion of the Council are appropriate to bring about a cessation of the fighting and to create proper conditions for a free and impartial plebiscite to decide whether the State of Jammu and Kashmir is to accede to India or Pakistan.

A. Restoration of Peace and Order

1. The Government of Pakistan should undertake to use its best endeavours:

(a) To secure the withdrawal from the State of Jammu and Kashmir of tribesmen and Pakistani nationals not normally resident therein who have entered the state for the purposes of fighting and to prevent any intrusion into the State of such elements and any furnishing of material aid to those fighting in the State.

(b) To make known to all concerned that the measures indicated in this and the following paragraphs provide full freedom to all subjects of the State, regardless of creed, caste, or party, to express their views and to vote on the question of the accession of the State, and that therefore they should co-operate in the maintenance of peace and order.

2. The Government of India should:

(a) When it is established to the satisfaction of the Commission set up in accordance with the Council's Resolution of 20 January that the tribesmen are withdrawing and that arrangements for the cessation of the fighting have become effective, put into operation in consultation with the Commission a plan for withdrawing their own forces from Jammu and Kashmir and reducing them progressively to the minimum strength required for the support of the civil power in the maintenance of law and order,

(b) Make known that the withdrawal is taking place in stages and announce the completion of each stage;

(c) When the Indian forces shall have been reduced to the minimum strength mentioned in (a) above, arrange in consultation with the

Commission for the stationing of the remaining forces to be carried out in accordance with the following principles:

- (i) That the presence of troops should not afford any intimidation or appearance of intimidation to the inhabitants of the State,
- (ii) That as small a number as possible should be retained in forward areas,
- (iii) That any reserve of troops which may be included in the total strength should be located within their present Base area.

3. The Government of India should agree that until such time as the plebiscite administration referred to below finds it necessary to exercise the powers of direction and supervision over the State forces and police provided for in Paragraph 8 they will be held in areas to be agreed upon with the Plebiscite administrator.

4. After the plan referred to in paragraph 2(a) above has been put into operation, personnel recruited locally in each district should so far as possible be utilized for the re-establishment and maintenance of law and order with due regard to protection of minorities, subject to such additional requirements as may be specified by the Plebiscite Administration referred to in paragraph 7.

5. If these local forces should be found to be inadequate, the Commission, subject to the agreement of both the Government of India and the Government of Pakistan, should arrange for the use of such forces of either Dominion as it deems effective for the purpose of Pacification.

B. Plebiscite

6. -The Government of India should undertake to ensure that the Government of the State invite the major political groups to designate responsible representatives to share equitably and fully in the conduct of the administration at the ministerial level, while the plebiscite is being prepared and carried out.

7. The Government of India should undertake that there till be established in Jammu and Kashmir a Plebiscite Administration to hold a Plebiscite as soon as possible on the question of the decision of the State to India or Pakistan.

8. The Government of India should undertake that there will be delegated by the State to the Plebiscite Administration such powers as the latter considers necessary for holding a fair and impartial plebiscite including, for that purpose only, the direction and supervision of the State forces and police.

9. The Government of India should at the request of the Plebiscite Administration make available from the Indian forces such assistance as the Plebiscite Administration may require for the performance of its functions.

10. (a) The Government of India should agree that a nominee of the Secretary-General of the United Nations will be appointed to be the Plebiscite Administrator.

(b) The Plebiscite Administrator, acting as an officer of the State of Jammu and Kashmir, should have authority to nominate his assistants and other subordinates and to draft regulations governing the Plebiscite. Such nominees should be formally appointed and such draft regulations should be formally promulgated by the State of Jammu and Kashmir.

(c) The Government of India should undertake that the Government of Jammu and Kashmir will appoint fully qualified persons nominated by the Plebiscite Administrator to act as special magistrates within the State judicial system to hear cases which in the opinion of the Plebiscite Administrator have a serious bearing on the preparation for and the conduct of a free and impartial plebiscite.

(d) The terms of service of the Administrator should form the subject of a separate negotiation between the Secretary-General of the United Nations and the Government of India. The Administrator should fix the terms of service for his assistants and subordinates.

(e) The Administrator should have the right to communicate direct with the Government of the State and with the Commission of the Security Council and, through the Commission with the Security Council, with the Governments of India and Pakistan and with their Representatives with the Commission. It would be his duty to bring to the notice of any or all of the foregoing (as he in his discretion may decide), any circumstances arising which may tend, in his opinion, to interfere with the freedom of the Plebiscite.

11. The Government of India should undertake to prevent and to give full support to the Administrator and his staff in preventing any threat, coercion or intimidation, bribery or other undue influence on the voters in the plebiscite, and the Government of India should publicly announce and should cause the Government of the State to announce this undertaking as an international obligation binding on all public authorities and officials in Jammu and Kashmir.

12. The Government of India should themselves and through the Government of the State declare and make known that all subjects of the State of Jammu and Kashmir, regardless of creed, caste or party, will be safe and free in expressing their views and in voting on the question of the accession of the State and that there will be freedom of the Press, speech and assembly and freedom of travel in the State; including freedom of lawful entry and exit.

13. The Government of India should use and should ensure that the Government of the State also use their best endeavours to effect the withdrawal from the State of all Indian nationals other than those who are normally resident therein or who on or since 15 August 1947 have entered it for a lawful purpose.

14. The Government of India should ensure that the Government of the State release all political prisoners and take all possible steps so that:

(a) all citizens of the State who have left it on account of disturbances are invited, and are free, to return to their homes and to exercise their rights as such citizens;

(b) there is no victimization;

(c) minorities in all parts of the State are accorded adequate protection.

15. The Commission of the Security Council should at the end of the plebiscite certify to the Council whether the plebiscite has or has not been really free and impartial.

C. General Provisions

16. The Governments of India and Pakistan should each be invited to nominate a Representative to be attached to the Commission for such assistance as it may require in the performance of its task.

17. The Commission should establish in Jammu and Kashmir such observers as it may require of any of the proceedings in pursuance of the measures indicated in the foregoing paragraphs.

18. The Security Council Commission should carry out the tasks assigned to it herein.

ANNEX 47

(S/AC.12/PA.3, 11 February 1949)

MINUTES OF THE INTERDOMINION COMMANDERS-IN-CHIEF
CONFERENCE HELD 1. TARMY HEADQUARTERS, IFDI.4, ON
15 JANUARY 1949.

PRESENT

INDIA:

General K.M. Cariappa, OBE, Commander-in-Chief, Indian Army.
Lt. Gen. S.H. Shrinagesh, C.O.C. in C. Western Command.
Maj. Gen. Kalwant Singh, Chief of the General Staff.

OBSERVER:

Lt. Gen. D. Russell, CB, CBE, DSO, MC. Adviser General Staff, India.

PAKISTAN:

General Sir Douglas Gracey, KCIE, CB, CBE, MC,
Commander-in-Chief, Pakistan Army.
Brig. M. Shor Khan, MC. Director, Military Operations.

