

Dual Distribution

RESOLUTION FOR A CEASE-FIRE ORDER AND TRUCE AGREEMENT ADOPTED
BY THE UNITED NATIONS COMMISSION FOR INDIA AND PAKISTAN ON
13 AUGUST 1948 AND THE COMMISSION'S CORRESPONDENCE WITH THE
INDIAN AND PAKISTANI GOVERNMENTS IN RELATION TO
THE RESOLUTION.

Note by the Secretary-General

The following resolution and correspondence are circulated in accordance with a request of the United Nations Commission for India and Pakistan cabled to the Secretary-General on 6 September 1948 by his Personal Representative with the Commission.

TABLE OF CONTENTS

	PAGE
I - Resolution adopted by the United Nations Commission for India and Pakistan at its fortieth meeting on 13 August 1948.	3
II - Letter from the Government of India dated 20 August 1948 in reply to the Commission's Resolution of 13 August 1948.	6
III - Reply from the Chairman of the Commission to the letter from the Government of India dated 20 August 1948.	9
IV - Letter from the Prime Minister of India to the Chairman of the Commission, dated 20 August 1948.	10
V - Letter from the Chairman of the Commission to the Prime Minister of India in reply to his letter dated 20 August 1948.	11
VI - Letter and memorandum from the Minister of Foreign Affairs and Commonwealth relations of Pakistan to the Chairman of the Commission, dated 19 August 1948.	12

	PAGE
VII - Letter from the Chairman of the Commission in reply to letter and memorandum from the Government of Pakistan dated 19 August 1948.	20
VIII - Letter from the Chairman of the Commission to the Minister for Foreign Affairs of the Government of Pakistan further elucidating points of the Resolution of 13 August 1948.	25
IX - Letter from the Minister of Foreign Affairs and Commonwealth Relations of Pakistan to the Chairman of the Commission, dated 6 September 1948.	27
X - Letter from the Chairman of the Commission to the Minister of Foreign Affairs and Commonwealth Relations, dated 6 September 1948, in reply to his letter of the same date.	32
XI - Reply from the Minister of Foreign Affairs and Commonwealth Relations of Pakistan to the Commission's letter, dated 6 September 1948.	33

I. RESOLUTION ADOPTED BY THE UNITED NATIONS COMMISSION FOR INDIA AND
PAKISTAN AT ITS FORTIETH MEETING ON 13 AUGUST 1948

THE UNITED NATIONS COMMISSION FOR INDIA AND PAKISTAN

Having given careful consideration to the points of view expressed by the Representatives of India and Pakistan regarding the situation in the State of Jammu and Kashmir, and

Being of the opinion that the prompt cessation of hostilities and the correction of conditions the continuance of which is likely to endanger international peace and security are essential to implementation of its endeavours to assist the Governments of India and Pakistan in effecting a final settlement of the situation,

Resolves to submit simultaneously to the Governments of India and Pakistan the following proposal:

PART I

Cease-fire order

A. The Governments of India and Pakistan agree that their respective High Commands will issue separately and simultaneously a cease-fire order to apply to all forces under their control in the State of Jammu and Kashmir as of the earliest practicable date or dates to be mutually agreed upon within four days after these proposals have been accepted by both Governments.

B. The High Commands of the Indian and Pakistan forces agree to refrain from taking any measures that might augment the military potential of the forces under their control in the State of Jammu and Kashmir.

(For the purpose of these proposals "forces under their control" shall be considered to include all forces, organised and unorganised, fighting or participating in hostilities on their respective sides).

C. The Commanders-in-Chief of the forces of India and Pakistan shall promptly confer regarding any necessary local changes in present dispositions which may facilitate the cease-fire.

D. In its discretion and as the Commission may find practicable, the Commission will appoint military observers who under the authority of the Commission and with the cooperation of both Commands will supervise the observance of the cease-fire order.

E. 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.

PART II

Truce Agreement

Simultaneously with the acceptance of the proposal for the immediate

cessation of hostilities as outlined in Part I, both Governments accept the following principles as a basis for the formulation of a truce agreement, the details of which shall be worked out in discussion between their Representatives and the Commission.

A.

1. As the presence of troops of Pakistan in the territory of the State of Jammu and Kashmir constitutes a material change in the situation since it was represented by the Government of Pakistan before the Security Council, the Government of Pakistan agrees to withdraw its troops from that State.
2. The Government of Pakistan will use its best endeavour to secure the withdrawal from the State of Jammu and Kashmir of tribesmen and Pakistan nationals not normally resident therein who have entered the State for the purpose of fighting.
3. Pending a final solution, the territory evacuated by the Pakistan troops will be administered by the local authorities under the surveillance of the Commission.

B.

1. When the Commission shall have notified the Government of India that the tribesmen and Pakistan nationals referred to in Part II A2 hereof have withdrawn, thereby terminating the situation which was represented by the Government of India to the Security Council as having occasioned the presence of Indian forces in the State of Jammu and Kashmir, and further, that the Pakistan forces are being withdrawn from the State of Jammu and Kashmir, the Government of India agrees to begin to withdraw the bulk of their forces from that State in stages to be agreed upon with the Commission.
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 Commission will have observers stationed where it deems necessary.
3. The Government of India will undertake to ensure that the Government of the State of Jammu and Kashmir will take all measures within their power to make it publicly known that peace, law and order will be safeguarded and that all human and political rights will be guaranteed.

C.

1. Upon signature, the full text of the Truce Agreement or a communique containing the principles thereof as agreed upon between the two Governments and the Commission, will be made public.

PART III

The Government of India and the Government of Pakistan reaffirm their wish that the future status of the State of Jammu and Kashmir shall be determined in accordance with the will of the people and to that end, upon acceptance of the Truce Agreement both Governments agree to enter into consultations with the Commission to determine fair and equitable conditions whereby such free expression will be assured.