SECRETARIES:

Lt. Col. S.P. Kapila, MC. Military Assistant to C. in C.
Indian Army.
Lt. Col. A.J. Wilson, FBE, MC, GSO I (C. in C and COS Sectt)
GHQ Pakistan.

In attendance for item I:

Lt. Gen. M. Delvois Military Adviser to UNCI

1. INTRODUCTORY

Opening the conference, Commander-in-Chief, Indian Army said this was his first big job on assuming his new appointment. The conference was merely of an exploratory nature except in so far as Part I of the United Nations Commission for India and Pakistan resolution was concerned. It was hoped that as a result of the conference it would be possible for the two Commanders-in-Chief to submit mutually agreed recommendations in respect of Part II to their respective Governments. After referring to

the terms of the United Nations Commission for India and Pakistan resolution, Commander-in-Chief Indian Army said that India had already withdrawn one squadron of the RIAF, and orders had already been issued regarding thinning out Indian Army troops from the forward areas. Commander-in-Chief Pakistan Army, after emphasising that so far as Pakistan was concerned, discussions on Part II of the resolution were also of an exploratory nature, stated that Pakistan had also begun to withdraw.

2. Decisions reached by the Conference:

(A) In respect of Part I of UNCIP Resolution:

i) 'It was agreed that the Cease-fire in Jammu and Kashmir should be advanced from an informal to a formal basis.

ii) It was agreed that the following action should be taken in order to further the satisfactory implementation of the Cease-fire;-

- a) The local Commanders in the area CHOTTAKAZINAG, RICHMARGALI and MAROL were authorised to make, any slight adjustments in their dispositions to which they might mutually agree in order to avoid minor incidents. If the local Commanders did not consider adjustment necessary, or were unable to reach agreement, they would remain in their present positions,
- b) Pakistan Army required the use of the road MIRPUR-JHANGIR-KOTLI for the maintenance of their troops. Similarly, Indian Army required the use of the road DOONCH - URI for the same purpose. It was agreed that the local Commanders should confer for the purpose of reaching mutual agreement on a satisfactory method of achieving these two objects!

(B) In respect of Part II of UNCIP Resolution:

It was agreed that the following proposals for the implementation of Part II of the UNCIP Resolution should be referred by the Commanders-in-Chief for approval to their respective Governments:-

i) In order to create an atmosphere in which it will be possible for UNCIP to proceed with Part III of their resolution, the suggested plan is that:-

a) all raiders should be withdrawn as soon as possible from the State of Jammu and Kashmir.

b) The Azad Kashmir Forces should be relieved in the forward areas by Pakistan regular forces and concentrated in the rear areas. Pakistan nationals in the Azad Kashmir Forces would then be withdrawn from the State of Jammu and Kashmir. At the same time Pakistan Army would adjust their dispositions so that only the barest minimum of regular troops were left on the existing cease-fire line, the bulk being withdrawn.

c) It was agreed that both the Indian and Pakistan Armies would give all facilities to the UNCIP required for the establishment of observer teams in the area of Jammu and Kashmir. It was suggested that observer groups should be formed consisting of neutral observers appointed by UNCIP, each with one Indian and one Pakistani officer.

d) Regarding withdrawal of Pakistan Army, see UNCIP Resolution Part II, para E(1).

3. C. in C. Pakistan Army strongly recommended that in order to ensure without question that the spirit of the UNCIP Resolution Part II is carried out, the following should also be agreed to by the Indian Government:-

a) From those members of the present Azad Forces who were national of Jammu and Kashmir State a Civil Armed Force should be formed as directed by the UNCIP for the purpose of maintaining law and order in the area at present occupied by Pakistan troops and Azad Kashmir Forces; this Civil Armed Force to be under the control of the UNCIP, and that a small Pakistan Army nucleus should be appointed to supervise the training and orientation of this Force and to ensure compliance with the orders of UNCIP. This nucleus of regular Pakistan Army personnel should be with-

drawn when UNCIT was satisfied with the organisation of the Civil Armed Forces.

- b) That when the Civil Armed Force has been satisfactorily organised this force would be stationed as directed by the UNCIT for the purpose of maintaining law and order. When this Force was ready to assume its duties the Pakistan screen of regular troops mentioned in para R(i) (b) above would be withdrawn.

C-in-C Indian Army undertook to bring this recommendation to the notice of the Government of India.

4. Communication of decisions to Lt. Gen. M. Delvoie
Military Advisor, UNCIT.

Lt. Gen. M. DELVOIE then entered the conference and Commander-in-Chief Indian Army explained the decisions and recommendations which had been agreed. He emphasised that this information was being communicated to Gen. DELVOIE at this stage for information only. Gen. DELVOIE thanked the Conference for informing him of their decisions and recommendations and communicated his satisfaction at the agreements which had been reached.

5. Exchange of Prisoners :

It was decided that all prisoners of war should be exchanged as soon as it was possible. Commander-in-Chief Pakistan will exchange regular and State Force troops man for man for similar Pakistan troops and Azad Forces in Indian Army hands. When all raiders and Pathans who were at present in civil custody in India were ready to be exchanged, the remainder of the Indian Regular and State Force troops in Attock camp will be exchanged for them. There will be NO question of man for man in this 1st exchange. GEN Pakistan pointed out that owing to climatic conditions it would not be possible at this juncture to repatriate prisoners of war at present in GILGIT and at SPAROU. Pakistan Army, however, undertook to make the best arrangements it could to administer these prisoners comfortable until it was possible to repatriate them to India.

6. Return of Abducted Women:

Commander-in-Chief India raised the question of the return of abducted women (of service personnel) and said that already 8 or 10 had

be sent back by the Indian Army to Pakistan. Commander-in-Chief Pakistan said that orders had been issued and he would inform Commander-in-Chief India of progress. He asked Commander-in-Chief India to let him have details of individual cases. DMO Pakistan pointed out the difficulty of obtaining the return of women who had been abducted by tribesmen and asked Commander-in-Chief India to bear this in mind.

7. Maintenance of detachments in the Kishenganga Area:

The Indian Army agreed to permit the maintenance of Azad element in the Kishenganga Valley (GURALS Sector) by air because of the detachments being cut off by snow.

8. Reported cases of burning of villages in Jammu and Kashmir:

India agreed to make arrangements for Pakistan observers to fly in light aircraft over areas where the burning of villages was alleged in order to see for themselves the true state of affairs.

/s/ A.J. Wilson
Lieut-Colonel
GSO I (C.in.C and COS Sectt)
GHQ Pakistan
(A.J. Wilson)
15th January 1949

/s/ S.F. Kapila
Lieut-Colonel
Military Assistant to
C.in.C Indian Army
(S.F. Kapila)
15th January 1949.

SECRET

(S/C.12/207, 1 June 1949)

LETTER DATED 18 MAY 1949 FROM THE SECRETARY-GENERAL, GOVERNMENT OF INDIA, TO THE CHAIRMAN OF THE COMMISSION IN REPLY TO THE COMMISSION'S TRUCE TERMS OF 28 APRIL 1949.