II LETTER FROM THE GOVERNMENT OF INDIA DATED 20 AUGUST 1948 IN REPLY
TO THE COMMISSION'S RESOLUTION OF 13 AUGUST 1948

20 August 1948

Excellency,

On the 17th of August, my colleague, the Minister without Portfolio, and I discussed with you and your colleagues of the Commission now in Delhi the resolution which you had presented to us on the 14th instant. On the 18th, I had another discussion with you, in the course of which I tried to explain to you the doubts and difficulties which members of my Government, and representatives of the Government of Kashmir whom we consulted, had felt as the result of a preliminary but careful examination of the Commission's proposals.

2. During the several conferences that we had with the Commission when it first came to Delhi, we placed before it what we considered the basic fact of the situation which had led to the conflict in Kashmir. This fact was the unwarranted aggression, at first indirect and subsequently direct, of the Pakistan Government on Indian Dominion territory in Kashmir. The Pakistan Government denied this although it was common knowledge. In recent months, very large forces of the Pakistan regular army have further entered Indian Union territory in Kashmir and opposed the Indian Army which was sent there for the defence of the State. This, we understand now, is admitted by the Pakistan Government, and yet there has been at no time any intimation to the Government of India by the Pakistan Government of this invasion. Indeed, there has been a continual denial and the Pakistan Government have evaded answering repeated inquiries from the Government of India.

In accordance with the resolution of the Security Council of the United Nations adopted on the 17th January, 1948, the Pakistan Government should have informed the Council immediately of any material change in the situation while the matter continued to be under the consideration of the Council. The invasion of the State by large forces of the regular Pakistan Army was a very material change in the situation, and yet no information of this was given, so far as we know, to the Security Council.

The Commission will appreciate that this conduct of the Pakistan Government is not only opposed to all moral codes as well as international law and usage, but has also created a very grave situation. It is only the earnest desire of my Government to avoid any extension of the field of conflict and to restore peace, that has led us to refrain from taking any action to meet the new situation that was created by this further intrusion of Pakistan armies into Jammu and Kashmir State. The presence of the Commission in India has naturally led us to hope that any arrangement sponsored by it would deal /effectively with the

effectively with the present situation and prevent any recurrence of aggression.

3. Since our meeting of the 18th August, we have given the Commission's resolution our most earnest thought. There are many parts of it, which we should have preferred to be otherwise and more in keeping with the fundamental facts of the situation, especially the flagrant aggression of the Pakistan Government on Indian Union territory. We recognise, however, that, if a successful effort is to be made to create satisfactory conditions for a solution of the Kashmir problem without further bloodshed, we should concentrate on certain essentials only at present and seek safeguards in regard to them. It was in this spirit that I placed the following considerations before Your Excellency:

- (1) That paragraph A.3 of Part II of the resolution should not be interpreted, or applied in practice, so as
 - (a) to bring into question the sovereignty of the Jammu and Kashmir Government over the portion of their territory evacuated by Pakistan troops,
 - (b) to afford any recognition of the so-called "Azad Kashmir Government", or
 - (c) to enable this territory to be consolidated in any way during the period of truce to the disadvantage of the State.
- (2) That from our point of view the effective insurance of the security of the State against external aggression, from which Kashmir has suffered so much during the last ten months, was of the most vital significance and no less important than the observance of internal law and order, and that, therefore, the withdrawal of Indian troops and the strength of Indian forces maintained in Kashmir should be conditioned by this overriding factor. Thus at any time the strength of the Indian forces maintained in Kashmir should be sufficient to ensure security against any form of external aggression as well as internal disorder.
- (3) That as regards Part III, should it be decided to seek a solution of the future of the State by means of a plebiscite, Pakistan should have no part in the organisation and conduct of the plebiscite or in any other matter of internal administration in the State.

4. If I understood you correctly, A.3 of Part II of the resolution does not envisage the creation of any of the conditions to which we have objected in paragraph 3 (1) of this letter. In fact, you made it clear that the Commission was not competent to recognize the sovereignty of any authority

/over the evacuated

over the evacuated areas other than that of the Jammu and Kashmir Government.

As regards paragraph 3 (2), the paramount need for security is recognised by the Commission, and 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 Indian forces to be retained in the State, are matters for settlement between the Commission and the Government of India.

Finally, you agreed that Part III, as formulated, does not in any way recognise the right of Pakistan to have any part in a plebiscite.

5. In view of this clarification, my Government, animated by a sincere desire to promote the cause of peace and thus to uphold the principles and prestige of the United Nations, have decided to accept the resolution.

Accept, Excellency, the assurance of my highest consideration.

/s/ JAWAHARLAL NEHRU
Prime Minister, India.

His Excellency M. Josef Korbel.

/III. REPLY

III. REPLY FROM THE CHAIRMAN OF THE COMMISSION TO THE LETTER
FROM THE GOVERNMENT OF INDIA DATED 20 AUGUST, 1948

25 August 1948.

Excellency,

I have the honour to acknowledge the receipt of your communication dated August 20, 1948, regarding the terms of the Resolution of the United Nations Commission for India and Pakistan which the Commission presented to you on the 14th of August 1948.

The Commission requests me to convey to Your Excellency its view that the interpretation of the Resolution as expressed in paragraph 4 of your letter coincides with its own interpretation, it being understood that as regards point (1) (c) the local people of the evacuated territory will have freedom of legitimate political activity. In this connection, the term "evacuated territory" 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 Commission wishes me to express to Your Excellency its sincere satisfaction that the Government of India has accepted the Resolution and appreciates the spirit in which this decision has been taken.

I wish to avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

/s/ Josef Korbel
Chairman

H. E. Pandit Jawaharlal Nehru
Prime Minister and Minister for
External Affairs
Government of India
New Delhi.

/IV. LETTER

IV. LETTER FROM THE PRIME MINISTER OF INDIA TO THE CHAIRMAN OF THE
COMMISSION, DATED 20 AUGUST 1948.

20 August 1948

Excellency,

You will recall that in our interview with the Commission on the 17th August, I dealt at some length with the position of the sparsely populated and mountainous region of the Jammu and Kashmir State in the north. The authority of the Government of Jammu and Kashmir over this region as a whole has not been challenged or disturbed, except by roving bands of hostiles, or in some places like Skardu which have been occupied by irregulars or Pakistan troops. The Commission's resolution as you agreed in the course of our interview on the 18th, does not deal with the problem of administration or defence in this large area. We desire that, after Pakistan troops and irregulars 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 us. (The only exception that we should be prepared to accept would be Gilgit.) We must be free to maintain garrisons at selected points in this area 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.

Accept, Excellency, the assurances of my highest consideration.

/s/ JAWAHARLAL NEHRU
Prime Minister, India.

His Excellency M. Josef Korbel,
Vice-Chairman,
United Nations Commission for India and Pakistan,
NEW DELHI.

V. LETTER FROM THE CHAIRMAN OF THE COMMISSION
TO THE PRIME MINISTER OF INDIA IN REPLY TO
HIS LETTER DATED 20 AUGUST 1948

25 August 1948.

Excellency,

I have the honour to acknowledge receipt of your letter of 20 August 1948 relating to the sparsely populated and mountainous region of the State of Jammu and Kashmir in the North.

The Commission wishes me to confirm that, due to the peculiar conditions of this area, it did not specifically deal with the military aspect of the problem in its Resolution of 13 August 1948. It believes, however, that the question raised in your letter could be considered in the implementation of the Resolution.

Accept, Excellency, the assurances of my highest consideration.

/s/ Josef Korbel
Chairman

H. E. Pandit Jawaharlal Nehru
Prime Minister and Minister for
External Affairs
Government of India
New Delhi.

/VI LETTER

VI. LETTER AND MEMORANDUM FROM THE MINISTER OF FOREIGN AFFAIRS AND
COMMONWEALTH RELATIONS OF PAKISTAN TO THE CHAIRMAN
OF THE COMMISSION, DATED 19 AUGUST 1948

19 August 1948

Sir,

I have the honour to refer to your letter of 13th August, forwarding the Resolution adopted by the United Nations Commission at its thirty-ninth meeting and stating that this Resolution is intended to present the principles which may serve as a basis of discussion. At our informal meeting on 14th August, you reiterated that the proposals contained in the Resolution were only meant to serve as a basis of discussion, and you kindly offered to clarify and elucidate any points arising out of these proposals.

2. The Government of Pakistan have given their most serious consideration to the proposals made by the Commission, but regret that they are not in a position to indicate their views with regard to them without obtaining clarification of a number of important points. The matters with regard to which further elucidation is required are set out in the attached memorandum. It would be greatly appreciated if the Commission could provide the elucidation requested.

3. While reserving their views with regard to the proposals formulated by the Commission, the Government of Pakistan would like to submit certain observations with regard to the Commission's approach to the question of "cease-fire". As the Commission is aware, the Pakistan Representatives, in their discussions with the Commission during its stay in Karachi from July 31st to August 13th, put forward the view that the proposals regarding "cease-fire" should be completely divorced from all other proposals. In the view of the Pakistan Government, the truce proposals contained in Part II of the Commission's Resolution are so closely inter-linked with the final solution of the Kashmir question that it is impossible to separate the one from the other. This was fully recognised by the Members of the Security Council who sponsored the Resolution of 21st April. Senator Austin explained that the Resolution had a certain unity and all its parts were inter-related. For example, the proposal with regard to the withdrawal of tribesmen could only be implemented if there was satisfaction in respect of the re-constitution of the State Government and the creation of other conditions in which the accession of Jammu and Kashmir to India or Pakistan could be determined by means of a free and impartial plebiscite.

4. It is the considered opinion of the Pakistan Government that there are only two practical ways of dealing with the Jammu and Kashmir situation,

/namely:

dd

namely:

- (1) to bring about a "cease-fire" pure and simple, such as ~~is~~ in Part I of the Commission's Resolution; or
- (2) to attempt at the very start a complete and final solution of the entire Jammu and Kashmir question.

The Pakistan Government regret to note that the Commission has not adopted the first alternative, which would have put a stop to the fighting immediately, and, in the calmer atmosphere thereby created, would have greatly improved the chances of a final settlement being reached. The result of extending the scope of the Resolution beyond Part I must inevitably be to bring the whole field of the dispute under immediate discussion and thereby to delay the attainment of "cease-fire" until a final solution of the whole problem can be agreed upon.

I have the honour to be, etc.

/s/ ZAFRULLA KHAN
(ZAFRULLA KHAN)

His Excellency Dr. Alfredo Lozano,
Chairman,
U.N. Commission for India and Pakistan,
KARACHI

Attachment: Appendix I

APPENDIX I

MEMORANDUM REGARDING POINTS IN THE UNITED NATIONS
COMMISSION'S RESOLUTION OF 13 AUGUST 1948
REQUIRING FURTHER ELUCIDATION

PRELIMINARY

1. It has been explained to the Commission that it is only the Azad Kashmir Government that can authorize the issue of cease-fire orders to their own forces. The Pakistan Government wish to be informed what steps the Commission has taken or proposes to take to secure the agreement of the Azad Kashmir Government to its proposals.

PREAMBLE TO COMMISSION'S RESOLUTION

2. The preamble to the Resolution of the Commission states that certain conditions are essential to the implementation of the Commission's endeavours "to assist the Governments of India and Pakistan in effecting a final settlement of the situation". The Government of Pakistan are unable to appreciate the exact significance of this statement. The preamble to the Security Council's Resolution dated 21 April 1948 clearly affirms the desire of both India and Pakistan "that the question of accession of Jammu and Kashmir to India or Pakistan should be decided through the democratic method of a free and impartial plebiscite", and instructs the Commission to "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 the holding of a plebiscite by the two Governments, acting in co-operation with one another and with the Commission", and recommends certain measures to the two Governments as being in its opinion "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".

It is thus clear that the dispute between the two Dominions relating to Jammu and Kashmir is "whether the State of Jammu and Kashmir is to accede to India or Pakistan", and that the settlement of this dispute is to be brought about by means of a free and impartial plebiscite. It is presumed, therefore, that the expression "a final settlement of the situation" employed by the Commission in the preamble to its Resolution means in the words of the Security Council the creation of "proper conditions for a free and impartial plebiscite to decide whether the State of Jammu and Kashmir is to accede to India or Pakistan". If the expression "a final settlement of the situation" has any implication, direct or indirect, whether falling short of or going beyond the quotation set out from the Security Council Resolution,

the Government of Pakistan wish to be apprised of it.