Excellency,

I have the honour to refer to Mr. Pai's letter, dated the 2nd May, 1949, in which it was stated that the Government of India would give the proposals that accompanied your letter of the 28th April, 1949, their most urgent and serious consideration, but that, because of the absence of the Hon'ble the Prime Minister, Government's reply might be delayed by a few days. The Commission's proposals have now been fully examined by the Hon'ble the Prime Minister and his colleagues in the light of your conversation with him, with Shri Gopalaswami Ayyangar and with me, and the Government of India's reply is as follows.

2. Disbanding and disarming of the so-called "Azad Kashmir" forces.

In my letter No, 253-PA3G/49, dated the 17th April, I explained that, since the disbanding and disarming of these forces had been repeatedly challenged, the Government of India would have preferred this matter to be dealt with in the truce agreement itself. They desired, however, to meet the Commission's views as far as possible. They had, therefore, expressed the wish that the assurance regarding the disbanding and disarming of these forces contained in the aide memoire of the conversation of 22nd December between the Prime Minister of India on the one hand and Ambassador Colban and Your Excellency on the other, should be made clear beyond any doubt. This is still their position. But neither in the Commission's latest proposals nor in your covering letter is this assurance given, much less placed beyond all doubt. On the other hand, Your Excellency has stated categorically that the Commission cannot at this stage deal with the question of disbanding and disarming the "Azad Kashmir" forces.

In my letter of the 17th April, it had also been suggested that discussions to implement the assurance should begin as soon as possible and decisions should be taken not later than the completion of the

withdrawal of Pakistan troops (seven weeks) mentioned in the Commission proposals communicated to the Government of India on the 28th April. Regarding this suggestion, all that is indicated in Your Excellency's letter under reply is an early study of the matter for which the Commission "will enter into consultations...with the 'local authorities' regarding the disposal of the armed forces in the territory evacuated by Pakistan troops with a view to initiating implementation of point 4(b) of the Commission's Resolution of 5th January 1949".

In III(C) of the latest proposals, reference is made to what the Commission propose to do if decisions are reached within the period of seven weeks. Nothing is said, however, as to what is to happen if no decisions are reached within this period; presumably, the arrangements for the plebiscite will be proceeded with even if the 32 "Azad Kashmir" battalions remain intact after the withdrawal of the Indian and Pakistan troops, an eventuality which could not be reconciled with the agreed objective that the plebiscite should be free and impartial.

Roth from the standpoint of the security of the State, which the Commission has agreed is the responsibility of the Government of India, and the freedom and impartiality of the plebiscite, which is an agreed objective, the Government of India are convinced that the disbanding and disarming of "Azad Kashmir" forces should not be left in a state of uncertainty or be, hereafter, the subject of challenge and dispute as it has been on the part of those who speak for Pakistan. It is therefore, of the utmost importance:

(1) That the agreement of the Government of Pakistan should be obtained now to the disbanding and disarming of these 32 battalions. The Commission has already agreed to large-scale disbanding and disarming and has informed the Government of Pakistan that this is its objective. It should not therefore be difficult, if Pakistan has accepted this objective, to obtain its agreement,

(2) The discussions regarding the procedure and phasing of the disbandment and disarming should commence immediately after the truce is signed. Decisions on a programme designed to achieve this objective should be taken as soon as possible.

(3) The phasing of the withdrawal of Indian troops be not divorced from, and should depend on, the progress made with the actual disbanding and disarming of the "Azad Kashmir" forces.

3. Treatment of the sparsely populated and mountainous areas in the North

The position of the Government of India with regard to the sparsely populated and mountainous regions in the north was explained to the Commission in the Prime Minister's letter to Mr. Korbul on this subject dated the 20th August. To quote the relevant sentence, the Government of India expressed their desire that "after Pakistan troops have withdrawn from the territory, the responsibility for the administration of the evacuated areas should revert to the Government of Jammu and Kashmir and that for defence to the Government of India". In paragraph 8 of my letter, dated the 15th April, it was pointed out that although Pakistan forces, both regular and irregular, may be withdrawn from this area, a large number of men armed by Pakistan would remain and would constitute a threat and a menace to the security of the valley of Kashmir and to the trade with Central Asia of the Jammu and Kashmir State. The persistence with which infiltration is being carried out in this region by forces under the control of Pakistan is convincing proof of the reality of this menace. (Reports of specific incidents have been furnished regularly to the Commission's military adviser and to the military observers but the Government of India are not aware that any action has been taken to check these violations of the 'cease fire'). That, under the Commission's proposals, Pakistan forces, both regular and irregular, would be withdrawn from this part of the State cannot by itself eliminate the danger of the 'locals' who have been armed by Pakistan menacing internal security among law-abiding citizens of the area and indulging in raids into the valley and in armed interference with the State's trade with Central Asia. Individual or even small groups of observers posted by the Commission would find it extremely difficult to detect and could not prevent such incursions. The expanse of the area will render this impossible. The Government of India, therefore, maintain that the principle that Indian troops should garrison important strategic points should be accepted. The points to be so occupied can be the subject of discussion with the Commission. The question of the administration of this area might be left over for the time being.

4. As regards the other proposals, the Government of India feel that, in view of what has been said in the preceding paragraphs which deal with the major issues, comment at this stage is unnecessary,

5. Your Excellency's letter of the 28th April urges "unreserved acceptance" by the Government of India of the terms forwarded with that letter. The Government of India have found themselves unable to accede to this request. They have reached this conclusion with a full sense of their responsibility. Twice, namely in August and in December 1948, they have given proof, to the Commission and to the United Nations, of their desire to reach a peaceful settlement of the Kashmir dispute, by accepting the Commission's Resolution of the 13th August, 1948, and the proposals, dated 11th December 1948, which were subsequently embodied by the Commission in its Resolution of the 5th January 1949. If they find themselves unable now to accept the Commission's latest proposals as they stand, it is through no lessening of their desire for a peaceful solution of the dispute but because they have come to the conclusion that these proposals do not make adequate provisions for the security of the State, security which, as they have repeatedly made clear to the Commission, they regard as a 'paramount and ineluctable responsibility. It is now for the Commission to decide whether they will revise their proposals in the light of paras 2 and 3 of this letter.

Please accept, Excellency, the assurances of my highest consideration.

/s/ G. S. Bajpai

Secretary-General

(S/AC.12/209, 1 June 1949)

LETTER DATED 30 MAY 1949 FROM THE MINISTER WITHOUT PORTFOLIO,
GOVERNMENT OF PAKISTAN, TO THE CHAIRMAN OF THE COMMISSION IN
REPLY TO THE COMMISSION'S TRUCE TERMS OF 28 APRIL 1949

Excellency,

I have the honour to refer to His Excellency, Minister Lozano's
letter dated 28 April, 1949 enclosing the Commission's truce terms.

2. Before expressing their views on the Commission's truce terms, the
Pakistan Government desire to make a few preliminary observations.