PART I OF COMMISSION'S RESOLUTION

3. The Pakistan Government are unable to appreciate the exact significance of the opening words of paragraph D of Part I of the Resolution. If and when a cease-fire has been arranged, the Commission will be under the inescapable necessity of appointing military observers for the purpose set out in the paragraph. The number, duties, functions and postings of these observers will, no doubt, be at the discretion of the Commission. The Pakistan Government wish to be certain that the Commission are not in any doubt that if a cease-fire order is agreed to, its observance will inevitably require supervision by neutral military observers appointed by and acting under the authority of the Commission.

PART II OF COMMISSION'S RESOLUTION

4. The discussion before the Security Council on the subject of Jammu and Kashmir proceeded on the basis that India did not desire a military solution of the problem, but would be content to abide by the results of a free and impartial plebiscite. It was recognized by the Security Council that the fighting in Jammu and Kashmir had flared up as the result of military and other repressive measures adopted by the Ruler against his subjects, and that the only method of securing a cessation of the fighting was to create conditions which would satisfy everybody concerned that the question of accession of the State to India or Pakistan would be settled on the basis of a free and impartial plebiscite. While the Security Council was still engaged on the consideration of the Kashmir case, India was steadily building up its Armed Forces in Jammu and Kashmir. This building up process did not cease on 21st April 1948, but was continued and intensified. The Indian Army mounted a big offensive in the beginning of April, thereby causing a material change in the situation. This offensive action has continued ever since. The publicly declared intention of the Government of India was to secure a military decision in Jammu and Kashmir, thus presenting the United Nations Commission with a fait accompli. This situation not only put in jeopardy the entire population of the areas under the Azad Kashmir Government, and led to a big influx of refugees into Pakistan, but also constituted a direct threat to Pakistan's security. It was this which compelled the Government of Pakistan to move their troops into certain defensive positions.

Paragraph A.1 of Part II of the Commission's Resolution states that the presence of Pakistan troops in the territory of the State constitutes a material change in the situation since it was represented by the Government of Pakistan before the Security Council. This is obviously a one-sided and inadequate description, since, as pointed out above, the

build up of India's forces, and their launching an all-out offensive had already materially changed the situation. Even as a factual statement, apart altogether from the feasibility or otherwise of the proposal based upon it, the paragraph should have included the facts mentioned above which necessitated the presence of Pakistan troops in Jammu and Kashmir. The Government of Pakistan are unable to appreciate the omission.

5. Without at all implying that the proposals set out in the Resolution of the Commission could form the basis of discussion, the Pakistan Government feel that the possibility of the truce being broken by the Government of India cannot be ruled out. It would materially assist the Pakistan Government in their appreciation of the various proposals contained in the Resolution, if the Commission would be so good as to take the Pakistan Government into its confidence as to the measures or guarantees which the Commission may have in mind to safeguard the security of Pakistan and the population of the areas under the control of the Azad Kashmir Government against any subsequent aggressive action by the Government of India and of the Sikh and R.S.S. volunteer bands. In particular, the Pakistan Government would be glad to know whether the Commission intend to secure the services of an International or neutral Force for this purpose and, if so, what the strength of such a force would be.

6. Paragraph A.2 seeks the agreement of the Pakistan Government to the using of their best endeavours to secure the withdrawal from the State of tribesmen, etc., who have entered the State for the purpose of fighting. The Commission is no doubt aware that the Security Council was convinced that it would not be possible to persuade the tribesmen and other sympathisers of the Azad Kashmir Government to withdraw unless they were satisfied as to the security of the Muslim population of the State and the establishment of conditions for a free and impartial plebiscite. The Government of Pakistan are unable to discover any proposals in the Resolution of the Commission designed to secure and guarantee these conditions. Would the Commission kindly indicate what measures it proposed to adopt to convince the tribesmen and other elements concerned that these conditions have been or will be established, and that no danger or prejudice would result to the Muslim population of the State even if the terms of the truce were subsequently broken by the Government of India?

7. It has been explained to the Commission that a large number of Sikh and R.S.S. volunteer bands have entered the State since the 15 August 1947, and have been operating in the areas occupied by the Indian Armed Forces, committing all kinds of atrocities upon and terrorising the Muslim population. There is no proposal in the Resolution of the Commission to the effect that such elements

must withdraw from the State. The Pakistan Government wish to be informed what proposal the Commission has in mind in this connection.

8. In paragraph A.3 the Commission proposes that, pending a final solution, the territory at present under the control of the Azad Kashmir Government will be administered by that Government under the surveillance of the Commission. The Commission no doubt realises that the population of this territory is almost wholly Muslim and is in full support of the Azad Kashmir Government. On the other hand, the majority of the population of the territory under the control of the Government of India is opposed to the regime established by the Government of India. The Government of Pakistan, would wish to be enlightened as to the reasons which, while necessitating or rendering desirable the surveillance of the Commission over the Azad Kashmir Government in respect of the territories of the latter, would not with much greater force call for the surveillance of the Commission over the regime operating in the rest of the State. Since the Commission considers that it is in a position to take certain territories under its surveillance, there would appear to be no objection, in principle, to the Commission taking the whole of Jammu and Kashmir under its surveillance.

9. The Commission has asked for the withdrawal of Pakistan troops from Jammu and Kashmir, though these troops are in wholly Muslim areas and have been welcomed by the local population. On the other hand, the Commission is aware of the serious objections to the quartering of non-Muslim troops on a predominately Muslim population. The Government of Pakistan therefore wish to be informed of the reasons which necessitate the retention of any portion of India's Armed Forces in Jammu and Kashmir.

10. Assuming that a truce could be agreed upon on the basis of the Commission's proposals, the Government of Pakistan would appreciate an indication from the Commission of the manner in which the Commission proposes, in accordance with the concluding portion of paragraph B.1, to secure a synchronised and simultaneous withdrawal of the Pakistan Forces and the bulk of the Indian Forces from the State.

11. The Pakistan Government wish to know whether the surveillance of the Commission over the territories of Azad Kashmir implies any control over the Azad Kashmir Forces which would under the Commission's proposals remain intact. If so, what control does the Commission contemplate exercising over the State forces, the local militia raised by Sheikh Abdullah and over any Indian Armed Forces that may be left in the State under the Commission's proposals?

12. The Security Council's Resolution of 21 April 1948, contemplates the maintenance of law and order throughout the State with the aid of local forces. Does the Commission contemplate that any additional forces would be

required for the maintenance of law and order in any part of the State? If so, the Pakistan Government would welcome an indication of the Commission's view whether it intends to call upon both India and Pakistan to provide such forces as contemplated in Article 5 of the Security Council's Resolution of 21 April 1948.

13. The Security Council's Resolution of 21 April 1948, sets out in Articles 11, 12 and 14 a number of conditions for the restoration of human and political rights, including the return of those who had left or been compelled to leave the State since 15 August 1947. The Pakistan Government wish to be informed whether paragraph B.3 of the Commission's Resolution is intended to cover and guarantee all these conditions from the moment a truce is agreed upon.

PART III OF THE COMMISSION'S RESOLUTION

14. The observations submitted in paragraph 2 above apply with equal force to Part III of the Commission's Resolution. The Government of Pakistan would welcome an elucidation of this Part. It states that "the future status of the State of Jammu and Kashmir shall be determined in accordance with the will of the people" and that the Government of India and the Government of Pakistan shall "enter into consultations with the Commission to determine fair and equitable conditions whereby such free expression will be assured". It may be pointed out that some of these conditions are set out in the Security Council's Resolution of 21 April, 1948. It is presumed that consultations between the two Governments and the Commission would be designed to secure the implementation of these conditions and the devising of any further conditions that may become necessary or may appear to be desirable.

The most important of the conditions agreed upon by the Security Council were that:

- (a) The Government of Jammu and Kashmir would be reconstituted so as to ensure that the major political groups in the State would share "equitably and fully in the conduct of the administration at ministerial level" (Article 6), and the interim administration so formed would, in the words of Senator Austin, be such as "would command the confidence and respect of all the people of the State and would be a symbol to the people on both sides that the Government of the State was officially neutral on this issue" of accession to India or Pakistan.
- (b) A Plebiscite Administrator would be appointed by the Secretary-General of the United Nations and would be vested with wide powers, including power of direction and supervision of State Forces and Police (Articles 7, 8 and 9).

(c) The appointment of Special Magistrates to deal with certain types of cases (Article 10).

The Pakistan Government presume that the object of the concluding portion of Part III of the Commission's Resolution is to secure agreement on the implementation of these among other conditions of a free and impartial plebiscite to decide whether the State of Jammu and Kashmir is to accede to India or Pakistan.

VII. LETTER FROM THE CHAIRMAN OF THE COMMISSION IN REPLY TO LETTER AND
MEMORANDUM FROM THE GOVERNMENT OF PAKISTAN DATED 19 AUGUST 1948

27 August 1948

Sir,

On behalf of the United Nations Commission for India and Pakistan, I have the honour to reply to your letter dated 19 August 1948 referring to the letter of the Chairman of the Commission of 13 August 1948, and enclosing a memorandum containing points of inquiry with regard to the Commission's resolution. The Commission, in the memorandum herewith enclosed, meets your request for further elucidation on the points presented by you.

The Commission has noted your observations as to its approach to the question of cease fire, and appreciates the point of view of the Pakistan Government that an unconditional cease fire is indeed a desirable step. In fact, the Commission's activities during its early deliberations were directed along these lines, and earnest consideration was given to the issues involved. Dr. Lozano, Vice-Chairman of the Commission travelled to Karachi in order to ascertain the points of view of the Government of Pakistan, while other members of the Commission were ascertaining the points of view of the Government of India in New Delhi. The presence of Pakistan troops in the State of Jammu and Kashmir, however, is a material change in the situation as considered by the Security Council in its resolution of 21 April 1948, which creates obstacles to the effective and immediate implementation of an unconditional cease fire.

Once the Commission was apprised of the stipulations of the Government of Pakistan and the Government of India in respect of a cease fire, it proceeded to draw up fair and equitable proposals which, it was felt, should meet with the approval of both parties. As a link between an unconditional cease fire and a final settlement, which will necessarily be subject to negotiations, the Commission has recommended a truce agreement as set forth in Part II of the resolution. The terms of this truce agreement, and the principles upon which it has been conceived, without jeopardizing immediate cessation of hostilities, are intended to create an atmosphere favourable to consultations among the two Governments and the Commission in which a final and peaceful solution might be agreed upon.

The Commission sincerely hopes that the Government of Pakistan, as a step towards the satisfactory solution of the situation in the State of Jammu and Kashmir, and in the interest of furthering international peace

/and security

and security, will find it possible to signify its acceptance of the Commission's resolution of 13 August 1948.

I have the honour to be, etc.

/s/ JOSEF KORBEL

Chairman

The Hon'ble Sir Mohammad Zafrulla Khan
Minister for Foreign Affairs and
Commonwealth Relations
Government of Pakistan
Karachi

APPENDIX 1

REPLY OF THE UNITED NATIONS COMMISSION FOR INDIA & PAKISTAN
TO THE PAKISTAN GOVERNMENT'S MEMORANDUM REGARDING POINTS IN
THE COMMISSION'S RESOLUTION OF 13 AUGUST 1948