First, it is common ground that the Commission's Resolutions of
13 August 1948 and 5 January 1949, which have been accepted by both the
Governments of India and Pakistan, constitute an agreed solution of the
Kashmir question by means of a free and impartial plebiscite, and that
no addition to, or modification of, these Resolutions can be made without
the agreement of the Governments of India and Pakistan and the Commission.
It follows that the provisions of the truce agreement should be confined
to the implementation of Parts I and II of the Commission's Resolution of
13 August 1948.

Secondly, the Pakistan Government have always been, and still are,
determined to implement in full all their commitments under the Commission's
resolutions of 13 August 1948 and 5 January 1949. They trust that the
Government of India would also implement in full all the commitments
accepted by them under these resolutions.

Thirdly, as the Commission is aware, the Pakistan Government do not
consider themselves bound by any clarifications or elucidations which may
have been given by the Commission to the Government of India, but which
were not put to and accepted by the Pakistan Government.

3. The Pakistan Government have given their most careful consideration
to the Commission's truce terms, and their reactions to them are set out
in the succeeding paragraphs.

Cease-fire Line (Paragraphs I A, B and C).

4. The Pakistan Government accept the cease-fire line drawn on the map annexed to the Commission's truce terms, and agree that the line between Chakothi and Tithwal, and from Chorwan to the north of Dras should be similarly demarcated by the Military Adviser to the Commission on the basis of the factual positions occupied by the forces on both sides on 1 January 1949. They also agree that the Military Adviser to the Commission may decide upon local adjustments of the cease-fire line in cases where no agreement is reached between the local Commanders. It was explained in the Commission's letter dated 16 April 1949 that "the Military Adviser will base his determinations upon military and factual considerations, other considerations being beyond his competence". Further, it is understood that the adjustments being local would be of a minor character.

The Pakistan Government have already submitted relevant data to the Military adviser to the Commission in regard to the undemarcated sectors of the cease-fire line, and they would be glad to furnish any further information that may be required.

The demarcation of the cease-fire line is provided for in Part I of the Commission's Resolution of 13 August 1948 and should not be held up because of any delay in arriving at an agreement with regard to truce arrangements under Part II of the Resolution. The Pakistan Government understand that the Commission is fully alive to the urgency of this question, and that the demarcation of the cease-fire line will be complete as soon as possible.

Northern Area (Paragraph I D.)

5. The Pakistan Government understand -

- (i) that the territory referred to in paragraph I.D of the truce terms is the area of the State north of the cease-fire line, with the exception of Gilgit Sub-division and Gilgit Agency;
- (ii) that the contingency in which the defence of this area might become necessary is hypothetical and highly remote;

- (iii) that such a contingency could arise only in the case of aggression by a Foreign Power, or an incursion by tribesmen from the North-West Frontier of Pakistan, and that the provision of this paragraph would not be invoked for the maintenance of law and order or for dealing with a situation of internal unrest.
 - (iv) that any report from the Government of India on the subject would be verified independently by the Commission's own observers before the Commission and/or the Plebiscite Administrator arrive at the conclusion that the defence of the area is necessary;
 - (v) that if the Commission and/or the Plebiscite Administrator conclude that the defence of the area is necessary, it is open to them to take any action that they consider appropriate in the particular circumstances of the case, that a request to the Government of India for posting their troops at specified points is only one of the possible courses of action and that they are not precluded from seeking the advice of the Pakistan Government and the assistance of Pakistan forces should circumstances, in their view, warrant such a course;
 - (vi) that the Commission does not intend, in actual practice, to take any action under this paragraph, without consultation with the Plebiscite Administrator, and
 - (vii) that, even if the posting of Indian garrisons at specified points is decided upon, the administration of the area will not be handed over to the Government of India, or to the Maharaja's Government, and that civil or military officials of either of these Governments would in no circumstances be introduced into this area for the purpose of administration or control.
6. The views of the Pakistan Government with regard to this proposal have been stated at great length in their letters dated 23 and 26 April and 6 May 1949, and are summarized below.
- (a) The proposal to allow in certain contingencies the posting of Indian garrisons at specified points in this area is not in accord with clause E, 2 of Part II of the Commission's resolution of 13 August 1948, which permits the retention of Indian troops only within the lines in existence at the moment of the cease-fire.

(b) The proposal also conflicts with the assurance given by the Commission on 31 August 1948 that neither Government of India nor the Maharaja's Government will be permitted to send any military or civil officials to the evacuated territory. In its letter of 3 September 1948 to the Foreign Minister of Pakistan the Commission explained that the term "evacuated territory" used in paragraph A.3 of Part II of the Resolution of 13 August 1948 "refers to those territories in the State of Jammu and Kashmir which are at present under the effective control of the Pakistan High Command". The area north of the cease-fire line has been as much under the effective control of the Pakistan High Command as the area south of the cease-fire line.

The assurance that no civil or military official of the Government of India or of the Maharaja's Government would be sent to the evacuated territory was conveyed to all the people in the "evacuated territory", whether north or west of the cease-fire line, and was an important factor in inducing the people of these territories to stop fighting.

(c) The proposal appears to be unnecessary in view of the following considerations:

Even hypothetically, the threat envisaged might arise either from tribesmen or from a Foreign Power. The first contingency should be ruled out in view of the assurance given by the Pakistan Government that they would deal effectively within their own borders with any possibility of tribal incursions.

As regards the second contingency, it has been explained to the Commission that on account of the very difficult terrain, and the fact that the mountain passes remain snow-bound for most of the year, neither of the two main trade routes leading into this area from Central Asia could be used for military operations of any magnitude.

Of these two trade routes, much the more important one (Kashgar - Hunza - Gilgit) passes through Gilgit Agency and Gilgit Sub-division which are to remain under the control of Pakistan. A threat to this route would therefore have to be dealt with in any case by Pakistan. The second and minor trade route (Yarkand - Leh - Kargil) which has to cross the Karakoram Pass (18,240 feet high) traverses territory which is already under Indian control. Any threat to this route could therefore be dealt with effectively by India without the necessity of posting Indian troops in the "Northern area".

The local authorities responsible for the administration and security of this area should be capable of meeting any minor threat with the help of their local forces which have successfully withstood the repeated assaults of the Indian Army. A major threat due to aggression by a Foreign Power would be a threat to the security of the entire Indo-Pakistan sub-continent, and to the peace of the world and would thus be a matter for the Security Council to consider and to take appropriate measures. The Commission would agree that no authority other than the Security Council is competent to sanction measures to deal with such a situation.

(d) In view of its stronger strategic position, and better lines of communication, and the fact that the population of this area is wholly Muslim, Pakistan is more vitally interested in, and is in a much better position than India to safeguard the security of this area. The Muslim population of this area is so opposed to the imposition of Indian rule that the mention of a proposal to post Indian garrisons in certain contingencies is likely to create serious unrest among them. The actual posting of Indian garrisons in any part of this territory would have still more disastrous effects on the peace and tranquility of the area and, far from ensuring security against foreign attack, it would result in a war of resistance, thus creating conditions facilitating foreign intervention.