1. (a) On 18 July 1948, during the interview between Dr. Alfredo Lozano and Sir Mohammed Zafrulla Khan, the latter emphasized that in submitting the condition that the proposal for a cease-fire order should have the consideration or approval of the Azad Kashmir forces, his only aim was to ensure that their views be taken into account - whether by the appearance of representatives of the "Azad Kashmir" before the Commission or through the Pakistan Government as intermediary.
(b) In answer to the questionnaire placed by the Commission before the Government of Pakistan on 4 August 1948, the Minister for Foreign Affairs stated that "the Pakistan Army is at present responsible for the over-all command ... of Azad Kashmir forces".
(c) During the expose made by the High Command of the Pakistan Army on 9 August 1948, it was stated that the Azad Kashmir forces were operationally controlled by the Pakistan Army.
(d) In view of these assurances, the Commission understands that the Government of Pakistan will ascertain and reflect the position of the Azad authorities in arriving at their decision with regard to the Commission's resolution of 13 August 1948.
2. The expression "a final settlement of the situation" does not fall short of nor go beyond the terms of the Security Council resolution of 21 April 1948 and is in harmony with it. The Commission, however, is not committed to a rejection of a peaceful solution which might be agreed upon by the two Governments, provided that such solution reflects the will of the people.
3. The Commission is in no doubt that the observance of the cease-fire order will require neutral military observers. These observers will be appointed by the United Nations and will act under the authority of the Commission.
4. The Security Council resolution of 21 April 1948, which sets forth the terms of reference of the Commission was adopted with cognizance of the presence of Indian troops in the State of Jammu and Kashmir. The presence of Pakistan troops in Jammu and Kashmir, however, constitutes a material change in the situation inasmuch as the Security Council did not contemplate the presence of such troops in that State, nor was it apprised thereof by the Government of Pakistan. The Commission cannot accept the statement in the memorandum that the Commission's description in this respect is

"one-sided and inadequate".

5. In drawing up the resolution of 13 August 1948, the Commission did not and could not proceed on the assumption that one or the other party would violate the truce. The implementation of the resolution presupposes good faith and cooperation between the two parties.

As the Government of Pakistan are aware, the United Nations does not have at its disposal an international force. The use of a neutral force has not been contemplated by the Commission. However, the Government of Pakistan will have noted that the resolution provides for neutral military observers to be stationed where the Commission deems it necessary.

6. The Commission reaffirms its conviction that good faith and active collaboration on the part of both Governments are essential to the implementation of the resolution. Under the terms of the resolution, the Government of India are bound to assist local authorities in maintaining law and order in areas now occupied by Indian troops; further, the Government of India undertake to ensure that the Government of the State of Jammu and Kashmir will take all measures within their power to make it publicly known that peace, law, and order will be safeguarded and that all human and political rights will be guaranteed.

The Commission is convinced that confidence in the purpose and objectives of the resolution will be promoted by the appeals that the two Governments make to all concerned for the creation and maintenance of an atmosphere conducive to a satisfactory solution.

Acceptance of the truce agreement will lead directly to consultation between the two Governments and the Commission to determine fair and equitable conditions whereby the free expression of the will of the people will be assured.

7. Pending the acceptance of the conditions for a final settlement, Indian forces as provided for in Part II B 2 will assist local authorities in the maintenance of law and order. Upon acceptance of the truce agreement, withdrawal of elements mentioned in the memorandum will be considered in the implementation of Part III and under the provisions of the Security Council's resolution of 21 April 1948.

8. Surveillance of territories of the State of Jammu and Kashmir other than those now occupied by the Pakistan Army and forces under their control is not provided for in the resolution. The administration of such areas remains under the jurisdiction of the Government of the State.

9. A portion of the Indian armed forces will remain in the State of Jammu and Kashmir for the purposes indicated in Part II B 2 of the resolution.

10. In accordance with Part II B 1 of the resolution, the Indian Government, when apprised that the Pakistan forces are being withdrawn from the State of Jammu and Kashmir, agreed to begin to withdraw the bulk of their forces from the State in stages to be agreed upon with the Commission.

Synchronisation of the withdrawal of the armed forces of the two Governments will be arranged between the respective High Commands and the Commission.

11. The Commission does not contemplate measures of control over forces remaining within the State of Jammu and Kashmir beyond the provisions of the resolution.

12. The Commission has not contemplated the use of forces for the maintenance of law and order other than those envisaged under the terms of its resolution of 13 August 1948.

13. Paragraph B 3 of Part II of the Commission's resolution, which relates to the truce agreement, is not intended to deal with the questions raised in paragraphs 11, 12, and 14 of the Security Council's resolution of 21 April 1948. These questions, relating to the plebiscite will logically arise in the implementation of Part III of the Commission's resolution of 13 August 1948.

14. Part III of the Commission's resolution envisages that both Governments reaffirm their desire that the future status of the State of Jammu and Kashmir be decided in accordance with the will of the people, and that upon the acceptance of the truce agreement, their representatives enter into consultation with the Commission in order to establish the conditions under which the free expression of the will of the people will be assured.

VIII. LETTER FROM THE CHAIRMAN OF THE COMMISSION TO THE MINISTER FOR
FOREIGN AFFAIRS OF THE GOVERNMENT OF PAKISTAN FURTHER ELUCIDATING
POINTS OF THE RESOLUTION OF 13 AUGUST 1948 (S/AC.12/52)

3 September 1948

Excellency,

On 19 August 1948 you were kind enough to present to Minister Dr. A. Iqbal, then Chairman of the United Nations Commission for India and Pakistan, a letter dated 19 August 1948 with a Memorandum attached asking for clarification of a number of points in the United Nations Commission's Resolution of 13 August 1948.

The points contained in the Memorandum were answered by the Commission's letter dated 27 August 1948.

Moreover, during the two meetings which the Commission had with you on 31 August and 2 September, ample opportunity was given for further clarification of certain points of the Resolution.

At your request the Commission is glad to offer you the following interpretation of points on which you asked for additional elucidation:

- (1) In connection with paragraph A 3 of Part II of the Resolution the term "evacuated territory" refers to those territories in the State of Jammu and Kashmir which are at present under the effective control of the Pakistan High Command, it being understood that the population of these territories will have freedom of legitimate political activity.
- (2) The Commission reaffirms that, according to its Resolution, United Nations neutral military observers will be posted on both sides of the cease fire line with the object of ensuring that the conditions of the truce are adhered to. In case of a breach of any of these conditions, a report will be made to the Commission, and the Commission, on being satisfied that action in respect of the report is necessary, will call upon the authorities in either area to take the desired action.
- (3) As regards paragraphs B 1 and 2 of Part II, the Commission, while recognising the paramount need for security of the State of Jammu and Kashmir, confirms that the minimum strength required for the purpose of assisting the local authorities in the observance of law and order, would be determined by the Commission and the Government of India. The Commission considers that it is free to hear the views of the Government of Pakistan on the subject.
- (4) As regards Part III:

/(a) You are

- (a) You are respectfully referred to paragraph 2 of the Commission's Memorandum accompanying its letter dated 27 August, which clarifies the position of the Commission on this subject.
- (b) The Commission will be guided by the terms of the Security Council's Resolution of 21 April, 1948, setting forth the conditions for a plebiscite, subject to such modifications as the Commission might determine with the agreement of the Governments of Pakistan and India.
- (5) Regarding publication, the Commission has the honour to inform you that it will publish, after having received the answers of both Governments to its Resolution, the full text of the Resolution and the correspondence relevant to it as exchanged between the Commission and the two respective Governments.