7. In view of the considerations summarized above, the Pakistan Government submit that the proposal contained in paragraph i.D of the truce terms is not in accord with the Commission's Resolution of 13 August 1948 is unnecessary and, far from assuring peace and tranquility in this area, is likely to create conditions of unrest and insecurity.

Withdrawal of Troops (Paragraphs II A, B and C)

8. The withdrawal of troops is the central feature of Part II of the Commission's Resolution of 13 August 1948 which calls for the following action:-

- (i) withdrawal of tribesmen.
- (ii) withdrawal of such Pakistan nationals as have entered the State of Jammu and Kashmir for the purpose of fighting,
- (iii) withdrawal of Pakistan troops and of the bulk of Indian troops in accordance with a synchronized programme.

9. The Pakistan Government have carried out successfully the difficult and delicate operation of ensuring the withdrawal of the tribesmen in advance of the truce agreement, although this obligation arises only after the signing of the truce agreement. No better proof could be afforded of the sincere desire of the Pakistan Government to take all steps possible to promote peace and tranquility in the State and to pave the way, as rapidly as possible, for the holding of a free and impartial plebiscite. The second obligation mentioned in paragraph 8 (ii) above is also in the process of implementation.

It is understood that the Commission's Military Adviser has called for reports from his observers with regard to the withdrawal of tribesmen and Pakistan nationals who had entered the State for the purpose of fighting, and that on the basis of this investigation the Commission will be in a position, after the signing of the truce agreement, to notify the Government of India of the discharge of these obligations by Pakistan. The Commission would then be able to fix a date for the beginning of the withdrawal of the Pakistan troops, and another for that of the bulk of the Indian forces from the State of Jammu and Kashmir.

10. The only important matter left to be dealt with in the truce agreement is the withdrawal of Pakistan troops and of the bulk of Indian troops in accordance with a synchronized programme. In its letter of 27 August 1943, the Commission stated that "synchronization of the withdrawal of the armed forces of the two Governments would be arranged between the respective High Commands and the Commission". This meant that the Commission would arrange with the Pakistan High Command the synchronization of the withdrawal of the armed forces of the two Governments and also do the same thing with the Indian High Command. Such a procedure is the only practical way of ensuring that the withdrawals of Indian and Pakistan forces proceed in corresponding stages without advantage to either side at any time during the truce period and without temptation to either side to violate the truce either by restarting hostilities or by halting or slowing down the withdrawal.

11. Under the Commission's truce proposals the Pakistan Government have to withdraw all their forces within seven weeks in accordance with the schedule which has been laid down in paragraph II.A (i) of the truce terms, and communicated to the Government of India. The Pakistan Government, on the other hand, have not been shown the schedule of withdrawal of the Indian

forces and have thus been placed at a disadvantage vis-à-vis India which has full information of the withdrawal programme of both the forces. The only positive information given to the Pakistan Government is that the time allowed for the withdrawal of Indian forces is longer than the seven weeks laid down for the complete withdrawal of Pakistan forces. They are not even sure that the schedule of withdrawal of the Indian forces submitted by the Commission for the agreement of the Government of India is firm and not subject to alterations. The Pakistan representatives have been given to understand that there will be no change in the composition of the 'bulk' of the Indian forces as given in the schedule already submitted to the Government of India, nor in the time allowed for the withdrawal of the 'bulk', but that there might be some alterations in the stages of withdrawal, although such changes, if any, would be minor and limited by the Commission's assurance given in the letter under reply that the schedules of withdrawal of the Pakistan troops and of the bulk of the Indian forces will be faithful to the Commission's Resolution of 13 August 1948 and represent a co-ordination of timing which in the view of the Commission will constitute a synchronized action.

12. The truce terms relating to the withdrawal of the Pakistan and Indian forces do not appear to the Pakistan Government to fulfil the undertaking given by the Commission that it would arrange with the Pakistan High Command a synchronization of the withdrawal of the two armed forces. In consequence, the Pakistan Government have no information as to the strength and composition of the bulk of the Indian forces to be withdrawn, nor of the time during which these forces will withdraw from the State. They have also no information regarding the stages of withdrawal of the Indian forces corresponding to the stages of the withdrawal of the Pakistan forces or of the position on the Indian side at the end of seven weeks when Pakistan forces will have completely withdrawn from the State. They have also no information as to the strength, composition or location of the Indian forces allowed under paragraph B.2 of Part II of the Commission's Resolution of 13 August 1948 to assist the local authorities in the observance of law and order, and have thus been deprived of the opportunity to place their views before the Commission on the subject, vide the Commission's letter of 3 September 1948 to the Foreign Minister of Pakistan. The Pakistan Government have not been even told the reasons for which, in spite of repeated requests, they have been denied information on these vital points without which they cannot, in reason, be expected to take

a decision. The only fact known to them, namely, that the time allowed for the withdrawal of the bulk of the Indian forces is longer than the time allowed for the withdrawal of the Pakistan Army, appears to them to nullify the provision for a synchronized withdrawal promised by the Commission and to create a disequilibrium of forces after the period of seven weeks allowed for the withdrawal of the Pakistan Army.

Disposal of the Indian and State forces and of
Azad Kashmir forces (paragraph III B and C)

13. The Pakistan Government understand that the discussions envisaged in paragraphs III B and C are with a view to initiating implementation of points 4 (a) and (b) of the Commission's Resolution of 5 January 1949 under which decisions regarding the final disposal of Indian and State forces on the one hand, and of Azad Kashmir forces on the other, are to be taken by the Commission and the Plebiscite Administrator. It is understood that it is the Commission's intention to associate the Plebiscite Administrator with these discussions from the outset even though he may not have been formally appointed to office by then. Further it is understood that the Plebiscite Administrator would reach the Indo-Pakistan sub-continent at a very early date, and that his formal appointment will be made as soon as possible.

14. Paragraph III.C of the truce terms provides that if decisions are reached in the consultations envisaged in paragraph III.B of the Commission's truce proposals, the schedule of withdrawal of the Pakistan Army may be extended to three months in order to facilitate the implementation of decisions relating to point 4 (b) of the Commission's Resolution of 5 January 1949. It is understood that the Pakistan Army would be expected during this extended time only to reorganize the Azad Kashmir forces so as to facilitate the implementation of decisions relating to point 4 (b) of the Commission's Resolution of 5 January 1949 and not actually to implement those decisions within that period of time. In other words, the actual implementation of the decisions will start only after Parts I and II of the Commission's Resolution of 13 August 1948 have been fully implemented.

15. In the view of the Pakistan Government it is essential that the Plebiscite Administrator be associated with the discussions under paragraphs III.B and C of the Commission's truce terms since such discussions relate to the provisions of paragraph 4 (a) and (b) of the

Commission's Resolution of 5 January 1949. The decisions reached in these discussions will have a vital bearing on the freedom of the plebiscite, and it is therefore of the utmost importance that the Plebiscite Administrator should participate in these discussions. The Pakistan Government strongly urge that the Plebiscite Administrator should be appointed at as early a date as possible.