Accept, Excellency, etc.

/s/ JOSEF KORBEL

Chairman

H.E. Sir Mohammad Zafrullah Khan

Minister for Foreign Affairs and Commonwealth Relations

Government of Pakistan, Karachi

IX LETTER FROM THE MINISTER OF FOREIGN AFFAIRS AND COMMONWEALTH
RELATIONS OF PAKISTAN TO THE CHAIRMAN OF THE COMMISSION
DATED 6 SEPTEMBER 1948.

6th September 1948.

To

The Chairman,
United Nations Commission for India & Pakistan,
Karachi.

Sir,

The Government of Pakistan have had under serious and anxious consideration the proposals made by the Commission in its Resolution of the 13th August, 1948 and the clarifications and elucidations of its provisions that the Commission has since furnished in the course of discussion and in writing. They are now in a position to transmit to the Commission their views on these proposals as clarified and elucidated by the Commission.

2. They desire to make it quite clear at the outset that these views are the views of the Government of Pakistan and are not as such in any sense binding upon the Azad Kashmir Government, nor do they in any manner reflect the views of the Azad Kashmir Government. They note that it is the intention of the Commission to hold discussions with Azad Kashmir representatives as individuals, and they do not doubt that these representatives will convey to the Commission the views of their Government on the proposals of the Commission. The Government of Pakistan would at all times be prepared to lend their good offices to persuade the Azad Kashmir Government to accept the view of the proposals of the Commission which the Pakistan Government themselves take, but such acceptance must rest finally with the Azad Kashmir Government themselves. As has already been explained to the Commission, political control over the Azad Kashmir Forces vests in the Azad Kashmir Government, and it is the latter Government alone that has authority to issue a cease-fire order to those forces, and to conclude terms and conditions of a truce which would be binding upon those forces.

3. It must further be stressed that the struggle for the liberation of Kashmir was initiated by Azad Kashmir, now represented by the Azad Kashmir Government, and that that Government is a necessary party to any settlement of the Kashmir question. Indeed, this view is implicit in the proposals of the Commission itself, inasmuch as these proposals postulate a course of co-operation between the Commission and the local authorities in several respects.

4. It is common ground that the question in dispute with reference to the State of Jammu and Kashmir is the accession of the State as a whole to

4. Pakistan or India, and that this question is to be determined by the democratic method of a free and impartial plebiscite.

5. With regard to the conditions of the plebiscite the Commission has explained that it will be guided by the terms of the Security Council Resolution of the 21st April, 1948, setting forth the conditions for a plebiscite subject to such modifications as the Commission might determine with the agreement of the Governments of Pakistan and India. In interpreting the terms of the Security Council's Resolution the Commission will no doubt be guided by the explanations offered by the sponsors of the Resolution during the course of the discussion of the Resolution in the Security Council.

6. As a result of the clarifications and elucidations furnished by the Commission, the Government of Pakistan understand that the Commission's Resolution of the 13th August, 1948 seeks to achieve the objectives outlined below:

First, a cease-fire order in accordance with the proposals set out in Part I of the Resolution, so that the fighting may be brought to an end.

Secondly, that the conditions of a truce, the period of which the Commission is anxious to reduce to a minimum, be agreed upon in accordance with the proposals set out in Part II of the Commission's Resolution. These proposals contemplate the actual determination of the cease-fire line and the synchronisation of the withdrawal of the armed forces of the Governments of Pakistan and India shall be arranged between the High Commands of the two Governments and the Commission, and that all territory under the authority or control of the Pakistan High Command, including Gilgit and the areas under the control of Azad Kashmir, shall during the period of the truce continue to be administered by the authorities which are in de facto control of it at the time of the cease-fire, and that no civil or military officer of the Government of India or of the State Government shall enter into or exercise any authority over it. The Azad Kashmir Forces shall remain intact, i.e. shall not be disarmed or disbanded. The surveillance contemplated by the Commission over the local authorities does not imply the exercise of control over or interference with the administration.

Thirdly, that this period be utilised towards restoring peaceful conditions throughout the territories of the State of Jammu

and Kashmir, so that once that was achieved to a reasonable degree, the conditions for preparing and holding a free and impartial plebiscite could be put into effect forthwith. The Commission would also consider during this period, along with the representatives of the Government of India and the Government of Pakistan, any proposals suggesting additions to or modifications of the conditions set out in Part B (articles 6 to 15, both inclusive) of the Security Council's Resolution of the 21st April, 1948.

Fourthly, that the Commission proceed to prepare and hold the plebiscite at the earliest possible date. As soon as this stage is reached the conditions of a free and impartial plebiscite shall be put into operation and shall over-ride all arrangements in operation during the period of the truce which are inconsistent with those conditions.

7. The Government of Pakistan desire to stress that they are interested in and would be affected by the result of the plebiscite at least in an equal degree with the Government of India; and they assume that it will be the constant endeavour of the Commission to bring about and promote conditions in and affecting the State of Jammu and Kashmir which would place the two Governments on a position of absolute equality and advantage vis-a-vis the plebiscite, and should leave no room for any feeling on the part of either Government and indeed of any section of the people of the State that any party or section was subject to any handicap or disadvantage, or enjoyed any position of privilege or advantage denied to any other.