General Provisions (Paragraphs III. F and G)

16. It is understood that the Commission is fully alive to the importance of taking concrete steps, such as the release of political prisoners and the abrogation of emergency laws to implement the declaration under paragraph III of the truce terms. The Pakistan Government trust that the Commission will do everything possible for the restoration of human and political liberty in the State in actual practice. Unless the public declaration envisaged in paragraph III. F is followed immediately by concrete action, the psychological effect on the people of the State would be of a highly undesirable character.

17. The Pakistan Government are unable to appreciate how the introduction of paragraph III. G in the Commission's truce terms could be regarded as an implementation of Part II of the Commission's Resolution of 13 August 1948 which makes no mention at all of the subject matter of this paragraph. It is suggested that this paragraph which unnecessarily introduces a highly controversial matter should be omitted from the truce terms.

Conclusion

18. The Pakistan Government are sincerely desirous of advancing to the plebiscite stage as early as possible and to this end they wish to assure the Commission of their wholehearted co-operation in the tasks devolving upon the Commission and the Plebiscite Administrator. In pursuance of this policy they are anxious that the truce agreement leading to the withdrawal of the armed forces should be concluded at as early a date as possible. Since this is an essential preliminary to the holding of a plebiscite they have, as the Commission is aware, carried out an important part of their obligations in effecting the withdrawal of tribesmen and almost all Pakistan nationals who had entered the State for the purpose of fighting. They are also ready to withdraw all Pakistan troops from

the State of Jammu and Kashmir under the terms of the Commission's Resolution of 13 August 1948 as elucidated to the Pakistan Government. The Commission will, no doubt, appreciate that without knowing the schedule of withdrawal of the Indian forces on the basis of which the synchronized withdrawal of the two armed forces could be arranged, the Pakistan Government are not in a position to take a decision on the Commission's truce terms, the central feature of which is the withdrawal programme of the two armed forces. They trust that they would soon be put in a position in which they can take such a decision.

The submissions made in this letter, in particular that relating to the early appointment of the Plebiscite Administrator, have been made with a desire to facilitate the task of the Commission. The Pakistan Government trust that those submissions will meet with the approval of the Commission.

Accept, Excellency, the renewed assurances of my highest consideration.

/s/ M... GURLANI

(S/AC.12/214, 20 June 1949)

LETTER DATED 17 JUNE 1949 FROM THE SECRETARY-GENERAL, MINISTRY
OF EXTERNAL AFFAIRS, GOVERNMENT OF INDIA, TO MR. LOZANCO,
RELATING TO CONDITIONS REQUIRED IN RESPECT TO A
TRUCE AGREEMENT.

Excellency,

Pursuant to our conversation of the 11th, 13th and 16th June, I am setting out, below specifically, the conditions on which our requirements in respect of a truce agreement which was dealt with at length in my letter to Your Excellency, No. 267-PASG/49, dated the 13th May, 1949, will be met.

(i) Disbanding and disarming of Azad Kashmir forces. The commitment of the Commission with respect to the purpose of point 4 (b) of its Resolution of 5th January, namely, the large-scale disbanding and disarming of the Azad Kashmir forces remains unquestioned. The consultations for initiating the implementation of 4 (b) referred to in paragraphs III(B) and (C) of Part III of the Commission's proposals forwarded with your letter of the 28th April, 1949, will be for the purpose of reaching decisions as to the procedure and phasing of the large-scale disbanding and disarming of these forces. Further if, by the end of the seven weeks referred to in III(C) of the Commission's proposals, the Commission should find that the large-scale disbanding and disarming of these forces is impracticable, the conditions mentioned in (2) of the Commission's resolution of the 5th January, 1949, will be deemed not to have been completed.

(ii) Sparsely populated mountainous regions in the north of the State.

In para 2(b) of the annexure to my D.O. No. 248-PASG/49, dated the 13th April, I mentioned the strategic points in the north which, in the view of our Military Advisers should be held by our forces in the north in order to ensure fully the security of the State. However, we should be willing to occupy only DURDHANILL, SHARBI, SURGUN, FOZLOWAI,

KAMRI BAL PASS, BURZIL BAI and MAROL in the expectation that all Pakistan forces, regular as well as irregular, will be withdrawn from the State. Should this expectation not be realised, or should a threat to the security of the State or the maintenance of internal order arise in that area from any other source, the Government of India will be free to garrison with their forces all or any of the other points mentioned in my letter referred to above; The Government of India feel compelled to take up this position because of measures such as the construction of roads, the provision of arms and supplies to points like Skardu, of which the only significance can be that Pakistan either does *not* wish to withdraw from this territory or, after withdrawal, intends that those who stay behind can create turmoil. As stated previously, the question of the administration of *this region* can be discussed separately.

(iii) Phasing of withdrawal of Indian forces. We have already pointed out to the Commission the interdependence of the phasing of the withdrawal of Indian forces on the progress made with the disbanding and *disarming* of the so-called "Azad Kashmir" forces. From this standpoint, we consider the following programme of withdrawal as the absolute maximum compatible with security.

(At the request of the Government of India, the schedule of the withdrawal of troops is not reproduced here).

As already agreed, this programme may not be communicated to the Pakistan Government until a truce agreement has been arrived at.

Please accept, Excellency, the assurance of my highest consideration.

/s/ G.S. BAJPAI

ANNEX 51

(S/AC.12/216, 21 June 1949)

LETTER DATED 19 JUNE 1949 FROM THE SECRETARY-GENERAL, MINISTRY
OF EXTERNAL AFFAIRS, GOVERNMENT OF INDIA, TO MR. LOZANO, RELATING
TO THE INDIAN FORCES TO BE MAINTAINED IN
THE STATE

My dear Dr. Lozano,

Referring to our conversation regarding the communication, to the Government of Pakistan, of the Commission's proposal to the Government of India about the forces which they should maintain in Jammu and Kashmir at the end of three months, I have to repeat, what I told you in the course of our conversation, namely that this matter is one entirely between the Government of India and the Commission. However, as a matter of courtesy to the Commission, and in order to facilitate a settlement, the Government of India agree that, if Pakistan accepts the truce terms in accordance with what we have stated, and the Commission informs us about Pakistan's reply to these truce terms, we shall have no objection to the Commission informing the Government of Pakistan that it intends proposing to the Government of India that, at the end of three months, they (the Government of India) should maintain the forces mentioned in (iii)(c) of my letter No. 345-PASG/49, dated the 17th June, 1949.