8. In the view of the Pakistan Government the presence of the armed forces of the Government of India in any part of the State would militate against the restoration of peaceful conditions and would also conflict with the establishment of conditions for a free and impartial plebiscite. This is a view that the Government of Pakistan intend to continue to urge upon the Commission for their acceptance.

9. The Commission will recall that the Security Council was firmly of the view that the only effective method of stopping fighting in Kashmir was to provide clear and adequate assurance to Azad Kashmir and to the tribesmen helping them that the structure of a settlement had been erected which would guarantee to the people of the State the free expression of their will in respect of the accession of the State of Jammu and Kashmir to Pakistan or India, and to this end the Security Council laid down a set of conditions in part B of its Resolution of 21st April, 1948. The considerations that led the Security Council to this view operate with even greater force today.

Without these assurances the Pakistan Government could not be expected successfully to persuade the tribesmen to withdraw from the State. It is therefore absolutely essential that as part of the Truce Agreement, the acceptance of the Government of India should be secured to the minimum conditions for a free and impartial plebiscite to decide whether the State of Jammu and Kashmir shall accede to India or Pakistan as laid down in Part B (articles 6 to 15, both inclusive) of the Security Council's Resolution dated the 21st April, 1948, and explained by the sponsors of the Resolution in the Security Council. In the view of the Government of Pakistan these conditions are susceptible of improvement, and the Commission would no doubt hold further discussions with both Governments for the purpose of securing their agreement to such additions and modifications as may be urged before the Commission or which the Commission may consider necessary.

10. The Government of Pakistan have not been informed of any clarifications and elucidations of the proposals contained in the Commission's Resolution of the 13th August, 1948, that the Commission may have furnished to the Government of India. If no clarifications or elucidations have been furnished, no point in that behalf arises. If any clarifications or elucidations have been furnished by the Commission to the Government of India, it is necessary that they should be communicated to the Government of Pakistan and the latter's agreement to them secured. It is equally necessary that the clarifications and elucidations furnished by the Commission to the Government of Pakistan should be communicated to the Government of India and their acceptance of them secured. The Commission will recognise that it is of the utmost importance that any agreement between the two Governments should be arrived at on the clearest possible basis, so that there is left no possibility of any misunderstanding of any of the matters agreed upon. In other words, it is essential that the two Governments should agree simultaneously to the same thing and in the same sense.

11. Although there are several features in the Commission's proposals which from the point of view of the Pakistan Government are not satisfactory, nevertheless as a step towards the solution of the situation in the State of Jammu and Kashmir, and in the interest of furthering international peace and security, the Pakistan Government have authorised me to inform the Commission that:

Subject to the clarifications and elucidations furnished by the Commission to the Government of Pakistan being accepted by the Government of India, and the elucidations and clarifications, if any, furnished by the Commission to the Government of India being acceptable to the Government of

Pakistan, and provided the Government of India accept the conditions laid down in part B (articles 6 to 15, both inclusive) of the Security Council's Resolution of 21st April, 1948, as explained by the sponsors of the Resolution in the Security Council, for a free and impartial plebiscite to decide whether the State of Jammu and Kashmir is to accede to India or Pakistan, the Government of Pakistan accept the proposals contained in the Commission's Resolution of the 13th August, 1948, as clarified and elucidated to the Pakistan Government by the Commission.

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

/s/ ZAFRULLA KHAN

(ZAFRULLA KHAN)

Minister of Foreign Affairs and
Commonwealth Relations,
Government of Pakistan.

/X. LETTER

I. LETTER FROM THE CHAIRMAN OF THE COMMISSION TO THE MINISTER OF FOREIGN
AFFAIRS AND COMMONWEALTH RELATIONS DATED 6 SEPTEMBER 1948
IN REPLY TO HIS LETTER OF THE SAME DATE

6 September 1948

Excellency,

I have the honour to acknowledge receipt of your letter of
6 September 1948, giving the response of your Government to the Commission's
Resolution of 13 August 1948.

The Commission observes that your Government have found themselves
unable to accept without reservation the proposals of the Commission as
contained in its Resolution of 13 August 1948, the purpose of which is to
obtain the agreement of the Government of Pakistan and the Government of
India to effect a prompt cessation of hostilities and the correction of
conditions, the continuance of which is likely to endanger international
peace and security.

The Commission wishes me to inform you that it will consider the
questions which you have raised in your letter at an early occasion. It
is, however, desirous to stress that the authentic interpretation of its
position is contained in its memorandum of 27 August 1948 and its letter
of 3 September 1948, both addressed to Your Excellency.

Accept, Excellency, the assurances of my highest consideration.

/s/ JOSEF KORBEL
Chairman

H. E. Sir Mohammad Zafrullah Khan
Minister of Foreign Affairs and
Commonwealth Relations
Government of Pakistan
Karachi

XI. REPLY FROM THE MINISTER OF FOREIGN AFFAIRS AND COMMONWEALTH
RELATIONS OF PAKISTAN TO THE COMMISSION'S LETTER

DATED 6 SEPTEMBER 1948

September 6, 1948

Dear Mr. Chairman,

I have the honour to acknowledge receipt of your letter of 6th September 1948 acknowledging receipt of my letter of the same date containing the views of the Government of Pakistan on the Commission's Resolution of 15th August 1948.

2. I note the assurance of the Commission that it will consider at an early occasion the questions that have been raised in that letter.

3. Your letter goes on to stress that the authentic interpretation of the Commission's position is contained in its Memorandum of 27th August 1948 and its letter of 3rd September 1948, both addressed to me. Since your letter of 3rd September does not contain a precise and full record of the clarifications and elucidations furnished by the Commission in the course of discussion in our meetings of 31st August and 2nd September 1948, may I venture to enquire whether the Government of Pakistan in drawing up the statement of their views on the Commission's Resolution of 13th August 1948 have or have not been justified in relying upon the clarifications, elucidations and assurances orally furnished by the Commission in the course of these discussions.

With assurances of my highest consideration,

Yours sincerely,

/s/ ZAFRULLA KHAN

(Zafrulla Khan)
Minister of Foreign Affairs and
Commonwealth Relations

His Excellency Dr. Josef Korbel, etc.