With kind regards,

Yours sincerely,

/s/ G.S. BAJPAI

(S/AC.12/213, 16 June 1949)

LETTER DATED 11 JUNE 1949 FROM THE MINISTER WITHOUT PORTFOLIO, MINISTRY OF KASHMIR AFFAIRS, GOVERNMENT OF PAKISTAN, TO THE CHAIRMAN, RELATING TO THE ACTION OF THE GOVERNMENT OF INDIA INVITING THE GOVERNMENT OF JAMMU AND KASHMIR TO NOMINATE REPRESENTATIVES TO THE INDIAN CONSTITUENT ASSEMBLY

Excellency,

I have the honour to draw the attention of the Commission to the situation which has been created by the action of the Government of India in inviting the Government of the State of Jammu and Kashmir to nominate four representatives to the Indian Constituent Assembly,

2. As the Commission is aware the keystone of the structure of a peaceful settlement of the Kashmir dispute is the acceptance by the Governments of India and Pakistan of the principle that the question of the accession of the State of Jammu and Kashmir to India or to Pakistan should be decided by the democratic method of a free and impartial plebiscite. This position has been recognized and accepted by the two Governments, the Security Council and the Commission, and forms the basis of the Commission's resolutions of 13 August 1948 and 5 January 1949, which were accepted by the Governments of India and Pakistan.

3. The recent action of the Government of India referred to in paragraph 1 above is a clear violation of their international commitments and is contrary to the specific assurances given by them to the United Nations and Pakistan for the peaceful settlement of the Kashmir dispute.

For facility of reference certain relevant extracts from the communications and pronouncements of the representatives of the Government of India are reproduced below to show the unqualified acceptance by the Government of India of the position that the question at issue is the accession of the State of Jammu and Kashmir to India or to Pakistan, and that this issue is to be decided by means of a free and impartial plebiscite organized and conducted by the United Nations.

4. In his letter dated 27 October 1947 in reply to the offer of accession by the Maharaja of Jammu and Kashmir, Lord Mountbatten, Governor-General of India, stated: "Consistent with their policy that in the case of any State where the issue of accession has been the subject of dispute the question of accession should be decided in accordance with the wishes of the people of the State, it is my Government's wish that as soon as law and order have been restored in Kashmir and her soil cleared of the invader, the question of the State's accession should be settled by a reference to the people."

This was reiterated in the telegrams which the Prime Minister of India sent at this time to the Prime Ministers of the United Kingdom and Pakistan. In his telegram No. 402 P&in dated 27 October 1947 to the Prime Minister of the United Kingdom, which was repeated to the Prime Minister of Pakistan, Pandit Jawaharlal Nehru stated: "I should like to make it clear that the question of, aiding Kashmir in this emergency is not designed in any way to influence the State to accede to India. Our view which we have repeatedly made public is that the question of accession in any disputed territory or State must be decided in accordance with the wishes of the people and we adhere to this view."

In another telegram to the Prime Minister of Pakistan dated 1 November 1947, Mr. Nehru remarked: "I have stated our Government's policy and made it clear that we have no desire to impose our will on Kashmir but to leave final decision to the people of Kashmir. I further stated that we have agreed to an impartial international agency like United Nations supervising any referendum. This principle we are prepared to apply to any State where there is a dispute about accession."

Again in his telegram dated 8 November 1947, to the Prime Minister of Pakistan, the Prime Minister of India summed up the policy of the Government of India with regard to Kashmir problem in the following words: "It will thus be seen that our proposals which we have repeatedly stated are: (1) that the Government of Pakistan should publicly undertake to do their utmost to compel the raiders to withdraw from Kashmir; (2) that the Government of India should repeat their declaration that they will withdraw their troops from

Kashmir soil as soon as raiders have withdrawn and law and order are restored; (3) that the Government of India and Pakistan should make a joint request to UNO to undertake a plebiscite in Kashmir at the earliest possible date."

5. This continued to be India's stand when it brought the Kashmir dispute before the Security Council. The following is an extract from para. 6 of the Government of India's complaint to the Security Council: "but, in order to avoid any possible suggestion that India had utilized the State's immediate peril for her own political advantage, the Government of India made it clear that once the soil of the State had been cleared of the invader and normal conditions restored, its people would be free to decide their future by the recognized democratic method of a plebiscite or referendum which, in order to ensure complete impartiality, might be held under international auspices."

The same view was reiterated by the Indian representative in the debate in the Security Council. Speaking on 23 January 1948, Mr. Gopalaswami Ayyangar, the representative of India, observed as follows: "The Indian Government was careful, even though the request came from both (the Maharaja and Sheikh Abdulla) to stipulate that it was accepting the accession only on the condition that later, when peace has been restored, the expression of popular will should be ascertained in a proper manner." A little later he added: "and the Indian Union on the request of both the Maharaja and this popular leader (reference is to Sheikh Abdulla) has accepted the accession on the condition that I have already mentioned."

Again on 10 March 1948, Mr. Gopalaswami Ayyangar, the representative of India, resuming the debate after having obtained an adjournment from the Security Council said: "I shall take up the other points on which I thought at the time we had reached a kind of impasse (he is referring to the pre-adjournment developments). These points are, roughly speaking, related to the ensuring of a free and impartial plebiscite on the question of accession of the Jammu and Kashmir State."

During the course of this very speech the representative of India went on to observe: "We do not want there to be any pressure,

any violence, any coercion, used on even a single voter in the matter of his choice between India and Pakistan on the question of accession."

6. After a protracted debate, the Security Council adopted a resolution on 21 April 1948, the preamble of which inter alia noted with satisfaction, "that both India and Pakistan desire that the question of the accession of Jammu and Kashmir to India or to Pakistan should be decided through the democratic method of a free and impartial plebiscite." The Government of India in their letter dated 5 May 1948 to the President of the Security Council rejected this resolution on the ground that it was not possible for them "to implement those parts of the resolution against which their objections were clearly stated by their delegation." But at no stage during the debate in the Security Council, or thereafter, did the representatives of India object to the conclusion of the Security Council that the question in dispute was whether the State of Jammu and Kashmir should accede to India or to Pakistan and that this matter should be decided through the democratic method of a free and impartial plebiscite.

7. The Commission is well aware of later developments, having itself been an active participant in them. After months of hard and patient labour the Commission succeeded in securing the agreement of the Governments of India and Pakistan to its resolution of 5 January 1949. Clause 1 of the Resolution reads as follows: "The question of the accession of the State of Jammu and Kashmir to India or to Pakistan will be decided through the democratic method of a free and impartial plebiscite." It is common ground that by accepting this resolution, the Government of India and Pakistan have contracted an international agreement, which is binding on both.

8. On 27 May 1949, Mr. Gopalaswami Ayyangar, Minister for Transport (who had represented India before the Security Council) moved the following resolution in the Indian Constituent Assembly:-

"That after paragraph 4 of the Schedule to the
Constituent Assembly Rules, the following paragraph
be inserted, namely:

"4a. Notwithstanding anything contained in paragraph 4, all the seats in the Assembly allotted to the State of Kashmir may be filled by nomination and the representatives of the State to be chosen to fill such seats may be nominated by the Ruler of Kashmir on the advice of his Prime Minister."

In the course of the debate which followed, Mr. Gopalaswami Ayyangar, is reported to have observed as follows on the question of the accession of the State to India:-

"The accession is complete. No doubt we have offered to have a plebiscite taken when the conditions are created for the holding of a proper, fair and impartial plebiscite. But that plebiscite is merely for the purpose of giving the people of the State the opportunity for expressing their will. The expression of their will should be only in the direction of whether they would ratify the accession that has already taken place, not ratify in the sense that that act of ratification is necessary for the completion of the accession. But if the plebiscite produces a verdict which is against the continuance of accession to India of the Kashmir State, then what we are committed to is simply that we shall not stand in the way of Kashmir separating itself from India.

"Under the provisions of the Indian Independence Act, where a State accedes and subsequently wishes to get out of the act of accession, that is to separate itself from the main Dominion, it cannot do so except with the consent of that Dominion.

"The Government of India's commitment", Mr. Ayyangar added, "was simply that if the verdict of the plebiscite was against India, then India would not stand in the way of the wishes of the people of Kashmir being given effect to. So the statement that the accession is at present complete, is a perfectly correct description of the existing state of things. We are not bringing representatives of the State

to this House for the purpose of placing their seal on the act of accession. We are giving them an opportunity for the exercise of the rights they have obtained by the fact that accession has already taken place."

9. Mr. Gopalaswami Ayyangar's resolution was adopted by the Constituent Assembly but not without misgivings in the minds of some members who realized that this meant a reversal of the policy hitherto followed by the Government of India with regard to Kashmir. Maulana Hasrat Mohani (U.P.) is reported to have made the following observations:-

"There was no need to send Kashmir representatives to the Constituent Assembly at this stage." Referring to an earlier interruption by Pandit Nehru, he added: "Pandit Nehru got angry and said that Kashmir had acceded to India and, therefore, had every right to send its representatives here. I am doubtful whether he was absolutely right in saying so, because not once or twice, but many times he has said that the accession depends on the plebiscite. Now he has made up his mind, he has created difficulty and his move is that this plebiscite will never take place. Therefore he says that the accession is complete and there is no doubt about that."

"Even admitting that accession was complete, the question of nominating representatives to the Constituent Assembly did not arise until the status of the Kashmir Government and the status of the Maharaja were decided."

Another member of the Indian Constituent Assembly (Professor LT. Shah) moved an amendment providing inter alia that the seats allocated to the Kashmir State should be filled only pending the holding of a plebiscite by the U.N. and without prejudice to the result of the plebiscite. The following extract from the report of the debate by an Indian News Agency - the A.P.I. - throws an illuminating light on the attitude now adopted by the Government of India to the questions of accession and the plebiscite:-

"When Professor Shah dealt with the portion of his amendment referring to the holding of a plebiscite and said that the

accession of the State was not complete, a point of order was raised by Dr. Pattabhi Sitaramayya (the President of the Indian National Congress) whether it could be discussed, as accession of the State was complete and unconditional. Dr. Pattabhi was supported by Pandit Nehru (the Prime Minister of India), and some other members.

"Dr. Rajendra Prasad (the President of the Indian Constituent Assembly) agreed with the objection raised and said that the motion was concerned with the representation of the State in the Assembly and the method for it. He added that Professor Shah's point was irrelevant and ruled out of order the part in Professor Shah's amendment referring to the plebiscite."

10. It has hitherto been common ground between the Governments of Pakistan and India that the question at issue regarding Kashmir is that of the accession of the State to India or Pakistan, and that this is to be decided by means of a free and impartial plebiscite of the people of Jammu and Kashmir State. This was, as set out above, the basis of the resolution of the Security Council of 21 April 1948 and of the Commission's Resolution of 5 January 1949, clause 1 of which states the position in clear and unambiguous terms. The action of the Government of India cited above and the recent pronouncements of its spokesmen, both in the Constituent Assembly and outside of it, show that India is now seeking to shift its position and to convert the question from one of accession to India or Pakistan into one of secession of the State from an accomplished, completed and unconditional accession to India.

The Pakistan Government submit that this action on the part of India is a flagrant violation of the international agreement embodied in the Commission's Resolution of 5 January 1949 and that it would, if persisted in, destroy completely the basis upon which the Security Council and the Commission have built the structure of a peaceful settlement of the Kashmir dispute.

11. The Government of Pakistan further submit that India's attempt to prejudge the constitution of the State of Jammu and Kashmir and to invite the participation of the representatives of the State in framing the constitution of India before the question of accession

of the State to India or to Pakistan has been decided, is clearly against the letter and spirit of the Commission's Resolutions of 13 August 1948 and 5 January 1949, which, after having been accepted by India and Pakistan, constitute an international agreement binding on both countries. The agreement postulates the determination of the will of the people with regard to accession by means of a free and impartial plebiscite. Only after the State's accession to India or to Pakistan has been determined can the question of the framing of its future constitution or of the participation of its representatives in the framing of the constitution of the Dominion concerned arise.

12. The Pakistan Government request that the Commission may be pleased to take prompt and effective action to remedy the situation created by the Government of India.

I would be grateful if the Commission would be so kind as to indicate to me for the information of the Pakistan Government what steps it proposes to take to stop the Government of India from pursuing a course of action, which, besides, complicating the delicate negotiations on which the Commission is at present engaged and jeopardizing the prospects of a peaceful settlement between India and Pakistan, is a challenge to the authority of the Commission, the Security Council and the United Nations. The Commission would agree that if an international agreement solemnly entered into is treated like a scrap of paper to be cast away by one of the contracting parties to suit its convenience, a dangerous precedent would be created in international relations. The Commission will also agree that the change in the policy of the Government of India with regard to the question of accession of the State of Jammu and Kashmir is likely to cause serious deterioration in Indo-Pakistan relations and thus constitute a renewed threat to international peace and security.

13. The Pakistan Government request the Commission to transmit a copy of this communication to the Security Council.

Accept, Excellency, the assurances of my highest consideration.

/s/ GURMANI

ANNEX 53

(S/AC .12/217, 22 June 1949)

LETTER DATED 20 JUNE 1949 FROM THE CHAIRMAN OF THE
COMMISSION TO THE MINISTER WITHOUT PORTFOLIO,
MINISTRY OF KASHMIR AFFAIRS, GOVERNMENT OF PAKISTAN,
RELATING TO THE ACTION OF THE GOVERNMENT OF INDIA
INVITING THE GOVERNMENT OF JAMMU AND KASHMIR TO
NOMINATE REPRESENTATIVES TO THE INDIAN CONSTITUENT
ASSEMBLY

Excellency,

I have the honour to acknowledge receipt of your letter dated 11 June 1949 in regard to the action of the Government of India inviting the Government of Jammu and Kashmir to nominate representatives to the Indian Constituent Assembly.

Your letter was submitted to the United Nations Commission and duly noted. The Commission decided that a copy of the letter shall be forwarded in due time to the Security Council for its information.

The Commission did not consider that it would serve any useful purpose at the present time to take any other steps in this matter.

Accept, Excellency, the assurances of my highest consideration.

/s/ CARLOS A. LEGUIZAMON

